

ENGROSSED HOUSE
BILL NO. 2829

By: Roach of the House

and

Henry of the Senate

(adoption - amending various sections in Titles 10, 36 and
63 - Oklahoma Adoption Code - insurance coverage -
acknowledging paternity - emergency)

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1134, as amended by Section 69, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7006-1.5), is amended to read as follows:

Section 7006-1.5 A. Except as otherwise provided for in subsection B of this section, an action to adopt a child shall not be combined with an action to terminate parental rights ~~and when~~. When the rights of a parent have been terminated, neither an interlocutory nor a final decree of adoption may be rendered until the decree terminating parental rights has become final.

B. This section shall not apply to:

1. A proceeding to adopt a child without the consent of a parent when the court has determined that consent is not legally required; or

2. A proceeding to adopt a child born out of wedlock when the mother of the child is granting consent to the adoption and is a party to the action; or

3. Proceedings pursuant to the provisions of Section ~~60.6~~ 7505-4.2 of this title.

SECTION 2. AMENDATORY Section 178, Chapter 352, O.S.L. 1995, as last amended by Section 7, Chapter 350, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7307-1.2), is amended to read as follows:

Section 7307-1.2 A. Except as provided by this section or as otherwise specifically provided by state or federal laws, the following juvenile records are confidential and shall not be open to the general public, inspected, or their contents disclosed:

1. Juvenile court records;
2. Agency records;
3. District attorney's records;
4. Law enforcement records;
5. Nondirectory education records; and
6. Social records.

B. The confidentiality limitation of subsection A of this section shall not apply to statistical information or information of a general nature obtained pursuant to the provisions of the Oklahoma Juvenile Code.

C. ~~1.~~ The confidentiality requirements of subsection A of this section for juvenile court records and law enforcement records shall not apply:

a. ~~upon~~

1. Upon the certification of a juvenile as an adult pursuant to Section 7303-4.3 of this title~~;~~

b. ~~upon~~

2. Upon the charging of an individual pursuant to Section 7306-1.1 of this title~~;~~

c. ~~to~~

3. To a violation of any traffic regulation or motor vehicle regulation of Title 47 of the Oklahoma Statutes, or to a violation of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets, or to the operation of self-propelled or nonself-propelled vehicles of any kind in this state;7;

~~d. to~~

4. To a juvenile who is fourteen (14) years of age or older and who has been adjudicated delinquent and who subsequently comes before the juvenile court on a new delinquency matter after July 1, 1995;7; or

~~e. to~~

5. To a juvenile adjudicated a delinquent for committing a delinquent act which, if committed by an adult, would be a felony offense that is a crime against the person or a felony offense involving a dangerous weapon.

D. Following the first adjudication as a delinquent, the court having jurisdiction shall note on the juvenile court record of the person that any subsequent juvenile court records shall not be confidential; provided, the child is at least fourteen (14) years of age or older. Any juvenile court record which becomes an open juvenile record as provided in this subsection may be expunged as provided in Section & 7307-1.8 of this ~~act~~ title.

The provisions of this subsection shall only apply to the juvenile court records and law enforcement records of juvenile offenders certified, charged or adjudicated on and after July 1, 1995.

E. When a delinquent child has escaped or run away from a training school or other institutional placement for delinquents, the name and description of the child may be released to the public by the agency having custody of the child as necessary and appropriate for the protection of the public and the apprehension of

the delinquent child whether or not the juvenile record is confidential or open.

F. Except as otherwise required by state or federal law, the confidential records listed in subsection A of this section may only be inspected, released, disclosed, corrected or expunged pursuant to an order of the court. Except as otherwise provided in Section 601.6 of this title or any provision of this chapter, no subpoena or subpoena duces tecum purporting to compel disclosure of confidential information or any confidential juvenile record shall be valid.

G. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

Except for district attorney records, any court order authorizing the disclosure, release or inspection of a confidential juvenile record may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

H. Upon the filing of a petition for inspection, release, disclosure, or correction of a juvenile record, the court shall set a date for a hearing and shall provide a thirty-day notice to all interested parties, the person who is the subject of the record if the person is eighteen (18) years of age or older, or to the parents of a child if the child is less than eighteen (18) years of age, and to the attorneys of record, if any. The hearing may be closed at the discretion of the court.

I. Any agency or person may seek an order from the juvenile court prohibiting the release of confidential information subject to disclosure without an order of the court pursuant to Section 620.6

of this title or any provision of this chapter. The court may, for good cause shown, prohibit the release of such information or authorize release of the information upon such conditions as the court deems necessary and appropriate.

J. In accordance with the provisions of the Serious and Habitual Juvenile Offender Act and Section 620.6 of this title:

1. Information included in the records listed in subsection A of this section may be entered in and maintained in the Juvenile Justice Information System and other automated information systems related to services to children and youth whether or not the record is confidential or open; and

2. The information systems may be accessed by participating agencies as defined by this chapter or as otherwise provided by law.

K. The court may authorize a designated person to review juvenile court confidential reports and records and collect statistical information and other abstract information for research purposes. Such authorization shall be in writing and shall state specifically the type of information which may be reviewed and reported.

Each person granted permission to inspect confidential reports and records for research purposes shall present a notarized statement to the court stating that the names of juveniles, parents and other persons as may be required by the court to be confidential will remain confidential.

L. Nothing contained in the provisions of Section 620.6 of this title or any provision of this chapter shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of information required to be kept confidential by ~~Section 55.1, 57, 60.17 or 60.29 of this title~~ the Oklahoma Adoption Code or disclosure of any other confidential record pursuant to the provisions of this chapter;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a juvenile proceeding to any records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;

6. Prohibiting the Department of Juvenile Justice from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect; or

7. Prohibiting the person or agency conducting a preliminary inquiry relating to an alleged delinquent act from providing information, as to the disposition of the matter by the district attorney, to the person or agency which referred the matter, including but not limited to whether a petition was filed or an alternative action taken, and the basis for such action and the terms of any agreement entered into by the child for payment of restitution, and including but not limited to provisions for community services.

M. The confidential records listed in subsection A of this section may be inspected and their contents disclosed without a court order to a school district in which the child who is the subject of the record is currently enrolled. The inspection of records and disclosure authorized by this subsection may be limited to summaries or to information directly necessary for the purpose of

such inspection or disclosure. Upon request by the school district, the agency in possession of the records shall provide the requested information to the school district. Any records disclosed as provided by this subsection shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized.

SECTION 3. AMENDATORY Section 4, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7502-1.1), is amended to read as follows:

Section 7502-1.1 A. Except as otherwise provided in this section, a court of this state has jurisdiction over proceedings to terminate parental rights and proceedings for the adoption of a minor commenced pursuant to the Oklahoma Adoption Code if:

1. a. 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
- b. 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 child-placing 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 shall not exercise jurisdiction over a proceeding for adoption of a minor or for termination of parental rights 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 or for termination of parental rights, 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 pursuant to this section over the proceeding for adoption.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 60.5, as last amended by Section 9, Chapter 366, O.S.L. 1997, and as renumbered by Section 58, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7503-2.1), is amended to read as follows:

Section 7503-2.1 A. A minor may be adopted when there has been filed written consent to adoption or a permanent relinquishment for adoption executed by:

1. Both parents of the minor;
2. One parent of the minor, 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 ~~27~~ 7505-4.2 of this ~~act~~ title;

3. The legal guardian of the person of the minor or the guardian ad litem of the minor 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 ~~27~~ 7505-4.2 of this ~~act~~ title, and such guardian or guardian ad litem has authority by order of the court appointing the guardian to consent to the adoption;

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

a. the minor has been permanently relinquished to such agency 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 ~~27~~ 7505-4.2 of this ~~act~~ title, or

b. the rights of both parents have been judicially terminated and custody of the minor has been legally vested in such agency with authority to consent to adoption of the minor;

5. Any person having legal custody of a minor by court order if:

a. the parental rights of both parents have been judicially terminated, and

b. the court that issued the custody order for the minor has consented to adoption and a certified copy of its order containing its consent is filed before the final decree.

