

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 2798, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Griffin

Griffin-DC-FS-Req#3627
4/17/2018 9:41 AM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

FLOOR SUBSTITUTE
FOR ENGROSSED

HOUSE BILL NO. 2798

By: Downing, McCall, Sanders,
West (Tammy), Blancett,
Bush, Frix and O'Donnell of
the House

and

Griffin of the Senate

FLOOR SUBSTITUTE

[public health and safety - Opioid Overdose Fatality
Review Board - executive sessions - codification -
effective date]

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

SECTION 1. AMENDATORY 25 O.S. 2011, Section 307, as
amended by Section 1, Chapter 109, O.S.L. 2015 (25 O.S. Supp. 2017,
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 1. Discussing the employment, hiring, appointment, promotion,
2 demotion, disciplining or resignation of any individual salaried
3 public officer or employee;

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

6 3. Discussing the purchase or appraisal of real property;

7 4. Confidential communications between a public body and its
8 attorney concerning a pending investigation, claim, or action if the
9 public body, with the advice of its attorney, determines that
10 disclosure will seriously impair the ability of the public body to
11 process the claim or conduct a pending investigation, litigation, or
12 proceeding in the public interest;

13 5. Permitting district boards of education to hear evidence and
14 discuss the expulsion or suspension of a student when requested by
15 the student involved or the student's parent, attorney or legal
16 guardian;

17 6. Discussing matters involving a specific handicapped child;

18 7. Discussing any matter where disclosure of information would
19 violate confidentiality requirements of state or federal law;

20 8. Engaging in deliberations or rendering a final or
21 intermediate decision in an individual proceeding pursuant to
22 Article II of the Administrative Procedures Act; or

23 9. Discussing the following:
24

- 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

1 interfere with the development of patents, copyrights, products, or
2 services;

3 7. A review committee, as provided for in Section 855 of Title
4 62 of the Oklahoma Statutes;

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

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

10 10. The Opioid Overdose Fatality Review Board, as provided in
11 Section 2 of this act;

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

23 ~~11.~~ 12. The Oklahoma Indigent Defense System Board for purposes
24 of discussing negotiating strategies in connection with making

1 possible counteroffers to offers to contract to provide legal
2 representation to indigent criminal defendants and indigent
3 juveniles in cases for which the System must provide representation
4 pursuant to the provisions of the Indigent Defense System Act; and

5 ~~12.~~ 13. The Quality Investment Committee for purposes of
6 discussing applications and confidential materials pursuant to the
7 terms of the Oklahoma Quality Investment Act.

8 D. Except as otherwise specified in this subsection, an
9 executive session for the purpose of discussing the purchase or
10 appraisal of real property shall be limited to members of the public
11 body, the attorney for the public body and the immediate staff of
12 the public body. No landowner, real estate salesperson, broker,
13 developer or any other person who may profit directly or indirectly
14 by a proposed transaction concerning real property which is under
15 consideration may be present or participate in the executive
16 session, unless they are operating under an existing agreement to
17 represent the public body.

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

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

22 2. The executive session is authorized by a majority vote of a
23 quorum of the members present and the vote is a recorded vote; and
24

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

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

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

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

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2-1001 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 A. There is hereby created until July 1, 2023, in accordance
16 with the Oklahoma Sunset Law, the Opioid Overdose Fatality Review
17 Board within the Department of Mental Health and Substance Abuse
18 Services. The Board shall have the power and duty to:

19 1. Coordinate and integrate state and local efforts to address
20 overdose deaths and create a body of information to prevent overdose
21 deaths;

22 2. Conduct case reviews of deaths of persons eighteen (18)
23 years of age or older due to licit or illicit opioid use in this
24 state;

