

THE HOUSE OF REPRESENTATIVES
Thursday, March 6, 2008

Committee Substitute for
House Bill No. 2788

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2788 - By: JACKSON AND ROAN
of the House.

An Act relating to children; creating the KidSafe Child Abuse Task Force; providing for membership; specifying chair; providing for first meeting; providing for vacancies; specifying a quorum; providing for staffing; specifying duties; requiring certain report; providing for access to certain records; exempting Task Force from the Oklahoma Open Meeting Act; amending 10 O.S. 2001, Section 7005-1.4, as last amended by Section 3, Chapter 351, O.S.L. 2007 (10 O.S. Supp. 2007, Section 7005-1.4), which relates to records of the Department of Human Services; expanding access to the KidSafe Child Abuse Task Force; amending 25 O.S. 2001, Section 307, as last amended by Section 11, Chapter 1, O.S.L. 2006 (25 O.S. Supp. 2007, Section 307), which relates to executive sessions; expanding list of permitted sessions; providing for codification; providing an effective date; and declaring an emergency.

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

- 1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 7116 of Title 10, unless there is created a duplication in numbering,
3 reads as follows:
- 4 A. There is hereby created, to continue until June 30, 2012, the “KidSafe Child
5 Abuse Task Force”.
- 6 B. The Task Force shall consist of eleven (11) members as follows:
- 7 1. The Speaker of the Oklahoma House of Representatives, or a designee;

- 1 2. The President Pro Tempore of the Oklahoma State Senate, or a designee;
- 2 3. The Commissioner of the Department of Public Safety or a designee;
- 3 4. The Dean of the University of Oklahoma College of Nursing or a designee;
- 4 5. The Provost of the University of Oklahoma Health Sciences Center, or a designee
- 5 from the Telemedicine Department;
- 6 6. A representative of the District Attorneys Council selected by the District
- 7 Attorneys Council;
- 8 7. The Director of the Department of Human Services or a designee;
- 9 8. A judge who presides over a juvenile docket or juvenile cases;
- 10 9. A district attorney from a district with a municipality containing a population of
- 11 no more than five hundred thousand (500,000) in accordance with the latest Federal
- 12 Decennial Census to be selected by the Governor; and
- 13 10. Two members at large to be chosen by a simple majority of the eight appointed
- 14 members.

15 C. The chair shall be the Commissioner of the Department of Public Safety. The

16 first meeting shall convene at the call of the chair on or before August 1, 2008. Members

17 shall serve at the discretion of the appointing authority. Vacancies shall be filled by the

18 original appointing authority, except for vacancies of at-large members provided for in

19 paragraph 9 of subsection B of this section, which shall be filled by a simple majority of

20 the eight appointed members. A simple majority of the membership of the Task Force

21 shall constitute a quorum for purposes of taking any official action.

1 D. Staffing assistance for the Task Force shall be provided by a nationally
2 recognized state organization of children’s advocacy centers pursuant to a contract
3 between the organization and the Task Force.

4 E. The Task Force shall:

5 1. Provide oversight regarding the role of specialized child abuse investigators;

6 2. Monitor the case activity for any matter involving alleged or adjudicated
7 instances of child abuse or neglect;

8 3. Develop recommendations to the Governor, the Speaker of the House of
9 Representatives, the President Pro Tempore of the Oklahoma State Senate, and any
10 state agency having jurisdiction with respect to alleged or adjudicated instances of child
11 abuse or neglect;

12 4. Prescribe standards for the performance of any specialized child abuse
13 investigators; and

14 5. Evaluate the performance of specialized child abuse investigators in child abuse
15 investigations.

16 F. The Task Force shall prepare and submit an annual written report regarding the
17 status of abused or neglected children. The report shall be submitted to the Governor,
18 the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of
19 the Oklahoma State Senate, the Commissioner of the Department of Public Safety, and
20 the Director of the Department of Human Services.

21 G. The Task Force shall have access to and shall maintain, as authorized by federal
22 and state law, the records and files of any state agency that has investigatory or

1 prosecutorial powers with respect to alleged or adjudicated instances of child abuse or
2 neglect including, but not limited to, the records and files of:

- 3 1. The Department of Human Services;
- 4 2. The Office of Juvenile Affairs;
- 5 3. The Oklahoma Commission on Children and Youth;
- 6 4. The Department of Mental Health and Substance Abuse Services; and
- 7 5. The Oklahoma State Bureau of Investigation.

8 H. The Task Force shall not be subject to the Oklahoma Open Meeting Act.

9 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7005-1.4, as last amended
10 by Section 3, Chapter 351, O.S.L. 2007 (10 O.S. Supp. 2007, Section 7005-1.4), is
11 amended to read as follows:

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

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

20 2. Any district court which has ordered a home study by the Department in an
21 action for divorce, annulment, custody of a child, or appointment of a legal guardian of a
22 child, or any subsequent proceeding in such actions; provided, however, the Department

1 may limit disclosure in the home study to summaries or to information directly related to
2 the purpose of such disclosure;

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

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

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

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

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

21 8. The Office of Juvenile Affairs;

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

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

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

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

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

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

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

3 a. the person or agency conducting such research is employed by the
4 State of Oklahoma or is under contract with this state and is
5 authorized by the Department of Human Services to conduct such
6 research, and

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

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

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

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

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

22 20. The Oklahoma Health Care Authority;

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

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

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

11 ~~and~~

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

17 25. The KidSafe Child Abuse Task Force as provided for in Section 1 of this act.

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

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

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

9 SECTION 3. AMENDATORY 25 O.S. 2001, Section 307, as last amended by
10 Section 11, Chapter 1, O.S.L. 2006 (25 O.S. Supp. 2007, Section 307), is amended to read
11 as follows:

12 Section 307. A. No public body shall hold executive sessions unless otherwise
13 specifically provided in this section.

14 B. Executive sessions of public bodies will be permitted only for the purpose of:

15 1. Discussing the employment, hiring, appointment, promotion, demotion,
16 disciplining or resignation of any individual salaried public officer or employee;

17 2. Discussing negotiations concerning employees and representatives of employee
18 groups;

19 3. Discussing the purchase or appraisal of real property;

20 4. Confidential communications between a public body and its attorney concerning
21 a pending investigation, claim, or action if the public body, with the advice of its
22 attorney, determines that disclosure will seriously impair the ability of the public body to

1 process the claim or conduct a pending investigation, litigation, or proceeding in the
2 public interest;

3 5. Permitting district boards of education to hear evidence and discuss the
4 expulsion or suspension of a student when requested by the student involved or the
5 student's parent, attorney or legal guardian;

6 6. Discussing matters involving a specific handicapped child;

7 7. Discussing any matter where disclosure of information would violate
8 confidentiality requirements of state or federal law;

9 8. Engaging in deliberations or rendering a final or intermediate decision in an
10 individual proceeding pursuant to Article II of the Administrative Procedures Act; or

11 9. Discussing the following:

12 a. the investigation of a plan or scheme to commit an act of terrorism,

13 b. assessments of the vulnerability of government facilities or public
14 improvements to an act of terrorism,

15 c. plans for deterrence or prevention of or protection from an act of
16 terrorism,

17 d. plans for response or remediation after an act of terrorism,

18 e. information technology of the public body but only if the discussion
19 specifically identifies:

20 (1) design or functional schematics that demonstrate the

21 relationship or connections between devices or systems,

22 (2) system configuration information,

- 1 (3) security monitoring and response equipment placement and
2 configuration,
3 (4) specific location or placement of systems, components or devices,
4 (5) system identification numbers, names, or connecting circuits,
5 (6) business continuity and disaster planning, or response plans, or
6 (7) investigation information directly related to security
7 penetrations or denial of services, or
8 f. the investigation of an act of terrorism that has already been
9 committed.

10 For the purposes of this subsection, the term “terrorism” means any act
11 encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma
12 Statutes.

13 C. Notwithstanding the provisions of subsection B of this section, the following
14 public bodies may hold executive sessions:

15 1. The State Banking Board, as provided for under Section 306.1 of Title 6 of the
16 Oklahoma Statutes;

17 2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of
18 Title 74 of the Oklahoma Statutes;

19 3. The Oklahoma Development Finance Authority, as provided for in Section
20 5062.6 of Title 74 of the Oklahoma Statutes;

21 4. The Oklahoma Center for the Advancement of Science and Technology, as
22 provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;

1 5. The Oklahoma Savings and Loan Board, as provided for under subsection A of
2 Section 381.74 of Title 18 of the Oklahoma Statutes;

3 6. The Oklahoma Health Research Committee for purposes of conferring on matters
4 pertaining to research and development of products, if public disclosure of the matter
5 discussed would interfere with the development of patents, copyrights, products, or
6 services;

7 7. A review committee, as provided for in Section 855 of Title 62 of the Oklahoma
8 Statutes;

9 8. The Child Death Review Board for purposes of receiving and conferring on
10 matters pertaining to materials declared confidential by law;

11 9. The Domestic Violence Fatality Review Board as provided in Section 1601 of
12 Title 22 of the Oklahoma Statutes;

13 10. All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships,
14 authorities, councils, committees, public trusts, task forces or study groups supported in
15 whole or part by public funds or entrusted with the expenditure of public funds for
16 purposes of conferring on matters pertaining to economic development, including the
17 transfer of property, financing, or the creation of a proposal to entice a business to
18 remain or to locate within their jurisdiction if public disclosure of the matter discussed
19 would interfere with the development of products or services or if public disclosure would
20 violate the confidentiality of the business;

21 11. The KidSafe Child Abuse Task Force for purposes of conferring on matters
22 pertaining to materials declared confidential by law;

1 12. The Oklahoma Indigent Defense System Board for purposes of discussing
2 negotiating strategies in connection with making possible counteroffers to offers to
3 contract to provide legal representation to indigent criminal defendants and indigent
4 juveniles in cases for which the System must provide representation pursuant to the
5 provisions of the Indigent Defense System Act; and

6 ~~12.~~ 13. The Quality Investment Committee for purposes of discussing applications
7 and confidential materials pursuant to the terms of the Oklahoma Quality Investment
8 Act.

9 D. An executive session for the purpose of discussing the purchase or appraisal of
10 real property shall be limited to members of the public body, the attorney for the public
11 body, and the immediate staff of the public body. No landowner, real estate salesperson,
12 broker, developer, or any other person who may profit directly or indirectly by a proposed
13 transaction concerning real property which is under consideration may be present or
14 participate in the executive session.

15 E. No public body may go into an executive session unless the following procedures
16 are strictly complied with:

17 1. The proposed executive session is noted on the agenda as provided in Section 311
18 of this title;

19 2. The executive session is authorized by a majority vote of a quorum of the
20 members present and the vote is a recorded vote; and

21 3. Except for matters considered in executive sessions of the State Banking Board
22 and the Oklahoma Savings and Loan Board, and which are required by state or federal

1 law to be confidential, any vote or action on any item of business considered in an
2 executive session shall be taken in public meeting with the vote of each member publicly
3 cast and recorded.

4 F. A willful violation of the provisions of this section shall:

5 1. Subject each member of the public body to criminal sanctions as provided in
6 Section 314 of this title; and

7 2. Cause the minutes and all other records of the executive session, including tape
8 recordings, to be immediately made public.

9 SECTION 4. This act shall become effective July 1, 2008.

10 SECTION 5. It being immediately necessary for the preservation of the public
11 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
12 this act shall take effect and be in full force from and after its passage and approval.

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
14 dated 03-05-08 - DO PASS, As Amended and Coauthored.