

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2829

By: Roach

AS INTRODUCED

An Act relating to adoption; amending 10 O.S. 1991, Sections 1130, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 8, Chapter 389, O.S.L. 1997, 1131, as amended by Section 66, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995, 1134, as amended by Section 69, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995, Section 178, Chapter 352, O.S.L. 1995, as last amended by Section 7, Chapter 350, O.S.L. 1997, 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, 60.31, as amended by Section 49, Chapter 366, O.S.L. 1997, and as renumbered by Section 59, Chapter 366, O.S.L. 1997, 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, and 60.6, as renumbered by Section 58, Chapter 366, O.S.L. 1997, and as last amended by Section 17, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Sections 7006-1.1, 7006-1.2, 7006-1.5, 7307-1.2, 7510-1.3, 7510-2.1, 7510-2.3, and 7505-4.2), which relate to the Oklahoma Children's Code and

the Oklahoma Adoption Code; amending 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), which relates to insurance coverage for adopted children; amending 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), which relates to affidavits acknowledging paternity; updating language for purposes of the Oklahoma Adoption Code; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1130, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 8, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, 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 of subsection B of Section ~~60-5~~ 7503-2.1 of this title, who desires to terminate such parent's 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. A finding that:

(1) the child has been adjudicated to be deprived,
and

- (2) such condition is caused by or contributed to by acts or omissions of the parent, and
- (3) termination of parental rights is in the best interests of the child, and
- (4) the parent has failed to show that the condition which led to the making of such 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.

b. The court may extend for a reasonable time the period 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 interests of the child. The extension for a reasonable time shall be based on the child's age, emotional and developmental or health requirements, or needs.

c. 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 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 or her 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 2. AMENDATORY 10 O.S. 1991, Section 1131, as amended by Section 66, Chapter 352, O.S.L. 1995, and as renumbered

by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7006-1.2), is amended to read as follows:

Section 7006-1.2 A. ~~1.~~ A parent shall be given actual notice of any hearing to terminate such parent's parental rights. The notice shall indicate the relief requested, and the hearing shall not be held until at least ten (10) days after the receipt of such notice, except with the consent of the parent, if known.

~~2.~~ B. If the court finds that the whereabouts of the parent cannot be ascertained, it may order that notice be given by publication and a copy mailed to the last-known address of the parent. The notice shall be published once in a newspaper of general circulation in the county in which the action to terminate parental rights is brought, and the hearing shall not be held for at least ten (10) days after the date of publication of the notice. ~~Except as otherwise provided by subsection B of this section, if a parent has not received actual notice of the hearing at which he is deprived of his parental rights, the order depriving him of those rights shall not become final for a period of six (6) months after the hearing.~~

C. Nothing in this section shall prevent a court from immediately taking custody of a child and ordering whatever action may be necessary to protect ~~his~~ the health or welfare of the child.

~~B. For the purpose of terminating the parental rights, a father or putative father of a child born out of wedlock who has not, prior to commencement of a proceeding to terminate parental rights to such child, exercised parental rights and duties or whose consent is not required pursuant to Section 60.6 of this title shall not be deemed to have parental rights to such child. The father or putative father shall be entitled to notice and an opportunity to be heard pursuant to this section and Section 29.1 of this title, except that the court may:~~

~~1. Waive notice to a putative father whose identity is unknown to the mother of the child born out of wedlock and the mother of the child signs a sworn statement before the court that the identity of the father or putative father of the child is unknown and the court is satisfied, after inquiry into the matter, that his identity is unknown and with due diligence could not be determined; the willful and deliberate falsification of said sworn statement shall be perjury and shall, upon conviction, be punishable as otherwise provided by law. The waiver of notice by the court pursuant to this paragraph shall not constitute grounds to challenge an adoption of the child; and~~

~~2. When the identity of the father or putative father of a child born out of wedlock is known but his whereabouts is unknown and the court, after inquiry, is satisfied that after diligent search his whereabouts remains unknown, order that notice be given by publication as provided in subsection A of this section and a copy mailed to the last-known address, if known, of such father or putative father. When notice is given by publication the order terminating parental rights shall not become final for a period of fifteen (15) days from the date of the order.~~

SECTION 3. 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 4. 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 the certification of a juvenile as an adult pursuant to Section 7303-4.3 of this title,
- b. upon the charging of an individual pursuant to Section 7306-1.1 of this title,

- c. 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,
- d. 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, or
- e. 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.

