

Oklahoma Statute Authorizing the Child Death Review Board

Chapter 51

Article I. Dependent and Delinquent Children

§1150.2. Re-creation of Child Death Review Board - Powers and Duties - Review of Cases - Annual Statistical Report - Review of Report.

A. There is hereby re-created until July 1, 2012, in accordance with the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, 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;
3. Improve the ability to provide protective services to the surviving siblings of a child or children who die of abuse or neglect and who may be living in a dangerous environment;
4. Improve policies, procedures and practices within the agencies that serve children, including the child protection system; and
5. Enter into agreements with multidisciplinary teams established pursuant to Sections 7110 of this title to carry out such duties and responsibilities as the Child Death Review Board shall designate, including reviewing cases assigned by the Board in the geographical area for that multidisciplinary team. The Oklahoma Commission on Children and Youth, with the advice of the Child Death Review Board, shall promulgate rules as necessary for the implementation and administration of the provisions of this paragraph.
6. Enter into agreements with other state, local, or private entities as necessary to carry out the duties of the Child Death Review Board including, but not limited to, conducting joint reviews with the Domestic Violence Fatality Review Board on domestic violence cases involving child death or near-death incidents.

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

1. Establish criteria for cases involving the death or near death of a child subject to specific, in-depth review by the Board. As used in this section, the term "near death" means a child is in serious or critical condition, as certified by a physician, as a result of abuse or neglect;
2. Conduct a specific case review of those cases where the cause of death or near death is or may be related to abuse or neglect of a child;
3. Establish and maintain statistical information related to the deaths and near deaths of children, including, but not limited to, demographic and medical diagnostic information;
4. Establish procedures for obtaining initial information regarding near deaths of children from the Department of Human Services and law enforcement agencies;
5. Review the policies, practices, and procedures of the child protection system and make specific recommendations to the entities comprising the child protection system for actions necessary for the improvement of the system;
6. Review the extent to which the state child protection system is coordinated with foster care and adoption programs and evaluate whether the state is efficiently discharging its child protection responsibilities under the federal Child Abuse Prevention and Treatment Act state plan;
7. As necessary and appropriate, for the protection of the siblings of a child who dies and whose siblings are deemed to be living in a dangerous environment, refer specific cases to the Department of Human Services or the appropriate district attorney for further investigation;
8. Request and obtain a copy of all records and reports pertaining to a child whose case is under review including, but not limited to:
 - a. the medical examiner's report,

- 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),
- 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, and
- l. Department of Human Services' files.

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

9. Maintain all confidential information, documents and records in possession of the Board 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;

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

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

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

13. Subject to the approval of the Oklahoma Commission on Children and Youth, exercise all incidental powers necessary and proper for the implementation and administration of the Child Death Review Board Act, Section 1150 et seq. of this title.

- C. The review and discussion of individual cases of death or near death of a child shall be conducted in executive session and in compliance with the confidentiality requirements of Section 7005-1.2 of this title. 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 in the course of its remedial measure and recommended by the Board as the result of a review of an individual case of the death or near death of a child, 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 child protection 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. 1. The Board shall submit an annual statistical report on the incidence and causes of death and near death of children in this state for which the Board has completed its review during the past calendar year, including its recommendations, to the Oklahoma Commission on Children and

Youth on or before May 1 of each year. The Board 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 deaths and near deaths of children, the extent to which the state child protection system is coordinated with foster care and adoption programs, and an evaluation of whether the state is efficiently discharging its child protection responsibilities. The report shall be completed no later than December 31 of each year.

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

A. In any investigation relating to the functions of the Child Death Review Board pursuant to Section 1150.2 of Title 10 of the Oklahoma Statutes, the Director of the Oklahoma Commission on Children and Youth, if recommended and approved by the Child Death Review Board and the legal counsel for the Governor, may require the production of, by subpoena, any records, including books, papers, documents, and other tangible things which constitute or contain evidence which the Board finds relevant or material to the investigation, if the Board has been unable to obtain the necessary information by requesting it. The production of records may be required from any place in the state to be forwarded to the Child Death Review Board. Reasonable copying fees shall be paid upon request.

B. Compliance with the subpoena may be accomplished by:

1. Producing documents, as requested; or
2. Notifying the Board, in writing, of refusal to produce documents, within ten (10) days of the date of service.

The subpoena form shall clearly set forth the optional means of compliance including instructions for sending written notice of refusal.

