

1 ENGROSSED SENATE  
2 BILL NO. 448

By: Leftwich and Johnson  
(Constance) of the Senate

3 and

4 Denney of the House  
5

6  
7 [ incarceration - single custodial parents -  
8 effective date ]  
9

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

11 SECTION 1. AMENDATORY 22 O.S. 2001, Section 20, is  
12 amended to read as follows:

13 Section 20. A. When any person is convicted of an offense  
14 against the laws of this state and is sentenced to imprisonment to  
15 be served in a county jail or a state correctional institution, the  
16 judge of the district court shall inquire whether such person is a  
17 single custodial parent of any minor child. If such person is a  
18 single custodial parent, the judge shall inquire into the  
19 arrangements that have been made for the care and custody of the  
20 child during the period of incarceration of the custodial parent.  
21 If The judge shall submit written findings related to the custodial  
22 arrangements of the child, and if the judge finds that such  
23 arrangements are not appropriate or in the best interests of the  
24 child, the court shall order, based upon such written findings, the

1 parent to execute the necessary powers of attorney, guardianship, or  
2 other appropriate legal documents or legal proceeding to place the  
3 child in order to ensure adequate and appropriate care and custody  
4 of the child during the absence of the parent. The parent may place  
5 the child with:

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

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

19 3. The Department of Human Services in accordance with the  
20 rules of the Department for the voluntary placement of children, or  
21 a child welfare agency duly licensed or recognized pursuant to the  
22 Oklahoma Child Care Facilities Licensing Act; or

23 4. Some other individual with the written assent of the court.  
24

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

8       C. 1. Except as provided by subsection B of this section, when  
9 the parent proposes to place the child with an individual specified  
10 by paragraph 1, 2 or 4 of subsection A of this section, the court  
11 shall require a placement investigation and report be made to the  
12 court. The person making the investigation and report to the court  
13 shall be a person qualified by training or experience as designated  
14 by the court; provided, the court shall give preference to  
15 designating an appropriately licensed or certified individual or  
16 agency to complete the investigation. The placement investigation  
17 shall include inquiry to determine whether the proposed home is a  
18 suitable one for the child and any other circumstances and  
19 conditions which may have a bearing on the health, safety and  
20 welfare of the child. The report shall become a part of the files  
21 in the case and shall contain a definite recommendation for or  
22 against the proposed placement and the reason therefor.

23       2. If suitable placement is not found pursuant to the  
24 provisions of this subsection, or the single custodial parent

1 refuses or is unwilling to make appropriate arrangements for such  
2 child to the satisfaction of the court, the court shall order the  
3 district attorney to determine whether a petition alleging the child  
4 to be a deprived child is warranted and, if warranted by the facts  
5 in the case, to file such petition. When such petition is filed,  
6 the court may issue temporary orders for the care and custody of the  
7 child as otherwise provided by Title 10 of the Oklahoma Statutes.  
8 If the child is found by the court to be a deprived child, the  
9 provisions of Title 10 of the Oklahoma Statutes related to deprived  
10 children shall apply.

11 D. Except when the child is found by a court to be a deprived  
12 child or as otherwise provided by subsection B of this section, when  
13 the child is placed as provided by this section or the period of  
14 incarceration of the custodial parent is less than six (6) months,  
15 the judge shall transfer matters related to the placement of the  
16 child to the judge of the district court having juvenile docket  
17 responsibilities and review the placement and circumstances of the  
18 child at least once every six (6) months until such time as the  
19 child is returned to the parent or the child reaches eighteen (18)  
20 years of age.

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

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

9        3. When a change in the placement of the child is desired or  
10 proposed by the person or agency with whom the child has been  
11 placed, the sentencing judge shall be notified and the placement of  
12 the child shall not be changed except with the approval of said  
13 judge. The judge shall approve any subsequent placement of the  
14 child as otherwise provided by this section and the person or agency  
15 with whom the child is subsequently placed shall be subject to the  
16 provisions of this subsection.

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

20        SECTION 2. This act shall become effective November 1, 2009.

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1 Passed the Senate the 23rd day of February, 2009.

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2009.

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8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives