

1 ENGROSSED HOUSE  
2 BILL NO. 3047

By: Peterson (Pam), Kern and  
McAffrey of the House

3 and

4 Williamson of the Senate  
5  
6  
7

8 An Act relating to children; amending 10 O.S. 2001,  
9 Section 7501-1.3, as amended by Section 8, Chapter  
10 445, O.S.L. 2002 (10 O.S. Supp. 2007, Section 7501-  
11 1.3), which relates to definitions; modifying certain  
12 definitions; amending 10 O.S. 2001, Section 7502-1.4,  
13 as amended by Section 1, Chapter 176, O.S.L. 2004 (10  
14 O.S. Supp. 2007, Section 7502-1.4), which relates to  
15 foreign adoptions; simplifying procedures to readopt;  
16 amending 10 O.S. 2001, Section 7503-2.1, which  
17 relates to consent; providing for preference of child  
18 to be considered in certain circumstance; amending 10  
19 O.S. 2001, Section 7503-2.3, which relates to  
20 permanent relinquishments; expanding list of specific  
21 persons with whom permanent relinquishment may be  
22 made; amending 10 O.S. 2001, Section 7505-2.1, as  
23 amended by Section 1, Chapter 253, O.S.L. 2006 (10  
24 O.S. Supp. 2007, Section 7505-2.1), which relates to  
preadoption termination of parental rights;  
authorizing certain determination at certain hearing;  
amending 10 O.S. 2001, Section 7505-4.1, which  
relates to notice and hearing; authorizing certain  
hearings to be on the same day; providing for  
simultaneous notice; specifying no entitlement to  
notice under certain circumstance; amending 10 O.S.  
2001, Section 7505-4.2, as amended by Section 2,  
Chapter 94, O.S.L. 2007 (10 O.S. Supp. 2007, Section  
7505-4.2), which relates to exceptions to requirement  
of parental consent; specifying actions that do not  
require consent; modifying definition; adding  
provision not to be considered as support; modifying  
provisions for when consent is not required by  
father; specifying criteria for certain defense;  
modifying definition; amending 10 O.S. 2001, Section

1 7505-6.4, which relates to denial of petition for  
2 adoption; deleting certain unnecessary statutory  
3 reference; and providing an effective date.

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

5 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7501-1.3, as  
6 amended by Section 8, Chapter 445, O.S.L. 2002 (10 O.S. Supp. 2007,  
7 Section 7501-1.3), is amended to read as follows:

8 Section 7501-1.3 As used in the Oklahoma Adoption Code:

9 1. "Abandonment" includes, but is not limited to, the  
10 following:

11 a. the parent has left the minor alone or in the care of  
12 another who is not the parent of the minor without  
13 identifying the minor or furnishing a means of  
14 identification for the minor, the whereabouts of the  
15 parents are unknown, and the minor's identity cannot  
16 be ascertained by the exercise of reasonable  
17 diligence,

18 b. the parent has voluntarily left the minor alone or in  
19 the care of another who is not the parent of the minor  
20 and expressed a willful intent by words, actions, or  
21 omissions not to return for the minor, or

22 c. the parent fails to maintain a substantial and  
23 positive relationship with the minor for a period of  
24 six (6) consecutive months out of the last fourteen

1 (14) months immediately preceding the filing of a  
2 petition for termination of parental rights or a  
3 petition for adoption. For purposes of this section,  
4 "establish and/or maintain a substantial, positive  
5 relationship" includes but is not limited to:

6 (1) frequent and regular contact with the minor  
7 through frequent and regular visitation or  
8 frequent, and regular communication to or with  
9 the minor, and

10 (2) exercising parental rights and responsibilities.  
11 Incidental or token visits or communications  
12 shall not be sufficient to establish or maintain  
13 a substantial and positive relationship with the  
14 minor.

15 The term "abandonment" shall not include when a parent has  
16 relinquished a minor to or placed the minor in the custody of a  
17 licensed child-placing agency or other court-appointed individual;

18 2. "Adoptee" means an individual who is adopted or is to be  
19 adopted;

20 3. "Adult" means an individual who has attained eighteen (18)  
21 years of age;

22 4. "Minor" means any person who has not attained the age of  
23 eighteen (18) years;

1 5. "Child-placing agency" means any child welfare agency  
2 licensed pursuant to the Oklahoma Child Care Facilities Licensing  
3 Act and authorized to place minors for adoption;

4 6. "Contested proceeding" means any proceeding pursuant to the  
5 Oklahoma Adoption Code in which an interested party enters an  
6 appearance to contest the petition;

