

SHORT TITLE: Adoption; allowing foster parent to petition court to terminate certain parental rights; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 511

By: Wright of the Senate

and

Ferguson of the House

AS INTRODUCED

An Act relating to adoption; amending 10 O.S. 1991, Section 1130, as last amended by Section 1, Chapter 309, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1130), which relates to termination of parental rights; allowing foster parent to petition the court to terminate certain parental rights; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1130, as last amended by Section 1, Chapter 309, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1130), is amended to read as follows:

Section 1130. A. The finding that a child is delinquent, in need of supervision, or deprived shall not deprive the parents of the child of their parental rights, but a court may terminate the rights of a parent to a child in the following situations:

1. Upon a written consent of a parent, including a parent who is a minor, acknowledged as provided in paragraph ~~(4)~~ 4 of Section 60.5 of this title, who desires to terminate his or her parental rights; ~~provided that~~ if the court finds that such termination is in the best interests of the child; or

2. A finding that a parent who is entitled to custody of the child has abandoned it; or

3. A finding that:

a. the child is deprived, as defined in this title, and

- b. ~~such condition is caused by or contributed to by~~ the child is deprived because of acts or omissions of the parent, and
- c. termination of parental rights is in the best interests of the child, and
- d. the parent has failed to show that the condition which led to the making of ~~said~~ the finding has not been corrected although the parent has been given three (3) months to correct the condition; ~~provided, that the.~~ 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~~ the parent may show that the condition has been corrected, if, in the judgment of the court, ~~such~~ an extension of time would be in the best ~~interest~~ interests 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~~ the court may wish to impose or the court may place the child with an individual or an agency; or

4. A finding that a subsequent child has been born to a parent whose parental rights to other children have been terminated by the court; provided, that the applicant shall show that the condition which led to the making of the finding which resulted in the termination of ~~such~~ the parent's parental rights to the other children has not been corrected. The court may set the time in which the applicant shall show that the condition has not been corrected, if, in the judgment of the court, it is in the best interests of the child. Until the applicant shows that the condition has not been corrected, the child may remain in the custody of the parent, subject to any conditions which the court may

impose, or the court may place the child with an individual or an agency. As used in this paragraph, the term "applicant" shall include, but not be limited to, the Department of Human Services or a district attorney; or

5. A finding that a parent who does not have custody of the child has willfully failed to contribute to the support of the child as provided in a decree of divorce or in some other court order during the preceding year or, in the absence of ~~such an~~ an order, consistent with the parent's means and earning capacity; ~~provided,~~ ~~that the.~~ The incarceration of a parent shall not prevent termination of parental rights under this section; or

6. A conviction 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 a finding in a deprived child action either that:

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

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

8. A finding that all of the following exist:

- a. the child is deprived, as defined in this title, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian, or extended family member, and
- c. the parent whose rights are sought to be terminated has been sentenced to a period of incarceration of not less than ten (10) years, and
- d. 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, and
- e. termination of parental rights is in the best interests of the child.

Provided, that the incarceration of a parent shall not in and of itself be sufficient to deprive a parent of his or her parental rights; or

9. A finding that all of the following exist:

- a. the child is deprived as defined in this title, and

- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian, or extended family member, and
- c. the parent whose rights are sought to be terminated has a mental illness or mental deficiency, as defined by 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
- d. the continuation of parental rights would result in harm or threatened harm to the child, and
- e. 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, and
- f. termination of parental rights is in the best interests of the child.

Provided, a finding that a parent has a mental illness or mental deficiency shall not in and of itself deprive the parent of his or her parental rights.

B. An order directing the termination of parental rights is a final appealable order.

C. A parent, foster parent, or guardian of a child may petition the court to terminate the parental rights of a parent or the parents of a child for any of the grounds listed in paragraphs 1, 2, or 5 of subsection A of this section. A prior finding by a court that a child is delinquent, deprived, or in need of supervision shall not be required for the filing of ~~such~~ a petition by the parent or guardian.

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

