

05/20/2014 05:01:48 PM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB3469

By: Nelson of the House and David of the Senate

Title: Children; creating the Quinten Douglas Wood Act of 2014; 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 _____

HB3469 CCR (B)
HOUSE CONFEREES

Hulbert, Arthur

Kern, Sally



McDaniel, Jeannie

McNiel, Skye



Nelson, Jason



Newell, Tom

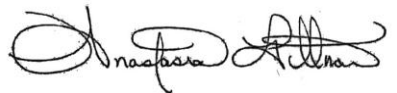


Nollan, Jadine

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HB3469 CCR B

SENATE CONFEREES

David

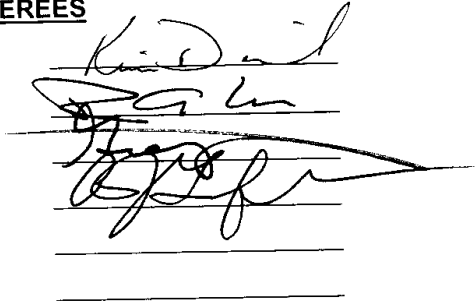
Crain

Treat

Griffin

Shumate

Ballenger



House Action _____ Date _____ Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

AUTHOR(s)/COAUTHOR(s)CURRENTLY IN THE QUEUE for HB3469

As of 5/20/2014 4:44:34 PM

Add as coauthor Senator Ivester

Add as coauthor Representative Nollan

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 3469

By: Nelson, Kern and Pittman of
the House

and

David of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; creating the Quinten Douglas Wood Act of 2014; amending 10A O.S. 2011, Sections 1-2-105, 1-4-201, 1-6-103 and 1-6-105, as amended by Section 2, Chapter 343, O.S.L. 2012 (10A O.S. Supp. 2013, Section 1-6-105), which relate to the Oklahoma Children's Code; directing Department consider risks of child unable to communicate effectively in investigations and assessments; requiring Department to implement protocol for child with complex medical needs; providing for removal if reasonable suspicion child is unable to communicate effectively about abuse or neglect; permitting Department inspection of certain records; adding definition; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

1 This act shall be known and may be cited as the "Quinten Douglas
2 Wood Act of 2014".

3 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-2-105, is
4 amended to read as follows:

5 Section 1-2-105. A. 1. Any county office of the Department of
6 Human Services receiving a child abuse or neglect report shall
7 promptly respond to the report by initiating an investigation of the
8 report or an assessment of the family in accordance with priority
9 guidelines established by the Department. The Department may
10 prioritize reports of alleged child abuse or neglect based on the
11 severity and immediacy of the alleged harm to the child. The
12 Department shall adopt a priority system pursuant to rules
13 promulgated by the ~~Commission for Human Services~~ Department. The
14 primary purpose of the investigation or assessment shall be the
15 protection of the child. For investigations or assessments, the
16 Department shall give special consideration to the risks of any
17 minor, including a child with a disability, who is unable to
18 communicate effectively about abuse, neglect or other safety threat
19 or who is in a vulnerable position due to the inability to
20 communicate effectively.

21 2. If an investigation or assessment conducted by the
22 Department in response to any report of child abuse or neglect shows
23 that the incident reported was the result of the reasonable exercise
24 of parental discipline involving the use of ordinary force,

1 including, but not limited to, spanking, switching, or paddling, the
2 investigation or assessment will proceed no further and all records
3 regarding the incident shall be expunged.

4 B. 1. The investigation or assessment shall include a visit to
5 the home of the child, unless there is reason to believe that there
6 is an extreme safety risk to the child or worker or it appears that
7 the referral has been made in bad faith. The visit shall include an
8 interview with and examination of the subject child and may be
9 conducted at any reasonable time and at any place including, but not
10 limited to, the child's school. The Department shall notify the
11 person responsible for the health, safety, and welfare of the child
12 that the child has been interviewed at a school. The investigation
13 or assessment may include an interview with the parents of the child
14 or any other person responsible for the health, safety, or welfare
15 of the child and an interview with and examination of any child in
16 the home.

17 2. The investigation or assessment may include a medical,
18 psychological, or psychiatric examination of any child in the home.
19 If admission to the home, school, or any place where the child may
20 be located cannot be obtained, then the district court having
21 jurisdiction, upon application by the district attorney and upon
22 cause shown, shall order the person responsible for the health,
23 safety, or welfare of the child, or the person in charge of any
24 place where the child may be located, to allow entrance for the

1 interview, the examination, and the investigation or assessment. If
2 the person responsible for the health, safety, or welfare of the
3 child does not consent to a medical, psychological, or psychiatric
4 examination of the child that is requested by the Department, the
5 district court having jurisdiction, upon application by the district
6 attorney and upon cause shown, shall order the examination to be
7 made at the times and places designated by the court.

