

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 2014

By: Roach

AS INTRODUCED

An Act relating to adoption; creating the Oklahoma Adoption Act; defining terms; providing purpose; providing and modifying procedures; providing for alleged, putative and presumed fathers; providing for paternity registry; providing for biological parent/child registry; providing for notice; repealing 10 O.S. 1991, Sections 58, 60.7, 60.9 and 60.20, which relate to adoption; providing for codification; and providing an effective date.

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

Chapter 75

Oklahoma Adoption Act

Part 1.

SECTION 1. AMENDATORY 10 O.S. 1991, Section 60.23, is amended to read as follows:

Section 60.23 This ~~act~~ chapter shall be known and may be cited as the ~~Uniform~~ Oklahoma Adoption Act.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 60.22, is amended to read as follows:

Section 60.22 ~~This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of these states which enact it; provided that nothing~~ A. The Legislature of this state finds that disruptive adoptive placements often have a profound and negative impact on all individuals, particularly children, involved in an adoption proceeding. The purpose of this article is to establish a state policy which will promote the integrity and finality of adoptions to ensure that children placed in adoptive placement will be raised in stable and permanent families. To this effect, the Legislature also recognizes the rights and interests of the birth mother, and the father and the adoptive parents of the child.

B. It is therefore the policy of this state that:

1. When conflict arises over the custody of a child in an adoption proceeding and the matter is referred to a court of law, the best interests of the child shall be given paramount consideration and all decisions related to resolving the issue of custody shall be made expeditiously;

2. A man who has sexual relations with a woman outside of marriage is deemed to have knowledge that such relations can result in the woman's pregnancy. Any man who fathers a child outside of marriage is presumed to know of the pregnancy. Ignorance of the pregnancy shall not constitute a valid reason for failing to comply with the provisions of this chapter. A child born outside of marriage may be placed for adoption without the consent of the father unless he strictly complies with the provisions of this article and manifests a prompt and full commitment to his parental responsibilities and establishes his paternity of the child as provided in this article; and

3. Parents of a child conceived or born outside of marriage are responsible for their own actions and shall not be excused from

strictly complying with the provisions of this article based upon any action or statement of the other parent.

C. Nothing in ~~this act~~ the Oklahoma Adoption Act shall affect the validity of any order or decree of adoption heretofore made granted by any court.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 60.1, is amended to read as follows:

Section 60.1 ~~As used in this Act, unless the context otherwise requires, "child" means any minor person, and "agency" means any person, authority or agency legally empowered to place children for adoption. Singular words may extend and be applied to several persons or things, as well as to one person or thing. Plural words may extend and be applied to one person or thing as well as to several persons or things~~ the Oklahoma Adoption Act:

1. "Adoptee" means an individual who is adopted or is to be adopted;

2. "Adult" means an individual who has attained eighteen (18) years of age;

3. "Agency" means a public or private entity, including the Department, that is authorized by the law of this state to place children for adoption;

4. "Alleged father" means a man whom the birth mother of the child has identified as or who believes himself to be the biological father of the child but who has not acknowledged paternity pursuant to Section 34 of this act or registered with the putative father registry;

5. "Child" means a minor, by birth or adoption;

6. "Court" means any court of competent jurisdiction within any counties that have a special court, the district court or district judge or any special court which may hereafter be established for such purposes authorized to officiate in matters relating to children;

7. "Department" means the Department of Human Services;

8. "Guardian" means an individual, other than a parent, appointed by a court to be the guardian of the person of a minor;

8. "Legal custody" means the right and duty to exercise continuing general supervision of a minor as authorized by law. The term includes the right and duty to protect, educate, nurture, and discipline the minor and to provide the minor with food, clothing, shelter, medical care, and a supportive environment;

10. "Minor" means an individual who has not attained eighteen (18) years of age;

11. "Parent" means an individual who is legally recognized as a mother or father or whose consent to the adoption of a minor is required pursuant to Section 10 of this act. The term "parent" does not include an individual whose parental relationship to a child has been terminated judicially or by operation of law;

12. "Permanent relinquishment" means the voluntary surrender to an agency by a minor's parent or guardian, for purposes of the minor's adoption, of the rights of the parent or guardian with respect to the minor, including legal and physical custody of the minor;

13. "Person" means an individual, corporation, limited liability company, business trust, estate, trust, partnership, association, agency, joint venture, government, governmental subdivision or instrumentality, public corporation, or any other legal or commercial entity;

14. "Physical custody" means the physical care and supervision of a minor;

15. "Presumed father" means any man presumed to be the father of a child pursuant to Section 2 of Title 10 of the Oklahoma Statutes;

16. "Putative father" means a man who has acknowledged paternity of a child pursuant to the putative father registry;

17. "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew of a child whether related to the child by the whole or the half blood, marriage, or adoption. The term does not include a child's stepparent; and

18. "Stepparent" means an individual who is the spouse or surviving spouse of a parent of a child but who is not a parent of the child.

Part 2.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 60.2, is amended to read as follows:

Section 60.2 Any ~~child~~ individual present within this state at the time the petition for adoption is filed, irrespective of place of birth or place of residence, may be adopted pursuant to the Oklahoma Adoption Act.

SECTION 5. AMENDATORY 10 O.S. 1991, Section 60.3, is amended to read as follows:

Section 60.3 The following ~~persons~~ individuals are eligible to adopt a child:

~~(1)~~ 1. A husband and wife jointly, or either the husband or wife if the other spouse is a parent of the child~~;~~;

~~(2)~~ 2. An unmarried ~~person~~ individual who is at least twenty-one (21) years old~~;~~ and

~~(3)~~ 3. A married ~~person~~ individual at least twenty-one (21) years old who is legally separated from the other spouse.

~~(4) In the case of a child born out of wedlock, its unmarried father or mother.~~

SECTION 6. AMENDATORY 10 O.S. 1991, Section 60.4, is amended to read as follows:

Section 60.4 A. 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.

B. An adoption in this state of a minor brought into this state from another state by a prospective adoptive parent, or by a person who places the minor for adoption in this state, is governed by the laws of this state, including but not limited to the Oklahoma Adoption Act and the Interstate Compact on the Placement of Children.

C. When the relationship of parent and child has been created by a decree of adoption of a court of any other state or nation, the rights and obligations of the parties as to matters within the jurisdiction of this state shall be determined by the Oklahoma Adoption Act.

SECTION 7. AMENDATORY 10 O.S. 1991, Section 29, is amended to read as follows:

Section 29. ~~Relinquishments~~ A permanent relinquishment may be executed by:

~~(1) the parents of a child;~~

~~(2) one parent alone, if~~

~~(a) the other parent consents thereto in writing; or~~

~~(b) the other parent is dead; or~~

~~(c) the other parent has been adjudicated incompetent and such incompetence is permanent in its nature and such fact has been proven to the satisfaction of the court; or~~

~~(d) the other parent, for one year preceding, has abandoned the family; or~~

~~(e) the other parent is imprisoned in a penitentiary, state or federal, for crime, provided such parent has been given proper notice and is authorized by the institutional head to attend said hearing and show cause why the child should not be taken from him or why such relinquishment should not be granted; or~~

~~(f) the other parent has been declared by the court to be morally unfit to provide for the care of the child; or~~

~~(g) by the mother, if the child is born out of wedlock;~~

~~(3) the guardian of the person of the child, if both parents are dead or if one parent is a person whose consent is not required under the terms of subdivision (2) of this section~~ a parent or guardian whose consent to the adoption of a minor is required by Section 10 of this act. The permanent relinquishment shall be in writing and shall relinquish all of that individual's rights with respect to the minor, including legal and physical custody and the right to consent to the minor's adoption.

SECTION 8. AMENDATORY 10 O.S. 1991, Section 28, is amended to read as follows:

Section 28. ~~Relinquishments~~ Permanent relinquishments may be made only to:

~~(1) the~~ 1. The Department of Human Services, and shall be executed in writing before the court;

~~(2) a~~ 2. A child placing agency duly licensed or recognized under the provisions of Section 402 of this title;

~~(3) any~~ 3. Any other person, with the written ~~assent~~ consent of the Department or court.

