

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 790

6 By: Leftwich, Adelson,  
7 Ballenger, Bass, Burrage,  
8 Corn, Crutchfield, Easley,  
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10 Gumm, Ivester, Johnson  
11 (Constance), Laster,  
12 Lerblance, Paddack, Rice,  
13 Riley, Sparks, Sweeden,  
14 Wilson and Wyrick of the  
15 Senate

16 and

17 Steele, Pittman, McDaniel  
18 (Jeannie), McDaniel  
19 (Randy), Peterson (Pam),  
20 Kern, Jackson, Brannon,  
21 Smithson, Winchester and  
22 Morgan of the House

23 CONFERENCE COMMITTEE SUBSTITUTE

24 An Act relating to children; creating the Letha Kay  
Louise Slate Act; providing short title; amending 10  
O.S. 2001, Section 7003-5.1, which relates to  
dispositional hearings; providing access to certain  
reports by certain persons; amending 10 O.S. 2001,  
Sections 7005-1.4, as amended by Section 8, Chapter  
205, O.S.L. 2006 (20 O.S. Supp. 2006, Section 7005-  
1.4), which relates to disclosure of Department of  
Human Services records without court order; deleting  
redundant language; defining term; providing for  
release of certain information upon the death or near  
death of a child in certain circumstances; amending  
10 O.S. 2001, Section 7102, as last amended by  
Section 4, Chapter 258, O.S.L. 2006 (10 O.S. Supp.  
2006, Section 7102), which relates to protection of  
children; modifying certain definition; providing for

1 codification; providing for noncodification; and  
2 declaring an emergency.

3  
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law not to be  
6 codified in the Oklahoma Statutes reads as follows:

7 This act shall be known and may be cited as the "Letha Kay  
8 Louise Slate Act".

9 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7003-5.1, is  
10 amended to read as follows:

11 Section 7003-5.1 A. After making an order of adjudication for  
12 a deprived child, the court shall hold a dispositional hearing, at  
13 which all evidence helpful in determining the proper disposition  
14 best serving the interest of the deprived child, including but not  
15 limited to oral and written reports, may be admitted and may be  
16 relied upon to the extent of its probative value, even though not  
17 competent for the purposes of the adjudicatory hearing.

18 B. Before making an order of disposition, the court shall  
19 advise the district attorney, the parents, guardian, custodian or  
20 responsible relative, and their counsel, of the factual contents and  
21 the conclusion of reports prepared for the use of the court and  
22 considered by it, and afford fair opportunity, if requested, to  
23 controvert them. The court shall provide parents, guardians, and  
24

1 legal custodians full and timely access to all reports that are  
2 considered by the court in any custody or visitation proceeding.

3 C. An order of disposition shall include a specific finding and  
4 order of the court relative to the liability and accountability of  
5 the parents for the care and maintenance of the child as authorized  
6 by Part 7 of this article, except where custody is placed with both  
7 parents.

8 ~~C.~~ D. On its own motion or that of the district attorney, or of  
9 the parent, guardian, custodian, responsible relative or counsel,  
10 the court may adjourn the hearing for a reasonable period to receive  
11 reports or other evidence and, in such event, shall make an  
12 appropriate order for temporary custody of the child, or his release  
13 from temporary custody subject to supervision by the court, during  
14 the period of the continuance.

15 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7005-1.4, as  
16 amended by Section 8, Chapter 205, O.S.L. 2006 (10 O.S. Supp. 2006,  
17 Section 7005-1.4), is amended to read as follows:

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

22 1. The court having the child currently before it in any  
23 proceeding pursuant to this title, any district court or tribal  
24 court to which such proceedings may be transferred, employees and

1 officers of the court in the performance of their duties, including  
2 but not limited to guardians ad litem appointed by the court,  
3 postadjudicatory review boards, court-appointed special advocates,  
4 and members of the Child Death Review Board;

5       2. Any district court which has ordered a home study by the  
6 Department in an action for divorce, annulment, custody of a child,  
7 or appointment of a legal guardian of a child, or any subsequent  
8 proceeding in such actions; provided, however, the Department may  
9 limit disclosure in the home study to summaries or to information  
10 directly related to the purpose of such disclosure;

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

16       4. The attorney representing a child who is the subject of a  
17 proceeding pursuant to the provisions of this title including the  
18 attorney representing a child pursuant to the provisions of  
19 subsection C of Section 7002-1.2 of this title or representing a  
20 child pursuant to the laws relating to child abuse and neglect.  
21 Such attorney may also access other records listed in subsection A  
22 of Section 7005-1.2 of this title for use in the legal  
23 representation of the child;

