

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1938

By: Sykes

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5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Children's Code;
8 amending 10 O.S. 2001, Section 7002-1.1, as last
9 amended by Section 12, Chapter 233, O.S.L. 2009 and
10 as renumbered by Section 224, Chapter 233, O.S.L.
11 2009 (10A O.S. Supp. 2009, Section 1-4-101), which
12 relates to jurisdiction and venue; modifying proper
13 venue in certain actions; and providing an effective
14 date.

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

16 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7002-1.1, as
17 last amended by Section 12, Chapter 233, O.S.L. 2009 and as
18 renumbered by Section 224, Chapter 233, O.S.L. 2009 (10A O.S. Supp.
19 2009, Section 1-4-101), is amended to read as follows:

20 Section 1-4-101. A. 1. Upon the filing of a petition, the
21 assumption of the custody of a child, or issuance of an emergency
22 custody order pursuant to the provisions of the Oklahoma Children's
23 Code, the district court shall obtain jurisdiction over any child
24 who is or is alleged to be deprived. Jurisdiction shall also be
obtained over any parent, legal guardian, or custodian of and any
other person living in the home of such child who appears in court

1 or has been properly served with a summons pursuant to Section 1-4-
2 304 of this title.

3 2. When jurisdiction has been obtained over a child who is or
4 is alleged to be a deprived child:

5 a. such jurisdiction may be retained until the child
6 becomes eighteen (18) years of age,

7 b. the court may issue any temporary order or grant any
8 interlocutory relief authorized by this Code in an
9 emergency, regardless of whether another district
10 court within the county or state has prior or current
11 jurisdiction to determine the custody, support, or
12 visitation of the child,

13 c. all other action then pending or thereafter commenced
14 within the county or state that concerns the custody,
15 support, or visitation of the child shall be
16 automatically stayed unless after notice to the
17 parties in the deprived action, the written consent of
18 such court is obtained and filed in the other
19 proceeding; provided, a child's delinquency action
20 may, in the discretion of the court, proceed pursuant
21 to the Oklahoma Juvenile Code,

22 d. all orders entered in the deprived proceeding
23 concerning the custody, support, or visitation of a
24 child shall control over conflicting orders entered in

1 other actions until such time as the jurisdiction of
2 the court in the deprived proceeding terminates, and
3 e. the judge presiding over a deprived action shall have
4 the authority to make a final determination in the
5 matter and preside over any separate action necessary
6 to finalize a child's court-approved permanency plan
7 including an adoption, guardianship, or other custody
8 proceeding.

9 B. 1. Venue of any action involving a child alleged to be
10 deprived ~~may~~ shall be in the county where:

- 11 a. ~~the child is found,~~
12 ~~b.~~ the child resides, or has resided for six (6) months
13 preceding the filing,
14 ~~c.~~
15 b. the alleged acts of deprivation occurred, or
16 ~~d.~~
17 c. a parent or sibling has a deprived action pending.

18 If none of the locations listed in this paragraph are known, venue
19 may be in the county where the child is found.

20 2. A deprived action shall not be dismissed if filed in the
21 wrong venue, but shall be transferred to the proper venue upon
22 discovery of the proper venue, unless venue is waived by all parties
23 on the record.
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1 3. Except as provided for in this subsection, a deprived action
2 commenced in a county outside of the residence of the child may be
3 transferred to the county of the child's residence at any stage in
4 the proceedings after the petition has been filed. The receiving
5 court shall continue with the proceedings as though the original
6 petition had been filed in that court.

7 a. When a petition or motion to terminate parental rights
8 has been filed, the case shall not be transferred
9 until the sending court has concluded the termination
10 proceeding.

11 b. Absent good cause to the contrary, a deprived action
12 shall be transferred to the county where other
13 proceedings are pending concerning custody of the
14 child or the child's siblings.

15 c. Prior to adjudication pursuant to Section 1-4-603 of
16 this title, a case may be transferred to a venue where
17 the evidence or witnesses are located when the
18 interests of justice or convenience of the parties so
19 require. Following adjudication, the receiving court
20 may transfer the case back to the county of the
21 child's legal residence as provided in this section.

22 4. For purposes of this section, the residence of the child
23 shall be the residence of the person who has the legal right to
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1 physical custody of the child according to a prior court order or by
2 operation of law.

3 a. If there is no order determining the custody of the
4 child, the custodian of the child shall be:

5 (1) both parents where they reside together,

6 (2) the primary or actual physical custodial parent
7 where parents do not reside together, or

8 (3) the mother where paternity has or has not been
9 established.

10 b. The residence of a newborn child shall be deemed to be
11 the county where the child's mother legally resided at
12 the time of the child's birth.

13 c. When the child is in the permanent custody of a public
14 or private child care agency, the residence of the
15 child shall be the county in which the child resides
16 at the time when legal proceedings are initiated.

17 d. For purposes of transfer, the residence of the child
18 may be with the person that the court approves for
19 permanent placement.

20 5. The court may request the transfer of the case to another
21 county where the child resides.

22 a. Prior to transferring a case to another venue, the
23 court shall contact the judge in the other venue to
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1 confirm that the judge in the other venue will accept
2 the transfer.

3 b. Upon written confirmation that transfer of venue is
4 accepted, the transferring judge shall enter the
5 transfer order, and certified copies of all documents
6 of record with the clerk of the transferring court
7 shall be transmitted to the receiving court along with
8 the names and addresses of all parties entitled to
9 notice of any further proceedings.

10 c. Upon transfer of the case, the receiving court shall
11 set a hearing date for the parties that is not more
12 than thirty (30) days following the date upon which
13 the change of venue has occurred.

14 SECTION 2. This act shall become effective November 1, 2010.

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