

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1773

By: Jett

6 AS INTRODUCED

7 An Act relating to emergency custody of children;
8 amending 10A O.S. 2021, Section 1-4-201, which
9 relates to circumstances authorizing taking a child
10 into custody; creating misdemeanor offense for filing
11 of affidavit containing a false statement;
12 establishing penalties; authorizing certain civil
13 action; authorizing party to request certain hearing;
14 authorizing party to use certain evidence to attack
15 credibility of witness; updating statutory
16 references; and providing an effective date.

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

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

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

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

25 a. the child is in need of immediate protection due to an
26 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. 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.

1 B. 1. Any person who knowingly or wantonly provides a false
2 statement in an affidavit pursuant to this section shall, upon
3 conviction, be guilty of a misdemeanor punishable by a fine not more
4 than Five Hundred Dollars (\$500.00), by imprisonment in the county
5 jail not more than three (3) months, or by both such fine and
6 imprisonment.

7 2. Such person shall be subject to a civil action for damages
8 resulting from his or her false statement.

9 3. Any party may request a hearing to determine if a false
10 statement has been provided to the court. If a false statement has
11 been provided, the state shall notify all parties in the case of the
12 false statement and the person who provided the false statement to
13 the court. Such notice may be admitted as evidence in any trial or
14 hearing to attack the credibility of the person who gave the false
15 statement.

16 C. 1. By January 1, 2010, the Department of Human Services in
17 consultation with law enforcement and the district courts shall
18 develop and implement a system for joint response when a child is
19 taken into protective custody by a peace officer pursuant to
20 paragraph 1 of subsection A of this section. The system shall
21 include:

22 a. designation of persons to serve as contact points for
23 peace officers, including at least one backup contact
24 for each initial contact point,

- b. a protocol for conducting a safety evaluation at the scene where protective custody is assumed 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,
- c. the development of reception centers for accepting protective custody of children from peace officers when the Department is unable to respond at the scene within a reasonable time period,
- d. a protocol for conducting a safety evaluation at the 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 and control of the parent, legal guardian, or custodian of the child.

C. D. 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 Department may execute such order and physically take the child into custody in the following limited circumstance:

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

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

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

6 D. E. The court shall not enter a prepetition emergency custody
7 order removing a child from the home of the child unless the court
8 makes a determination:

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

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

13 3. An absence of efforts to prevent the removal of the child
14 from the home of the child is reasonable because the removal is due
15 to an emergency and is for the purpose of providing for the safety
16 and welfare of the child.

17 E. F. Whenever a child is taken into custody pursuant to this
18 section:

19 1. The child may be taken to a kinship care home or an
20 emergency foster care home designated by the Department, or if no
21 such home is available, to a children's shelter located within the
22 county where protective or emergency custody is assumed or, if there
23 is no children's shelter within the county, to a children's shelter
24 designated by the court;

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

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

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

18 5. Unless otherwise provided by administrative order entered
19 pursuant to subsection ~~F~~ G of this section, the district court of
20 the county where the custody is assumed shall be immediately
21 notified, verbally or in writing, that the child has been taken into
22 custody. If notification is verbal, written notification shall be
23 sent to the district court within one (1) judicial day of such
24 verbal notification.

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

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

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

13 G. H. No child taken into custody pursuant to this section
14 shall be confined in any jail, adult lockup, or adult or juvenile
15 detention facility.

16 H. I. When a determination is made by the Department that there
17 is a significant risk of abuse or neglect, but there is not an
18 imminent safety threat to the child, the Department may recommend a
19 court-supervised and Department-monitored in-home placement. The
20 Department shall assist the family in obtaining the services
21 necessary to maintain the in-home care and correct the conditions
22 leading to the risk determination.

23 I. J. Any peace officer, employee of the court, or employee of
24 the Department is authorized to transport a child when acting

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

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

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

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