

EHB 2313

1 THE STATE SENATE
2 Monday, March 29, 2010

3 ENGROSSED

4 House Bill No. 2313

5 As Amended

6 ENGROSSED HOUSE BILL NO. 2313 - By: Duncan, Luttrell and Hoskin of
7 the House and Jolley of the Senate.

8 [criminal procedure - authorizing filing of juvenile
9 proceedings under certain circumstances - modifying
10 definition of offender - effective date]

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

12 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7303-1.2, as
13 last amended by Section 41, Chapter 234, O.S.L. 2009, and as
14 renumbered by Section 178, Chapter 234, O.S.L. 2009 (10A O.S. Supp.
15 2009, Section 2-2-102), is amended to read as follows:

16 Section 2-2-102. A. 1. Upon the filing of a petition alleging
17 the child to be in need of supervision, or upon the assumption of
18 custody pursuant to Section 2-2-101 of this title, the district
19 court of the county shall have jurisdiction where a child:

- 20 a. resides,
- 21 b. is found, or
- 22 c. is alleged to be or is found to be in need of
23 supervision.

24 2. The court shall have jurisdiction of the parent, legal
25 custodian, legal guardian, stepparent of the child, or any adult

1 person living in the home of the child regardless of where the
2 parent, legal custodian, legal guardian, stepparent, or adult person
3 living in the home of the child is found.

4 3. When jurisdiction has been obtained over a child who is or
5 is alleged to be in need of supervision, such may be retained until
6 the child becomes eighteen (18) years of age.

7 B. 1. Upon the filing of a petition alleging the child to be
8 delinquent or upon the assumption of custody pursuant to Section 2-
9 2-101 of this title, the district court of the county where the
10 delinquent act occurred shall have jurisdiction of the child and of
11 the parent, legal custodian, legal guardian, stepparent of the child
12 or any adult person living in the home of the child regardless of
13 where the parent, legal custodian, legal guardian, stepparent, or
14 adult person living in the home of the child is found.

15 2. When jurisdiction has been obtained over a child who is or
16 is alleged to be a delinquent, jurisdiction may be retained until
17 the child becomes nineteen (19) years of age upon the court's own
18 motion, motion by the district attorney or motion by the Office of
19 Juvenile Affairs, as provided in Section 2-7-504 of this title.

20 3. The juvenile proceeding may be filed before the child
21 becomes eighteen (18) years of age ~~or~~; within one (1) year after the
22 date of the eighteenth birthday of the child if the underlying act
23 would constitute a felony if committed by an adult; or within six

1 (6) months after the date of the eighteenth birthday if the
2 underlying act would constitute a misdemeanor if committed by an
3 adult.

4 C. The district court in which a petition is filed or the
5 district court in which custody has been assumed pursuant to the
6 provisions of Section 2-2-101 of this title may retain jurisdiction
7 of a delinquent child in such proceeding notwithstanding the fact
8 that the child is subject to the jurisdiction of another district
9 court within the state. Any adjudication and disposition made by
10 the court in which said petition is filed shall control over prior
11 orders in regard to the child.

12 D. Except as otherwise provided in the Oklahoma Juvenile Code,
13 a child who is charged with having violated any state statute or
14 municipal ordinance, other than those enumerated in Section 2-5-101,
15 2-5-205 or 2-5-206 of this title, shall not be tried in a criminal
16 action but in a juvenile proceeding.

17 E. If, during the pendency of a criminal charge against any
18 person, it shall be ascertained that the person was a child at the
19 time of committing the alleged offense, the district court or
20 municipal court shall transfer the case, together with all the
21 papers, documents and testimony connected therewith, to the juvenile
22 division of the district court. The division making the transfer
23 shall order the child to be taken forthwith to the place of

1 detention designated by the juvenile division, to that division
2 itself, or release the child to the custody of a suitable person to
3 be brought before the juvenile division.

4 F. Nothing in this act shall be construed to prevent the
5 exercise of concurrent jurisdiction by another division of the
6 district court or by the municipal courts in cases involving
7 children wherein the child is charged with the violation of a state
8 or municipal traffic law or ordinance.

9 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7306-2.6, as
10 last amended by Section 84, Chapter 234, O.S.L. 2009, and as
11 renumbered by Section 188, Chapter 234, O.S.L. 2009 (10A O.S. Supp.
12 2009, Section 2-5-206), is amended to read as follows:

13 Section 2-5-206. A. Any person fifteen (15), sixteen (16) or
14 seventeen (17) years of age who is charged with:

- 15 1. Murder in the second degree;
- 16 2. Kidnapping;
- 17 3. Manslaughter in the first degree;
- 18 4. Robbery with a dangerous weapon or a firearm or attempt
19 thereof;
- 20 5. Robbery ~~with a firearm~~ in the first degree or attempt
21 thereof;
- 22 6. Rape in the first degree or attempt thereof;
- 23 7. Rape by instrumentation or attempt thereof;

- 1 8. Forcible sodomy;
- 2 9. Lewd molestation;
- 3 10. Arson in the first degree or attempt thereof; or
- 4 11. Any offense in violation of Section 652 of Title 21 of the
- 5 Oklahoma Statutes,
- 6 shall be held accountable for such acts as a youthful offender.
- 7 B. Any person sixteen (16) or seventeen (17) years of age who
- 8 is charged with:
- 9 1. Burglary in the first degree or attempted burglary in the
- 10 first degree;
- 11 2. Battery or assault and battery on a state employee or
- 12 contractor while in the custody or supervision of the Office of
- 13 Juvenile Affairs;
- 14 3. Aggravated assault and battery of a police officer;
- 15 4. Intimidating a witness;
- 16 5. Trafficking in or manufacturing illegal drugs;
- 17 6. Assault or assault and battery with a deadly weapon;
- 18 7. Maiming;
- 19 8. Residential burglary in the second degree after two or more
- 20 adjudications that are separated in time for delinquency for
- 21 committing burglary in the first degree or residential burglary in
- 22 the second degree;
- 23 9. Rape in the second degree; or

1 10. Use of a firearm while in commission of a felony,
2 shall be held accountable for such acts as a youthful offender.

3 C. The district attorney may file a petition alleging the
4 person to be a delinquent or may file an information against the
5 accused person charging the person as a youthful offender. The
6 district attorney shall notify the Office of Juvenile Affairs upon
7 the filing of youthful offender charges.

8 D. 1. Upon the filing of the information against such alleged
9 youthful offender, a warrant shall be issued which shall set forth
10 the rights of the accused person, and the rights of the parents,
11 guardian or next friend of the accused person to be present at the
12 preliminary hearing, and to have an attorney present.

13 2. The warrant shall be personally served together with a
14 certified copy of the information on the alleged youthful offender
15 and on a custodial parent, guardian or next friend of the accused
16 person.

17 3. When personal service of a custodial parent, guardian or
18 next friend of the alleged youthful offender cannot be effected,
19 service may be made by certified mail to the last-known address of
20 the person, requesting a return receipt from the addressee only. If
21 delivery is refused, notice may be given by mailing the warrant and
22 a copy of the information on the accused person by regular first-
23 class mail to the address where the person to be notified refused

1 delivery of the notice sent by certified mail. Where the address of
2 a custodial parent, guardian or next friend is not known, or if the
3 mailed warrant and copy of the information on the accused person is
4 returned for any reason other than refusal of the addressee to
5 accept delivery, after a distinct and meaningful search of all
6 reasonably available sources to ascertain the whereabouts of a
7 custodial parent, guardian or next friend has been conducted, the
8 court may order that notice of the hearing be given by publication
9 one time in a newspaper of general circulation in the county. In
10 addition, the court may order other means of service of notice that
11 the court deems advisable or in the interests of justice.

12 4. Before service by publication is ordered, the court shall
13 conduct an inquiry to determine whether a thorough search has been
14 made of all reasonably available sources to ascertain the
15 whereabouts of any party for whom notice by publication is sought.