8 3. The investigation or assessment may include an inquiry into
9 the possibility that the child or a person responsible for the
10 health, safety, or welfare of the child has a history of mental
11 illness. If the person responsible for the child's health, safety,
12 or welfare does not allow the Department to have access to
13 behavioral health records or treatment plans requested by the
14 Department, which may be relevant to the alleged abuse or neglect,
15 the district court having jurisdiction, upon application by the
16 district attorney and upon good cause shown, shall by order allow
17 the Department to have access to the records pursuant to terms and
18 conditions prescribed by the court.

19 4. a. If the court determines that the subject of the
20 behavioral health records is indigent, the court shall
21 appoint an attorney to represent that person at the
22 hearing to obtain behavioral health records.

23 b. A person responsible for the health, safety, or
24 welfare of the child is entitled to notice and a

1 hearing when the Department seeks a court order to
2 allow a psychological or psychiatric examination or
3 access to behavioral health records.

4 c. Access to behavioral health records does not
5 constitute a waiver of confidentiality.

6 5. The investigation of a report of sexual abuse or serious
7 physical abuse or both sexual abuse and serious physical abuse shall
8 be conducted, when appropriate and possible, using a
9 multidisciplinary team approach as provided by Section 1-9-102 of
10 this title. Law enforcement and the Department shall exchange
11 investigation information.

12 C. 1. Every physician, surgeon, or other health care provider
13 making a report of abuse or neglect as required by this section or
14 examining a child to determine the likelihood of abuse or neglect
15 and every hospital or related institution in which the child was
16 examined or treated shall provide copies of the results of the
17 examination or copies of the examination on which the report was
18 based and any other clinical notes, x-rays, photographs, and other
19 previous or current records relevant to the case to law enforcement
20 officers conducting a criminal investigation into the case and to
21 employees of the Department conducting an assessment or
22 investigation of alleged abuse or neglect in the case.

23 2. As necessary in the course of conducting an assessment or
24 investigation, the Department may request and obtain, without a

1 court order, copies of all prior medical records of a child
2 including, but not limited to, hospital records, medical, and dental
3 records. The physician-patient privilege shall not constitute
4 grounds for failure to produce such records.

5 D. If, before the assessment or investigation is complete, the
6 Department determines that immediate removal of the child is
7 necessary to protect the child from further abuse or neglect, the
8 Department shall recommend that the child be taken into custody.

9 E. The Department shall make a complete written report of the
10 investigation. The investigation report, together with its
11 recommendations, shall be submitted to the appropriate district
12 attorney's office. Reports of assessment recommendations shall be
13 submitted to appropriate district attorneys.

14 F. The Department, where appropriate and in its discretion,
15 shall identify prevention and intervention-related services
16 available in the community and refer the family to or arrange for
17 such services when an investigation or assessment indicates the
18 family would benefit from such services, or the Department may
19 provide such services directly. The Department shall document in
20 the record its attempts to provide, refer or arrange for the
21 provision of, voluntary services and shall determine within sixty
22 (60) days whether the family has accessed those services directly
23 related to safety of the child. If the family refuses voluntary
24 services or does not access those services directly related to

1 safety of the child, and it is determined by the Department that the
2 child's surroundings endanger the health, safety, or welfare of the
3 child, the Department may recommend that the child be placed in
4 protective or emergency custody or that a petition be filed.

5 G. If the Department has reason to believe that a person
6 responsible for the health, safety, and welfare of the child may
7 remove the child from the state before the investigation is
8 completed, the Department may request the district attorney to file
9 an application for a temporary restraining order in any district
10 court in the State of Oklahoma without regard to continuing
11 jurisdiction of the child. Upon cause shown, the court may enter a
12 temporary restraining order prohibiting the parent or other person
13 from removing the child from the state pending completion of the
14 assessment or investigation.

15 H. The Director of the Department or designee may request an
16 investigation be conducted by the Oklahoma State Bureau of
17 Investigation or other law enforcement agency in cases where it
18 reasonably believes that criminally injurious conduct including, but
19 not limited to, physical or sexual abuse of a child has occurred.

