

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1783

By: Garvin

AS INTRODUCED

An Act relating to child custody; amending 10A O.S. 2021, Section 1-4-204, which relates to placement preferences; excusing placement with certain relative; providing presumption for best interest of the child; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2021, Section 1-4-204, is amended to read as follows:

Section 1-4-204. A. 1. When awarding custody or determining the placement of a child, a preference shall be given to relatives and persons who have a kinship relationship with the child. The Department of Human Services shall make diligent efforts to place the child with such persons and shall report to the court the efforts made to secure that placement. In cases where the Indian Child Welfare Act applies, the placement preferences of the act shall be followed. The Department shall verify applicability of the Indian Child Welfare Act within three (3) months of the child being taken into custody.

1 2. When two or more children are siblings, every reasonable
2 attempt shall be made to place the siblings in the same home, except
3 as provided in paragraph 3 of this subsection. In making a
4 permanent placement, siblings shall be placed in the same permanent
5 home or, if the siblings are separated, shall be allowed contact or
6 visitation with each other; provided, however, the best interests of
7 each sibling shall be the standard for determining the appropriate
8 custodian or placement as well as the contact and visitation with
9 the other siblings.

10 3. Siblings may be separated if the court and the Department
11 find that placement of siblings together would be contrary to the
12 safety or well-being of any of the siblings, and:

13 a. one sibling has resided in a foster family home for
14 six (6) or more months and has established a
15 relationship with the foster family,

16 b. the siblings have never resided in the same home
17 together,

18 c. there is no established relationship between the
19 siblings, or

20 d. it is in the best interests of the child to remain in
21 the current foster family home placement.

22 B. In determining the appropriate custodian or placement for a
23 child pursuant to subsection A of this section, the court and the
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1 Department shall consider, but not be limited to, the following
2 factors:

3 1. The ability of the person being considered to provide safety
4 for the child, including a willingness to cooperate with any
5 restrictions placed on contact between the child and others, and to
6 prevent others from influencing the child in regard to the
7 allegations of the case;

8 2. The ability of the person being considered to support the
9 efforts of the Department to implement the permanent plan for the
10 child;

11 3. The ability of the person being considered to meet the
12 child's physical, emotional, and educational needs, including the
13 child's need to continue in the same school or educational
14 placement;

15 4. The person who has the closest existing personal
16 relationship with the child if more than one person requests
17 placement of the child pursuant to this section;

18 5. The ability of the person being considered to provide a
19 placement for the child's sibling who is also in need of placement
20 or continuation in substitute care;

21 6. The wishes of the parent, the relative, and the child, if
22 appropriate;

1 7. The ability of the person being considered to care for the
2 child as long as is necessary and to provide a permanent home if
3 necessary; and

4 8. The best interests of the child.

5 C. 1. The Department of Human Services shall consider
6 placement with a relative without delay and shall identify relatives
7 of the child and notify them of the need for temporary placement and
8 the possibility of the need for a permanent out-of-home placement of
9 the child. The relative search shall be reasonable and
10 comprehensive in scope and may continue until a fit and willing
11 relative is identified; however, a nationwide relative search shall
12 be conducted by the Department within three (3) months of the child
13 being taken into custody.

14 2. The relatives shall be notified of the need to keep the
15 Department informed of their current address in order to receive
16 notice when a permanent out-of-home placement is being sought for
17 the child. A relative who fails to provide a current address may
18 forfeit the right to be considered for the child's permanent out-of-
19 home placement.

20 3. A decision by a relative to not participate in the child's
21 placement planning at the beginning of the case or to cooperate with
22 the Department to expedite procedures for placement of the child in
23 the child's home may affect whether that relative will be considered
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1 for permanent placement of the child if the child cannot be safely
2 returned to the home of the child's parent or parents.

3 4. If a relative entitled to notice pursuant to this section
4 fails, within six (6) months from the date he or she receives the
5 required notice, to demonstrate an interest in and willingness to
6 provide a permanent home for a child, the court may excuse the
7 Department from considering placement with that relative.

8 D. The Department, while assessing the relatives for the
9 possibility of placement, shall be authorized to disclose to the
10 relative, as appropriate, the fact that the child is in custody, the
11 alleged reasons for the custody, and the projected date for the
12 child's return home or other permanent placement as well as any
13 other confidential information deemed necessary and appropriate to
14 secure a suitable placement.

15 E. Following an initial placement with a relative, whenever a
16 new placement of the child is made, consideration for placement
17 shall again be given as described in this section to approved
18 relatives who will fulfill the reunification or permanent plan
19 requirements of the child. The Department shall consider whether
20 the relative has established and maintained a relationship with the
21 child.

22 F. If the child is not placed with a relative who has been
23 considered for placement pursuant to this section, the Department
24 shall advise the court, in writing, the reasons why that relative

1 was denied and the written reasons shall be made a part of the court
2 record.

3 G. If the court finds that the child has been living in a
4 stable home environment with his or her current caregivers for the
5 past twelve (12) months and that removal of the child from such
6 caregivers would be detrimental to the child's emotional well-being,
7 the court may presume that continuation of the child's placement
8 with his or her current caregivers is in the child's best interests.

9 H. The provisions of this section shall apply to all custody or
10 placement proceedings which concern a child alleged or adjudicated
11 to be deprived including, but not limited to, guardianship and
12 adoption proceedings.

13 SECTION 2. This act shall become effective November 1, 2022.

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