

ENROLLED SENATE
BILL NO. 790

By: Leftwich, Adelson, Ballenger, Bass,
Burrage, Corn, Crutchfield, Easley,
Eason McIntyre, Garrison, Gumm,
Ivester, Johnson (Constance),
Laster, Lerblance, Paddack, Rice,
Riley, Sparks, Sweeden, Wilson,
Wyrick and Sykes of the Senate

and

Steele, Pittman, McDaniel
(Jeannie), McDaniel (Randy),
Peterson (Pam), Kern, Jackson,
Brannon, Smithson, Winchester and
Morgan of the House

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 1 of Enrolled Senate Bill No. 664 of the 1st Session of the 51st Oklahoma Legislature, which relates to protection of children; modifying certain definition; providing for codification; providing for noncodification; and declaring an emergency.

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

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

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

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

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

B. Before making an order of disposition, the court shall advise the district attorney, the parents, guardian, custodian or responsible relative, and their counsel, of the factual contents and the conclusion of reports prepared for the use of the court and considered by it, and afford fair opportunity, if requested, to controvert them. The court shall provide parents, guardians, and legal custodians full and timely access to all reports that are considered by the court in any custody or visitation proceeding.

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

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

SECTION 3. AMENDATORY 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), is amended to read as follows:

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

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

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

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

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

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

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

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

8. The Office of Juvenile Affairs;

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

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

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

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

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

14. A parent, legal guardian or custodian of the child who is the subject of such records; provided, that records disclosed shall

be limited to juvenile court records as defined by Section 7005-1.1 of this title. All other agency records pertaining to or related to any alleged or adjudicated abuse or neglect of the child shall not be inspected or disclosed pursuant to this paragraph;

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

- a. the person or agency conducting such research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department of Human Services to conduct such research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

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

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

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

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

20. The Oklahoma Health Care Authority;

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

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

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

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

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

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

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

~~E. 1. In cases involving the death or near death of a child when a person responsible for the child has been charged by information or indictment with committing a crime resulting in the child's death or near death, there shall be a presumption that the best interest of the public will be served by public disclosure of~~

~~certain information concerning the circumstances of the investigation of the death or near death of the child and any other investigations concerning that child, or other children living in the same household.~~

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

- ~~a. a confirmation that a report has been made concerning the alleged victim or other children living in the same household and whether an investigation has begun,~~
- ~~b. confirmation as to whether previous reports have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department of Human Services in response to any report of child abuse or neglect, the specific recommendation made to the district attorney by the Department of Human Services, and any actions taken by the district attorney after submission of any investigative report, and~~
- ~~c. the dates of any judicial proceedings prior to the child's death or near death, specific recommendations made by the Department of Human Services in any progress reports submitted to the court, a summary of each participant's recommendations made at the judicial proceedings including recommendations made at the hearing as they relate to custody or placement of a child, and the rulings of the court.~~

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

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

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

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

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

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

- a. a confirmation shall be provided by the Department as to whether a report has been made concerning the alleged victim or other children while living in the same household and whether an investigation has begun,
- b. confirmation shall be provided by the Department as to whether previous reports have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department in response to a previous report of child abuse or neglect, and the specific recommendation made to the district attorney and any subsequent action taken by the district attorney,

- c. the dates of any judicial proceedings prior to the death or near death of the child,
- d. recommendations submitted by each participant in writing at the judicial proceedings including recommendations made at the hearing as they relate to custody or placement of a child, and
- e. the rulings of the court.

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

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

- a. a confirmation shall be provided by the Commission as to whether a report of suspected child abuse or neglect has been made concerning the alleged victim or other children while living in the same household and whether an investigation has begun,
- b. confirmation shall be provided by the Commission as to whether previous reports of suspected child abuse or neglect have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department and the Commission in response to any previous report of child abuse or neglect, and the specific recommendation made to the district attorney and any subsequent action taken by the district attorney,
- c. the dates of any judicial proceedings prior to the death or near death of the child,
- d. recommendations submitted by the Department and the Commission shall be provided in writing including

recommendations made at the hearing as they relate to custody or placement of a child, and

e. the rulings of the court.

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

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

SECTION 5. AMENDATORY 10 O.S. 2001, Section 7102, as last amended by Section 1 of Enrolled Senate Bill No. 664 of the 1st Session of the 51st Oklahoma Legislature, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

5. "Person responsible for a child's health, safety or welfare" includes a parent; a legal guardian; a custodian; a foster parent; a

person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of this title; or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

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

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

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

9. "Child advocacy center" means a center and the multidisciplinary child abuse team of which it is a member that is accredited by the National Children's Alliance or that is completing a sixth year of reaccreditation. Child advocacy centers shall be classified, based on the child population of a district attorney's district, as follows:

- a. nonurban centers in districts with child populations that are less than sixty thousand (60,000),
- b. ~~mid-level~~ midlevel nonurban centers in districts with child populations equal to or greater than sixty thousand (60,000), but not including Oklahoma and Tulsa Counties, and
- c. urban centers in Oklahoma and Tulsa Counties.

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

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

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

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

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

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

14. "Confirmed report - services recommended" means a report which is determined by a child protective services worker, after an investigation and based upon some credible evidence, to constitute

child abuse or neglect which is of such a nature that the Department recommends prevention and intervention-related services for the parents or persons responsible for the care of the child or children, but for which initial court intervention is not required;

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

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

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

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

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

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

Passed the Senate the 24th day of May, 2007.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2007.

Presiding Officer of the House
of Representatives