

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2858

			Of the printed Bill
Page	<u>8</u>	Section	<u>1</u>
		Lines	<u>17</u>
			Of the Engrossed Bill

By inserting after ";" the word "and"

And Page 8, Section 1, Line 21 by inserting after "agency" the words "or federally recognized tribe"

And Page 8, Section 1, Line 21 by inserting after "The" the words "administrative order or"

And Page 8, Section 1, Line 22 through Page 9, Section 1, Line 6 by deleting all of the underlined language beginning with ";" through "court" on Line 6

And Page 10, Section 2, Line 20 through Page 15, Section 2, Line 19 by removing Section 2 of the bill in its entirety and inserting in lieu thereof Section 2 [see attached]

And Page 17, Section 3, Line 4, by inserting after the word "agency" the words "or federally recognized tribe"

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Tammy West

Adopted: _____

Reading Clerk

1 "SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-4-203,
2 as amended by Section 2, Chapter 173, O.S.L. 2015 (10A O.S. Supp.
3 2017, Section 1-4-203), is amended to read as follows:

4 Section 1-4-203. A. Within the next two (2) judicial days
5 following the child being taken into protective or emergency
6 custody, the court shall conduct an emergency custody hearing. At
7 the hearing, information may be provided to the court in the form of
8 oral or written reports, affidavits or testimony. Any information
9 having probative value may be received by the court regardless of
10 its admissibility under the Oklahoma Evidence Code. At the hearing
11 the court shall:

12 1. Determine whether facts exist that are sufficient to
13 demonstrate to the court there is reasonable suspicion that the
14 child is in need of immediate protection due to abuse or neglect, or
15 that the circumstances or surroundings of the child are such that
16 continuation of the child in the child's home or in the care or
17 custody of the parent, legal guardian, or custodian would present an
18 imminent danger to the child;

19 2. Advise the parent, legal guardian, or custodian of the child
20 in writing of the following:

- 21 a. any right of the parent, legal guardian, or custodian
22 to testify and present evidence at court hearings,
23 b. the right to be represented by an attorney at court
24 hearings,

- c. the consequences of failure to attend any hearings which may be held, ~~and~~
- d. the right to appeal and procedure for appealing an order of the court, and
- e. the right to make a voluntary adoption placement of the child with a licensed child-placing agency;

3. Determine custody of the child and order one of the following:

- a. release of the child to the custody of the child's parent, legal guardian, or custodian from whom the child was removed under any conditions the court finds reasonably necessary to protect the health, safety, or welfare of the child, or
- b. placement of the child in the custody of a responsible adult or licensed child-placing agency under any conditions the court finds reasonably necessary to protect the health, safety, or welfare of the child, or
- c. whether to continue the child in or to place the child into the emergency custody of the Department of Human Services;

4. Order the parent, legal guardian, or custodian to complete an affidavit listing the names, addresses, and phone numbers of any parent, whether known or alleged, grandparent, aunt, uncle, brother,

1 sister, half-sibling, and first cousin and any comments concerning
2 the appropriateness of the potential placement of the child with the
3 relative. If no such relative exists, the court shall require the
4 parent, legal guardian, or custodian to list any other relatives or
5 persons with whom the child has had a substantial relationship or
6 who may be a suitable placement for the child;

7 5. Direct the parent, legal guardian, or custodian to furnish
8 the Department with a copy of the child's birth certificate within
9 fifteen (15) days from the hearing if a petition is filed, unless
10 otherwise extended by the court; ~~and~~

11 6. Direct the licensed child-placing agency or federally
12 recognized tribe to provide a copy of the preliminary home study of
13 the prospective adoptive parents from the licensed child-placing
14 agency to the parent. The preliminary home study shall be kept
15 confidential in the court file and in the Department file;

16 7. Prior to the court ordering a transfer of custody, the
17 parent shall be given the opportunity to consult with an attorney,
18 and if the parent is unable to afford an attorney, the court shall
19 appoint one. If, after the parent consults with an attorney, the
20 parent decides to proceed with the voluntary adoption placement and
21 the court determines that the prospective adoptive parents are
22 qualified to adopt the child and the adoption is in the best
23 interests of the child, the court shall immediately order the
24 transfer of custody of the child to the licensed child-placing

1 agency or federally recognized tribe. The licensed child-placing
2 agency or federally recognized tribe shall provide the court and the
3 Department with certified copies of the consent and termination
4 orders of the parent within thirty (30) days of the termination
5 hearing. Upon receipt of the orders, the Department and the court
6 may close their files; and

7 8. In accordance with the safety or well-being of any child,
8 determine whether reasonable efforts have been made to:

- 9 a. place siblings, who have been removed, together in the
10 same foster care, guardianship, or adoptive placement,
11 and
12 b. provide for frequent visitation or other ongoing
13 interaction in the case of siblings who have been
14 removed and who are not placed together.

15 B. The office of the State Court Administrator shall create an
16 affidavit form and make it available to each court responsible for
17 conducting emergency custody hearings. The affidavit form shall
18 contain a notice to the parent, legal guardian, or custodian that
19 failure to identify a parent or relative in a timely manner may
20 result in the child being permanently placed outside of the home of
21 the child's parent or relative. The affidavit form shall also
22 advise the parent, legal guardian, or custodian of the penalties
23 associated with perjury and contempt of court. The original
24 completed affidavit shall be filed with the court clerk no later

1 than five (5) days after the hearing or as otherwise directed by the
2 court and a copy shall be provided to the Department.

3 C. 1. The Department shall, within thirty (30) days of the
4 removal of a child, exercise due diligence to identify relatives.
5 Notice shall be provided by the Department to the following adult
6 relatives: all grandparents, all parents of a sibling of the child,
7 where the parent has legal custody of the sibling, and other adult
8 relatives of the child, including relatives suggested by the
9 parents, as the court directs. The notice shall advise the
10 relatives:

11 a. the child has been or is being removed from the
12 custody of the parent or parents of the child,

13 b. of the options under applicable law to participate in
14 the care and placement of the child, including any
15 options that may be lost by failing to respond to the
16 notice, and

17 c. of the requirements to become a foster family home and
18 the additional services and supports available for
19 children placed in the home.

20 2. Relatives shall not be notified if notification would not be
21 in the best interests of a child due to past or current family or
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1 domestic violence. The Department may promulgate rules in
2 furtherance of the provisions of this subsection."
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