C. A subpoena issued pursuant to this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to the person. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

D. In the case of refusal to obey a subpoena issued to any person, the Director of the Oklahoma Commission on Children and Youth may invoke the aid of any district court of the state within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person conducts business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Director to produce records, if so ordered. Any failure to obey the order of the court may be punished by the court as an indirect contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

E. The district court of the county wherein the subpoena is served may quash a subpoena issued pursuant to this section upon a motion to quash the subpoena filed with the court by the party to whom the subpoena is issued.

§1150.3. Composition of Board - Appointed Members - Term of Service - Administrative Assistance and Services.

A. The Child Death Review Board shall be composed of twenty-seven (27) members, or their designees, as follows:

1. Fourteen of the members shall be:
 - a. the Chief Medical Examiner,
 - b. the Director of the Department of Human Services. The designee of the Director of the Department of Human Services shall be a person assigned to the Child Welfare Division of the Department,
 - c. the State Commissioner of Health,
 - d. the Director of the Office of Child Abuse Prevention,
 - e. the Director of the Oklahoma Commission on Children and Youth,
 - f. the Chief Child Abuse Medical Examiner,
 - g. the Medical Director of Maternal and Infant Health Services of the State Department of Health,
 - h. the Commissioner of Mental Health and Substance Abuse Services,
 - i. the Chair of the Child Protection Committee of the Children's Hospital of Oklahoma,
 - j. the Director of the Office of Juvenile Affairs,
 - k. the Chief of Injury Prevention Services of the State Department of Health,
 - l. a physician from Maternal and Infant Health Services within the State Department of Health,
 - m. the State Epidemiologist of the State Department of Health, and
 - n. the Director of the Oklahoma State Bureau of Investigation; and
2. Thirteen of the members shall be appointed by the Director of the Oklahoma Commission on Children and Youth, 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 the abuse or neglect of a child. The appointed members shall include:
 - a. a law enforcement officer selected from lists submitted by the executive boards of organizations representing sheriffs and peace officers in this state,
 - b. an attorney licensed in this state who is in private practice selected from a list submitted by the executive board of the Oklahoma Bar Association,
 - c. a district attorney selected from a list submitted by the District Attorney's Council,
 - d. a physician selected from lists submitted by statewide organizations representing physicians in this state,
 - e. a physician selected from lists submitted by statewide organizations representing osteopathic physicians in this state,
 - f. a member of the State Post-Adjudication Review Advisory Board,
 - g. a social worker selected from a list submitted by each organization representing social workers,
 - h. an individual selected from lists submitted by Oklahoma court-appointed special advocate associations,
 - i. a psychologist selected from lists submitted by Oklahoma psychological associations,
 - j. a member of a Native American Tribe involved in the area of protection of Native American children selected from a list submitted by the Oklahoma Indian Affairs Commission,
 - k. an individual selected from lists submitted by Oklahoma coalitions or associations against domestic violence and sexual assault,
 - l. a pediatric physician selected from lists submitted by organizations of pediatric physicians or osteopaths, and
 - m. a member of an emergency medical technicians association.

B. Every two (2) years the Board shall elect from among its membership a chair and a vice-chair. The Board shall meet at least quarterly and may meet more frequently as necessary as determined by the

chair. Members shall serve without compensation but may be reimbursed for necessary travel out of funds available to the Commission pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes; provided, that the reimbursement shall be paid in the case of state employee members by the agency employing the member.

- C. With funds appropriated or otherwise available for that purpose, the Commission shall provide administrative assistance and services to the Child Death Review Board.

1150.4. Copies of Death Certificates - Office of Chief Medical Examiner - Initial Review of Child Death Certificates.

A. Beginning November 1, 1991, the Director of the Bureau of Vital Statistics shall forward to the Office of the Chief Medical Examiner on a monthly basis copies of all death certificates of persons under eighteen (18) years of age received by the Bureau of Vital Statistics during the preceding month.

B. The Office of Chief Medical Examiner shall conduct an initial review of child death certificates in accordance with the criteria established by the Child Death Review Board and refer to the Board those cases that meet the criteria established by the Board for specific case review.

C. Upon the request of the Board, every entity within the child protection system shall provide to the Board any information requested by the Board.

§1150.5. Repealed by Laws 1993, c. 195, § 5, eff. July 1, 1993.