

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2227

				Of the printed Bill
Page	<u>4</u>	Section	<u>4</u>	Lines
				<u>9</u>
				Of the Engrossed Bill

By deleting the word "and";

Page 4, Section 4, Line 11, by deleting the semicolon ";" and inserting in lieu thereof the following: ", and f. the procedures, complying with due process, for a local law enforcement agency to be reimbursed by the parent or parents of the child or other persons legally obligated to care for and support the child, in whole or in part, for any costs or expenses incurred by the local law enforcement agency for custodial services associated with transporting or detaining the child and in comport with the provisions of the Interstate Compact for Juveniles Act, in Sections 2-9-101 through 2-9-114 of Title 10A of the Oklahoma Statutes;"; and

Page 6, Line 20 ½, by inserting a new Section 8 to read as follows: (SEE ATTACHED) and by renumbering subsequent sections.

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Joe Dorman

Adopted: _____

Reading Clerk

1 "SECTION 8. AMENDATORY 10A O.S. 2011, Section 1-4-201,
2 is amended to read as follows:

3 Section 1-4-201. A. Pursuant to the provisions of this
4 section, a child may be taken into custody prior to the filing of a
5 petition:

6 1. By a peace officer or employee of the court, without a court
7 order if the officer or employee has reasonable suspicion that:

8 a. the child is in need of immediate protection due to an
9 imminent safety threat, ~~or~~

10 b. the circumstances or surroundings of the child are
11 such that continuation in the child's home or in the
12 care or custody of the parent, legal guardian, or
13 custodian would present an imminent safety threat to
14 the child, or

15 c. the child is a runaway located as a result of the
16 Runaway Child Alert System Act. In such case, the
17 local law enforcement agency may place the child in
18 protective custody while the local law enforcement
19 agency determines if the child is a victim of abuse;
20 provided, if the child is a runaway from another state
21 the child shall be subject to the provisions of the
22 Interstate Compact for Juveniles Act, in Sections 2-9-
23 101 through 2-9-114 of this title, and rules
24 promulgated thereunder; or

1 2. By an order of the district court issued upon the
2 application of the office of the district attorney. The application
3 presented by the district attorney may be supported by a sworn
4 affidavit which may be based upon information and belief. The
5 application shall state facts sufficient to demonstrate to the court
6 that a continuation of the child in the home or with the caretaker
7 of the child is contrary to the child's welfare and there is
8 reasonable suspicion that:

- 9 a. the child is in need of immediate protection due to an
10 imminent safety threat, or
- 11 b. the circumstances or surroundings of the child are
12 such that continuation in the child's home or in the
13 care or custody of the parent, legal guardian, or
14 custodian would present an imminent safety threat to
15 the child.

16 The application and order may be verbal and upon being advised by
17 the district attorney or the court of the verbal order, law
18 enforcement shall act on such order. If verbal, the district
19 attorney shall submit a written application and proposed order to
20 the district court within one (1) judicial day from the issuance of
21 the verbal order. Upon approval, the application and order shall be
22 filed with the court clerk; or

23 3. By order of the district court when the child is in need of
24 medical or behavioral health treatment in order to protect the

1 health, safety, or welfare of the child and the parent, legal
2 guardian, or custodian of the child is unwilling or unavailable to
3 consent to such medical or behavioral health treatment or other
4 action, the court shall specifically include in the emergency order
5 authorization for such medical or behavioral health evaluation or
6 treatment as it deems necessary.

7 B. 1. By January 1, 2010, the Department in consultation with
8 law enforcement and the district courts shall develop and implement
9 a system for joint response when a child is taken into protective
10 custody by a peace officer pursuant to paragraph 1 of subsection A
11 of this section. The system shall include:

- 12 a. designation of persons to serve as contact points for
13 peace officers, including at least one backup contact
14 for each initial contact point,
- 15 b. a protocol for conducting a safety evaluation at the
16 scene where protective custody is assumed to determine
17 whether the child faces an imminent safety threat and,
18 if so, whether the child can be protected through
19 placement with relatives or others without the
20 Department assuming emergency custody,
- 21 c. the development of reception centers for accepting
22 protective custody of children from peace officers
23 when the Department is unable to respond at the scene
24 within a reasonable time period,

- 1 d. a protocol for conducting a safety evaluation at the
2 reception center within twenty-three (23) hours of the
3 assumption of protective custody of a child to
4 determine whether the child faces an imminent safety
5 threat and, if so, whether the child can be protected
6 through placement with relatives or others without the
7 Department assuming emergency custody, and
- 8 e. a protocol, when the child cannot safely be left in
9 the home, for transporting a child to the home of a
10 relative, kinship care home, an emergency foster care
11 home, a shelter, or any other site at which the
12 Department believes the child can be protected,
13 provided that the Department shall utilize a shelter
14 only when the home of a relative, kinship care home,
15 or emergency foster care home is unavailable or
16 inappropriate.

17 2. Beginning January 1, 2010, no child taken into protective
18 custody under paragraph 1 of subsection A of this section shall be
19 considered to be in the emergency custody of the Department until
20 the Department has completed a safety evaluation and has concluded
21 that the child faces an imminent safety threat and the court has
22 issued an order for emergency custody.