7 7. "Department" means the Department of Human Services;

8 8. "Direct placement adoption" means any adoption in which the  
9 minor is not placed for adoption by the Department of Human Services  
10 or a child-placing agency;

11 9. "Guardian" means an individual, other than a parent,  
12 appointed by a court to be the guardian of the person of a minor;

13 10. "Parent" means an individual who is the biological or  
14 adoptive parent of a child or who is legally recognized as a mother  
15 or father of a child. The term "parent" does not include an  
16 individual whose parental relationship to a child has been  
17 terminated or whose parental relationship is legally determined not  
18 to exist;

19 11. "Permanent relinquishment" means the voluntary surrender of  
20 the rights of the parent or guardian with respect to a minor,  
21 including legal and physical custody of the minor, to a child-  
22 placing agency, Department of Human Services or any person with the  
23 assent of the court, by a minor's parent or guardian, for purposes  
24 of the minor's adoption;

1           12. "Putative father" means the father of a minor born out of  
2 wedlock or a minor whose mother was married to another person at the  
3 time of the birth of the minor or within the ten (10) months prior  
4 to the birth of the minor and includes, but is not limited to, a man  
5 who has acknowledged or claims paternity of a minor, a man named by  
6 the mother of the minor to be the father of the minor, or any man  
7 who is alleged to have engaged in sexual intercourse with a woman  
8 during a possible time of conception;

9           13. "State" means any state, territory, or possession of the  
10 United States, the commonwealth of Puerto Rico, and the District of  
11 Columbia; and

12           14. "Stepparent" means an individual who is the spouse or  
13 surviving spouse of a parent of a minor, but who is not a legal  
14 parent of the minor.

15           SECTION 2.           AMENDATORY           10 O.S. 2001, Section 7502-1.4, as  
16 amended by Section 1, Chapter 176, O.S.L. 2004 (10 O.S. Supp. 2007,  
17 Section 7502-1.4), is amended to read as follows:

18           Section 7502-1.4 A. The courts of this state shall recognize a  
19 decree, judgment, or final order creating the relationship of parent  
20 and child by adoption, issued by a court or other governmental  
21 authority with appropriate jurisdiction in a foreign country or in  
22 another state or territory of the United States. The rights and  
23 obligations of the parties as to matters within the jurisdiction of  
24 this state shall be determined as though the decree, judgment, or

1 final order were issued by a court of this state. Except that, this  
2 state, any of its agencies, or any court of this state shall not  
3 recognize an adoption by more than one individual of the same sex  
4 from any other state or foreign jurisdiction.

5 B. An adoptive parent of a minor adopted outside of the United  
6 States with a decree, judgment or final order issued by a court or  
7 other governmental authority with appropriate jurisdiction in a  
8 foreign country may present the decree, judgment, or final order or  
9 present proof that the minor has United States citizenship to the  
10 court in combination with a petition for a name change. Upon  
11 presentation of a decree, judgment, or final order or if the minor  
12 presents proof of United States citizenship, the court shall order  
13 the State Registrar to prepare a supplementary certificate of birth  
14 for the child as provided for in Section 7505-6.6 of this title,  
15 unless good cause is shown why the certificate should not be issued.

16 C. A minor born outside of the United States without a decree,  
17 judgment, or final adoption order issued by a court or other  
18 governmental authority with appropriate jurisdiction in a foreign  
19 country may be adopted in Oklahoma if one or both of the petitioners  
20 for adoption are citizens of Oklahoma and the minor is residing in  
21 Oklahoma at the time the petition for adoption is filed.

22 D. An adoptive parent of a minor adopted outside of the United  
23 States may petition to readopt the minor under Oklahoma law, if one  
24

1 or both of the petitioners are citizens of Oklahoma and the minor is  
2 residing in Oklahoma at the time the petition for adoption is filed.

3 E. A proceeding to adopt or readopt a minor born outside of the  
4 United States as provided for in subsection C or subsection D of  
5 this section shall proceed pursuant to the Oklahoma Adoption Code,  
6 with the following provisions:

7 1. The court may grant a decree of adoption without requiring  
8 notice to the biological parent and without requiring the consent of  
9 the biological parent, if the petitioner files with the petition for  
10 adoption a copy of the decree of adoption or of the termination of  
11 parental rights granted by a judicial, administrative, or executive  
12 body of the country of origin, or a document or documents from such  
13 a governmental body stating that the biological parent has consented  
14 to the adoption, or stating that the parental rights of the  
15 biological parent of the minor have been terminated, or stating that  
16 the minor to be adopted has been relinquished by the biological  
17 parent or stating that the minor has been abandoned. Any document  
18 in a foreign language shall be translated into English by the  
19 Department of State or by a translator who shall certify the  
20 accuracy of the translation, and a copy of the translation and  
21 certification shall be filed with the court along with a copy of the  
22 original documents;

