

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1329

By: Cain

AS INTRODUCED

An Act relating to adoption; amending 10 O.S. 2001, Sections 7510-1.1, 7510-1.2 (Section 10, Chapter 434, O.S.L. 2001), 7510-1.3, 7510-1.4, 7510-1.5 (Section 11, Chapter 434, O.S.L. 2001), and 7510-1.6, which relate to the Subsidized Adoption Act; renaming Act; modifying definitions; clarifying requirements for certain Department of Human Services program; stating benefits; modifying eligibility for certain benefits; requiring certain signed agreements; modifying commencement of certain payments; requiring Department to determine certain payments in compliance with specific rules; authorizing certain adoption assistance agreements; stating time period for approval of certain agreements; providing for certain retroactive payments under specific circumstances; limiting time period for certain payments; modifying time period for receipt of certain payments; conforming language; modifying certain hearing procedures; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7510-1.1, is amended to read as follows:

Section 7510-1.1 This ~~part~~ act shall be known and may be cited as the "~~Subsidized~~ Oklahoma Adoption Assistance Act".

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7510-1.2 (Section 10, Chapter 434, O.S.L. 2001), is amended to read as follows:

Section 7510-1.2 As used in the ~~Subsidized~~ Oklahoma Adoption Assistance Act, ~~"child" means a minor who:~~

- ~~1. Has been removed from his or her home as a result of:~~

- ~~a. a judicial determination to the effect that remaining in the home would be contrary to the child's welfare, or~~
- ~~b. a voluntary placement by the parents if there has been a judicial determination within the first one hundred eighty (180) days of the placement that the placement is in the best interest of the child in the court-ordered custody of a public or licensed private nonprofit child placing agency or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act at the time of the adoptive placement~~

"Child" means any person who has not attained the age of eighteen (18) years who is in the court-ordered custody of the Department of Human Services or a federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act; and

~~2. Is legally free for adoption; and~~

~~3. Is in special circumstances because the child is not likely to be adopted by reason of one or more of the following conditions:~~

- ~~a. physical or mental disability,~~
- ~~b. emotional disturbance,~~
- ~~c. recognized high risk of physical or mental disease,~~
- ~~d. age,~~
- ~~e. sibling relationship,~~
- ~~f. racial or ethnic factors, or~~
- ~~g. any combination of these conditions~~

"Department" means the Oklahoma Department of Human Services.

SECTION 3. AMENDATORY 10 O.S. 2001, 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 assistance for eligible special needs children in the legal custody

of the Department or a federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act, who are not eligible for federally funded adoption assistance benefits. ~~Subsidies and services for children who are in the permanent custody of the Department of Human Services~~ Adoption assistance benefits 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 Adoption assistance benefits under this program may include Medicaid coverage, a monthly adoption assistance payment, reimbursement of nonreoccurring adoption expenses, special services, or any combination of such benefits.

SECTION 4. AMENDATORY 10 O.S. 2001, Section 7510-1.4, is amended to read as follows:

Section 7510-1.4 A. ~~Whenever significant emotional ties have been established between a child and his foster parent or parents, and the foster parent or parents seek to adopt the child, the child may be certified as eligible for an adoption maintenance subsidy conditioned upon adoption of the child under applicable adoption procedures by the foster parent or parents.~~

B. ~~In all other cases, after reasonable efforts have been made and no appropriate adoptive family without the use of subsidy has been found for a child, the Department of Human Services shall certify the child as eligible for a subsidy in the event of adoption.~~

C. ~~If the child is in the court-ordered custody of a child-placing agency or federally recognized Indian tribe as defined by~~

~~the federal Indian Child Welfare Act, that agency or tribe shall present to the Department of Human Services:~~

~~1. Evidence of significant emotional ties between the child and the foster parent or parents of the child; or~~

~~2. Evidence of inability to place the child for adoption due to any of the conditions specified in Section 7510-1.2 of this title.~~

~~The agency or tribe shall present evidence that reasonable efforts have been made to place the child without subsidy, such as recruitment of a potential parent or parents, use of adoption resource exchanges, referral to appropriate specialized adoption agencies and efforts to place the child in a Department of Human Services nonsubsidy adoptive home~~ A child may be determined by the Department of Human Services to be eligible for adoption assistance under this act if, in accordance with rules promulgated by the Commission for Human Services:

1. The Department has determined that the child cannot or should not be returned to the home of his or her parents;

2. The Department has determined that there exists a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed for adoption without providing adoption assistance; and

3. Except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with the prospective adoptive parents while in the care of such parents as a foster child, the Department has determined a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance.