20 I. Child Welfare Services, in collaboration with the
21 Developmental Disabilities Services Division, shall implement a
22 protocol to be used in cases where the subject child is a child with
23 a disability who has complex medical needs, and the protocol shall
24

1 include, but not be limited to: resource coordination, medical
2 consultation or medical evaluation, when needed.

3 SECTION 3. AMENDATORY 10A O.S. 2011, Section 1-4-201, is
4 amended to read as follows:

5 Section 1-4-201. A. Pursuant to the provisions of this
6 section, a child may be taken into custody prior to the filing of a
7 petition:

8 1. By a peace officer or employee of the court, without a court
9 order if the officer or employee has reasonable suspicion that:

10 a. the child is in need of immediate protection due to an
11 imminent safety threat, ~~or~~

12 b. the circumstances or surroundings of the child are
13 such that continuation in the child's home or in the
14 care or custody of the parent, legal guardian, or
15 custodian would present an imminent safety threat to
16 the child, or

17 c. the child, including a child with a disability, is
18 unable to communicate effectively about abuse, neglect
19 or other safety threat or is in a vulnerable position
20 due to the inability to communicate effectively and
21 the child is in need of immediate protection due to an
22 imminent safety threat; or

23 2. By an order of the district court issued upon the
24 application of the office of the district attorney. The application

1 presented by the district attorney may be supported by a sworn
2 affidavit which may be based upon information and belief. The
3 application shall state facts sufficient to demonstrate to the court
4 that a continuation of the child in the home or with the caretaker
5 of the child is contrary to the child's welfare and there is
6 reasonable suspicion that:

7 a. the child is in need of immediate protection due to an
8 imminent safety threat, ~~or~~

9 b. the circumstances or surroundings of the child are
10 such that continuation in the child's home or in the
11 care or custody of the parent, legal guardian, or
12 custodian would present an imminent safety threat to
13 the child, or

14 c. the child, including a child with a disability, is
15 unable to communicate effectively about abuse, neglect
16 or other safety threat or is in a vulnerable position
17 due to the inability to communicate effectively and
18 the child is in need of immediate protection due to an
19 imminent safety threat.

20 The application and order may be verbal and upon being advised by
21 the district attorney or the court of the verbal order, law
22 enforcement shall act on such order. If verbal, the district
23 attorney shall submit a written application and proposed order to
24 the district court within one (1) judicial day from the issuance of

1 the verbal order. Upon approval, the application and order shall be
2 filed with the court clerk; or

3 3. By order of the district court when the child is in need of
4 medical or behavioral health treatment in order to protect the
5 health, safety, or welfare of the child and the parent, legal
6 guardian, or custodian of the child is unwilling or unavailable to
7 consent to such medical or behavioral health treatment or other
8 action, the court shall specifically include in the emergency order
9 authorization for such medical or behavioral health evaluation or
10 treatment as it deems necessary.

11 B. 1. By January 1, 2010, the Department in consultation with
12 law enforcement and the district courts shall develop and implement
13 a system for joint response when a child is taken into protective
14 custody by a peace officer pursuant to paragraph 1 of subsection A
15 of this section. The system shall include:

- 16 a. designation of persons to serve as contact points for
17 peace officers, including at least one backup contact
18 for each initial contact point,
- 19 b. a protocol for conducting a safety evaluation at the
20 scene where protective custody is assumed to determine
21 whether the child faces an imminent safety threat and,
22 if so, whether the child can be protected through
23 placement with relatives or others without the
24 Department assuming emergency custody,

- c. the development of reception centers for accepting protective custody of children from peace officers when the Department is unable to respond at the scene within a reasonable time period,
- d. a protocol for conducting a safety evaluation at the reception center within twenty-three (23) hours of the assumption of protective custody of a child to determine whether the child faces an imminent safety threat and, if so, whether the child can be protected through placement with relatives or others without the Department assuming emergency custody, and
- e. a protocol, when the child cannot safely be left in the home, for transporting a child to the home of a relative, kinship care home, an emergency foster care home, a shelter, or any other site at which the Department believes the child can be protected, provided that the Department shall utilize a shelter only when the home of a relative, kinship care home, or emergency foster care home is unavailable or inappropriate.

2. Beginning January 1, 2010, no child taken into protective custody under paragraph 1 of subsection A of this section shall be considered to be in the emergency custody of the Department until the Department has completed a safety evaluation and has concluded

1 that the child faces an imminent safety threat and the court has
2 issued an order for emergency custody.

