

1 STATE OF OKLAHOMA

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

3 2ND CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 790

6 By: Leftwich, Adelson,
7 Ballenger, Bass, Burrage,
8 Corn, Crutchfield,
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10 Garrison, Gumm, Ivester,
11 Johnson (Constance),
12 Laster, Lerblance,
13 Paddack, Rice, Riley,
14 Sparks, Sweeden, Wilson
15 and Wyrick of the 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 2ND 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,
Section 7005-1.4, as amended by Section 8, Chapter
205, O.S.L. 2006 (10 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

1 children; modifying certain definition; providing for
2 codification; providing for noncodification; and
3 declaring an emergency.

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~~ the
13 child's release from temporary custody subject to supervision by the
14 court, during 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;

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

20 2. Specific recommendations made and services rendered by the
21 Department described in any progress reports of a pending case
22 submitted to the court may be disclosed by the Department.

23 D. 1. At any time subsequent to seven (7) days, but no more
24 than thirty (30) days, of the date the person responsible for the

1 child has been criminally charged, the Oklahoma Commission on
2 Children and Youth shall, upon request, release certain information
3 to the public as follows:

4 a. a confirmation shall be provided by the Commission as
5 to whether a report of suspected child abuse or
6 neglect has been made concerning the alleged victim or
7 other children while living in the same household and
8 whether an investigation has begun,

9 b. confirmation shall be provided by the Commission as to
10 whether previous reports of suspected child abuse or
11 neglect have been made and the dates thereof, a
12 summary of those previous reports, the dates and
13 outcome of any investigations or actions taken by the
14 Department and the Commission in response to any
15 previous report of child abuse or neglect, and the
16 specific recommendation made to the district attorney
17 and any subsequent action taken by the district
18 attorney,

19 c. the dates of any judicial proceedings prior to the
20 death or near death of the child,

21 d. recommendations submitted by the Department and the
22 Commission shall be provided in writing including
23 recommendations made at the hearing as they relate to
24 custody or placement of a child, and

1 e. the rulings of the court.

2 2. Specific recommendations made by the Commission described in
3 any progress reports of a pending case submitted to the court may be
4 disclosed by the Commission.

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

12 SECTION 5. AMENDATORY 10 O.S. 2001, Section 7102, as
13 last amended by Section 4, Chapter 258, O.S.L. 2006 (10 O.S. Supp.
14 2006, Section 7102), is amended to read as follows:

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

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

- 21 a. in any necessary removal of a child from the home,
- 22 b. in placements of a child required pursuant to the
23 Oklahoma Child Abuse Reporting and Prevention Act, and

1 c. in any administrative or judicial proceeding held
2 pursuant to the provisions of the Oklahoma Child Abuse
3 Reporting and Prevention Act,
4 ~~that~~ the best interests of the child shall be of paramount
5 consideration.

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

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

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

13 a. nonaccidental physical or mental injury,

14 b. sexual abuse,

15 c. sexual exploitation,

16 d. neglect,

17 e. failure or omission to provide protection from harm or
18 threatened harm, or

19 f. abandonment;

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

22 a. adequate food, clothing, shelter, medical care, ~~and~~ or
23 supervision, or

1 b. special care made necessary by the physical or mental
2 condition of the child, ~~or~~
3 c. ~~abandonment;~~

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

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

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

21 7. "Sexual exploitation" includes, but is not limited to,
22 allowing, permitting, or encouraging a child to engage in
23 prostitution, as defined by law, by a person responsible for the
24 child's health, safety or welfare or allowing, permitting,

1 encouraging, or engaging in the lewd, obscene, or pornographic
2 photographing, filming, or depicting of a child in those acts as
3 defined by the state law, by a person responsible for the child's
4 health, safety or welfare;

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

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

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

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

20 c. urban centers in Oklahoma and Tulsa Counties-i

21 10. "Assessment" means a systematic process utilized by the
22 Department of Human Services to respond to reports of alleged child
23 abuse or neglect which, according to priority guidelines established
24 by the Department, do not constitute a serious and immediate threat

1 to the child's health, safety or welfare. The assessment includes,
2 but is not limited to, the following elements:

- 3 a. an evaluation of the child's safety, and
- 4 b. a determination regarding the family's need for
5 services;

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

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

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

20 13. "Services recommended determination" means a report in
21 which a child protective services worker, after an investigation,
22 determines the allegations to be unfounded or for which there is
23 insufficient evidence to fully determine whether child abuse or
24 neglect has occurred, but one in which the Department determines

1 that the child and the child's family could benefit from receiving
2 prevention and intervention-related services;

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

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

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

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

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

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

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

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