

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1778 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Danny Williams _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1778

By: Williams

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to children; amending 10A O.S. 2021,
9 Sections 1-4-502, 1-4-704, and 1-4-811, which relate
10 to the Oklahoma Children's Code; providing procedures
11 to demand jury trial; providing that jury trial is
12 waived in certain circumstances; requiring permanency
13 hearing procedures; providing factors the court shall
14 take into consideration; providing that certain
15 factors exist for reunification; amending 12 O.S.
16 2021, Section 591, which relates to jury trials;
17 providing when jury trial may be waived; and
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 10A O.S. 2021, Section 1-4-502, is
21 amended to read as follows:

22 Section 1-4-502. A. A parent entitled to service of summons,
23 the state or a child shall have the right to demand a trial by jury
24 on the sole issue of termination of parental rights only in the
following circumstances:

1 1. When the initial petition to determine if a child is
2 deprived also contains a request for termination of parental rights
3 in which case the court shall determine if the child should be
4 adjudicated deprived and, if so, the jury shall determine if
5 parental rights should be terminated; or

6 2. When, following a hearing in which the child is adjudicated
7 deprived, a request for termination of parental rights is filed by
8 the state or the child.

9 B. The demand for a jury trial shall be granted unless waived,
10 ~~or the court on its own motion may call a jury to try any~~
11 ~~termination of parental rights case.~~ The demand shall be in writing
12 and filed with the court no later than fifteen (15) days after being
13 served the notice described in subsection A of Section 1-4-905 of
14 this title. Such jury shall consist of six (6) persons. A party
15 who ~~requests a jury trial and~~ fails to file a written jury demand
16 within the prescribed time or who fails to appear in person for such
17 trial, ~~after proper notice and without good cause,~~ may shall be
18 deemed by the court to have waived the right to such jury trial, and
19 the termination of parental rights shall be by nonjury trial unless
20 another party demands a jury trial or the court determines on its
21 own motion to try the case to a jury.

22 SECTION 2. AMENDATORY 10A O.S. 2021, Section 1-4-704, is
23 amended to read as follows:

24

1 Section 1-4-704. A. The Department of Human Services or
2 licensed child-placing agency shall prepare and maintain a written
3 individualized service plan for any child that has been adjudicated
4 to be a deprived child.

5 B. The plan shall be furnished to the court within thirty (30)
6 days after the adjudication of the child and shall be made available
7 to counsel for the parties and any applicable tribe by the
8 Department or the licensed child-placing agency having custody of
9 the child or responsibility for the supervision of the case.

10 C. 1. The individualized service plan shall be based upon a
11 comprehensive assessment and evaluation of the child and family and
12 shall be developed with the participation of the parent, legal
13 guardian, or legal custodian of the child, the attorney for the
14 child, the guardian ad litem for the child, if any, the child's
15 tribe, and the child, if appropriate. The health and safety of the
16 child shall be the paramount concern in the development of the plan.

17 2. If any part of the plan is disputed or not approved by the
18 court, an evidentiary hearing may be held and at its conclusion, the
19 court shall determine the content of the individualized service plan
20 in accord with the evidence presented and the best interests of the
21 child.

22 3. When approved by the court, each individualized service plan
23 shall be incorporated and made a part of the dispositional order of
24 the court.

1 4. The plan shall be signed by:

- 2 a. the parent or parents or legal guardian of the child,
- 3 b. the attorney for the parent or parents or legal
- 4 guardian of the child,
- 5 c. the child's attorney,
- 6 d. the guardian ad litem of the child, which may be a
- 7 court-appointed special advocate,
- 8 e. a representative of the child's tribe,
- 9 f. the child, if possible, and
- 10 g. the Department or other responsible agency.

11 D. 1. Every service plan prepared shall be individualized and
12 specific to each child and the family of the child and shall require
13 consideration of each child's and family's circumstances, including,
14 but not limited to, the parent's work schedule, mode of
15 transportation, and distance from the parent's place of living and
16 place of work to service providers.

17 2. The individualized service plan shall be written in simple
18 and clear English. If English is not the principal language of the
19 parent, legal guardian, or custodian of the child, and such person
20 is unable to read or comprehend the English language, to the extent
21 possible the plan shall be written in the principal language of the
22 person.

23 3. The individualized service plan may be modified based on
24 changing circumstances consistent with the correction of the

1 conditions that led to the adjudication of the child or other
2 conditions inconsistent with the health, safety, or welfare of the
3 child.

