

1 **SENATE FLOOR VERSION**

2 April 2, 2019

3 ENGROSSED HOUSE
4 BILL NO. 1074

5 By: Hill, Fetgatter, Bennett,
6 Lawson, Mize, Pae,
7 Randleman, Smith,
8 Hasenbeck, Grego,
9 Rosecrants, Fugate, Stark
10 and West (Josh) of the
11 House

12 and

13 Scott of the Senate

14 An Act relating to children; amending 10A O.S. 2011,
15 Section 1-4-204, as last amended by Section 3,
16 Chapter 342, O.S.L. 2017 (10A O.S. Supp. 2018,
17 Section 1-4-204), which relates to determining
18 placement for a child in custody; requiring
19 Department of Human Services to verify applicability
20 of certain act; providing deadline for verification;
21 directing Department to conduct nationwide relative
22 search for placement purposes; setting time frame for
23 search; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-204, as
last amended by Section 3, Chapter 342, O.S.L. 2017 (10A O.S. Supp.
2018, 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

1 Department of Human Services shall make diligent efforts to place
2 the child with such persons and shall report to the court the
3 efforts made to secure that placement. In cases where the Indian
4 Child Welfare Act applies, the placement preferences of the act
5 shall be followed. The Department shall verify applicability of the
6 Indian Child Welfare Act within three (3) months of the child being
7 taken into custody.

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

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

- 20 a. one sibling has resided in a foster family home for
21 six (6) or more months and has established a
22 relationship with the foster family,
23 b. the siblings have never resided in the same home
24 together,

1 c. there is no established relationship between the
2 siblings, or

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

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

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

14 2. The ability of the person being considered to support the
15 efforts of the Department to implement the permanent plan for the
16 child;

17 3. The ability of the person being considered to meet the
18 child's physical, emotional, and educational needs, including the
19 child's need to continue in the same school or educational
20 placement;

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

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

4 6. The wishes of the parent, the relative, and the child, if
5 appropriate;

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

9 8. The best interests of the child.

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

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

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

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

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

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

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

3 G. The provisions of this section shall apply to all custody or
4 placement proceedings which concern a child alleged or adjudicated
5 to be deprived including, but not limited to, guardianship and
6 adoption proceedings.

7 SECTION 2. This act shall become effective November 1, 2019.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
9 April 2, 2019 - DO PASS

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