

SB 1340

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THE STATE SENATE
Thursday, February 5, 2004

Senate Bill No. 1340

SENATE BILL NO. 1340 - By: LASTER of the Senate and BLACKBURN of the House.

An Act relating to children; amending 10 O.S. 2001, Sections 7003-5.5a, 7003-5.6, as amended by Section 2, Chapter 237, O.S.L. 2002, 7003-5.6d, as amended by Section 3, Chapter 237, O.S.L. 2002, and 7003-5.6e, as amended by Section 2, Chapter 105, O.S.L. 2003 (10 O.S. Supp. 2003, Sections 7003-5.6, 7003-5.6d, and 7003-5.6e), which relate to the Oklahoma Children's Code and custody and court proceedings; modifying requirements for duration of court supervision; providing for concurrent hearings; requiring the Department of Human Services to provide notice; requiring the court to provide current foster parents the opportunity to be heard at certain hearings; deleting time requirement for permanency hearing report preparation; repealing 10 O.S. 2001, Section 7003-5.6g, which relates to time frames for permanency hearings; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7003-5.5a, is amended to read as follows:

Section 7003-5.5a ~~Once any~~ Every child ~~of a family who~~ has been returned to a person named in a petition, ~~a period of supervision by the court of not less than twelve (12) months shall occur~~ be supervised for a period of six (6) months prior to dismissal by of the case; provided, the court, subject to the availability of funds may increase or decrease the duration of such supervision as the best interests of the child may require. Supervision by the Department of Human Services during this period shall be in

1 accordance with rules promulgated by the Commission for Human
2 Services.

3 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7003-5.6, as
4 amended by Section 2, Chapter 237, O.S.L. 2002 (10 O.S. Supp. 2003,
5 Section 7003-5.6), is amended to read as follows:

6 Section 7003-5.6 A. Every case regarding a child alleged or
7 adjudicated to be deprived shall be reviewed by the court at a
8 hearing no later than six (6) months from the date of the child's
9 out-of-home placement and at least once every six (6) months
10 thereafter. A review hearing may be held concurrently with a
11 permanency hearing. A child shall be considered to have entered an
12 out-of-home placement on the earlier of the adjudication date or the
13 date that is sixty (60) days after the date on which the child is
14 removed from the home. Such reviews shall continue until such time
15 as:

16 1. The conditions which caused the child to be adjudicated have
17 been corrected;

18 2. The parental rights of the parent are terminated and a final
19 adoption decreed or the child is placed with a suitable custodian or
20 kinship guardian; or

21 3. Until the court otherwise terminates jurisdiction.

22 B. The provisions of this section shall also apply to a child
23 who has been removed from the home of the parent or parents, legal

1 guardian or custodian of the child after the child has been returned
2 to that home.

3 C. The court may set a case for a review hearing upon the
4 motion of a party at any time, if the hearing is deemed by the court
5 to be for the health, safety or welfare of the child and in the best
6 interests of the child.

7 D. In addition to the parties, adequate prior written notice of
8 review hearings, as determined by the Department pursuant to rules
9 promulgated by the Commission for Human Services, shall be provided
10 by the Department to the current foster parents, and an opportunity
11 to be heard at such hearings shall be provided by the court to the
12 current foster parent of a child, the child's guardian ad litem, and
13 to any preadoptive parent or relative providing care for the child.
14 Such notice and opportunity to be heard shall not be construed as
15 requiring any foster parent, preadoptive parent or relative to be
16 made a party to such deprived proceedings if not currently a party
17 to the action.

18 E. The court shall receive all evidence helpful in deciding the
19 issues before the court, including, but not limited to, oral and
20 written reports, which may be admitted and relied upon to the extent
21 of their probative value, even though not competent for purposes of
22 an adjudicatory hearing.

