

ENGROSSED HOUSE
BILL NO. 1241

By: Roach and Tyler of the
House

and

Henry of the Senate

(adoption - amending various sections in Titles 10 and 21
- Oklahoma Adoption Act - consent to adoptions -
temporary relinquishment - repealing 10 O.S., Sections
29.1 and 60.2 - codification - effective date)

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

Chapter 75

Oklahoma Adoption Code

Article 1. State Policy and General Definitions

SECTION 1. AMENDATORY 10 O.S. 1991, Section 60.23, as amended by Section 1, Chapter 297, O.S.L. 1996, and as renumbered by Section 28, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 60), is amended to read as follows:

Section 60. A. Chapter ~~2A~~ 75 of ~~Title 10 of the Oklahoma Statutes~~ this title shall be known and may be cited as the "Oklahoma Adoption ~~Act~~ Code".

B. The Oklahoma Adoption Code shall be composed of nine articles:

Article 1. State Policy and General Definitions.

Article 2. Jurisdiction, Venue and Choice of Law.

Article 3. Adoption of Minors.

Article 4. Medical and Social Histories.

Article 5. Adoption Proceedings.

Article 6. Paternity Registry.

Article 7. Adult Adoptions.

Article 8. Mutual Consent Voluntary Adoption Registry.

Article 9. General Prohibitions.

C. All statutes hereinafter enacted and codified in Chapter 75 of this title shall be considered and deemed part of the Oklahoma Adoption Code.

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 in this act shall affect the validity of any order or decree of adoption heretofore made~~

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:

1. Ensure and promote the best interests of the child in adoptions. To this effect, it is the intent of the Legislature that when a 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. Affirm that children placed in adoptive homes will be raised in stable, permanent and nurturing families;

3. Establish and encourage the expeditious movement of adoption matters through the courts;

4. Promote and strengthen the integrity and finality of adoptions;

5. Recognize the rights and interests of the biological mother, the biological father and the adoptive parents of the child;

6. Affirm the duty of the biological father of a child who is to be born or who is born outside of marriage to promptly establish paternity and to exercise his parental responsibilities for the child. To this extent, the Legislature of this state believes that a man who has sexual relations with a woman outside of marriage knows that such relations can result in the woman's pregnancy and therefore any man who fathers a child outside of marriage has reasonable knowledge of the pregnancy; and

7. Recognize that parents of a child conceived or born outside of marriage are responsible for their own actions and shall not be excused from complying with the provisions of this article based upon any action or statement of the other parent.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 60.1, as amended by Section 2, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 60.1), is amended to read as follows:

Section 60.1 As used in the Oklahoma Adoption ~~Act~~ Code:

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. "Child" or "minor" means any unmarried or unemancipated person who has not attained the age of eighteen (18);

~~2.~~ 4. "Child-placing agency" means any child welfare agency licensed pursuant to the Oklahoma Child Care Facilities Licensing Act and authorized to place children for adoption;

~~3.~~ 5. "Department" means the Department of Human Services; and

~~4.~~ 6. "Direct placement adoption" means any adoption in which the child is not placed for adoption by the Department of Human Services or a licensed child-placing agency;

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

8. "Parent" means an individual who is the biological parent of a child or who is legally recognized as a mother or father of a child. The term "parent" does not include an individual whose parental relationship to a child has been terminated;

9. "Permanent relinquishment" means the voluntary surrender of the rights of the parent or guardian with respect to the child, including legal and physical custody of the child, to an agency, the Department, or any person with the assent of the court, by a child's parent or guardian, for purposes of the child's adoption;

10. "Putative father" means the father of a child born out of wedlock and includes, but is not limited to, a man who has acknowledged or claims paternity of a child, a man named by the mother of the child to be the father of the child, or any man who is alleged to have engaged in sexual intercourse with a woman during a possible time of conception;

11. "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

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

Article 2. Jurisdiction, Venue and Choice of Law

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.4 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in this section, a court of this state has jurisdiction over a proceeding for the adoption of a minor commenced pursuant to the Oklahoma Adoption Code if:

1. Immediately preceding commencement of the proceeding, the minor lived in this state with a parent, a guardian, a prospective adoptive parent, or another person acting as parent, for at least six (6) consecutive months, excluding periods of temporary absence, or, in the case of a minor under six (6) months of age, lived in this state from soon after birth with any of those individuals and there is available in this state substantial evidence concerning the minor's present or future care;

2. Immediately preceding commencement of the proceeding, the prospective adoptive parent lived in this state for at least six (6) consecutive months, excluding periods of temporary absence, and there is available in this state substantial evidence concerning the minor's present or future care;

3. The agency that placed the minor for adoption is located in this state and it is in the best interest of the minor that a court of this state assume jurisdiction because:

a. the minor and the minor's parents, or the minor and the prospective adoptive parent, have a significant connection with this state, and

b. there is available in this state substantial evidence concerning the minor's present or future care;

4. The minor and the prospective adoptive parent are physically present in this state and the minor has been abandoned or it is necessary in an emergency to protect the minor because the minor has been subjected to or threatened with mistreatment or abuse or is otherwise neglected; or

5. It appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraphs 1 through 4 of this subsection, or another state has declined to exercise

jurisdiction on the ground that this state is the more appropriate forum to hear a petition for adoption of the minor, and it is in the best interest of the minor that a court of this state assume jurisdiction.

B. A court of this state may not exercise jurisdiction over a proceeding for adoption of a minor if at the time the petition for adoption is filed a proceeding concerning the custody or adoption of the minor is pending in a court of another state exercising jurisdiction substantially in conformity with the Uniform Child Custody Jurisdiction Act or the Oklahoma Adoption Code, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for another reason.

C. If a court of another state has issued a decree or order concerning the custody of a minor who may be the subject of a proceeding for adoption in this state, a court of this state shall not exercise jurisdiction over a proceeding for adoption of the minor unless:

1. The court of this state finds that the court of the state which issued the decree or order:

- a. does not have continuing jurisdiction to modify the decree or order under jurisdictional prerequisites substantially in accordance with the Uniform Child Custody Jurisdiction Act or has declined to assume jurisdiction to modify the decree or order, or
- b. does not have jurisdiction over a proceeding for adoption substantially in conformity with paragraphs 1 through 4 of subsection A of this section or has declined to assume jurisdiction over a proceeding for adoption; and

2. The court of this state has jurisdiction under this section over the proceeding for adoption.

SECTION 5. 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 child brought into this state from another state by a prospective adoptive parent, or by a person who places the child for adoption in this state, is governed by the laws of this state, including but not limited to the Oklahoma Adoption Code and the Interstate Compact on the Placement of Children.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 60.20, as amended by Section 11, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 60.20), is amended to read as follows:

Section 60.20 ~~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~~

A. The courts of this state shall recognize a decree, judgment, or final order creating the relationship of parent and child by adoption, issued by a court or other governmental authority with appropriate jurisdiction in a foreign country or in another state or territory of the United States. The rights and obligations of the parties as to matters within the jurisdiction of this state shall be determined as though the decree, judgment, or final order were issued by a court of this state.

B. A child born outside of the United States may be adopted in Oklahoma if one or both of the petitioners for adoption are citizens of Oklahoma and the child is residing in Oklahoma at the time the petition for adoption is filed.

C. An adoptive parent of a child adopted outside of the United States may petition to readopt the child under Oklahoma law, if one or both of the petitioners are citizens of Oklahoma and the child is residing in Oklahoma at the time that the petition for adoption is filed.

D. A proceeding to adopt or readopt a child born outside of the United States shall proceed pursuant to the Oklahoma Adoption Code, with the following provisions:

1. The court may grant a decree of adoption without requiring notice to the biological parents and without requiring the consent of the biological parents, if the petitioner files with the petition for adoption a copy of the decree of adoption or termination of parental rights granted by a judicial, administrative, or executive body of the country of origin, or a document or documents from such a governmental body stating that the biological parent has consented to the adoption, or stating that the parental rights of the biological parent of the child have been terminated, or stating that the child to be adopted has been abandoned or relinquished by the biological parent. Any document in a foreign language shall be translated into English by the Department of State or by a translator who shall certify the accuracy of the translation, and a copy of the translation and certification shall be filed with the court along with a copy of the original documents;

2. If a child born outside of the United States is in the legal custody of a licensed child-placing agency at the time that the petition for adoption is filed, notice of the proceedings shall be given to the agency prior to the hearing on the petition, and the consent of the agency to the adoption shall be obtained pursuant to Section 16 of this act prior to the granting of the decree of adoption; and

3. In a proceeding to readopt a child previously adopted by petitioner in a foreign country, the court may waive the issuance of

an interlocutory decree of adoption and the waiting period of six (6) months provided in Section 28 of this act, and grant a final decree of adoption, if:

- a. the child has been in the home of petitioner for at least six (6) months prior to the filing of the petition for adoption, and
- b. a postplacement report has been submitted to the court.

Article 3. Adoption of Minors

Part 1. Eligibility to Place a Child and Eligibility to Adopt

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.7 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The only persons who may place a minor for adoption are:

- 1. A parent having legal and physical custody of the minor, as provided in subsections B and C of this section;
- 2. A guardian expressly authorized by the court to place the minor for adoption;
- 3. An agency to which the minor has been relinquished for purposes of adoption; or
- 4. An agency expressly authorized to place the minor for adoption by a court order terminating the relationship between the minor and the minor's parent or guardian.

B. Except as provided in subsection C of this section, a parent having legal and physical custody of a minor may place the minor for adoption, even if the other parent has not executed a consent or a relinquishment or the other parent's relationship to the minor has not been terminated.

C. A parent having legal and physical custody of a minor may not place the minor for adoption if the other parent has legal custody or a right of visitation with the minor and that parent's whereabouts are known, unless that parent agrees in writing to the

placement or, before the placement, the parent who intends to place the minor sends notice of the intended placement by certified mail to the other parent's last-known address.

D. An agency authorized to place a minor for adoption may place the minor for adoption, even if only one parent has executed a relinquishment or has had parental relationship to the minor terminated.

SECTION 8. 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.~~

Part 2. Relinquishments

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.9 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. A permanent relinquishment may be executed by a person whose consent to the adoption of a child 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 child, including legal and physical custody and the right to consent to the child's adoption.

2. When the person whose consent is or may be required by Section 10 of this act resides outside of Oklahoma, the permanent relinquishment by such person may be executed in that state in the

manner set forth in the Oklahoma Adoption Code or in the manner prescribed by the laws of the state of such person's residence.

B. Permanent relinquishments may be made only to:

1. The Department of Human Services;
2. A child-placing agency duly licensed or recognized under the provisions of Section 402 of Title 10 of the Oklahoma Statutes; or
3. Any other person, with the written consent of the Department or court.

C. A permanent relinquishment shall:

1. Be signed by the person or persons by whom it is executed;
2. Identify the child relinquished; and
3. Be executed before the court.

