

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1781

By: Scott

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5  
6 AS INTRODUCED

7 An Act relating to child placement; amending 10A O.S.  
8 2011, Section 1-4-204, as last amended by Section 1,  
9 Chapter 37, O.S.L. 2019 (10A O.S. Supp. 2019, Section  
10 1-4-204), which relates to placement preferences;  
11 excusing placement with certain relative; providing  
12 presumption for best interest of the child; and  
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-204, as  
16 last amended by Section 1, Chapter 37, O.S.L. 2019 (10A O.S. Supp.  
17 2019, Section 1-4-204), is amended to read as follows:

18 Section 1-4-204. A. 1. When awarding custody or determining  
19 the placement of a child, a preference shall be given to relatives  
20 and persons who have a kinship relationship with the child. The  
21 Department of Human Services shall make diligent efforts to place  
22 the child with such persons and shall report to the court the  
23 efforts made to secure that placement. In cases where the Indian  
24 Child Welfare Act applies, the placement preferences of the act  
shall be followed. The Department shall verify applicability of the

1 Indian Child Welfare Act within three (3) months of the child being  
2 taken into custody.

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

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

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

18 b. the siblings have never resided in the same home  
19 together,

20 c. there is no established relationship between the  
21 siblings, or

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

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

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

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

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

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

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

23 6. The wishes of the parent, the relative, and the child, if  
24 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, 2020.

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