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 5. 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 6. 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 7. 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 8. AMENDATORY 10 O.S. 1991, Section 60.6, as renumbered by Section 58, Chapter 366, O.S.L. 1997, and as last amended by Section 17, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7505-4.2), is amended to read as follows:

Section 7505-4.2 ~~A child under eighteen (18) years of age cannot be adopted without the consent of its parents, if living, except that consent is not required from:~~

~~1. A parent whose parental rights have been terminated pursuant to the provisions of Sections 7006-1.1, 7006-1.2, 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 7006-1.1 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 7006-1.1 of this title, 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. The father or putative father of a child born out of wedlock if:~~

~~a. prior to the hearing provided for in Section 29.1 of this title, and having actual knowledge of the birth or impending birth of the child believed to be his child, he fails to acknowledge paternity of the child or to take any action to legally establish his claim to paternity of the child or to exercise parental~~

~~rights or duties over the child, including failure to contribute to the support of the mother of the child to the extent of his financial ability during her term of pregnancy, or~~

~~b. at the hearing provided for in Section 29.1 of this title:~~

~~(1) he fails to prove that he is the father of the child, or~~

~~(2) having established paternity, he fails to prove that he has exercised parental rights and duties toward the child unless he proves that prior to the receipt of notice he had been specifically denied knowledge of the child or denied the opportunity to exercise parental rights and duties toward the child. As used in this subparagraph, specific denial of knowledge of the child or denial of the opportunity to exercise parental rights and duties toward the child shall not include those instances where the father or putative father fails to prove to the satisfaction of the court that he made a sufficient attempt to discover if he had fathered the child or to exercise parental rights and duties toward the child prior to the receipt of notice, or~~

~~c. he~~

A. Consent to adoption is not required from a putative father of a minor born out of wedlock who, at the hearing provided for in Section 7505-2.1 or 7505-4.1 of this title, fails to prove he is the father of the child.

B. Consent to adoption is not required from a parent who, for a period of twelve (12) consecutive months out of the last fourteen

(14) 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 minor:

1. In substantial compliance with an order entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support; or

2. According to such parent's financial ability to contribute to such minor's support if no provision for support is provided in an order.

C. Consent to adoption is not required from a father or putative father of a minor born out of wedlock if:

1. The minor is placed for adoption within ninety (90) days of birth, and the father or putative father fails to show he has exercised parental rights or duties towards the minor, including, but not limited to, 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

2. a. The minor is placed for adoption within fourteen (14) months of birth, and the father or putative father fails to show that he has exercised parental rights or duties towards the minor, including, but not limited to, failure to contribute to the support of the minor to the extent of his financial ability, which may include consideration of his failure to contribute to the support of the mother of the child to the extent of his financial ability during her term of pregnancy, and

b. Pursuant to subparagraph a of this paragraph, failure to contribute to the support of the mother during her term of pregnancy shall not in and of itself be grounds for finding the minor eligible for adoption without such father's consent.

D. The incarceration of a parent in and of itself shall not prevent the adoption of a minor without consent.

E. 1. A determination that the consent to adoption is not required from the father or putative father of a minor born out of wedlock shall not, by itself, act to relieve such father or putative father of his obligation to provide for the support of the minor as otherwise required by law.

2. Provided, in any case where a father or putative father of a minor born out of wedlock claims that, prior to the receipt of notice of the hearing provided for in Sections 7505-2.1 and 7505-4.1 of this title, he had been specifically denied knowledge of the minor or denied the opportunity to exercise parental rights and duties toward the minor, such father or putative father must prove to the satisfaction of the court that he made sufficient attempt to discover if he had fathered a minor or made sufficient attempt to exercise parental rights and duties toward the minor prior to the receipt of notice.