Part 3. Consent to Adoptions

SECTION 10. AMENDATORY 10 O.S. 1991, Section 60.5, as last amended by Section 3, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, 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~~ A child may be ~~decreed~~ adopted 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.~~ of the child;

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;~~

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 13 of this act;

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, or the consent of both parents is otherwise not required pursuant to Section 13 of this act, and such guardian or guardian ad litem has authority by order of the court appointing ~~him~~ the guardian to consent to the adoption;

~~3.~~ 4. The executive head of a licensed child-placing agency if:

a. the child has been permanently relinquished to such agency ~~by~~ by:

(1) both parents, or

(2) one parent alone if the other parent is dead, the parental rights of the other parent have been terminated, or the consent of the other parent is otherwise not required pursuant to Section 13 of this act, or ~~if~~

b. the rights of ~~the~~ both 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.~~ 5. Any person having legal custody of a child by court order if:

a. 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, and~~

b. the court that issued the custody order for the child has consented to adoption and a certified copy of its order containing its consent is attached to the petition for adoption.

B. ~~Except as otherwise provided by this subsection, the~~ 1. A parent of a child born in wedlock or a parent who is sixteen (16) years of age or older shall be deemed capable of giving consent to the adoption of a child.

2. If the parent of the child born out of wedlock is under sixteen (16) years of age, that parent's consent to the adoption shall be deemed sufficient when:

- a. given by such minor parent before a judge of the district court, and
- b. accompanied by the written consent of:
 - (1) the legal guardian of the minor parent, or
 - (2) the parents of the minor parent, or
 - (3) the parent having custody of the minor parent, if the other parent of the minor parent is deceased or the parents of the minor parent are divorced, or
 - (4) the person having physical custody of the minor parent, if both parents of the minor parent are deceased, and
- c. accompanied by a finding of the court issuing the decree of adoption, if consent cannot be secured from any individual whose consent is required by subparagraph b of this paragraph, that:
 - (1) either notice was given by mail by the court to such individual directing such 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 the adoption should not be granted without the individual's consent, or that notice was waived by the personal appearance of the individual, and
 - (2) the individual did not appear to contest the adoption, or the consent of the individual is unreasonably withheld.

C. If a child to be adopted is twelve (12) years of age or older, the consent of the child to the adoption is required in addition to the consents required by subsections A and B of this section before a decree of adoption may be granted unless the court makes a finding that it is not in the best interest of the child to

require the child's consent. The consent of the child must be given before the court in such form as the court shall direct.

D. The consent required by paragraphs 1, 2 and 3 of subsections A, B and C 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) years of age 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 issuing the decree of adoption with the following exceptions:

1. If the person an individual whose consent is necessary does not reside in the county having jurisdiction of the court issuing the decree of adoption proceedings such person the individual may execute such consent before a district judge of this state or probate judge or judge having adoption jurisdiction of any other in the state of the county of his residence of the individual;

2. If the an individual whose consent is necessary resides in a country or place other than the United States of America, other than a member of the United States Armed Services stationed abroad, the consent of the individual to the adoption may be obtained by a written instrument signed by such person and acknowledged before an officer of the legal subdivision of the government of the place of such person's residence who is authorized to administer oaths under the laws of such country or place. If the foreign country's government does not involve itself in adoption matters, the said consent may be executed before an officer of the Judge Advocate General's Office of the United States Armed Services or before an officer of the United States Embassy located in that country;

3. If an individual whose consent is necessary is a member of the United States Armed Services stationed in a country or place other than the United States, the individual's consent may be

acknowledged before an officer of the Judge Advocate General's Office or other legal officer possessing the authority to administer oaths;

4. When 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; or

~~3.~~ 5. 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~~ the 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~~

~~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 paragraph, 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 such~~

~~person's residence who is authorized to administer oaths under the laws of such country or place, or~~
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.~~

E. If the written instrument containing such consent is written in any a language other than the English language, the ~~person adopting the child~~ petitioner for adoption 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~~ The translation must be sworn to as being a true and correct translation by the ~~translator~~ person translating the document.

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. The mother of a child whose consent to the adoption of a child is required by Section 10 of this act may not execute a valid consent to the adoption of the child or a permanent relinquishment of the child prior to the birth of the child.

B. The father of a child born in wedlock whose consent to the adoption of a child is required by Section 10 of this act may not execute a valid consent to the adoption of a child or a permanent relinquishment of the child prior to the birth of the child.

C. A putative father of a child may execute a consent to the adoption of the child, a permanent relinquishment of the child, or

an affidavit of waiver of interest regarding the child before or after the birth of the child.

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

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

F. A child twelve (12) years of age or older whose consent is required pursuant to Section 10 of this act may execute a consent to adoption at any time at or before the hearing on the petition for adoption.

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 an adoption of a child shall be in writing, executed before a judge of the district court in this state and contain:

1. The date, place, and time of the execution of the consent;
2. The name and date of birth of the person executing the consent;
3. The current mailing address and telephone number of the person executing the consent; and
4. Specific instructions for how the person who executes a consent may revoke the consent or commence an action to set aside the consent.

B. A consent must state:

1. That the person executing the document is voluntarily and unequivocally consenting to the adoption of the child;
2. An understanding that after the consent is executed it is final and, except for fraud or duress, may not be revoked or set

aside for any reason except as otherwise authorized by the Oklahoma Adoption Code;

3. That the person executing the consent has received or been offered information about adoption which explains the meaning and consequences of an adoption;

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

5. Whether the individual executing the consent is a member of an Indian tribe and whether the child is ineligible for membership or the child is a member of an Indian tribe; and

6. That the person believes the adoption of the child is in the child's best interest.

C. Before executing a consent or permanent relinquishment, a child twelve (12) years of age or older must have been informed of the meaning and consequences of adoption or permanent relinquishment, the availability of personal and legal counseling, the requirements for releasing social, health and history information concerning the parent and grandparents of the child which may affect the physical or psychological well-being of the child.

SECTION 13. AMENDATORY 10 O.S. 1991, Section 60.6, as amended by Section 2, Chapter 253, O.S.L. 1993 (10 O.S. Supp. 1996, 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~~ 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~~ pursuant to the Oklahoma Children's Code 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~~ the Oklahoma Children's Code, 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.~~ 2. The father or putative father of a child born out of wedlock if:

a.—prior to the hearing provided for in Section ~~29.1~~ 23 of this ~~title~~ act, 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~~ 23 of this ~~title~~ act:

(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~~ 23 of this ~~title~~ act, or

d.—he fails to appear at the hearing provided for in Section ~~29.1~~ 23 of this ~~title~~ act if all notice requirements continued in or pursuant to Section ~~1131~~ 23 of this ~~title~~ act 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.~~ 3. A parent who is entitled to custody of a child and has abandoned the child; ~~or~~

~~5.~~ 4. A parent of a child who is deprived, as defined by Section ~~1101~~ 7001-1.3 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.~~ 5. A parent who has been convicted in a criminal action pursuant to the provisions of Sections ~~843, 845,~~ 7102 and 7115 of this title and Sections 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.~~ 6. 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.~~ 7. A parent of a child who is deprived, as defined by Section ~~1101~~ 7001-1.3 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.~~ 8. A parent of a child who is deprived, as defined by Section ~~1101~~ 7001-1.3 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;

9. An individual who has permanently relinquished the child pursuant to the Oklahoma Adoption Code;

10. An individual whose parental relationship to a child has been legally terminated pursuant to Section 26 of this act or legally determined not to exist; or

11. The personal representative of a deceased parent's estate.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.14 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. At the time that a written consent to adoption or permanent relinquishment is acknowledged by a biological parent before a judge of a court of this state, the judge shall advise the biological parent:

1. That an adult adopted person born in the State of Oklahoma whose decree of adoption is finalized after November 1, 1997, may obtain such person's original certificate of birth;

2. That if affidavits of nondisclosure have been filed by both biological parents and have not been revoked by either biological parent at the time that the request for the original birth certificate is made by the adult adopted person, the original birth certificate will not be released to the adult adopted person; and

3. That if an unrevoked affidavit of nondisclosure by only one biological parent is on file with the State Registrar of Vital Statistics at the time that the request for the original birth certificate is made by the adult adopted person, identifying information regarding the parent who filed the unrevoked affidavit of nondisclosure will be deleted from the original birth certificate before it is provided to the adult adopted person. The identity of the parent who does not have an unrevoked affidavit of nondisclosure on file, if it is contained in the original birth certificate, will be disclosed.

B. The judge shall ascertain whether the biological parent wishes to execute an affidavit of nondisclosure. If so, an affidavit of nondisclosure form shall be made available to the biological parent by the court and may be executed in the presence of the judge at the time the written consent to adoption or relinquishment for adoption is acknowledged. The judge shall certify in the judge's acknowledgement that the biological parent was advised regarding the affidavit of nondisclosure. An affidavit of nondisclosure signed at the time a consent or relinquishment is acknowledged shall be filed in the adoption action with the consent

or relinquishment for adoption. Affidavit of nondisclosure forms shall also be available in each district court clerk's office and may be executed and filed by a biological parent in the court in which an adoption action is pending. An affidavit of nondisclosure may not be filed after a final decree of adoption has been entered.

C. A biological parent who has executed an affidavit of nondisclosure may revoke the affidavit of nondisclosure at any time by filing a revocation with the State Registrar of Vital Statistics. Upon receipt of a revocation of an affidavit of nondisclosure, the State Registrar shall attach the revocation to the affidavit of nondisclosure and file it with the original certificate of birth and other records of the adoption.

D. The failure to follow any provisions of this section shall not be grounds to challenge a decree of adoption.

Part 4. Waivers

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.15 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, by personal service or certified mail, signed by the addressee only, notify or cause to be notified a putative father of the child that the mother of the child is considering an adoptive placement for the child through a Notice of Plan for Adoption.

B. The Notice of Plan for Adoption shall include the following:

1. The identity of the mother, that she is pregnant and the estimated date of birth, that the notified person may be the father of the child, and that a plan for the adoption of the child is being considered by the mother;

2. A form for filing with the Paternity Registry that may be sent to the Department of Human Services. On this form, the recipient may indicate one of the following choices:

- a. "I desire to receive notice of the adoption proceedings or the proceeding to terminate parental rights. I do not know if I am the father of this child."
- b. "I desire to file a notice of intent to claim paternity." [A notice of intent to claim paternity may be revoked at any time by filing a notice to disclaim with the Paternity Registry within the Department of Human Services.]
- c. "I acknowledge paternity." [An acknowledgment of paternity cannot be revoked.]
- d. "I deny paternity; I am not the father of the child and I do not want to receive notice of any adoption proceeding or proceeding to terminate my parental rights regarding the child."

C. If the form is not received by the Department of Human Services within thirty (30) days from the date that the Notice of Plan for Adoption is served, the failure to file the form shall constitute:

1. A waiver of the right to receive further notice of any adoption proceedings or proceedings to terminate parental rights, if any, that may be filed regarding this child;
2. A denial of interest in the child, which denial shall result in the court's termination of the notified party's parental rights to this child and approval of an adoption without his consent if an adoption proceeding is filed regarding this child and the adoption is approved by the court.

