STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2980 By: Roach

AS INTRODUCED

An Act relating to children; amending 10 O.S. 1991, Sections 60.1, 60.5, as amended by Section 1, Chapter 122, O.S.L. 1994, 60.23, 60.26, 60.27, 60.28, 60.31, 60.32, 60.33, 60.34 and 60.35 (10 O.S. Supp. 1995, Section 60.5), which relates to adoptions; changing name of act to Oklahoma Adoption Act; modifying terms; authorizing certain designees for executive heads of licensed child-placing agencies to appear and represent the executive head at certain proceeding; limiting certain authority of designee; requiring notarized written statement; prohibiting certain actions; providing for adoption exchanges; removing certified adoption agencies; modifying definitions; making certain Indian tribes subject to Subsidized Adoption Act; providing increasing adoption of children through instate or out-of-state or national adoption exchanges as funds become available for such purpose; removing certain requirements; providing for recodification; and providing an effective date.

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

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

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

SECTION 2. 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"~~ the Oklahoma Adoption Act:

1. "Child" means any minor person~~,~~; and ~~"agency"~~

2. "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.~~

SECTION 3. AMENDATORY 10 O.S. 1991, Section 60.5, as amended by Section 1, Chapter 122, O.S.L. 1994 (10 O.S. Supp. 1995, Section 60.5), is amended to read as follows:

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

1. 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.

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

b. If the mother or father be below the age of sixteen (16), consent to the adoption shall be deemed sufficient if given by such mother or father before a judge of the district court, in writing, and if

accompanied by the written consent of the legal guardian of the person of such parent. If such underage mother or father has no such guardian, the consent shall be accompanied by the written consent of his or her parents, but if one parent be deceased or the parents be divorced, then the written consent of the parent having the custody shall be deemed sufficient; if both parents of the underage mother or father be deceased, then the written consent of the person having his or her physical custody shall be deemed sufficient. If in any case consent cannot be secured from the person, other than the underage mother or father, authorized herein to give consent, notice by mailing shall be given by the court, unless notice is waived by personal appearance, to such person or persons authorized herein to give consent, directing such person to show cause, at a time appointed by the court, which shall be not less than ten (10) days from the date of mailing, why adoption should not be granted without that person's consent. If such person shall not appear to contest the adoption or if the court should find that consent of such person is unreasonably withheld, the adoption may be granted without the consent of that person; ~~or~~

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

3. The executive head of ~~an~~ a licensed child-placing agency ~~if both parents are dead, or~~ if the child has been permanently relinquished ~~for adoption~~ to such agency, or if the rights of the

parents have been judicially terminated and custody of the child has been legally vested in such agency with authority to consent to adoption of the child; or

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

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

1. If the person whose consent is necessary does not reside in the county having jurisdiction of the adoption proceedings such person may execute such consent before a district judge of this state or probate judge or judge having adoption jurisdiction of any other state of the county of his residence~~. Provided, further, that when such~~;

2. If 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~~;

3. The executive head of a licensed child-placing agency whose consent is required for the adoption of a child who is in the custody of the licensed child-placing agency may designate in a signed written statement properly notarized by a notary public, or other person authorized by law to administer oaths, an employee of the agency to appear in the district court of the county in which said adoption proceedings are to be completed, and to represent the executive head of the agency regarding submission of the written consent signed by the executive head pursuant to this section. The executive head of the agency shall not designate or authorize the employee to sign the written consent so required; or

~~5.~~ 4. In the event:

a. 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, except as provided in subparagraph b of this subsection, 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~~ such person's residence who is authorized to administer oaths under the laws of such country or place~~;~~, or~~, when~~

b. the party seeking to give such consent is a member of the United States Armed Services stationed in a country or place other than the United States, then such consent may be acknowledged before an officer of the Judge Advocate General's Office or other legal officer possessing the authority to administer oaths.