B. 1. A parent of a minor 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 minor.

2. If the parent of a minor 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,
 - (2) the parents of the minor parent,
 - (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~~ or
- 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 person directing the 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 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 minor to be adopted is twelve (12) years of age or older, the consent of the minor 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 minor to

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

~~D. The consents required by subsections A, B and C of this section shall be acknowledged before a judge of the district court issuing the decree of adoption with the following exceptions:~~

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

~~2. a. If 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.~~

~~b. If the foreign country's government does not involve itself in adoption matters, the 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, provided the execution of such consent is not a violation of the laws of the foreign country, or a violation of international law or treaty between the foreign country's government and the United States. The consent shall reflect that the consent is not given or accepted in violation of the laws of the foreign country or in violation of~~

~~international law or treaty between such foreign country's government and the United States;~~

~~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 minors in the 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 minor by the family whose application for adoption has been approved by the Department of Human Services; or~~

~~5. The executive head of a licensed child-placing agency whose consent is required for the adoption of a minor who is in the custody of the licensed child-placing agency may designate, authorize and direct in writing an employee of the agency to appear in the district court of the county in which the adoption proceedings are to be completed and to give written consent for the adoption of the minor.~~

~~E. If the written instrument containing a consent to adoption is written in a language other than the English language, the petitioner for adoption must have it translated into the English language by a person qualified to do so, and must file the original instrument together with the translation with the court. The translation must be sworn to as being a true and correct translation by the person translating the document.~~

SECTION 5. AMENDATORY Section 10, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7503-2.2), is amended to read as follows:

Section 7503-2.2 A. The mother of a minor shall not execute a valid consent to the adoption of the minor or a permanent relinquishment of the minor prior to the birth of the minor.

B. The father of a minor born in wedlock shall not execute a valid consent to the adoption of the minor or a permanent relinquishment of the minor prior to the birth of the minor.

C. A putative father of a minor may execute a consent to the adoption of the minor, a permanent relinquishment of the minor, or an extrajudicial consent to the adoption of the minor before or after the birth of the minor.

D. A guardian, guardian ad litem or legal custodian of a child may execute a consent to the adoption of a minor 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 minor twelve (12) years of age or older whose consent is required pursuant to Section ~~9~~ 7503-2.1 of this ~~act~~ title may execute a consent to adoption at any time at or before the hearing on the petition for adoption.

SECTION 6. AMENDATORY Section 11, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7503-2.3), is amended to read as follows:

Section 7503-2.3 A. ~~1.~~ A permanent relinquishment may be executed by a person whose consent to the adoption of a minor is required by Section ~~9~~ 7503-2.1 of this ~~act~~ title. The permanent relinquishment shall be in writing and shall relinquish all of that

individual's rights with respect to the minor, including legal and physical custody and the right to consent to the minor's adoption.

~~2. When the person whose consent is or may be required by Section 9 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; or
3. Any other person, with the written consent of the Department or court.

C. A permanent relinquishment shall be in writing, executed before a judge of the district court in this state, recorded by a court reporter and contain:

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

2. The name and date of birth of the person executing the permanent relinquishment;

3. The current mailing address, telephone number and social security number of the person executing the permanent relinquishment; and

4. Instructions that the permanent relinquishment is irrevocable, except upon the specific grounds specified in Section ~~15~~ 7503-2.7 of this ~~act~~ title, upon which the permanent relinquishment can be revoked and the manner in which a motion to set aside the permanent relinquishment must be filed.