D. If the form is received by the Paternity Registry within the Department of Human Services within thirty (30) days of the date of

service of the Notice of Plan for Adoption, and it indicates that any of the first three options specified in paragraph 2 of subsection B of this section have been chosen, the notified person shall have a right to receive notice of any adoption proceedings or any termination of parental rights proceedings that may be filed regarding this child, at the address given on the form, or at an address later provided to the Paternity Registry. The return of the form to the Paternity Registry within the Department of Human Services is the only action by which the notified person will retain the right, if any, to notice of adoption or termination of parental rights proceedings regarding this child.

E. The filing of the enclosed form with the Paternity Registry shall not, by itself, constitute the bearing of parental responsibilities, and shall not, by itself, establish parental rights.

F. The filing of the enclosed form with the Paternity Registry or the failure to file the enclosed form with the Paternity Registry shall not affect the duty to support the mother or child during the pregnancy or after the delivery of the child.

G. If the child is not subsequently placed for adoption, failure to mail the enclosed notice form to the Paternity Registry shall not affect the notified person's parental rights and responsibilities.

H. The failure to give such notice shall not be grounds available to the father to establish that he was denied knowledge of the pregnancy.

I. Request or receipt of a putative father affidavit for determination of interest does not obligate the mother of the child to proceed with an adoptive placement of the child.

J. If a putative father 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, the putative father, or the agency that the paternity action has been filed, including:

1. The name of the court;
2. The case number; and
3. The date of filing.

K. If a putative 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.

Part 5. Revocations

SECTION 16. AMENDATORY 10 O.S. 1991, Section 60.10, is amended to read as follows:

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

B. The court shall set aside a permanent relinquishment or consent to adoption if the individual who executed the permanent relinquishment or consent establishes:

1. By a preponderance of the evidence that without good cause shown, a petition to adopt was not filed within seven (7) months after the minor was placed for adoption; or

2. By a preponderance of the evidence, that the consent or permanent relinquishment form provided that it could be revoked if another consent or permanent relinquishment was not executed within

a specific period, or that it could be revoked if a court decides not to terminate another individual's parental relationship to the minor, and that the condition permitting revocation had occurred.

C. Notice of the petition to ~~withdraw~~ set aside the consent or permanent relinquishment 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. The Department of Human Services or any child-placing agency participating in the adoption; and
3. To any person or agency in whose favor the consent was given.

D. 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 irrevocable.~~

E. The court may enter such orders as justice requires regarding the costs and legal fees of the person who filed for adoption, the agency, the Department and the person seeking that the consent or permanent relinquishment be set aside.

Article 4. Medical and Social Histories

SECTION 17. AMENDATORY Section 4, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 60.5B), is amended to read as follows:

Section 60.5B A. 1. ~~Before~~ Except as otherwise provided by the Oklahoma Adoption Code, before placing a child for adoption, the Department or a child-placing agency shall compile a written medical and social history report of the child to be adopted, containing:

- a. all of the information required in subsections B and C of this section that is reasonably available from each biological parent, from any person who has had legal

or physical custody of the child, and from any other relative, or other person or entity who can provide information that cannot otherwise reasonably be obtained from the biological parents or a person who has had legal or physical custody of the child,

- b. a copy of all medical, dental and psychological records of the child obtained from anyone who has provided medical, dental or psychological services to the child, and
- c. a copy of all educational records of the child.

2. If a child is not being placed for adoption through the Department or a child-placing agency, the attorney representing the adoptive parent in the adoption proceedings shall compile ~~this~~ the report. If the adoptive parent is not represented by an attorney in a direct placement adoption, the person placing the child for adoption shall compile ~~this~~ the report.

B. 1. The Department of Health shall prescribe the form to be used to record the medical history of the child and the child's biological relatives. The Department of Health shall furnish the forms to any child-placing agency, to the Department of Human Services and to any person who is authorized to place a child for adoption or who provides services with respect to placements for adoption.

2. The medical history form shall include, but is not limited to:

- a. a current medical and psychological history of the child, including information concerning:
 - (1) any prenatal, neonatal, medical, dental, psychiatric or psychological diagnoses, examinations or reports,
 - (2) any diseases, illnesses, accidents, allergies, and congenital or birth defects,

- (3) a record of any immunization and other health care received,
- (4) the child's developmental history, including the age at which the child developed basic gross motor, fine motor, language and cognitive skills,
- (5) any behavioral problems the child has exhibited,
- (6) any physical, sexual or emotional abuse suffered by the child, and
- (7) any other information necessary to determine the child's eligibility for state or federal benefits, including subsidies for adoption and other financial, medical, or similar assistance, and

b. relevant information concerning the medical and psychological history of the child's biological parents and relatives, including information concerning:

- (1) the gynecologic and obstetric history of the biological mother,
- (2) the health of the biological mother during her pregnancy with this child,
- (3) the consumption of drugs, medication or alcohol by the biological father or the biological mother at the time of conception and by the biological mother during her pregnancy with this child,
- (4) the exposure of the biological mother to toxic substances, fumes or occupational hazards during her pregnancy that could affect the health of the child,
- (5) whether the child's biological mother and biological father are related to each other and to what degree,

- (6) any history of venereal disease afflicting either biological parent,
- (7) physical characteristics of the biological parents, other children of either biological parent, and the biological grandparents, including age at the time of the child's birth, height, weight, color of eyes, hair, skin and other information of a similar nature,
- (8) unusual physical characteristics of any biological parent, other children of either biological parent, biological grandparents and other biological relatives,
- (9) potentially inheritable genetic, psychological, or physical diseases, disorders, traits, or tendencies of the biological parents, other children of either biological parent, the biological grandparents or other biological relatives,
- (10) allergies, diseases, illnesses, and other medical history of biological parents, other children of either biological parent, biological grandparents and other biological relatives, including but not limited to diabetes, high blood pressure, alcoholism, heart disease, cancer, and epilepsy or predisposition thereto,
- (11) any addiction or predisposition to addiction to drugs or alcohol by the biological parents, other children of either biological parent, biological grandparents or other biological relatives,
- (12) if the death of either biological parent, other children of either biological parent, or a biological grandparent has occurred, the fact of

the death, the age of the decedent at the time of death, and the cause, if known,

(13) the psychological history of the biological parents, other children of either biological parent, biological grandparents and other biological relatives, including any psychiatric or psychological evaluations, the date of the evaluation, any diagnoses, and a summary of any psychiatric or psychological findings or treatment, and

(14) any other useful or unusual health-related information that the biological parents or relatives are willing to provide.

C. The social history report regarding the child to be adopted, the biological parents, other children of either biological parent and other biological relatives shall include, but is not limited to:

1. The educational history of the child including, but not limited to, the child's enrollment and performance in school, the results of educational testing, special educational needs of the child, if any, and the number of years of school completed at the time of the adoption;

2. The age of the child, the biological parents, other children of either biological parent, and the biological grandparents at the time of the adoption, and the gender of the other children of either biological parent;

3. The circumstances leading to the adoption;

4. The heritage of the child including, but not limited to, the child's nationality, ethnic background, tribal affiliation, if any, and race;

5. The occupation of the biological parents and the biological grandparents, but not specific titles or places of employment;

6. The talents, hobbies and special interests of the child, the biological parents, and the biological grandparents;

7. Nonidentifying information about the extended family of the biological parents and biological grandparents;

8. The level of educational and vocational achievement of the child's biological parents and relatives and any noteworthy accomplishments;

9. An account of the child's past and existing relationship with any individual with whom the child has regularly lived or visited;

10. A criminal conviction, judicial order terminating parental rights, or other proceeding in which a biological parent of the child was alleged to have abused, neglected, abandoned or otherwise mistreated the child to be adopted, a sibling of the child to be adopted, or the other biological parent; and

11. A criminal conviction or delinquency adjudication of the child.

D. A report prepared pursuant to this section must indicate who prepared the report.

E. 1. Whenever it is feasible, biological parents, legal or physical custodians of the child and other biological relatives should be assisted in providing information for the medical and social history report by trained professionals employed by the Department or the licensed child-placing agency, by the attorney for the adoptive parents or by trained professionals employed by the attorney for the adoptive parent.

2. The Department or agency, attorney for the adoptive parent, or person who prepares the medical and social history report shall advise the biological parents, any other persons who submitted information for the report and the adoptive parent that additional information about the adopted person, the biological parents, and the adopted person's genetic history that becomes available may be

submitted to the Department, agency, attorney, or person who prepared the report or if the location is known to them, to the clerk of the court that issues the decree of adoption. Nothing in this section shall require that the location of the court in which the adoption action is filed be revealed to the biological parents, biological relatives or other persons who submitted information for the report, if the location is not otherwise known to them.

F. The court may request that a biological parent, a present or former legal or physical custodian of the child, a biological relative, a school, or a medical, dental or psychological care provider for the child supply the information or records required by this section.

G. Information contained in a medical and social history report compiled pursuant to this section shall not be used as evidence in any criminal proceeding against the individual who furnished the information. This is a use immunity and not a transactional immunity.

H. 1. If the petitioner for the adoption of a child is a stepparent of the child and the child will remain in the custody of one biological parent and the stepparent following the adoption, only the medical and social history of the parent whose parental rights are sought to be terminated and that parent's biological relatives must be compiled in the medical and social history report.

2. If the petitioner for the adoption of a child is a relative of the child, only the medical and social history of the parent who is not related to the petitioner and that parent's biological relatives must be completed in the medical and social history report.

SECTION 18. AMENDATORY Section 5, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 60.5C), is amended to read as follows:

Section 60.5C A. Whenever the disclosure of medical and social history is permitted under this section, all identifying information shall be deleted from the copy of the report or record that is disclosed, unless the court, Department, agency, attorney, or person authorized to disclose information by this section has been informed in writing by both a biological parent and an adoptive parent or prospective adoptive parent of their mutual agreement to share identifying information. When such an agreement has been made, identifying information shall be released only to the extent specifically permitted by the written agreement.

B. As early as practicable before the first meeting of the prospective adoptive parent with a child and before the prospective adoptive parent accepts physical custody of the child, the Department or child-placing agency that is placing the child for adoption, or the attorney for the adoptive parent in a direct placement adoption, or the person who is placing the child for adoption in a direct placement adoption in which the adoptive parent is not represented by an attorney, shall furnish to the prospective adoptive parent a copy of the medical and social history report, containing all of the medical and social history information and records regarding the child reasonably available at that time. If placement of the child with the prospective adoptive parent does not subsequently occur, the prospective adoptive parent shall return the medical and social history report to the Department, agency, attorney or other person who furnished it to the prospective adoptive parent.

C. Before a hearing on the petition for adoption, the Department or child-placing agency that placed the child for adoption, or the attorney for the adoptive parent in a direct placement adoption, or the person who placed the child for adoption in a direct placement adoption in which the adoptive parent is unrepresented, shall furnish to the adoptive parent a supplemental

written report containing information or records required by Section 4 17 of this act, which was unavailable before the child was placed for adoption, but which becomes reasonably available to the Department, agency, attorney, or person who placed the child after the placement.

