

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE STATE SENATE
Monday, April 7, 2008

ENGROSSED

House Bill No. 2568

ENGROSSED HOUSE BILL NO. 2568 - By: Peterson (Pam), BigHorse,
Pittman and Shumate of the House and Anderson and Johnson
(Constance) 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; providing
an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 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), is amended to read as follows:

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

- 1. Conduct case reviews of deaths and near deaths of children
in this state;

1 2. Develop accurate statistical information and identification
2 of deaths of children due to abuse and neglect;

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

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

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

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

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

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

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

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

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

15 5. Review the policies, practices, and procedures of the child
16 protection system and make specific recommendations to the entities
17 comprising the child protection system for actions necessary for the
18 improvement of the system;

19 6. Review the extent to which the state child protection system
20 is coordinated with foster care and adoption programs and evaluate
21 whether the state is efficiently discharging its child protection
22 responsibilities under the federal Child Abuse Prevention and
23 Treatment Act state plan;

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

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

- 9 a. the ~~medical examiner's~~ report of the medical examiner,
- 10 b. hospital records,
- 11 c. school records,
- 12 d. court records,
- 13 e. prosecutorial records,
- 14 f. local, state, and federal law enforcement records
15 including, but not limited to, the Oklahoma State
16 Bureau of Investigation (OSBI),
- 17 g. fire department records,
- 18 h. State Department of Health records, including birth
19 certificate records,
- 20 i. medical and dental records,
- 21 j. Department of Mental Health and Substance Abuse
22 Services and other mental health records,
- 23 k. emergency medical service records, and

- 1 1. files of the Department of Human Services' files
2 Services, and
3 m. records in the possession of the Domestic Violence
4 Fatality Review Board when conducting a joint review
5 pursuant to paragraph 6 of subsection A of this
6 section.

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

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

20 10. Conduct reviews of specific cases of deaths and near deaths
21 of children and request the preparation of additional information
22 and reports as determined to be necessary by the Board including,

1 but not limited to, clinical summaries from treating physicians,
2 chronologies of contact, and second opinion autopsies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 6. Enter into agreements with other state, local or private
21 entities as necessary to carry out the duties of the Domestic
22 Violence Fatality Review Board including, but not limited to,
23 conducting joint reviews with the Child Death Review Board on

1 domestic violence cases involving child death or child near-death
2 incidents.

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

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

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

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

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

15 5. Review the policies, practices, and procedures of the
16 domestic violence protection and prevention system and make specific
17 recommendations to the entities comprising the domestic violence
18 prevention and protection system for actions necessary for the
19 improvement of the system;

20 6. Review the extent to which the state domestic violence
21 prevention and protection system is coordinated with law enforcement
22 and the court system and evaluate whether the state is efficiently

1 discharging its domestic violence prevention and protection
2 responsibilities;

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

- 8 a. the report of the medical ~~examiner's report~~ examiner,
- 9 b. hospital records,
- 10 c. school records,
- 11 d. court records,
- 12 e. prosecutorial records,
- 13 f. local, state, and federal law enforcement records,
14 including, but not limited to, the Oklahoma State
15 Bureau of Investigation (OSBI),
- 16 g. fire department records,
- 17 h. State Department of Health records, including birth
18 certificate records,
- 19 i. medical and dental records,
- 20 j. Department of Mental Health and Substance Abuse
21 Services and other mental health records,
- 22 k. emergency medical service records, ~~and~~

- 1 1. files of the Department of Human Services' files
2 Services, and
3 m. records in the possession of the Child Death Review
4 Board when conducting a joint review pursuant to
5 paragraph 6 of subsection A of this section.

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

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

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

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

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

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

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

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

16 SECTION 3. This act shall become effective July 1, 2008.

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

21 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated
22 4-3-08 - DO PASS, As Coauthored.