SECTION 9. AMENDATORY 10 O.S. 1991, Section 30, is amended to read as follows:

Section 30. ~~The~~ A permanent relinquishment shall:

~~(1) be~~ 1. Be signed by the person or persons by whom it is executed;

~~(2) identify~~ 2. Identify the child ~~or children~~ relinquished; and

~~(3) be~~ 3. Be acknowledged before the court or as otherwise provided by the Oklahoma Adoption Act.

Part 3.

SECTION 10. AMENDATORY 10 O.S. 1991, Section 60.5, as amended by Section 1, Chapter 122, O.S.L. 1994 (10 O.S. Supp. 1994, Section 60.5), is amended to read as follows:

Section 60.5 A. Unless consent is not required by Section ~~60.6~~ 16 of this title act, ~~an adoption of a child may be decreed when there has been filed written consent to adoption~~ a petition to adopt a child may be granted if consent to the adoption has been executed by:

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~~ The woman who gave birth to a child and the man who is presumed to be natural father of a child pursuant to Section 2 of this title.

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

If the mother or father ~~be below~~ of the child is under the age of sixteen (16), consent to the adoption shall be deemed sufficient if:

- a. given by such mother or father before a judge of the district court, in writing, and ~~if~~
- b. accompanied by the written consent of the:
  - (1) 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~~ minor, or
  - (2) the parents, but if of the minor. If one parent ~~be~~ of the minor is deceased or the parents ~~be~~ are divorced, then the written consent of the parent having the custody of the minor shall be deemed sufficient; ~~if.~~ If both parents of the underage mother or father ~~be~~ are deceased, then the



written consent of the person having ~~his or her~~  
physical custody of the underaged mother or  
father shall be deemed sufficient.

If in any case consent cannot be secured from ~~the person~~ any  
individual required by this paragraph to give consent, 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~~ individual, directing such ~~person~~ individual  
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~~ individual's consent.  
If such ~~person shall~~ individual does not appear to contest the  
adoption or if the court ~~should find~~ finds that consent of such  
~~person~~ individual is unreasonably withheld, the adoption may be  
granted without the consent of that ~~person~~ individual; or

2. One parent of a child, alone, if:

- a. the other parent is dead,
- b. the parental rights of the other parent have been  
terminated, or
- c. the consent of the other parent is otherwise not  
required pursuant to Section 16 of this act; or

3. 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~~ the guardian to consent to the adoption; or

~~3.~~ 4. The executive head of ~~an~~ a child placing agency or the  
Department of Human Services if:

- a. both parents are dead, or
- b. if the child has been permanently relinquished ~~for~~  
~~adoption~~ to such the agency or the Department, or ~~if~~

c. the rights of the parents have been judicially terminated and custody of the child has been legally vested in ~~such~~ the child placing agency or the Department with authority to consent to adoption of the child; or

~~4.~~ 5. Any person having legal custody of a child by court order if the parental rights of the parents have been judicially terminated, ~~but in.~~ 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. 1. The consent required by ~~paragraphs 1, 2 and 3~~ subsection A of this section, including the consent required by the parent, guardian or party having physical custody ~~as required for~~ of mothers or fathers under sixteen (16) in 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 the ~~person~~ individual whose consent is necessary does not reside in the county having jurisdiction of the adoption proceedings such ~~person~~ individual may execute ~~such~~ the 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 of such individual. ~~Provided, further, that when such~~

2. When the consent for adoption is necessary for children in custody of the Department of Human Services, the Director of the Department of Human Services or the designee of the Director 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 Human Services.

This provision shall apply to consents heretofore given as well as to those given after the approval of this act; ~~or.~~

~~5.~~ C. 1. 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 of such person who is authorized to administer oaths under the laws of such country or place; ~~or, when.~~

2. If 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.

3. 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.

4. 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 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.11 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. A person whose consent to the adoption of a minor is required by Section 10 of this act may execute a consent or a relinquishment only after the minor is born.

B. A guardian may execute a consent to the adoption of a minor or a relinquishment at any time after being authorized by a court to do so.

C. A child placing agency that places a minor for adoption may execute its consent at any time at or before the hearing on the petition for adoption.

D. A minor adoptee whose consent is required may execute a consent at any time at or before the hearing on the petition for adoption.

E. Before executing a consent or relinquishment, a parent or minor adoptee must have been informed of the meaning and consequences of adoption, the availability of personal and legal counseling, the procedure for releasing information about the health and other characteristics of the parent which may affect the physical or psychological well-being of the minor, and the procedure for the consensual release of the parent's identity to an adoptee, an adoptee's direct descendant, or an adoptive parent pursuant to the Oklahoma Adoption Act. The parent must have had an opportunity to indicate in a signed document whether and under what circumstances the parent is or is not willing to release identifying information, and must have been informed of the procedure for changing the document at a later time.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.12 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. A consent to the adoption of a child or permanent relinquishment shall be in writing and contain, in plain English or, if the native language of the individual required to consent or who is permanently relinquishing the child is a language other than English, in that language:

1. The date, place, and time of the execution of the consent or permanent relinquishment;

2. The name, date of birth, and current mailing address of the individual executing the consent or permanent relinquishment;

3. The date of birth and the name or pseudonym of the minor adoptee;

4. If a consent, the name, address, and telephone and telecopier number of the lawyer representing the prospective adoptive parent with whom the individual executing the consent has placed or intends to place the minor for adoption;

5. If a relinquishment, the name, address, and telephone and telecopier number of the agency to which the minor is being relinquished; and

6. Specific instructions for how a parent who executes a consent or permanent relinquishment may revoke the consent or relinquishment or commence an action to set aside the consent or relinquishment.

B. A consent must state that the individual executing the document is voluntarily and unequivocally consenting to the transfer of legal and physical custody to, and the adoption of the minor by, a specific adoptive parent whom the parent or guardian has selected.

C. A relinquishment must state that the individual executing the relinquishment voluntarily consents to the permanent transfer of legal and physical custody of the minor to the Department, child placing agency or other person authorized by the court for the purposes of adoption.

D. A consent or relinquishment must state:

1. An understanding that after the consent or relinquishment is signed or confirmed in substantial compliance with Section 11 of this act, it is final and, except under a circumstance stated in Section 14 of this act, may not be revoked or set aside for any reason, including the failure of an adoptive parent to permit the individual executing the consent or relinquishment to visit or communicate with the minor adoptee;

2. An understanding that the adoption will extinguish all parental rights and obligations the individual executing the consent or relinquishment has with respect to the minor adoptee, except for arrearages of child support, and will remain valid whether or not any agreement for visitation or communication with the minor adoptee is later performed;

3. That the individual executing the consent or relinquishment has:

- a. received a copy of the consent or relinquishment, and
- b. received or been offered information about adoption which explains the meaning and consequences of an adoption;

4. That the individual executing the consent or relinquishment has not received or been promised any money or anything of value for the consent or the relinquishment, except for payments authorized by law;

5. That the minor is not an Indian child as defined in the Oklahoma Indian Child Welfare Act;

6. That the individual believes the adoption of the minor is in the minor's best interest; and

7. If a consent, that the individual who is consenting waives further notice unless the adoption is contested, appealed, or denied.

E. A relinquishment may provide that the individual who is relinquishing waives notice of any proceeding for adoption, or waives notice unless the adoption is contested, appealed, or denied.

F. A consent or relinquishment may provide for its revocation if:

1. Another consent or relinquishment is not executed within a specified period;

2. A court decides not to terminate another individual's parental relationship to the minor; or

3. In a direct placement for adoption, a petition for adoption by a prospective adoptive parent, named or described in the consent, is denied or withdrawn.