Where consent is so obtained, it shall not be necessary for such person to appear before the district court having jurisdiction of the adoption proceedings. If the written instrument containing such

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

SECTION 4. AMENDATORY 10 O.S. 1991, Section 60.26, is amended to read as follows:

Section 60.26 As used in ~~this act~~ the Subsidized Adoption Act:

"Child" means a minor~~, as defined by statute,~~ who is ~~(a) in~~:

1. In the court-ordered custody of a public or licensed private nonprofit child-placing agency and certified adoption agency~~, (b) legally~~ or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act;

2. Legally free for adoption~~,~~; and ~~(c) in~~

3. In special circumstances because ~~he~~ the child is not likely to be adopted by reason of one or more conditions, such as:

a. physical or mental disability,

b. emotional disturbance,

c. recognized high risk of physical or mental disease,

d. age,

e. sibling relationship,

f. racial or ethnic factors, or

g. any combination of these conditions.

SECTION 5. AMENDATORY 10 O.S. 1991, Section 60.27, is amended to read as follows:

Section 60.27 A. The Department of Human Services shall establish and administer an ongoing program of subsidized adoption. Subsidies and services for children who are in the permanent custody of the Department of Human Services under this program shall be provided out of funds appropriated to the Department of Human

Services for the maintenance of children in foster care or made available to it from other sources.

B. Children who are in the court-ordered custody of a licensed private nonprofit child-placing agency ~~and certified adoption agency~~ or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall receive subsidies and services from funds appropriated by the Legislature.

C. The Department of Human Services will set as a goal for each fiscal year commencing with the fiscal year which begins on October 1, 1983, that there will be a maximum of forty-five percent (45%) of all children in foster care who will remain in foster care for a period in excess of twenty-four (24) months.

D. The Department of Human Services shall participate in adoption subsidies, foster care review boards, reunification services and protective services to achieve this goal.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 60.28, is amended to read as follows:

Section 60.28 A. Whenever significant emotional ties have been established between a child and his foster parent or parents, and the foster parent or parents seek to adopt the child, the child may be certified as eligible for an adoption maintenance subsidy conditioned upon his adoption under applicable adoption procedures by the foster parent or parents.

B. In all other cases, after reasonable efforts have been made and no appropriate adoptive family without the use of subsidy has been found for a child, the Department of Human Services shall certify the child as eligible for a subsidy in the event of adoption.

C. If the child is in the court-ordered custody of a licensed private nonprofit child-placing agency ~~and certified adoption agency~~ or federally recognized Indian tribe as defined by the federal

Indian Child Welfare Act, that agency or tribe shall present to the Department of Human Services ~~(1) evidence~~:

1. Evidence of significant emotional ties between the child and his foster parent or parents; or ~~(2) evidence~~

2. Evidence of inability to place the child for adoption due to any of the conditions specified in Section ~~2~~ 60.26 of this ~~act~~ title. ~~In the latter case, the~~ The agency shall present evidence that reasonable efforts have been made to place the child without subsidy, such as recruitment of a potential parent or parents, use of adoption resource exchanges, referral to appropriate specialized adoption agencies and efforts to place the child in a Department of Human Services nonsubsidy adoptive home.

SECTION 7. AMENDATORY 10 O.S. 1991, Section 60.31, is amended to read as follows:

Section 60.31 A. The Department of Human Services, as funds become available for such purposes, shall contract with or join the Oklahoma Children's Adoption Resources Exchange or any other instate or out-of-state or national adoption exchange for purposes of increasing and promoting the placement and adoption of children who are in the custody of the Department of Human Services and in licensed child-placing agencies.

B. Upon contracting with or joining the Oklahoma Children's Adoption Resources Exchange or any instate or out-of-state or national adoption exchange, the Department ~~of Human Services, all certified adoption agencies~~ and all licensed child-placing agencies shall be required to provide certain information to the "Oklahoma Children's Adoption Resource Exchange" or any other instate or out-of-state or national adoption exchange specified by the Department. ~~This shall include, but not be limited to~~

C. For purposes of the Subsidized Adoption Act:

1. "Adoption exchange" shall include only those exchanges which provide at a minimum a book, updated monthly, ~~which will contain~~

containing a photograph and description of each child whose parental rights have been terminated and is legally available for adoption~~. The~~; and

2. "Oklahoma Children's Adoption Resource Exchange" is a private nonprofit corporation incorporated in the State of Oklahoma whose membership is composed of ~~certified adoption agencies and~~ licensed child-placing agencies which operates under the direction of a board of directors selected in accordance with the bylaws of the Corporation.

