

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 2788

6 By: Jackson

7 COMMITTEE SUBSTITUTE

8 An Act relating to children; creating the KidSafe
9 Child Abuse Task Force; providing for membership;
10 specifying chair; providing for first meeting;
11 providing for vacancies; specifying a quorum;
12 providing for staffing; specifying duties; requiring
13 certain report; providing for access to certain
14 records; exempting Task Force from the Oklahoma Open
15 Meeting Act; amending 10 O.S. 2001, Section 7005-1.4,
16 as last amended by Section 3, Chapter 351, O.S.L.
17 2007 (10 O.S. Supp. 2007, Section 7005-1.4), which
18 relates to records of the Department of Human
19 Services; expanding access to the KidSafe Child Abuse
20 Task Force; amending 25 O.S. 2001, Section 307, as
21 last amended by Section 11, Chapter 1, O.S.L. 2006
22 (25 O.S. Supp. 2007, Section 307), which relates to
23 executive sessions; expanding list of permitted
24 sessions; providing for codification; providing an
effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 7116 of Title 10, unless there
is created a duplication in numbering, reads as follows:

A. There is hereby created, to continue until June 30, 2012,
the "KidSafe Child Abuse Task Force".

1 B. The Task Force shall consist of eleven (11) members as
2 follows:

3 1. The Speaker of the Oklahoma House of Representatives, or a
4 designee;

5 2. The President Pro Tempore of the Oklahoma State Senate, or a
6 designee;

7 3. The Commissioner of the Department of Public Safety or a
8 designee;

9 4. The Dean of the University of Oklahoma College of Nursing or
10 a designee;

11 5. The Provost of the University of Oklahoma Health Sciences
12 Center, or a designee from the Telemedicine Department;

13 6. A representative of the District Attorneys Council selected
14 by the District Attorneys Council;

15 7. The Director of the Department of Human Services or a
16 designee;

17 8. A judge who presides over a juvenile docket or juvenile
18 cases;

19 9. A district attorney from a district with a municipality
20 containing a population of no more than five hundred thousand
21 (500,000) in accordance with the latest Federal Decennial Census to
22 be selected by the Governor; and

23 10. Two members at large to be chosen by a simple majority of
24 the eight appointed members.

1 C. The chair shall be the Commissioner of the Department of
2 Public Safety. The first meeting shall convene at the call of the
3 chair on or before August 1, 2008. Members shall serve at the
4 discretion of the appointing authority. Vacancies shall be filled
5 by the original appointing authority, except for vacancies of at-
6 large members provided for in paragraph 9 of subsection B of this
7 section, which shall be filled by a simple majority of the eight
8 appointed members. A simple majority of the membership of the Task
9 Force shall constitute a quorum for purposes of taking any official
10 action.

11 D. Staffing assistance for the Task Force shall be provided by
12 a nationally recognized state organization of children's advocacy
13 centers pursuant to a contract between the organization and the Task
14 Force.

15 E. The Task Force shall:

16 1. Provide oversight regarding the role of specialized child
17 abuse investigators;

18 2. Monitor the case activity for any matter involving alleged
19 or adjudicated instances of child abuse or neglect;

20 3. Develop recommendations to the Governor, the Speaker of the
21 House of Representatives, the President Pro Tempore of the Oklahoma
22 State Senate, and any state agency having jurisdiction with respect
23 to alleged or adjudicated instances of child abuse or neglect;

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1 4. Prescribe standards for the performance of any specialized
2 child abuse investigators; and

3 5. Evaluate the performance of specialized child abuse
4 investigators in child abuse investigations.

5 F. The Task Force shall prepare and submit an annual written
6 report regarding the status of abused or neglected children. The
7 report shall be submitted to the Governor, the Speaker of the
8 Oklahoma House of Representatives, the President Pro Tempore of the
9 Oklahoma State Senate, the Commissioner of the Department of Public
10 Safety, and the Director of the Department of Human Services.

11 G. The Task Force shall have access to and shall maintain, as
12 authorized by federal and state law, the records and files of any
13 state agency that has investigatory or prosecutorial powers with
14 respect to alleged or adjudicated instances of child abuse or
15 neglect including, but not limited to, the records and files of:

- 16 1. The Department of Human Services;
- 17 2. The Office of Juvenile Affairs;
- 18 3. The Oklahoma Commission on Children and Youth;
- 19 4. The Department of Mental Health and Substance Abuse
20 Services; and
- 21 5. The Oklahoma State Bureau of Investigation.

22 H. The Task Force shall not be subject to the Oklahoma Open
23 Meeting Act.

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1 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7005-1.4, as
2 last amended by Section 3, Chapter 351, O.S.L. 2007 (10 O.S. Supp.
3 2007, Section 7005-1.4), is amended to read as follows:

4 Section 7005-1.4 A. Department of Human Services agency
5 records pertaining to a child may be inspected and their contents
6 disclosed without a court order to the following persons upon
7 showing of proper credentials and pursuant to their lawful duties:

8 1. The court having the child currently before it in any
9 proceeding pursuant to this title, any district court or tribal
10 court to which such proceedings may be transferred, employees and
11 officers of the court in the performance of their duties, including
12 but not limited to guardians ad litem appointed by the court,
13 postadjudicatory review boards, court-appointed special advocates,
14 and members of the Child Death Review Board;

15 2. Any district court which has ordered a home study by the
16 Department in an action for divorce, annulment, custody of a child,
17 or appointment of a legal guardian of a child, or any subsequent
18 proceeding in such actions; provided, however, the Department may
19 limit disclosure in the home study to summaries or to information
20 directly related to the purpose of such disclosure;

21 3. A district attorney, United States Attorney or Attorney
22 General of this or another state and the employees of such offices
23 in the course of their official duties pursuant to this title or the
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1 prosecution of crimes against children or upon their request in
2 their official capacity as advisor in a grand jury proceeding;

3 4. The attorney representing a child who is the subject of a
4 proceeding pursuant to the provisions of this title including the
5 attorney representing a child pursuant to the provisions of
6 subsection C of Section 7002-1.2 of this title or representing a
7 child pursuant to the laws relating to child abuse and neglect.
8 Such attorney may also access other records listed in subsection A
9 of Section 7005-1.2 of this title for use in the legal
10 representation of the child;

11 5. Employees of juvenile bureaus in the course of their
12 official duties;

13 6. Employees of a law enforcement agency of this or another
14 state and employees of a child protective service agency of another
15 state or federally recognized Indian tribe in the course of their
16 official duties pertaining to investigations of a report of known or
17 suspected child abuse or neglect or crimes against children or for
18 the purpose of determining whether to place a child in protective
19 custody;

20 7. The Oklahoma Commission on Children and Youth as provided by
21 Sections 601.2 and 601.6 of this title;

22 8. The Office of Juvenile Affairs;

23 9. Persons and agencies authorized by Section 7005-1.7 of this
24 title;

1 10. Members of multidisciplinary teams or multidisciplinary
2 personnel designated by the Department of Human Services,
3 investigating a report of known or suspected child abuse or neglect
4 or providing services to a child or family which is the subject of
5 the report;

6 11. A physician who has before him or her a child whom the
7 physician reasonably suspects may be abused or neglected or any
8 health care or mental health professionals involved in the
9 evaluation or treatment of the child, the child's parents, legal
10 guardian, foster parent, custodian or other family members;

11 12. Any public or private agency or person authorized by the
12 Department to diagnose, or provide care, treatment, supervision or
13 other services to a child who is the subject of a report or record
14 of child abuse or neglect, provided the Department may limit such
15 disclosure to summaries or to information directly necessary for the
16 purpose of such disclosure;

17 13. Any federally recognized Indian tribe or state or county
18 child protective services or child welfare agency providing for or
19 supervising the diagnosis, care, treatment, supervision or other
20 services provided such child;

21 14. A parent, legal guardian or custodian of the child who is
22 the subject of such records; provided, that records disclosed shall
23 be limited to juvenile court records as defined by Section 7005-1.1
24 of this title. All other agency records pertaining to or related to

1 any alleged or adjudicated abuse or neglect of the child shall not
2 be inspected or disclosed pursuant to this paragraph;

3 15. Any person or agency for research purposes, if all of the
4 following conditions are met:

5 a. the person or agency conducting such research is
6 employed by the State of Oklahoma or is under contract
7 with this state and is authorized by the Department of
8 Human Services to conduct such research, and

9 b. the person or agency conducting the research ensures
10 that all documents containing identifying information
11 are maintained in secure locations and access to such
12 documents by unauthorized persons is prohibited; that
13 no identifying information is included in documents
14 generated from the research conducted; and that all
15 identifying information is deleted from documents used
16 in the research when the research is completed;