23 F. At each review hearing, the court shall:

- 1 1. Determine whether:
- 2 a. the child should be returned to the child's parent or
- 3 placed with willing and suitable kinship relations.
- 4 Before a return to the child's parent is ordered, the
- 5 court must find that the parties:
- 6 (1) have complied with, performed, and completed the
- 7 terms and conditions of the individual treatment
- 8 and service plan which are essential and
- 9 fundamental to the health, safety or welfare of
- 10 the child as determined by the court,
- 11 (2) have corrected those conditions which caused the
- 12 child to be adjudicated and which the court
- 13 determines to be essential and fundamental to the
- 14 health, safety or welfare of the child,
- 15 (3) have made marked progress towards reunification
- 16 with the child, and
- 17 (4) have maintained a close and positive relationship
- 18 with the child~~.,~~
- 19 b. the child should continue in out-of-home placement for
- 20 a specified period. The court shall project a likely
- 21 date by which the child may be:
- 22 (1) returned to and safely maintained in the home,

1 (2) placed with a willing and suitable guardian or
2 custodian, or

3 (3) placed for adoption, or other permanent
4 arrangement,

5 c. the rights of the parent of the child should be
6 terminated and the child placed for adoption, placed
7 with a guardian, or custodian, or provided with
8 another permanent arrangement, or

9 d. the child, because of exceptional circumstances,
10 should remain in long-term out-of-home placement as a
11 permanent plan or with a goal of independent living;

12 2. Make a determination:

13 ~~a.~~ as to whether:

14 a. reasonable efforts have been made to provide for the
15 safe return of the child to the child's own home. In
16 determining reasonable efforts, the child's health,
17 safety or welfare shall be the paramount concern. If
18 the court determines or has previously determined that
19 reasonable efforts are not required, or pursuant to the
20 provisions of Section 7003-4.6 of this title, or that
21 continuation of reasonable efforts to reunite the
22 child with the child's family is inconsistent with the
23 permanency plan for the child, the court shall

1 determine if reasonable efforts are being made to
2 place the child in a timely manner in accordance with
3 the permanency plan and to complete steps necessary to
4 finalize permanent placement for the child, and
5 b. where appropriate, when the child is sixteen (16)
6 years of age or older, ~~whether~~ services are being
7 provided that will assist the child in making the
8 transition from foster care to independent living; ~~and~~
9 3. Determine the safety of the child and consider fully all
10 relevant prior and current information including, but not limited
11 to, the report or reports submitted pursuant to Sections 7208 and
12 7003-5.6a of this title;
13 4. Inquire as to the nature and extent of services being
14 provided the child and parent or parents of the child and shall
15 direct that additional services be provided if necessary to ensure
16 the safety of the child and to protect the child from further
17 physical, mental, or emotional harm, or to correct the conditions
18 that led to the adjudication; and
19 5. Order such modification to the existing individual treatment
20 and service plan as the court determines to be in the best interests
21 of the child and necessary for the correction of the conditions that
22 led to the adjudication of the child.

1 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7003-5.6d,
2 as amended by Section 3, Chapter 237, O.S.L. 2002 (10 O.S. Supp.
3 2003, Section 7003-5.6d), is amended to read as follows:

4 Section 7003-5.6d A. 1. The court shall conduct a permanency
5 hearing on behalf of a child no later than:

6 a. ~~twelve (12)~~ six (6) months after placing the child in
7 out-of-home placement and every ~~twelve (12)~~ six (6)
8 months thereafter, and

9 b. thirty (30) days after a determination by the court
10 that reasonable efforts are not required pursuant to
11 the provisions of Section 7003-4.6 of this title and
12 every ~~twelve (12)~~ six (6) months thereafter.

13 2. A child shall be considered to have entered out-of-home
14 placement on the earlier of:

15 a. the adjudication date, or

16 b. the date that is sixty (60) days after the date on
17 which the child is removed from the home.

18 B. A permanency hearing may be held concurrently with a
19 dispositional or review hearing. All permanency decisions must be
20 in writing and in accordance with the health, safety or welfare of
21 the child and the long-term best interests of the child.

