

1 STATE OF OKLAHOMA

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

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR

5 HOUSE BILL NO. 2568

6 By: Peterson (Pam)

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to children; amending 10 O.S. 2001,  
9 Section 1150.2, as last amended by Section 1, Chapter  
10 42, O.S.L. 2006 (10 O.S. Supp. 2007, Section 1150.2),  
11 which relates to the Child Death Review Board;  
12 expanding powers and duties; amending 22 O.S. 2001,  
13 Section 1601, as amended by Section 1, Chapter 20,  
14 O.S.L. 2007 (22 O.S. Supp. 2007, Section 1601), which  
15 relates to the Domestic Violence Fatality Review  
16 Board; providing for joint review of certain cases  
17 with the Child Death Review Board; providing for  
18 access to certain records of the Child Death Review  
19 Board; and providing an effective date.

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

21 SECTION 1. AMENDATORY 10 O.S. 2001, Section 1150.2, as  
22 last amended by Section 1, Chapter 42, O.S.L. 2006 (10 O.S. Supp.  
23 2007, Section 1150.2), is amended to read as follows:

24 Section 1150.2 A. There is hereby re-created until July 1,  
2012, in accordance with the Oklahoma Sunset Law, the Child Death  
Review Board within the Oklahoma Commission on Children and Youth.  
The Board shall have the power and duty to:

- 1        1. Conduct case reviews of deaths and near deaths of children  
2 in this state;
- 3        2. Develop accurate statistical information and identification  
4 of deaths of children due to abuse and neglect;
- 5        3. Improve the ability to provide protective services to the  
6 surviving siblings of a child or children who die of abuse or  
7 neglect and who may be living in a dangerous environment;
- 8        4. Improve policies, procedures and practices within the  
9 agencies that serve children, including the child protection system;  
10 and
- 11       5. Enter into agreements with local teams established by the  
12 Child Death Review Board to carry out such duties and  
13 responsibilities as the Child Death Review Board shall designate,  
14 including reviewing cases assigned by the Board in the geographical  
15 area for that local team. The Oklahoma Commission on Children and  
16 Youth, with the advice of the Child Death Review Board, shall  
17 promulgate rules as necessary for the implementation and  
18 administration of the provisions of this paragraph; and
- 19       6. Enter into agreements with other state, local, or private  
20 entities as necessary to carry out the duties of the Child Death  
21 Review Board including, but not limited to, conducting joint reviews  
22 with the Domestic Violence Fatality Review Board on domestic  
23 violence cases involving child death or child near-death incidents.

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1 B. In carrying out its duties and responsibilities the Board  
2 shall:

3 1. Establish criteria for cases involving the death or near  
4 death of a child subject to specific, in-depth review by the Board.  
5 As used in this section, the term "near death" means a child is in  
6 serious or critical condition, as certified by a physician, as a  
7 result of abuse or neglect;

8 2. Conduct a specific case review of those cases where the  
9 cause of death or near death is or may be related to abuse or  
10 neglect of a child;

11 3. Establish and maintain statistical information related to  
12 the deaths and near deaths of children including, but not limited  
13 to, demographic and medical diagnostic information;

14 4. Establish procedures for obtaining initial information  
15 regarding near deaths of children from the Department of Human  
16 Services and law enforcement agencies;

17 5. Review the policies, practices, and procedures of the child  
18 protection system and make specific recommendations to the entities  
19 comprising the child protection system for actions necessary for the  
20 improvement of the system;

21 6. Review the extent to which the state child protection system  
22 is coordinated with foster care and adoption programs and evaluate  
23 whether the state is efficiently discharging its child protection  
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1 responsibilities under the federal Child Abuse Prevention and  
2 Treatment Act state plan;

3 7. As necessary and appropriate, for the protection of the  
4 siblings of a child who dies and whose siblings are deemed to be  
5 living in a dangerous environment, refer specific cases to the  
6 Department of Human Services or the appropriate district attorney  
7 for further investigation;

8 8. Request and obtain a copy of all records and reports  
9 pertaining to a child whose case is under review including, but not  
10 limited to:

- 11 a. the ~~medical examiner's~~ report of the medical examiner,
- 12 b. hospital records,
- 13 c. school records,
- 14 d. court records,
- 15 e. prosecutorial records,
- 16 f. local, state, and federal law enforcement records  
17 including, but not limited to, the Oklahoma State  
18 Bureau of Investigation (OSBI),
- 19 g. fire department records,
- 20 h. State Department of Health records, including birth  
21 certificate records,
- 22 i. medical and dental records,
- 23 j. Department of Mental Health and Substance Abuse  
24 Services and other mental health records,

- 1 k. emergency medical service records, ~~and~~  
2 l. files of the Department of Human Services' files  
3 Services, and  
4 m. records in the possession of the Domestic Violence  
5 Fatality Review Board when conducting a joint review  
6 pursuant to paragraph 6 of subsection A of this  
7 section.

