

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 SENATE BILL 1717

By: Prieto

5 AS INTRODUCED

6 An Act relating to child custody; amending 10A O.S.
7 2021, Section 1-4-201, which relates to circumstances
8 authorizing taking a child into custody; modifying
9 certain evidentiary standard for taking child into
protective custody; updating statutory language; and
providing an effective date.

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

12 SECTION 1. AMENDATORY 10A O.S. 2021, Section 1-4-201, is
13 amended to read as follows:

14 Section 1-4-201. A. Pursuant to the provisions of this
15 section, a child may be taken into custody prior to the filing of a
16 petition:

17 1. By a peace officer or employee of the court, without a court
18 order if the officer or employee has ~~reasonable suspicion~~ clear and
19 convincing evidence that:

20 a. the child is in need of immediate protection due to an
21 imminent safety threat,

22 b. the circumstances or surroundings of the child are
23 such that continuation in the child's home or in the
24 care or custody of the parent, legal guardian, or

custodian would present an imminent safety threat to the child, or

- c. the child, including a child with a disability, is unable to communicate effectively about abuse, neglect or other safety threat or is in a vulnerable position due to the inability to communicate effectively and the child is in need of immediate protection due to an imminent safety threat; ~~or~~

2. By an order of the district court issued upon the application of the office of the district attorney. The application presented by the district attorney may be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that a continuation of the child in the home or with the caretaker of the child is contrary to the child's welfare and there is ~~reasonable suspicion~~ clear and convincing evidence that:

- a. the child is in need of immediate protection due to an imminent safety threat,
- b. the circumstances or surroundings of the child are such that continuation in the child's home or in the care or custody of the parent, legal guardian, or custodian would present an imminent safety threat to the child, or

- c. the child, including a child with a disability, is unable to communicate effectively about abuse, neglect or other safety threat or is in a vulnerable position due to the inability to communicate effectively and the child is in need of immediate protection due to an imminent safety threat.

The application and order may be verbal and upon being advised by the district attorney or the court of the verbal order, law enforcement shall act on such order. If verbal, the district attorney shall submit a written application and proposed order to the district court within one (1) judicial day from the issuance of the verbal order. Upon approval, the application and order shall be filed with the court clerk; or

3. By order of the district court when the child is in need of medical or behavioral health treatment in order to protect the health, safety, or welfare of the child and the parent, legal guardian, or custodian of the child is unwilling or unavailable to consent to such medical or behavioral health treatment or other action, the court shall specifically include in the emergency order authorization for such medical or behavioral health evaluation or treatment as it deems necessary.

B. 1. By January 1, 2010, the Department in consultation with law enforcement and the district courts shall develop and implement a system for joint response when a child is taken into protective

1 custody by a peace officer pursuant to paragraph 1 of subsection A
2 of this section. The system shall include:

- 3 a. designation of persons to serve as contact points for
4 peace officers, including at least one backup contact
5 for each initial contact point,
- 6 b. a protocol for conducting a safety evaluation at the
7 scene where protective custody is assumed to determine
8 whether the child faces an imminent safety threat and,
9 if so, whether the child can be protected through
10 placement with relatives or others without the
11 Department assuming emergency custody,
- 12 c. the development of reception centers for accepting
13 protective custody of children from peace officers
14 when the Department is unable to respond at the scene
15 within a reasonable time period,
- 16 d. a protocol for conducting a safety evaluation at the
17 reception center within twenty-three (23) hours of the
18 assumption of protective custody of a child to
19 determine whether the child faces an imminent safety
20 threat and, if so, whether the child can be protected
21 through placement with relatives or others without the
22 Department assuming emergency custody, and
- 23 e. a protocol, when the child cannot safely be left in
24 the home, for transporting a child to the home of a

relative, kinship care home, an emergency foster care home, a shelter, or any other site at which the Department believes the child can be protected, provided that the Department shall utilize a shelter only when the home of a relative, kinship care home, or emergency foster care home is unavailable or inappropriate.

2. Beginning January 1, 2010, no child taken into protective custody under paragraph 1 of subsection A of this section shall be considered to be in the emergency custody of the Department until the Department has completed a safety evaluation and has concluded that the child faces an imminent safety threat and the court has issued an order for emergency custody.

3. If the safety evaluation performed by the Department of a child taken into protective custody under paragraph 1 of subsection A of this section indicates that the child does not face an imminent safety threat, the Department shall restore the child to the custody and control of the parent, legal guardian, or custodian of the child.

