

05/19/2014 02:40:56 PM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB3473

By: Nelson of the House and Treat of the Senate

Title: Children; child death or near death reports; providing statements expressing sympathy by DHS are inadmissible; effective date.

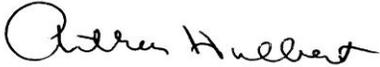
Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HB3473 CCR (A)
HOUSE CONFEREES

Hulbert, Arthur		Kern, Sally	
McDaniel, Jeannie		McNiel, Skye	
Nelson, Jason		Newell, Tom	
Nollan, Jadine		Ownbey, Pat	
Pittman, Anastasia		Sherrer, Ben	

HB3473 CCR A

SENATE CONFEREES

Treat



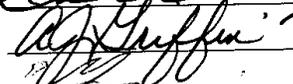
Sykes



Brinkley



Griffin



Garrison



Ivester



House Action _____ Date _____ Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 3473

By: Nelson, Pittman and Nollan
of the House

7 and

Treat of the Senate

8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to children; amending 10A O.S. 2011,
11 Section 1-6-105, as amended by Section 2, Chapter
12 343, O.S.L. 2012 (10A O.S. Supp. 2013, Section 1-6-
13 105), which relates to child death or near death
14 reports; modifying reporting requirements; permitting
15 notification to certain designees; requiring
16 notification if information release is delayed;
17 providing statements expressing sympathy by
18 Department of Human Services are inadmissible; and
19 providing an effective date.

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

21 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-6-105, as
22 amended by Section 2, Chapter 343, O.S.L. 2012 (10A O.S. Supp. 2013,
23 Section 1-6-105), is amended to read as follows:

24 Section 1-6-105. A. When used in this section, unless the
context otherwise requires:

1. "Abuse" means harm or threatened harm or failure to protect
from harm or threatened harm to the health, safety, or welfare of a

1 child by a person responsible for the child, including but not
2 limited to nonaccidental physical or mental injury, sexual abuse, or
3 sexual exploitation. Provided, however, that nothing contained in
4 this act shall prohibit any parent from using ordinary force as a
5 means of discipline including, but not limited to, spanking,
6 switching, or paddling;

7 2. "Identifying information" means information that identifies
8 an individual, including the individual's:

- 9 a. name, address, date of birth, occupation, place of
10 employment and telephone number,
- 11 b. employer identification number, mother's maiden name,
12 Social Security number, or any identification number
13 issued by a governmental entity, or
- 14 c. unique biometric data, including the fingerprints,
15 voice print, or retina or iris image of the
16 individual;

17 3. "Near death" means a child is in serious or critical
18 condition as verified by a physician, a registered nurse or other
19 licensed health care provider. Verification of medical condition of
20 a child may be given in person or by telephone, mail, electronic
21 mail or facsimile; and

22 4. "Person responsible for a child" means "person responsible
23 for a child's health, safety or welfare" as provided in Section 1-1-
24 105 of this title but shall also include any person who has

1 voluntarily accepted the duty of supervising a child or who has been
2 directed or authorized to supervise a child by the person
3 responsible for the child's health, safety or welfare.

4 B. Department of Human Services information shall be maintained
5 by the Department as required by federal law as a condition of the
6 allocation of federal monies to the state. All exceptions for the
7 public release of Department information shall be construed as
8 openly as possible consistent with federal law.

9 ~~C. Upon receipt of a report of the death or near death of a~~
10 ~~child resulting from suspected abuse or neglect, the Department~~
11 ~~shall conduct a child death or near death review and produce a~~
12 ~~written report within forty-five (45) days.~~

13 ~~D.~~ If the Department has reasonable cause to suspect that a
14 child death or near death is the result of abuse or neglect, the
15 Department shall notify the Governor, the President Pro Tempore of
16 the Senate and the Speaker of the House of Representatives or their
17 designees of the initial investigative findings of the child
18 protective services review. Notice shall be communicated securely
19 no later than twenty-four (24) hours after determination of the
20 reasonable suspicion.

21 ~~E. Not later than five (5) business days after the date of D.~~
22 Once the Department has reasonable cause to suspect that a child
23 death or near death ~~in cases where there is reasonable cause to~~
24 ~~suspect~~ the result of abuse or neglect, the Department shall

1 ~~release,~~ upon request, release to the public the following
2 information:

- 3 1. The age and sex of the child;
- 4 2. The date of death or near-death incident;
- 5 3. Whether the child was in the custody of the Department at
6 the time of the child's death or near death;
- 7 4. Whether the child resided with the child's parent, guardian,
8 or person responsible for the care of the child at the time of the
9 child's death or near death; and
- 10 5. Whether the child was under the supervision of the child's
11 parent, guardian or person responsible for the child at the time of
12 the death or near death of the child.

13 ~~F. E.~~ E. If, after a child abuse or neglect investigation is
14 completed, the Department determines a child's death or near death
15 was ~~caused by~~ the result of abuse or neglect, the Department shall
16 ~~promptly,~~ upon request, release to the public the following
17 information:

- 18 1. The information described in subsection ~~F D~~ D of this section;
- 19 2. The name of the abused or neglected child; provided, that
20 the name shall not be disclosed in a case of a near death unless the
21 name has previously been disclosed;
- 22 3. The name of the offender if due process has been satisfied
23 or if the offender has been arrested and charged with a crime
24 associated with the death or near death of the child;

- 1 4. In cases in which the death or near death of the child
2 occurred while the child was living with the child's parent,
3 guardian, or person responsible for the care of the child:
- 4 a. the circumstances of the death or near death of the
5 child,
 - 6 b. a summary of the child's involvement with the
7 Department while the child was living with the parent,
8 guardian, or person responsible for the care of the
9 child,
 - 10 c. the disposition of any report created as a result of
11 the child's involvement with the Department while the
12 child was living with the parent, guardian, or person
13 responsible for the care of the child,
 - 14 d. a description of the services, if any, that were
15 provided by the Department as a result of the child's
16 involvement with the Department while the child was
17 living with the parent, guardian, or person
18 responsible for the care of the child,
 - 19 e. the results of any risk or safety assessment completed
20 by the Department relating to the child,
 - 21 f. the date each report was assessed and completed,
 - 22 g. whether the Department confirmed abuse or neglect,
 - 23 h. whether any reports were referred to the district
24 attorney and the date of the referrals,

- 1 i. the dates of any judicial proceedings prior to the
2 death or near death of the child,
- 3 j. a summary of the recommendations submitted by each
4 participant at the judicial proceedings including
5 recommendations made at the hearing as they relate to
6 custody or placement of the child,
- 7 k. the rulings of the court,
- 8 l. specific recommendations made and services rendered by
9 the Department described in any progress reports of a
10 pending case submitted to the court,
- 11 m. a summary of the status of the child's case at the
12 time of the death or near death, including, without
13 limitation, whether the child's case was closed by the
14 Department before the death or near death,
- 15 n. similar information for any other investigations
16 concerning that child, or other children while living
17 in the same household,
- 18 o. a summary of statutory and policy violations,
19 including notice of any personnel actions taken by the
20 Department, and
- 21 p. recommendations for policy changes or practice
22 improvements based upon the interactions between the
23 Department, the child who died or nearly died and the
24 person responsible for the care of the child; and

1 5. In cases in which the death or near death of the child
2 occurred while the child was in the custody of the Department and
3 the person responsible for the supervision of the child was the
4 suspected perpetrator, the following information:

5 a. the circumstances of the death or near death of the
6 child,

7 b. information regarding the certification of the person
8 with whom the child was residing at the time of death
9 or near death,

10 c. a summary of any previous reports of abuse or neglect
11 investigated by the Department relating to the person
12 responsible for the ~~custodial care~~ supervision of the
13 child, including the disposition of any investigation
14 resulting from a report,

15 d. any policy violations, including notice of any action
16 taken by the Department regarding a violation,

17 e. records of any training completed by the person
18 responsible for the ~~custodial care~~ supervision of the
19 child,

20 f. similar information for any other investigations
21 concerning that child, or other children while living
22 in the same household,

23 g. a summary of licensing actions taken by the
24 Department, and

1 h. recommendations for policy changes or practice
2 improvements based upon the interactions between the
3 Department and the child who died or nearly died.

4 ~~G.~~ F. If the Department is unable to release the information
5 required by subsection E of this section before forty-five (45) days
6 after receiving a report of the death or near death of a child, the
7 Department shall ~~publish on the website of the Department~~ notify the
8 person requesting the information of the delay and provide the
9 reason for the delay and the expected date the Department will
10 release the report.

11 ~~H.~~ ~~1.~~ G. At any time subsequent to seven (7) days, but no more
12 than forty-five (45) days, of the date the person responsible for
13 the child has been criminally charged, the district attorney, the
14 district court clerk, and the judge having jurisdiction over the
15 case, upon request, shall release certain information to the public
16 as follows:

- 17 a. ~~a confirmation shall be provided by the Department as~~
18 ~~to whether a report has been made concerning the~~
19 ~~alleged victim or other children while living in the~~
20 ~~same household and whether an investigation has begun,~~
21 b. ~~confirmation shall be provided by the Department as to~~
22 ~~whether previous reports have been made and the dates~~
23 ~~thereof, a summary of those previous reports, the~~
24 ~~dates and outcome of any investigations or actions~~

~~taken by the Department in response to a previous report of child abuse or neglect, and the specific recommendation made to the district attorney and any subsequent action taken by the district attorney,~~

~~e. the~~

1. The dates of any relevant judicial proceedings prior to the death or near death of the child~~;~~i

~~d. recommendations~~

2. Recommendations submitted by each participant in writing at the relevant judicial proceedings including recommendations made at the hearing as they relate to custody or placement of a child~~;~~i and

~~e. the~~

3. The relevant rulings of the court.

~~2. Specific recommendations made and services rendered by the Department described in any progress reports of a pending case submitted to the court may be disclosed by the Department.~~

~~F. H.~~ 1. At any time subsequent to seven (7) days after the date the person responsible for the child has been criminally charged, the Oklahoma Commission on Children and Youth shall, upon request, release certain information to the public within sixty (60) days of the request as follows:

a. a confirmation shall be provided by the Commission as to whether a report of suspected child abuse or neglect has been made concerning the alleged victim or

1 other children while living in the same household and
2 whether an investigation has begun,

- 3 b. confirmation shall be provided by the Commission as to
4 whether previous reports of suspected child abuse or
5 neglect have been made concerning the alleged victim
6 of the death or near death or against the person
7 responsible for the child and the dates thereof, a
8 summary of those previous reports, the dates and
9 outcome of any investigations or actions taken by the
10 Department and the Commission in response to any
11 previous report of child abuse or neglect, and the
12 specific recommendation made to the district attorney
13 and any subsequent action taken by the district
14 attorney,
- 15 c. the dates of any relevant judicial proceedings prior
16 to the death or near death of the child,
- 17 d. recommendations submitted by the Department and the
18 Commission shall be provided in writing including
19 relevant recommendations made at the hearing as they
20 relate to custody or placement of a child,
- 21 e. the relevant rulings of the court, and
- 22 f. any relevant information listed in subsections ~~F~~ E and
23 ~~H~~ G of this section.
- 24

1 2. Specific recommendations made by the Commission described in
2 any progress reports of a pending case submitted to the court may be
3 disclosed by the Commission.

4 ~~J.~~ I. Unless specifically authorized by this section, any
5 public disclosure of information pursuant to this section shall not:

6 1. Identify or provide any identifying information of any
7 complainant or reporter of child abuse or neglect;

8 2. Identify or provide any identifying information of the
9 victim, the child victim's siblings or other children living in the
10 same household, the parent or other person responsible for the
11 child, or any other member of the household, or the person
12 criminally charged or Department employees, agents or contractors.
13 Nonspecific descriptors, such as father, mother, stepparent, or
14 sibling may be used; or

15 3. Violate other state or federal law as required pursuant to
16 subsection A of Section 1-6-102 of this title.

17 J. Any and all statements, affirmations, gestures, or conduct
18 expressing apology, sympathy, commiseration, condolence, compassion,
19 sorrow or a general sense of benevolence which are made by the
20 Department of Human Services or an employee of the Department to the
21 public or to the family or foster parents of a child which relate
22 solely to discomfort, pain, suffering, injury, tragedy, near death
23 or death of a child shall be inadmissible as evidence of an
24

1 admission of liability or wrongdoing or as evidence of an admission
2 against interest.

3 SECTION 2. This act shall become effective November 1, 2014.

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5 54-2-11004 EK 05/13/14

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