

An Act

ENROLLED SENATE
BILL NO. 391

By: Bergstrom of the Senate

and

Kendrix of the House

An Act relating to public health and safety; amending 63 O.S. 2021, Sections 2-1001, as amended by Section 1, Chapter 91, O.S.L. 2023, and 2-1003 (63 O.S. Supp. 2024, Section 2-1001), which relate to the Opioid Overdose Fatality Review Board; transferring Board duties to the Office of the Attorney General; conforming language; requiring furnishing of certain reports; providing for designation of certain duties to certain employees and contractors; repealing 63 O.S. 2021, Section 2-1002, as amended by Section 1, Chapter 324, O.S.L. 2024 (63 O.S. Supp. 2024, Section 2-1002), which relates to membership of the Opioid Overdose Fatality Review Board; providing an effective date; and declaring an emergency.

SUBJECT: Opioid Overdose Fatality Review Board operations

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-1001, as amended by Section 1, Chapter 91, O.S.L. 2023 (63 O.S. Supp. 2024, Section 2-1001), is amended to read as follows:

Section 2-1001. A. ~~There is hereby created until July 1, 2025, in accordance with the Oklahoma Sunset Law, the Opioid Overdose Fatality Review Board within the Department of Mental Health and Substance Abuse Services. The Board~~ Attorney General shall have the power and duty to:

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

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

3. Collect, analyze, and interpret state and local data on opioid overdose deaths;

4. Develop a state and local database on opioid overdose deaths;

5. Improve policies, procedures, and practices within the agencies in order to prevent fatal opioid overdoses and to serve victims of unintentional overdose; and

6. Enter into agreements with other state, local, or private entities as necessary to carry out the duties ~~of the Opioid Overdose Fatality Review Board~~ under this section, including, but not limited to, conducting joint reviews with the Child Death Review Board on unintentional overdose cases involving child death and child near-death incidents.

B. In carrying out ~~its~~ his or her duties and responsibilities, the ~~Board~~ Attorney General shall:

1. Promulgate rules, if necessary, establishing criteria for identifying cases involving an opioid overdose death subject to specific, in-depth review by the ~~Board~~ Attorney General;

2. Conduct a specific case review of those cases where the cause of death is or may be related to overdose of opioid drugs;

3. Establish and maintain statistical information related to opioid overdose deaths including, but not limited to, demographic and medical diagnostic information;

4. Establish procedures for obtaining initial information regarding opioid overdose deaths from law enforcement agencies;

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

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

- a. the report of the medical examiner,
- b. hospital records,
- c. school records,
- d. court records,
- e. prosecutorial records,
- f. local, state, and federal law enforcement records including, but not limited to, the Oklahoma State Bureau of Investigation (OSBI) and Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBN),
- g. fire department records,
- h. State Department of Health records, including birth certificate records,
- i. medical and dental records,
- j. Department of Mental Health and Substance Abuse Services and other mental health records,
- k. emergency medical service records,
- l. files of the Department of Human Services, and
- m. records in the possession of the Child Death Review Board when conducting a joint review in accordance with paragraph 6 of subsection A of this section.

Confidential information or records provided to the ~~Board~~ Attorney General shall be maintained by the ~~Board~~ Attorney General in a confidential manner as otherwise required by state and federal law. Any person damaged by disclosure of such confidential information by the ~~Board~~ Attorney General or ~~its members~~ any employees or contractors of the Office of the Attorney General which is not authorized by law may maintain an action for damages, costs and attorney fees pursuant to The Governmental Tort Claims Act;

7. Maintain all confidential information, documents and records in possession of the ~~Board~~ Attorney General 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~~ Attorney General;

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

9. Report, ~~if recommended by a majority vote of the Board,~~ to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives any information and guidance regarding the prevention and protection system to advise on changing trends in overdose rates, substances, methods, or any other factor impacting overdose deaths, including any systemic issue within the medical, law enforcement, or other relevant systems discovered by the ~~Board~~ Attorney General while performing ~~its~~ his or her duties; and

10. Exercise all incidental powers necessary and proper for the implementation and administration of ~~the Opioid Overdose Fatality Review Board~~ this section.

C. ~~The review and discussion of individual cases of an opioid overdose death shall be conducted in executive session. 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 Attorney General in the course of determining a remedial measure to be recommended by the Board Attorney General, as the result of a review of an individual case of an opioid overdose death, 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 improvement of the medical system or law enforcement system which shall be subject to the Oklahoma Open Meeting Act. Part of any meeting of the Board may be specifically designated as a business meeting of the Board subject to the Oklahoma Open Meeting Act.~~

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

E. Any entity from which the Attorney General requests records in accordance with paragraph 6 of subsection B of this section shall provide the records to the Attorney General.

F. The Attorney General may assign any of the powers and duties in this section or in Section 2-1003 of this title to any of the Attorney General's assistants or employees.

SECTION 2. AMENDATORY 63 O.S. 2021, Section 2-1003, is amended to read as follows:

Section 2-1003. A. Beginning November 1, 2018, the Center for Health Statistics of the State Department of Health shall forward to the Office of the Chief Medical Examiner on a monthly basis, copies of all death certificates of persons over eighteen (18) years of age received by the Center for Health Statistics during the preceding

month whereby the cause of death was due to an overdose of licit or illicit drugs including opioids meeting the Centers for Disease Control and Prevention guidelines for opioid-related deaths.

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

C. Upon the request of the ~~Board~~ Attorney General, every entity within the medical and law enforcement system shall provide to the ~~Board~~ Attorney General any information requested by the ~~Board~~ Attorney General relevant to the discharge of ~~its~~ his or her duties, unless otherwise prohibited by state or federal law.

SECTION 3. REPEALER 63 O.S. 2021, Section 2-1002, as amended by Section 1, Chapter 324, O.S.L. 2024 (63 O.S. Supp. 2024, Section 2-1002), is hereby repealed.

SECTION 4. This act shall become effective July 1, 2025.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 17th day of March, 2025.

Presiding Officer of the Senate

Passed the House of Representatives the 6th day of May, 2025.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____