17 16. Persons authorized by and in the manner provided in the
18 Oklahoma Child Abuse Reporting and Prevention Act;

19 17. A foster parent, with regard to records concerning the
20 social, medical, psychological or educational needs of a child
21 currently placed with that foster parent or of a child being
22 considered for placement with that foster parent;

23 18. The Governor or to any person the Governor designates, in
24 writing;

1 19. Any federal official of the United States Department of
2 Health and Human Services;

3 20. The Oklahoma Health Care Authority;

4 21. Any member of the Legislature approved in writing by the
5 Speaker of the House of Representatives or the President Pro Tempore
6 of the Senate;

7 22. Any person or agency authorized to receive any paper,
8 record, book or other information pursuant to the Oklahoma Adoption
9 Code pertaining to a child who is the subject of an adoption
10 proceeding or relatives who are related to such child within the
11 third degree of consanguinity;

12 23. Employees of any state or federal corrections or law
13 enforcement agency in the performance of their official duties
14 concerning presentence investigations or supervision of a parent of
15 an alleged or adjudicated deprived child or the legal guardian,
16 custodian or any other adult member of the child's home who is
17 responsible for the care of the child; ~~and~~

18 24. An employee of a state agency of this or another state in
19 the performance of such employee's official duties concerning the
20 establishment of paternity or the establishment or enforcement of a
21 child support order or other entitlement for the benefit of a child;
22 provided, the Department shall limit disclosure to information
23 directly related to the purpose of such disclosure; and

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1 25. The KidSafe Child Abuse Task Force as provided for in
2 Section 1 of this act.

3 B. In accordance with the rules promulgated for such purpose
4 pursuant to the provisions of Section 620.6 of this title, records
5 may be inspected and their contents disclosed without a court order
6 to participating agencies.

7 C. Nothing in this section shall be construed as prohibiting
8 the Department from disclosing such confidential information as may
9 be necessary to secure appropriate care, treatment, protection or
10 supervision of a child alleged to be abused or neglected.

11 D. Records and their contents disclosed pursuant to this
12 section shall remain confidential. The use of such information
13 shall be limited to the purposes for which disclosure is authorized.
14 It shall be unlawful and a misdemeanor for any person to furnish any
15 record or disclose any information contained therein for any
16 unauthorized purpose.

17 SECTION 3. AMENDATORY 25 O.S. 2001, Section 307, as last
18 amended by Section 11, Chapter 1, O.S.L. 2006 (25 O.S. Supp. 2007,
19 Section 307), is amended to read as follows:

20 Section 307. A. No public body shall hold executive sessions
21 unless otherwise specifically provided in this section.

22 B. Executive sessions of public bodies will be permitted only
23 for the purpose of:

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- 1 1. Discussing the employment, hiring, appointment, promotion,
2 demotion, disciplining or resignation of any individual salaried
3 public officer or employee;
- 4 2. Discussing negotiations concerning employees and
5 representatives of employee groups;
- 6 3. Discussing the purchase or appraisal of real property;
- 7 4. Confidential communications between a public body and its
8 attorney concerning a pending investigation, claim, or action if the
9 public body, with the advice of its attorney, determines that
10 disclosure will seriously impair the ability of the public body to
11 process the claim or conduct a pending investigation, litigation, or
12 proceeding in the public interest;
- 13 5. Permitting district boards of education to hear evidence and
14 discuss the expulsion or suspension of a student when requested by
15 the student involved or the student's parent, attorney or legal
16 guardian;
- 17 6. Discussing matters involving a specific handicapped child;
- 18 7. Discussing any matter where disclosure of information would
19 violate confidentiality requirements of state or federal law;
- 20 8. Engaging in deliberations or rendering a final or
21 intermediate decision in an individual proceeding pursuant to
22 Article II of the Administrative Procedures Act; or
- 23 9. Discussing the following:
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- 1 a. the investigation of a plan or scheme to commit an act
2 of terrorism,
- 3 b. assessments of the vulnerability of government
4 facilities or public improvements to an act of
5 terrorism,
- 6 c. plans for deterrence or prevention of or protection
7 from an act of terrorism,
- 8 d. plans for response or remediation after an act of
9 terrorism,
- 10 e. information technology of the public body but only if
11 the discussion specifically identifies:
- 12 (1) design or functional schematics that demonstrate
13 the relationship or connections between devices
14 or systems,
- 15 (2) system configuration information,
- 16 (3) security monitoring and response equipment
17 placement and configuration,
- 18 (4) specific location or placement of systems,
19 components or devices,
- 20 (5) system identification numbers, names, or
21 connecting circuits,
- 22 (6) business continuity and disaster planning, or
23 response plans, or
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1 (7) investigation information directly related to
2 security penetrations or denial of services, or
3 f. the investigation of an act of terrorism that has
4 already been committed.

