

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 322

By: Paxton

AS INTRODUCED

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.

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. 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. 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;

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

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

5            a. to intervene in the proceeding,

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

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

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

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

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

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