

1 **SENATE FLOOR VERSION**

2 February 13, 2025

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 391

By: Bergstrom of the Senate

and

Kendrix of the House

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9 An Act relating to public health and safety; amending
10 63 O.S. 2021, Sections 2-1001, as amended by Section
11 1, Chapter 91, O.S.L. 2023, and 2-1003 (63 O.S. Supp.
12 2024, Section 2-1001), which relate to the Opioid
13 Overdose Fatality Review Board; transferring Board
14 duties to the Office of the Attorney General;
15 conforming language; requiring furnishing of certain
16 reports; providing for designation of certain duties
17 to certain employees and contractors; repealing 63
18 O.S. 2021, Section 2-1002, as amended by Section 1,
19 Chapter 324, O.S.L. 2024 (63 O.S. Supp. 2024, Section
20 2-1002), which relates to membership of the Opioid
21 Overdose Fatality Review Board; providing an
22 effective date; and declaring an emergency.

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

24 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~~

1 ~~Substance Abuse Services.~~ The ~~Board~~ Attorney General shall have the
2 power and duty to:

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

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

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

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

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

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

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

24

- 1 1. Promulgate rules, if necessary, establishing criteria for
2 identifying cases involving an opioid overdose death subject to
3 specific, in-depth review by the ~~Board~~ Attorney General;
- 4 2. Conduct a specific case review of those cases where the
5 cause of death is or may be related to overdose of opioid drugs;
- 6 3. Establish and maintain statistical information related to
7 opioid overdose deaths including, but not limited to, demographic
8 and medical diagnostic information;
- 9 4. Establish procedures for obtaining initial information
10 regarding opioid overdose deaths from law enforcement agencies;
- 11 5. Review the policies, practices, and procedures of medical
12 systems and law enforcement systems and other overdose protection
13 and prevention systems, and make specific recommendations to those
14 entities for actions necessary for the improvement of the system;
- 15 6. Request and obtain a copy of all records and reports
16 pertaining to an adult whose case is under review including, but not
17 limited to:
- 18 a. the report of the medical examiner,
19 b. hospital records,
20 c. school records,
21 d. court records,
22 e. prosecutorial records,
23 f. local, state, and federal law enforcement records
24 including, but not limited to, the Oklahoma State

- 1 Bureau of Investigation (OSBI) and Oklahoma State
2 Bureau of Narcotics and Dangerous Drugs Control (OBN),
3 g. fire department records,
4 h. State Department of Health records, including birth
5 certificate records,
6 i. medical and dental records,
7 j. Department of Mental Health and Substance Abuse
8 Services and other mental health records,
9 k. emergency medical service records,
10 l. files of the Department of Human Services, and
11 m. records in the possession of the Child Death Review
12 Board when conducting a joint review in accordance
13 with paragraph 6 of subsection A of this section.

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

22 7. Maintain all confidential information, documents and records
23 in possession of the ~~Board~~ Attorney General as confidential and not
24 subject to subpoena or discovery in any civil or criminal

1 proceedings; provided however, information, documents, and records
2 otherwise available from other sources shall not be exempt from
3 subpoena or discovery through those sources solely because such
4 information, documents, and records were presented to or reviewed by
5 the ~~Board~~ Attorney General;

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

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

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

23 C. ~~The review and discussion of individual cases of an opioid~~
24 ~~overdose death shall be conducted in executive session. All other~~

1 ~~business shall be conducted in accordance with the provisions of the~~
2 ~~Oklahoma Open Meeting Act.~~ All discussions of individual cases and
3 any writings produced by or created for the ~~Board~~ Attorney General
4 in the course of determining a remedial measure to be recommended by
5 the ~~Board~~ Attorney General, as the result of a review of an
6 individual case of an opioid overdose death, shall be privileged and
7 shall not be admissible in evidence in any proceeding. ~~The Board~~
8 ~~shall periodically conduct meetings to discuss organization and~~
9 ~~business matters and any actions or recommendations aimed at~~
10 ~~improvement of the medical system or law enforcement system which~~
11 ~~shall be subject to the Oklahoma Open Meeting Act.~~ Part of any
12 meeting of the Board may be specifically designated as a business
13 meeting of the Board subject to the Oklahoma Open Meeting Act.

14 D. The ~~Board~~ Attorney General shall submit an annual
15 statistical report on the incidence and causes of opioid overdose
16 deaths in this state for which the ~~Board~~ Attorney General has
17 completed ~~its~~ his or her review during the past calendar year
18 including ~~its~~ his or her recommendations, if any, to the medical and
19 law enforcement system. The ~~Board~~ Attorney General shall also
20 prepare and make available to the public, on an annual basis, a
21 report containing a summary of the activities ~~of the Board~~ relating
22 to the review of opioid overdose deaths, the extent to which the
23 state medical and law enforcement system is coordinated, and an
24 evaluation of whether the state is efficiently discharging its

1 responsibilities to prevent opioid overdose deaths. The report
2 shall be completed no later than February 1 of the subsequent year.

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

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

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

11 Section 2-1003. A. Beginning November 1, 2018, the Center for
12 Health Statistics of the State Department of Health shall forward to
13 the Office of the Chief Medical Examiner on a monthly basis, copies
14 of all death certificates of persons over eighteen (18) years of age
15 received by the Center for Health Statistics during the preceding
16 month whereby the cause of death was due to an overdose of licit or
17 illicit drugs including opioids meeting the Centers for Disease
18 Control and Prevention guidelines for opioid-related deaths.

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

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

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

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON ADMINISTRATIVE RULES
15 February 13, 2025 - DO PASS AS AMENDED BY CS
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