8 Confidential information provided to the Board shall be  
9 maintained by the Board in a confidential manner as otherwise  
10 required by state and federal law. Any person damaged by disclosure  
11 of such confidential information by the Board, its local boards or  
12 their members, not authorized by law, may maintain an action for  
13 damages, costs and attorney fees;

14 9. Maintain all confidential information, documents and records  
15 in possession of the Board as confidential and not subject to  
16 subpoena or discovery in any civil or criminal proceedings;  
17 provided, however, information, documents and records otherwise  
18 available from other sources shall not be exempt from subpoena or  
19 discovery through those sources solely because such information,  
20 documents and records were presented to or reviewed by the Board;

21 10. Conduct reviews of specific cases of deaths and near deaths  
22 of children and request the preparation of additional information  
23 and reports as determined to be necessary by the Board including,  
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1 but not limited to, clinical summaries from treating physicians,  
2 chronologies of contact, and second opinion autopsies;

3 11. Report, if recommended by a majority vote of the Board, to  
4 the President Pro Tempore of the Senate and the Speaker of the House  
5 of Representatives any gross neglect of duty by any state officer or  
6 state employee, or any problem within the child protective services  
7 system discovered by the Board while performing its duties;

8 12. Recommend, when appropriate, amendment of the cause or  
9 manner of death listed on the death certificate; and

10 13. Subject to the approval of the Oklahoma Commission on  
11 Children and Youth, exercise all incidental powers necessary and  
12 proper for the implementation and administration of the Child Death  
13 Review Board Act.

14 C. The review and discussion of individual cases of death or  
15 near death of a child shall be conducted in executive session and in  
16 compliance with the confidentiality requirements of Section 7005-1.2  
17 of this title. All other business shall be conducted in accordance  
18 with the provisions of the Oklahoma Open Meeting Act. All  
19 discussions of individual cases and any writings produced by or  
20 created for the Board in the course of its remedial measure and  
21 recommended by the Board, as the result of a review of an individual  
22 case of the death or near death of a child, shall be privileged and  
23 shall not be admissible in evidence in any proceeding. The Board  
24 shall periodically conduct meetings to discuss organization and

1 business matters and any actions or recommendations aimed at  
2 improvement of the child protection system which shall be subject to  
3 the Oklahoma Open Meeting Act. Part of any meeting of the Board may  
4 be specifically designated as a business meeting of the Board  
5 subject to the Oklahoma Open Meeting Act.

6 D. 1. The Board shall submit an annual statistical report on  
7 the incidence and causes of death and near death of children in this  
8 state for which the Board has completed its review during the past  
9 calendar year, including its recommendations, to the Oklahoma  
10 Commission on Children and Youth on or before May 1 of each year.  
11 The Board shall also prepare and make available to the public, on an  
12 annual basis, a report containing a summary of the activities of the  
13 Board relating to the review of deaths and near deaths of children,  
14 the extent to which the state child protection system is coordinated  
15 with foster care and adoption programs, and an evaluation of whether  
16 the state is efficiently discharging its child protection  
17 responsibilities. The report shall be completed no later than  
18 December 31 of each year.

19 2. The Oklahoma Commission on Children and Youth shall review  
20 the report of the Board and, as appropriate, incorporate the  
21 findings and recommendations into the annual Commission report and  
22 the State Plan for Services to Children and Youth.

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1 SECTION 2. AMENDATORY 22 O.S. 2001, Section 1601, as  
2 amended by Section 1, Chapter 20, O.S.L. 2007 (22 O.S. Supp. 2007,  
3 Section 1601), is amended to read as follows:

4 Section 1601. A. There is hereby created until July 1, 2013,  
5 in accordance with the Oklahoma Sunset Law, the Domestic Violence  
6 Fatality Review Board within the Oklahoma Criminal Justice Resource  
7 Center. The Board shall have the power and duty to:

8 1. Coordinate and integrate state and local efforts to address  
9 fatal domestic violence and create a body of information to prevent  
10 domestic violence deaths;

11 2. Collect, analyze and interpret state and local data on  
12 domestic violence deaths;

13 3. Develop a state and local database on domestic violence  
14 deaths;

15 4. Improve the ability to provide protective services to  
16 victims of domestic violence who may be living in a dangerous  
17 environment;

18 5. Improve policies, procedures and practices within the  
19 agencies that serve victims of domestic violence; and

20 6. Enter into agreements with other state, local or private  
21 entities as necessary to carry out the duties of the Domestic  
22 Violence Fatality Review Board including, but not limited to,  
23 conducting joint reviews with the Child Death Review Board on  
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1 domestic violence cases involving child death or child near-death  
2 incidents.