D. A petition for adoption may not be granted until a copy of the medical and social history report is filed with the court or the court determines the medical and social history report unnecessary or overburdensome to the adoption of the child. If the court finds that information or records required by Section 4 17 of this act cannot be obtained by the reasonable efforts of the Department or child-placing agency placing the child, or by the attorney for the adoptive parent in a direct placement adoption, or by the person who placed the child for adoption in a direct placement adoption in which the adopted parent is unrepresented, the court may accept the report and proceed with the adoption.

E. 1. Any additional information about an adopted person, the adopted person's biological parents, or the adopted person's genetic history that is submitted to the clerk of the district court that issues the final decree of adoption, before or after the final decree of adoption is issued, shall be made a part of the court's permanent record of the adoption, pursuant to Section 60.17 of ~~Title 10 of the Oklahoma Statutes~~ this title. No filing fee shall be charged for filing this supplemental information with the court clerk.

2. An adoptive parent, a biological parent, or an adult adopted person may file with the clerk of the district court that issued the final decree of adoption a notice of the individual's current mailing address. A legal guardian of an adopted child may file with the clerk of the district court that issued the final decree of adoption a notice of the guardian's current mailing address and proof of legal guardianship. No filing fee shall be charged for

filing this notification of address or guardianship with the court clerk.

3. Upon receipt by the court clerk of supplemental information concerning the biological parents or the adopted person's genetic history, the court clerk shall send notice by ordinary mail, at the most recent address, if any, listed in the court records, to the adoptive parent or legal guardian of a minor adopted person or to the adult adopted person. The notice shall state that supplemental information has been received and is available from the court clerk upon request.

4. Upon receipt by the court clerk of supplemental information concerning the adopted person that may be genetically significant for a biological parent or biological relative, the court clerk shall send notice by ordinary mail, at the most recent address, if any, listed in the court records, to the biological parent. The notice shall state that supplemental information has been received and is available from the court clerk upon request.

F. If any additional information about an adopted person, the adopted person's biological parents, or the adopted person's genetic history is submitted to the Department, agency, attorney, or person who prepared the original report, the Department, agency, attorney, or person shall:

1. Retain this supplemental information with their other records of the adoption for as long as these records are maintained;

2. File a copy of the supplemental information with the clerk of the court that issued the decree of adoption, to be made a part of the court's permanent record of the adoption pursuant to subsection E of this section; and

3. Furnish a copy of the supplemental information to:

- a. the adoptive parent or current legal guardian of the child, if the adopted person is under the age of eighteen (18), or the adult adopted person, if the

location of the adoptive parent, guardian or adult adopted person is known to the Department, agency, attorney, or person, or

- b. the biological parents, if the supplemental information is submitted by an adoptive parent or adopted person and concerns genetically significant information about the adopted person that is relevant to the health or childbearing decisions of the biological parents or other biological relatives, if the location of the biological parents is known to the Department, agency, attorney, or person.

G. 1. The clerk of the district court that issues the final adoption decree or the Department, agency, attorney, or person who prepared the medical and social history report shall provide a copy of the medical and social history report and any additional medical and social history information in its possession to the following persons upon request:

- a. the adoptive parent or legal guardian of a minor adopted person,
- b. an adopted person who has attained eighteen (18) years of age, and
- c. an adult whose biological mother's and biological father's parental rights were terminated and who was never adopted.

2. The clerk of the district court that issues the final adoption decree or the Department, agency, attorney, or person who prepared the medical and social history report shall provide a copy of the medical report and any additional medical information in its possession to the following persons upon request:

- a. an adult direct descendant of a deceased adopted person or of a deceased person whose biological

mother's and biological father's parental rights were terminated and who was never adopted, and

- b. the parent or guardian of a minor direct descendant of a deceased adopted person or of a deceased person whose biological mother's and biological father's rights were terminated and who was never adopted.

3. The clerk of the district court that issues the final adoption decree or the Department, agency, attorney, or person who prepared the medical and social history report shall provide to the following persons upon request, a copy of genetically significant supplemental information about an adopted person, or about a person whose parents' parental rights were terminated, ~~to the following persons upon request~~ which became available subsequent to the issuance of the decree of adoption or termination order:

- a. a biological parent or biological relative of an adopted person, and
- b. a biological parent or biological relative of a person whose biological mother's and biological father's rights were terminated and who was never adopted.

4. The clerk of the district court that issues the final adoption decree shall provide a copy of any medical and social history information contained in the court records to the Department, or child-placing agency that placed the child for adoption or to the attorney representing the adoptive parent upon request.

5. A copy of the report and supplemental medical and social history information may not be furnished under this subsection to a person who cannot furnish satisfactory proof of identity and legal entitlement to receive a copy.

6. A person requesting a copy of a report or other medical and social history information under this subsection shall pay only the actual and reasonable costs of providing the copy.

H. The Department, a child-placing agency, or an attorney for an adoptive parent who facilitated or participated in an adoption proceeding prior to the effective date of this act shall be subject to the same requirements and duties set forth in subsections F and G of this section that are required in those subsections for the Department, agency, or attorney who prepared the medical or social history.

Article 5. Adoption Proceedings

Part 1. General Requirements

SECTION 19. AMENDATORY 10 O.S. 1991, Section 60.17, as last amended by Section 7, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 60.17), is amended to read as follows:

Section 60.17 A. Unless otherwise ordered by the district court exercising jurisdiction over the adoption proceeding, all hearings held in proceedings pursuant to the Oklahoma Adoption ~~Act~~ Code 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, records, and books of proceedings in adoption cases and any papers, records, and books relating to such proceedings:

1. Shall be kept as a permanent record of the court and maintained in a separate file by the court clerk; and

2. Shall be confidential and shall not be open to inspection or copy except as authorized in Section ~~5~~ 60.5C, 60.18 or 60.18b of this ~~act~~ title or upon order of a court of record for good cause shown.

C. 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, or may restrict the purposes for which it shall be used.

D. The provisions of this section shall not prohibit:

~~1. Persons employed by the court, the Department of Human Services or other agencies of the state or federal agencies from obtaining the information necessary to conduct investigations or perform any other duties concerning the child or the biological parents of the child; and~~

2. ~~Persons~~ persons employed by the court, the Department of Human Services, a child-placing agency, an attorney participating or assisting in a direct placement adoption or any physician, minister or other person or entity assisting or participating in an adoption from providing partial or complete identifying information between a biological parent and prospective adoptive or adoptive parent if a biological parent and a prospective adoptive or adoptive parent mutually agree to share specific identifying information and each gives written, signed notice of their agreement to the court, the Department of Human Services, the child-placing agency, or any attorney participating or assisting in the direct placement adoption pursuant to the Oklahoma Adoption ~~Act~~ Code.

E. Any person in charge of adoption records or having access to adoption records or information who discloses any information pertaining to an adoption proceeding, contrary to the provisions of this section, upon conviction thereof, 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. In a proceeding pursuant to the Oklahoma Adoption Code the court shall appoint an attorney for a minor in a contested proceeding pursuant to the Oklahoma Adoption Code and may appoint an attorney for a child in an uncontested proceeding.

B. 1. The court shall appoint a guardian ad litem for the child in a contested proceeding, and shall appoint a guardian ad litem upon the request of the child or the attorney of the child.

2. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities towards the child.

3. The guardian ad litem shall be given access to the court file and access to all records and reports relevant to the case and to any records and reports of examination of the child's parent or other custodian, as specified by the court.

4. Any person participating in a judicial proceeding as a guardian ad litem shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.21 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 as available:

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

2. Any prebirth consent, consent, affidavit of waiver of interest, or permanent relinquishment, with respect to the minor that has been executed, and any written certifications required by the Oklahoma Adoption Code from the individual from whom a consent, affidavit of waiver of interest, or permanent relinquishment was executed;

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

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

5. A copy of any home study and of the home study during the pendency of the proceeding for adoption;

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

7. 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 child,
- c. the name or relationship to the child 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;

8. A verified document by the Department, or child-placing agency that placed the child for adoption, or the attorney for the adoptive parent in direct placement adoption, or the person who is placing the child for adoption in a direct placement adoption in which the adoptive parent is not represented by an attorney, stating that the petitioner for adoption has been furnished a copy of the medical and social history report, pursuant to Section 17 of this act;

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

10. The report of expenditures; and

11. 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 22. AMENDATORY 10 O.S. 1991, Section 60.12, as amended by Section 2, Chapter 122, O.S.L. 1994 (10 O.S. Supp. 1996, Section 60.12), is amended to read as follows:

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

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

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

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

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

5. That it is the desire of the ~~petitioners~~ petitioner that the relationship of parent and child be established between ~~them~~ the petitioners 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 birth parents, or ~~either of them~~ any other person possessing the current legal status of a parent, to the adoption;

8. The name or relationship of the child to any individual who has executed a prebirth consent, consent, affidavit of waiver of interest, or permanent relinquishment to the adoption, and the name or relationship to the child of any individual whose consent, affidavit of waiver of interest, or permanent relinquishment may be

required, 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 child and any other fact known to the petitioner and needed to establish the jurisdiction of the court.

B. Any written consent, affidavit of waiver of interest, or permanent relinquishment required by ~~this act~~ the Oklahoma Adoption Code 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, are reasonable, 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~~ subsection D of this section. Upon its review of the written report of monies expended, the court shall in writing disapprove any expenditure that the court deems unreasonable or in violation of Sections 865 through 869 of Title 21 of the Oklahoma Statutes and, to the extent necessary to comply with Oklahoma law shall order reimbursement of

any consideration given in violation of Title 21 of the Oklahoma Statutes.

D. 1. Except as otherwise specifically provided by law, the following list of costs and expenses specified in this paragraph may be deemed proper items for a person to pay in connection with an adoption:

- a. reasonable attorney fees and court costs,
- b. reasonable medical expenses for birth mother and child,
- c. reasonable counseling expenses for birth parents before and after the birth of the child, not to exceed six (6) months from placement of the child,
- d. reasonable fees of a licensed child-placement agency,
- e. reasonable living expenses of the birth mother that are incurred during or as a result of the pregnancy, not to exceed two (2) months from placement of the child,
- f. reasonable costs for public transportation or ambulance as same is incurred for doctor or hospital visits,
- g. reasonable expenses for a court-ordered home study, and
- h. reasonable expenses legally required by any governmental entity related to the adoption of a child.

2. In addition, all expenses approved by the court should be commensurate with other customary fees for similar services by persons of equivalent experience and training where the services are performed. Any services provided outside this state shall be allowed in an amount as if the services had been performed within the State of Oklahoma.

3. The provisions of this subsection shall not prohibit a court from extending any time period, or including any additional costs and expenses in connection with an adoption other than those specified in this subsection based on unusual circumstances or need.

4. If a child-placing agency is providing adoption services, the provisions of this subsection shall apply to costs and expenses incurred after the biological mother of the child contacts the child-placing agency for adoption services.

E. 1. Except as otherwise authorized by this subsection, if any person desires to pay costs or expenses to or on behalf of a birth parent before a petition for adoption is filed, said person shall file a petition in the district court where the petition of adoption will be filed requesting an order from the court for authorization.

2. The petition for approval of costs and expenses shall be filed with the same case designation as an adoption case and shall be captioned: "In the matter of the Petition of (name) for approval of payment of adoption expenses".