D. A permanent relinquishment must state:

1. That the person executing the document is voluntarily and unequivocally consenting to the adoption of the minor;

2. An understanding that after the permanent relinquishment 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 permanent relinquishment is represented by counsel or has waived any right to counsel;

4. That the execution of the permanent relinquishment does not terminate any duty of the person executing the permanent relinquishment to support the mother or the minor until the adoption is completed;

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

6. Whether the individual executing the permanent relinquishment is a member of an Indian tribe and whether the minor is eligible for membership or the minor is a member of an Indian tribe;

7. That the person believes the adoption of the minor is in the minor's best interest; and

8. That the person executing the permanent relinquishment has been advised that an adult adopted person born in Oklahoma, whose decree of adoption is finalized after November 1, 1997, may obtain a copy of such person's original certificate of birth unless affidavits of nondisclosure have been filed pursuant to Section ~~13~~ 7503-2.5 of this ~~act~~ title and that the relinquishing parent may sign an affidavit of nondisclosure.

E. When it appears to the court that the parent or guardian executing a permanent relinquishment desires counsel but is indigent and cannot for that reason employ counsel, the court shall appoint counsel. In all counties having county indigent defenders, the county indigent defenders shall assume the duties of representation in such proceedings.

F. 1. The permanent relinquishment required by this section shall be acknowledged before a judge of the district court with the following exceptions:

- a. If the person whose consent is necessary does not reside in the county of the court issuing the verification, the person may execute a permanent relinquishment before a district judge of this state or a probate judge or judge of a court having jurisdiction in the state of residence of the person.
- b. (1) If an individual permanently relinquishing the child 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 permanent relinquishment of the individual 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.
(2) If the foreign country's government does not involve itself in adoption matters, the permanent relinquishment 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, provided the execution of a permanent relinquishment is not a violation of the laws of the foreign country, or a violation of international law or treaty between the foreign country's government and the United States. The permanent relinquishment shall reflect that the

permanent relinquishment is not given or accepted in violation of the laws of the foreign country or in violation of international law or treaty between such foreign country's government and the United States.

c. If an individual permanently relinquishing the child is a member of the United States Armed Services stationed in a country or place other than the United States, the individual's permanent relinquishment may be acknowledged before an officer of the Judge Advocate General's Office or other legal officer possessing the authority to administer oaths.

d. Except as otherwise required by this subsection, when the person permanently relinquishing the child pursuant to this section 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.

2. If the written instrument containing a permanent relinquishment is written in a language other than the English language, the petitioner must have it translated into the English language by a person qualified to do so, and must file the original instrument together with the translation with the court. The translation must be sworn to as being a true and correct translation by the person translating the document.

G. The transcript of the court proceedings pursuant to this section shall be placed in the court record.

~~G.~~ H. The verification of the court shall be in substantially the following form:

I, _____, Judge of the District Court in and for _____ County, State of Oklahoma, a Court having original

adoption jurisdiction, do hereby certify, that upon this day,
_____ personally appeared in open Court, before me, and orally
and in writing executed the above and foregoing permanent
relinquishment for adoption.

In executing this acknowledgement, I further certify that the
said _____ acknowledged that the person executed said
relinquishment to adoption freely and voluntarily, and that it was
explained to such person by or before me, the undersigned Judge of
the District Court, that in executing the relinquishment, the person
was surrendering all parental authority whatsoever over the minor;
and that with such explanation made to the person relinquishing the
minor by or before me, the undersigned Judge of the District Court,
the person executed the relinquishment, freely, voluntarily and
intelligently for all uses and purposes therein set forth.

I further certify that it was explained to the relinquishing
person that this relinquishment is irrevocable and final except for
fraud or duress and may not be revoked or set aside except and
unless no Petition to Adopt is filed within nine (9) months after
placement of the minor or if this or some other court decides not to
terminate the rights of the other parent of the minor. I further
certify that I am satisfied that the relinquishing person
understands the consequences of an adoption; the relinquishing
person has represented that such person has not received or been
promised any money or anything of value for the giving of ~~consent~~
the permanent relinquishment except for those payments authorized by
law; the relinquishing person has represented that such person is
not under the influence of alcohol or medication or any other
substance that affects the person's competence; the person fully
understood the English language and communicated in the English
language at all times during said hearing, or all information was
translated into the relinquishing person's language, and was fully
understood by the person; and if the relinquishing person was the

biological parent, such parent was advised regarding the affidavit of nondisclosure.