3 3. If the safety evaluation performed by the Department of a
4 child taken into protective custody under paragraph 1 of subsection
5 A of this section indicates that the child does not face an imminent
6 safety threat, the Department shall restore the child to the custody
7 and control of the parent, legal guardian, or custodian of the
8 child.

9 ~~4. The Department shall report on the progress of the system to~~
10 ~~the Children's Services Oversight Committee established in Section~~
11 ~~22 of this act by March 1, 2010.~~

12 C. When an order issued by the district court pursuant to
13 subsection A of this section places the child in the emergency
14 custody of the Department of Human Services pending further hearing
15 specified by Section 1-4-203 of this title, an employee of the
16 Department may execute such order and physically take the child into
17 custody in the following limited circumstance:

18 1. The child is located in a hospital, school, or day care
19 facility; and

20 2. It is believed that assumption of the custody of the child
21 from the facility can occur without risk to the child or the
22 employee of the Department.

23 Otherwise, the order shall be executed and the child taken into
24 custody by a peace officer or employee of the court.

1 D. The court shall not enter a prepetition emergency custody
2 order removing a child from the home of the child unless the court
3 makes a determination:

4 1. That an imminent safety threat exists and continuation in
5 the home of the child is contrary to the welfare of the child; and

6 2. Whether reasonable efforts have been made to prevent the
7 removal of the child from the child's home; or

8 3. An absence of efforts to prevent the removal of the child
9 from the home of the child is reasonable because the removal is due
10 to an emergency and is for the purpose of providing for the safety
11 and welfare of the child.

12 E. Whenever a child is taken into custody pursuant to this
13 section:

14 1. The child may be taken to a kinship care home or an
15 emergency foster care home designated by the Department, or if no
16 such home is available, to a children's shelter located within the
17 county where protective or emergency custody is assumed or, if there
18 is no children's shelter within the county, to a children's shelter
19 designated by the court;

20 2. Unless otherwise provided by administrative order entered
21 pursuant to subsection F of this section, the child may be taken
22 before a judge of the district court or the court may be contacted
23 verbally for the purpose of obtaining an order for emergency
24 custody. The court may place the child in the emergency custody of

1 the Department or some other suitable person or entity pending
2 further hearing specified by Section 1-4-203 of this title;

3 3. The child may be taken directly to or retained in a health
4 care facility for medical treatment, when the child is in need of
5 emergency medical treatment to maintain the child's health, or as
6 otherwise directed by the court; or

7 4. The child may be taken directly to or retained in a
8 behavioral health treatment facility for evaluation or inpatient
9 treatment, in accordance with the provisions of the Inpatient Mental
10 Health and Substance Abuse Treatment of Minors Act, when the child
11 is in need of behavioral health care to preserve the child's health,
12 or as otherwise directed by the court; and

13 5. Unless otherwise provided by administrative order entered
14 pursuant to subsection F of this section, the district court of the
15 county where the custody is assumed shall be immediately notified,
16 verbally or in writing, that the child has been taken into custody.
17 If notification is verbal, written notification shall be sent to the
18 district court within one (1) judicial day of such verbal
19 notification.

20 F. The court may provide, in an administrative order issued
21 pursuant to this section, for the disposition of children taken into
22 custody and notification of the assumption of such custody.

23 1. Such order or rule shall be consistent with the provisions
24 of subsection E of this section and may include a process for

1 release of a child prior to an emergency custody hearing. The
2 administrative order shall not include a provision to modify
3 protective custody of a child to emergency custody of the Department
4 upon admission of a child to a shelter; and

5 2. The administrative order may require joint training of peace
6 officers and Department staff deemed necessary by the court to carry
7 out the provisions of the administrative order.

8 G. No child taken into custody pursuant to this section shall
9 be confined in any jail, adult lockup, or adult or juvenile
10 detention facility.

11 H. When a determination is made by the Department that there is
12 a significant risk of abuse or neglect, but there is not an imminent
13 safety threat to the child, the Department may recommend a court-
14 supervised and Department-monitored in-home placement. The
15 Department shall assist the family in obtaining the services
16 necessary to maintain the in-home care and correct the conditions
17 leading to the risk determination.

