

THE HOUSE OF REPRESENTATIVES
Wednesday, April 1, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 1076

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1076 - By:
SPARKS of the Senate and MARTIN (SCOTT) of the House.

An Act relating to children; amending 10 O.S. 2001, Section 7504-1.2, 7510-1.5, as last amended by Section 7, Chapter 258, O.S.L. 2006 and 7510-3.2 (10 O.S. Supp. 2008, Section 7510-1.5), which relate to the Oklahoma Adoption Code; authorizing disclosure of certain history of minor under specified circumstances; providing for redaction of information in certain circumstance; adding certain educational requirements for eligibility for certain benefits; modifying requirements for certain assistance payments; undo the Compact on Adoption and Medical Assistance; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7504-1.2, is amended to
2 read as follows:

3 Section 7504-1.2 A. Whenever the disclosure of medical and social history is
4 permitted under this section, all identifying information shall be deleted from the copy of
5 the report or record that is disclosed, unless the court, Department, agency, attorney, or
6 person authorized to disclose information by this section has been informed in writing by
7 both a biological parent and an adoptive parent or prospective adoptive parent of their
8 mutual agreement to share identifying information. When such an agreement has been

1 made, identifying information shall be released only to the extent specifically permitted
2 by the written agreement. When the minor is in the legal custody of the Department,
3 medical and social history may be disclosed to the prospective adoptive parent without
4 any agreement and without redacting identifying information when the prospective
5 adoptive parent is a kinship or relative caregiver for the minor, or the minor has lived in
6 the prospective adoptive parent's home for two (2) or more years, unless the Department
7 determines redaction of such information is in the best interest of the child.

8 B. As early as practicable before the first meeting of the prospective adoptive
9 parent with a minor and before the prospective adoptive parent accepts physical custody
10 of the minor, the Department or child-placing agency that is placing the minor for
11 adoption, or the attorney for the adoptive parent in a direct placement adoption, or the
12 person who is placing the minor for adoption in a direct placement adoption in which the
13 adoptive parent is not represented by an attorney, shall furnish to the prospective
14 adoptive parent a copy of the medical and social history report, containing all of the
15 medical and social history information and records regarding the minor reasonably
16 available at that time. If placement of the minor with the prospective adoptive parent
17 does not subsequently occur, the prospective adoptive parent shall return the medical
18 and social history report to the Department, agency, attorney or other person who
19 furnished it to the prospective adoptive parent.

20 C. Before a hearing on the petition for adoption, the Department or child-placing
21 agency that placed the minor for adoption, or the attorney for the adoptive parent in a
22 direct placement adoption, or the person who placed the minor for adoption in a direct

1 placement adoption in which the adoptive parent is unrepresented, shall furnish to the
2 adoptive parent a supplemental written report containing information or records
3 required by Section ~~19~~ 7505-1.1 of this ~~act~~ title, which was unavailable before the minor
4 was placed for adoption, but which becomes reasonably available to the Department,
5 agency, attorney, or person who placed the minor after the placement.

6 D. A petition for adoption may not be granted until a copy of the medical and social
7 history report is filed with the court. If the court finds that information or records
8 required by Section 19 of this act cannot be obtained by the reasonable efforts of the
9 Department or child-placing agency placing the minor, or by the attorney for the adoptive
10 parent in a direct placement adoption, or by the person who placed the minor for
11 adoption in a direct placement adoption in which the adopted parent is unrepresented,
12 the court may accept the report and proceed with the adoption.

13 E. 1. Any additional information about an adopted person, the adopted person's
14 biological parents, or the adopted person's genetic history that is submitted to the clerk
15 of the district court that issues the final decree of adoption, before or after the final
16 decree of adoption is issued, shall be made a part of the court's permanent record of the
17 adoption, pursuant to Section 19 of this act. No filing fee shall be charged for filing this
18 supplemental information with the court clerk.

19 2. An adoptive parent, a biological parent, or an adult adopted person may file with
20 the clerk of the district court that issued the final decree of adoption a notice of the
21 individual's current mailing address. A legal guardian of an adopted minor may file with
22 the clerk of the district court that issued the final decree of adoption a notice of the

1 guardian's current mailing address and proof of legal guardianship. No filing fee shall be
2 charged for filing this notification of address or guardianship with the court clerk.