SECTION 7. AMENDATORY Section 12, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7503-2.4), is amended to read as follows:

Section 7503-2.4 A. A consent to an adoption of a minor shall be in writing, recorded by a court reporter, and 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, telephone number, and social security number of the person executing the consent; and
4. Instructions that the consent is irrevocable, except upon the specific grounds specified in Section ~~15~~ 7503-2.7 of this ~~act~~ title, upon which the consent can be revoked and the manner in which a motion to set aside the consent must be filed.

B. A consent must state:

1. That the person executing the document is voluntarily and unequivocally consenting to the adoption of the minor;
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 is represented by counsel or has waived any right to counsel;
4. That the execution of the consent does not terminate any duty of the person executing the consent to support the minor until the adoption is completed;
5. 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;

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

7. That the person believes the adoption of the minor is in the minor's best interest; and

8. That the person executing the consent has been advised that an adult adopted person born in Oklahoma, whose decree of adoption is finalized after November 1, 1997, may obtain a copy of such person's original certificate of birth unless affidavits of nondisclosure have been filed pursuant to Section ~~13~~ 7503-2.5 of this ~~act~~ title and that the consenting parent may file an affidavit of nondisclosure.

C. Before executing a consent, a minor twelve (12) years of age or older must have been informed by the court of the meaning and consequences of the adoption and the availability of social and medical history information, pursuant to Section ~~18~~ 7504-1.2 of this ~~act~~ title, when the minor turns eighteen (18) years of age.

D. When it appears to the court that the parent or guardian executing a consent desires counsel but is indigent and cannot for that reason employ counsel, the court shall appoint counsel. In all counties having county indigent defenders, the county indigent defenders shall assume the duties of representation in such proceedings.

E. 1. The consent required by Section 7503-2.1 of this title shall be acknowledged before a judge of the district court issuing the decree of adoption with the following exceptions:

- a. If the person whose consent is necessary does not reside in the county of the court issuing the decree of adoption, the person may execute such consent before a district judge of this state or a probate judge or judge of a court having adoption jurisdiction in the state of residence of the person.

- b. (1) If 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.
- (2) If the foreign country's government does not involve itself in adoption matters, the 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, provided the execution of such consent is not a violation of the laws of the foreign country, or a violation of international law or treaty between the foreign country's government and the United States. The consent shall reflect that the consent is not given or accepted in violation of the laws of the foreign country or in violation of international law or treaty between such foreign country's government and the United States.
- c. 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.

- d. When consent for adoption is necessary for minors in the 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 minor by the family whose application for adoption has been approved by the Department of Human Services.
- e. The executive head of a licensed child-placing agency whose consent is required for the adoption of a minor who is in the custody of the licensed child-placing agency may designate, authorize and direct in writing an employee of the agency to appear in the district court of the county in which the adoption proceedings are to be completed and to give written consent for the adoption of the minor.
- f. Except as otherwise required by this subsection, when the person whose consent is or may be required by this section resides outside of Oklahoma, the consent to adoption 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.

2. If the written instrument containing a consent to adoption is written in a language other than the English language, the petitioner must have it translated into the English language by a person qualified to do so, and must file the original instrument together with the translation with the court. The translation must

be sworn to as being a true and correct translation by the person translating the document.

F. The transcript of the court proceedings pursuant to this section shall be placed in the court record.

~~F.~~ G. The verification of the court shall be in substantially the following form:

I, _____, Judge of the District Court in and for _____ County, State of Oklahoma, a Court having original adoption jurisdiction, do hereby certify, that upon this day, _____ personally appeared in open Court, before me, and orally and in writing executed the above and foregoing Appearance and Consent to Adoption.