SECTION 8. AMENDATORY 10 O.S. 1991, Section 60.32, is amended to read as follows:

Section 60.32 ~~The~~ Pursuant to the provisions of Section 60.31 of this title, the Department of Human Services~~, all certified adoption agencies~~ and all licensed child-placing agencies shall be required to provide to the ~~"~~Oklahoma Children's Adoption Resource Exchange~~"~~ or any other instate or out-of-state or national adoption exchange specified by the Department, a recent photograph and description of each child ~~in its care whose parental rights have been terminated,~~ who is legally available for adoption and for whom no adoptive home has been found. Requirements of this section must be completed within ninety (90) days of the date a child has ~~his parental rights terminated and becomes~~ become legally available for adoption~~. After the required information pertaining to the child has been listed with the "Oklahoma Children's Adoption Resource Exchange" for thirty (30) days, then the "Oklahoma Children's Adoption Resource Exchange" shall make the information pertaining to that child available to the Southwest Regional Adoption Exchange and the National Adoption Exchange for the express public purpose of assisting in the adoption of certain children~~ or as otherwise required by the adoption exchange.

SECTION 9. AMENDATORY 10 O.S. 1991, Section 60.33, is amended to read as follows:

Section 60.33 The following persons are ~~hereby~~ exempt from the provisions of ~~this act~~ Sections 60.31 through 60.35 of this title:

1. Children age twelve (12) years or older who do not choose to be adopted pursuant to Section 60.11 of ~~Title 10 of the Oklahoma Statutes.~~ this title;

2. Children for whom permanent placement plans have been made that do not include adoption; for example, permanent placement with relatives or long-term foster care;

3. ~~Children under the purview of the Oklahoma Indian Child Welfare Act as defined in Sections 40.1 et seq. of Title 10 of the Oklahoma Statutes;~~

~~4. Children under the purview of the Federal Indian Child Welfare Act as defined by 25 U.S.C.A. 1901 et seq.;~~

~~5.~~ Children who, because of medical or psychological reasons as determined by a licensed psychiatrist, psychologist or physician, are not ready for adoption;

~~6.~~ 4. Children who are runaways and whose present location is unknown; and

~~7.~~ 5. Children who are currently in an adoptive placement, pursuant to Section 60.14 of ~~Title 10 of the Oklahoma Statutes~~ this title.

SECTION 10. AMENDATORY 10 O.S. 1991, Section 60.34, is amended to read as follows:

Section 60.34 Any change in the status of a child listed by the ~~"~~Oklahoma Children's Adoption Resource Exchange~~"~~ or any other instate or out-of-state or national adoption exchange specified by the Department shall be reported by the Department of Human Services~~, certified adoption agencies~~ or licensed child-placing agency having legal custody of that child to the ~~"~~Oklahoma Children's Adoption Resource Exchange~~"~~ or any other instate or out-of-state or national adoption exchange specified by the Department.

~~This~~ The report shall be completed within twenty (20) working days after the change occurs.

SECTION 11. AMENDATORY 10 O.S. 1991, Section 60.35, is amended to read as follows:

Section 60.35 A child registered with the ~~"~~Oklahoma Children's Adoption Resource Exchange~~"~~ or any other instate or out-of-state or national adoption exchange as legally adoptable shall be withdrawn from the register when the exchange receives written notification from the agency having legal custody that the child has been placed in an adoptive home.

SECTION 12. RECODIFICATION 10 O.S. 1991, Section 58, as amended by Section 25, Chapter 340, O.S.L. 1995 (10 O.S. Supp. 1995, Section 58), shall be recodified as Section 60.19a of Title 10 of the Oklahoma Statutes. 10 O.S. 1991, Section 60.23, as last amended by Section 1 of this act, shall be recodified as Section 60 of Title 10 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 13. This act shall become effective November 1, 1996.

45-2-8064 KSM