4 4. The individualized service plan shall be measurable,
5 realistic and consistent with the requirements of other court
6 orders.

7 E. The individualized service plan shall include, but not be
8 limited to:

9 1. A history of the child and family, including identification
10 of the problems or conditions leading to the deprived child
11 adjudication and the changes the parent or parents must make in
12 order for the child to safely remain in or return to the home;

13 2. Identification of time-limited reunification services to be
14 provided to the parent, legal guardian, or legal custodian,
15 stepparent, other adult person living in the home, or other family
16 members;

17 3. Identification of the specific services to be provided to
18 the child including, but not limited to, educational, vocational
19 educational, medical, drug or alcohol abuse treatment, or counseling
20 or other treatment services. The most recent available health and
21 educational records of the child shall be provided to the court upon
22 the court's request including:

23 a. the names and addresses of the child's health and
24 educational providers,

- b. the child's grade-level performance,
- c. the child's school record,
- d. a record of the child's immunizations,
- e. the child's known medical problems, including any known communicable diseases,
- f. the child's medications, and
- g. any other relevant health and education information;

4. A schedule of the frequency of services and the means by which delivery of the services will be assured or, as necessary, the proposed means by which support services or other assistance will be provided to enable the parent or the child to obtain the services;

5. The name of the social worker assigned to the case;

6. A projected date for the completion of the individualized service plan;

7. Performance criteria that will measure the progress of the child and family toward completion of the individualized service plan including, but not limited to, time frames for achieving objectives and addressing the identified problems;

8. The name and business address of the attorney representing the child;

9. If the child is placed outside the home, the individualized service plan shall further provide:

- a. the sequence and time frame for services to be provided to the parent, the child, and if the child is

1 placed in foster care, the foster parent, to
2 facilitate the child's return home or to another
3 permanent placement,

4 b. a description of the child's placement and explanation
5 about whether it is the least-restrictive placement
6 available and in as close proximity as possible to the
7 home of the parent or parents or legal guardian of the
8 child when the case plan is reunification, and how the
9 placement is consistent with the best interests and
10 special needs of the child,

11 c. a description of any services or resources that were
12 requested by the child or the parent or legal guardian
13 of the child since the date of the child's placement,
14 and whether those services or resources were provided
15 and if not, the basis for the denial of the services
16 or resources,

17 d. efforts to be made by the parent of the child and the
18 Department to enable the child to return to his or her
19 home,

20 e. a description of the transition planning for a
21 successful adulthood for a child age fourteen (14) or
22 older that includes how the following objectives will
23 be met:

24 (1) education, vocational, or employment planning,

- (2) health care planning and medical coverage,
- (3) transportation including, where appropriate, assisting the child in obtaining a driver license,
- (4) money management,
- (5) planning for housing,
- (6) social and recreational skills, and
- (7) establishing and maintaining connections with the child's family and community,

f. for a child in placement due solely or in part to the child's behavioral health or medical health issues, diagnostic and assessment information, specific services relating to meeting the applicable behavioral health and medical care needs of the child, and desired treatment outcomes,

g. a plan and schedule for regular and frequent visitation for the child and the child's parent or parents or legal guardian and siblings, unless the court has determined that visitation, even if supervised, would be harmful to the child, and

h. a plan for ensuring the educational stability of the child while in out-of-home placement, including:

- (1) assurances that the placement of the child considers the appropriateness of the current

1 educational setting and the proximity to the
2 school in which the child was enrolled at the
3 time of placement, and

4 (2) where appropriate, an assurance that the
5 Department has coordinated with appropriate local
6 educational agencies to ensure that the child
7 remains in the school in which the child was
8 enrolled at the time of placement, or

9 (3) if remaining in the school in which the child was
10 enrolled at the time of placement is not in the
11 best interests of the child, assurances by the
12 Department and the local educational agencies to
13 provide immediate and appropriate enrollment in a
14 new school with all of the educational records of
15 the child provided to the school; and

16 10. The permanency plan for the child, the reason for selection
17 of that plan and a description of the steps being taken by the
18 Department to finalize the plan.

19 a. When the permanency plan is adoption or legal
20 guardianship, the Department shall describe, at a
21 minimum, child-specific recruitment efforts such as
22 relative searches conducted and the use of state,
23 regional, and national adoption exchanges to
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1 facilitate the orderly and timely placement of the
2 child, whether in or outside of the state.