F. Consent to adoption is not required from a parent or putative father who waives in writing his right to notice of the hearing provided for in Section ~~29.1~~ 7505-2.1 or 7505-4.1 of this title, ~~or.~~

~~d. he~~

G. Consent to adoption is not required from a parent or putative father who fails to appear at the hearing provided for in Section ~~29.1~~ 7505-2.1 or 7505-4.1 of this title if all notice requirements ~~continued~~ contained in or pursuant to Section ~~7006-1.2~~ of this title such sections have been met.

~~A determination that the consent of the father or putative father of a child born out of wedlock to the adoption of the child is not required shall not, by itself, act to relieve such father or putative father of his obligation to provide for the support of the child as otherwise required by law; or~~

~~4.—A H. Consent to adoption is not required from a parent who is entitled to custody of a child minor and has abandoned the child; or minor.~~

~~5. A parent of a child who is deprived, as defined by Section 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 been corrected although the parent has been given three (3) months to correct the condition; provided, that the parent shall be given notice of any hearing to determine if the condition has been corrected. The court may extend the time in which such parent may show the condition has been corrected, if, in the judgment of the court, such extension of time would be in the best interest of the child. During the period that the parent has to correct the condition the court may return the child to the custody of its parent or guardian, subject to any conditions which it may wish to impose or the court may place the child with an individual or an agency; or~~

~~6.—A I. Consent to adoption is not required from a parent who willfully fails to maintain a significant relationship with a minor through visitation or communication for a period of twelve (12) consecutive months out of the last fourteen (14) months immediately preceding the filing of a petition for adoption of the child.~~

~~J. Consent to adoption is not required from a parent who has been convicted in a criminal action pursuant to the provisions of Sections 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~~

1. Physically or sexually abused the ~~child~~ minor or a sibling of such ~~child~~ minor or failed to protect the ~~child~~ minor or a sibling of such ~~child~~ minor from physical or sexual abuse that is heinous or shocking to the court or that the ~~child~~ minor or sibling of such ~~child~~ minor has suffered severe harm or injury as a result of such physical or sexual abuse~~;~~; or

b. ~~physically~~

2. Physically or sexually abused the ~~child~~ minor or a sibling of such child or failed to protect the ~~child~~ minor or a sibling of such ~~child~~ minor from physical or sexual abuse subsequent to a previous finding that such parent has physically or sexually abused the ~~child~~ minor or a sibling of such ~~child~~ minor or failed to protect the ~~child~~ minor or a sibling of such ~~child~~ minor from physical or sexual abuse~~;~~;~~or.~~

7. ~~A~~ K. Consent to adoption is not required from a parent who has been convicted in a criminal action of having caused the death of a sibling of the ~~child~~ minor as a result of the physical or sexual abuse or chronic neglect of such sibling;~~or.~~

8. ~~A parent of a child who is deprived, as defined by Section 7001-1.3 of this title,~~ L. Consent to adoption is not required from a parent 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~~ minor 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~~ minor; the evidence of abuse or neglect of the ~~child~~ minor or siblings of the ~~child~~ minor by the

parent; and the current relationship between the parent and the ~~child~~ minor and the manner in which the parent has exercised parental rights and duties in the past; ~~or.~~

~~9. A parent of a child who is deprived, as defined by Section 7001-1.3 of this title, if~~ M. Consent to adoption is not required from:

~~a. the~~

1. A parent who 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;~~

2. The continuation of parental rights would result in harm or threatened harm to the child, ~~and~~

~~c. the~~

3. 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.

N. Consent to adoption is not required from a putative father who has been served with a Notice of Plan for Adoption pursuant to Section 7503-3.1 of this act and who returns the form to the Paternity Registry of the Department of Human Services or agency or attorney who served him explicitly waiving a right to notice and legal rights to the minor or who fails to return the form pursuant to Section 7503-3.1 of this title in time for the form to be received by the Paternity Registry of the Department of Human Services or the agency or attorney who served him within thirty (30) days from the date the Notice of Plan for Adoption was served upon the putative father.

0. Consent to adoption is not required from:

1. An individual who has permanently relinquished the minor pursuant to the Oklahoma Adoption Code;

2. An individual whose parental relationship to a child has been legally terminated or legally determined not to exist; or

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

SECTION 9. 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:

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 10. 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 11. 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.

46-2-8176

KSM