

Reducing Time to Permanency

Freeing a Child for Adoption Without a Jury

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Trial By Jury: Unequal Protection for Oklahoma's Abused and Neglected Children (OKLA. B. J., Aug. 2020, pp. 9-14)

Issue

- 1997 - OK Supreme Court found a jury right in due process
- Context
 - Only court to tie right to constitutional due process
 - TX – right based on constitutional text; all types of cases
 - WY – purely statutory right
 - WI – purely statutory right (grounds only)
 - 47 of 51 jurisdictions (states and D.C.) don't use juries

Problem

- Delays foster child's time to achieve permanency
 - Not weeks or months but **YEARS**
 - Resource Guidelines: trial within 60 days of petition
- 2021 Sub-committee report to OK Supreme Court
 - “The COVID-19 pandemic is not a significant factor in achieving permanency, but only because the problem (of achieving permanency) was so pervasive and of such magnitude before the pandemic that COVID-19-specific delays are difficult to distinguish” (p.5)

Problem

- Delays other cases because of scheduling
 - Fewer reviews
 - Backlog of cases; higher DHS/ADA-to-case ratios
- Jury trials don't protect anyone in deprived cases
 - Doesn't change outcome, just delays the inevitable
 - Preparing for multiple trials at same time
 - AZ analysis

Solution

- OKLA. STAT., tit. 10A, § 1-4-502
 - Remove in its entirety
- OKLA. STAT., tit. 10A, § 1-4-505(B)(1)
 - Remove jury reference
 - The court determines in a hearing ~~conducted outside the presence of the jury~~ that . . . (the child's statement is trustworthy).

Three Questions for the Legislature

Why does Oklahoma have a public policy of hurting its abused and neglected children with jury trials in cases specifically designed to protect those same children, especially given “that the paramount consideration in all proceedings within the Oklahoma Children’s Code is the best interests of the child”? OKLA. STAT., tit. 10A, § 1-1-102(E)

Three Questions for the Legislature

What is the logical reason for statutorily mandating specialized training for Judges, attorneys, etc. in deprived cases (OKLA. STAT., tit. 10A, § 1-8-101) and then bringing in people off the street who lack that training to make decisions?

Three Questions for the Legislature

If that 7-year-old foster child who has been in foster care for 7 years, with his foster parent being the only care-giving adult he's ever known, asks me "why can't I call her mommy," what am I supposed to tell him?

Questions?

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