

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2861

By: West (Tammy)

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5
6 AS INTRODUCED

7 An Act relating to children; amending 10A O.S. 2011,
8 Section 1-3-102, which relates to emergency medical
9 care consent; mandating Department of Human Services
10 to request records for child requiring emergency
11 medical care; listing types of records to request;
12 directing Department to notify and update district
13 attorney and court about care; and providing an
14 effective date.

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

16 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-3-102, is
17 amended to read as follows:

18 Section 1-3-102. A. For purposes of this section:

19 1. "Routine and ordinary medical care and treatment" includes
20 any necessary medical and dental examinations and treatment, medical
21 screenings, clinical laboratory tests, blood testing, preventative
22 care, health assessments, physical examinations, immunizations,
23 contagious or infectious disease screenings or tests and care
24 required for treatment of illness and injury, including x-rays,

1 stitches and casts, or the provision of psychotropic medications but
2 does not include any type of extraordinary care; and

3 2. "Extraordinary medical care and treatment" includes, but is
4 not limited to, surgery, general anesthesia, blood transfusions, or
5 invasive or experimental procedures.

6 B. 1. If a child taken into protective custody without a court
7 order requires emergency medical care prior to the emergency custody
8 hearing, and either the treatment is related to the suspected abuse
9 or neglect or the parent or legal guardian is unavailable or
10 unwilling to consent to treatment recommended by a physician, a
11 peace officer, court employee or the court may authorize such
12 treatment as is necessary to safeguard the health or life of the
13 child. Before a peace officer, court employee or the court
14 authorizes treatment based on unavailability of the parent or legal
15 guardian, law enforcement shall exercise diligence in locating the
16 parent or guardian, if known.

17 2. If a child taken into protective custody without a court
18 order requires emergency medical care as described in paragraph 1 of
19 this subsection, the Department of Human Services shall contact the
20 treating physician and facility to request all of the records
21 related to the care of the child, including medical records, social
22 service records, records of attempts to contact the parent or legal
23 guardian, records of communication with law enforcement, the
24 Department, the courts or other agencies, referrals given regarding

1 the child or the parent or legal guardian and any other records
2 pertaining to the child. The Department shall notify and provide
3 updates as necessary to the district attorney and the court of the
4 need for emergency medical care based on a recommendation by a
5 physician that treatment is necessary to safeguard the health or
6 life of the child.

7 C. 1. If a child has been placed in the custody of the
8 Department of Human Services, the Department shall have the
9 authority to consent to routine and ordinary medical care and
10 treatment. The Department shall make reasonable attempts to notify
11 the child's parent or legal guardian of the provision of routine and
12 ordinary medical care and treatment and to keep the parent or legal
13 guardian involved in such care.

14 2. In no case shall the Department consent to a child's
15 abortion, sterilization, termination of life support or a "Do Not
16 Resuscitate" order. The court may authorize the withdrawal of life-
17 sustaining medical treatment or the denial of the administration of
18 cardiopulmonary resuscitation on behalf of a child in the
19 Department's custody upon the written recommendation of a licensed
20 physician, after notice to the parties and a hearing.

21 3. Nothing herein shall prevent the Department from
22 authorizing, in writing, any person, foster parent or administrator
23 of a facility into whose care a child in its custody has been
24 entrusted, to consent to routine and ordinary medical care and

1 treatment to be rendered to a child upon the advice of a licensed
2 physician, including the continuation of psychotropic medication.

3 D. Consent for a child's extraordinary medical care and
4 treatment shall be obtained from the parent or legal guardian unless
5 the treatment is either related to the abuse or neglect or the
6 parent or legal guardian is unavailable or refuses to consent to
7 such care, in which case in an emergency, based upon recommendation
8 of a physician, the court may enter an ex parte order authorizing
9 such treatment or procedure in order to safeguard the child's health
10 or life. If the recommended extraordinary medical care and
11 treatment is not an emergency, the court shall hold a hearing, upon
12 application by the district attorney and notice to all parties, and
13 may authorize such recommended extraordinary care.

14 E. If a child has been placed in the custody of a person, other
15 than a parent or legal guardian, or an institution or agency other
16 than the Department, the court shall determine the authority of the
17 person, institution, or agency to consent to medical care including
18 routine and ordinary medical care and treatment and extraordinary
19 care. The parent, legal guardian, or person having legal custody
20 shall be responsible for the costs of medical care as determined by
21 the court.

22 SECTION 2. This act shall become effective November 1, 2018.
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