STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1326 By: Seikel

AS INTRODUCED

An Act relating to children; amending 10 O.S. 1991, Sections 57, 60.4, 60.5 and 60.10, which relate to adoptions; authorizing release of certain information; requiring certain restrictions; providing exception; making certain proceedings apply to intrastate adoptions; providing for consent of mother; providing time limitation; prohibiting certain decrees; providing exceptions; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 57, is amended to read as follows:

Section 57. A. Except as otherwise provided by this section, all records of proceedings in adoption cases and all papers and books relating to such proceedings, shall be kept in a separate confidential file in the court clerks vault by the court clerk, and shall not be open to inspection or copy except upon order of a court of record for good cause shown.

B. Upon application and for good cause being shown, any court of record may, by written order reciting its findings, permit the necessary information to be released, restrict the purposes for which it shall be used.

C. No person in charge of adoption records in the district court shall disclose the names of the natural or adoptive parents of a child unless ordered to do so by a court of record.

D. 1. The Department of Human Services, any certified adoption agency or any licensed child-placing agency having custody of a child who is legally available for adoption is authorized to release the medical history, social history, or both the medical and social history available to the Department or such agency, of the child, of the natural parents of the child and of the grandparents of the child to prospective parents of the adoptive child.

2. ~~The~~ Except with the written consent of a person whose identity would be disclosed, the release of any medical history or social history of the natural parents of the child or the natural grandparents of the child shall be released in such a way that no person can be identified.

3. The medical history may include the information received pursuant to Section 60.5A of this title or any other medical information or records regarding the child obtained by the Department or agency during the custody of the child.

E. Any person in charge of adoption records who discloses any information pertaining to an adoption proceeding, contrary to the provisions of this section, shall be guilty of a misdemeanor.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 60.4, is amended to read as follows:

Section 60.4 Proceedings for adoption may be brought in the district court, or any specially created court having jurisdiction in the county where the petitioners or the child to be adopted reside. The provisions of this section shall only apply to intrastate adoptions and shall not apply to interstate adoptions.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 60.5, is amended to read as follows:

Section 60.5 A. Unless consent is not required by Section 60.6 of this title, an adoption of a child may be decreed when there has been filed written consent to adoption executed by:

~~(1)~~ 1. Both parents, if living, or the surviving parent if one parent be deceased. Consent shall not be required from one whose parental rights have been judicially terminated~~.~~:

~~If~~ a. if the child is born out of wedlock, its parents, if sixteen (16) years of age or older, shall be deemed capable of giving consent~~.~~,

~~If~~ b. if the mother or father be below the age of sixteen (16), consent to the adoption shall be deemed sufficient if given by such mother or father before a judge of the district court, in writing, and if accompanied by the written consent of the legal guardian of the person of such parent. If such underage mother or father has no such guardian, the consent shall be accompanied by the written consent of his or her parents, but if one parent be deceased or the parents be divorced, then the written consent of the parent having the custody shall be deemed sufficient; if both parents of the underage mother or father be deceased, then the written consent of the person having his or her physical custody shall be deemed sufficient~~. If~~,

c. if in any case consent cannot be secured from the person, other than the underage mother or father, authorized herein to give consent, notice by mailing shall be given by the court, unless notice is waived by personal appearance, to such person or persons authorized herein to give consent, directing such person to show cause, at a time appointed by the court, which shall be not less than ten (10) days from

the date of mailing, why adoption should not be granted without that person's consent. If such person shall not appear to contest the adoption or if the court should find that consent of such person is unreasonably withheld, the adoption may be granted without the consent of that person; or

~~(2)~~ 2. The legal guardian of the person of the child or the guardian ad litem of the child if both parents are dead, or if the rights of the parents have been terminated by judicial proceedings, and such guardian or guardian ad litem has authority by order of the court appointing him to consent to the adoption; or

~~(3)~~ 3. The executive head of an agency if both parents are dead, or if the child has been relinquished for adoption to such agency, or if the rights of the parents have been judicially terminated and custody of the child has been legally vested in such agency with authority to consent to adoption of the child; or

~~(4)~~ 4. Any person having legal custody of a child by court order if the parental rights of the parents have been judicially terminated, but in such case the court having jurisdiction of the custody of the child must consent to adoption, and a certified copy of its order shall be attached to the petition.

B. The consent required by ~~subparagraphs (1), (2) and (3) hereof~~ paragraphs 1, 2 and 3 of subsection A of this section, including the consent required by the parent, guardian or party having physical custody as required for mothers or fathers under sixteen (16) in ~~subparagraph (1) hereof~~ paragraph 1 of subsection A of this section, shall be acknowledged before a judge of the district court or the judge of any specially created court having jurisdiction in adoption proceedings. ~~Provided, that when~~

1. When the person whose consent is necessary does not reside in the county having jurisdiction of the adoption proceedings such person may execute such consent before a district judge of this

state or probate judge or judge having adoption jurisdiction of any other state of the county of his residence~~. Provided, further, that when~~;

2. When such consent for adoption is necessary for children in custody of the Department of ~~Public Welfare~~ Human Services the Director of ~~Public Welfare~~ Human Services may designate, authorize, and direct in writing an employee of the Department to appear in the court of the county in which said adoption proceedings are to be completed and to give written consent for the adoption of such child by the family whose application for adoption has been approved by the Department of ~~Public Welfare~~ Human Services. This provision shall apply to consents heretofore given as well as to those given after the approval of this act; or

3. The consent of the natural mother of the child shall not be executed as provided by this section until at least ten (10) calendar days after the birth of the child.

~~(5)~~ C. In the event the person having the legal custody or the parents of a child desired to be adopted in this state reside in a country or place other than the United States of America, the consent of such person to the adoption may be obtained by a written instrument signed by such person and acknowledged before an officer of the legal subdivision of government of the place of his, her or their residence who is authorized to administer oaths under the laws of such country or place; or, when the party seeking to give such consent is a member of the United States Armed Services stationed in a country or place other than the United States, then such consent may be acknowledged before an officer of the Judge Advocate General's Office or other legal officer possessing the authority to administer oaths. Where consent is so obtained, it shall not be necessary for such person to appear before the district court having jurisdiction of the adoption proceedings. If the written instrument containing such consent is written in any language other than the

English language, the person adopting the child must have it translated into the English language by a person qualified so to do, and must file the original instrument together with the translation with the court, and the translation must be sworn to as being a true and correct translation by the translator.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 60.10, is amended to read as follows:

Section 60.10 A. Withdrawal of any consent for adoption of a child pursuant to Section 60.5 of this title shall not be permitted, except that the court pursuant to the provisions of this section may, if it finds that the best interest of the child will be furthered thereby, issue a written order permitting the withdrawal of such consent if a petition for leave to withdraw consent is submitted in writing not later than thirty (30) days after consent was executed.

B. Notice of the petition to withdraw the consent and hearing on the petition to withdraw consent to the adoption shall be provided to:

1. The person who filed for adoption of the child;

2. Any agency participating in the adoption; and

3. To any person or agency in whose favor the consent was given.

The court shall provide an opportunity to be heard to the person who has filed for adoption and to any agency participating in the adoption as to why the withdrawal of consent would not be in the best interest of the child.

C. <u>No interlocutory or final decree of adoption shall be entered until after the time for the filing of a petition to withdraw consent to adoption has expired.</u>

<u>D.</u> The entry of the interlocutory or final decree of adoption renders any consent irrevocable.

SECTION 5. This act shall become effective September 1, 1993.

44-1-5681 KSM