

SHORT TITLE: Adoption; defining substantial compliance with a support order; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 121

By: Smith

AS INTRODUCED

An Act relating to adoption; amending 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), which relates to exceptions to requirement of parental consent for adoption; defining substantial compliance with a support order under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 60.6, 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 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~~ the 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. For purposes of this paragraph, substantial compliance with any such order of support shall mean payment of at least one-half (1/2) of all amounts due under such order, or

- b. according to ~~such~~ the parent's financial ability to contribute to ~~such~~ the 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.~~ 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~~ the child. ~~Provided that any~~ 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~~ the 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.

SECTION 2. This act shall become effective November 1, 1995.

45-1-0077           KS