SECTION 5. AMENDATORY 10 O.S. 2001, Section 7510-1.5 (Section 11, Chapter 434, O.S.L. 2001), is amended to read as follows:

Section 7510-1.5 A. 1. When a parent or parents are found and approved for adoption of a child who is ~~certified as~~ determined by the Department of Human Services to be eligible for ~~subsidy~~ adoption assistance under this act, and before the final decree of adoption is ~~issued~~ entered, there must be a signed written agreement between the ~~family entering into the subsidized adoption~~ prospective adoptive parent or parents and the Department ~~of Human Services~~.

2. Adoption ~~subsidies~~ assistance in individual cases may commence with the ~~adoption~~ adoptive placement or at the ~~appropriate time after the adoption decree~~, and shall be based on the needs of the child as well as the availability of other resources to meet the ~~child's needs~~ time of finalization of the adoption. The ~~subsidy~~ Adoption assistance may be for special services only, or for monthly money payments, and either for a limited period, or for a long term, or for any combination of the foregoing.

3. ~~The amount of the time limited or long term subsidy may in no case exceed that which would be allowable from time to time for such child:~~

- ~~a. under traditional foster family care, not therapeutic foster care, or~~
- ~~b. in the case of a special service, the reasonable fee for the service rendered~~

Eligibility for and the rate of monthly adoption assistance payments shall be determined by the Department in accordance with rules promulgated by the Commission for Human Services.

B. When a an otherwise eligible child is determined to have a causative, preexisting condition which was not identified or known prior to the legal finalization of the adoption and which has resulted in a severe medical or psychiatric condition that requires extensive treatment, hospitalization, or institutionalization, an adoption ~~subsidy~~ assistance agreement may be approved by the Department after the final decree of adoption has been entered.

~~Upon the approval of the subsidy~~ In the event an adoption assistance agreement is approved that provides for monthly adoption assistance payments, the adoptive parents ~~shall~~ may also be entitled to receive retroactive ~~subsidy~~ adoption assistance payments for a period not to exceed the two (2) months prior to the date ~~such subsidy~~ the adoption assistance agreement was approved.

C. Any child who met the requirements of the provisions of Section 7510-1.2 of this title, and was determined eligible for Oklahoma adoption assistance ~~payments~~ with respect to a prior adoption, and is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, shall be eligible for Oklahoma adoption assistance ~~payments~~ with respect to any subsequent adoption.

D. 1. When ~~subsidies~~ adoption assistance benefits are for more than one (1) year, the adoptive parent or parents shall present an annual sworn certification that the adopted child remains under their care and that the conditions that caused the child to be ~~certified~~ initially approved for benefits continue to exist.

2. The adoptive parent or parents shall at all times keep the Department ~~of Human Services~~ informed of circumstances which would make them ineligible for such assistance payments or eligible for assistance payments in a different amount.

3. The Department ~~of Human Services~~ is authorized and directed to make a review of each ~~subsidy~~ adoption assistance agreement annually to assure that the parents are fulfilling their ~~contract~~ obligations under the agreement.

4. No payment may be made to any parents with respect to any child who has attained the age of eighteen (18) years, except where the ~~state~~ Department determines that the child has a physical or mental handicap which warrants the continuation of assistance until the child reaches the age of twenty-one (21) years.

5. Termination or modification of the ~~subsidy~~ adoption assistance agreement may be requested by the adoptive parent or parents at any time.

6. No payment may be made to adoptive parents if the Department determines that the parents are no longer legally responsible for the support of the child or that the child is no longer receiving any financial support from such parents.

E. A child ~~who is a resident of this state when eligibility for subsidy is certified~~ for whom an adoption assistance agreement has been reached with the Department shall remain eligible and receive ~~subsidy, if necessary for adoption,~~ adoption assistance benefits regardless of the domicile or residence of the adopting parent or parents at ~~the time of application for adoption, placement, legal decree of adoption or thereafter~~ any given time.

F. All records regarding ~~subsidized~~ adoption assistance shall be confidential and may be disclosed only in accordance with the provisions of the Oklahoma Adoption Code.

SECTION 6. AMENDATORY 10 O.S. 2001, Section 7510-1.6, is amended to read as follows:

Section 7510-1.6 ~~Any subsidy decision by the Department of Human Services, which the placement agency or the adoptive parent or parents deem adverse to the child, shall be reviewable before a Subsidized Adoption Review Committee established by the Department of Human Services. The committee shall consist of five (5) members with two of the members being representatives of private, nonprofit child-placing agencies not party to the appeal~~ An adoptive parent or parents whose application for adoption assistance on behalf of a child has been denied by the Department of Human Services may request an administrative hearing within thirty (30) days of the date of the denial.

SECTION 7. This act shall become effective November 1, 2002.

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