

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1169

By: Stone

4
5
6 AS INTRODUCED

7 An Act relating to children; creating the JaRay
8 Wilson Runaway Child Alert System Act; defining
9 terms; directing the Department of Public Safety to
10 implement a statewide Runaway Child Alert System;
11 directing cooperation with certain state and local
12 agencies; naming Commissioner of the Department as
13 the statewide coordinator of the System; assigning
14 Commissioner certain duties to implement the System;
15 prohibiting liability of Department under the act;
16 describing how an alert is activated; directing local
17 law enforcement agency to complete certain steps to
18 implement the alert; providing information to be
19 included in the alert; providing for termination of
20 an alert; directing law enforcement agency to
21 immediately notify Department when child is located;
22 amending 10A O.S. 2011, Section 1-4-201, as amended
23 by Section 3, Chapter 355, O.S.L. 2014 (10A O.S.
24 Supp. Section 1-4-201), which relates to taking a
child into custody; modifying when a child may be
taken into custody prior to the filing of a petition;
providing for codification; and providing an
effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-1991.1 of Title 63, unless
24 there is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "JaRay Wilson
2 Runaway Child Alert System Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-1991.2 of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 As used in the JaRay Wilson Runaway Child Alert System Act:

7 1. "Alert" means the statewide runaway child alert for missing
8 or runaway children;

9 2. "Local law enforcement agency" includes, but is not limited
10 to, a county sheriff's office, a police department of a municipality
11 or city, or the Oklahoma Highway Patrol;

12 3. "Media outlet" includes, but is not limited to, radio
13 stations, television stations, newspapers and local support
14 organizations; and

15 4. "Missing child" or "runaway child" means a person:

16 a. whose whereabouts are unknown,

17 b. whose age at the time the person is first reported
18 missing is seventeen (17) years of age or younger,

19 c. who is a resident of the state or who is a resident of
20 another state who is believed to be currently in the
21 state, and

22 d. whose disappearance poses a credible threat to the
23 safety and health of the child, as determined by a
24 local law enforcement agency.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-1991.3 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 The Department of Public Safety shall develop and implement a
5 statewide Runaway Child Alert System to be activated on behalf of a
6 missing child or runaway child in cooperation with the Department of
7 Transportation, the Department of Human Services, any local law
8 enforcement agency, the Oklahoma Association of Broadcasters and any
9 other appropriate state or local agencies.

10 SECTION 4. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-1991.4 of Title 63, unless
12 there is created a duplication in numbering, reads as follows:

13 A. The Commissioner of the Department of Public Safety is the
14 statewide coordinator of the Runaway Child Alert System and shall:

15 1. Adopt rules and issue directives as necessary to ensure
16 proper implementation of the alert. The rules and directives shall
17 include:

18 a. the procedures to be used by a local law enforcement
19 agency to verify whether a child is a missing child or
20 runaway child as defined by paragraph 4 of Section 2
21 of this act,

22 b. the procedures for local law enforcement agencies to
23 follow in initiating a statewide runaway child alert,
24

- c. the method whereby information is distributed to statewide media outlets,
- d. the procedures for the receipt and evaluation of information received from the public about the missing child,
- e. the procedure for the termination of a runaway child alert, and
- f. the procedures, including notice and an opportunity to be heard and giving consideration to the party's ability to pay, 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 compliance with the provisions of the Interstate Compact for Juveniles Act;

2. Develop procedures to determine if announcement of a runaway child alert for local and statewide media outlets is warranted; and

3. Solicit and accept funding sources to implement and maintain the Runaway Child Alert System through private and public monies.

1 B. The Department of Public Safety shall not be held liable for
2 any act or omission pursuant to its duties in carrying out the JaRay
3 Wilson Runaway Child Alert System Act.

4 SECTION 5. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1-1991.5 of Title 63, unless
6 there is created a duplication in numbering, reads as follows:

7 A. A runaway child alert may be activated if a local law
8 enforcement agency:

9 1. Receives notice of a missing child or runaway child;
10 2. Verifies that at the time the child is reported missing or
11 as a runaway:

12 a. the child is seventeen (17) years of age or younger,
13 and

14 b. the location of the child is unknown;

15 3. Determines that the disappearance of the child poses a
16 credible threat to the health and safety of the child; and

17 4. Determines that information which may assist in the safe
18 recovery of the child is available.