3. The petition shall be heard by the court within ten (10) days of filing. The court clerk shall charge the same cost for a petition for payment of expenses as is charged for the filing of an adoption petition. In the event the petitioner files an adoption petition, same shall be filed as an amended petition within the same case in which payment for expenses was approved and no additional court costs shall be required.

4. In the event an order has been issued for payment of costs and expenses and no adoption petition is filed, the court retains jurisdiction to enter any orders deemed appropriate regarding the reimbursement of costs and expenses paid.

5. Any person desiring to pay costs and expenses to or on behalf of a birth parent before a petition for adoption is filed is authorized to expend an initial amount not to exceed Five Hundred

Dollars (\$500.00) for such costs and expenses without first obtaining court approval as required by paragraph 1 of this subsection. Any such initial costs and expenses shall be disclosed as is otherwise required by the Oklahoma Adoption Code.

Part 2. Notice and Hearings

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

Section 60.7 A. Prior to a court hearing on a petition for adoption without the consent of a parent or parents, as provided for in Section ~~60.6~~ 13 of this ~~title~~ act, the consenting parent, legal guardian, or person having legal custody of the child to be adopted shall file an application stating the reason that the consent of the other parent or parents is not necessary. The application shall be heard by the court and an order entered thereon in which said child is determined to be eligible for adoption pursuant to the provisions of Section 60.6 of this title.

B. Prior to a hearing on the application, notice shall be given the parent whose consent is alleged to be unnecessary. The notice of the application shall contain the name of each child for whom application for adoption is made, the date for hearing on the application, and the reason that said child is eligible for adoption without the consent of said parent. Notice shall be served upon said parent in the same manner as a summons is served in civil cases, not less than ten (10) days prior to the hearing. If said parent resides outside of the county, said notice shall be served upon said parent in the same manner as a summons is served in civil cases, not less than fifteen (15) days prior to the hearing. If the location of said parent is not known and this fact is attested to by affidavit of the consenting parent, legal guardian, or person having legal custody of the child, notice by publication shall be given by publishing notice one time in a newspaper qualified as a legal newspaper, pursuant to the laws relating to service of notice by

publication, in the county where the petition for adoption is filed. The publication shall not be less than fifteen (15) days prior to the date of the hearing.

C. The provisions of this section shall not be construed to require notice to a parent whose parental rights have been previously terminated pursuant to ~~Sections 1130, 1131 or 29.1~~ Section 26 of this title act or pursuant to the Oklahoma Children's Code.

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. If, at any time in a proceeding for adoption or for termination of a relationship of parent and child pursuant to the Oklahoma Adoption Code, the court finds that an unknown father of a minor child may not have received notice, the court shall determine whether he can be identified. The determination must be based on evidence that includes inquiry of appropriate persons in an effort to identify an unknown father for the purpose of providing notice.

B. The inquiry required by subsection A of this section must include whether:

1. The woman who gave birth to the minor adoptee was married at the probable time of conception of the minor, or at a later time;

2. The woman was cohabiting with a man at the probable time of conception of the minor;

3. The woman has received payments or promises of support, other than from a governmental agency, with respect to the minor or because of her pregnancy;

4. The woman has named any individual as the father on the birth certificate of the minor or in connection with applying for or receiving public assistance; and

5. Any individual has formally or informally acknowledged or claimed paternity of the minor in a jurisdiction in which the woman

resided during or since her pregnancy, or in which the minor has resided or resides, at the time of the inquiry.

C. If inquiry pursuant to subsection B of this section identifies as the father of the minor an individual who has not received notice of the proceeding, the court shall require notice to be served upon him pursuant to Section 22 of Title 10 of the Oklahoma Statutes, unless service is not possible because his whereabouts are unknown.

D. If, after inquiry pursuant to subsection B of this section, the court finds that personal service cannot be made upon the father of the minor because his identity or whereabouts is unknown, the court shall order publication or public posting of the notice only if, on the basis of all information available, the court determines that publication or posting is likely to lead to receipt of notice by the father. If the court determines that publication or posting is not likely to lead to receipt of notice, the court may dispense with the publication or posting of a notice.

E. If, in an inquiry pursuant to this section, the woman who gave birth to the minor adoptee fails to disclose the identity of a possible father or reveal his whereabouts, she must be advised that the proceeding for adoption may be delayed or subject to challenge if a possible father is not given notice of the proceeding and that the lack of information about the father's medical and genetic history may be detrimental to the adoptee.

SECTION 25. AMENDATORY 10 O.S. 1991, Section 60.7a, is amended to read as follows:

Section 60.7a Whenever the ~~Uniform~~ Oklahoma Adoption Act Code 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.

Part 3. Termination of Parental Rights

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.26 of Title 10, unless there is created a duplication in numbering, reads as follows:

The court may order termination of the parent-child relationship for purposes of adoption if the court finds by clear and convincing evidence that the parent has:

1. Given a written consent to terminate parental rights, provided that the court finds that such termination is in the best interests of the child; or
2. Abandoned the child; or
3. 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 order, consistent with the parent's means and earning capacity; provided, that the incarceration of a parent shall not prevent termination of parental rights under this section; or
4. Been convicted in a criminal action pursuant to the provisions of Sections 1021.3, 1111 and 1123 of Title 21 of the Oklahoma Statutes, the laws relating to child abuse and neglect, either that:
 - a. the 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 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. the 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 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

5. Been convicted 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 sibling.

Part 4. Evaluations and Home Studies

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.27 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in this section, only an individual for whom a favorable written preplacement evaluation has been prepared may accept custody of a minor for purposes of adoption. An evaluation is favorable if it contains a finding that the individual is suited to be an adoptive parent, either in general or for a particular minor, and it is completed or brought current within the eighteen (18) months next preceding a placement of a minor with the individual for adoption.

B. A court may waive the requirement of a preplacement evaluation for good cause shown, but an individual who is the subject of a waiver must be evaluated during the pendency of a proceeding for adoption.

C. A preplacement evaluation is not required if a parent or guardian places a minor directly with a relative of the minor for purposes of adoption, but an evaluation of the relative is required during the pendency of a proceeding for adoption.

SECTION 28. AMENDATORY 10 O.S. 1991, Section 60.13, as amended by Section 3, Chapter 122, O.S.L. 1994 (10 O.S. Supp. 1996, 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 Code, 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~~ biological or adopted child of either of the petitioners then ~~no investigation shall be made~~ the court by order may waive the requirement in subsection A of this section that a

home study and report be made, if the court makes the following findings:

1. That waiver of the home study requirement is in the best interest of the child;

2. That the parent of the child and the stepparent of the child who are petitioning for adoption have been married for at least one (1) year with the child who is to be adopted is living in their home; and

3. That the stepparent who is petitioning for adoption has no record of conviction or adjudication in juvenile court for child abuse or neglect or domestic violence, and no record of a protective order or orders issued against the stepparent.

In all other adoptions, including foster, relative, and stepparent adoptions, a home study and report shall be made pursuant to this section.

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 29. AMENDATORY 10 O.S. 1991, Section 60.15, as amended by Section 4, Chapter 122, O.S.L. 1994 (10 O.S. Supp. 1996, Section 60.15), is amended to read as follows:

Section 60.15 A. Upon examination of the report required in ~~Section 60.13~~ Sections 27 and 28 of this ~~title act~~, 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~~ 28 of this ~~title act~~, 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 agency or 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 30. 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~~ 28 of this act, may waive the entry of an interlocutory decree and the waiting period of six (6) months or the balance of the waiting period provided in Section ~~15~~ 29 of this act, or any part thereof, and grant a final decree of adoption, if satisfied that the adoption is for the best interests of the child.

SECTION 31. AMENDATORY 10 O.S. 1991, Section 60.16, as amended by Section 6, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, 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 biological 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 the property of the child by descent and distribution.

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

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

SECTION 32. 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~~ the clerk during the preceding calendar month, if adoptions in said court have been effected. If a biological parent has filed an affidavit of nondisclosure pursuant to Section 14 of this act prior to the granting of a decree of adoption, the clerk shall attach the

affidavit of nondisclosure to the certificate of such decree and forward it with the certificate to the State Registrar.

~~(2) B. The State Registrar, upon receipt of a certified copy of an order or certificate of a decree of adoption, shall prepare a supplementary birth 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 change of name of the physician or the hospital shall first require that the written consent of such hospital and such physician is obtained individual. If the adopted person was born in a foreign country, the State Registrar shall prepare a certificate of foreign birth.~~

C. The State Registrar shall then seal and file the original certificate of birth, if any, with said certified copy the certificate of decree of adoption and the affidavit of nondisclosure, if any, 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. 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 be retroactive and apply to adoptions heretofore granted by any court in this state. Upon receipt of a certificate of a court order of annulment of adoption, the State Registrar shall restore the original certificate to its original place in the files.

D. For adoptions finalized after November 1, 1997, the State Registrar shall provide an adopted person, at that person's request, with an uncertified copy of the person's original certificate of birth at any time after the adopted person's eighteenth birthday, if all of the following conditions are met:

1. The adopted person has submitted satisfactory proof of identity;

2. The adopted person has submitted an affidavit in which the adopted person states under oath that such person does not have a biological sibling under the age of eighteen (18) who is currently in an adoptive family and whose location is known to the adopted person; and

3. The State Registrar has ascertained that at the time of the request there is no unrevoked affidavit of nondisclosure by a biological parent on file. However, if an unrevoked affidavit of nondisclosure from only one biological parent is on file and the other conditions have been met, the State Registrar may release to the adopted person an uncertified copy of the person's original certificate of birth after deleting from that copy of the birth certificate any identifying information regarding the biological parent who filed the unrevoked affidavit of nondisclosure, including, if necessary, the original surname of the adopted person.

E. The State Registrar shall not disclose an original certificate of birth or other sealed adoption records, except as permitted by subsection D of this section, or upon order of the court for good cause shown pursuant to Section 19 of this act.

Part 5. Appeals

SECTION 33. AMENDATORY 10 O.S. 1991, Section 60.19, as amended by Section 10, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 60.19), is amended to read as follows:

Section 60.19 A. An appeal may be taken from any final order, judgment or decree rendered pursuant to the Oklahoma Adoption ~~Act~~ Code to the Supreme Court by any person aggrieved thereby, in the manner provided for appeals from the court as provided in this section.

B. In an appeal concerning the adoption of a child or the termination of parental rights for adoption purposes, the

appellant's designation of record shall be filed in the trial court within ten (10) days after the date of the judgment. Appellee's counter designation of record shall be filed in the trial court ten (10) days after appellant's designation of record is filed in the trial court.

C. ~~1.~~ All appeals of cases concerning the adoption of a child or the termination of parental rights for adoption purposes shall be initiated by filing a petition in error in the Supreme Court within thirty (30) days of the filing of the order, judgment, or decree appealed from. The record on appeal shall be completed within thirty (30) days from the filing of the petition in error. Any response to the petition in error shall be filed within twenty (20) days from the filing of the petition in error.