3 3. Upon filing with the court clerk supplemental information concerning the
4 biological parents or the adopted person's genetic history, the court clerk shall send
5 notice by ordinary mail, at the most recent address, if any, listed in the court records, to
6 the adoptive parent or legal guardian of a minor adopted person or to the adult adopted
7 person. The notice shall state that supplemental information has been received and is
8 available from the court clerk upon request.

9 4. Upon filing with the court clerk supplemental information concerning the
10 adopted person that may be genetically significant for a biological parent or biological
11 relative, the court clerk shall send notice by ordinary mail, at the most recent address, if
12 any, listed in the court records, to the biological parent. The notice shall state that
13 supplemental information has been received and is available from the court clerk upon
14 request.

15 F. If any additional information about an adopted person, the adopted person's
16 biological parents, or the adopted person's genetic history is submitted to the
17 Department, agency, attorney, or person who prepared the original report, the
18 Department, agency, attorney, or person shall:

19 1. Retain this supplemental information with their other records of the adoption for
20 as long as these records are maintained;

1 2. File a copy of the supplemental information with the clerk of the court that
2 issued the decree of adoption, to be made a part of the court's permanent record of the
3 adoption pursuant to subsection E of this section; and

4 3. Furnish a copy of the supplemental information to:

5 a. the adoptive parent or current legal guardian of the child, if the
6 adopted person is under the age of eighteen (18), or the adult adopted
7 person, if the location of the adoptive parent, guardian or adult
8 adopted person is known to the Department, agency, attorney, or
9 person, or

10 b. the biological parents, if the supplemental information is submitted by
11 an adoptive parent or adopted person and concerns genetically
12 significant information about the adopted person that is relevant to the
13 health or childbearing decisions of the biological parents or other
14 biological relatives, if the location of the biological parents is known to
15 the Department, agency, attorney, or person.

16 G. 1. The clerk of the district court that issues the final adoption decree or the
17 Department, agency, attorney, or person who prepared the medical and social history
18 report shall provide a copy of the medical and social history report and any additional
19 medical and social history information in its possession to the following persons upon
20 request:

21 a. the adoptive parent or legal guardian of a minor adopted person,
22 b. an adopted person who has attained eighteen (18) years of age, and

1 4. The clerk of the district court that issues the final adoption decree shall provide
2 a copy of any medical and social history information contained in the court records to the
3 Department, or child-placing agency that placed the minor for adoption or to the attorney
4 representing the adoptive parent upon request.

5 5. A copy of the report and supplemental medical and social history information
6 may not be furnished under this subsection to a person who cannot furnish satisfactory
7 proof of identity and legal entitlement to receive a copy.

8 6. A person requesting a copy of a report or other medical and social history
9 information under this subsection shall pay only the actual and reasonable costs of
10 providing the copy.

11 H. The Department, a child-placing agency, or an attorney for an adoptive parent
12 who facilitated or participated in an adoption proceeding prior to ~~the effective date of this~~
13 ~~act~~ June 10, 1996, shall be subject to the same requirements and duties set forth in
14 subsections F and G of this section that are required in those subsections for the
15 Department, agency, or attorney who prepared the medical or social history.

16 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7510-1.5, as last amended
17 by Section 7, Chapter 258, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7510-1.5), is
18 amended to read as follows:

19 Section 7510-1.5 A. 1. When a parent or parents are found and approved for
20 adoption of a child who is determined by the Department of Human Services to be
21 eligible for adoption assistance pursuant to the Oklahoma Adoption Assistance Act, and

1 before the final decree of adoption is entered, there must be a signed written agreement
2 between the prospective adoptive parent or parents and the Department.

3 2. Adoption assistance in individual cases may commence with the adoptive
4 placement or at the time of finalization of the adoption. Adoption assistance may be for
5 special services only, or for monthly money payments, and either for a limited period, or
6 for a long term, or for any combination of the foregoing.

7 Eligibility for and the rate of monthly adoption assistance payments shall be
8 determined by the Department in accordance with rules promulgated by the Commission
9 for Human Services.

10 B. When an otherwise eligible child is determined to have a causative, preexisting
11 condition which was not identified or known prior to the legal finalization of the adoption
12 and which has resulted in a severe medical or psychiatric condition that requires
13 extensive treatment, hospitalization, or institutionalization, an adoption assistance
14 agreement may be approved by the Department after the final decree of adoption has
15 been entered. In the event an adoption assistance agreement is approved that provides
16 for monthly adoption assistance payments, the adoptive parents may also be entitled to
17 receive retroactive adoption assistance payments for a period not to exceed the two (2)
18 months prior to the date the adoption assistance agreement was approved.

19 C. Any child who met the requirements of the provisions of Sections 7510-1.2 and
20 7510-1.4 of this title, and was determined eligible for Oklahoma adoption assistance with
21 respect to a prior adoption, and is available for adoption because the prior adoption has
22 been dissolved and the parental rights of the adoptive parents have been terminated or

1 because the adoptive parents of the child have died, shall be eligible for Oklahoma
2 adoption assistance with respect to any subsequent adoption.

3 D. 1. When adoption assistance benefits are for more than one (1) year, the
4 Department shall send the adoptive parent or parents an Adoption Assistance Annual
5 Review request and assure that the child who has attained the minimum age for
6 compulsory school attendance and is eligible for an adoption assistance payment under
7 Title IV-E of the Social Security Act, 42 U.S.C., Section 670 et seq., is:

8 a. enrolled in an institution which provides elementary or secondary
9 education as determined under the law of the state or other
10 jurisdiction in which the institution is located,

11 b. instructed in elementary or secondary education by any other means
12 legally authorized,

13 c. in an independent study elementary or secondary education program
14 in accordance with the law of the state or other jurisdiction in which
15 the program is located, which is administered by the local school or
16 school district, or

17 d. incapable of attending school on a full-time basis due to a documented
18 medical condition supported by regular updates.

19 2. The adoptive parent or parents shall at all times keep the Department informed
20 of circumstances including, but not limited to, whether the adoptive parent or parents
21 continue to be legally responsible for support of the child which would make them

1 ineligible for such assistance payments or eligible for assistance payments in a different
2 amount.

3 3. The Department is authorized and directed to make a review of each adoption
4 assistance agreement annually to assure that the parents are fulfilling their obligations
5 under the agreement.

6 4. No payment may be made to any parents with respect to any child who has
7 attained the age of eighteen (18) years, except a child may continue to receive assistance
8 until the child reaches the age of nineteen (19) years if the child:

- 9 a. continues to attend high school or pursues General Education
- 10 Development, or
- 11 b. meets the criteria for an adoption assistance difficulty of care rate as
- 12 determined by the Department.

13 5. Termination or modification of the adoption assistance agreement may be
14 requested by the adoptive parent or parents at any time.

15 6. No payment may be made to adoptive parents if the Department determines that
16 the parents are no longer legally responsible for the support of the child or that the child
17 is no longer receiving any financial support from such parents.

18 E. A child for whom an adoption assistance agreement has been reached with the
19 Department shall remain eligible and receive adoption assistance benefits regardless of
20 the domicile or residence of the adopting parent or parents at any given time.

21 F. All records regarding adoption assistance shall be confidential and may be
22 disclosed only in accordance with the provisions of the Oklahoma Adoption Code.

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

1 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7510-3.2, is amended to
2 read as follows:

3 Section 7510-3.2 This Compact on Adoption and Medical Assistance, hereinafter
4 called "the compact", is hereby enacted into law and entered into with all other
5 jurisdictions legally joining therein in the form substantially as follows:

6 ARTICLE I. FINDINGS

7 The party states find that:

8 (1) In order to obtain adoptive families for children with special needs, prospective
9 adoptive parents must be assured of substantial assistance (usually on a continuing
10 basis) in meeting the high costs of supporting and providing for the special needs and
11 services required by such children.

12 (2) The states have a fundamental interest in promoting adoption for children with
13 special needs because the care, emotional stability and general support and
14 encouragement required by such children to surmount their physical, mental or
15 emotional conditions can be best, and often only, obtained in family homes with a normal
16 parent-child relationship.

17 (3) The states obtain advantages from providing adoption assistance because the
18 customary alternative is for the state to defray the entire cost of meeting all the needs of
19 such children.

20 (4) The special needs involved are for the emotional, physical maintenance of the
21 child, and medical support and services.