19 B. The local law enforcement agency shall:

20 1. Require the family or legal guardian of the child to provide
21 photographs of the child;

22 2. Determine identifying information about the child and any
23 other information which might be useful to the general public in the
24 safe recovery of the child; and

1 3. Report the individual through the national crime information
2 center immediately upon the issuance of a runaway child alert.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-1991.6 of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 The runaway child alert shall include:

7 1. All appropriate information that is provided by the local
8 law enforcement agency that may lead to the safe recovery of the
9 child; and

10 2. A statement instructing any person with information related
11 to the missing or runaway child to contact a local law enforcement
12 agency.

13 SECTION 7. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-1991.7 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

16 A. The local law enforcement agency responsible for the
17 issuance of a runaway child alert shall terminate any runaway child
18 alert with respect to a particular missing or runaway child not
19 later than when:

20 1. The child is located or the situation is otherwise resolved;
21 or

22 2. The notification period ends, as determined by Department of
23 Public Safety rule.
24

1 B. A local law enforcement agency that locates a child who is
2 the subject of a runaway child alert shall immediately notify the
3 Department of Public Safety.

4 SECTION 8. AMENDATORY 10A O.S. 2011, Section 1-4-201, as
5 amended by Section 3, Chapter 355, O.S.L. 2014 (10A O.S. Supp. 2014,
6 Section 1-4-201), is amended to read as follows:

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

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

12 a. the child is in need of immediate protection due to an
13 imminent safety threat,

14 b. the circumstances or surroundings of the child are
15 such that continuation in the child's home or in the
16 care or custody of the parent, legal guardian, or
17 custodian would present an imminent safety threat to
18 the child, ~~or~~

19 c. the child, including a child with a disability, is
20 unable to communicate effectively about abuse, neglect
21 or other safety threat or is in a vulnerable position
22 due to the inability to communicate effectively and
23 the child is in need of immediate protection due to an
24 imminent safety threat, or

1 d. the child is a runaway located as a result of the
2 JaRay Wilson Runaway Child Alert System Act. In such
3 case, the local law enforcement agency may place the
4 child in protective custody while the local law
5 enforcement agency determines if the child is a victim
6 of abuse; provided, if the child is a runaway from
7 another state the child shall be subject to the
8 provisions of the Interstate Compact for Juveniles
9 Act; or

10 2. By an order of the district court issued upon the
11 application of the office of the district attorney. The application
12 presented by the district attorney may be supported by a sworn
13 affidavit which may be based upon information and belief. The
14 application shall state facts sufficient to demonstrate to the court
15 that a continuation of the child in the home or with the caretaker
16 of the child is contrary to the child's welfare and there is
17 reasonable suspicion that:

- 18 a. the child is in need of immediate protection due to an
19 imminent safety threat,
20 b. the circumstances or surroundings of the child are
21 such that continuation in the child's home or in the
22 care or custody of the parent, legal guardian, or
23 custodian would present an imminent safety threat to
24 the child, or

1 c. the child, including a child with a disability, is
2 unable to communicate effectively about abuse, neglect
3 or other safety threat or is in a vulnerable position
4 due to the inability to communicate effectively and
5 the child is in need of immediate protection due to an
6 imminent safety threat.

7 The application and order may be verbal and upon being advised by
8 the district attorney or the court of the verbal order, law
9 enforcement shall act on such order. If verbal, the district
10 attorney shall submit a written application and proposed order to
11 the district court within one (1) judicial day from the issuance of
12 the verbal order. Upon approval, the application and order shall be
13 filed with the court clerk; or

14 3. By order of the district court when the child is in need of
15 medical or behavioral health treatment in order to protect the
16 health, safety, or welfare of the child and the parent, legal
17 guardian, or custodian of the child is unwilling or unavailable to
18 consent to such medical or behavioral health treatment or other
19 action, the court shall specifically include in the emergency order
20 authorization for such medical or behavioral health evaluation or
21 treatment as it deems necessary.

22 B. 1. By January 1, 2010, the Department in consultation with
23 law enforcement and the district courts shall develop and implement
24 a system for joint response when a child is taken into protective

1 custody by a peace officer pursuant to paragraph 1 of subsection A
2 of this section. The system shall include:

- 3 a. designation of persons to serve as contact points for
4 peace officers, including at least one backup contact
5 for each initial contact point,
- 6 b. a protocol for conducting a safety evaluation at the
7 scene where protective custody is assumed to determine
8 whether the child faces an imminent safety threat and,
9 if so, whether the child can be protected through
10 placement with relatives or others without the
11 Department assuming emergency custody,
- 12 c. the development of reception centers for accepting
13 protective custody of children from peace officers
14 when the Department is unable to respond at the scene
15 within a reasonable time period,
- 16 d. a protocol for conducting a safety evaluation at the
17 reception center within twenty-three (23) hours of the
18 assumption of protective custody of a child to
19 determine whether the child faces an imminent safety
20 threat and, if so, whether the child can be protected
21 through placement with relatives or others without the
22 Department assuming emergency custody, and
- 23 e. a protocol, when the child cannot safely be left in
24 the home, for transporting a child to the home of a

1 relative, kinship care home, an emergency foster care
2 home, a shelter, or any other site at which the
3 Department believes the child can be protected,
4 provided that the Department shall utilize a shelter
5 only when the home of a relative, kinship care home,
6 or emergency foster care home is unavailable or
7 inappropriate.

8 2. Beginning January 1, 2010, no child taken into protective
9 custody under paragraph 1 of subsection A of this section shall be
10 considered to be in the emergency custody of the Department until
11 the Department has completed a safety evaluation and has concluded
12 that the child faces an imminent safety threat and the court has
13 issued an order for emergency custody.

14 3. If the safety evaluation performed by the Department of a
15 child taken into protective custody under paragraph 1 of subsection
16 A of this section indicates that the child does not face an imminent
17 safety threat, the Department shall restore the child to the custody
18 and control of the parent, legal guardian, or custodian of the
19 child.

20 C. When an order issued by the district court pursuant to
21 subsection A of this section places the child in the emergency
22 custody of the Department of Human Services pending further hearing
23 specified by Section 1-4-203 of this title, an employee of the
24

1 Department may execute such order and physically take the child into
2 custody in the following limited circumstance:

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

5 2. It is believed that assumption of the custody of the child
6 from the facility can occur without risk to the child or the
7 employee of the Department.

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

10 D. The court shall not enter a prepetition emergency custody
11 order removing a child from the home of the child unless the court
12 makes a determination:

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

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

17 3. An absence of efforts to prevent the removal of the child
18 from the home of the child is reasonable because the removal is due
19 to an emergency and is for the purpose of providing for the safety
20 and welfare of the child.

21 E. Whenever a child is taken into custody pursuant to this
22 section:

23 1. The child may be taken to a kinship care home or an
24 emergency foster care home designated by the Department, or if no

1 such home is available, to a children's shelter located within the
2 county where protective or emergency custody is assumed or, if there
3 is no children's shelter within the county, to a children's shelter
4 designated by the court;

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

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

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

22 5. Unless otherwise provided by administrative order entered
23 pursuant to subsection F of this section, the district court of the
24 county where the custody is assumed shall be immediately notified,

1 verbally or in writing, that the child has been taken into custody.
2 If notification is verbal, written notification shall be sent to the
3 district court within one (1) judicial day of such verbal
4 notification.

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

8 1. Such order or rule shall be consistent with the provisions
9 of subsection E of this section and may include a process for
10 release of a child prior to an emergency custody hearing. The
11 administrative order shall not include a provision to modify
12 protective custody of a child to emergency custody of the Department
13 upon admission of a child to a shelter; and

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

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

20 H. When a determination is made by the Department that there is
21 a significant risk of abuse or neglect, but there is not an imminent
22 safety threat to the child, the Department may recommend a court-
23 supervised and Department-monitored in-home placement. The
24 Department shall assist the family in obtaining the services

1 necessary to maintain the in-home care and correct the conditions
2 leading to the risk determination.

3 I. Any peace officer, employee of the court, or employee of the
4 Department is authorized to transport a child when acting pursuant
5 to this section. Such persons and any other person acting under the
6 direction of the court, who in good faith transports any child or
7 carries out duties pursuant to this section, shall be immune from
8 civil or criminal liability that may result by reason of such act.
9 For purposes of any proceedings, civil or criminal, the good faith
10 of any such person shall be presumed. This provision shall not
11 apply to damage or injury caused by the willful, wanton or gross
12 negligence or misconduct of a person.

13 J. A parent or person responsible for the child who is arrested
14 on a charge or warrant other than child abuse or neglect or an act
15 of child endangerment may designate another person to take physical
16 custody of the child. Upon this request, the peace officer may
17 release the child to the physical custody of the designated person.

18 SECTION 9. This act shall become effective November 1, 2015.

19
20 55-1-5988 EK 12/23/14
21
22
23
24