24

1       5. Employees of juvenile bureaus in the course of their  
2 official duties;

3       6. Employees of a law enforcement agency of this or another  
4 state and employees of a child protective service agency of another  
5 state or federally recognized Indian tribe in the course of their  
6 official duties pertaining to investigations of a report of known or  
7 suspected child abuse or neglect or crimes against children or for  
8 the purpose of determining whether to place a child in protective  
9 custody;

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

12       8. The Office of Juvenile Affairs;

13       9. Persons and agencies authorized by Section 7005-1.7 of this  
14 title;

15       10. Members of multidisciplinary teams or multidisciplinary  
16 personnel designated by the Department of Human Services,  
17 investigating a report of known or suspected child abuse or neglect  
18 or providing services to a child or family which is the subject of  
19 the report;

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

1       12. Any public or private agency or person authorized by the  
2 Department to diagnose, or provide care, treatment, supervision or  
3 other services to a child who is the subject of a report or record  
4 of child abuse or neglect, provided the Department may limit such  
5 disclosure to summaries or to information directly necessary for the  
6 purpose of such disclosure;

7       13. Any federally recognized Indian tribe or state or county  
8 child protective services or child welfare agency providing for or  
9 supervising the diagnosis, care, treatment, supervision or other  
10 services provided such child;

11       14. A parent, legal guardian or custodian of the child who is  
12 the subject of such records; provided, that records disclosed shall  
13 be limited to juvenile court records as defined by Section 7005-1.1  
14 of this title. All other agency records pertaining to or related to  
15 any alleged or adjudicated abuse or neglect of the child shall not  
16 be inspected or disclosed pursuant to this paragraph;

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

- 19           a. the person or agency conducting such research is  
20               employed by the State of Oklahoma or is under contract  
21               with this state and is authorized by the Department of  
22               Human Services to conduct such research, and
- 23           b. the person or agency conducting the research ensures  
24               that all documents containing identifying information

1 are maintained in secure locations and access to such  
2 documents by unauthorized persons is prohibited; that  
3 no identifying information is included in documents  
4 generated from the research conducted; and that all  
5 identifying information is deleted from documents used  
6 in the research when the research is completed;

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

9 17. A foster parent, with regard to records concerning the  
10 social, medical, psychological or educational needs of a child  
11 currently placed with that foster parent or of a child being  
12 considered for placement with that foster parent;

13 18. The Governor or to any person the Governor designates, in  
14 writing;

15 19. Any federal official of the United States Department of  
16 Health and Human Services;

17 20. The Oklahoma Health Care Authority;

18 21. Any member of the Legislature approved in writing by the  
19 Speaker of the House of Representatives or the President Pro Tempore  
20 of the Senate;

21 22. Any person or agency authorized to receive any paper,  
22 record, book or other information pursuant to the Oklahoma Adoption  
23 Code pertaining to a child who is the subject of an adoption  
24

1 proceeding or relatives who are related to such child within the  
2 third degree of consanguinity;

3 23. Employees of any state or federal corrections or law  
4 enforcement agency in the performance of their official duties  
5 concerning presentence investigations or supervision of a parent of  
6 an alleged or adjudicated deprived child or the legal guardian,  
7 custodian or any other adult member of the child's home who is  
8 responsible for the care of the child; and

9 24. An employee of a state agency of this or another state in  
10 the performance of such employee's official duties concerning the  
11 establishment of paternity or the establishment or enforcement of a  
12 child support order or other entitlement for the benefit of a child;  
13 provided, the Department shall limit disclosure to information  
14 directly related to the purpose of such disclosure.

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

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

23 D. Records and their contents disclosed pursuant to this  
24 section shall remain confidential. The use of such information

1 shall be limited to the purposes for which disclosure is authorized.  
2 It shall be unlawful and a misdemeanor for any person to furnish any  
3 record or disclose any information contained therein for any  
4 unauthorized purpose.

