

SB 1076

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

THE STATE SENATE
Monday, February 16, 2009

Senate Bill No. 1076
As Amended

SENATE BILL NO. 1076 - By: Sparks of the Senate and Martin (Scott)
of the House.

[children - Compact on Adoption and Medical Assistance -
disclosure - emergency]

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

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

Section 7504-1.2 A. Whenever the disclosure of medical and
social history is permitted under this section, all identifying
information shall be deleted from the copy of the report or record
that is disclosed, unless the court, Department, agency, attorney,
or person authorized to disclose information by this section has
been informed in writing by both a biological parent and an adoptive
parent or prospective adoptive parent of their mutual agreement to
share identifying information. When such an agreement has been
made, identifying information shall be released only to the extent
specifically permitted by the written agreement. When the minor is
in the legal custody of the Department, medical and social history
may be disclosed without any agreement and without redacting
identifying information when the prospective adoptive parent is a

1 kinship or relative caregiver for the minor, or the minor has lived
2 in the prospective adoptive parent's home for two or more years,
3 unless the Department determines redaction of such information is in
4 the best interest of the child.

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

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

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

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

18 E. 1. Any additional information about an adopted person, the
19 adopted person's biological parents, or the adopted person's genetic
20 history that is submitted to the clerk of the district court that
21 issues the final decree of adoption, before or after the final
22 decree of adoption is issued, shall be made a part of the court's
23 permanent record of the adoption, pursuant to Section 19 of this

1 act. No filing fee shall be charged for filing this supplemental
2 information with the court clerk.

3 2. An adoptive parent, a biological parent, or an adult adopted
4 person may file with the clerk of the district court that issued the
5 final decree of adoption a notice of the individual's current
6 mailing address. A legal guardian of an adopted minor may file with
7 the clerk of the district court that issued the final decree of
8 adoption a notice of the guardian's current mailing address and
9 proof of legal guardianship. No filing fee shall be charged for
10 filing this notification of address or guardianship with the court
11 clerk.

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

20 4. Upon filing with the court clerk supplemental information
21 concerning the adopted person that may be genetically significant
22 for a biological parent or biological relative, the court clerk
23 shall send notice by ordinary mail, at the most recent address, if

1 any, listed in the court records, to the biological parent. The
2 notice shall state that supplemental information has been received
3 and is available from the court clerk upon request.

4 F. If any additional information about an adopted person, the
5 adopted person's biological parents, or the adopted person's genetic
6 history is submitted to the Department, agency, attorney, or person
7 who prepared the original report, the Department, agency, attorney,
8 or person shall:

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

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

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

16 a. the adoptive parent or current legal guardian of the
17 child, if the adopted person is under the age of
18 eighteen (18), or the adult adopted person, if the
19 location of the adoptive parent, guardian or adult
20 adopted person is known to the Department, agency,
21 attorney, or person, or

22 b. the biological parents, if the supplemental
23 information is submitted by an adoptive parent or

1 adopted person and concerns genetically significant
2 information about the adopted person that is relevant
3 to the health or childbearing decisions of the
4 biological parents or other biological relatives, if
5 the location of the biological parents is known to the
6 Department, agency, attorney, or person.

7 G. 1. The clerk of the district court that issues the final
8 adoption decree or the Department, agency, attorney, or person who
9 prepared the medical and social history report shall provide a copy
10 of the medical and social history report and any additional medical
11 and social history information in its possession to the following
12 persons upon request:

- 13 a. the adoptive parent or legal guardian of a minor
- 14 adopted person,
- 15 b. an adopted person who has attained eighteen (18) years
- 16 of age, and
- 17 c. an adult whose biological mother's and biological
- 18 father's parental rights were terminated and who was
- 19 never adopted.

20 2. The clerk of the district court that issues the final
21 adoption decree or the Department, agency, attorney, or person who
22 prepared the medical and social history report shall provide a copy

1 of the medical report and any additional medical information in its
2 possession to the following persons upon request:

- 3 a. an adult direct descendant of a deceased adopted
4 person or of a deceased person whose biological
5 mother's and biological father's parental rights were
6 terminated and who was never adopted, and
- 7 b. the parent or guardian of a minor direct descendant of
8 a deceased adopted person or of a deceased person
9 whose biological mother's and biological father's
10 rights were terminated and who was never adopted.

11 3. The clerk of the district court that issues the final
12 adoption decree or the Department, child-placing agency, attorney,
13 or person who prepared the medical and social history report shall
14 provide to the following persons upon request, a copy of genetically
15 significant supplemental information about an adopted person, or
16 about a person whose parents' parental rights were terminated, which
17 became available subsequent to the issuance of the decree of
18 adoption or termination order:

- 19 a. a biological parent or biological relative of an
20 adopted person, and
- 21 b. a biological parent or biological relative of a person
22 whose biological mother's and biological father's
23 rights were terminated and who was never adopted.

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

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

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

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

21 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7510-1.5, as
22 last amended by Section 7, Chapter 258, O.S.L. 2006 (10 O.S. Supp.
23 2008, Section 7510-1.5), is amended to read as follows:

1 Section 7510-1.5 A. 1. When a parent or parents are found and
2 approved for adoption of a child who is determined by the Department
3 of Human Services to be eligible for adoption assistance pursuant to
4 the Oklahoma Adoption Assistance Act, and before the final decree of
5 adoption is entered, there must be a signed written agreement
6 between the prospective adoptive parent or parents and the
7 Department.

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

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

16 B. When an otherwise eligible child is determined to have a
17 causative, preexisting condition which was not identified or known
18 prior to the legal finalization of the adoption and which has
19 resulted in a severe medical or psychiatric condition that requires
20 extensive treatment, hospitalization, or institutionalization, an
21 adoption assistance agreement may be approved by the Department
22 after the final decree of adoption has been entered. In the event
23 an adoption assistance agreement is approved that provides for

1 monthly adoption assistance payments, the adoptive parents may also
2 be entitled to receive retroactive adoption assistance payments for
3 a period not to exceed the two (2) months prior to the date the
4 adoption assistance agreement was approved.

5 C. Any child who met the requirements of the provisions of
6 Sections 7510-1.2 and 7510-1.4 of this title, and was determined
7 eligible for Oklahoma adoption assistance with respect to a prior
8 adoption, and is available for adoption because the prior adoption
9 has been dissolved and the parental rights of the adoptive parents
10 have been terminated or because the adoptive parents of the child
11 have died, shall be eligible for Oklahoma adoption assistance with
12 respect to any subsequent adoption.

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

19 a. enrolled in an institution which provides elementary
20 or secondary education as determined under the law of
21 the state or other jurisdiction in which the
22 institution is located,

- 1 a. continues to attend high school or pursues General
2 Education Development, or
3 b. meets the criteria for an adoption assistance
4 difficulty of care rate as determined by the
5 Department.

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

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

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

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

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

22 Section 7510-3.2 This Compact on Adoption and Medical
23 Assistance, hereinafter called "the compact", is hereby enacted into

1 law and entered into with all other jurisdictions legally joining
2 therein in the form substantially as follows:

3 ARTICLE I. FINDINGS

4 The party states find that:

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

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

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

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

21 (5) The necessary assurance of adoption assistance for children
22 with special needs, in those instances where children and adoptive
23 parents are in states other than the one undertaking to provide the

1 assistance, is to establish and maintain suitable substantive
2 guarantees and workable procedures for interstate payments to assist
3 with the necessary child maintenance, procurement of services, and
4 medical assistance.

5 ARTICLE II. PURPOSES

6 The purposes of this compact are to:

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

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

15 ARTICLE III. DEFINITIONS

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

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

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

3 (B) That there exists with respect to the child a specific
4 factor or condition (such as his ethnic background, age, or
5 membership in a minority or sibling group, or the presence of
6 factors such as medical condition or physical, mental, or emotional
7 handicaps) because of which it is reasonable to conclude that such
8 child cannot be placed with adoptive parents without providing
9 adoption assistance.

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

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

20 (3) "State" means a state of the United States, the District of
21 Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam,
22 the Commonwealth of the Northern Mariana Islands, or a Territory or
23 Possession of the United States.

1 period thereunder begins with the final or interlocutory decree of
2 adoption. Aid provided by party states to children with special
3 needs during the preadoptive placement period or earlier shall be
4 under the foster care or other programs of the states and, except as
5 provided in paragraph 3 of this article, shall not be governed by
6 the provisions of this compact.

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

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

16 (B) A provision setting forth with particularity the types of
17 child care and services toward which the adoption assistance state
18 will make payments.

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

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

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

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

19 ARTICLE V. MEDICAL ASSISTANCE

20 (1) Children for whom a party state is committed in accordance
21 with the terms of an adoption assistance agreement to make adoption
22 assistance payments are eligible for medical assistance during the
23 entire period for which such payments are to be provided. Upon

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

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

21 (3) A state which has issued a medical assistance
22 identification pursuant to this compact, which identification is
23 valid and currently in force, shall accept, process and pay medical

1 assistance claims thereon as on any other medical assistance
2 eligibilities of residents.

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

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

16 ARTICLE VI. JOINDER AND WITHDRAWAL

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

20 (2) In order that the provisions of this compact may be
21 accessible to and known by the general public and so that its status
22 as law in each of the party states may be fully implemented, the
23 full text of the compact, together with a notice of its execution,

1 shall be caused to be published by the authority which has executed
2 it in each party state. Copies of the compact shall be made
3 available upon request made of the executing authority in any state.

4 (3) Withdrawal from this compact shall be by written notice
5 sent by the authority which executed it to the appropriate officials
6 of all other party states, but no such notice shall take effect
7 until one (1) year after it is given in accordance with the
8 requirements of this paragraph.

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-10-09 - DO
24 PASS, As Amended and Coauthored.