3 B. In carrying out its duties and responsibilities, the Board  
4 shall:

5 1. Promulgate rules establishing criteria for identifying cases  
6 involving a domestic violence death subject to specific, in-depth  
7 review by the Board;

8 2. Conduct a specific case review of those cases where the  
9 cause of death is or may be related to domestic violence;

10 3. Establish and maintain statistical information related to  
11 domestic violence deaths, including, but not limited to, demographic  
12 and medical diagnostic information;

13 4. Establish procedures for obtaining initial information  
14 regarding domestic violence deaths from law enforcement agencies;

15 5. Review the policies, practices, and procedures of the  
16 domestic violence protection and prevention system and make specific  
17 recommendations to the entities comprising the domestic violence  
18 prevention and protection system for actions necessary for the  
19 improvement of the system;

20 6. Review the extent to which the state domestic violence  
21 prevention and protection system is coordinated with law enforcement  
22 and the court system and evaluate whether the state is efficiently  
23 discharging its domestic violence prevention and protection  
24 responsibilities;

1           7. Request and obtain a copy of all records and reports  
2 pertaining to a domestic violence death case of the victim,  
3 perpetrator or any other person cohabitating in the domicile at the  
4 time of the fatality that is under review, including, but not  
5 limited to:

- 6           a. the report of the medical ~~examiner's report~~ examiner,
- 7           b. hospital records,
- 8           c. school records,
- 9           d. court records,
- 10          e. prosecutorial records,
- 11          f. local, state, and federal law enforcement records,  
12             including, but not limited to, the Oklahoma State  
13             Bureau of Investigation (OSBI),
- 14          g. fire department records,
- 15          h. State Department of Health records, including birth  
16             certificate records,
- 17          i. medical and dental records,
- 18          j. Department of Mental Health and Substance Abuse  
19             Services and other mental health records,
- 20          k. emergency medical service records, ~~and~~
- 21          l. files of the Department of Human ~~Services'~~ files  
22             Services, and

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1           m. records in the possession of the Child Death Review  
2           Board when conducting a joint review pursuant to  
3           paragraph 6 of subsection A of this section.

4 Confidential information provided to the Board shall be maintained  
5 by the Board in a confidential manner as otherwise required by state  
6 and federal law. Any person damaged by disclosure of such  
7 confidential information by the Board or its members which is not  
8 authorized by law may maintain an action for damages, costs and  
9 attorney fees pursuant to The Oklahoma Governmental Tort Claims Act;

10         8. Maintain all confidential information, documents and records  
11 in possession of the Board as confidential and not subject to  
12 subpoena or discovery in any civil or criminal proceedings;  
13 provided, however, information, documents and records otherwise  
14 available from other sources shall not be exempt from subpoena or  
15 discovery through those sources solely because such information,  
16 documents and records were presented to or reviewed by the Board;

17         9. Conduct reviews of specific cases of domestic violence  
18 deaths and request the preparation of additional information and  
19 reports as determined to be necessary by the Board including, but  
20 not limited to, clinical summaries from treating physicians,  
21 chronologies of contact, and second opinion autopsies;

22         10. Report, if recommended by a majority vote of the Board, to  
23 the President Pro Tempore of the Senate and the Speaker of the House  
24 of Representatives any gross neglect of duty by any state officer or

1 state employee, or any problem within the domestic violence  
2 prevention and protection system discovered by the Board while  
3 performing its duties; and

4 11. Exercise all incidental powers necessary and proper for the  
5 implementation and administration of the Domestic Violence Fatality  
6 Review Board.

7 C. The review and discussion of individual cases of a domestic  
8 violence death shall be conducted in executive session. All other  
9 business shall be conducted in accordance with the provisions of the  
10 Oklahoma Open Meeting Act. All discussions of individual cases and  
11 any writings produced by or created for the Board in the course of  
12 determining a remedial measure to be recommended by the Board, as  
13 the result of a review of an individual case of a domestic violence  
14 death, shall be privileged and shall not be admissible in evidence  
15 in any proceeding. The Board shall periodically conduct meetings to  
16 discuss organization and business matters and any actions or  
17 recommendations aimed at improvement of the domestic violence  
18 prevention and protection system which shall be subject to the  
19 Oklahoma Open Meeting Act. Part of any meeting of the Board may be  
20 specifically designated as a business meeting of the Board subject  
21 to the Oklahoma Open Meeting Act.

22 D. The Board shall submit an annual statistical report on the  
23 incidence and causes of domestic violence deaths in this state for  
24 which the Board has completed its review during the past calendar

1 year including its recommendations, if any, to the domestic violence  
2 prevention and protection system. The Board shall also prepare and  
3 make available to the public, on an annual basis, a report  
4 containing a summary of the activities of the Board relating to the  
5 review of domestic violence deaths, the extent to which the state  
6 domestic violence prevention and protection system is coordinated  
7 and an evaluation of whether the state is efficiently discharging  
8 its domestic violence prevention and protection responsibilities.  
9 The report shall be completed no later than February 1 of the  
10 subsequent year.

11 SECTION 3. This act shall become effective November 1, 2008.

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