5 E. 1. ~~In cases involving the death or near death of a child~~  
6 ~~when a person responsible for the child has been charged by~~  
7 ~~information or indictment with committing a crime resulting in the~~  
8 ~~child's death or near death, there shall be a presumption that the~~  
9 ~~best interest of the public will be served by public disclosure of~~  
10 ~~certain information concerning the circumstances of the~~  
11 ~~investigation of the death or near death of the child and any other~~  
12 ~~investigations concerning that child, or other children living in~~  
13 ~~the same household.~~

14 2. ~~At any time subsequent to seven (7) days of the date the~~  
15 ~~person responsible for the child has been criminally charged, the~~  
16 ~~Department of Human Services, the Oklahoma Commission on Children~~  
17 ~~and Youth, or the district attorney may release the following~~  
18 ~~information to the public:~~

- 19 a. ~~a confirmation that a report has been made concerning~~  
20 ~~the alleged victim or other children living in the~~  
21 ~~same household and whether an investigation has begun,~~  
22 b. ~~confirmation as to whether previous reports have been~~  
23 ~~made and the dates thereof, a summary of those~~  
24 ~~previous reports, the dates and outcome of any~~

1 ~~investigations or actions taken by the Department of~~  
2 ~~Human Services in response to any report of child~~  
3 ~~abuse or neglect, the specific recommendation made to~~  
4 ~~the district attorney by the Department of Human~~  
5 ~~Services, and any actions taken by the district~~  
6 ~~attorney after submission of any investigative report,~~  
7 ~~and~~

8 e. ~~the dates of any judicial proceedings prior to the~~  
9 ~~child's death or near death, specific recommendations~~  
10 ~~made by the Department of Human Services in any~~  
11 ~~progress reports submitted to the court, a summary of~~  
12 ~~each participant's recommendations made at the~~  
13 ~~judicial proceedings including recommendations made at~~  
14 ~~the hearing as they relate to custody or placement of~~  
15 ~~a child, and the rulings of the court.~~

16 3. Any disclosure of information pursuant to this section shall  
17 not identify or provide an identifying description of any  
18 complainant or reporter of child abuse or neglect, and shall not  
19 identify the name of the ~~child victim's~~ siblings of the child victim  
20 or other children living in the same household, the parent or other  
21 person responsible for the child or any other member of the  
22 household, other than the person criminally charged.

1 ~~F. For purposes of this section, the term "near death" means~~  
2 ~~the child is in serious or critical condition, as certified by a~~  
3 ~~physician, as a result of abuse or neglect.~~

4 SECTION 4. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 7005-1.9 of Title 10, unless  
6 there is created a duplication in numbering, reads as follows:

7 A. For purposes of this section, the term "near death" means  
8 the child is in serious or critical condition, as certified by a  
9 physician, as a result of abuse or neglect.

10 B. In cases involving the death or near death of a child when a  
11 person responsible for the child has been charged by information or  
12 indictment with committing a crime resulting in the death or near  
13 death of the child, there shall be a presumption that the best  
14 interest of the public will be served by public disclosure of  
15 certain information concerning the circumstances of the  
16 investigation of the death or near death of the child and any other  
17 investigations within the last three (3) years concerning that  
18 child, or other children while living in the same household.

19 C. 1. At any time subsequent to seven (7) days, but no more  
20 than thirty (30) days, of the date the person responsible for the  
21 child has been criminally charged, the Department of Human Services,  
22 the district attorney, the district court clerk, and the judge  
23 having jurisdiction over the case, upon request, shall release  
24 certain information to the public as follows:

- 1 a. a confirmation shall be provided by the Department of  
2 Human Services as to whether a report has been made  
3 concerning the alleged victim or other children while  
4 living in the same household and whether an  
5 investigation has begun,
- 6 b. confirmation shall be provided by the Department of  
7 Human Services as to whether previous reports have  
8 been made and the dates thereof, a summary of those  
9 previous reports, the dates and outcome of any  
10 investigations or actions taken by the Department of  
11 Human Services in response to a previous report of  
12 child abuse or neglect, and the specific  
13 recommendation made to the district attorney and any  
14 subsequent action taken by the district attorney,
- 15 c. the dates of any judicial proceedings prior to the  
16 death or near death of the child,
- 17 d. recommendations submitted by each participant in  
18 writing at the judicial proceedings including  
19 recommendations made at the hearing as they relate to  
20 custody or placement of a child, and
- 21 e. the rulings of the court.

22 2. Specific recommendations made and services rendered by the  
23 Department of Human Services described in any progress reports of a  
24

1 pending case submitted to the court may be disclosed by the  
2 Department of Human Services.