22 C. In addition to the parties, adequate prior written notice of
23 a permanency ~~hearing~~ hearings, as determined by the Department of

1 Human Services, pursuant to rules promulgated by the Commission for
2 Human Services, shall be provided by the Department to the current
3 foster parents and an opportunity to be heard at such hearing shall
4 be provided by the ~~Department of Human Services~~ court to the ~~present~~
5 current foster parents of a child, the child's guardian ad litem,
6 and to any preadoptive parent or relative providing care for the
7 child. Such notice and opportunity to be heard shall not be
8 construed as requiring any foster parent, preadoptive parent or
9 relative to be made a party to such action.

10 D. At the hearing, the court shall determine the most suitable
11 permanency plan based on the child's need for a permanent placement
12 as indicated by the recommended permanency plan or other evidence
13 submitted. The court shall determine whether:

14 1. The child should be returned home immediately or by a
15 specified date not to exceed three (3) months. An order entered
16 pursuant to the provisions of this paragraph shall enumerate the
17 specific factors, conditions, or expected behavioral changes which
18 must occur by the specified date before the child may be returned
19 home. Before a child may be returned home, the court must find
20 that:

21 a. the parent, legal guardian or custodian has made
22 marked progress towards reunification with the child,

1 and has maintained a close and positive relationship
2 with the child, and

3 b. the parties have complied with, performed, and
4 completed those terms and conditions of the court-
5 ordered individual treatment and service plan and have
6 corrected those conditions which caused the child to
7 be adjudicated which are essential and fundamental to
8 the health, safety and welfare of the child;

9 2. A plan for the guardianship or kinship guardianship of the
10 child should be approved;

11 3. The child should be placed in a planned permanent living
12 arrangement if the Department has documented a compelling reason for
13 the court to determine that it would not be in the best interests of
14 the child to return home, or to be placed for adoption or with a fit
15 and willing relative or a legal guardian;

16 4. A petition to terminate the rights of the parents of the
17 child ~~will~~ should be filed and the child placed for adoption; or

18 5. Any other out-of-home placement in which the child is placed
19 continues to be safe and appropriate and in the best interests of
20 the child.

21 E. The court shall enter an order for completion of all steps
22 necessary to finalize the permanent placement of the child.

1 SECTION 4. AMENDATORY 10 O.S. 2001, Section 7003-5.6e,
2 as amended by Section 2, Chapter 105, O.S.L. 2003 (10 O.S. Supp.
3 2003, Section 7003-5.6e), is amended to read as follows:

4 Section 7003-5.6e A. ~~At least three (3) weeks prior~~ Prior to a
5 permanency hearing, the Department of Human Services shall ~~arrange~~
6 ~~for a meeting to~~ prepare a report regarding the child for court
7 review. The Department, as applicable, shall contact the foster
8 parents of the child, the parents of the child or the parents'
9 attorney, a postadjudication review board member, the guardian ad
10 litem or the court appointed special advocate who has been appointed
11 to the case, and the child's attorney to assist in the preparation
12 of the report; ~~provided, however, this provision shall not apply to~~
13 ~~permanency hearings scheduled for persons determined not to require~~
14 ~~reasonable efforts pursuant to the provisions of Section 7003-4.6 of~~
15 ~~this title.~~

16 B. The report shall contain the:

17 1. Efforts and progress demonstrated by the child's parent to
18 complete an individual treatment and service plan;

19 2. Extent to which the parent or legal guardian cooperated and
20 used the services provided;

21 3. Status of the child, including the child's mental, physical,
22 and emotional health; and

23 4. Plan for permanency for the child.

1 C. The child's attorney, the parents or parents' attorney, the
2 foster parent, the postadjudicatory review board member, the
3 guardian ad litem or the court appointed special advocate of the
4 child, or the Department of Human Services may submit an additional
5 informational report to the court for review.

6 SECTION 5. REPEALER 10 O.S. 2001, Section 7003-5.6g, is
7 hereby repealed.

8 SECTION 6. This act shall become effective November 1, 2004.

9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-3-04 - DO PASS,
10 As Coauthored.