

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 534

By: Silk

AS INTRODUCED

An Act relating to emergency medical and behavioral health treatment; amending 10A O.S. 2011, Section 1-3-102, which relates to authorization to consent to emergency medical care; adding certain exclusion to definition; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-3-102, is amended to read as follows:

Section 1-3-102. A. For purposes of this section:

1. "Routine and ordinary medical care and treatment" includes any necessary medical and dental examinations and treatment, medical screenings, clinical laboratory tests, blood testing, preventative care, health assessments, physical examinations, immunizations, contagious or infectious disease screenings or tests and care required for treatment of illness and injury, including x-rays, stitches and casts, or the provision of psychotropic medications but does not include any type of extraordinary care or administration of any immunization; and

1           2. "Extraordinary medical care and treatment" includes, but is  
2 not limited to, surgery, general anesthesia, blood transfusions, or  
3 invasive or experimental procedures.

4           B. If a child taken into protective custody without a court  
5 order requires emergency medical care prior to the emergency custody  
6 hearing, and either the treatment is related to the suspected abuse  
7 or neglect or the parent or legal guardian is unavailable or  
8 unwilling to consent to treatment recommended by a physician, a  
9 peace officer, court employee or the court may authorize such  
10 treatment as is necessary to safeguard the health or life of the  
11 child. Before a peace officer, court employee or the court  
12 authorizes treatment based on unavailability of the parent or legal  
13 guardian, law enforcement shall exercise diligence in locating the  
14 parent or guardian, if known.

15           C. 1. If a child has been placed in the custody of the  
16 Department of Human Services, the Department shall have the  
17 authority to consent to routine and ordinary medical care and  
18 treatment. The Department shall make reasonable attempts to notify  
19 the child's parent or legal guardian of the provision of routine and  
20 ordinary medical care and treatment and to keep the parent or legal  
21 guardian involved in such care.

22           2. In no case shall the Department consent to a child's  
23 abortion, sterilization, termination of life support or a "Do Not  
24 Resuscitate" order. The court may authorize the withdrawal of life-

1 sustaining medical treatment or the denial of the administration of  
2 cardiopulmonary resuscitation on behalf of a child in the  
3 Department's custody upon the written recommendation of a licensed  
4 physician, after notice to the parties and a hearing.

5 3. Nothing herein shall prevent the Department from  
6 authorizing, in writing, any person, foster parent or administrator  
7 of a facility into whose care a child in its custody has been  
8 entrusted, to consent to routine and ordinary medical care and  
9 treatment to be rendered to a child upon the advice of a licensed  
10 physician, including the continuation of psychotropic medication.

11 D. Consent for a child's extraordinary medical care and  
12 treatment shall be obtained from the parent or legal guardian unless  
13 the treatment is either related to the abuse or neglect or the  
14 parent or legal guardian is unavailable or refuses to consent to  
15 such care, in which case in an emergency, based upon recommendation  
16 of a physician, the court may enter an ex parte order authorizing  
17 such treatment or procedure in order to safeguard the child's health  
18 or life. If the recommended extraordinary medical care and  
19 treatment is not an emergency, the court shall hold a hearing, upon  
20 application by the district attorney and notice to all parties, and  
21 may authorize such recommended extraordinary care.

22 E. If a child has been placed in the custody of a person, other  
23 than a parent or legal guardian, or an institution or agency other  
24 than the Department, the court shall determine the authority of the

1 person, institution, or agency to consent to medical care including  
2 routine and ordinary medical care and treatment and extraordinary  
3 care. The parent, legal guardian, or person having legal custody  
4 shall be responsible for the costs of medical care as determined by  
5 the court.

6 SECTION 2. This act shall become effective November 1, 2019.

7  
8 57-1-643 DC 1/17/2019 8:44:20 AM

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25