

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 2819

By: Gann

AS INTRODUCED

An Act relating to sunset; amending 10 O.S. 2011, Section 1150.2, as last amended by Section 1, Chapter 63, O.S.L. 2014 (10 O.S. Supp. 2019, Section 1150.2), which relates to the Child Death Review Board; re-creating the Board; and modifying termination date.

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 1150.2, as last amended by Section 1, Chapter 63, O.S.L. 2014 (10 O.S. Supp. 2019, Section 1150.2), is amended to read as follows:

Section 1150.2 A. There is hereby re-created until July 1, ~~2020~~ 2026, in accordance with the Oklahoma Sunset Law, the Child Death Review Board within the Oklahoma Commission on Children and Youth. The Board shall have the power and duty to:

1. Conduct case reviews of deaths and near deaths of children in this state;

2. Develop accurate statistical information and identification of deaths of children due to abuse and neglect;

1 3. Improve the ability to provide protective services to the
2 surviving siblings of a child or children who die of abuse or
3 neglect and who may be living in a dangerous environment;

4 4. Improve policies, procedures and practices within the
5 agencies that serve children, including the child protection system;

6 5. Enter into agreements with local teams established by the
7 Child Death Review Board to carry out such duties and
8 responsibilities as the Child Death Review Board shall designate,
9 including reviewing cases assigned by the Board in the geographical
10 area for that local team. The Oklahoma Commission on Children and
11 Youth, with the advice of the Child Death Review Board, shall
12 promulgate rules as necessary for the implementation and
13 administration of the provisions of this paragraph; and

14 6. Enter into agreements with other state, local, or private
15 entities as necessary to carry out the duties of the Child Death
16 Review Board including, but not limited to, conducting joint reviews
17 with the Domestic Violence Fatality Review Board on domestic
18 violence cases involving child death or child near-death incidents.

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

21 1. Establish criteria for cases involving the death or near
22 death of a child subject to specific, in-depth review by the Board.
23 As used in this section, the term "near death" means a child is in
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1 serious or critical condition, as certified by a physician, as a
2 result of abuse or neglect;

3 2. Conduct a specific case review of those cases where the
4 cause of death or near death is or may be related to abuse or
5 neglect of a child;

6 3. Establish and maintain statistical information related to
7 the deaths and near deaths of children including, but not limited
8 to, demographic and medical diagnostic information;

9 4. Establish procedures for obtaining initial information
10 regarding near deaths of children from the Department of Human
11 Services and law enforcement agencies;

12 5. Review the policies, practices, and procedures of the child
13 protection system and make specific recommendations to the entities
14 comprising the child protection system for actions necessary for the
15 improvement of the system;

16 6. Review the extent to which the state child protection system
17 is coordinated with foster care and adoption programs and evaluate
18 whether the state is efficiently discharging its child protection
19 responsibilities under the federal Child Abuse Prevention and
20 Treatment Act state plan;

21 7. As necessary and appropriate, for the protection of the
22 siblings of a child who dies and whose siblings are deemed to be
23 living in a dangerous environment, refer specific cases to the
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1 Department of Human Services or the appropriate district attorney
2 for further investigation;

3 8. Request and obtain a copy of all records and reports
4 pertaining to a child whose case is under review including, but not
5 limited to:

- 6 a. the report of the medical examiner,
- 7 b. hospital records,
- 8 c. school records,
- 9 d. court records,
- 10 e. prosecutorial records,
- 11 f. local, state, and federal law enforcement records
12 including, but not limited to, the Oklahoma State
13 Bureau of Investigation (OSBI),
- 14 g. fire department records,
- 15 h. State Department of Health records, including birth
16 certificate records,
- 17 i. medical and dental records,
- 18 j. Department of Mental Health and Substance Abuse
19 Services and other mental health records,
- 20 k. emergency medical service records,
- 21 l. files of the Department of Human Services, and
- 22 m. records in the possession of the Domestic Violence
23 Fatality Review Board when conducting a joint review
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1 pursuant to paragraph 6 of subsection A of this
2 section.

3 Confidential information provided to the Board shall be
4 maintained by the Board in a confidential manner as otherwise
5 required by state and federal law. Any person damaged by disclosure
6 of such confidential information by the Board, its local boards or
7 their members, not authorized by law, may maintain an action for
8 damages, costs and attorney fees;

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

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

21 11. Report, if recommended by a majority vote of the Board, to
22 the President Pro Tempore of the Senate and the Speaker of the House
23 of Representatives any gross neglect of duty by any state officer or
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1 state employee, or any problem within the child protective services
2 system discovered by the Board while performing its duties;

3 12. Recommend, when appropriate, amendment of the cause or
4 manner of death listed on the death certificate; and

5 13. Subject to the approval of the Oklahoma Commission on
6 Children and Youth, exercise all incidental powers necessary and
7 proper for the implementation and administration of the Child Death
8 Review Board Act.

9 C. The review and discussion of individual cases of death or
10 near death of a child shall be conducted in executive session and in
11 compliance with the confidentiality requirements of Section 1-6-102
12 of Title 10A of the Oklahoma Statutes. All other business shall be
13 conducted in accordance with the provisions of the Oklahoma Open
14 Meeting Act. All discussions of individual cases and any writings
15 produced by or created for the Board in the course of its remedial
16 measure and recommended by the Board, as the result of a review of
17 an individual case of the death or near death of a child, shall be
18 privileged and shall not be admissible in evidence in any
19 proceeding. The Board shall periodically conduct meetings to
20 discuss organization and business matters and any actions or
21 recommendations aimed at improvement of the child protection system
22 which shall be subject to the Oklahoma Open Meeting Act. Part of
23 any meeting of the Board may be specifically designated as a
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1 business meeting of the Board subject to the Oklahoma Open Meeting
2 Act.

3 D. 1. The Board shall submit an annual statistical report on
4 the incidence and causes of death and near death of children in this
5 state for which the Board has completed its review during the past
6 calendar year, including its recommendations, to the Oklahoma
7 Commission on Children and Youth on or before May 1 of each year.
8 The Board shall also prepare and make available to the public, on an
9 annual basis, a report containing a summary of the activities of the
10 Board relating to the review of deaths and near deaths of children,
11 the extent to which the state child protection system is coordinated
12 with foster care and adoption programs, and an evaluation of whether
13 the state is efficiently discharging its child protection
14 responsibilities. The report shall be completed no later than
15 December 31 of each year.

16 2. The Oklahoma Commission on Children and Youth shall review
17 the report of the Board and, as appropriate, incorporate the
18 findings and recommendations into the annual Commission report and
19 the State Plan for Services to Children and Youth.

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