G. 1. The Administrator of the Courts shall adopt a statement to be presented to the birth parents at the time a permanent relinquishment or consent to adoption of a child is signed and to prospective adoptive parents at the time of the home study. The statement shall, in a clear and concise manner, communicate to the birth parents of a child who is the subject of an adoption petition all of the following facts:

- a. it is in the child's best interest that the birth parent keep the Department of Human Services or licensed child placing agency to whom the child was relinquished for adoption informed of any health problems that the parent develops that could affect the child,
- b. it is extremely important that the birth parent keep an address current with the Department or licensed child placing agency to whom the child was relinquished for adoption in order to permit a response to inquiries concerning medical or social history,
- c. the Oklahoma Adoption Act authorizes a person who has been adopted and who attains the age of twenty-one (21) years to request the Administrator of the Courts to disclose the name and address of the adoptee's birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether to allow this disclosure by checking the appropriate box provided on the form, and
- d. the birth parent may change the decision whether to permit disclosure of the birth parent's name and

address, at any time, by sending a notarized letter to that effect, by certified mail, return receipt requested, to the Administrator of the Courts.

2. The Administrator of the Courts shall adopt a form to be signed by the birth parents at the time the relinquishment is signed, which shall provide as follows:

"The Oklahoma Adoption Act authorizes a person who has been adopted and who attains the age of twenty-one (21) years to make a request to the Office of the Administrator of the Courts for the name and address of the adoptee's birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

YES

NO

UNCERTAIN AT THIS TIME; WILL NOTIFY

ADMINISTRATOR OF THE COURTS AT LATER DATE".

SECTION 13. AMENDATORY 10 O.S. 1991, Section 60.5A, as amended by Section 1, Chapter 253, O.S.L. 1993 (10 O.S. Supp. 1994, Section 60.5A), is amended to read as follows:

Section 60.5A A. Any person required to consent to the adoption of a child pursuant to the provisions of Section 60.5 of this title shall complete a medical history form containing, as far as is ascertainable, the medical history of the child to be adopted, the medical history of the natural parents of the child, and the medical history of the natural grandparents of the child.

Specifically, the form shall only contain information concerning:

1. The child, which shall include:
  - a. any medical or psychological evaluations, and
  - b. diseases, illnesses, accidents, allergies, and congenital defects; and
2. Parents of the child, which shall include:



- a. allergies, diseases, and illnesses, including but not limited to diabetes, high blood pressure, alcoholism, heart disease, venereal disease, and epilepsy, and
- b. drugs taken and consumption of alcohol during the pregnancy of the mother; and

3. Grandparents of the child, which shall include allergies, diseases, and illnesses including but not limited to high blood pressure, diabetes, heart disease, and epilepsy.

B. A copy of the medical history form shall be attached to the consent for adoption, or may be filed after the filing of the petition with the consent of the court.

C. Such medical history form shall be released by the court upon request of and to the Department of Human Services, any certified adoption agency or licensed child-placing agency having custody of a child who is legally available for adoption, prospective adoptive parents, adoptive parents, or the child if over eighteen (18) years of age.

D. Any medical information authorized to be released pursuant to this section and Section 60.17 of this title shall be released in such a way that no person except the child can be identified.

SECTION 14. AMENDATORY 10 O.S. 1991, Section 60.10, is amended to read as follows:

Section 60.10 A. Withdrawal of any consent for adoption or permanent relinquishment 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 or relinquishment 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~~ The Department of Human Services;
3. Any child placing agency participating in the adoption; and
- ~~3.~~ 4. 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. The entry of the interlocutory or final decree of adoption renders any consent or permanent relinquishment irrevocable.

SECTION 15. AMENDATORY 10 O.S. 1991, Section 60.11, is amended to read as follows:

Section 60.11 ~~Consent~~ Except as otherwise provided in Section 16 of this act, consent of the child, if twelve (12) years of age or ~~over~~ older, shall be required. Such consent shall be given before the court in such form as the court shall direct.

SECTION 16. AMENDATORY 10 O.S. 1991, Section 60.6, as amended by Section 2, Chapter 253, O.S.L. 1993 (10 O.S. Supp. 1994, Section 60.6), is amended to read as follows:

Section 60.6 ~~A child under eighteen (18) years of age cannot be adopted without the consent of its parents, if living, except that consent~~ A. Consent to an adoption of a child is not required from:

- ~~1. A parent whose parental rights have been terminated pursuant to the provisions of Sections 1130, 1131 or 29.1 of this title; or~~
- ~~2. A parent who, for a period of twelve (12) months immediately preceding the filing of a petition for adoption of a child, has willfully failed, refused, or neglected to contribute to the support of such child:~~

~~a. in substantial compliance with a support provision contained in a decree of divorce, or a decree of separate maintenance or an order adjudicating responsibility to support in a reciprocal enforcement of support proceeding, paternity action, juvenile proceeding, guardianship proceeding, or orders of modification to such decree, or other lawful orders of support entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support, or~~

~~b. according to such parent's financial ability to contribute to such child's support if no provision for support is provided in a decree of divorce or an order of modification subsequent thereto; or and where any of the above conditions exist it shall not be necessary to terminate parental rights under Section 1130 of this title prior to the adoption of said child. Provided that any decree of adoption heretofore entered by any court of appropriate jurisdiction within the State of Oklahoma wherein termination of parental rights, as prescribed in Section 1130 of this title, was not obtained shall not be invalid on the ground that such termination of parental rights was not obtained.~~

~~The incarceration of a parent shall not prevent termination of parental rights under this section; or~~

~~3. The father or putative father of a child born out of wedlock if:~~

~~a. prior to the hearing provided for in Section 29.1 of this title, and having actual knowledge of the birth or impending birth of the child believed to be his child, he fails to acknowledge paternity of the child~~

~~or to take any action to legally establish his claim to paternity of the child or to exercise parental rights or duties over the child, including failure to contribute to the support of the mother of the child to the extent of his financial ability during her term of pregnancy, or~~

~~b. at the hearing provided for in Section 29.1 of this title:~~

~~(1) he fails to prove that he is the father of the child, or~~

~~(2) having established paternity, he fails to prove that he has exercised parental rights and duties toward the child unless he proves that prior to the receipt of notice he had been specifically denied knowledge of the child or denied the opportunity to exercise parental rights and duties toward the child. As used in this subparagraph, specific denial of knowledge of the child or denial of the opportunity to exercise parental rights and duties toward the child shall not include those instances where the father or putative father fails to prove to the satisfaction of the court that he made a sufficient attempt to discover if he had fathered the child or to exercise parental rights and duties toward the child prior to the receipt of notice, or~~

~~c. he waives in writing his right to notice of the hearing provided for in Section 29.1 of this title, or~~

~~d. he fails to appear at the hearing provided for in Section 29.1 of this title if all notice requirements~~

~~continued in or pursuant to Section 1131 of this title  
have been met.~~

~~A determination that the consent of the father or putative  
father of a child born out of wedlock to the adoption of the child  
is not required shall not, by itself, act to relieve such father or  
putative father of his obligation to provide for the support of the  
child as otherwise required by law; or~~

~~4. A parent who is entitled to custody of a child and has  
abandoned the child; or~~

~~5. A parent of a child who is deprived, as defined by Section  
1101 of this title, if:~~

~~a. such condition is caused by or contributed to by acts  
or omissions of his parent, and~~

~~b. the parent has failed to show that the condition which  
led to the making of said finding has not been  
corrected although the parent has been given three (3)  
months to correct the condition; provided, that the  
parent shall be given notice of any hearing to  
determine if the condition has been corrected. The  
court may extend the time in which such parent may  
show the condition has been corrected, if, in the  
judgment of the court, such extension of time would be  
in the best interest of the child. During the period  
that the parent has to correct the condition the court  
may return the child to the custody of its parent or  
guardian, subject to any conditions which it may wish  
to impose or the court may place the child with an  
individual or an agency; or~~

~~6. A parent who has been convicted in a criminal action  
pursuant to the provisions of Sections 843, 845, 1021.3, 1111 and  
1123 of Title 21 of the Oklahoma Statutes or who has either:~~

~~a. physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse that is heinous or shocking to the court or that the child or sibling of such child has suffered severe harm or injury as a result of such physical or sexual abuse, or~~

~~b. physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse subsequent to a previous finding that such parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse; or~~

~~7. A parent who has been convicted in a criminal action of having caused the death of a sibling of the child as a result of the physical or sexual abuse or chronic neglect of such sibling; or~~

~~8. A parent of a child who is deprived, as defined by Section 1101 of this title, if:~~

~~a. the parent has been sentenced to a period of incarceration of not less than ten (10) years, and~~

