

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1703

By: Hamilton

AS INTRODUCED

An Act relating to children; amending 10 O.S. 2001, Section 21.3, which relates to child custody; providing certain exceptions to grandparents; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 21.3, is amended to read as follows:

Section 21.3 A. No person, other than an adult relative related to the child within the third degree, may accept the permanent care and custody of a child, except in accordance with a decree of a court of competent jurisdiction or the Oklahoma Children's Code, the Oklahoma Adoption Code, the Oklahoma Guardianship and Conservatorship Act or the Oklahoma Child Care Facilities Licensing Act.

B. Except as otherwise provided in this section, ~~An~~ an adult relative related to a child within the third degree may accept the permanent care and custody of the child:

1. Pursuant to a written relinquishment by a parent or parents of a child acknowledged before a court of competent jurisdiction which identifies the child or children relinquished;

2. In accordance with the provisions of the Oklahoma Children's Code, the Oklahoma Guardianship and Conservatorship Act, Section ~~3~~ 21.5 of this ~~act~~ title or the Oklahoma Adoption Code; or

3. Without a court order and by operation of law, if the child has been abandoned by a parent or parents of a child in the physical custody of such relative pursuant to the provisions of this section.

C. 1. A child who has been abandoned in the physical custody of such relative by a parent or parents of the child may not be reclaimed or recovered by the parent or parents who abandoned the child except through order of a court of competent jurisdiction or by release of the child by such relative.

2. Upon any action to determine custody of the child pursuant to the provisions of this subsection, the court shall base its findings and determination of custody on the best interests of the child and:

- a. the duration of the abandonment and integration of the child into the home of the relative,
- b. the preference of the child if the child is determined to be of sufficient maturity to express a preference,
- c. the mental and physical health of the child, and
- d. such other factors as are necessary in the particular circumstances.

3. During the pendency of any action to determine the custody of a child pursuant to this subsection, unless it is determined not to be in the best interests of the child, the child shall remain in the custody of the relative related to the child within the third degree.

4. If the court orders the child be returned to the parents of the child, the court may provide for a transitional period for the return in the best interests of the child.

D. An adult relative related to the child within the third degree accepting permanent care and custody of a child pursuant to this section shall have the same authority as a parent to consent on behalf of a child or on behalf of a parent of the child in all cases

except that such relative may not consent to an adoption of the child.

E. The provisions of this section shall not apply to the acceptance of the permanent care and custody of a child by one parent of the child from the other parent of the child or to grandparents raising their grandchildren.

SECTION 2. This act shall become effective November 1, 2005.

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