THE STATE SENATE
Monday, April 4, 2005

ENGROSSED

House Bill No. 1416

ENGROSSED HOUSE BILL NO. 1416 - By: PETERSON (Pam) of the House and MAZZEI of the Senate.

An Act relating to children; amending 10 O.S. 2001, Sections 7503-2.6 and 7505-3.2, which relate to adoption; modifying certain age requirement; allowing certain person to execute an extrajudicial consent; providing that extrajudicial consent operate as a waiver under certain circumstances; clarifying certain costs and expenses; prohibiting the court clerk from charging filing fee under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7503-2.6, is amended to read as follows:

Section 7503-2.6 A. 1. A putative father at least ~~eighteen (18)~~ sixteen (16) years of age, 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.

(Bold face denotes Committee Amendments)

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2. A man who is the legal husband of the mother of a minor 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 he 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 the father only 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 7503-2.7 of this 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 7503-2.7 of this 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 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 7503-2.5 of this 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~~ consenting person 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 7506-1.1 of this 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. The execution of an extrajudicial consent does not extinguish any duty of the putative father to support the mother or the minor until the adoption is completed.

E. Where no notice of revocation is filed in the time period specified in subsection C of this section, the execution of the extrajudicial consent shall operate as a waiver of the consenting person's right to notice and participation in any adoption

proceedings or termination of parental rights proceedings regarding the minor referenced in the extrajudicial consent.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7505-3.2, is amended to read as follows:

Section 7505-3.2 A. 1. An affidavit shall be attached to the petition for adoption, or may be filed after the filing of the petition for adoption, but prior to the final decree of adoption, which discloses to the court all of the costs, funds, or monies expended by the adoptive family or expected to be expended in connection with the adoption of a minor.

2. No final decree of adoption shall be entered until the court is satisfied that all costs and expenses have been disclosed, are reasonable, and that the costs and expenses do not violate the provisions of subsection B of this section. Upon its review of the affidavit of monies expended, the court shall in writing disapprove any expenditure that the court deems unreasonable or in violation of Sections 865 through 869 of Title 21 of the Oklahoma Statutes and, to the extent necessary to comply with Oklahoma law, shall order reimbursement of any consideration given in violation of Sections 865 through 869 of Title 21 of the Oklahoma Statutes. Payments made pursuant to this section shall not be a violation of Sections 865 through 869 of Title 21 of the Oklahoma Statutes.

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

a. reasonable attorney fees and court costs,

b. reasonable medical expenses for birth mother and minor to be adopted,

c. reasonable adoption counseling expenses for birth parents before and after the birth of the minor, not to exceed six (6) months from placement of the minor,

d. reasonable fees of a licensed child-placement agency,

e. ~~in cases of extraordinary need,~~ reasonable living expenses for housing, food, clothing, utilities, and other necessities of the birth mother that are incurred during the adoption planning process or ~~as a result of~~ during the pregnancy, not to exceed two (2) months ~~from placement~~ after the birth of the minor or after the consent or relinquishment of the birth mother,

f. reasonable costs for travel or transportation of the birth mother or minor as same is incurred for medical or adoption placement needs,

g. reasonable expenses for a home study, and

h. reasonable expenses legally required by any governmental entity related to the adoption of a minor.

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

3. The provisions of this subsection shall apply to living and transportation expenses incurred after the biological mother of the minor contacts the child-placing agency or attorney for adoption services.

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

5. Except as otherwise ordered by the court except for good cause shown, all payments made pursuant to this section shall be paid directly to the third-party provider of services or goods.

C. Any person desiring to pay ~~costs~~ living and transportation expenses to or on behalf of a birth parent is authorized to expend an initial amount not to exceed Five Hundred Dollars ($500.00) for

such costs and expenses without first obtaining court approval as required by paragraph 1 of subsection D of this section. Any such costs and expenses shall be disclosed as is otherwise required by the Oklahoma Adoption Code.

D. 1. Except for the amount authorized by subsection C of this section, the payment of any living or transportation expenses for benefit of the birth mother as authorized in subparagraphs e and f of paragraph 1 of subsection B of this title shall be approved in advance by the court.

2. The person, attorney, or licensed child-placing agency desiring to pay living or transportation expenses on behalf of a birth mother which exceed the amount in subsection C of this section shall file a petition for an order approving payment of adoption-related expenses.

3. The petition for an order approving payment of adoption-related expenses may be filed in the district court where the birth mother resides, in the county where the petitioner, attorney, or child-placing agency is located, or in the county where the adoption petition is to be filed.

4. The petition shall be captioned: "In the matter of Baby (name)." The petition shall include a listing of all anticipated living or transportation expenses to be paid on behalf of the birth mother for which court approval is being sought. If additional

expenditures not previously authorized by the court are needed on behalf of the birth mother, an amended petition may be filed with the court.

5. The petition shall be heard by the court within ten (10) days of filing. The court clerk shall charge the same cost for a petition for payment of expenses as is charged for the filing of an adoption petition. In the event an adoption petition is later filed in the same county, the adoption petition shall be filed as an amended petition within the same case in which payment for expenses was approved and no additional court costs shall be required. <u>In the event a petition for preadoption termination of parental rights is later filed in the same county, the court clerk shall not assess an additional filing fee and may use the same case number as for the petition for adoption.</u>

6. Any order authorizing payment shall be attached to a petition for adoption. If no adoption petition is filed, the court shall retain jurisdiction to enter any orders deemed appropriate regarding the reimbursement of costs and expenses paid. If the child is placed for adoption outside the State of Oklahoma, any such order shall be submitted to the Interstate Compact of the Placement of Children and to the court in the other state where the petition for adoption is to be filed.

SECTION 3. This act shall become effective November 1, 2005.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-29-05 - DO PASS.