~~2.~~ D. The briefing schedule is established as follows:

~~a.~~ appellant's

1. Appellant's brief in chief shall be filed twenty (20) days after the trial court clerk notifies all parties that the record is complete and such notice has been filed in the office of the Clerk of the Supreme Court~~;~~

~~b.~~ appellee's

2. Appellee's answer brief shall be filed fifteen (15) days after the appellant's brief in chief is filed~~;~~ and

~~c.~~ appellant's

3. Appellant's reply brief may be filed within ten (10) days after the appellee's answer brief is filed.

~~C.~~ E. Any appeal when docketed shall have priority over all cases pending on said docket. Adjudication of the appeals and in any other proceedings concerning the adoption of the child described in this section shall be expedited by the Supreme Court.

Article 6. Paternity Registry

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 paternity registry. The purpose of the registry is to:

1. Protect the parental rights of a putative 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. The father or putative father of a child born out of wedlock may file a notice of desire to receive notification of an adoption proceeding concerning the child, or a notice of intent to claim paternity of the child or an instrument acknowledging paternity of the child as provided in this section Section 1-311.3 of Title 63 of the Oklahoma Statutes.

~~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. The paternity registry shall be available to any person who:

1. Registers pursuant to Section 15 of this act;

2. 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;

3. 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;

4. Has filed with the registry an affidavit of paternity of a child executed as provided in Section 1-311.3 of Title 63 of the Oklahoma Statutes, if the paternity of the child has not already been established by a court order; or

5. Has been adjudicated by a court of this state to be the father of a child born out of wedlock.

D. 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,

d. date of birth, and

e. tribal affiliation;

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 paragraph;

6. If the registration is based upon an adjudication by a court of this or any other state, the case number, court, date of order, judgment or decree, and a copy of the decree; and

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

E. 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.

F. 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;

3. If the registration is based upon an adjudication by a court of this or any other state, the case number, court, date of order, judgment or decree, and a copy of the decree; and

4. Any other information described under subsection D 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.

G. A person filing a notice of desire to receive notification of an adoption proceeding concerning the child, 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.~~

~~E. H.~~ 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. I.~~ 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, the mother of the child and such other persons deemed necessary to receive such information, by the Department. The information shall not be divulged to any other person except upon order of a court for good cause shown.

~~G.~~ J. 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.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.35 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.

Article 7. Adult Adoptions

SECTION 36. AMENDATORY 10 O.S. 1991, Section 60.21, is amended to read as follows:

Section 60.21 An adult person may be adopted by any other adult person, with the consent of the person to be adopted or his guardian, if the court shall approve, and with the consent of the spouse, if any, of an adoptive parent, filed in writing with the court. The provisions of ~~Sections 1 to 15, both inclusive,~~ Section 60.1 et seq. of this ~~act~~ title shall not apply to the adoption of a competent adult person. A petition therefor shall be filed with the district court in the county where the adoptive parents reside. After a hearing on the petition and after such investigation as the court deems advisable, if the court finds that it is to the best

interests of the people involved, a decree of adoption may be entered which shall have the legal consequences stated in Section ~~46~~ 60.16 of this title.

Article 8. Mutual Consent Voluntary Adoption Registry

SECTION 37. 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:

A. All records of any adoption finalized in this state shall be maintained for ninety-nine (99) years by the agency, entity, organization or person arranging or facilitating the adoption.

B. Agencies, attorneys, or other entities that facilitate adoptions who cease to operate or to practice in this state shall transfer their adoption records to the Department of Human Services, Adoption Division, or, after giving notice to the Department of Human Services, to a transferee agency that is assuming responsibility for the preservation of the agency's adoption records.

SECTION 38. 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. The Department of Human Services shall establish and administer, directly or through a contractor, a mutual consent voluntary registry whereby eligible persons as described in subsection B of this section may indicate their willingness to have their identity and whereabouts disclosed to each other under the conditions specified under this part.

B. Subject to the restrictions of subsections C and D of this section, the following persons may register with the mutual consent voluntary registry:

1. An adult adopted person;
2. An adult person whose biological parent's parental rights have been terminated;

3. The adoptive parents or guardian of an adopted person who is under the age of eighteen (18) or who has been declared mentally incompetent;

4. If an adopted person is deceased, the legal parent or guardian of any minor child or mentally incompetent child of the adopted person;

5. If an adopted person is deceased, any adult descendants of the adopted person;

6. The legal parent or guardian of any minor child or mentally incompetent child of a deceased person whose biological parent's parental rights have been terminated;

7. The adult descendants of a deceased person whose biological parent's parental rights have been terminated;

8. A biological parent whose parental rights were voluntarily terminated by court order subsequent to the biological parent's consent or relinquishment, or involuntarily terminated by court order, in an adoption, juvenile, guardianship, or domestic relations proceeding; and

9. An adult biological relative of an adopted person or a person whose biological parent's parental rights have been terminated.

C. This registry shall not be used by:

1. An adult adopted person who has a minor biological sibling in the same adoptive family or in an adoptive or foster family or other placement whose location is known to the adult adopted person; or

2. An adult whose biological parent's parental rights have been terminated and who has a biological sibling in the same family or in an adoptive or foster family or other placement whose location is known to that adult.

D. If a biological relative, other than a biological parent, registers pursuant to paragraph 9 of subsection B of this section,

the administrator of the mutual consent registry shall ascertain from the State Registrar of Vital Statistics whether an affidavit of nondisclosure by a biological parent is on file. If such an affidavit is filed with the State Registrar and has not been revoked, the administrator of the mutual consent registry shall not process a match with any biological relative of the parent who filed the affidavit of nondisclosure.

E. 1. An eligible person may register by submitting a notarized affidavit, on a form provided by the Department, stating the registrant's current name, address, telephone number, and the registrant's willingness to be identified to some or all eligible relatives, identified by name or by relationship, who also register. The registrant may also provide any previous name by which the registrant was known, previous and current names, if known, of specific eligible persons the registrant wishes to find, the place and date of birth of the adopted child or the child whose parent's rights have been terminated, and the name and address of the adoption agency, intermediary, or other person, if any, who placed the child for adoption or took custody of the child after the child's parent's rights were terminated. If the registrant is an adult adopted person or an adult whose biological parent's rights have been terminated, the affidavit shall also contain a statement that the registrant does not have a minor biological sibling in the same family or in an adoptive or foster family or other placement whose location is known to the registrant.

2. The form shall also indicate the registrant's desired method of notification in the event a match occurs; however, the Department shall not be required to utilize methods of notification that would require it to incur unreasonable expense. The form shall also indicate whether the registrant desires release of the registrant's identifying information if a match occurs after the registrant's death. No registration shall be accepted until the prospective

registrant submits satisfactory proof of the registrant's identity. Registering persons may revise their consent with respect to change of address, telephone number or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the person who registered.

F. The administrator of the mutual consent registry shall process each affidavit in an attempt to match the registrant with any other eligible persons who have registered and consented to have their identifying information released to the registrant. Such processing may include research from agency records, when available, and when agency records are not available, from court records to determine conclusively whether registrants match. When a match has occurred, the administrator shall notify each registrant, by the registrant's designated method only, and obtain the registrant's consent to an exchange of identifying information before any identifying information is released. Nothing in this section shall be construed to allow any state or local governmental department, agency, institution, or contractor, or any employee thereof, to solicit any consent for the release of identifying information from someone who has not registered with the registry.

G. Any affidavits filed and other information collected shall be retained for ninety-nine (99) years following the date of registration.

H. Any person who discloses information from the registry in violation of this act shall be guilty of a misdemeanor and shall be fined up to Five Thousand Dollars (\$5,000.00) or imprisoned for a period of six (6) months or both.

I. The operation of the mutual consent registry shall be funded by a fee of Twenty Dollars (\$20.00) that will be added to the fees for filing a petition for adoption and by a reasonable registration fee that may be charged to each registrant in an amount to be determined by Department regulations.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.39 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services shall establish a search program whereby the services of a confidential intermediary who has been certified through the program may be used by eligible persons listed in subsection B of this section to locate an adult biological relative listed in subsection B of this section with whom contact has been lost through adoption or termination of parental rights proceedings.

B. Subject to the restrictions of subsections C and D of this section, the following persons may request a search or be the subject of a search through the confidential intermediary search program:

1. An adult adopted person;
2. An adult person who has a parent whose parental rights have been terminated;
3. The legal parent or guardian of any minor child or mentally incompetent child of a deceased adopted person;
4. An adult descendant of a deceased adopted person;
5. The legal parent or guardian of any minor child or mentally incompetent child of a deceased person whose biological parent's parental rights have been terminated;
6. An adult descendant of a deceased person whose biological parent's parental rights have been terminated;
7. A biological parent whose parental rights were voluntarily or involuntarily terminated by court order in an adoption, juvenile, guardianship, or domestic relations proceeding;
8. An adult biological sibling or biological grandparent of an adult adopted person or of an adult person who has a parent whose parental rights have been terminated; and

9. The sibling of a deceased biological parent whose parental rights were voluntarily or involuntarily terminated by court order in an adoption, juvenile, guardianship, or domestic relations proceeding.

C. A search through the confidential intermediary program may not be performed on behalf of:

1. Anyone who has not previously registered with the mutual consent voluntary registry at least six (6) months prior to submission of his or her application for services through the confidential intermediary search program;

2. An adult adopted person who has a minor biological sibling in the same adoptive family or in an adoptive or foster family or other placement whose location is known to the adult adopted person;

3. An adult whose biological parent's parental rights have been terminated and who has a minor biological sibling in the same family or in an adoptive or foster family or other placement whose location is known to that adult; or

4. Anyone who has previously initiated a search for a biological parent that refused to share identifying information, communicate, or meet, and who initiates a subsequent search for a biological relative of that biological parent.

D. If a biological relative of an adopted person, other than a biological parent, applies to initiate a search or is the subject of a search, the administrator of the confidential intermediary search program shall ascertain from the State Registrar of Vital Statistics whether an affidavit of nondisclosure by a biological parent of the adopted person is on file. If such an affidavit is filed with the State Registrar and has not been revoked, the administrator of the search program shall decline to initiate a search at the request of or for any biological relative of the parent who filed the affidavit of nondisclosure, unless the person initiating the search can

provide satisfactory proof that the biological parent who filed the affidavit of nondisclosure is deceased.

E. The Department of Human Services shall administer, directly or through a contractor, the confidential intermediary search program. The Department of Human Services shall adopt rules and procedures necessary to implement the search program, including the qualifications, minimum standards for training and certification, and standards of conduct for a confidential intermediary. A person shall not act as a confidential intermediary unless the person has completed the training required by the Department of Human Services, signed and filed an oath of confidentiality with the Department of Human Services, and possesses a confidential intermediary certificate issued by the Department of Human Services.