3 b. When the child is age fourteen (14) or older, the
4 permanency plan and any revision or addition to the
5 plan, shall include planning for the transition of the
6 child to a successful adulthood.

7 F. Each individualized service plan shall specifically provide
8 for the safety of the child, in accordance with state and federal
9 law, and clearly define what actions or precautions will, or may, be
10 necessary to provide for the safety and protection of the child.

11 G. The individualized service plan shall include the following
12 statement:

13 TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE
14 IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE
15 REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR
16 UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME OR ATTEND COURT
17 HEARINGS, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE
18 RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU.

19 H. Whenever a child who is subject to the provisions of this
20 section is committed for inpatient behavioral health or substance
21 abuse treatment pursuant to the Inpatient Mental Health and
22 Substance Abuse Treatment of Minors Act, the individualized service
23 plan shall be amended as necessary and appropriate, including, but
24 not limited to, identification of the treatment and services to be

1 provided to the child and the child's family upon discharge of the
2 child from inpatient behavioral health or substance abuse treatment.

3 SECTION 3. AMENDATORY 10A O.S. 2021, Section 1-4-811, is
4 amended to read as follows:

5 Section 1-4-811. A. 1. The court shall conduct a permanency
6 hearing to determine the appropriate permanency goal for the child
7 and to order completion of all steps necessary to finalize the
8 permanent plan. The hearing shall be held no later than:

- 9 a. six (6) months after placing the child in out-of-home
10 placement and every six (6) months thereafter, and
- 11 b. thirty (30) days after a determination by the court
12 that reasonable efforts to return a child to either
13 parent are not required pursuant to the provisions of
14 Section 1-4-809 of this title.

15 2. A child shall be considered to have entered out-of-home
16 placement on the earlier of:

- 17 a. the adjudication date, or
- 18 b. the date that is sixty (60) days after the date on
19 which the child is removed from the home.

20 3. Subsequent permanency hearings shall be held at least every
21 six (6) months for any child who continues to be in an out-of-home
22 placement. At the request of a party, the Department of Human
23 Services, or on the motion of the court, the initial and subsequent
24 permanency hearings may be held more frequently. If the child's

1 permanency goal is adoption, the court shall hold a permanency
2 hearing within thirty (30) days of a scheduled trial to terminate
3 parental rights, if a party requests such hearing, to determine
4 whether adoption is still the appropriate permanency goal.

5 4. At each permanency hearing, the court may consider testimony
6 of any person who has relevant information about the status of the
7 child or the status of the treatment plan. All parties shall have
8 the opportunity to present evidence and to cross-examine witnesses.
9 The rules of evidence shall not apply to permanency hearings and all
10 evidence helpful in determining the proper permanency goal shall be
11 considered including, but not limited to, oral and written reports,
12 which may be admitted and may be relied upon to the extent of their
13 probative value, even though not competent for the purposes of the
14 adjudicatory hearing.

15 5. The permanency plan for the child in transition to a
16 successful adulthood shall be developed in consultation with the
17 child and, at the option of the child, with up to two members of the
18 permanency planning team to be chosen by the child, excluding the
19 foster parent and caseworker for the child, subject to the following
20 provisions:

21 a. one individual selected by the child may be designated
22 to be the advisor and, as necessary, advocate of the
23 child, with respect to the application of the
24

1 reasonable and prudent parent standard to the child,
2 and

3 b. the Department of Human Services may reject an
4 individual selected by the child to be a member of the
5 permanency planning team at any time if the Department
6 has good cause to believe that the selected individual
7 would not act in the best interests of the child.

8 B. A permanency hearing may be held concurrently with a
9 dispositional or review hearing.

10 C. If a foster parent, preadoptive parent, or relative is
11 currently providing care for a child, the Department shall give the
12 foster parent, preadoptive parent, or relative notice of a
13 proceeding concerning the child. A foster parent, preadoptive
14 parent, or relative providing care for a child has the right to be
15 heard at the proceeding. Except when allowed to intervene, the
16 foster parent, preadoptive parent, or relative providing care for
17 the child is not considered a party to the juvenile court proceeding
18 solely because of notice and the right to be heard at the
19 proceeding.

20 D. At the hearing, the court shall determine or review the
21 continued appropriateness of the permanency plan of the child and
22 whether a change in the plan is necessary, the date by which the
23 goal of permanency for the child is scheduled to be achieved, and
24 whether the current placement of the child continues to be the most

1 suitable for the health, safety, and welfare of the child. The
2 court shall also, in an age-appropriate manner, inquire or cause
3 inquiry to be made of the child regarding the proposed permanency
4 plan and if the child is age fourteen (14) or older, the planning
5 for the transition of the child to a successful adulthood.

