

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1122

By: Pugh

4  
5  
6 AS INTRODUCED

7 An Act relating to child custody; amending 10A O.S.  
8 2011, Section 1-4-203, as amended by Section 2,  
9 Chapter 173, O.S.L. 2015 (10A O.S. Supp. 2017,  
10 Section 1-4-203), which relates to emergency custody  
11 hearing; establishing exception for certain affidavit  
12 requirement; and providing an effective date.

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

14 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-203, as  
15 amended by Section 2, Chapter 173, O.S.L. 2015 (10A O.S. Supp. 2017,  
16 Section 1-4-203), is amended to read as follows:

17 Section 1-4-203. A. Within the next two (2) judicial days  
18 following the child being taken into protective or emergency  
19 custody, the court shall conduct an emergency custody hearing. At  
20 the hearing, information may be provided to the court in the form of  
21 oral or written reports, affidavits or testimony. Any information  
22 having probative value may be received by the court regardless of  
23 its admissibility under the Oklahoma Evidence Code. At the hearing  
24 the court shall:

1           1. Determine whether facts exist that are sufficient to  
2 demonstrate to the court there is reasonable suspicion that the  
3 child is in need of immediate protection due to abuse or neglect, or  
4 that the circumstances or surroundings of the child are such that  
5 continuation of the child in the child's home or in the care or  
6 custody of the parent, legal guardian, or custodian would present an  
7 imminent danger to the child;

8           2. Advise the parent, legal guardian, or custodian of the child  
9 in writing of the following:

- 10           a. any right of the parent, legal guardian, or custodian
- 11                 to testify and present evidence at court hearings,
- 12           b. the right to be represented by an attorney at court
- 13                 hearings,
- 14           c. the consequences of failure to attend any hearings
- 15                 which may be held, and
- 16           d. the right to appeal and procedure for appealing an
- 17                 order of the court;

18           3. Determine custody of the child and order one of the  
19 following:

- 20           a. release of the child to the custody of the child's
- 21                 parent, legal guardian, or custodian from whom the
- 22                 child was removed under any conditions the court finds
- 23                 reasonably necessary to protect the health, safety, or
- 24                 welfare of the child, or

1           b. placement of the child in the custody of a responsible  
2           adult or licensed child-placing agency under any  
3           conditions the court finds reasonably necessary to  
4           protect the health, safety, or welfare of the child,  
5           or

6           c. whether to continue the child in or to place the child  
7           into the emergency custody of the Department of Human  
8           Services;

9           4. ~~Order~~ Unless the biological parent has chosen to make a  
10 voluntary adoption placement with an Oklahoma licensed child-placing  
11 agency, order the parent, legal guardian, or custodian to complete  
12 an affidavit listing the names, addresses, and phone numbers of any  
13 parent, whether known or alleged, grandparent, aunt, uncle, brother,  
14 sister, half-sibling, and first cousin and any comments concerning  
15 the appropriateness of the potential placement of the child with the  
16 relative. If no such relative exists, the court shall require the  
17 parent, legal guardian, or custodian to list any other relatives or  
18 persons with whom the child has had a substantial relationship or  
19 who may be a suitable placement for the child;

20           5. Direct the parent, legal guardian, or custodian to furnish  
21 the Department with a copy of the child's birth certificate within  
22 fifteen (15) days from the hearing if a petition is filed, unless  
23 otherwise extended by the court; and

1           6. In accordance with the safety or well-being of any child,  
2 determine whether reasonable efforts have been made to:

3           a. place siblings, who have been removed, together in the  
4           same foster care, guardianship~~7~~ or adoptive placement,  
5           and

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

9           B. The office of the State Court Administrator shall create an  
10 affidavit form and make it available to each court responsible for  
11 conducting emergency custody hearings. The affidavit form shall  
12 contain a notice to the parent, legal guardian~~7~~ or custodian that  
13 failure to identify a parent or relative in a timely manner may  
14 result in the child being permanently placed outside of the home of  
15 the child's parent or relative. The affidavit form shall also  
16 advise the parent, legal guardian~~7~~ or custodian of the penalties  
17 associated with perjury and contempt of court. The original  
18 completed affidavit shall be filed with the court clerk no later  
19 than five (5) days after the hearing or as otherwise directed by the  
20 court and a copy shall be provided to the Department.

21           C. 1. The Department shall, within thirty (30) days of the  
22 removal of a child, exercise due diligence to identify relatives.  
23 Notice shall be provided by the Department to the following adult  
24 relatives: all grandparents, all parents of a sibling of the child,

1 where the parent has legal custody of the sibling<sup>7</sup> and other adult  
2 relatives of the child, including relatives suggested by the  
3 parents, as the court directs. The notice shall advise the  
4 relatives:

5 a. the child has been or is being removed from the  
6 custody of the parent or parents of the child,

7 b. of the options under applicable law to participate in  
8 the care and placement of the child, including any  
9 options that may be lost by failing to respond to the  
10 notice, and

11 c. of the requirements to become a foster family home and  
12 the additional services and supports available for  
13 children placed in the home.

14 2. Relatives shall not be notified if notification would not be  
15 in the best interests of a child due to past or current family or  
16 domestic violence. The Department may promulgate rules in  
17 furtherance of the provisions of this subsection.

18 SECTION 2. This act shall become effective November 1, 2018.

19

20 56-2-2574 TEK 1/17/2018 3:55:35 PM

21

22

23

24