C. When an order issued by the district court pursuant to subsection A of this section places the child in the emergency custody of the Department of Human Services pending further hearing specified by Section 1-4-203 of this title, an employee of the

1 Department may execute such order and physically take the child into
2 custody in the following limited circumstance:

3 1. The child is located in a hospital, school, or day care
4 facility; and

5 2. It is believed that assumption of the custody of the child
6 from the facility can occur without risk to the child or the
7 employee of the Department.

8 Otherwise, the order shall be executed and the child taken into
9 custody by a peace officer or employee of the court.

10 D. The court shall not enter a prepetition emergency custody
11 order removing a child from the home of the child unless the court
12 makes a determination:

13 1. That an imminent safety threat exists and continuation in
14 the home of the child is contrary to the welfare of the child; and

15 2. Whether reasonable efforts have been made to prevent the
16 removal of the child from the child's home; or

17 3. An absence of efforts to prevent the removal of the child
18 from the home of the child is reasonable because the removal is due
19 to an emergency and is for the purpose of providing for the safety
20 and welfare of the child.

21 E. Whenever a child is taken into custody pursuant to this
22 section:

23 1. The child may be taken to a kinship care home or an
24 emergency foster care home designated by the Department, or if no

1 such home is available, to a children's shelter located within the
2 county where protective or emergency custody is assumed or, if there
3 is no children's shelter within the county, to a children's shelter
4 designated by the court;

5 2. Unless otherwise provided by administrative order entered
6 pursuant to subsection F of this section, the child may be taken
7 before a judge of the district court or the court may be contacted
8 verbally for the purpose of obtaining an order for emergency
9 custody. The court may place the child in the emergency custody of
10 the Department or some other suitable person or entity pending
11 further hearing specified by Section 1-4-203 of this title;

12 3. The child may be taken directly to or retained in a health
13 care facility for medical treatment, when the child is in need of
14 emergency medical treatment to maintain the child's health, or as
15 otherwise directed by the court; or

16 4. The child may be taken directly to or retained in a
17 behavioral health treatment facility for evaluation or inpatient
18 treatment, in accordance with the provisions of the Inpatient Mental
19 Health and Substance Abuse Treatment of Minors Act, when the child
20 is in need of behavioral health care to preserve the child's health,
21 or as otherwise directed by the court; and

22 5. Unless otherwise provided by administrative order entered
23 pursuant to subsection F of this section, the district court of the
24 county where the custody is assumed shall be immediately notified,

1 verbally or in writing, that the child has been taken into custody.
2 If notification is verbal, written notification shall be sent to the
3 district court within one (1) judicial day of such verbal
4 notification.

5 F. The court may provide, in an administrative order issued
6 pursuant to this section, for the disposition of children taken into
7 custody and notification of the assumption of such custody.

8 1. Such order or rule shall be consistent with the provisions
9 of subsection E of this section and may include a process for
10 release of a child prior to an emergency custody hearing. The
11 administrative order shall not include a provision to modify
12 protective custody of a child to emergency custody of the Department
13 upon admission of a child to a shelter; ~~and~~.

14 2. The administrative order may require joint training of peace
15 officers and Department staff deemed necessary by the court to carry
16 out the provisions of the administrative order.

17 G. No child taken into custody pursuant to this section shall
18 be confined in any jail, adult lockup, or adult or juvenile
19 detention facility.

20 H. When a determination is made by the Department that there is
21 a significant risk of abuse or neglect, but there is not an imminent
22 safety threat to the child, the Department may recommend a court-
23 supervised and Department-monitored in-home placement. The
24 Department shall assist the family in obtaining the services

1 necessary to maintain the in-home care and correct the conditions
2 leading to the risk determination.

3 I. Any peace officer, employee of the court, or employee of the
4 Department is authorized to transport a child when acting pursuant
5 to this section. Such persons and any other person acting under the
6 direction of the court, who in good faith transports any child or
7 carries out duties pursuant to this section, shall be immune from
8 civil or criminal liability that may result by reason of such act.
9 For purposes of any proceedings, civil or criminal, the good faith
10 of any such person shall be presumed. This provision shall not
11 apply to damage or injury caused by the willful, wanton or gross
12 negligence or misconduct of a person.

13 J. A parent or person responsible for the child who is arrested
14 on a charge or warrant other than child abuse or neglect or an act
15 of child endangerment may designate another person to take physical
16 custody of the child. Upon this request, the peace officer may
17 release the child to the physical custody of the designated person.

18 SECTION 2. This act shall become effective November 1, 2026.

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