

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1074

By: Hill

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5
6 AS INTRODUCED

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

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

18 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-204, as
19 last amended by Section 3, Chapter 342, O.S.L. 2017 (10A O.S. Supp.
20 2018, Section 1-4-204), is amended to read as follows:

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

1 Child Welfare Act applies, the placement preferences of the act
2 shall be followed. The Department shall verify applicability of the
3 Indian Child Welfare Act within three (3) months of the child being
4 taken into custody.

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

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

- 17 a. one sibling has resided in a foster family home for
18 six (6) or more months and has established a
19 relationship with the foster family,
20 b. the siblings have never resided in the same home
21 together,
22 c. there is no established relationship between the
23 siblings, or
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1 d. it is in the best interests of the child to remain in
2 the current foster family home placement.

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

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

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

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

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

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

1 6. The wishes of the parent, the relative, and the child, if
2 appropriate;

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

6 8. The best interests of the child.

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

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

22 3. A decision by a relative to not participate in the child's
23 placement planning at the beginning of the case or to cooperate with
24 the Department to expedite procedures for placement of the child in

1 the child's home may affect whether that relative will be considered
2 for permanent placement of the child if the child cannot be safely
3 returned to the home of the child's parent or parents.

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

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

18 F. If the child is not placed with a relative who has been
19 considered for placement pursuant to this section, the Department
20 shall advise the court, in writing, the reasons why that relative
21 was denied and the written reasons shall be made a part of the court
22 record.

23 G. The provisions of this section shall apply to all custody or
24 placement proceedings which concern a child alleged or adjudicated

1 to be deprived including, but not limited to, guardianship and
2 adoption proceedings.

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

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