F. The Department of Human Services shall develop an oath of confidentiality, which must be signed under penalty of perjury by each prospective confidential intermediary prior to receiving certification. In the oath the intermediary shall affirm that:

1. The intermediary has completed the requisite training for a confidential intermediary as required by the Department of Human Services;

2. The intermediary will not disclose to anyone, directly or indirectly, identifying or confidential information in the records or otherwise obtained through the intermediary's participation in the search program, except under the conditions specified in this part;

3. The intermediary will conduct a reasonable search for an individual being sought and make a discreet and confidential inquiry as to whether the individual consents to release of identifying information or medical information or to meeting or communicating with the individual initiating the search, and will report back to the administrator of the program the results of the intermediary's search and inquiry;

4. If the individual initiating the search and the individual being sought consent in writing to meet or to communicate with each other, the intermediary will act in accordance with the instructions of the administrator of the program to facilitate any meeting or communication between them;

5. The intermediary will not accept any fee or compensation for the intermediary's services except as authorized by the administrator of the search program and the Oklahoma Statutes; and

6. The intermediary recognizes that unauthorized release of information is a violation of Section 60.18b of Title 10 of the Oklahoma Statutes and may subject the intermediary to a fine or imprisonment or both, to civil liability, and to loss of certification as a confidential intermediary.

G. 1. After an eligible person described in subsection B of this section has:

- a. completed an application to initiate a search,
- b. provided satisfactory proof of identity to the administrator of the program, and
- c. paid the fee established by the Department of Human Services for initiating a search,

the administrator of the search program shall assign the search to a confidential intermediary certified by the Department of Human Services.

2. The confidential intermediary shall be permitted to inspect:

- a. all court records relevant to the adoption or termination of parental rights proceeding,
- b. the original certificate of birth, or other sealed adoption records, and other relevant records, if any, in the possession of the State Registrar of Vital Statistics, and
- c. all relevant records in the possession of the Department of Human Services.

3. The confidential intermediary must present to the custodians of such records documentary proof of the intermediary's certification and the referral form from the administrator of the search program prior to obtaining access to any of these records.

4. The confidential intermediary may also inspect records in the possession of a private adoption agency or a private attorney, but only if the private agency or attorney voluntarily agrees to cooperate and permits the examination.

5. The confidential intermediary shall keep confidential all information obtained during the course of the investigation, except as disclosure is permitted by this section.

H. 1. If the confidential intermediary is able to locate the subject of the search, the confidential intermediary shall make a discreet and confidential inquiry as to whether the person who is the subject of the search will consent to share identifying information, communicate, or meet with the person who initiated the search.

2. The inquiry to the person who is the subject of the search shall be by personal and confidential contact. The inquiry shall be made without disclosing the identifying information about the person who initiated the search.

3. If the person who is the subject of the search is willing to share identifying information, communicate, or meet with the person who initiated the search, the confidential intermediary shall obtain this consent in writing, in a document that is dated and signed by the subject of the search.

4. If the person who is the subject of the search is not willing to share identifying information, meet, or communicate with the person who initiated the search, the confidential intermediary shall attempt to obtain any nonidentifying medical or social history information that has been requested by the person who has initiated the search.

5. If the confidential intermediary discovers the subject of the search is deceased, the confidential intermediary shall include this information and, if the deceased subject is a biological parent, shall include the identity of the biological parent in the written report.

I. 1. Any written consent and nonidentifying information obtained by the confidential intermediary, along with a written report of the results of the intermediary's search and inquiry, shall be transmitted to the administrator of the confidential intermediary program.

2. If the confidential intermediary is unable to locate the subject of the search, the intermediary shall report this to the administrator of the program and include in this written report a description of the search efforts.

3. If the confidential intermediary discovers that the identity of the biological father was unknown or not revealed by the biological mother, the confidential intermediary shall also include this information in the written report.

J. 1. Upon receipt of the report of the confidential intermediary, the administrator of the search program shall contact the person who initiated the search.

2. If the subject of the search agreed to share identifying information, communicate, or a meeting, the administrator shall relay this information and obtain the written consent of the person who initiated the search before arranging the sharing of identifying information, communication, or meeting between them.

3. Upon receiving the written consent of both the initiator and the subject of the search, the administrator may utilize the services of the confidential intermediary to facilitate a communication or meeting.

4. If nonidentifying medical or social history information was obtained, the administrator shall provide a copy of the

nonidentifying information to the person who initiated the search. If the intermediary was unable to locate the subject of the search or the subject is deceased or did not consent to exchange identifying information, communicate, or meet, the administrator shall share that information with the initiator of the search.

5. If the subject of the search is a biological parent who is deceased, the administrator shall provide the initiator of the search with any identifying information available regarding the deceased biological parent, if the initiator of the search consents in writing to receive the information.

K. If the initiator of a search subsequently applies to the court for an order allowing the release of identifying information for good cause shown, after the subject of the search has refused to share identifying information, communicate, or meet, the initiator shall advise the court in such person's motion of the results of the search. Upon the request of the court, the administrator of the program shall disclose to the court the report of the confidential intermediary regarding the results of the search, including any information about why the subject of the search objected to disclosure or contact.

L. Any information obtained by a confidential intermediary during the course of such person's investigation shall be kept strictly confidential and shall be disclosed and utilized only in the manner permitted by this section.

M. Any person who discloses information obtained during the course of a search performed under this section in violation of this act shall be guilty of a misdemeanor and shall be fined up to Five Thousand Dollars (\$5,000.00) or imprisoned for a period of six (6) months or both.

N. Any reports and other information collected as a result of a search performed under this section shall be retained by the

administrator of the search program for ninety-nine (99) years following the date of the initial application for the search.

O. The operation of the confidential intermediary search program shall be funded by a fee of Twenty Dollars (\$20.00) that will be added to the fees for filing a petition for adoption and fees charged to the initiator of a search by the Department of Human Services in an amount to be determined by Department regulations. The Department may charge the person who initiates the search for the actual expenses incurred in providing the service requested under this section and a reasonable fee for compensation of the confidential intermediary and the administration of this program.

Article 9. General Prohibitions

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000.40 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. It is the public policy of the State of Oklahoma that when an infant will be placed for adoption, a discharge of the infant from a medical facility shall be made as soon after birth as is medically prudent to facilitate the placement that has been arranged.

B. It shall be unlawful for any physician, hospital, or any other person or entity to condition discharge of an infant from a medical facility on the payment of any expense. Upon receipt of a written authorization of the birth mother, a medical facility shall release an infant to the person or agency designated in the written authorization.

C. Any physician, hospital, or any other person or entity that violates the provisions of subsection B of this section shall be liable in a civil action for compensatory and punitive damages, shall be subject to injunctive remedies and a judgment for the payment of an aggrieved person's attorney fees and court costs. In addition, upon proof before any State of Oklahoma licensing board or

agency, that any physician, hospital, or other person or entity has violated the provisions of this section, said person's or entity's license or charter to practice a profession or conduct business operations within this state may be suspended.

Miscellaneous Sections

SECTION 41. AMENDATORY 10 O.S. 1991, Section 25, is amended to read as follows:

Section 25. As used in ~~this act, the terms hereinafter enumerated shall have the following meanings~~ Sections 25 through 38 of this title:

1. "Child" means any unmarried or unemancipated person under the age of eighteen (18) years;

2. "Person" means any natural person, corporation, association, organization, institution, or partnership;

3. "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;

4. "Department" means the Department of ~~Public Welfare~~ Human Services or the Director in charge of the Department of ~~Public Welfare~~ Human Services;

5. "Foster home" means a home or other place, ~~other than the home of a parent, relative within the fourth degree, or a guardian of the child concerned,~~ wherein a child is received for care, custody and maintenance.

SECTION 42. AMENDATORY 10 O.S. 1991, Section 26, is amended to read as follows:

Section 26. No person, other than the parents, or relatives within the fourth degree of blood or marriage, of the child concerned, may assume the permanent care and custody of a child except in accordance with the provisions of ~~this act~~ Sections 25

through 38 of this title, or in accordance with the decree of a court of competent jurisdiction.

SECTION 43. AMENDATORY 10 O.S. 1991, Section 27, is amended to read as follows:

Section 27. No person may assign, relinquish, or otherwise transfer to another ~~his~~ any rights or duties with respect to the permanent care or custody of a child, except to the parents, or to the relatives within the fourth degree of blood or marriage, of the child concerned, unless specifically authorized or required so to do by an order or judgment of a court of competent jurisdiction or unless by a relinquishment executed in writing in accordance with the provisions of ~~this act~~ Sections 25 through 38 of this title or of Section 47 of Title 44 of the Oklahoma Statutes.

SECTION 44. AMENDATORY 10 O.S. 1991, Section 28, is amended to read as follows:

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

~~(1) the~~ 1. The Department, 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 the court.

SECTION 45. AMENDATORY 10 O.S. 1991, Section 29, is amended to read as follows:

Section 29. ~~Relinquishments~~ Temporary relinquishments may be executed by:

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

~~(2) one~~ 2. One parent alone, if:

~~(a)~~ a. the other parent consents thereto in writing~~ing~~ g or

~~(b)~~ b. the other parent is dead~~ing~~ g or

- ~~(c)~~ 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)~~ d. the other parent, for one year preceding, has abandoned the family~~†~~† or
- ~~(e)~~ 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)~~ f. the other parent has been declared by the court to be morally unfit to provide for the care of the child~~†~~† or
- ~~(g)~~ g. by the mother, if the child is born out of wedlock;
and

~~(3)~~ 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)~~ paragraph 2 of this section.

SECTION 46. AMENDATORY 10 O.S. 1991, Section 30, is amended to read as follows:

Section 30. ~~The~~ Any temporary relinquishment shall:

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

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

~~(3)~~ 3. Be acknowledged before the court.

SECTION 47. AMENDATORY 10 O.S. 1991, Section 31, is amended to read as follows:

Section 31. A child whose care and custody has been surrendered by a written temporary relinquishment ~~under this act~~ may not be recovered by the parents or other person who executed the relinquishment except through order of a court of competent jurisdiction, based on a finding, supported by proof, that the child is neglected by its foster parents, guardian, or custodian, within the meaning of neglect as defined by the statutes relating to neglected children.

SECTION 48. AMENDATORY 10 O.S. 1991, Section 32, is amended to read as follows:

Section 32. No person except:

~~(1) the~~ 1. The parent or parents of the child involved;

~~(2) a~~ 2. A relative within the fourth degree of blood or marriage to such child, having lawful custody thereof;

~~(3) the~~ 3. The legal guardian of such child, duly authorized thereto by the court by which ~~he~~ such guardian was appointed; or

~~(4) the~~ 4. The Department of Human Services or a child ~~welfare~~ placing agency ~~enumerated in Section 4 of this act~~, if the care and custody of the child has been relinquished to the Department or the agency under the terms of ~~this act~~ Sections 25 through 38 of this title or has been committed thereto by order of judgment of a court of competent jurisdiction, shall place or offer to place a child for care in a foster home without securing the consent of the Department of ~~Public Welfare~~ Human Services or court.

SECTION 49. AMENDATORY 10 O.S. 1991, Section 33, is amended to read as follows:

Section 33. ~~(a) No~~ A. Except as otherwise provided by this section, no person shall bring, or cause to be brought, or sent, or cause to be sent, into this state, or take, or cause to be taken, or sent, or cause to be sent, out of this state any child for the purpose of placing such child in a foster home or procuring ~~his~~ the adoption of the child, without first having obtained the consent of

the court; ~~but~~. The provisions of this section shall not apply to a resident who brings a child into the state ~~for adoption~~ in his own family, nor to a parent or guardian who takes or sends a child outside of the state for placement in a foster home.