- 1 3. Collect, analyze and interpret state and local data on
2 opioid overdose deaths;
- 3 4. Develop a state and local database on opioid overdose
4 deaths;
- 5 5. Improve policies, procedures and practices within the
6 agencies in order to prevent fatal opioid overdoses and to serve
7 victims of unintentional overdose; and
- 8 6. Enter into agreements with other state, local or private
9 entities as necessary to carry out the duties of the Opioid Overdose
10 Fatality Review Board, including but not limited to, conducting
11 joint reviews with the Child Death Review Board on unintentional
12 overdose cases involving child death and child near-death incidents.
- 13 B. In carrying out its duties and responsibilities, the Board
14 shall:
 - 15 1. Promulgate rules establishing criteria for identifying cases
16 involving an opioid overdose death subject to specific, in-depth
17 review by the Board;
 - 18 2. Conduct a specific case review of those cases where the
19 cause of death is or may be related to overdose of opioid drugs;
 - 20 3. Establish and maintain statistical information related to
21 opioid overdose deaths including, but not limited to, demographic
22 and medical diagnostic information;
 - 23 4. Establish procedures for obtaining initial information
24 regarding opioid overdose deaths from law enforcement agencies;

1 5. Review the policies, practices and procedures of medical
2 systems and law enforcement systems and other overdose protection
3 and prevention systems, and make specific recommendations to those
4 entities for actions necessary for the improvement of the system;

5 6. Request and obtain a copy of all records and reports
6 pertaining to an adult whose case is under review including, but not
7 limited to:

- 8 a. the report of the medical examiner,
- 9 b. hospital records,
- 10 c. school records,
- 11 d. court records,
- 12 e. prosecutorial records,
- 13 f. local, state and federal law enforcement records
14 including, but not limited to, the Oklahoma State
15 Bureau of Investigation (OSBI) and Oklahoma Bureau of
16 Narcotics and Dangerous Drugs Control (OBN),
- 17 g. fire department records,
- 18 h. State Department of Health records, including birth
19 certificate records,
- 20 i. medical and dental records,
- 21 j. Department of Mental Health and Substance Abuse
22 Services and other mental health records,
- 23 k. emergency medical service records,
- 24 l. files of the Department of Human Services, and

1 m. records in the possession of the Child Death Review
2 Board when conducting a joint review in accordance
3 with paragraph 6 of subsection A of this section.

4 Confidential information provided to the Board shall be maintained
5 by the Board in a confidential manner as otherwise required by state
6 and federal law. Any person damaged by disclosure of such
7 confidential information by the Board or its members which is not
8 authorized by law may maintain an action for damages, costs and
9 attorney fees pursuant to The Governmental Tort Claims Act;

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

17 8. Conduct reviews of specific cases of opioid overdose deaths
18 and request the preparation of additional information and reports as
19 determined to be necessary by the Board including, but not limited
20 to, clinical summaries from treating physicians, chronologies of
21 contact and second-opinion autopsies;

22 9. Report, if recommended by a majority vote of the Board, to
23 the Governor, the President Pro Tempore of the Senate and the
24 Speaker of the House of Representatives any information and guidance

1 regarding the prevention and protection system to advise on changing
2 trends in overdose rates, substances, methods or any other factor
3 impacting overdose deaths, including any systemic issue within the
4 medical, law enforcement or other relevant systems discovered by the
5 Board while performing its duties; and

6 10. Exercise all incidental powers necessary and proper for the
7 implementation and administration of the Opioid Overdose Fatality
8 Review Board.

9 C. The review and discussion of individual cases of an opioid
10 overdose death shall be conducted in executive session. All other
11 business shall be conducted in accordance with the provisions of the
12 Oklahoma Open Meeting Act. All discussions of individual cases and
13 any writings produced by or created for the Board in the course of
14 determining a remedial measure to be recommended by the Board, as
15 the result of a review of an individual case of an opioid overdose
16 death, shall be privileged and shall not be admissible in evidence
17 in any proceeding. The Board shall periodically conduct meetings to
18 discuss organization and business matters and any actions or
19 recommendations aimed at improvement of the medical system or law
20 enforcement system which shall be subject to the Oklahoma Open
21 Meeting Act. Part of any meeting of the Board may be specifically
22 designated as a business meeting of the Board subject to the
23 Oklahoma Open Meeting Act.

