

THE HOUSE OF REPRESENTATIVES
Wednesday, March 7, 2007

Committee Substitute for
House Bill No. 1699

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1699 - By: MORGAN (DANNY) of the House and RILEY of the Senate.

An Act relating to children; amending 10 O.S. 2001, Section 7003-5.1, which relates to dispositional hearings; providing for access to reports and evidence for 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 records; providing for disclosure of certain information by certain persons; and providing an effective date.

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

1 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7003-5.1, is amended to
2 read as follows:

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

9 B. Before making an order of disposition, the court shall advise the district
10 attorney, the parents, guardian, custodian or responsible relative, and their counsel, of

1 the factual contents and the conclusion of reports prepared for the use of the court and
2 considered by it, and afford fair opportunity, if requested, to controvert them. The court
3 shall provide parents, guardians, and legal custodians full and timely access to all
4 reports that are considered by the court in any custody or visitation proceeding.

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

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

14 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7005-1.4, as amended by
15 Section 8, Chapter 205, O.S.L. 2006 (10 O.S. Supp. 2006, Section 7005-1.4), is amended to
16 read as follows:

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

20 1. The court having the child currently before it in any proceeding pursuant to this
21 title, any district court or tribal court to which such proceedings may be transferred,
22 employees and officers of the court in the performance of their duties, including but not

1 limited to guardians ad litem appointed by the court, postadjudicatory review boards,
2 court-appointed special advocates, and members of the Child Death Review Board;

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

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

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

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

19 6. Employees of a law enforcement agency of this or another state and employees of
20 a child protective service agency of another state or federally recognized Indian tribe in
21 the course of their official duties pertaining to investigations of a report of known or

1 suspected child abuse or neglect or crimes against children or for the purpose of
2 determining whether to place a child in protective custody;

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

5 8. The Office of Juvenile Affairs;

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

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

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

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

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

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

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

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

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

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

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

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

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

7 20. The Oklahoma Health Care Authority;

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

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

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

19 24. An employee of a state agency of this or another state in the performance of
20 such employee's official duties concerning the establishment of paternity or the
21 establishment or enforcement of a child support order or other entitlement for the benefit

1 of a child; provided, the Department shall limit disclosure to information directly related
2 to the purpose of such disclosure.

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

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

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

14 E. 1. In cases involving the death or near death of a child when a person
15 responsible for the child has been charged by information or indictment with committing
16 a crime resulting in the ~~child's~~ death or near death of the child, there shall be a
17 presumption that the best interest of the public will be served by public disclosure of
18 certain information concerning the circumstances of the investigation of the death or
19 near death of the child and any other investigations within the last three (3) years
20 concerning that child, or other children while living in the same household.

21 2. At any time subsequent to seven (7) days, but no more than thirty (30) days, of
22 the date the person responsible for the child has been criminally charged, the

1 Department of Human Services, the Oklahoma Commission on Children and Youth, ~~or~~
2 the district attorney ~~may~~, district court clerk, and the judge having jurisdiction over the
3 case shall release ~~the following~~ certain information to the public as follows:

- 4 a. a confirmation ~~that~~ shall be provided by the Department of Human
5 Services and the Oklahoma Commission on Children and Youth as to
6 whether a report has been made concerning the alleged victim or other
7 children while living in the same household and whether an
8 investigation has begun,
- 9 b. confirmation shall be provided by the Department of Human Services
10 and the Oklahoma Commission on Children and Youth as to whether
11 previous reports have been made and the dates thereof, a summary of
12 those previous reports, the dates and outcome of any investigations or
13 actions taken by the Department of Human Services and the
14 Oklahoma Commission on Children and Youth in response to any
15 report of child abuse or neglect, and the specific recommendation made
16 to the district attorney by the Department of Human Services and the
17 Oklahoma Commission on Children and Youth, ~~and~~
- 18 c. the district attorney shall disclose any actions taken by the office of the
19 district attorney after ~~submission of~~ receiving any investigative report
20 from the Department of Human Services or the Oklahoma Commission
21 on Children and Youth, ~~and~~

1 e. d. the dates of any judicial proceedings prior to the ~~child's~~ death or near
2 death of the child shall be disclosed by the district court clerk,

3 e. specific recommendations made by the Department of Human Services
4 in any ~~progress~~ reports submitted to the court shall be disclosed by the
5 Department of Human Services, a summary of each participant's

6 f. recommendations ~~made~~ submitted by each participant at the judicial
7 proceedings shall be provided in writing by the judge having
8 jurisdiction over the case including recommendations made at the

9 hearing as they relate to custody or placement of a child, and

10 g. the rulings of the court shall be provided in writing by the judge
11 having jurisdiction over the case.

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

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

20 SECTION 3. This act shall become effective November 1, 2007.

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
22 dated 03-06-07 - DO PASS, As Amended and Coauthored.