6 E. A transcript shall be made of each permanency hearing or the
7 proceeding shall be memorialized by appropriate written findings of
8 facts, and the court having considered all relevant information
9 shall order one of the following permanency plans for the child:

10 1. Reunification with the parent, parents, or legal guardian of
11 the child where:

12 a. reunification can be expected to occur within an
13 established time frame that is consistent with the
14 developmental needs of the child, and

15 b. the health and safety of the child can be adequately
16 safeguarded if returned home;

17 2. Placement for adoption after the rights of the parents have
18 been terminated or after a petition has been filed to terminate
19 parental rights;

20 3. Placement with a person who will be the permanent guardian
21 of the child and is able to adequately and appropriately safeguard
22 the health, safety, and welfare of the child; or

23 4. a. Placement in the legal custody of the Department under
24 a planned alternative permanent placement, provided

1 the child is age sixteen (16) or older and there are
2 compelling reasons documented by the Department and
3 presented to the court at each permanency hearing that
4 include the intensive, ongoing and, as of the date of
5 the hearing, unsuccessful efforts made to:

- 6 (1) return the child home, or
- 7 (2) place the child with a fit and willing relative,
8 including adult siblings, a legal guardian, or an
9 adoptive parent, and
- 10 (3) find biological family members for the child
11 utilizing search technology, including social
12 media.

13 b. The Department shall also document at each permanency
14 hearing the steps taken, including inquiry of the
15 child in an age-appropriate manner, to ensure that:

- 16 (1) the foster family home of the child or facility
17 where the child is placed is following the
18 reasonable and prudent parent standard, and
- 19 (2) the child has regular, ongoing opportunities to
20 engage in age-appropriate or developmentally
21 appropriate activities.

22 c. When a planned alternative permanent placement is the
23 court-ordered permanency plan for the child, the court
24 shall at each permanency hearing:

- 1 (1) ask the child about the permanency outcome the
2 child desires, and
- 3 (2) make a judicial determination, as of the date of
4 the hearing, why a planned alternative permanent
5 placement is the best permanency plan for the
6 child and provide compelling reasons why it
7 continues to not be in the best interests of the
8 child to return home or be placed for adoption
9 with a legal guardian or with a fit and willing
10 relative, taking into consideration whether the
11 child has a close and positive relationship with
12 the parent.

13 F. In addition to the findings required under subsection E of
14 this section, the court shall also make written findings related to:

15 1. Whether the Department has made reasonable efforts to
16 finalize the permanency plan that is in effect for the child and a
17 summary of the efforts the Department has made; or, in the case of
18 an Indian child, whether the Department has made active efforts to
19 provide remedial services and rehabilitative programs as required by
20 25 U.S.C., Section 1912(d);

21 2. If the permanency plan is for the child to remain in out-of-
22 home care, whether the child's out-of-home placement continues to be
23 appropriate and in the best interests of the child;

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1 3. If the current placement is not expected to be permanent,
2 the court's projected timetable for return home or for placement in
3 an adoptive home with a guardian, or another planned permanent
4 living arrangement; and

5 4. Whether reasonable efforts, in accordance with the safety or
6 well-being of any child, have been made to:

7 a. place siblings, who have been removed, together in the
8 same foster care, guardianship, or adoptive placement,
9 and

10 b. provide for frequent visitation or other ongoing
11 interaction in the case of siblings who have been
12 removed and who are not placed together.

13 G. The court may make appropriate orders to ensure timely
14 implementation of the permanency plan and shall order the plan to be
15 accomplished within a specified period of time.

16 SECTION 4. AMENDATORY 12 O.S. 2021, Section 591, is
17 amended to read as follows:

18 Section 591. The trial by jury may be waived by the parties, in
19 actions arising on contract, and with the assent of the court in
20 other actions, in the following manner: By the consent of the party
21 appearing, when the other party fails to appear at the trial by
22 himself or attorney. By written consent, in person or by attorney,
23 filed with the clerk. By oral consent, in open court, entered on
24

1 the journal. By failure to request in writing a jury trial within
2 the time period set forth by applicable statute.

3 SECTION 5. This act shall become effective November 1, 2023.

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5 59-1-7663 CMA 02/23/23

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