~~b. the continuation of parental rights would result in harm to the child based on consideration of the following factors, among others: the duration of incarceration and its detrimental effect on the parent/child relationship; any previous incarcerations; any history of criminal behavior, including crimes against children; the age of the child; the evidence of abuse or neglect of the child or siblings of the child by the parent; and the current relationship between the parent and the child~~

~~and the manner in which the parent has exercised  
parental rights and duties in the past; or~~

~~9. A parent of a child who is deprived, as defined by Section  
1101 of this title, if:~~

- ~~a. the parent has a mental illness or mental deficiency,  
as defined by paragraphs f and g of Article II of  
Section 6-201 of Title 43A of the Oklahoma Statutes,  
which renders the parent incapable of adequately and  
appropriately exercising parental rights, duties and  
responsibilities, and~~
- ~~b. the continuation of parental rights would result in  
harm or threatened harm to the child, and~~
- ~~c. the mental illness or mental deficiency of the parent  
is such that it will not respond to treatment, therapy  
or medication and, based upon competent medical  
opinion, the condition will not substantially improve~~

1. An individual who has permanently relinquished the minor  
pursuant to the Oklahoma Adoption Act;

2. An individual whose parental relationship to a minor has  
been legally terminated pursuant to Section 1130 of Title 10 of the  
Oklahoma Statutes or legally determined not to exist;

3. A man who has not been married to the woman who gave birth  
to the minor and who, after the conception of the minor, executes a  
verified statement denying paternity or disclaiming any interest in  
the minor and acknowledging that his statement shall be irrevocable  
when executed;

4. The personal representative of a deceased parent's estate;  
or

5. A parent or other person who has not executed a consent or a  
permanent relinquishment and who fails to file an answer or an  
appearance in a proceeding for adoption or for termination of a

parental relationship within the requisite time after service of notice of the proceeding.

B. The court may dispense with the consent of:

1. A person whose consent is otherwise required pursuant to Section 11 of this act, upon a finding that the consent is being withheld contrary to the best interest of a minor; or

2. A minor adoptee who has attained twelve (12) years of age pursuant to Section 15 of this act upon a finding that it is not in the best interest of the minor to require the consent.

Part 4.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.17 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. In a proceeding pursuant to the Oklahoma Adoption Act which may result in the termination of a parental relationship, the court shall appoint a lawyer for any indigent, minor, or incompetent individual who appears in the proceeding and whose parental relationship to a child may be terminated, unless the court finds that the minor or incompetent individual has sufficient financial means to hire a lawyer, or an indigent individual declines to be represented by a lawyer.

B. The court shall appoint a guardian ad litem for a minor adoptee in a contested proceeding under this act and may appoint a guardian ad litem for a minor adoptee in an uncontested proceeding.

SECTION 18. AMENDATORY 10 O.S. 1991, Section 60.17, as amended by Section 3, Chapter 253, O.S.L. 1993 (10 O.S. Supp. 1994, Section 60.17), is amended to read as follows:

Section 60.17 A. Unless otherwise ordered by the court, all hearings held in proceedings pursuant to the ~~Uniform~~ Oklahoma Adoption Act shall be confidential and shall be held in closed court without admittance of any person other than interested parties and their counsel.



~~B. All papers and records including the original medical history forms pertaining to the adoption shall be kept as a permanent record of the court and withheld from inspection except as otherwise provided by this section. No person shall have access to such records except upon order of the judge of the court in which the decree of adoption was entered, for good cause shown.~~

~~C. Except as otherwise authorized by this section, all files and records pertaining to said adoption proceedings shall be confidential and withheld from inspection except upon order of the court for good cause shown.~~

~~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, 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 release of any medical 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. The medical history form completed pursuant to Section 60.5A of this title shall be released by the court upon request of and to the Department of Human Services, any certified adoption agency or licensed child-placing agency having custody of a child who is legally available for adoption, prospective adoptive parents, adoptive parents, or the child if over eighteen (18) years of age~~  
Any proceeding pursuant to the Oklahoma Adoption Act for adoption or

termination of a parental relationship must be heard by the court without a jury.

SECTION 19. AMENDATORY 10 O.S. 1991, Section 57, is amended to read as follows:

Section 57. A. Except as otherwise provided by ~~this section~~ the Oklahoma Adoption Act, all records of proceedings in adoption cases and all papers and books relating to such proceedings, shall be kept as a permanent record of the court and maintained 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 or as otherwise authorized by the Oklahoma Adoption Act.

D. The medical history form completed pursuant to Section 60.5A of this title shall be released by the court upon request of and to the Department of Human Services, any certified adoption agency or licensed child-placing agency having custody of a child who is legally available for adoption, prospective adoptive parents, adoptive parents, or the child if over eighteen (18) years of age.

E. 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~~ shall release the medical 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 release of any medical 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.~~ F. 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 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.20 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Before the hearing on the petition for adoption, the following must be filed in the proceeding:

1. A certified copy of the birth certificate or other record of the date and place of birth of the child;

2. Any consent, relinquishment, or disclaimer of paternal interest with respect to the minor that has been executed, and any written certifications required by the Oklahoma Adoption Act from the individual before whom a consent or relinquishment was executed;

3. A certified copy of any court order terminating the rights and duties of the minor's parents or guardian;

4. A certified copy of each parent's or former parent's marriage certificate, decree of divorce, annulment or dissolution, or agreement or decree of legal separation, and a certified copy of any court order determining the parent's or former parent's incompetence;

5. A certified copy of any existing court order or the petition in any pending proceeding concerning custody of or visitation with the minor;

6. A copy of the preplacement evaluation and of the evaluation during the pendency of the proceeding for adoption;

7. A copy of any agreement with a public agency to provide a subsidy for the benefit of a child with a special need;

8. If an agency placed the child, a verified document from the agency stating:

- a. the circumstances under which it obtained custody of the child for purposes of adoption,
- b. that it complied with any provision of law governing an interstate placement of the minor,
- c. the name or relationship to the minor of any individual whose consent is required, but who has not executed a consent or a relinquishment or whose parental relationship has not been terminated, and any fact or circumstance that may excuse the lack of consent or relinquishment, and
- d. whether it has executed its consent to the proposed adoption and whether it waives notice of the proceeding;

9. The name and address, if known, of any person who is entitled to receive notice of the proceeding for adoption; and

10. Any such other document or information required by the Court.

B. If an item required by subsection A of this section is not available, the person responsible for furnishing the item shall file an affidavit explaining its absence.

SECTION 21. AMENDATORY 10 O.S. 1991, Section 60.12, as amended by Section 2, Chapter 122, O.S.L. 1994 (10 O.S. Supp. 1994, Section 60.12), is amended to read as follows:

Section 60.12 A. A petition for adoption shall be filed in duplicate, verified by the petitioners, and shall specify:

1. The full names, ages and places of residence of the petitioners and, if married, the place and date of the marriage;

2. When the petitioners acquired or intend to acquire custody of the child and from what person or agency;

3. The date and place of birth of the child and sex and race;

4. The name used for the child in the proceeding and, if a change in name is desired, the new name;

5. That it is the desire of the petitioners that the relationship of parent and child be established between them and the child;

6. A full description and statement of value of all property owned or possessed by the child, if any; ~~and~~

7. Facts, if any, which excuse consent on the part of the parents, or either of them, to the adoption;

8. The name or relationship of the child of any individual who has executed a consent or relinquishment to the adoption or a disclaimer of paternal interest, and the name or relationship to the minor of any individual whose consent or relinquishment may be required, but whose parental relationship has not been terminated, and any fact or circumstance that may excuse the lack of consent;

9. That a previous petition by the petitioner to adopt has or has not been made in any court, and its disposition; and

10. A description of any previous court order or pending proceeding known to the petitioner concerning custody of or visitation with the minor and any other fact known to the petitioner and needed to establish the jurisdiction of the court.

B. Any written consent required by ~~this~~ The Oklahoma Adoption Act may be attached to the petition, or may be filed, after the filing of the petition, with the consent of the court.

