

An Act

ENROLLED SENATE
BILL NO. 322

By: Paxton of the Senate

and

Biggs of the House

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

SUBJECT: Indian child custody proceedings

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

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

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

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

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

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

- a. to intervene in the proceeding,
- b. to petition the court to transfer the proceeding to the tribal court of the Indian child, and
- c. to request an additional twenty (20) days from receipt of notice to prepare for the proceeding; further extensions of time may be granted with court approval;

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

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

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

B. Notice of review hearings shall be sent, via regular first-class mail, to the tribe of the Indian child unless the tribe is present at the time the review hearing is set and consents to the date of the review. A tribe's right to notice under this section is not dependent on intervention into the case. The notice shall be evidenced by filing a certificate of mailing prior to the review hearing.

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

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

Presiding Officer of the Senate

Passed the House of Representatives the 13th day of April, 2017.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____