5 For the purposes of this subsection, the term "terrorism" means
6 any act encompassed by the definitions set forth in Section 1268.1
7 of Title 21 of the Oklahoma Statutes.

8 C. Notwithstanding the provisions of subsection B of this
9 section, the following public bodies may hold executive sessions:

10 1. The State Banking Board, as provided for under Section 306.1
11 of Title 6 of the Oklahoma Statutes;

12 2. The Oklahoma Industrial Finance Authority, as provided for
13 in Section 854 of Title 74 of the Oklahoma Statutes;

14 3. The Oklahoma Development Finance Authority, as provided for
15 in Section 5062.6 of Title 74 of the Oklahoma Statutes;

16 4. The Oklahoma Center for the Advancement of Science and
17 Technology, as provided for in Section 5060.7 of Title 74 of the
18 Oklahoma Statutes;

19 5. The Oklahoma Savings and Loan Board, as provided for under
20 subsection A of Section 381.74 of Title 18 of the Oklahoma Statutes;

21 6. The Oklahoma Health Research Committee for purposes of
22 conferring on matters pertaining to research and development of
23 products, if public disclosure of the matter discussed would
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1 interfere with the development of patents, copyrights, products, or
2 services;

3 7. A review committee, as provided for in Section 855 of Title
4 62 of the Oklahoma Statutes;

5 8. The Child Death Review Board for purposes of receiving and
6 conferring on matters pertaining to materials declared confidential
7 by law;

8 9. The Domestic Violence Fatality Review Board as provided in
9 Section 1601 of Title 22 of the Oklahoma Statutes;

10 10. All nonprofit foundations, boards, bureaus, commissions,
11 agencies, trusteeships, authorities, councils, committees, public
12 trusts, task forces or study groups supported in whole or part by
13 public funds or entrusted with the expenditure of public funds for
14 purposes of conferring on matters pertaining to economic
15 development, including the transfer of property, financing, or the
16 creation of a proposal to entice a business to remain or to locate
17 within their jurisdiction if public disclosure of the matter
18 discussed would interfere with the development of products or
19 services or if public disclosure would violate the confidentiality
20 of the business;

21 11. The KidSafe Child Abuse Task Force for purposes of
22 conferring on matters pertaining to materials declared confidential
23 by law;

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1 12. The Oklahoma Indigent Defense System Board for purposes of
2 discussing negotiating strategies in connection with making possible
3 counteroffers to offers to contract to provide legal representation
4 to indigent criminal defendants and indigent juveniles in cases for
5 which the System must provide representation pursuant to the
6 provisions of the Indigent Defense System Act; and

7 ~~12.~~ 13. The Quality Investment Committee for purposes of
8 discussing applications and confidential materials pursuant to the
9 terms of the Oklahoma Quality Investment Act.

10 D. An executive session for the purpose of discussing the
11 purchase or appraisal of real property shall be limited to members
12 of the public body, the attorney for the public body, and the
13 immediate staff of the public body. No landowner, real estate
14 salesperson, broker, developer, or any other person who may profit
15 directly or indirectly by a proposed transaction concerning real
16 property which is under consideration may be present or participate
17 in the executive session.

18 E. No public body may go into an executive session unless the
19 following procedures are strictly complied with:

20 1. The proposed executive session is noted on the agenda as
21 provided in Section 311 of this title;

22 2. The executive session is authorized by a majority vote of a
23 quorum of the members present and the vote is a recorded vote; and
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1 3. Except for matters considered in executive sessions of the
2 State Banking Board and the Oklahoma Savings and Loan Board, and
3 which are required by state or federal law to be confidential, any
4 vote or action on any item of business considered in an executive
5 session shall be taken in public meeting with the vote of each
6 member publicly cast and recorded.

7 F. A willful violation of the provisions of this section shall:

8 1. Subject each member of the public body to criminal sanctions
9 as provided in Section 314 of this title; and

10 2. Cause the minutes and all other records of the executive
11 session, including tape recordings, to be immediately made public.

12 SECTION 4. This act shall become effective July 1, 2008.

13 SECTION 5. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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