In executing this acknowledgement, I further certify that the said _____ acknowledged that the person executed said consent to adoption freely and voluntarily, and that it was explained to such person by or before me, the undersigned Judge of the District Court, that in executing the consent the person was surrendering all parental authority whatsoever over the minor; and that with such explanation made to the consenting person by or before me, the undersigned Judge of the District Court, the person executed the consent, freely, voluntarily and intelligently for all uses and purposes therein set forth.

I further certify that it was explained to the consenting person that this consent is irrevocable and final except for fraud or duress and may not be revoked or set aside except and unless no Petition to Adopt is filed within nine (9) months after placement of the minor or if this or some other court decides not to terminate the rights of the other parent of the minor. I further certify that I am satisfied that the consenting person understands the consequences of an adoption; the consenting person has represented that such person has not received or been promised any money or anything of value for the giving of consent except for those

payments authorized by law; the consenting person has represented that such person is not under the influence of alcohol or medication or other substance that affects the person's competence; the parent fully understood the English language and communicated in the English language at all times during said hearing, or all information was translated into the consenting person's language, and was fully understood by the person; and if the consenting person was ~~the~~ the biological parent, such parent was advised regarding the affidavit of nondisclosure.

SECTION 8. AMENDATORY Section 14, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7503-2.6), is amended to read as follows:

Section 7503-2.6 A. A putative father of a minor born out of wedlock who is not an Indian child, as defined by the Oklahoma Indian Child Welfare Act, may execute an extrajudicial consent before a notary public in which the putative father waives any legal interest in the minor, disclaims any legal rights with respect to the minor, and consents to the adoption of the minor. An extrajudicial consent may be executed by a putative father before or after the birth of the minor.

B. The extrajudicial consent shall contain:

1. The date, place, and time of the execution of the consent;
2. The name, current mailing address, telephone number, date of birth, and social security number of the putative father executing the consent;
3. Instructions that the consent is revocable for any reason for fifteen (15) days after the execution of the consent, the manner in which it may be revoked, and that thereafter the consent is irrevocable, except upon the specific grounds specified in Section ~~15~~ 7503-2.7 of this ~~act~~ title;

4. A statement that the putative father is executing the document voluntarily and is unequivocally consenting to the adoption

of the minor, and that the putative father understands that the consent is final, and except for fraud or duress or the other grounds set forth in Section ~~15~~ 7503-2.7 of this ~~act~~ title, may not be revoked for any reason more than fifteen (15) days after execution of the document;

5. A statement that the putative father executing consent is represented by counsel or has waived the right to counsel;

6. A statement that the putative father understands that the execution of the extrajudicial consent does not terminate any duty ~~on his part~~ of the person executing the extrajudicial consent to support the mother or the minor until the adoption is completed;

7. A statement that the putative father executing the consent is not a member of an Indian tribe and that the minor is not, through him, eligible for membership in an Indian tribe;

8. A statement that the putative father believes that the adoption of the minor is in the minor's best interests;

9. A statement that the putative father has been advised that an adult adopted person born in Oklahoma, whose decree of adoption is finalized after November 1, 1997, may obtain a copy of such person's original certificate of birth unless affidavits of nondisclosure have been filed pursuant to Section ~~13~~ 7503-2.5 of this ~~act~~ title and that the consenting putative father may file an affidavit of nondisclosure;

10. A statement that the putative father has not received or been promised any money or any thing of value for the extrajudicial consent, except for payments authorized by law; and

11. A statement that the putative father is not under the influence of alcohol or medication or other substance that affects his competence at the time of the signing of the extrajudicial consent.

