

An Act

ENROLLED HOUSE
BILL NO. 2971

By: Nelson and Nollan of the
House

and

Treat of the Senate

An Act relating to children; creating the Child Welfare Review Committee for the Death and Near Death of Children With Disabilities; providing termination date; stating purpose of the Committee; declaring confidentiality of meetings and records; providing for membership; establishing appointment deadline; directing how vacancies should be filled; requiring organizational meeting; providing for selection of officers; setting quorum requirement; specifying meeting frequency; prohibiting compensation and travel reimbursement; providing staff assistance; requiring submission of report by specified deadline; directing redaction of confidential or protected information; amending 10A O.S. 2011, Section 1-6-103, as last amended by Section 4, Chapter 355, O.S.L. 2014 (10A O.S. Supp. 2015, Section 1-6-103), which relates to inspection of records without a court order; authorizing inspection by any Committee member; providing for codification; providing an effective date; and declaring an emergency.

SUBJECT: Child Welfare Review Committee for the Death and
Near Death of Children With Disabilities

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-10-103 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, to continue until December 31, 2018, the "Child Welfare Review Committee for the Death and Near Death of Children With Disabilities". The purpose of the Committee shall be to study cases of the death and near death of children with disabilities who have previous child welfare involvement with or are in the custody and care of the Department of Human Services.

B. All meetings and records of the Committee shall be confidential and shall not be open to the general public or inspected or their contents disclosed.

C. The Committee shall consist of ten (10) members as follows:

1. The Speaker of the House of Representatives, or designee;
2. The President Pro Tempore of the Senate, or designee;
3. The Minority Leader of the House of Representatives, or designee;
4. The Minority Leader of the Senate, or designee;
5. The Attorney General, or designee;
6. The Director of the Department of Human Services, or designee;
7. The Advocate General of the Department of Human Services;
8. The Superintendent of Public Instruction, or designee;
9. The Chief Justice of the Oklahoma Supreme Court, or designee; and
10. A medical expert in children with disabilities, appointed by the Governor.

D. Appointments to the Committee shall be made by September 1, 2016. Members of the Committee shall serve at the pleasure of the appointing authority. A vacancy on the Committee shall be filled by the appointing authority.

E. The Committee shall conduct an organizational meeting not later than October 1, 2016. The Committee shall elect a chair and

cochair at the organizational meeting. A majority of the members present at a meeting shall constitute a quorum to conduct business.

F. The Committee shall meet as often as necessary to review cases, but at least quarterly. Members of the Committee shall receive no compensation or travel reimbursement for their service.

G. Administrative support for the Committee including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Committee shall be provided by the staff of the Oklahoma Commission on Children and Youth and the Department of Human Services.

H. The Committee shall issue a report of its findings to the Legislature and Governor no later than December 1, 2018. Any confidential or protected health information shall be redacted from the report.

SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-6-103, as last amended by Section 4, Chapter 355, O.S.L. 2014 (10A O.S. Supp. 2015, Section 1-6-103), is amended to read as follows:

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

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

2. A district attorney, United States Attorney, or Attorney General of this or another state and the employees of such offices in the course of their official duties pursuant to this title or the prosecution of crimes against children, or upon their request in their official capacity as advisor in a grand jury proceeding;

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

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

5. Employees of a law enforcement agency of this or another state or military enclave and employees of a child protective service of another state or military enclave in the course of their official duties pertaining to investigations of 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;

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

7. The Office of Juvenile Affairs;

8. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the provisions of the Federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act; provided such 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;

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

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

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

15. Any member of a city-county Health Department Fetal Infant Mortality Review (FIMR) in the performance of the official duties of the member concerning investigations of fetal and infant mortalities; provided, disclosure shall be limited to information directly related to the purpose of such disclosure; and

16. Any member of the Child Welfare Review Committee for the Death and Near Death of Children With Disabilities as established by Section 1 of this act.

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

1. Employees of court-appointed special advocate programs, as defined in Section 1-1-105 of this title, in the course of their official duties pertaining to recruiting, screening, training, assigning cases, supervising, and supporting volunteers in their roles as guardian ad litem pursuant to Section 1-4-306 of this title;

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

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

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

- a. psychological and medical records, and
- b. nondirectory education records;

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

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

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

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

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

3. Members of multidisciplinary teams or multidisciplinary personnel designated by the Department, investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of the report;

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

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

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

- a. the person or agency conducting the research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department to conduct the research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information

are maintained in secure locations and access to the documents by unauthorized persons is prohibited; that 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 3. This act shall become effective July 1, 2016.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and 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 House of Representatives the 1st day of March, 2016.

Presiding Officer of the House
of Representatives

Passed the Senate the 14th day of April, 2016.

Presiding Officer of the Senate

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: _____