

THE HOUSE OF REPRESENTATIVES
Thursday, February 28, 2008

Committee Substitute for
House Bill No. 2568

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2568 - By: PETERSON (PAM),
BIGHORSE AND PITTMAN of the House and ANDERSON of the Senate.

An Act relating to children; amending 10 O.S. 2001, Section 1150.2, as last amended by Section 1, Chapter 42, O.S.L. 2006 (10 O.S. Supp. 2007, Section 1150.2), which relates to the Child Death Review Board; expanding powers and duties; amending 22 O.S. 2001, Section 1601, as amended by Section 1, Chapter 20, O.S.L. 2007 (22 O.S. Supp. 2007, Section 1601), which relates to the Domestic Violence Fatality Review Board; providing for joint review of certain cases with the Child Death Review Board; providing for access to certain records of the Child Death Review Board; 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 1150.2, as last amended by
2 Section 1, Chapter 42, O.S.L. 2006 (10 O.S. Supp. 2007, Section 1150.2), is amended to
3 read as follows:

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

- 7 1. Conduct case reviews of deaths and near deaths of children in this state;
8 2. Develop accurate statistical information and identification of deaths of children
9 due to abuse and neglect;

1 3. Improve the ability to provide protective services to the surviving siblings of a
2 child or children who die of abuse or neglect and who may be living in a dangerous
3 environment;

4 4. Improve policies, procedures and practices within the agencies that serve
5 children, including the child protection system; ~~and~~

6 5. Enter into agreements with local teams established by the Child Death Review
7 Board to carry out such duties and responsibilities as the Child Death Review Board
8 shall designate, including reviewing cases assigned by the Board in the geographical area
9 for that local team. The Oklahoma Commission on Children and Youth, with the advice
10 of the Child Death Review Board, shall promulgate rules as necessary for the
11 implementation and administration of the provisions of this paragraph; and

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

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

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

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

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

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

6 5. Review the policies, practices, and procedures of the child protection system and
7 make specific recommendations to the entities comprising the child protection system for
8 actions necessary for the improvement of the system;

9 6. Review the extent to which the state child protection system is coordinated with
10 foster care and adoption programs and evaluate whether the state is efficiently
11 discharging its child protection responsibilities under the federal Child Abuse Prevention
12 and Treatment Act state plan;

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

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

- 19 a. the ~~medical examiner's~~ report of the medical examiner,
- 20 b. hospital records,
- 21 c. school records,
- 22 d. court records,

- 1 e. prosecutorial records,
2 f. local, state, and federal law enforcement records including, but not
3 limited to, the Oklahoma State Bureau of Investigation (OSBI),
4 g. fire department records,
5 h. State Department of Health records, including birth certificate records,
6 i. medical and dental records,
7 j. Department of Mental Health and Substance Abuse Services and other
8 mental health records,
9 k. emergency medical service records, ~~and~~
10 l. files of the Department of Human Services' files Services, and
11 m. records in the possession of the Domestic Violence Fatality Review
12 Board when conducting a joint review pursuant to paragraph 6 of
13 subsection A of this section.

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

19 9. Maintain all confidential information, documents and records in possession of
20 the Board as confidential and not subject to subpoena or discovery in any civil or criminal
21 proceedings; provided, however, information, documents and records otherwise available
22 from other sources shall not be exempt from subpoena or discovery through those sources

1 solely because such information, documents and records were presented to or reviewed
2 by the Board;

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

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

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

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

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

1 admissible in evidence in any proceeding. The Board shall periodically conduct meetings
2 to discuss organization and business matters and any actions or recommendations aimed
3 at improvement of the child protection system which shall be subject to the Oklahoma
4 Open Meeting Act. Part of any meeting of the Board may be specifically designated as a
5 business meeting of the Board subject to the Oklahoma Open Meeting Act.

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

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

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

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

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

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

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

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

5 5. Review the policies, practices, and procedures of the domestic violence protection
6 and prevention system and make specific recommendations to the entities comprising the
7 domestic violence prevention and protection system for actions necessary for the
8 improvement of the system;

9 6. Review the extent to which the state domestic violence prevention and protection
10 system is coordinated with law enforcement and the court system and evaluate whether
11 the state is efficiently discharging its domestic violence prevention and protection
12 responsibilities;

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

- 16 a. the report of the medical examiner's report examiner,
- 17 b. hospital records,
- 18 c. school records,
- 19 d. court records,
- 20 e. prosecutorial records,
- 21 f. local, state, and federal law enforcement records, including, but not
22 limited to, the Oklahoma State Bureau of Investigation (OSBI),

- 1 g. fire department records,
2 h. State Department of Health records, including birth certificate records,
3 i. medical and dental records,
4 j. Department of Mental Health and Substance Abuse Services and other
5 mental health records,
6 k. emergency medical service records, ~~and~~
7 l. files of the Department of Human Services' files Services, and
8 m. records in the possession of the Child Death Review Board when
9 conducting a joint review pursuant to paragraph 6 of subsection A of
10 this section.

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

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

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

5 10. Report, if recommended by a majority vote of the Board, to the President Pro
6 Tempore of the Senate and the Speaker of the House of Representatives any gross
7 neglect of duty by any state officer or state employee, or any problem within the domestic
8 violence prevention and protection system discovered by the Board while performing its
9 duties; and

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

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

1 specifically designated as a business meeting of the Board subject to the Oklahoma Open
2 Meeting Act.

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02-27-08 -
15 DO PASS, As Amended and Coauthored.