~~(b)~~ B. Such consent by the court shall be given only upon the following conditions:

~~(1)~~ 1. Any person who brings or sends children into this state for the purpose of placing such children in foster homes or of procuring their adoption must file with the Department a bond to the State of Oklahoma, approved by the Attorney General of Oklahoma, in the penal sum of One Thousand Dollars (\$1,000.00) conditioned that ~~he~~ such person will not bring or send into this state any child who is incorrigible or unsound of mind or body and that ~~he~~ such person will remove any such child who becomes a public charge or who, in the opinion of the Department, becomes a menace to the community prior to ~~his~~ such child's adoption or becoming of legal age, and conditioned further that all placements shall be made under the same conditions as placements may be made by child ~~welfare~~ placing agencies licensed or recognized under the laws of this state. This paragraph shall not apply to the Department or to child ~~welfare~~ placing agencies licensed or recognized under the laws of this state and no bond shall be required from such agencies.

~~(2)~~ 2. Before any child is brought or sent into this state or taken from or sent out of this state for placement in a foster home, the person bringing, taking, or sending such child shall obtain a statement from the Department or court that such home is a suitable home for such child.

~~(3)~~ 3. The person bringing, taking, or sending such child into or out of this state shall make a report to the Department or court, at least once each year and at such other reasonable times as the Department or court may require, as to the location and well-being

of such child, until ~~he~~ such child shall be eighteen (18) years of age or until ~~he~~ such child shall be legally adopted.

~~(4)~~ 4. The Department shall have authority to make all necessary and reasonable rules ~~and regulations~~ for the enforcement of this section, not in conflict herewith, and all persons bringing, taking, or sending children into or out of this state shall comply with all such rules ~~and regulations~~.

SECTION 50. AMENDATORY 10 O.S. 1991, Section 34, is amended to read as follows:

Section 34. All requirements established by ~~this act~~ Sections 25 through 38 of this title, except as otherwise provided herein, shall be incumbent equally upon all ~~public and private child welfare placing agencies and upon all private child placing or home finding agencies or institutions~~ and upon all individuals.

SECTION 51. AMENDATORY 10 O.S. 1991, Section 35, is amended to read as follows:

Section 35. Violation of any of the provisions of ~~this act~~ Sections 25 through 38 of this title shall be a misdemeanor and one who is convicted of such a violation shall be punished in accordance with law.

SECTION 52. AMENDATORY 10 O.S. 1991, Section 37, is amended to read as follows:

Section 37. Except as otherwise ~~set forth~~ provided by law or except in case of conflict between the provisions hereof and other law, the provisions of ~~this act~~ Sections 25 through 38 of this title shall be cumulative to existing law.

SECTION 53. AMENDATORY 10 O.S. 1991, Section 38, is amended to read as follows:

Section 38. When an order has been entered which provides for payment of child support and the legal custodian temporarily relinquishes physical custody of the child to any person, subject to the provisions of Section 27 of ~~Title 10 of the Oklahoma Statutes~~

this title, without obtaining a modification of the order to change legal custody, the temporary relinquishment, by operation of law, shall create a presumption that such person to whom the child was temporarily relinquished has legal custody of the child for the purposes of the payment of child support and the obligee shall remit such child support obligation to the person to whom the temporary relinquishment was made.

SECTION 54. AMENDATORY 10 O.S. 1991, Section 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 6, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7003-3.7), is amended to read as follows:

Section 7003-3.7 A. If the parents, guardian, or other legal custodian of the child requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court if a petition has been filed alleging that the child is a deprived child or if termination of parental rights is a possible remedy, provided that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parents, guardian or other legal custodian. If the child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of this part, the court shall appoint a separate attorney, who shall not be a district attorney, for the child regardless of any attempted waiver by the parent or other legal custodian of the child of the right of the child to be represented by counsel. The attorney appointed for the child shall meet with the child as soon as possible after receiving notification of the appointment. Except for good cause shown, the attorney shall meet with the child not less than twenty-four (24) hours prior to any hearing in such proceeding.

B. Whenever a petition is filed alleging that a child is a deprived child, the court may appoint a guardian ad litem for the child at any time subsequent to the filing of the petition and shall

appoint a guardian ad litem upon the request of the child or the attorney of the child and whenever a court-appointed special advocate is available to the court to serve as a guardian ad litem regardless of whether or not a guardian ad litem has been requested by the child or the attorney of the child. The Court-Appointed Special Advocate Program shall be made available to each judicial district.

1. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities towards the child.

2. Whenever a court-appointed special advocate is available for appointment as a guardian ad litem as provided by this subsection, the court shall give priority to the appointment of a court-appointed special advocate as the guardian ad litem of a deprived child.

C. 1. The court-appointed special advocate shall be given access to the court file and access to all records and reports relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to the laws relating to child abuse and neglect including reports generated by service providers.

2. A court-appointed special advocate shall serve without compensation and shall have such other qualifications and duties and responsibilities as may be prescribed by rule by the Supreme Court.

3. Any person participating in a judicial proceeding as a court-appointed special advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed. Any person serving in positions of management of a CASA organization, including members of the Board of Directors acting in good faith, shall be immune from any civil liability or any vicarious liability for the

negligence of any CASA organization advocates, managers, or directors.

D. The provisions of this section shall not apply to adoption proceedings and actions to terminate parental rights which do not involve a petition for deprived status of the child. Such proceedings and actions shall be governed by the Oklahoma Adoption Code.

SECTION 55. AMENDATORY 10 O.S. 1991, Section 1130, as last amended by Section 65, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7006-1.1), is amended to read as follows:

Section 7006-1.1 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 subsection A of Section 60.5 of this title, who desires to terminate his parental rights; provided that 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 has been adjudicated to be deprived, and
- b. such condition is caused by or contributed to by 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 finding has 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

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 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 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, 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 order, consistent with the parent's means and earning capacity; provided, that 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 1021.3, 1111 and 1123 of Title 21 of the Oklahoma Statutes, the laws relating to child abuse and neglect, 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 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. the 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 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 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 sibling; or

8. A finding that all of the following exist:

- a. the child has been adjudicated deprived, 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 parental rights; or

9. A finding that all of the following exist:

- a. the child has been adjudicated deprived, 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 parental rights.

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

~~C. A 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 petition by the parent or guardian~~ The provisions of this section shall not apply to adoption proceedings and actions to terminate parental rights which do not involve a petition for deprived status of the child. Such proceedings and actions shall be governed by the Oklahoma Adoption Code.

SECTION 56. AMENDATORY 21 O.S. 1991, Section 866, is amended to read as follows:

Section 866. A. The crime of trafficking in children is defined to consist of any of the following acts or any part thereof:

1. Acceptance of any compensation, in money, property or other thing of value, at any time, from the person or persons adopting a child, by any person, for services of any kind performed or rendered or purported to be performed or rendered, in connection with such adoption;

2. Acceptance of any compensation, in money, property or other thing of value, by any person, from any other person, in return for placing, assisting to place, or attempting to place a child for adoption or for permanent care in a foster home;

3. The offering or payment of any compensation, in money, property or other thing of value, to any person in order to acquire custody of a child for adoption;

~~4. The payment of a recognized hospital or a physician qualified under the laws of the State of Oklahoma which renders competent and needed hospital and medical care to an expectant mother or reasonable domiciliary care to a mother and child when such hospital and medical care have been approved by the judge of the district court shall not be considered as compensation for the adoption of the child or in any sense of the words be referred to as "trafficking in children"; nor shall the charge of a reasonable attorney's fee for services rendered in adoption or custody proceedings, approved by the court, be considered as trafficking in children; nor shall the fees charged by a licensed child placing agency, as defined in Section 402 of Title 10 of the Oklahoma Statutes, approved by the court, for services rendered in the care of any child or its parent, the investigation and counseling services to and on behalf of the child, its parents and prospective adoptive home, be considered as trafficking in children; provided, however, that all such procedure relating to the care of an expectant mother and an illegitimate child and the adoption procedure therein comprised, or any other adoption, shall remain confidential in its nature, as otherwise provided by law;~~

~~5.~~ Offering to place, or advertising to place, a child for adoption or for care in a foster home, by any person, as an inducement to any woman to enter an institution or home or other place for maternity care or for the delivery of a child;

~~6.~~ 5. Bringing or causing to be brought into this state or sending or causing to be sent outside this state any child for the purpose of placing such child in a foster home or of procuring the adoption thereof without first obtaining the consent of the Department. Provided, however, that this provision shall have no

application to the parent or guardian of the child nor to a person bringing said child into this state for the purpose of adopting the same into ~~his~~ such person's own family; ~~or~~

~~7.~~ 6. Acceptance of or the offering or payment of any compensation, in money, property or other thing of value, by any person, in connection with the acquisition or transfer of the legal or physical custody of a child, except as ordered by the court or except as otherwise provided by law; or

7. The receipt of any money or any other thing of value for expenses related to the placement of a child for the purpose of an adoption by the birth parent of the child who at the time of the receipt had no intent to consent to eventual adoption.

B. The payment or acceptance of costs and expenses listed in Section 22 of this act shall not be a violation of this section as long as the petitioner has complied with the applicable procedure specified in Section 22 of this act.

C. The payment or receipt of the following expenses shall not be deemed a violation of this section:

1. Reasonable legal expenses;

2. Reasonable medical expenses for the birth mother and child(ren);

3. Reasonable counseling expense for birth parent(s) before and after birth of the child;

4. Reasonable fees of a licensed child-placement agency;

5. Reasonable living expenses of the birth mother which are incurred during or as a result of the pregnancy;

6. Reasonable expenses for a court-ordered home study;

7. All legal and counseling expenses approved by the court should be commensurate with other customary fees for similar services by persons of equivalent experience and reputation where the services are performed. Any services provided outside this

state shall be allowed in an amount had the services been performed in Oklahoma; and

8. Reasonable expenses legally required by any governmental entity relating to the adoption of a child.

D. Any person knowingly failing to file a written report of all adoption costs and expenses before the final decree of adoption as required by Section 22 of this act shall be guilty of a misdemeanor.

SECTION 57. AMENDATORY 21 O.S. 1991, Section 867, is amended to read as follows:

Section 867. A. The first conviction of the crime of trafficking in children by any person shall be a felony and punishable by imprisonment in the State Penitentiary for not less than one (1) year nor for more than three (3) years.

B. Conviction of the crime of trafficking in children, subsequent to a prior conviction for such offense in any form, shall be a felony and punishable by imprisonment in the State Penitentiary for not less than three (3) years. No suspension of judgment or sentence shall be permitted.

SECTION 58. REPEALER 10 O.S. 1991, Sections 29.1, as amended by Section 21, Chapter 297, O.S.L. 1996, and 60.2 (10 O.S. Supp. 1996, Section 29.1), are hereby repealed.

SECTION 59. This act shall become effective November 1, 1997.

Passed the House of Representatives the 5th day of March, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate

