

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2573

By: Larason

COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; providing for court inquiry as to whether certain persons are single custodial parents; authorizing certain placements; providing issuance of certain documents; providing for certain placement investigations; requiring certain documentation; providing for custody of certain children; requiring certain reviews; requiring certain reports; providing for contents; requiring certain notice and approval; providing for contempt of court; providing for codification; and providing an effective date.

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 20 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. When any person is convicted of an offense against the laws of this state and is sentenced to imprisonment to be served in a city or county jail or a state correctional institution, the judge of the district court or municipal court shall inquire whether such person is a single custodial parent of any minor child. If such person is a single custodial parent, the judge shall inquire into the arrangements for the care and custody of the child during the period of incarceration of the custodial parent. If the judge finds that such arrangements are not appropriate or in the best interests of the child, the court shall order the parent to place the child as follows and to execute the necessary powers of attorney, guardianship, or other appropriate legal documents or legal proceeding to ensure adequate and appropriate care and custody of the child during the absence of the parent. The parent may place the child with:

1. The other parent of the child involved, if such parent's rights have not been terminated. If the custodial parent has custody of the child pursuant to an order of a court in a divorce proceeding, the court having jurisdiction over the divorce proceeding shall determine whether a modification of the custody order placing the child in the custody of the other parent is appropriate and in the best interests of the child. The court shall notify the sentencing judge whether the custody order has been modified to place custody with the other parent. If the custody order is not modified, the judge shall order the parent to make other appropriate arrangements for the child;

2. A relative within the fourth degree when the judge determines such placement to be suitable for the child;

3. The Department of Human Services or a child welfare agency duly licensed or recognized pursuant to the Oklahoma Child Care Facilities Licensing Act; or

4. Some other individual with the written assent of the court.

B. When the custody of the child is placed with the other parent pursuant to a modification of a custody order by the court having jurisdiction over the divorce proceeding, the provisions of subsections C, D and E of this section shall not apply; provided, upon the recommendation of such court, the sentencing judge may require the parent to whom custody is transferred to comply with the provisions of subsections D and E of this section.

C. 1. Except as provided by subsection B of this section, when the parent proposes to place the child with an individual specified by paragraph 1, 2 or 4 of subsection A of this section, the court shall require a placement investigation and report be made to the court. The person making the investigation and report to the court shall be a person qualified by training or experience as designated by the court. The placement investigation shall include inquiry to determine whether the proposed home is a suitable one for the child and any other circumstances and conditions which may have a bearing on the health, safety and welfare of the child. The report shall become a part of the files

in the case and shall contain a definite recommendation for or against the proposed placement and the reason therefor.

2. If suitable placement is not found pursuant to the provisions of this subsection, or the single custodial parent refuses or is unwilling to make appropriate arrangements for such child to the satisfaction of the court, the court shall order the district attorney to determine whether a petition alleging the child to be a deprived child is warranted and, if warranted by the facts in the case, to file such petition. Whenever such petition is filed, the court may issue temporary orders for the care and custody of the child as otherwise provided by Title 10 of the Oklahoma Statutes. If the child is found by the court to be a deprived child, the provisions of Title 10 of the Oklahoma Statutes related to deprived children shall apply.

D. Except when the child is found by a court to be a deprived child or as otherwise provided by subsection B of this section, whenever the child is placed as provided by this section, the judge shall review the placement and circumstances of the child at least once every six (6) months until such time as the child is returned to the parent or the child reaches eighteen (18) years of age.

1. The person or agency with whom the child has been placed shall submit a report to the judge prior to each review at such time and in such manner as ordered by the judge.

2. The report shall include but not be limited to a summary of the physical, mental, and emotional condition of the child, the conditions existing in the home or facility where the child has been placed and the adjustment of the child to said home or facility, the child's attendance and progress in school, and any contact or involvement of the child with the courts or law enforcement other than the supervision of the placement of the child by the sentencing judge.

3. Whenever a change in the placement of the child is desired or proposed by the person or agency with whom the child has been placed, the sentencing judge shall be notified and the placement of the child shall not be changed except with the approval of said

judge. The judge shall approve any subsequent placement of the child as otherwise provided by this section and the person or agency with whom the child is subsequently placed shall be subject to the provisions of this subsection.

E. Failure to file a report or to notify the judge of a desired or proposed change in the placement of the child shall be deemed to be contempt of court and is punishable as otherwise provided by law.

SECTION 2. This act shall become effective September 1, 1994.

44-2-9008

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