

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1752

By: Jett

7 AS INTRODUCED

8 An Act relating to emergency custody of children;
9 amending 10A O.S. 2021, Section 1-4-201, which
10 relates to circumstances authorizing taking of a
11 child into custody; requiring the state to notify
counsel prior to requesting emergency order in
certain circumstance; and providing an effective
date.

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

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

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

20 1. By a peace officer or employee of the court, without a court
21 order if the officer or employee has reasonable suspicion that:

22 a. the child is in need of immediate protection due to an
23 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; **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 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. If a parent, legal guardian, or custodian of the child is represented by counsel and such representation is known to the state, the state shall notify the counsel prior to presenting a request for an emergency order and provide a reasonable opportunity to appear. Any affidavit provided under this section shall include a sworn statement as to representation. Upon approval, the

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

1 consent to such medical or behavioral health treatment or other
2 action, the court shall specifically include in the emergency order
3 authorization for such medical or behavioral health evaluation or
4 treatment as it deems necessary.

5 B. 1. By January 1, 2010, the Department in consultation with
6 law enforcement and the district courts shall develop and implement
7 a system for joint response when a child is taken into protective
8 custody by a peace officer pursuant to paragraph 1 of subsection A
9 of this section. The system shall include:

- 10 a. designation of persons to serve as contact points for
11 peace officers, including at least one backup contact
12 for each initial contact point,
- 13 b. a protocol for conducting a safety evaluation at the
14 scene where protective custody is assumed to determine
15 whether the child faces an imminent safety threat and,
16 if so, whether the child can be protected through
17 placement with relatives or others without the
18 Department assuming emergency custody,
- 19 c. the development of reception centers for accepting
20 protective custody of children from peace officers
21 when the Department is unable to respond at the scene
22 within a reasonable time period,
- 23 d. a protocol for conducting a safety evaluation at the
24 reception center within twenty-three (23) hours of the

assumption of protective custody of a child to determine whether the child faces an imminent safety threat and, if so, whether the child can be protected through placement with relatives or others without the Department assuming emergency custody, and

e. a protocol, when the child cannot safely be left in 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

1 and control of the parent, legal guardian, or custodian of the
2 child.

3 C. When an order issued by the district court pursuant to
4 subsection A of this section places the child in the emergency
5 custody of the Department of Human Services pending further hearing
6 specified by Section 1-4-203 of this title, an employee of the
7 Department may execute such order and physically take the child into
8 custody in the following limited circumstance:

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

11 2. It is believed that assumption of the custody of the child
12 from the facility can occur without risk to the child or the
13 employee of the Department.

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

16 D. The court shall not enter a prepetition emergency custody
17 order removing a child from the home of the child unless the court
18 makes a determination:

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

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

23 3. An absence of efforts to prevent the removal of the child
24 from the home of the child is reasonable because the removal is due

1 to an emergency and is for the purpose of providing for the safety
2 and welfare of the child.

3 E. Whenever a child is taken into custody pursuant to this
4 section:

5 1. The child may be taken to a kinship care home or an
6 emergency foster care home designated by the Department, or if no
7 such home is available, to a children's shelter located within the
8 county where protective or emergency custody is assumed or, if there
9 is no children's shelter within the county, to a children's shelter
10 designated by the court;

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

18 3. The child may be taken directly to or retained in a health
19 care facility for medical treatment, when the child is in need of
20 emergency medical treatment to maintain the child's health, or as
21 otherwise directed by the court; ~~or~~

22 4. The child may be taken directly to or retained in a
23 behavioral health treatment facility for evaluation or inpatient
24 treatment, in accordance with the provisions of the Inpatient Mental

1 Health and Substance Abuse Treatment of Minors Act, when the child
2 is in need of behavioral health care to preserve the child's health,
3 or as otherwise directed by the court; and

4 5. Unless otherwise provided by administrative order entered
5 pursuant to subsection F of this section, the district court of the
6 county where the custody is assumed shall be immediately notified,
7 verbally or in writing, that the child has been taken into custody.
8 If notification is verbal, written notification shall be sent to the
9 district court within one (1) judicial day of such verbal
10 notification.

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

14 1. Such order or rule shall be consistent with the provisions
15 of subsection E of this section and may include a process for
16 release of a child prior to an emergency custody hearing. The
17 administrative order shall not include a provision to modify
18 protective custody of a child to emergency custody of the Department
19 upon admission of a child to a shelter; and

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

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

4 H. When a determination is made by the Department that there is
5 a significant risk of abuse or neglect, but there is not an imminent
6 safety threat to the child, the Department may recommend a court-
7 supervised and Department-monitored in-home placement. The
8 Department shall assist the family in obtaining the services
9 necessary to maintain the in-home care and correct the conditions
10 leading to the risk determination.

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

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

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

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