23 3. If the safety evaluation performed by the Department of a
24 child taken into protective custody under paragraph 1 of subsection

1 A of this section indicates that the child does not face an imminent
2 safety threat, the Department shall restore the child to the custody
3 and control of the parent, legal guardian, or custodian of the
4 child.

5 4. The Department shall report on the progress of the system to
6 the Children's Services Oversight Committee established in Section
7 ~~22~~ 1-10-101 of this ~~act~~ title by March 1, 2010.

8 C. When an order issued by the district court pursuant to
9 subsection A of this section places the child in the emergency
10 custody of the Department of Human Services pending further hearing
11 specified by Section 1-4-203 of this title, an employee of the
12 Department may execute such order and physically take the child into
13 custody in the following limited circumstance:

14 1. The child is located in a hospital, school, or day care
15 facility; and

16 2. It is believed that assumption of the custody of the child
17 from the facility can occur without risk to the child or the
18 employee of the Department.

19 Otherwise, the order shall be executed and the child taken into
20 custody by a peace officer or employee of the court.

21 D. The court shall not enter a prepetition emergency custody
22 order removing a child from the home of the child unless the court
23 makes a determination:

24

1 1. That an imminent safety threat exists and continuation in
2 the home of the child is contrary to the welfare of the child; and

3 2. Whether reasonable efforts have been made to prevent the
4 removal of the child from the child's home; or

5 3. An absence of efforts to prevent the removal of the child
6 from the home of the child is reasonable because the removal is due
7 to an emergency and is for the purpose of providing for the safety
8 and welfare of the child.

9 E. Whenever a child is taken into custody pursuant to this
10 section:

11 1. The child may be taken to a kinship care home or an
12 emergency foster care home designated by the Department, or if no
13 such home is available, to a children's shelter located within the
14 county where protective or emergency custody is assumed or, if there
15 is no children's shelter within the county, to a children's shelter
16 designated by the court;

17 2. Unless otherwise provided by administrative order entered
18 pursuant to subsection F of this section, the child may be taken
19 before a judge of the district court or the court may be contacted
20 verbally for the purpose of obtaining an order for emergency
21 custody. The court may place the child in the emergency custody of
22 the Department or some other suitable person or entity pending
23 further hearing specified by Section 1-4-203 of this title;

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1 3. The child may be taken directly to or retained in a health
2 care facility for medical treatment, when the child is in need of
3 emergency medical treatment to maintain the child's health, or as
4 otherwise directed by the court; or

5 4. The child may be taken directly to or retained in a
6 behavioral health treatment facility for evaluation or inpatient
7 treatment, in accordance with the provisions of the Inpatient Mental
8 Health and Substance Abuse Treatment of Minors Act, when the child
9 is in need of behavioral health care to preserve the child's health,
10 or as otherwise directed by the court; and

11 5. Unless otherwise provided by administrative order entered
12 pursuant to subsection F of this section, the district court of the
13 county where the custody is assumed shall be immediately notified,
14 verbally or in writing, that the child has been taken into custody.
15 If notification is verbal, written notification shall be sent to the
16 district court within one (1) judicial day of such verbal
17 notification.

18 F. The court may provide, in an administrative order issued
19 pursuant to this section, for the disposition of children taken into
20 custody and notification of the assumption of such custody.

21 1. Such order or rule shall be consistent with the provisions
22 of subsection E of this section and may include a process for
23 release of a child prior to an emergency custody hearing. The
24 administrative order shall not include a provision to modify

1 protective custody of a child to emergency custody of the Department
2 upon admission of a child to a shelter; ~~and~~.

3 2. The administrative order may require joint training of peace
4 officers and Department staff deemed necessary by the court to carry
5 out the provisions of the administrative order.

6 G. No child taken into custody pursuant to this section shall
7 be confined in any jail, adult lockup, or adult or juvenile
8 detention facility.

9 H. When a determination is made by the Department that there is
10 a significant risk of abuse or neglect, but there is not an imminent
11 safety threat to the child, the Department may recommend a court-
12 supervised and Department-monitored in-home placement. The
13 Department shall assist the family in obtaining the services
14 necessary to maintain the in-home care and correct the conditions
15 leading to the risk determination.

16 I. Any peace officer, employee of the court, or employee of the
17 Department is authorized to transport a child when acting pursuant
18 to this section. Such persons and any other person acting under the
19 direction of the court, who in good faith transports any child or
20 carries out duties pursuant to this section, shall be immune from
21 civil or criminal liability that may result by reason of such act.
22 For purposes of any proceedings, civil or criminal, the good faith
23 of any such person shall be presumed. This provision shall not
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1 apply to damage or injury caused by the willful, wanton or gross
2 negligence or misconduct of a person.

3 J. A parent or person responsible for the child who is arrested
4 on a charge or warrant other than child abuse or neglect or an act
5 of child endangerment may designate another person to take physical
6 custody of the child. Upon this request, the peace officer may
7 release the child to the physical custody of the designated person.”
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