C. 1. A written report shall be attached to the petition, or may be filed after the filing of the petition, but prior to the final decree of adoption, with the consent of the court, which

discloses to the court all of the costs, funds, or monies expended by the adoptive family or expected to be expended in connection with the adoption of the child. Said disclosure shall include the costs of adoption agency fees, home study fees, physician fees, attorney fees, living expenses and medical costs paid for birth mother and child.

2. No final decree of adoption shall be entered until the court is satisfied that all costs and expenses have been disclosed, and that the costs and expenses do not violate the provisions of and are allowable expenses pursuant to Sections 865 through 869 of Title 21 of the Oklahoma Statutes.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.22 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Unless notice has been waived, notice of a proceeding for adoption of a minor must be served, within twenty (20) days after a petition for adoption is filed, upon:

1. An individual whose consent to the adoption is required under Section 11 of this act, but notice need not be served upon an individual whose parental relationship to the minor or whose status as a guardian has been terminated;

2. An agency whose consent to the adoption is required under Section 11 of this act;

3. An individual whom the petitioner knows is claiming to be or who is named as the father or possible father of the child and whose paternity of the minor has not been judicially determined, but notice need not be served upon a man who has executed a verified statement, as provided in the Oklahoma Adoption Act, denying paternity or disclaiming any interest in the minor;

4. An individual other than the petitioner who has legal or physical custody of the minor adoptee or who has a right of

visitation with the minor under an existing court order issued by a court in this or another state;

5. The spouse of the petitioner if the spouse has not joined in the petition; and

6. The grandparents of the child if such grandparents have established a relationship with the child.

B. The court shall require notice of a proceeding for adoption of a minor to be served upon any person the court finds, at any time during the proceeding, is:

1. A person described in subsection A of this section who has not been given notice;

2. An individual who has revoked a consent or relinquishment pursuant to the Oklahoma Adoption Act or is attempting to have a consent or relinquishment set aside pursuant to Section 14 of this act;

3. A person who, on the basis of a previous relationship with the child, a parent, an alleged parent, or the petitioner, can provide information that is relevant to the proposed adoption and that the court in its discretion wants to hear.

C. A notice required by this section must use a pseudonym for a petitioner or any individual named in the petition for adoption who has not waived confidentiality and must contain:

1. The caption of the petition;

2. The address and telephone number of the court where the petition is pending;

3. A concise summary of the relief requested in the petition;

4. The name, mailing address, and telephone number of the petitioner or petitioner's lawyer;

5. A conspicuous statement of the consequences of failure to respond to the notice of the proceeding for adoption and the method of responding; and

6. Any other statement required by law.

SECTION 23. AMENDATORY 10 O.S. 1991, Section 60.7A, is amended to read as follows:

Section 60.7A Whenever the ~~Uniform~~ Oklahoma Adoption Act requires that an order setting the date of hearing and giving notice thereof be signed by a judge, the chief judge in the county may by judicial order provide that such order or notice may be signed by the court clerk or his deputy affixing his signature beneath the place where the judge's name appears followed with the word "by:" and then followed with the signing officer's title.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.24 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Personal service of the notice required by Section 22 of this act must be made in a manner appropriate pursuant to the rules of civil procedure for the service of process in a civil action in this state unless the court otherwise directs.

B. Except as otherwise provided in subsection C of this section, a person who fails to respond to the notice within twenty (20) days after its service is not entitled to participate in or receive further notice of the proceeding for adoption.

C. An individual who is a respondent in a petition to terminate the relationship of parent and child which is served upon the individual with the notice required by Section 22 of this act is not entitled to participate in or receive further notice of the proceeding for adoption or for termination unless the individual responds to the notice as required by Section 22 of this act.

SECTION 25. AMENDATORY 10 O.S. 1991, Section 60.13, as amended by Section 3, Chapter 122, O.S.L. 1994 (10 O.S. Supp. 1994, Section 60.13), is amended to read as follows:

Section 60.13 A. Upon the filing of a petition for adoption pursuant to the Oklahoma Adoption Act, the court shall order or receive a home study and report to be made by:



1. The agency having custody or legal guardianship of the child; ~~or~~

2. The ~~State~~ Department of Human Services; ~~or~~

3. A licensed child-placing agency or certified adoption agency; ~~or~~

4. A person designated by the court who meets one of the following qualifications:

a. a master's degree in social work and one (1) year of experience in children's services,

b. a member of the Academy of Certified Social Workers (ACSW) and one (1) year of experience in children's services,

c. a master's degree in a behavioral or social science and two (2) years' experience in children's services,

d. a doctorate in a behavioral or social science and one (1) year of experience in children's services, or

e. is a member of the clergy with two (2) years of experience in family counseling; or

5. A person who is supervised by a person described in paragraph 4 of this subsection, and who meets one of the following qualifications:

a. a bachelor's degree in social work, or

b. a bachelor's degree in behavioral or social science and one (1) year of experience in children's or family services.

B. The court shall order that a report of such home study be filed with the court by the designated investigator within the time fixed by the court and in no event more than sixty (60) days from the issuance of the order for home study, unless time therefor is extended by the court.

C. 1. The home study shall include an appropriate inquiry to determine whether the proposed home is a suitable one for the child;

and any other circumstances and conditions which may have a bearing on the adoption and of which the court should have knowledge; and, in this entire matter of investigation, the court is specifically authorized to exercise judicial knowledge and discretion.

2. The home study shall consist of documentation of at least one individual interview with each parent, each school-age child and any other household member, one joint interview, a home visit and three written references.

3. The home study shall also include verification that the home is a healthy, safe environment in which to raise a child, as well as verification of marital status, employment, income, access to medical care, physical health and history, and a criminal background check.

D. A supplemental report including a determination as to the legal availability or status of the child for adoption shall be filed prior to the final adoption petition.

E. The court may order agencies named in subsection A of this section located in one or more counties to make separate investigations on separate parts of the inquiry, as may be appropriate.

F. The report of such home study shall become a part of the files in the case and shall contain a definite recommendation for or against the proposed adoption and the reasons therefor.

G. ~~Provided, that if~~ If the child petitioned to be adopted ~~shall be~~ is the natural or adopted child of either of the petitioners then no investigation shall be made.

H. The Department of Human Services shall not be required by the court to make a home study and report to the court on adoptive placements made by private adoption agencies or persons providing private adoption services.

SECTION 26. AMENDATORY 10 O.S. 1991, Section 60.14, is amended to read as follows:

Section 60.14 If the child is related by blood to one of the petitioners, or is a stepchild of the petitioner, or the court finds that the best interests of the child will be furthered thereby, the court, after examination of the report required in Section ~~13, in its discretion~~ 25 of this act, may waive the entry of an interlocutory decree and the waiting period of six (6) months provided in Section ~~15~~ 27 of this act and grant a final decree of adoption, if satisfied that the adoption is for the best interests of the child.

SECTION 27. AMENDATORY 10 O.S. 1991, Section 60.15, as amended by Section 4, Chapter 122, O.S.L. 1994 (10 O.S. Supp. 1994, Section 60.15), is amended to read as follows:

Section 60.15 A. Upon examination of the report required in Section 60.13 of this title, and after hearing, the court may issue an interlocutory decree giving the care and custody of the child to the petitioners, pending the further order of the court. Thereafter the investigator, who shall meet the qualifications specified in Section 60.13 of this title, shall observe the child in his proposed adoptive home and report in writing to the court on any circumstances or conditions which may have a bearing on the granting of a final adoption decree.

B. After six (6) months from the date of the interlocutory decree the petitioners may apply to the court for a final decree of adoption. The court shall thereupon set a time and place for final hearing. Notice of the time and date of the hearing shall be served on the Department of Human Services in those cases where said Department has original custody, or the investigator.

C. The investigator shall file with the court a written report of its findings and recommendations and certify that the required examination has been made since the granting of the interlocutory decree.

D. After hearing on said application, at which the petitioners and the child shall appear unless the presence of the child is waived by the court, the court may enter a final decree of adoption, if satisfied that the adoption is for the best interests of the child.