C. An extrajudicial consent shall be revocable for any reason for fifteen (15) calendar days after the execution of the consent

before the notary public. To revoke the extrajudicial consent, the putative father must file a notice of revocation and an intent to claim paternity, an acknowledgement of paternity, or a notice of his desire to receive notice of adoption proceedings or proceedings to terminate his parental rights, with the Paternity Registry of the Department of Human Services pursuant to Section 41 7506-1.1 of this ~~act~~ title, and must provide a copy of this notice to the birth mother at the time of filing the notice with the Paternity Registry of the Department of Human Services.

D. An unrevoked extrajudicial consent shall constitute:

1. A waiver of the right to receive notice of any adoption proceedings or any proceedings to terminate parental rights regarding the minor; and

2. A disclaimer of legal interest in the minor, which disclaimer will result in the court's termination of the putative father's parental rights, if any, to the minor, and the approval of an adoption without further consent, if an adoption proceeding is filed regarding the minor.

E. The execution of an extrajudicial consent does not extinguish a ~~putative father's~~ any duty of the putative father to support the mother or the minor ~~during the pregnancy or prior to the entry of the decree severing parental rights~~ until the adoption is completed.

SECTION 9. AMENDATORY 10 O.S. 1991, Section 60.27, as amended by Section 13, Chapter 297, O.S.L. 1996, and as renumbered by Section 59, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7510-1.3), is amended to read as follows:

Section 7510-1.3 A. The Department of Human Services shall establish and administer an ongoing program of subsidized adoption. Subsidies and services for children who are in the permanent custody of the Department of Human Services under this program shall be provided out of funds appropriated to the Department of Human

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

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

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

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

SECTION 10. AMENDATORY 10 O.S. 1991, Section 60.31, as last amended by Section 49, Chapter 366, O.S.L. 1997, and as renumbered by Section 59, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7510-2.1), is amended to read as follows:

Section 7510-2.1 A. The Department of Human Services, as funds become available for such purposes, shall contract with or join the Oklahoma Children's Adoption Resources Exchange or any other instate or out-of-state or national adoption exchange for purposes of increasing and promoting the placement and adoption of children who are in the custody of the Department of Human Services and in child-placing agencies.

B. Upon contracting with or joining the Oklahoma Children's Adoption Resources Exchange or any instate or out-of-state or national adoption exchange, the Department and all child-placing agencies shall be required to provide certain information to the Oklahoma Children's Adoption Resource Exchange or any other instate,

out-of-state or national adoption exchange specified by the Department.

C. For purposes of the Subsidized Adoption Act:

1. "Adoption exchange" shall include only those exchanges which provide ~~at a minimum a book, updated~~ monthly updated system, containing a photograph ~~and~~ or description of each child whose parental rights have been terminated and is legally available for adoption; and

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

SECTION 11. AMENDATORY 10 O.S. 1991, Section 60.33, as amended by Section 17, Chapter 297, O.S.L. 1996, and as renumbered by Section 59, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7510-2.3), is amended to read as follows:

Section 7510-2.3 The following persons are exempt from the provisions of Sections ~~60.31~~ 7510-2.1 through ~~60.35~~ 7510-2.5 of this title:

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

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

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

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

5. Children who are currently in an adoptive placement, pursuant to Section ~~60.14~~ 7505-6.3 of this title.

SECTION 12. AMENDATORY 36 O.S. 1991, Section 6059, as last amended by Section 1, Chapter 41, O.S.L. 1997 (36 O.S. Supp. 1997, Section 6059), is amended to read as follows:

Section 6059. A. All individual and group health insurance policies providing coverage on an expense incurred basis, and all individual and group service or indemnity type contracts issued by a nonprofit corporation, a charitable and benevolent corporation established for the purposes of operating a nonprofit hospital service or indemnity plan and/or a nonprofit medical or indemnity plan, and all self-insurers which provide coverage for a family member of the insured or subscriber shall, as to such family member's coverage, also provide that the health insurance benefits applicable for any natural child of the insured or subscriber shall be payable with respect to any adopted child of the insured or subscriber from the date of placement of the child in the custody of the insured or subscriber, provided the insurer is notified within thirty-one (31) days in writing. Coverage shall include the necessary care and treatment of medical conditions existing prior to the date of placement of the child in the custody of the insured or subscriber. Nothing in this section shall be construed to require coverage of costs incurred for such medical conditions prior to the date of placement of the child in the custody of the insured or subscriber.