16 E. The court shall commence a preliminary hearing within ninety
17 (90) days of the filing of the information pursuant to Section 258
18 of Title 22 of the Oklahoma Statutes, to determine whether the crime
19 was committed and whether there is probable cause to believe the
20 accused person committed the crime. If the preliminary hearing is
21 not commenced within ninety (90) days, the state shall be prohibited
22 from seeking an adult sentence unless the ninety-day requirement is
23 waived by the defendant. If the whereabouts of the accused are

1 unknown at the time of the filing of the information or if the
2 accused is a fugitive, the State of Oklahoma shall make reasonable
3 efforts to locate the accused in order to commence the proceedings.
4 An accused who flees the jurisdiction of the court or purposely
5 avoids apprehension for the charges, waives the right to have the
6 preliminary hearing commenced within ninety (90) days of the filing
7 of the information. An accused who fails to cooperate with
8 providing information in locating the accused parent, guardian, or
9 next friend for purpose of notice waives the right to have the
10 preliminary hearing commence within ninety (90) days of the filing
11 of the information.

12 F. 1. The accused person may file a motion for certification
13 to the juvenile justice system before the start of the criminal
14 preliminary hearing:

- 15 a. upon the filing of such motion, the complete juvenile
16 record of the accused shall be made available to the
17 district attorney and the accused person,
18 b. at the conclusion of the state's case at the criminal
19 preliminary hearing, the accused person may offer
20 evidence to support the motion for certification as a
21 child.

22 2. If no motion to certify the accused person to the juvenile
23 justice system has been filed, at the conclusion of the criminal

1 preliminary hearing the court may on its own motion hold a hearing
2 on the matter of the certification of the accused youthful offender
3 to the juvenile system.

4 3. The court shall rule on the certification motion before
5 ruling on whether to bind the accused over for trial. When ruling
6 on the certification motion, the court shall give consideration to
7 the following guidelines with the greatest weight given to
8 subparagraphs a, b and c:

- 9 a. whether the alleged offense was committed in an
10 aggressive, violent, premeditated or willful manner,
- 11 b. whether the offense was against persons, and if
12 personal injury resulted, the degree of personal
13 injury,
- 14 c. the record and past history of the accused person,
15 including previous contacts with law enforcement
16 agencies and juvenile or criminal courts, prior
17 periods of probation and commitments to juvenile
18 institutions,
- 19 d. the sophistication and maturity of the accused person
20 and the accused person's capability of distinguishing
21 right from wrong as determined by consideration of the
22 accused person's psychological evaluation, home,

1 environmental situation, emotional attitude and
2 pattern of living,
3 e. the prospects for adequate protection of the public if
4 the accused person is processed through the youthful
5 offender system or the juvenile system,
6 f. the reasonable likelihood of rehabilitation of the
7 accused person if the accused is found to have
8 committed the alleged offense, by the use of
9 procedures and facilities currently available to the
10 juvenile court, and
11 g. whether the offense occurred while the accused person
12 was escaping or in an escape status from an
13 institution for youthful offenders or juvenile
14 delinquents.

15 4. In its decision on the motion for certification as an
16 alleged juvenile delinquent, the court shall detail findings of fact
17 and conclusions of law to each of the above considerations and shall
18 state that the court has considered each of the guidelines in
19 reaching its decision.

20 5. An order certifying a person or denying such certification
21 to the juvenile justice system shall be a final order, appealable
22 when entered.

1 G. Upon conviction, sentence may be imposed as a sentence for a
2 youthful offender as provided by Section 2-5-209 of this title. If
3 the youthful offender sentence is imposed as an adult sentence as
4 provided by Section 2-5-208 of this title, the convicted person may
5 be incarcerated with the adult population.

6 SECTION 3. AMENDATORY 19 O.S. 2001, Section 215.11, is
7 amended to read as follows:

8 Section 215.11 Every district attorney shall ~~on or before the~~
9 ~~first day of January in each year, file in the office of the county~~
10 ~~treasurer of each county in his district an account in writing,~~
11 ~~verified by his affidavit, to be filed with said account, of all~~
12 ~~monies received by him during the preceding year by virtue of his~~
13 ~~office in relation to said county, or any fines, recognizances,~~
14 ~~forfeitures, penalties or costs; and he shall specify in such~~
15 ~~accounts the name of each person from whom he may have received such~~
16 ~~monies, the particular amount paid by each person and the cause for~~
17 ~~which each payment was made. But he shall pay over to the county~~
18 ~~treasurer of the county in which same is receivable all money he the~~
19 district attorney may receive as such district attorney within ten
20 (10) days after ~~he received it~~ receiving said money.

21 SECTION 4. AMENDATORY 21 O.S. 2001, Section 444, is
22 amended to read as follows:

1 Section 444. A. It is unlawful for any person, after being
2 lawfully arrested or detained by a peace officer, to escape or
3 attempt to escape from such peace officer.

4 B. Any person who escapes or attempts to escape after being
5 lawfully arrested or detained for custody for a misdemeanor offense
6 shall be guilty of a misdemeanor.

7 C. Any person who escapes or attempts to escape after being
8 lawfully arrested or detained for custody for a felony offense shall
9 be guilty of a felony.

10 D. It is unlawful for any person admitted to bail or released
11 on recognizance, bond, or undertaking for appearance before any
12 magistrate or court of the State of Oklahoma, and required as a
13 condition of such release from detention to wear any electronic
14 monitoring device on the body of the person to remove such device
15 without authorization from the court. For purposes of this
16 subsection, any person charged with a misdemeanor offense who
17 removes such device without authorization from the court shall be
18 guilty of a misdemeanor and any person charged with a felony offense
19 who removes such device without authorization from the court shall
20 be guilty of a felony.

21 SECTION 5. AMENDATORY 21 O.S. 2001, Section 1123, as
22 last amended by Section 125, Chapter 234, O.S.L. 2009 (21 O.S. Supp.
23 2009, Section 1123), is amended to read as follows:

1 Section 1123. A. It is a felony for any person to knowingly
2 and intentionally:

3 1. Make any oral, written or electronically or computer-
4 generated lewd or indecent proposal to any child under sixteen (16)
5 years of age, or other individual the person believes to be a child
6 under sixteen (16) years of age, for the child to have unlawful
7 sexual relations or sexual intercourse with any person; or

8 2. Look upon, touch, maul, or feel the body or private parts of
9 any child under sixteen (16) years of age in any lewd or lascivious
10 manner by any acts against public decency and morality, as defined
11 by law; or

12 3. Ask, invite, entice, or persuade any child under sixteen
13 (16) years of age, or other individual the person believes to be a
14 child under sixteen (16) years of age, to go alone with any person
15 to a secluded, remote, or secret place, with the unlawful and
16 willful intent and purpose then and there to commit any crime
17 against public decency and morality, as defined by law, with the
18 child; or

19 4. In any manner lewdly or lasciviously look upon, touch, maul,
20 or feel the body or private parts of any child under sixteen (16)
21 years of age in any indecent manner or in any manner relating to
22 sexual matters or sexual interest; or

1 5. In a lewd and lascivious manner and for the purpose of
2 sexual gratification:

- 3 a. urinate or defecate upon a child under sixteen (16)
4 years of age,
- 5 b. ejaculate upon or in the presence of a child,
- 6 c. cause, expose, force or require a child to look upon
7 the body or private parts of another person,
- 8 d. force or require any child under sixteen (16) years of
9 age or other individual the person believes to be a
10 child under sixteen (16) years of age, to view any
11 obscene materials, child pornography or materials
12 deemed harmful to minors as such terms are defined by
13 Sections 1024.1 and 1040.75 of this title,
- 14 e. cause, expose, force or require a child to look upon
15 sexual acts performed in the presence of the child, or
- 16 f. force or require a child to touch or feel the body or
17 private parts of said child or another person.

18 Any person convicted of any violation of this subsection shall
19 be punished by imprisonment in the custody of the Department of
20 Corrections for not less than three (3) years nor more than twenty
21 (20) years, except when the child is under twelve (12) years of age
22 at the time the offense is committed, and in such case the person
23 shall, upon conviction, be punished by imprisonment in the custody

1 of the Department of Corrections for not less than twenty-five (25)
2 years. The provisions of this subsection shall not apply unless the
3 accused is at least three (3) years older than the victim, except
4 when accomplished by the use of force or fear. Any person convicted
5 of a second or subsequent violation of this subsection shall be
6 guilty of a felony punishable as provided in this subsection and
7 shall not be eligible for probation, suspended or deferred sentence.
8 Any person convicted of a third or subsequent violation of this
9 subsection shall be guilty of a felony punishable by imprisonment in
10 the custody of the Department of Corrections for a term of life or
11 life without parole, in the discretion of the jury, or in case the
12 jury fails or refuses to fix punishment then the same shall be
13 pronounced by the court. Any person convicted of a violation of
14 this subsection after having been twice convicted of a violation of
15 subsection A of Section 1114 of this title, Section 888 of this
16 title, sexual abuse of a child pursuant to Section 843.5 of this
17 title, or of any attempt to commit any of these offenses or any
18 combination of convictions pursuant to these sections shall be
19 punished by imprisonment in the custody of the Department of
20 Corrections for a term of life or life without parole.

21 B. No person shall commit sexual battery on any other person.
22 "Sexual battery" shall mean the intentional touching, mauling or
23 feeling of the body or private parts of any person sixteen (16)

1 years of age or older, in a lewd and lascivious manner and without
2 the consent of that person or when committed by a state, county,
3 municipal or political subdivision employee or a contractor or an
4 employee of a contractor of the state, a county, a municipality or
5 political subdivision of this state upon a person who is under the
6 legal custody, supervision or authority of a state agency, a county,
7 a municipality or a political subdivision of this state; or where
8 the victim is a least sixteen (16) years of age and is less than
9 twenty (20) years of age and is a student, or under the legal
10 custody or supervision of any public or private elementary or
11 secondary school, junior high, high school, or public vocational
12 school, and engages in **an act constituting sexual battery** with a
13 person who is eighteen (18) years of age or older and is an employee
14 of the same school system as the victim. **As used in this section,**
15 **"employee of the same school system" means a teacher, principal or**
16 **any duly appointed person employed by a school system or employees**
17 **of a firm contracting with a school system and who exercises**
18 **authority over the victim.**

19 C. No person shall in any manner lewdly or lasciviously:

20 1. Look upon, touch, maul, or feel the body or private parts of
21 any human corpse in any indecent manner relating to sexual matters
22 or sexual interest; or

23 2. Urinate, defecate or ejaculate upon any human corpse.

1 D. Any person convicted of a violation of subsection B or C of
2 this section shall be deemed guilty of a felony and shall be
3 punished by imprisonment in the custody of the Department of
4 Corrections for not more than ten (10) years.

5 ~~D.~~ E. The fact that an undercover operative or law enforcement
6 officer was involved in the detection and investigation of an
7 offense pursuant to this section shall not constitute a defense to a
8 prosecution under this section.

9 ~~E.~~ F. Except for persons sentenced to life or life without
10 parole, any person sentenced to imprisonment for two (2) years or
11 more for a violation of this section shall be required to serve a
12 term of post-imprisonment supervision pursuant to subparagraph f of
13 paragraph 1 of subsection A of Section 991a of Title 22 of the
14 Oklahoma Statutes under conditions determined by the Department of
15 Corrections. The jury shall be advised that the mandatory post-
16 imprisonment supervision shall be in addition to the actual
17 imprisonment.

18 SECTION 6. AMENDATORY 22 O.S. 2001, Section 996.1, as
19 last amended by Section 2, Chapter 275, O.S.L. 2009 (22 O.S. Supp.
20 2009, Section 996.1), is amended to read as follows:

21 Section 996.1 As used in the Delayed Sentencing Program for
22 Young Adults:

1 "Offender" means any adult eighteen (18) through twenty-one (21)
2 years of age as of the date of a verdict of guilty or a plea of
3 guilty or nolo contendere for a nonviolent felony offense or a
4 juvenile who has been certified to stand trial as an adult for a
5 nonviolent felony offense, and who has not been convicted of assault
6 and battery with a dangerous weapon, aggravated assault and battery
7 on a law officer, poisoning with intent to kill, shooting or
8 discharging a firearm with intent to kill, assault with intent to
9 kill, using a vehicle to facilitate the intentional discharge of any
10 kind of firearm in violation of Section 652 of Title 21 of the
11 Oklahoma Statutes, assault with intent to commit a felony, murder in
12 the first degree, murder in the second degree, manslaughter in the
13 first degree, manslaughter in the second degree, kidnapping,
14 burglary in the first degree, kidnapping for extortion, maiming,
15 robbery, child beating, wiring any equipment, vehicle, or structure
16 with explosives, forcible sodomy, rape in the first degree or rape
17 by instrumentation, lewd or indecent proposition or lewd or indecent
18 act with a child under sixteen (16) years of age, use of a firearm
19 or offensive weapon to commit or attempt to commit a felony,
20 pointing firearms, rioting, ~~or~~ arson in the first degree, or child
21 pornography, and who has no charges pending for a violent offense.

1 SECTION 7. AMENDATORY 22 O.S. 2001, Section 996.3, as
2 last amended by Section 2, Chapter 426, O.S.L. 2005 (22 O.S. Supp.
3 2009, Section 996.3), is amended to read as follows:

4 Section 996.3 A. Upon a verdict of guilty or a plea of guilty
5 or nolo contendere of an offender, the court shall delay sentencing
6 for a period not less than one hundred eighty (180) days nor more
7 than one (1) year after the plea of guilty or finding of guilt is
8 entered and order the offender to the Delayed Sentencing Program for
9 Young Adults under the custody of the Department of Corrections.
10 For purposes of the Delayed Sentencing Program for Young Adults, the
11 term "custody" shall include probation or confinement during the
12 term of the Program. The court may initially commit the offender
13 for either probation or confinement pending the completion of the
14 Delayed Sentencing Program.

15 After the completion of the Program the court shall:

- 16 1. Defer judgment pursuant to the provisions of Section 991c of
17 this title;
- 18 2. Sentence the offender to any sentence provided by law in the
19 custody of the Department of Corrections;
- 20 3. Suspend the execution of sentence pursuant to Section 991a
21 of this title. In addition to other conditions of probation allowed
22 by statute, the court may include special conditions of probation as

1 set forth in the plan provided to the court if sentencing is
2 deferred or if all or part of the sentence is suspended;

3 4. Sentence the offender to community sentencing; or

4 5. Dismiss the criminal charges and proceedings.

5 B. Within ninety (90) days after the offender is committed to
6 the Delayed Sentencing Program for Young Adults, the Department of
7 Corrections shall prepare and file with the court clerk a
8 specialized offender accountability plan for the offender which
9 shall comply with and be in lieu of the presentence investigation
10 provided for in Section 982 of this title. The plan shall include
11 information, evaluations, and data directed by the sentencing court,
12 and may include, but not be limited to, the investigation report of
13 probation officers, an assessment of security risks and offender
14 needs and a recommended specific course of action, including, where
15 applicable, psychological counseling, psychiatric treatment, medical
16 treatment, education or vocational training, work, restitution, and
17 such other programs, which will offer the best opportunity for
18 rehabilitation of the offender. If the plan recommends confinement,
19 the plan shall state specifically the type of confinement that the
20 Department of Corrections proposes to utilize and the amount of time
21 the offender will spend in that confinement, including but not
22 limited to boot camp, substance abuse treatment, and vocational or
23 educational placement.

1 Upon filing the plan, copies shall be provided by the Department
2 of Corrections to the district attorney, the offender, the
3 offender's attorney, and the court. If the district attorney, the
4 offender or the offender's attorney objects to the plan, the
5 objecting party may file a written objection with the court within
6 ten (10) days of the receipt of the plan. Upon the filing of any
7 objection, the court shall conduct a hearing within ten (10) days of
8 the filing of the objection and decide a plan of action for the
9 offender under the Delayed Sentencing Program for Young Adults or
10 sentence the offender as otherwise provided by law.

11 C. An order by the court placing an offender in the Delayed
12 Sentencing Program for Young Adults shall be accepted by the
13 Department of Corrections as a commitment to the custody of the
14 Department pursuant to the provisions of Section 521 of Title 57 of
15 the Oklahoma Statutes, for the sole purpose of committing an
16 offender for assessment and evaluation and complying with the
17 accountability plan.

18 D. If no objection has been made to the plan, the offender
19 shall remain in the custody of the Department either under probation
20 or confinement to comply with the terms and conditions of the plan.
21 The offender may be housed either in a minimum or medium security
22 facility, halfway house, community corrections facility, or any

1 combination as needed to comply with the plan and meet offender
2 criminogenic needs.

3 E. Any offender previously admitted to the Delayed Sentencing
4 Program for Young Adults shall be ineligible for the Delayed
5 Sentencing Program for Young Adults for subsequent offenses.

6 SECTION 8. AMENDATORY 63 O.S. 2001, Section 1-323, as
7 amended by Section 19, Chapter 392, O.S.L. 2003 (63 O.S. Supp. 2009,
8 Section 1-323), is amended to read as follows:

9 Section 1-323. A. To protect the integrity of vital statistics
10 records, to insure their proper use, and to insure the efficient and
11 proper administration of the vital statistics system, it shall be
12 unlawful for any person to permit inspection of, or to disclose
13 information contained in, vital statistics records, or to copy or
14 issue a copy of all or part of any such record except to the person
15 who is the subject of the record or in such person's interest unless
16 ordered to do so by a court of competent jurisdiction; provided,
17 however, that death certificates shall be issued upon request and
18 the payment of applicable fees as provided in Section 1-325 of this
19 Code. Certified copies of birth certificates and death certificates
20 shall be provided without cost and without a court order to the
21 Attorney General or to any district attorney upon request in the
22 course of a criminal investigation.

1 B. The State Commissioner of Health may authorize the
2 disclosure of data contained in vital statistics records for
3 research purposes.

4 C. The State Department of Health shall transmit to the
5 Department of Public Safety;

6 1. At the end of each quarter year, a list of all registered
7 deaths which have occurred during such period of time. Upon receipt
8 of such list the Department of Public Safety shall use such list
9 solely to update Department of Public Safety records and to cancel
10 the driver license for those deceased individuals with a valid
11 Oklahoma driver license at the time of death;

12 2. At the end of each month, a report of all registered deaths
13 that resulted from a motor vehicle collision which have occurred
14 during such period of time. The report shall be used by the
15 Department solely for the purpose of statistical analysis and
16 reporting; and

17 3. Upon written request from the Department, a death
18 certificate. The certificate shall be used solely by the Fatality
19 Analysis Reporting System (FARS) Analyst of the Oklahoma Highway
20 Safety Office to populate the federal FARS database.

21 D. Each month, the Commissioner shall authorize the
22 transmission to the Oklahoma Health Care Authority of a certified
23 list of all registered deaths of residents of this state that have

1 occurred within the state for the immediately preceding month. The
2 Oklahoma Health Care Authority shall use the transmitted list to
3 ascertain the names of those individuals participating in the state
4 Medicaid program who are deceased, and shall thereafter terminate
5 such deceased person's enrollment in the state Medicaid program.

6 E. Information in vital statistics records indicating that a
7 birth occurred out of wedlock shall not be disclosed except as
8 provided by rule or upon order of a court of competent jurisdiction.

9 F. For the purpose of assisting in the location and recovery of
10 missing children, information pertaining to birth certificates and
11 requests for copies of birth certificates shall be provided to the
12 Oklahoma State Bureau of Investigation pursuant to the provisions of
13 Section 1-323.1 of this title and Section 150.12A of Title 74 of the
14 Oklahoma Statutes.

15 G. The Commissioner shall authorize the transmission of death
16 certificates to the Department of Labor for the purpose of the
17 Department of Labor conducting a census of total occupational
18 injuries and illnesses. The Department shall transmit to the
19 Department of Labor statistics of fatal occupational injuries that
20 shall include the following:

- 21 1. Name of the deceased;
- 22 2. Date of death;
- 23 3. Sex;

- 1 4. Race;
- 2 5. Age;
- 3 6. Birth date;
- 4 7. Social security number;
- 5 8. Whether an autopsy was conducted;
- 6 9. Month of the accident; and
- 7 10. Whether decedent was of Hispanic origin.

8 H. The Department of Labor shall be required to protect the
9 integrity of the vital statistics records to the same extent
10 required of the Department pursuant to this section.

11 SECTION 9. REPEALER 22 O.S. 2001, Sections 1291, 1292,
12 1293 and 1294 are hereby repealed.

13 SECTION 10. This act shall become effective November 1, 2010.

14 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 3-24-10 - DO
15 PASS, As Amended.