

1 ENGROSSED SENATE
2 BILL NO. 322

By: Paxton of the Senate

3 and

4 Biggs of the House

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6
7 An Act relating to Indian child custody proceedings;
8 amending 10 O.S. 2011, Section 40.4, which relates to
9 notice; modifying certain notice requirements;
10 providing exception; specifying method to show
11 certain notice; and providing an effective date.

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

13 SECTION 1. AMENDATORY 10 O.S. 2011, Section 40.4, is
14 amended to read as follows:

15 Section 40.4. A. In all Indian child custody proceedings of
16 the Oklahoma Indian Child Welfare Act, including voluntary court
17 proceedings and review hearings, the court shall ensure that the
18 district attorney or other person initiating the proceeding shall
19 send notice to the parents or to the Indian custodians, if any, and
20 to the tribe that is or may be the tribe of the Indian child, and to
21 the appropriate Bureau of Indian Affairs area office, by certified
22 mail return receipt requested, except as provided by subsection B of
23 this section. The notice shall be written in clear and
24 understandable language and include the following information:

1 1. The name and tribal affiliation of the Indian child;

2 2. A copy of the petition by which the proceeding was
3 initiated;

4 3. A statement of the rights of the biological parents or
5 Indian custodians, and the Indian tribe:

6 a. to intervene in the proceeding,

7 b. to petition the court to transfer the proceeding to
8 the tribal court of the Indian child, and

9 c. to request an additional twenty (20) days from receipt
10 of notice to prepare for the proceeding; further
11 extensions of time may be granted with court approval;

12 4. A statement of the potential legal consequences of an
13 adjudication on the future custodial rights of the parents or Indian
14 custodians;

15 5. A statement that if the parents or Indian custodians are
16 unable to afford counsel, counsel will be appointed to represent
17 them; and

18 6. A statement that tribal officials should keep confidential
19 the information contained in the notice.

20 B. Notice of review hearings shall be sent, via regular first-
21 class mail, to the tribe of the Indian child unless the tribe is
22 present at the time the review hearing is set and consents to the
23 date of the review. A tribe's right to notice under this section is
24 not dependent on intervention into the case. The notice shall be

1 evidenced by filing a certificate of mailing prior to the review
2 hearing.

3 SECTION 2. This act shall become effective November 1, 2017.

4 Passed the Senate the 21st day of March, 2017.

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6 Presiding Officer of the Senate

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8 Passed the House of Representatives the ____ day of _____,
9 2017.

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11 Presiding Officer of the House
12 of Representatives
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