18 I. Any peace officer, employee of the court, or employee of the
19 Department is authorized to transport a child when acting pursuant
20 to this section. Such persons and any other person acting under the
21 direction of the court, who in good faith transports any child or
22 carries out duties pursuant to this section, shall be immune from
23 civil or criminal liability that may result by reason of such act.
24 For purposes of any proceedings, civil or criminal, the good faith

1 of any such person shall be presumed. This provision shall not
2 apply to damage or injury caused by the willful, wanton or gross
3 negligence or misconduct of a person.

4 J. A parent or person responsible for the child who is arrested
5 on a charge or warrant other than child abuse or neglect or an act
6 of child endangerment may designate another person to take physical
7 custody of the child. Upon this request, the peace officer may
8 release the child to the physical custody of the designated person.

9 SECTION 4. AMENDATORY 10A O.S. 2011, Section 1-6-103, is
10 amended to read as follows:

11 Section 1-6-103. A. Juvenile court records and Department of
12 Human Services agency records pertaining to a child may be
13 inspected, and their contents shall be disclosed, without a court
14 order to the following persons upon showing of proper credentials
15 and pursuant to their lawful duties:

16 1. The court having the child currently before it in any
17 proceeding pursuant to this title, any district court or tribal
18 court to which such proceedings may be transferred, employees and
19 officers of the court in the performance of their duties, including
20 but not limited to guardians ad litem appointed by the court, and
21 court-appointed special advocates;

22 2. A district attorney, United States Attorney, or Attorney
23 General of this or another state and the employees of such offices
24 in the course of their official duties pursuant to this title or the

1 prosecution of crimes against children, or upon their request in
2 their official capacity as advisor in a grand jury proceeding;

3 3. The attorney representing a child who is the subject of a
4 proceeding pursuant to the provisions of this title or other
5 proceeding where child custody or visitation is at issue;

6 4. Employees of juvenile bureaus in the course of their
7 official duties pursuant to this title, and employees of the
8 Department of Human Services in the course of their official duties;

9 5. Employees of a law enforcement agency of this or another
10 state or military enclave and employees of a child protective
11 service of another state or military enclave in the course of their
12 official duties pertaining to investigations of a report of known or
13 suspected child abuse or neglect or crimes against children or for
14 the purpose of determining whether to place a child in protective
15 custody;

16 6. The Oklahoma Commission on Children and Youth as provided by
17 Sections 601.2 and 601.6 of Title 10 of the Oklahoma Statutes;

18 7. The Office of Juvenile Affairs;

19 8. A federally recognized Indian tribe in which the child who
20 is the subject of the record is a member or is eligible to become a
21 member of the tribe and is the biological child of a member of an
22 Indian tribe pursuant to the provisions of the Federal Indian Child
23 Welfare Act and the Oklahoma Indian Child Welfare Act; provided such
24 Indian tribe, in the course of its official duties, is:

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody,
- b. providing services to or for the benefit of a child including, but not limited to, protective, emergency, social and medical services, or
- c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this subsection shall include all case records, reports, and documents as defined in Section 1-6-101 of this title;

9. The Governor or to any person the Governor designates, in writing;

10. Any federal official of the United States Department of Health and Human Services;

11. Any member of the Legislature approved in writing by the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

1 12. A foster parent, with regard to records concerning the
2 social, medical, psychological, or educational needs of a child
3 currently placed with that foster parent or of a child being
4 considered for placement with that foster parent;

5 13. An employee of any state or federal corrections or law
6 enforcement agency in the performance of the official duties of the
7 employee concerning presentence investigations or supervision of a
8 parent of an alleged or adjudicated deprived child, or the legal
9 guardian, custodian, or any other adult member of the child's home
10 who is responsible for the health, safety, or welfare of the child;
11 and

12 14. An employee of a state agency of this or another state in
13 the performance of the official duties of the employee concerning
14 the establishment of paternity or the establishment or enforcement
15 of a child support order or other entitlement for the benefit of a
16 child; provided, disclosure shall be limited to information directly
17 related to the purpose of such disclosure.

18 B. In addition to the persons listed in subsection A of this
19 section, juvenile court records may be inspected, and their contents
20 shall be disclosed, without a court order to the following persons
21 upon showing of proper credentials and pursuant to their lawful
22 duties:

23 1. Employees of court-appointed special advocate programs, as
24 defined in Section 1-1-105 of this title, in the course of their

1 official duties pertaining to recruiting, screening, training,
2 assigning cases, supervising, and supporting volunteers in their
3 roles as guardian ad litem pursuant to Section 1-4-306 of this
4 title;

5 2. Members of postadjudication review boards established
6 pursuant to the provisions of Section 1116.2 of Title 10 of the
7 Oklahoma Statutes, the Child Death Review Board, and
8 multidisciplinary personnel. In addition to juvenile court records,
9 members of such postadjudication review boards may inspect, without
10 a court order, information that includes, but is not limited to:

- 11 a. psychological and medical records,
- 12 b. placement history and information, including the names
13 and addresses of foster parents,
- 14 c. family assessments,
- 15 d. treatment or service plans, and
- 16 e. school records;

17 3. The Department of Human Services or other public or private
18 agency or individual having court-ordered custody or physical
19 custody pursuant to Department placement of the child, or conducting
20 a child abuse or neglect investigation of the child who is the
21 subject of the record. In addition to juvenile court records,
22 employees of the Department may inspect, without a court order and
23 upon a showing of proper credentials and pursuant to their lawful
24 duties, information that includes, but is not limited to:

1 a. psychological and medical records, and

2 b. nondirectory education records;

3 4. The child who is the subject of the record and the parents,
4 legal guardian, custodian, or foster parent of such child; and

5 5. A person authorized by the court to conduct bona fide
6 research, provided such research may not publish the names or
7 identities of parents, children, or other persons contained in the
8 records.

9 C. In addition to the persons and entities named in subsection
10 A of this section, Department of Human Services agency records may
11 be inspected, and their contents shall be disclosed, without a court
12 order to the following persons upon showing of proper credentials
13 and pursuant to their lawful duties:

14 1. Postadjudicatory review boards, court-appointed special
15 advocates, and members of the Child Death Review Board;

16 2. Any district court which has ordered a home study by the
17 Department in an action for divorce, annulment, custody of a child,
18 or appointment of a legal guardian of a child, or any subsequent
19 proceeding in such actions; provided, however, the Department may
20 limit disclosure in the home study to summaries or to information
21 directly related to the purpose of the disclosure;

22 3. Members of multidisciplinary teams or multidisciplinary
23 personnel designated by the Department, investigating a report of
24

1 known or suspected child abuse or neglect or providing services to a
2 child or family which is the subject of the report;

3 4. A physician who has before him or her a child whom the
4 physician reasonably suspects may be abused or neglected or any
5 health care or mental health professionals involved in the
6 evaluation or treatment of the child or the parents, legal guardian,
7 foster parent, custodian, or other family members of the child;

8 5. Any public or private agency or person authorized by the
9 Department to diagnose, or provide care, treatment, supervision, or
10 other services to a child who is the subject of a report or record
11 of child abuse or neglect; provided, the Department may limit such
12 disclosure to summaries or to information directly necessary for the
13 purpose of such disclosure;

14 6. Any person or agency for research purposes, if all of the
15 following conditions are met:

16 a. the person or agency conducting the research is
17 employed by the State of Oklahoma or is under contract
18 with this state and is authorized by the Department to
19 conduct the research, and

20 b. the person or agency conducting the research ensures
21 that all documents containing identifying information
22 are maintained in secure locations and access to the
23 documents by unauthorized persons is prohibited; that
24 no identifying information is included in documents

generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

7. The Oklahoma Health Care Authority; and

8. A medical examiner when such person is determining the cause of death of a child.

D. In accordance with the rules promulgated for such purpose pursuant to Section 620.6 of Title 10 of the Oklahoma Statutes, records listed in subsection A of Section 1-6-102 of this title may be inspected and their contents disclosed without a court order to participating agencies.

E. The court may disclose to an employee of an out-of-state entity, licensed to perform adoption home studies in that state, whether the prospective adoptive parent has had parental rights to a child terminated in Oklahoma or whether the prospective adoptive parent has relinquished parental rights to a child in Oklahoma.

F. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may be necessary to secure appropriate care, treatment, protection or supervision of a child alleged to be abused or neglected.

SECTION 5. AMENDATORY 10A O.S. 2011, Section 1-6-105, as amended by Section 2, Chapter 343, O.S.L. 2012 (10A O.S. Supp. 2013, Section 1-6-105), is amended to read as follows:

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

3 1. "Abuse" means harm or threatened harm or failure to protect
4 from harm or threatened harm to the health, safety, or welfare of a
5 child by a person responsible for the child, including but not
6 limited to nonaccidental physical or mental injury, sexual abuse, or
7 sexual exploitation. Provided, however, that nothing contained in
8 this act shall prohibit any parent from using ordinary force as a
9 means of discipline including, but not limited to, spanking,
10 switching, or paddling;

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

13 a. name, address, date of birth, occupation, place of
14 employment and telephone number,

15 b. employer identification number, mother's maiden name,
16 Social Security number, or any identification number
17 issued by a governmental entity, or

18 c. unique biometric data, including the fingerprints,
19 voice print, or retina or iris image of the
20 individual;

21 3. "Near death" means a child is in serious or critical
22 condition as verified by a physician, a registered nurse or other
23 licensed health care provider. Verification of medical condition of
24

1 a child may be given in person or by telephone, mail, electronic
2 mail or facsimile; ~~and~~

3 4. "Neglect" means:

4 a. the failure or omission to provide any of the
5 following:

6 (1) adequate nurturance and affection, food,
7 clothing, shelter, sanitation, hygiene, or
8 appropriate education,

9 (2) medical, dental, or behavioral health care,

10 (3) supervision or appropriate caretakers, or

11 (4) special care made necessary by the physical or
12 mental condition of the child,

13 b. the failure or omission to protect a child from
14 exposure to any of the following:

15 (1) the use, possession, sale, or manufacture of
16 illegal drugs,

17 (2) illegal activities, or

18 (3) sexual acts or materials that are not age-
19 appropriate, or

20 c. abandonment.

21 Nothing in this paragraph shall be construed to mean a child is
22 abused or neglected for the sole reason the parent, legal guardian
23 or person having custody or control of a child, in good faith,
24 selects and depends upon spiritual means alone through prayer, in

1 accordance with the tenets and practice of a recognized church or
2 religious denomination, for the treatment or cure of disease or
3 remedial care of such child. Nothing contained in this paragraph
4 shall prevent a court from immediately assuming custody of a child,
5 pursuant to the Oklahoma Children's Code, and ordering whatever
6 action may be necessary, including medical treatment, to protect the
7 child's health or welfare; and

8 5. "Person responsible for a child" means "person responsible
9 for a child's health, safety or welfare" as provided in Section 1-1-
10 105 of this title but shall also include any person who has
11 voluntarily accepted the duty of supervising a child or who has been
12 directed or authorized to supervise a child by the person
13 responsible for the child's health, safety or welfare.

14 B. Department of Human Services information shall be maintained
15 by the Department as required by federal law as a condition of the
16 allocation of federal monies to the state. All exceptions for the
17 public release of Department information shall be construed as
18 openly as possible consistent with federal law.

19 C. Upon receipt of a report of the death or near death of a
20 child resulting from suspected abuse or neglect, the Department
21 shall conduct a child death or near-death review and produce a
22 written report within forty-five (45) days.

23 D. If the Department has reasonable cause to suspect that a
24 child death or near death is the result of abuse or neglect, the

1 Department shall notify the Governor, the President Pro Tempore of
2 the Senate and the Speaker of the House of Representatives of the
3 initial investigative findings of the child protective services
4 review. Notice shall be communicated securely no later than twenty-
5 four (24) hours after determination of the reasonable suspicion.

6 E. Not later than five (5) business days after the date of a
7 child death or near death in cases where there is reasonable cause
8 to suspect abuse or neglect, the Department shall release upon
9 request:

10 1. The age and sex of the child;

11 2. The date of death or near-death incident;

12 3. Whether the child was in the custody of the Department at
13 the time of the child's death or near death;

14 4. Whether the child resided with the child's parent, guardian,
15 or person responsible for the care of the child at the time of the
16 child's death or near death; and

17 5. Whether the child was under the supervision of the child's
18 parent, guardian or person responsible for the child at the time of
19 the death or near death of the child.

20 F. If, after a child abuse or neglect investigation is
21 completed, the Department determines a child's death or near death
22 was caused by abuse or neglect, the Department shall promptly
23 release the following information:

24 1. The information described in subsection E of this section;

1 2. The name of the abused or neglected child; provided, that
2 the name shall not be disclosed in a case of a near death unless the
3 name has previously been disclosed;

4 3. The name of the offender if due process has been satisfied
5 or if the offender has been arrested and charged with a crime
6 associated with the death or near death of the child;

7 4. In cases in which the death or near death of the child
8 occurred while the child was living with the child's parent,
9 guardian, or person responsible for the care of the child:

10 a. the circumstances of the death or near death of the
11 child,

12 b. a summary of the child's involvement with the
13 Department while the child was living with the parent,
14 guardian, or person responsible for the care of the
15 child,