SECTION 28. AMENDATORY 10 O.S. 1991, Section 60.16, is amended to read as follows:

Section 60.16 A. After the final decree of adoption is entered, the relation of parent and child and all the rights, duties, and other legal consequences of the natural relation of child and parent shall thereafter exist between the adopted child and the adoptive parents of the child and the kindred of the adoptive parents. From the date of the final decree of adoption, the child shall be entitled to inherit real and personal property from and through the adoptive parents in accordance with the statutes of descent and distribution, ~~and the~~. The adoptive parents shall be entitled to inherit real and personal property from and through the child in accordance with said statutes.

B. After a final decree of adoption is entered, the natural parents of the adopted child, unless they are the adoptive parents or the spouse of an adoptive parent, shall be relieved of all parental responsibilities for said child and shall have no rights over the adopted child or to ~~his~~ the child's property by descent and distribution.

C. A grandparent, who is the parent of the child's natural parents, may be given reasonable rights of visitation to the child, pursuant to the provisions of Section 5 of this title.

D. A decree of adoption does not affect any right or benefit vested in the adoptee before the decree becomes final.

SECTION 29. AMENDATORY 10 O.S. 1991, Section 60.18, is amended to read as follows:

Section 60.18 ~~(1)~~ A. For each adoption or annulment of adoption, the clerk of the court shall prepare, within thirty (30) days after the decree becomes final, a certificate of such decree on a form furnished by the State Registrar of Vital Statistics, and before the 15th day of each calendar month the clerk shall forward to the State Registrar the certificates prepared by him during the preceding calendar month, if adoptions in said court have been effected.

~~(2)~~ B. The State Registrar, upon receipt of a certified copy of an order or decree of adoption, shall prepare a supplementary certificate in the new name of the adopted person, the city and county of residence of adoptive parents, hospital of choice of adoptive parents, and the family physician of the adoptive parents if they are residents of ~~the State of Oklahoma; provided, however,~~ any this state. Any change of name of the physician or the hospital shall first require that the written consent of such hospital and such physician is obtained.

C. The State Registrar shall ~~then~~ seal and file the original certificate of birth with said certified copy attached thereto. Such sealed documents may be opened by the State Registrar only upon the demand of the adopted person, if of legal age, or adoptive parents, by an order of the court or as otherwise authorized by the Oklahoma Adoption Act. Upon receipt of a certified copy of a court order of annulment of adoption, the State Registrar shall restore the original certificate to its original place in the files. ~~Provided further that this act~~

D. This section shall be retroactive and apply to adoptions heretofore granted by any court in this state.

SECTION 30. AMENDATORY 10 O.S. 1991, Section 60.19, is amended to read as follows:

Section 60.19 ~~An~~ A. Except as otherwise provided by the Oklahoma Adoption Act, any appeal may be taken from any final order,

judgment or decree rendered ~~hereunder~~ pursuant to the Oklahoma Adoption Act to the Supreme Court by any person aggrieved thereby, in the manner provided for appeals from said court in civil matters.

B. No adoption may be challenged on any ground either by a direct or collateral attack more than one (1) year after the entry of the final adoption decree regardless of whether the decree is void or voidable, and the minority of the natural parent shall not operate to prevent this time limit from running.

Part 5.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.31 of Title 10, unless there is created a duplication in numbering, reads as follows:

If the mother of a child to be born or who has been born out of wedlock proposes to permanently relinquish the child for adoption, or executes a permanent relinquishment for the adoption of the child after the birth of the child, such mother shall sign an affidavit stating, as applicable:

1. That the mother is not and has not been married to the father of the child;
2. Whether the mother was married at the time of conception of the child or during the pregnancy;
3. That the mother and father have not attempted to marry under the laws of this state or another state or nation;
4. That paternity has not been established under the laws of this state or any other state or nation;
5. Whether the mother was cohabiting with a man at the time of conception or birth of the child;
6. Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy;
7. Whether any man has formally or informally acknowledged or declared his possible paternity of the child; and

8. One of the following, as applicable:

- a. the father is unknown and no probable father is known,
- b. the name of the father, but the mother does not know the whereabouts of the father,
- c. the name and whereabouts of the father, or
- d. the name of any probable father of the child.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.32 of Title 10 unless there is created a duplication in numbering, reads as follows:

A. Before or after the birth of a child, the Department of Human Services, a licensed child placing agency or an attorney representing prospective adoptive parents of the child may:

1. Notify or cause to be notified the alleged father of the child that the mother of the child is considering an adoptive placement for the child; and

2. Obtain an affidavit of waiver of interest in the child.

B. Notice of the adoption pursuant to this section shall be provided to the alleged father in substantially the following form:

"\_\_\_\_\_ (alleged father's name), who has been named as the father of the unborn/born child of \_\_\_\_\_ (birth mother's name), or who claims to be the father of the unborn/born child, is notified that \_\_\_\_\_ (birth mother's name) has expressed an intention to secure an adoptive placement for the child.

The notice shall inform the alleged father that he may:

1. Complete an affidavit disclaiming any interest in the child;

2. File with the putative father registry pursuant to Section 34 of this act if he wishes to establish paternity of the child and assume parental responsibility for the child;

3. Inform the Department of Human Services, the licensed child placing agency or attorney representing the prospective adoptive parents that he is currently undecided as to whether he wishes to establish paternity and assume parental responsibility of the child,

but wishes to be notified of any adoption proceedings regarding the child, and will file with the putative father registry as required by Section 34 of this act; or

4. Wish to contest the adoption of the child, by filing a paternity action to establish his paternity in relation to the child not later than thirty (30) days after the receipt of this notice.

If the alleged father does not file a paternity action not more than thirty (30) days after receiving this notice, or having filed a paternity action, is unable to establish paternity in relation to the child within a reasonable period, the alleged father's consent to the relinquishment of his parental rights shall be irrevocably implied and the alleged father loses the right to contest both the adoption and the validity of his implied consent to the adoption. In addition, the alleged father loses the right to establish paternity of the child.

C. The notice shall also inform the alleged father of the date the child was born or if unborn the anticipated date of birth. Provided that the anticipated date of birth may not be used to invalidate or void any notice made pursuant to this section, any waiver made pursuant to Section 33, or any other court proceeding concerning the adoption of the child or termination of parental rights, if the date specified is inaccurate.

D. The alleged father's consent to the relinquishment of his parental rights to the child is irrevocably implied without further court action if the father:

1. Fails to file a paternity action not more than thirty (30) days after receiving actual notice of the mother's intent to proceed with an adoptive placement of the child, regardless of whether the child is born before or after the expiration of the thirty-day period;



2. Files a paternity action during the thirty-day period prescribed by paragraph 2 of this subsection, and fails to establish paternity in the paternity proceeding within a reasonable period; or

3. Fails to file with the putative father registry as required by this act.

E. An alleged father whose consent to the relinquishment of his parental rights is irrevocably implied under this section is not entitled to contest:

1. The adoption; or

2. The validity of the alleged father's implied consent to the adoption.

F. Upon the filing of the petition for adoption, the Department, the licensed child placing agency sponsoring the adoption or the attorney representing the prospective adoptive parents who gave notice to the alleged father shall submit to the court an affidavit setting forth the circumstances surrounding the service of notice including the time, date and the manner in which the notice was provided.

G. An alleged father whose consent to a relinquishment of his parental rights is implied under this section is not entitled to establish paternity of the child.

H. An alleged father who files a paternity action after receiving notice of a potential adoption from the Department, an attorney or agency pursuant to this subsection shall notify the attorney or agency that the paternity action has been filed, including:

1. The name of the court;

2. The cause number; and

3. The date of filing.

I. If an alleged father fails to provide notice to the Department, an attorney or agency under this subsection, upon a motion of the prospective adoptive parents, the court having

jurisdiction over the paternity action shall allow the prospective adoptive parents to intervene in the paternity action.

J. If the court has already established the paternity of a father who fails to provide notice under this subsection, upon motion of the prospective adoptive parents the court shall:

1. Set aside the paternity determination in order to reinstate the paternity action; and

2. Allow the prospective adoptive parents to intervene.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.33 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The mother of a child, the Department of Human Services, a licensed child placing agency, or private attorneys or their agents representing prospective parents may obtain an affidavit of waiver of interest in the child pursuant to this section after notice pursuant to Section 32 of this act.

