

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 56th Legislature (2017)

4   ENGROSSED SENATE  
5   BILL NO. 322

By: Paxton of the Senate

and

Biggs of the House

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

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

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

18       Section 40.4.   A.   In all Indian child custody proceedings of  
19       the Oklahoma Indian Child Welfare Act, including voluntary court  
20       proceedings and review hearings, the court shall ensure that the  
21       district attorney or other person initiating the proceeding shall  
22       send notice to the parents or to the Indian custodians, if any, and  
23       to the tribe that is or may be the tribe of the Indian child, and to  
24       the appropriate Bureau of Indian Affairs area office, by certified

1 mail return receipt requested, except as provided by subsection B of  
2 this section. The notice shall be written in clear and

3 understandable language and include the following information:

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

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

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

9 a. to intervene in the proceeding,

10 b. to petition the court to transfer the proceeding to  
11 the tribal court of the Indian child, and

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

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

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

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

23 B. Notice of review hearings shall be sent, via regular first-  
24 class mail, to the tribe of the Indian child unless the tribe is

1 present at the time the review hearing is set and consents to the  
2 date of the review. A tribe's right to notice under this section is  
3 not dependent on intervention into the case. The notice shall be  
4 evidenced by filing a certificate of mailing prior to the review  
5 hearing.

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

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8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL AND  
9 ENVIRONMENTAL, dated 04/04/2017 - DO PASS.  
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