3 D. 1. At any time subsequent to seven (7) days, but no more  
4 than thirty (30) days, of the date the person responsible for the  
5 child has been criminally charged, the Oklahoma Commission on  
6 Children and Youth shall release certain information to the public  
7 as follows:

8 a. a confirmation shall be provided by the Oklahoma  
9 Commission on Children and Youth as to whether a  
10 report has been made concerning the alleged victim or  
11 other children while living in the same household and  
12 whether an investigation has begun,

13 b. confirmation shall be provided by the Oklahoma  
14 Commission on Children and Youth as to whether  
15 previous reports have been made and the dates thereof,  
16 a summary of those previous reports, the dates and  
17 outcome of any investigations or actions taken by the  
18 Oklahoma Commission on Children and Youth in response  
19 to any previous report of child abuse or neglect, and  
20 the specific recommendation made to the district  
21 attorney and any subsequent action taken by the  
22 district attorney,

23 c. the dates of any judicial proceedings prior to the  
24 death or near death of the child,

- 1           d.    recommendations submitted by the Oklahoma Commission  
2                    on Children and Youth shall be provided in writing  
3                    including recommendations made at the hearing as they  
4                    relate to custody or placement of a child, and  
5            e.    the rulings of the court.

6           2.    Specific recommendations made by the Oklahoma Commission on  
7 Children and Youth described in any progress reports of a pending  
8 case submitted to the court may be disclosed by the Oklahoma  
9 Commission on Children and Youth.

10          E.    Any disclosure of information pursuant to this section shall  
11 not identify or provide an identifying description of any  
12 complainant or reporter of child abuse or neglect, and shall not  
13 identify the name of the child victim's siblings or other children  
14 living in the same household, the parent or other person responsible  
15 for the child or any other member of the household, other than the  
16 person criminally charged.

17          SECTION 5.        AMENDATORY        10 O.S. 2001, Section 7102, as  
18 last amended by Section 4, Chapter 258, O.S.L. 2006 (10 O.S. Supp.  
19 2006, Section 7102), is amended to read as follows:

20          Section 7102.   A.   1.   It is the policy of this state to provide  
21 for the protection of children who have been abused or neglected and  
22 who may be further threatened by the conduct of persons responsible  
23 for the health, safety or welfare of such children.

1        2. It is the policy of this state that in responding to a  
2 report of child abuse or neglect:

- 3            a. in any necessary removal of a child from the home,
- 4            b. in placements of a child required pursuant to the  
5            Oklahoma Child Abuse Reporting and Prevention Act, and
- 6            c. in any administrative or judicial proceeding held  
7            pursuant to the provisions of the Oklahoma Child Abuse  
8            Reporting and Prevention Act,

9 ~~that~~ the best interests of the child shall be of paramount  
10 consideration.

11        B. Except as otherwise provided by and used in the Oklahoma  
12 Child Abuse Reporting and Prevention Act:

13            1. "Abuse" means harm or threatened harm to a child's health,  
14 safety or welfare by a person responsible for the child's health,  
15 safety or welfare, including sexual abuse and sexual exploitation;

16            2. "Harm or threatened harm to a child's health or safety"  
17 includes, but is not limited to:

- 18            a. nonaccidental physical or mental injury,
- 19            b. sexual abuse,
- 20            c. sexual exploitation,
- 21            d. neglect,
- 22            e. failure or omission to provide protection from harm or  
23            threatened harm, or
- 24            f. abandonment;

1       3. "Neglect" means abandonment, or failure or omission to  
2 provide any of the following:

- 3           a. adequate food, clothing, shelter, medical care, ~~and~~ or  
4                                   supervision, or
- 5           b. special care made necessary by the physical or mental  
6                                   condition of the child, ~~or~~
- 7           c. ~~abandonment~~;

8       4. "Child" means any unmarried person under the age of eighteen  
9 (18) years, except any person convicted of a crime specified in  
10 Section 7306-1.1 of this title or any person who has been certified  
11 as an adult pursuant to Section 7303-4.3 of this title and convicted  
12 of a felony;

13       5. "Person responsible for a child's health, safety or welfare"  
14 includes a parent; a legal guardian; a custodian; a foster parent; a  
15 person eighteen (18) years of age or older with whom the child's  
16 parent cohabitates or any other adult residing in the home of the  
17 child; an agent or employee of a public or private residential home,  
18 institution, facility or day treatment program as defined in Section  
19 175.20 of this title; or an owner, operator, or employee of a child  
20 care facility as defined by Section 402 of this title;

21       6. "Sexual abuse" includes, but is not limited to, rape, incest  
22 and lewd or indecent acts or proposals made to a child, as defined  
23 by law, by a person responsible for the child's health, safety or  
24 welfare;

1 7. "Sexual exploitation" includes, but is not limited to,  
2 allowing, permitting, or encouraging a child to engage in  
3 prostitution, as defined by law, by a person responsible for the  
4 child's health, safety or welfare or allowing, permitting,  
5 encouraging, or engaging in the lewd, obscene, or pornographic  
6 photographing, filming, or depicting of a child in those acts as  
7 defined by the state law, by a person responsible for the child's  
8 health, safety or welfare;

9 8. "Multidisciplinary child abuse team" means any freestanding  
10 team established pursuant to the provisions of Section 7110 of this  
11 title. For purposes of this definition, "freestanding" means a team  
12 not used by a child advocacy center for its accreditation;

13 9. "Child advocacy center" means a center and the  
14 multidisciplinary child abuse team of which it is a member that is  
15 accredited by the National Children's Alliance and shall be  
16 classified, based on the child population of a district attorney's  
17 district, as follows:

18 a. nonurban centers in districts with child populations  
19 that are less than sixty thousand (60,000),

20 b. ~~mid-level~~ midlevel nonurban centers in districts with  
21 child populations equal to or greater than sixty  
22 thousand (60,000), but not including Oklahoma and  
23 Tulsa Counties, and

24 c. urban centers in Oklahoma and Tulsa Counties-;

1           10. "Assessment" means a systematic process utilized by the  
2 Department of Human Services to respond to reports of alleged child  
3 abuse or neglect which, according to priority guidelines established  
4 by the Department, do not constitute a serious and immediate threat  
5 to the child's health, safety or welfare. The assessment includes,  
6 but is not limited to, the following elements:

- 7           a. an evaluation of the child's safety, and
- 8           b. a determination regarding the family's need for  
9           services;

10           11. "Investigation" means an approach utilized by the  
11 Department to respond to reports of alleged child abuse or neglect  
12 which, according to priority guidelines established by the  
13 Department, constitute a serious and immediate threat to the child's  
14 health or safety. An investigation includes, but is not limited to,  
15 the following elements:

- 16           a. an evaluation of the child's safety or welfare,
- 17           b. a determination whether or not child abuse or neglect  
18           occurred, and
- 19           c. a determination regarding the family's need for  
20           prevention and intervention-related services;

21           12. "Services not needed determination" means a report in which  
22 a child protective services worker, after an investigation,  
23 determines that there is no identified risk of abuse or neglect;

1           13. "Services recommended determination" means a report in  
2 which a child protective services worker, after an investigation,  
3 determines the allegations to be unfounded or for which there is  
4 insufficient evidence to fully determine whether child abuse or  
5 neglect has occurred, but one in which the Department determines  
6 that the child and the child's family could benefit from receiving  
7 prevention and intervention-related services;

8           14. "Confirmed report - services recommended" means a report  
9 which is determined by a child protective services worker, after an  
10 investigation and based upon some credible evidence, to constitute  
11 child abuse or neglect which is of such a nature that the Department  
12 recommends prevention and intervention-related services for the  
13 parents or persons responsible for the care of the child or  
14 children, but for which initial court intervention is not required;

15           15. "Confirmed report - court intervention" means a report  
16 which is determined by a child protective services worker, after an  
17 investigation and based upon some credible evidence, to constitute  
18 child abuse or neglect which is of such a nature that the Department  
19 finds that the child's health, safety or welfare is threatened;

20           16. "Child protective services worker" means a person employed  
21 by the Department of Human Services with sufficient experience or  
22 training as determined by the Department in child abuse prevention  
23 and identification;

24           17. "Department" means the Department of Human Services;

1 18. "Commission" means the Commission for Human Services; and

2 19. "Prevention and intervention-related services" means  
3 community-based programs that serve children and families on a  
4 voluntary and time-limited basis to help reduce the likelihood or  
5 incidence of child abuse and neglect.

6 SECTION 6. It being immediately necessary for the preservation  
7 of the public peace, health and safety, an emergency is hereby  
8 declared to exist, by reason whereof this act shall take effect and  
9 be in full force from and after its passage and approval.

10  
11 51-1-2058 TEK 11/27/2007 2:20:11 PM