

# An Act

ENROLLED HOUSE  
BILL NO. 2798

By: Downing, McCall, Sanders,  
West (Tammy), Blancett,  
Bush, Frix and O'Donnell of  
the House

and

Griffin, Sharp and Pittman  
of the Senate

An Act relating to controlled dangerous substances; amending 25 O.S. 2011, Section 307, as last amended by Section 1 of Enrolled Senate Bill No. 898 of the 2nd Session of the 56th Oklahoma Legislature, which relates to executive sessions; modifying entities that may hold executive sessions; providing for powers and duties; providing for promulgation of rules; providing for adherence to the Oklahoma Open Meeting Act; requiring certain annual report; providing for membership; requiring certain documentation be provided monthly; providing for codification; and providing an effective date.

SUBJECT: Controlled dangerous substances

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

SECTION 1. AMENDATORY 25 O.S. 2011, Section 307, as last amended by Section 1 of Enrolled Senate Bill No. 898 of the 2nd Session of the 56th Oklahoma Legislature, is amended to read as follows:

Section 307. A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;

2. Discussing negotiations concerning employees and representatives of employee groups;

3. Discussing the purchase or appraisal of real property;

4. Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;

5. Permitting district boards of education to hear evidence and discuss the expulsion or suspension of a student when requested by the student involved or the student's parent, attorney or legal guardian;

6. Discussing matters involving a specific handicapped child;

7. Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law;

8. Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act;

9. Discussing matters involving safety and security at state penal institutions or correctional facilities used to house state inmates;

10. Discussing contract negotiations involving contracts requiring approval of the Board of Corrections, which shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No person who may profit directly or indirectly by a proposed transaction which is under consideration may be present or participate in the executive session; or

11. Discussing the following:

- a. the investigation of a plan or scheme to commit an act of terrorism,
- b. assessments of the vulnerability of government facilities or public improvements to an act of terrorism,
- c. plans for deterrence or prevention of or protection from an act of terrorism,
- d. plans for response or remediation after an act of terrorism,
- e. information technology of the public body but only if the discussion specifically identifies:
  - (1) design or functional schematics that demonstrate the relationship or connections between devices or systems,
  - (2) system configuration information,
  - (3) security monitoring and response equipment placement and configuration,
  - (4) specific location or placement of systems, components or devices,
  - (5) system identification numbers, names, or connecting circuits,
  - (6) business continuity and disaster planning, or response plans, or
  - (7) investigation information directly related to security penetrations or denial of services, or
- f. the investigation of an act of terrorism that has already been committed.

For the purposes of this subsection, the term "terrorism" means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes.

C. Notwithstanding the provisions of subsection B of this section, the following public bodies may hold executive sessions:

1. The State Banking Board, as provided for under Section 306.1 of Title 6 of the Oklahoma Statutes;

2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of Title 74 of the Oklahoma Statutes;

3. The Oklahoma Development Finance Authority, as provided for in Section 5062.6 of Title 74 of the Oklahoma Statutes;

4. The Oklahoma Center for the Advancement of Science and Technology, as provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;

5. The Oklahoma Savings and Loan Board, as provided for under subsection A of Section 381.74 of Title 18 of the Oklahoma Statutes;

6. The Oklahoma Health Research Committee for purposes of conferring on matters pertaining to research and development of products, if public disclosure of the matter discussed would interfere with the development of patents, copyrights, products, or services;

7. A review committee, as provided for in Section 855 of Title 62 of the Oklahoma Statutes;

8. The Child Death Review Board for purposes of receiving and conferring on matters pertaining to materials declared confidential by law;

9. The Domestic Violence Fatality Review Board as provided in Section 1601 of Title 22 of the Oklahoma Statutes;

10. The Opioid Overdose Fatality Review Board, as provided in Section 2 of this act;

11. All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces or study groups supported in whole or part by public funds or entrusted with the expenditure of public funds for purposes of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to remain or to locate

within their jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business;

~~11.~~ 12. The Oklahoma Indigent Defense System Board for purposes of discussing negotiating strategies in connection with making possible counteroffers to offers to contract to provide legal representation to indigent criminal defendants and indigent juveniles in cases for which the System must provide representation pursuant to the provisions of the Indigent Defense System Act; and

~~12.~~ 13. The Quality Investment Committee for purposes of discussing applications and confidential materials pursuant to the terms of the Oklahoma Quality Investment Act.

D. Except as otherwise specified in this subsection, an executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session, unless they are operating under an existing agreement to represent the public body.

E. No public body may go into an executive session unless the following procedures are strictly complied with:

1. The proposed executive session is noted on the agenda as provided in Section 311 of this title;

2. The executive session is authorized by a majority vote of a quorum of the members present and the vote is a recorded vote; and

3. Except for matters considered in executive sessions of the State Banking Board and the Oklahoma Savings and Loan Board, and which are required by state or federal law to be confidential, any vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded.

F. A willful violation of the provisions of this section shall:

1. Subject each member of the public body to criminal sanctions as provided in Section 314 of this title; and

2. Cause the minutes and all other records of the executive session, including tape recordings, to be immediately made public.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-1001 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created until July 1, 2023, 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 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, 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 duties and responsibilities, the Board shall:

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

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 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 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 or its members 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 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;

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 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 while performing its duties; and

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

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 in the course of determining a remedial measure to be recommended by the Board, 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 shall submit an annual statistical report on the incidence and causes of opioid overdose deaths in this state for which the Board has completed its review during the past calendar year including its recommendations, if any, to the medical and law enforcement system. 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 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.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-1002 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Opioid Overdose Fatality Review Board shall be composed of twenty (20) members, or their designees, as follows:

1. Ten of the members shall be:

- a. the Attorney General or designee,
- b. the Chief Medical Examiner or designee,
- c. the State Commissioner of Health or designee,
- d. the Chief of Injury Prevention Services of the State Department of Health or designee,

- e. the President of the Oklahoma State Medical Association or designee,
- f. the Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control or designee,
- g. the Commissioner of the Department of Mental Health and Substance Abuse Services or designee,
- h. the President of the Oklahoma Osteopathic Association or designee,
- i. the Director of the Department of Human Services or designee, and
- j. the Director of the Oklahoma State Bureau of Investigation or designee; and

2. Ten of the members shall be appointed by the Attorney General, 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 opioid abuse and prevention. The appointed members shall include:

- a. a county sheriff selected from a list of three names submitted by the executive board of the Oklahoma Sheriffs' Association,
- b. a chief of a municipal police department selected from a list of three names submitted by the Oklahoma Association of Chiefs of Police,
- c. an attorney licensed in this state who is in private practice selected from a list of three names submitted by the Board of Governors of the Oklahoma Bar Association,
- d. a district attorney selected from a list of three names submitted by the District Attorneys Council,
- e. a physician with emergency medical training selected from a list of three names submitted by the Oklahoma State Medical Association,

- f. a physician with experience in drug addiction treatment and recovery selected from a list of three names submitted by the Oklahoma Osteopathic Association,
- g. a nurse selected from a list of three names submitted by the Oklahoma Nurses Association,
- h. two individuals, at least one of whom shall be a person who currently receives or formerly has been a consumer of addiction recovery services related to opioid use, selected from a list of three names submitted by the Oklahoma Department of Mental Health and Substance Abuse Services, and
- i. a member of the judiciary selected from a list of three names submitted by the Oklahoma Supreme Court.

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 Office of the Attorney General and the Department of Mental Health and Substance Abuse Services, pursuant to the State Travel Reimbursement Act; 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 Office of the Attorney General, jointly with the Department of Mental Health and Substance Abuse Services, shall provide administrative assistance and services to the Opioid Overdose Fatality Review Board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-1003 of Title 63, unless there is created a duplication in numbering, reads as follows:

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 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 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 medical and law enforcement system shall provide to the Board any information requested by the Board relevant to the discharge of its duties, unless otherwise prohibited by state or federal law.

SECTION 5. This act shall become effective November 1, 2018.

Passed the House of Representatives the 1st day of May, 2018.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 25th day of April, 2018.

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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: \_\_\_\_\_