B. Subject to the terms and conditions of the policy, contract or agreement, coverage shall also include the actual and documented medical costs associated with the birth of an adopted child who is eighteen (18) months of age or younger. If requested, the insured shall provide copies of medical bills and records associated with the birth of the adopted child and proof that the insured paid or is responsible for payment of the medical bills associated with the

birth and that the cost of the birth was not covered by another health care plan including Medicaid. Any reference to the name of the natural parents of the adopted child shall be deleted from the records so provided. The coverage required by this subsection shall be subject to the same annual deductibles and coinsurance as may be deemed appropriate and as are consistent with those established for other covered benefits. The coverage shall also be subject to the terms of the insurers contract, if any, with hospitals and physicians.

C. As used in this section, "placement" means the assumption by the insured or subscriber of the physical custody of the adopted child and the financial responsibility for the support and care of the adopted child.

D. For purposes of this section, a child who is in the custody of the insured, pursuant to an interlocutory decree issued under Section ~~60-15~~ 7505-6.1 of Title 10 of the Oklahoma Statutes vesting temporary care of the child in the insured, is an adopted child during the pendency of the adoption proceeding, regardless of whether a final decree of adoption is ultimately issued.

SECTION 13. AMENDATORY Section 9, Chapter 356, O.S.L. 1994, as last amended by Section 37, Chapter 402, O.S.L. 1997 (63 O.S. Supp. 1997, Section 1-311.3), is amended to read as follows:

Section 1-311.3 A. Unless an adoption decree has been presented, and consent to adoption has been given as otherwise provided by law, upon the birth of a child to an unmarried woman, the person required by Section 1-311 of this title to prepare and file a birth certificate shall:

1. Provide written materials to the child's mother and/or natural father including an affidavit acknowledging paternity on a form prescribed by the Department of Human Services. The completed affidavit shall be filed with the local registrar. The affidavit shall contain:

- a. a statement by the mother consenting to the assertion of paternity and stating the name of the father,
- b. a statement by the father that he is the natural father of the child,
- c. the social security numbers of both parents, and
- d. other information as the Secretary of Health and Human Services may require;

2. Provide written information, furnished by the Department of Human Services, to the mother:

- a. explaining that the completed, notarized affidavit shall be filed with the local registrar,
- b. regarding the benefits of having her child's paternity established and of the availability of paternity establishment services, including a request for support enforcement services, and
- c. explaining the implications of signing, including parental rights and responsibilities; and

3. Provide the original affidavit acknowledging paternity to the Office of the State Registrar of Vital Statistics. Copies of the original affidavit acknowledging paternity shall be provided to the Department of Human Services Child Support Enforcement Division and to the mother and acknowledged father of the child. The Department of Human Services shall provide access to the affidavits acknowledging paternity via electronic means to the paternity registry created pursuant to Section ~~55.1~~ 7506-1.1 of Title 10 of the Oklahoma Statutes.

B. The Department of Human Services shall make the affidavits acknowledging paternity available at each county office of the Department and at the Office of the State Registrar of Vital Statistics and at the office of each local registrar.

C. Upon receipt by the State Registrar of Vital Statistics of a certified copy of an order or decree of adoption, the State

Registrar shall prepare a supplementary birth certificate as directed by Section ~~60.18~~ 7505-6.6 of Title 10 of the Oklahoma Statutes regardless of whether an affidavit acknowledging paternity has been prepared or filed with the Office of the State Registrar of Vital Statistics pursuant to this section.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7503-1.1a of Title 10, unless there is created a duplication in numbering, reads as follows:

No unmarried persons cohabitating continuously and habitually shall be eligible to adopt a child.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 2nd day of March, 1998.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate