

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB218 _____
_____ Of the printed Bill
Page _____ Section _____ Lines _____
_____ Of the Engrossed Bill

by adding Sections 3, 4, and 5 as attached and by renumbering the subsequent section.

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Richard

Morrisette
Adopted: _____

Reading Clerk

"SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1701 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created until July 1, 2021, in accordance with the Oklahoma Sunset Law, the Vulnerable Adult Injury and Death Review Board within the Office of the Attorney General. The Board shall have the power and duty to:

1. Conduct case reviews of deaths and injuries of elderly and mentally or physically debilitated adults when circumstances of the death or injury cannot be documented or that may be the result of error, negligence or abuse;

2. Develop accurate statistical information and identification of elderly and mentally or physically debilitated adults whose injury or death occurred under circumstances that cannot be documented or that may be the result of error, negligence or abuse;

3. Review and make recommendations to improve applicable policies and procedures within state agencies that may help reduce injuries and deaths among the elderly and mentally or physically debilitated adults; and

4. Enter into agreements with other state, local or private entities as necessary to carry out the duties of the Vulnerable Adult Injury and Death Review Board.

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

1. Promulgate rules establishing criteria for identifying cases involving the death or injury of an elderly or mentally or physically debilitated adult that would be subject to specific, in-depth review by the Board;

2. Conduct a specific case review of those cases in which the cause of death or injury cannot be documented or may be the result of error, negligence or abuse;

3. Establish and maintain statistical information related to the deaths and injuries of elderly and mentally or physically debilitated adults resulting from errors, negligence or abuse including, but not limited to, demographic and medical diagnostic information;

4. Establish procedures for obtaining initial information regarding deaths and injuries of elderly and mentally or physically debilitated adults from the Long-Term Care Division and the Home Care Services Division of the State Department of Health, the State Long-Term Care Ombudsman, and the Adult Protective Services Division of the Department of Human Services;

5. Request and obtain a copy of all records and reports pertaining to an elderly or mentally or physically debilitated adult whose case is under review including, but not limited to:

- a. hospital records,
- b. medical examiner report,
- c. medical and dental records,
- d. emergency medical service records,
- e. files of the Department of Human Services,
- f. files of the State Long-Term Care Ombudsman made available pursuant to federal law, and
- g. files of the State Department of Health.

Confidential information provided to the Board shall be maintained by the Board in a confidential manner as otherwise required by state and

federal law. Any person damaged by disclosure of such confidential information by the Board or its members not authorized by law may maintain a claim for damages pursuant to The Governmental Tort Claims Act;

6. Interview interested parties including, but not limited to, relatives and friends of the elderly or mentally or physically debilitated adult;

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

8. Conduct reviews of specific cases of deaths and injuries of elderly or mentally or physically debilitated adults and request the preparation of additional information and reports as determined to be necessary by the Board including, but not limited to, clinical summaries from treating physicians and chronologies of contact with the person;

9. If recommended by a majority vote of the Board, report findings of gross neglect of duty by any state officer or state employee to the director of the state agency that employs the officer or employee and to the district attorney of the jurisdiction in which the death or injury occurred; and

10. Exercise all incidental powers necessary and proper for the implementation and administration of the Vulnerable Adult Injury and Death Review Board.

C. The review and discussion of individual cases of death or injury of elderly and mentally or physically debilitated adults shall be conducted in executive session as provided in Section 307 of Title 25 of the Oklahoma Statutes. All other business shall be conducted in accordance with the provisions of the Oklahoma Open Meeting Act. All discussions of individual cases and any writings produced by or created for the Board in the course of determining a remedial measure to be recommended by the Board, as the result of a review of the death or injury of elderly and mentally or physically debilitated adults, shall be privileged and shall not be admissible in evidence in any proceeding. The Board shall periodically conduct meetings to discuss organization and business matters and any actions or recommendations aimed at improving the care received by elderly and mentally or physically debilitated adults which shall be subject to the Oklahoma Open Meeting Act.

D. The Board shall submit an annual statistical report to the Attorney General, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Commissioner of Health and the Director of the Department of Human Services on the incidence of deaths and injuries of elderly and mentally or physically debilitated adults in which the circumstances of the death or injury could not be documented or may have been the result of error, negligence or abuse during the previous state fiscal year. The Board shall also include its recommendations, if any, to the State Department of Health, the State Long-Term Care Ombudsman and the Department of Human Services. The report shall be completed no later than February 1 of each year.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1702 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The Vulnerable Adult Injury and Death Review Board shall be composed of eleven (11) members as follows:

1. The State Long-Term Care Ombudsman, or designee;
2. The Director of the Long-Term Care Division of the State Department of Health, or designee;
3. The Director of the Home Services Division of the State Department of Health, or designee;
4. The Director of the Adult Protective Services Program within the Department of Human Services, or designee;
5. The Chief Medical Examiner, or designee;
6. Two members appointed by the Speaker of the Oklahoma House of Representatives as follows:
 - a. one shall be a licensed physician practicing geriatrics, and
 - b. one shall be a mental health professional specializing in the treatment of the elderly;
7. Two members appointed by the President Pro Tempore of the Oklahoma State Senate as follows:
 - a. one shall be a nonsalaried member of an organization that represents the interests of retired persons, and
 - b. one shall be a gerontologist; and
8. Two members appointed by the Governor as follows:
 - a. one shall be a nonsalaried member of an organization that represents and advocates for older Oklahomans, and

b. one shall be an alumnus of an organization that represents and advocates for older Oklahomans.

B. Appointed members shall serve for terms of two (2) years and shall be eligible for reappointment.

C. Every two (2) years the Board shall elect from among its membership a chair and vice chair. The Board shall meet at least quarterly and may meet more frequently as necessary as determined by the chair. Members shall serve without compensation but may be reimbursed for necessary travel expenses out of funds available to the Office of the Attorney General pursuant to the State Travel Reimbursement Act; provided, that the reimbursement shall be paid in the case of state employee members by the agency employing the members.

D. With funds appropriated or otherwise available for that purpose, the Office of the Attorney General shall provide administrative assistance and services to the Vulnerable Adult Injury and Death Review Board.

SECTION 5. AMENDATORY 25 O.S. 2011, Section 307, is amended to read as follows:

Section 307. A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;

2. Discussing negotiations concerning employees and representatives of employee groups;

3. Discussing the purchase or appraisal of real property;
4. Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;
5. Permitting district boards of education to hear evidence and discuss the expulsion or suspension of a student when requested by the student involved or the student's parent, attorney or legal guardian;
6. Discussing matters involving a specific handicapped child;
7. Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law;
8. Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act; or
9. Discussing the following:
 - a. the investigation of a plan or scheme to commit an act of terrorism,
 - b. assessments of the vulnerability of government facilities or public improvements to an act of terrorism,
 - c. plans for deterrence or prevention of or protection from an act of terrorism,
 - d. plans for response or remediation after an act of terrorism,
 - e. information technology of the public body but only if the discussion specifically identifies:

- (1) design or functional schematics that demonstrate the relationship or connections between devices or systems,
 - (2) system configuration information,
 - (3) security monitoring and response equipment placement and configuration,
 - (4) specific location or placement of systems, components or devices,
 - (5) system identification numbers, names, or connecting circuits,
 - (6) business continuity and disaster planning, or response plans, or
 - (7) investigation information directly related to security penetrations or denial of services, or
- f. the investigation of an act of terrorism that has already been committed.

For the purposes of this subsection, the term "terrorism" means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes.

C. Notwithstanding the provisions of subsection B of this section, the following public bodies may hold executive sessions:

1. The State Banking Board, as provided for under Section 306.1 of Title 6 of the Oklahoma Statutes;
2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of Title 74 of the Oklahoma Statutes;
3. The Oklahoma Development Finance Authority, as provided for in Section 5062.6 of Title 74 of the Oklahoma Statutes;

4. The Oklahoma Center for the Advancement of Science and Technology, as provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;

5. The Oklahoma Savings and Loan Board, as provided for under subsection A of Section 381.74 of Title 18 of the Oklahoma Statutes;

6. The Oklahoma Health Research Committee for purposes of conferring on matters pertaining to research and development of products, if public disclosure of the matter discussed would interfere with the development of patents, copyrights, products, or services;

7. A review committee, as provided for in Section 855 of Title 62 of the Oklahoma Statutes;

8. The Child Death Review Board for purposes of receiving and conferring on matters pertaining to materials declared confidential by law;

9. The Domestic Violence Fatality Review Board as provided in Section 1601 of Title 22 of the Oklahoma Statutes;

10. All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces or study groups supported in whole or part by public funds or entrusted with the expenditure of public funds for purposes of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to remain or to locate within their jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business;

11. The Oklahoma Indigent Defense System Board for purposes of discussing negotiating strategies in connection with making possible counteroffers to offers to contract to provide legal representation to indigent criminal defendants and indigent juveniles in cases for which the System must provide representation pursuant to the provisions of the Indigent Defense System Act; ~~and~~

12. The Quality Investment Committee for purposes of discussing applications and confidential materials pursuant to the terms of the Oklahoma Quality Investment Act; and

13. The Vulnerable Adult Injury and Death Review Board for the purposes of reviewing and discussing individual cases of death or injury of elderly and mentally or physically debilitated adults.

D. An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.

E. No public body may go into an executive session unless the following procedures are strictly complied with:

1. The proposed executive session is noted on the agenda as provided in Section 311 of this title;

2. The executive session is authorized by a majority vote of a quorum of the members present and the vote is a recorded vote; and

3. Except for matters considered in executive sessions of the State Banking Board and the Oklahoma Savings and Loan Board, and which are required by state or federal law to be confidential, any vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded.

F. A willful violation of the provisions of this section shall:

1. Subject each member of the public body to criminal sanctions as provided in Section 314 of this title; and

2. Cause the minutes and all other records of the executive session, including tape recordings, to be immediately made public."

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