16 c. the disposition of any report created as a result of
17 the child's involvement with the Department while the
18 child was living with the parent, guardian, or person
19 responsible for the care of the child,

20 d. a description of the services, if any, that were
21 provided by the Department as a result of the child's
22 involvement with the Department while the child was
23 living with the parent, guardian, or person
24 responsible for the care of the child,

- e. the results of any risk or safety assessment completed by the Department relating to the child,
- f. the date each report was assessed and completed,
- g. whether the Department confirmed abuse or neglect,
- h. whether any reports were referred to the district attorney and the date of the referrals,
- i. the dates of any judicial proceedings prior to the death or near death of the child,
- j. a summary of the recommendations submitted by each participant at the judicial proceedings including recommendations made at the hearing as they relate to custody or placement of the child,
- k. the rulings of the court,
- l. specific recommendations made and services rendered by the Department described in any progress reports of a pending case submitted to the court,
- m. a summary of the status of the child's case at the time of the death or near death, including, without limitation, whether the child's case was closed by the Department before the death or near death,
- n. similar information for any other investigations concerning that child, or other children while living in the same household,

- o. a summary of statutory and policy violations, including notice of any personnel actions taken by the Department, and
- p. recommendations for policy changes or practice improvements based upon the interactions between the Department, the child who died or nearly died and the person responsible for the care of the child; and

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

- a. the circumstances of the death or near death of the child,
- b. information regarding the certification of the person with whom the child was residing at the time of death or near death,
- c. a summary of any previous reports of abuse or neglect investigated by the Department relating to the person responsible for the custodial care of the child, including the disposition of any investigation resulting from a report,
- d. any policy violations, including notice of any action taken by the Department regarding a violation,

- e. records of any training completed by the person responsible for the custodial care of the child,
- f. similar information for any other investigations concerning that child, or other children while living in the same household,
- g. a summary of licensing actions taken by the Department, and
- h. recommendations for policy changes or practice improvements based upon the interactions between the Department and the child who died or nearly died.

G. If the Department is unable to release the information required by subsection E of this section before forty-five (45) days after receiving a report of the death or near death of a child, the Department shall publish on the website of the Department the reason for the delay and the date the Department will release the report.

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

- a. a confirmation shall be provided by the Department as to whether a report has been made concerning the

- 1 alleged victim or other children while living in the
2 same household and whether an investigation has begun,
3 b. confirmation shall be provided by the Department as to
4 whether previous reports have been made and the dates
5 thereof, a summary of those previous reports, the
6 dates and outcome of any investigations or actions
7 taken by the Department in response to a previous
8 report of child abuse or neglect, and the specific
9 recommendation made to the district attorney and any
10 subsequent action taken by the district attorney,
11 c. the dates of any judicial proceedings prior to the
12 death or near death of the child,
13 d. recommendations submitted by each participant in
14 writing at the judicial proceedings including
15 recommendations made at the hearing as they relate to
16 custody or placement of a child, and
17 e. the rulings of the court.

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

21 I. 1. At any time subsequent to seven (7) days after the date
22 the person responsible for the child has been criminally charged,
23 the Oklahoma Commission on Children and Youth shall, upon request,
24

1 release certain information to the public within sixty (60) days of
2 the request as follows:

- 3 a. a confirmation shall be provided by the Commission as
4 to whether a report of suspected child abuse or
5 neglect has been made concerning the alleged victim or
6 other children while living in the same household and
7 whether an investigation has begun,
- 8 b. confirmation shall be provided by the Commission as to
9 whether previous reports of suspected child abuse or
10 neglect have been made and the dates thereof, a
11 summary of those previous reports, the dates and
12 outcome of any investigations or actions taken by the
13 Department and the Commission in response to any
14 previous report of child abuse or neglect, and the
15 specific recommendation made to the district attorney
16 and any subsequent action taken by the district
17 attorney,
- 18 c. the dates of any judicial proceedings prior to the
19 death or near death of the child,
- 20 d. recommendations submitted by the Department and the
21 Commission shall be provided in writing including
22 recommendations made at the hearing as they relate to
23 custody or placement of a child,
- 24 e. the rulings of the court, and

1 f. any relevant information listed in subsections F and H
2 of this section.

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

6 J. Unless specifically authorized by this section, any public
7 disclosure of information pursuant to this section shall not:

8 1. Identify or provide any identifying information of any
9 complainant or reporter of child abuse or neglect;

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

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

19 SECTION 6. This act shall become effective November 1, 2014.
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