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

1 (5) The necessary assurance of adoption assistance for children with special needs,
2 in those instances where children and adoptive parents are in states other than the one
3 undertaking to provide the assistance, is to establish and maintain suitable substantive
4 guarantees and workable procedures for interstate payments to assist with the necessary
5 child maintenance, procurement of services, and medical assistance.

6 ARTICLE II. PURPOSES

7 The purposes of this compact are to:

8 (1) Strengthen protections for the interest of the children with special needs on
9 behalf of whom adoption assistance is committed to be paid, when such children are in or
10 move to states other than the one committed to make adoption assistance payments.

11 (2) Provide substantive assurances and procedures which will promote the delivery
12 of medical and other services on an interstate basis to children through programs of
13 adoption assistance established by the laws of the party states.

14 ARTICLE III. DEFINITIONS

15 As used in this compact, unless the context clearly requires a different construction:

16 (1) "Child with special needs" means a minor who has not yet attained the age at
17 which the state normally discontinues children's services or twenty-one (21) years, where
18 the state determines that the child's mental or physical handicaps warrant the
19 continuation of assistance, for whom the state has determined the following:

20 (A) That the child cannot or should not be returned to the home of his parents;

21 (B) That there exists with respect to the child a specific factor or condition (such as
22 his ethnic background, age, or membership in a minority or sibling group, or the presence

1 of factors such as medical condition or physical, mental, or emotional handicaps) because
2 of which it is reasonable to conclude that such child cannot be placed with adoptive
3 parents without providing adoption assistance.

4 (C) That, except where it would be against the best interests of the child because of
5 such factors as the existence of significant emotional ties with prospective adoptive
6 parents while in the care of such parents as a foster child, a reasonable, but unsuccessful,
7 effort has been made to place the child with appropriate adoptive parents without
8 providing adoption assistance payments.

9 (2) "Adoption assistance" means the payment or payments for maintenance of a
10 child, which payment or payments are made or committed to be made pursuant to the
11 adoption assistance program established by the laws of a party state.

12 (3) "State" means a state of the United States, the District of Columbia, the
13 Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the
14 Northern Mariana Islands, or a Territory or Possession of the United States.

15 (4) "Adoption assistance state" means the state that is signatory to an adoption
16 assistance agreement in a particular case.

17 (5) "Residence state" means the state of which the child is a resident by virtue of
18 the residence of the adoptive parents.

19 (6) "Parents" means either the singular or plural of the word "parent".

20 ARTICLE IV. ADOPTION ASSISTANCE

21 (1) Each state shall determine the amounts of adoption assistance and other aid
22 which it will give to children with special needs and their adoptive parents in accordance

1 with its own laws and programs. The adoption assistance and other aid may be made
2 subject to periodic re-evaluation of eligibility by the adoption assistance state in
3 accordance with its laws. The provisions of this article and of Article V are subject to the
4 limitation set forth in this paragraph.

5 (2) The adoption assistance and medical assistance services and benefits to which
6 this compact applies are those provided to children with special needs and their adoptive
7 parents from the time of the final decree of adoption or the interlocutory decree of
8 adoption, as the case may be, pursuant to the laws of the adoptive assistance state. In
9 addition to the content required by subsequent provisions of this article for adoption
10 assistance agreements, each such agreement shall state whether the initial adoption
11 assistance period thereunder begins with the final or interlocutory decree of adoption.
12 Aid provided by party states to children with special needs during the preadoptive
13 placement period or earlier shall be under the foster care or other programs of the states
14 and, except as provided in paragraph 3 of this article, shall not be governed by the
15 provisions of this compact.

16 (3) Every case of adoption assistance shall include an adoption assistance
17 agreement between the adoptive parents and the agency of the state undertaking to
18 provide the adoption assistance. Every such agreement shall contain provisions for the
19 fixing of actual or potential interstate aspects of the adoption assistance, as follows:

20 (A) An express commitment that the adoption assistance shall be payable without
21 regard for the state of residence of the adoptive parents, both at the outset of the
22 agreement period and at all times during its continuance.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
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1 (B) A provision setting forth with particularity the types of child care and services
2 toward which the adoption assistance state will make payments.

3 (C) A commitment to make medical assistance available to the child in accordance
4 with Article V of this compact.

5 (D) An express declaration that the agreement is for the benefit of the child, the
6 adoptive parents and the state and that it is enforceable by any or all of them.

7 (4) Any services or benefits provided by the residence state and the adoption
8 assistance state for a child may be facilitated by the party states on each other's behalf.
9 To this end, the personnel of the child welfare agencies of the party states will assist each
10 other and beneficiaries of adoption assistance agreements with other party states in
11 implementing benefits expressly included in adoption assistance agreements. However,
12 it is recognized and agreed that in general children to whom adoption assistance
13 agreements apply are eligible for benefits under the child welfare, education,
14 rehabilitation, mental health and other programs of their state of residence on the same
15 basis as other resident children.

16 (5) Adoption assistance payments, when made on behalf of a child who is subject to
17 the jurisdiction of this state but residing in another state, shall be made on the same
18 basis and in the same amounts as they would be made if the child were residing in the
19 this state making the payments; provided however, adoption assistance agreements with
20 families residing in other states signed before October 1, 2008, may be continued.

21 ARTICLE V. MEDICAL ASSISTANCE

1 (1) Children for whom a party state is committed in accordance with the terms of
2 an adoption assistance agreement to make adoption assistance payments are eligible for
3 medical assistance during the entire period for which such payments are to be provided.
4 Upon application therefor by the adoptive parents of a child on whose behalf a party
5 state's duly constituted authorities have entered into an adoption assistance agreement,
6 the adoptive parents shall receive a medical assistance identification made out in the
7 child's name. The identification shall be issued by the medical assistance program of the
8 residence state and shall entitle the child to the same benefits, pursuant to the same
9 procedures, as any other child who is a resident of the state and covered by medical
10 assistance, whether or not the adoptive parents are eligible for medical assistance.

11 (2) The identification shall bear no indication that an adoption assistance
12 agreement with another state is the basis for issuance. However, if the identification is
13 issued on account of an outstanding adoption assistance agreement to which another
14 state is a signatory, the records of the issuing state and the adoption assistance state
15 shall show the fact, shall contain a copy of the adoption assistance agreement and any
16 amendment or replacement therefor, and all other pertinent information. The adoption
17 assistance and medical assistance programs of the adoption assistance state shall be
18 notified of the identification issuance.

19 (3) A state which has issued a medical assistance identification pursuant to this
20 compact, which identification is valid and currently in force, shall accept, process and pay
21 medical assistance claims thereon as on any other medical assistance eligibilities of
22 residents.

1 (4) An adoption assistance state which provides medical services or benefits to
2 children covered by its adoption assistance agreements, which services or benefits are not
3 provided for those children under the medical assistance program of the residence state,
4 may enter into cooperative arrangements with the residence state to facilitate the
5 delivery and administration of such services and benefits. However, any such
6 arrangements shall not be inconsistent with this compact nor shall they relieve the
7 residence state of any obligation to provide medical assistance in accordance with its
8 laws and this compact.

9 (5) A child whose residence is changed from one party state to another party state
10 shall be eligible for medical assistance under the medical assistance program of the new
11 state of residence.

12 ARTICLE VI. JOINDER AND WITHDRAWAL

13 (1) This compact shall be open to joinder by any state. It shall enter into force as to
14 a state when its duly constituted and empowered authority has executed it.

15 (2) In order that the provisions of this compact may be accessible to and known by
16 the general public and so that its status as law in each of the party states may be fully
17 implemented, the full text of the compact, together with a notice of its execution, shall be
18 caused to be published by the authority which has executed it in each party state. Copies
19 of the compact shall be made available upon request made of the executing authority in
20 any state.

21 (3) Withdrawal from this compact shall be by written notice sent by the authority
22 which executed it to the appropriate officials of all other party states, but no such notice

1 shall take effect until one (1) year after it is given in accordance with the requirements of
2 this paragraph.

3 (4) All adoption assistance agreements outstanding and to which a party state is
4 signatory at the time when its withdrawal from this compact takes effect shall continue
5 to have the effects given to them pursuant to this compact, until they expire or are
6 terminated in accordance with their provisions. Until such expiration or termination, all
7 beneficiaries of the agreements involved shall continue to have all rights and obligations
8 conferred or imposed by this compact and the withdrawing state shall continue to
9 administer the compact to the extent necessary to accord and implement fully the rights
10 and protections preserved thereby.

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

14 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 03-31-09 -
15 DO PASS, As Amended.