B. 1. An alleged father may execute an affidavit disclaiming any interest in a child and waiving notice or the service in any proceeding to be filed affecting the parent-child relationship with respect to the child.

2. The affidavit disclaiming any interest in the child shall contain the following information:

- a. the name of the alleged father;
- b. the name of the birth mother of the child;
- c. that the alleged father has been identified as the father or possible father of the child; and
- d. one of the following, as applicable:
  - (1) the alleged father does not admit being the father or of having had a sexual relationship with the mother of the child, and that as such he waives and surrenders any parental rights in relation to the child including the right to

notice of any judicial or administrative proceeding in connection with the adoption of the child or with the transfer of the child's care, custody or guardianship. The alleged father understands that his consent to the adoption or any transfer of the care, custody or guardianship of the child will not be required, or

(2) the alleged father admits that he may have had sexual relations with the mother of the child and may be the father of the child, and:

(a) he does not wish to exercise any parental rights with respect to the child and that as such he waives and surrenders any parental rights in relation to the child including the right to notice of any judicial or administrative proceeding in connection with the adoption of the child or with the transfer of the child's care, custody or guardianship and that the alleged father understands that his consent to the adoption or any transfer of the care, custody or guardianship of the child will not be required, or

(b) he desires to establish parental rights and responsibilities in relation to the child, including the right to consent to adoption and that as such, such alleged father will file:

(i) with the putative father registry, the information required by Section 34 of this act within thirty (30) days of receipt of the notice specified by

Section 22 of this act or prior to the birth of the child if less than thirty (30) days, or

(ii) a petition for determination of paternity with a court of competent jurisdiction in this state within thirty (30) days of the notice of the affidavit or prior to the birth of the child if less than thirty (30) days.

C. The affidavit shall be signed by the alleged father, whether or not a minor, witnessed by two persons eighteen (18) years of age or older, and verified before a person authorized to take oaths. The affidavit may be executed before or after the birth of the child within the required time limitation.

D. An affidavit of waiver of interest in a child may be used in any proceeding in which the affiant attempts to establish an interest in the child. The affidavit may not be used in any proceeding brought by another person to establish the affiant's paternity of the child.

E. Any alleged father who does not fully and strictly comply with each of the conditions required in this section shall be deemed to have waived and surrendered any right in relation to the child including any right to notice of any hearing in any judicial or administrative proceeding in connection with the adoption of the child and the consent of that person to the adoption of the child is not required.

F. Request or receipt of an affidavit of waiver of interest does not obligate the mother of a child to proceed with an adoptive placement of the child.

G. In any adoption proceeding or in a proceeding brought by the Department of Human Services or a licensed child care agency or private attorney involved in the adoption proceeding for the purpose

of terminating all legal relationships and rights which exist or may exist between the child's parents and the child, the court may render a decree terminating all legal relationships and rights which exist or may exist between a child and a man who has executed an affidavit of waiver of interest in the child, including the right to seek voluntary paternity of the child, if the court finds that rendition of the decree is in the best interest of the child.

SECTION 34. AMENDATORY 10 O.S. 1991, Section 55.1, is amended to read as follows:

Section 55.1 A. The Department of Human Services shall establish a centralized putative father registry. The purpose of the registry is to:

1. Protect the parental rights of an alleged father who may wish to affirmatively assume responsibility for children he may have fathered; and

2. Expedite adoptions of children whose biological fathers are unwilling to assume responsibility for their children by registering with the registry or otherwise acknowledging their children.

B. A man who has sexual relations with a woman is deemed to have knowledge that such relations can result in the woman's pregnancy and shall file a notice to claim paternity as provided in this section to assert his right to establish paternity of any child. Ignorance of the pregnancy shall not constitute a valid reason for failing to file a notice of intent to claim paternity of the child born of the pregnancy. The registry does not relieve mothers of the obligation to identify known fathers.

C. The ~~father or putative~~ alleged father of a child born out of wedlock may file notice of intent to claim paternity of the child or an instrument acknowledging paternity of the child as provided in this section. An alleged father of a child who registers in accordance with this section is entitled to notice of the child's adoption pursuant to Section 22 of this act.

~~B. The Department of Human Services shall establish a centralized paternity registry which shall record the names and addresses of:~~

~~1. any person adjudicated by a court of this state to be the father of a child born out of wedlock;~~

~~2. any person who has filed with the registry before or after the birth of a child out of wedlock a notice of intent to claim paternity of the child;~~

~~3. any person adjudicated by a court of another state or territory of the United States to be the father of a child born out of wedlock, where a certified copy of the court order has been filed with the registry by such person or any other person; and~~

~~4. any person who has filed with the registry an instrument acknowledging paternity.~~

~~C. D. The putative father registry shall be available to any person who:~~

~~1. Registers claiming to be the father of a child for whom paternity has not been established by an order of a court of this state and giving notice of intent to claim paternity or is not a presumed father;~~

~~2. Has been adjudicated by a court of another state or territory of the United States to be the father of a child by filing a certified copy of the court order with the registry; or~~

~~3. Has filed with the registry an affidavit of paternity of a child executed as provided in Section 33 of this act, if the paternity of the child has not already been established by a court order.~~

~~E. The Department shall maintain the following information in the registry:~~

~~1. The putative father's:~~

~~a. name,~~

- b. address at which the putative father may be served with notice of an adoption,
- c. Social Security number, and
- d. date of birth;

2. The mother's:

- a. name, including all other names known to the putative father that the mother uses, and
- b. address, Social Security number, and date of birth, if known;

3. The child's name, date and place of birth, if known, or the probable month and year of the expected birth of the child;

4. The date that the Department receives a putative father's registration;

5. The:

- a. name of an attorney or agency that requests the Department to search the registry to determine whether a putative father is registered in relation to a mother whose child is or may be the subject of an adoption, and
- b. date that the attorney or agency submits a request as provided under this subsection; and

6. Any other information that the Department determines is necessary to access the information in the registry.

F. The Department shall store the registry's data in a manner so that the data is accessible under the following:

- 1. The putative father's name;
- 2. The mother's name; and
- 3. The child's name, if known.

G. A putative father who registers under this section shall provide to the Department:

- 1. The putative father's:
  - a. name,

- b. address at which the putative father may be served with notice of an adoption,
- c. Social Security number, and
- d. date of birth;

2. The mother's name, including all other names known to the putative father that the mother uses; and

3. Any other information described under subsection E of this section that is known to the putative father.

A putative father shall register under this section on a registration form prescribed by the Department. The registration form must be signed by the putative father and notarized.

H. A putative father who registers under this section is responsible for:

1. Verifying with the Department the accuracy of the registration; and

2. Submitting to the Department an amended registration each time the information supplied by the putative father under this section changes,  
during the period specified under this section.

I. A person filing a notice of intent to claim paternity of a child or an acknowledgment of paternity shall include therein his current address and shall notify the registry of any change of address pursuant to procedures prescribed by ~~regulations~~ rules of the Department. If a putative father does not have an address where the putative father is able to receive notice of an adoption, the putative father may designate another person as an agent for the purpose of receiving notice of adoption. The putative father must provide the Department with the agent's name and the address at which the agent may be served. Service of notice upon the agent constitutes service of notice upon the putative father. If notice of an adoption may not be served on the agent as provided by this



subsection, no further notice of the adoption to the agent or to the putative father is necessary.

~~D. A person who has filed a notice of intent to claim paternity may at any time, by filing a notice to disclaim, revoke a notice of intent to claim paternity.~~

J. 1. To be entitled to receive notice of an adoption, a putative father shall register with the registry not later than:

- a. thirty (30) days after the child's birth, or
- b. the date of the filing of a petition for the child's adoption,

whichever occurs later.

2. A putative father may register under paragraph 1 of this subsection before the child's birth.

~~E. K.~~ An unrevoked notice of intent to claim paternity of a child or an instrument acknowledging paternity may be introduced in evidence by any party in any proceeding in which such fact may be relevant.

~~F. L.~~ The Department, upon request, shall provide the names and addresses of persons listed with the registry to any court or authorized agency, and ~~such~~ the petitioner's attorney or the mother of the child. The information shall not be divulged to any other person except upon order of a court for good cause shown.