1 D. The Board shall submit an annual statistical report on the
2 incidence and causes of opioid overdose deaths in this state for
3 which the Board has completed its review during the past calendar
4 year including its recommendations, if any, to the medical and law
5 enforcement system. The Board shall also prepare and make available
6 to the public, on an annual basis, a report containing a summary of
7 the activities of the Board relating to the review of opioid
8 overdose deaths, the extent to which the state medical and law
9 enforcement system is coordinated and an evaluation of whether the
10 state is efficiently discharging its responsibilities to prevent
11 opioid overdose deaths. The report shall be completed no later than
12 February 1 of the subsequent year.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-1002 of Title 63, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The Opioid Overdose Fatality Review Board shall be composed
17 of eighteen (18) members, or their designees, as follows:

18 1. Eight of the members shall be:

- 19 a. the Attorney General or designee,
- 20 b. the Chief Medical Examiner or designee,
- 21 c. the State Commissioner of Health or designee,
- 22 d. the Chief of Injury Prevention Services of the State
23 Department of Health or designee,
- 24

- e. the President of the Oklahoma State Medical Association or designee,
- f. the Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control or designee,
- g. the Commissioner of the Department of Mental Health and Substance Abuse Services or designee,
- h. the President of the Oklahoma Osteopathic Association or designee,
- i. the Director of the Department of Human Services or designee, and
- j. the Director of the Oklahoma State Bureau of Investigation or designee; and

2. Ten of the members shall be appointed by the Attorney General, shall serve for terms of two (2) years and shall be eligible for reappointment. The members shall be persons having training and experience in matters related to opioid abuse and prevention. The appointed members shall include:

- a. a county sheriff selected from a list of three names submitted by the executive board of the Oklahoma Sheriffs' Association,
- b. a chief of a municipal police department selected from a list of three names submitted by the Oklahoma Association of Chiefs of Police,

- c. an attorney licensed in this state who is in private practice selected from a list of three names submitted by the Board of Governors of the Oklahoma Bar Association,
- d. a district attorney selected from a list of three names submitted by the District Attorneys Council,
- e. a physician with emergency medical training selected from a list of three names submitted by the Oklahoma State Medical Association,
- f. a physician with experience in drug addiction treatment and recovery selected from a list of three names submitted by the Oklahoma Osteopathic Association,
- g. a nurse selected from a list of three names submitted by the Oklahoma Nurses Association,
- h. two individuals, at least one of whom shall be a person who currently receives or formerly has been a consumer of addiction recovery services related to opioid use, selected from a list of three names submitted by the Oklahoma Department of Mental Health and Substance Abuse Services, and
- i. a member of the judiciary selected from a list of three names submitted by the Oklahoma Supreme Court.

1 B. Every two (2) years the Board shall elect from among its
2 membership a chair and a vice-chair. The Board shall meet at least
3 quarterly and may meet more frequently as necessary as determined by
4 the chair. Members shall serve without compensation but may be
5 reimbursed for necessary travel out of funds available to the Office
6 of the Attorney General and the Department of Mental Health and
7 Substance Abuse Services, pursuant to the State Travel Reimbursement
8 Act; provided, that the reimbursement shall be paid in the case of
9 state employee members by the agency employing the member.

10 C. With funds appropriated or otherwise available for that
11 purpose, the Office of the Attorney General, jointly with the
12 Department of Mental Health and Substance Abuse Services, shall
13 provide administrative assistance and services to the Opioid
14 Overdose Fatality Review Board.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2-1003 of Title 63, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Beginning November 1, 2018, the Center for Health Statistics
19 of the State Department of Health shall forward to the Office of the
20 Chief Medical Examiner on a monthly basis, copies of all death
21 certificates of persons over eighteen (18) years of age received by
22 the Center for Health Statistics during the preceding month whereby
23 the cause of death was due to an overdose of licit or illicit drugs
24

1 including opioids meeting the Centers for Disease Control and
2 Prevention guidelines for opioid-related deaths.

3 B. The Office of Chief Medical Examiner shall conduct an
4 initial review of overdose death certificates in accordance with the
5 criteria established by the Opioid Overdose Fatality Review Board
6 and refer to the Board those cases that meet the criteria
7 established by the Board for specific case review.

8 C. Upon the request of the Board, every entity within the
9 medical and law enforcement system shall provide to the Board any
10 information requested by the Board relevant to the discharge of its
11 duties, unless otherwise prohibited by state or federal law.

12 SECTION 5. This act shall become effective November 1, 2018.

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