~~G. The Department shall:~~

~~1. provide the forms necessary for filing with the paternity registry established by this section and shall make said forms available to any father or putative father of a child born out of wedlock who wishes to file with the registry; and~~

~~2. provide, from any available funds, for the publication and statewide distribution to the public of information as to the existence of the paternity registry, the procedures for entry into the registry, and the consequences of failure to register.~~

M. The Department may require the payment of a registration fee for the filing of a notice of intent to claim paternity with the putative father registry in an amount not to exceed Twenty-five Dollars (\$25.00) per entry.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.36 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. A putative father may revoke a registration at any time by submitting a signed, notarized statement revoking the registration.

B. If a court determines that the registrant is not the father of the child, the court shall order that the Department remove the registrant's name from the registry. On receipt of an order providing for the removal of the registrant's name, the Department shall remove the name from the registry.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.37 of Title 10, unless there is created a duplication in numbering, reads as follows:

For the purpose of terminating parental rights, an alleged father of a child born out of wedlock who has signed the waiver of interest of the child or who has not, prior to commencement of a proceeding to terminate parental rights to such child, exercised parental rights and duties or complied with the Oklahoma Adoption Act shall not be deemed to have parental rights to such child. The court may waive notice to an alleged father whose identity is unknown to the mother of the child born out of wedlock and the mother of the child signs a sworn statement before the court that the identity of the alleged father of the child is unknown and the court is satisfied, after inquiry into the matter, that his identity is unknown and with due diligence could not be determined. The willful and deliberate falsification of said sworn statement shall be perjury and shall, upon conviction, be punishable as otherwise provided by law. The waiver of notice by the court pursuant to this

paragraph shall not constitute grounds to challenge an adoption of the child.

Part 6.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.38 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Adopted child" means any adopted person who is less than twenty-one (21) years of age;

2. "Adult sibling" means any brother or sister of the whole or half blood who is twenty-one (21) years of age or over;

3. "Adoptive parent" means an adult who has become a parent of a minor through the legal process of adoption;

4. "Adult adoptee" means an individual who is twenty-one (21) years of age or older and who, as a minor, was adopted pursuant to a final decree of adoption entered by a court;

5. "Birth parents" means genetic, biological, or natural parents whose rights were voluntarily or involuntarily terminated by a court or otherwise. "Birth parents" includes a man who is presumed to be the parent of a child as established in accordance with the provisions of Section 2 of Title 10 of the Oklahoma Statutes prior to the termination of parental rights;

6. "Identifying information" means information which includes the name, date of birth, place of birth and last-known address of the biological parent;

7. "Nonidentifying information" means information which does not disclose the name, address, place of employment, or any other material information which would lead to the identification of the birth parents and which includes, but is not limited to, the following:

- a. the physical description of the birth parents,
- b. the educational background of the birth parents,

- c. the occupation of the birth parents,
- d. genetic information about the birth family,
- e. medical information about the adult adoptee's birth,
- f. social information about the birth parents, and
- g. the placement history of the adoptee; and

8. "Notify" means a personal and confidential contact with the biological parent of the adopted adult, which initial contact shall not be made by mail and shall be made by an employee of the child-placing agency which processed the adoption, juvenile court personnel or some other licensed child-placing agency designated by the child-placing agency or court.

B. All papers, records, and information pertaining to an adoption whether part of any permanent record or file may be disclosed only in accordance with this section.

C. 1. An adopted adult may make a written request to the district court having original jurisdiction of such adoption to secure and disclose information identifying the adopted adult's biological parents. The court shall, within ten (10) days of receipt of the request, notify in writing the adoptive parents of such petitioner and the child-placing agency or court personnel having access to the information requested of the request by the adopted adult.

2. Within three (3) months after receiving notice of the request of the adopted adult, the child-placing agency or court personnel shall notify the adoptive parents, if such adoptive parents are living and shall not make any attempt to notify the biological parents without prior written consent of such adoptive parents for adoptions instituted or completed prior to January 1, 1996, but may proceed if there is proof that the adoptive parents are deceased or incapacitated. If the adoptive parents are living but are unwilling to give such written consent, the child-placing agency or court personnel shall make a written report to the court

stating that they were unable to notify the biological parent. If the adoptive parents are deceased or give written consent, the child-placing agency or court personnel shall make reasonable efforts to notify the biological parents of the request of the adopted adult. The child-placing agency or court personnel may charge actual costs to the adopted adult for the cost of making such search. All communications under this subsection are confidential. At the end of three (3) months, the child-placing agency or court personnel shall file a report with the court stating that each biological parent that was located was given the following information:

- a. the nature of the identifying information to which the agency has access,
- b. the nature of any nonidentifying information requested,
- c. the date of the request of the adopted adult,
- d. the right of the biological parent to file an affidavit with the court stating that the identifying information should be disclosed, and
- e. the effect of a failure of the biological parent to file an affidavit stating that the identifying information should be disclosed.

3. If the child-placing agency or court personnel report to the court that they have been unable to notify the biological parent within three (3) months, the identifying information shall not be disclosed to the adopted adult. Additional requests for the same or substantially the same information may not be made to the court within one (1) year from the end of the three-month period during which the attempted notification was made, unless good cause is shown and leave of court is granted.

4. If, within three (3) months, the child-placing agency or court personnel report to the court that they have notified the

biological parent, the court shall receive the identifying information from the child-placing agency. If an affidavit duly executed by a biological parent authorizing the release of information is filed with the court, the court shall disclose the identifying information as to that biological parent to the adopted adult, provided that the other biological parent either:

- a. is unknown,
- b. is known but cannot be found and notified pursuant to this subsection,
- c. is deceased, or
- d. has filed with the court an affidavit authorizing release of identifying information.

5. If the biological parent fails or refuses to file an affidavit with the court authorizing the release of identifying information, then the identifying information shall not be released to the adopted adult. No additional request for the same or substantially the same information may be made within three (3) years of the time the biological parent fails or refuses to file an affidavit authorizing the release of identifying information.

6. If the biological parent is deceased but previously had filed an affidavit with the court stating that identifying information shall be disclosed, the information shall be forwarded to and released by the court to the adopted adult. If the biological parent is deceased and, at any time prior to his death, the biological parent did not file an affidavit with the court stating that the identifying information shall be disclosed, the adopted adult may petition the court for an order releasing the identifying information. The court shall grant the petition upon a finding that disclosure of the information is necessary for health-related purposes.

7. Any adopted adult whose adoption was finalized in this state or whose biological parents had their parental rights terminated in

this state may request the court to secure and disclose identifying information concerning an adult sibling and upon a finding by the court that such information is necessary for urgent health-related purposes in the same manner as provided in this section.

Identifying information pertaining exclusively to the adult sibling, whether part of the permanent record of a file in the court or in an agency, shall be released only upon consent of that adult sibling.

D. The Administrator of the Courts shall maintain a registry by which biological parents and adoptive adults may indicate their desire to be contacted by each other pursuant to this part. The Administrator may request such identification for the registry as a party may possess to assure positive identifications. If the Administrator believes that a match has occurred on the registry between both biological parents and an adopted adult, an employee of the Office of the Administrator of the Courts shall make the confidential contact provided in subsection C of this section with the biological parents and with the adopted adult. If the Administrator believes that a match has occurred on the registry between one biological parent and an adopted adult, an employee of the division shall make the confidential contact provided by subsection C of this section, with the biological parent. The Administrator shall then attempt to make such confidential contact with the other biological parent, and shall proceed thereafter to make such confidential contact with the adopted adult only if the Administrator determines that the other biological parent meets one of the conditions specified in subsection C of this section. The biological parent or adopted adult may refuse to go forward with any further contact between the parties when contacted by the division.

E. The provisions of this section, except as provided in subsection C of this section, governing the release of identifying and nonidentifying adoptive information shall apply to adoptions completed before and after November 1, 1995.

SECTION 38. REPEALER 10 O.S. 1991, Sections 58, 60.7,  
60.9 and 60.20, are hereby repealed.

SECTION 39. This act shall become effective January 1, 1996.

45-1-5111 KSM