23 2. If a minor born outside of the United States is in the legal  
24 custody of a child-placing agency at the time that the petition for

1 adoption is filed, notice of the proceedings shall be given to the  
2 child-placing agency prior to the hearing on the petition, and the  
3 consent of the child-placing agency to the adoption shall be  
4 obtained pursuant to Section 7503-2.1 of this title prior to the  
5 granting of the decree of adoption; and

6 3. The court may waive the issuance of an interlocutory decree  
7 of adoption and the waiting period of six (6) months provided in  
8 Sections 7505-6.1 and 7505-6.3 of this title, and grant a final  
9 decree of adoption, if:

10 a. the minor has been in the home of petitioner for at  
11 least six (6) months prior to the filing of the  
12 petition for adoption, and

13 b. a postplacement report has been submitted to the  
14 court.

15 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7503-2.1, is  
16 amended to read as follows:

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

20 1. Both parents of the minor;

21 2. One parent of the minor, alone, if:

22 a. the other parent is dead,

23 b. the parental rights of the other parent have been  
24 terminated, or

1 c. the consent of the other parent is otherwise not  
2 required pursuant to Section 7505-4.2 of this title;

3 3. The legal guardian of the person of the minor or the  
4 guardian ad litem of the minor if both parents are dead or if the  
5 rights of the parents have been terminated by judicial proceedings,  
6 or the consent of both parents is otherwise not required pursuant to  
7 Section 7505-4.2 of this title, and ~~such~~ the guardian or guardian ad  
8 litem has authority by order of the court appointing the guardian to  
9 consent to the adoption;

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

11 a. the minor has been permanently relinquished to ~~such~~  
12 the agency by:

13 (1) both parents, or

14 (2) one parent alone if the other parent is dead, the  
15 parental rights of the other parent have been  
16 terminated, or the consent of the other parent is  
17 otherwise not required pursuant to Section 7505-  
18 4.2 of this title, or

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

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

- 1 a. the parental rights of both parents have been  
2 judicially terminated, and  
3 b. the court that issued the custody order for the minor  
4 has consented to adoption and a certified copy of its  
5 order containing its consent is filed before the final  
6 decree.

7 B. 1. A parent of a minor born in wedlock or a parent who is  
8 sixteen (16) years of age or older shall be deemed capable of giving  
9 consent to the adoption of a minor.

10 2. If the parent of a minor born out of wedlock is under  
11 sixteen (16) years of age, that parent's consent to the adoption  
12 shall be deemed sufficient when:

- 13 a. given by ~~such~~ the minor parent before a judge of the  
14 district court, and  
15 b. accompanied by the written consent of:  
16 (1) the legal guardian of the minor parent,  
17 (2) the parents of the minor parent,  
18 (3) the parent having custody of the minor parent, if  
19 the other parent of the minor parent is deceased  
20 or the parents of the minor parent are divorced,  
21 or  
22 (4) the person having physical custody of the minor  
23 parent, if both parents of the minor parent are  
24 deceased, or

1 c. accompanied by a finding of the court issuing the  
2 decree of adoption, if consent cannot be secured from  
3 any individual whose consent is required by  
4 subparagraph b of this paragraph, that:

5 (1) either notice was given by mail by the court to  
6 such person directing the person to show cause at  
7 a time appointed by the court, which shall be not  
8 less than ten (10) days from the date of mailing,  
9 why the adoption should not be granted without  
10 the individual's consent, or that notice was  
11 waived by the personal appearance of the  
12 individual, and

13 (2) the individual did not appear to contest the  
14 adoption, or the consent of the individual is  
15 unreasonably withheld.

16 C. If a minor to be adopted is twelve (12) years of age or  
17 older, the consent of the minor to the adoption is required in  
18 addition to the consents required by subsections A and B of this  
19 section before a decree of adoption may be granted, unless the court  
20 makes a finding that it is not in the best interest of the minor to  
21 require the minor's consent. Upon this finding, a court shall  
22 consider the preferences of the minor to be adopted. The consent of  
23 the minor ~~must~~ shall be given before the court in such form as the  
24 court shall direct.

1 D. 1. When consent for adoption is necessary for minors in the  
2 custody of the Department of Human Services, the Director of the  
3 Department of Human Services or the designee of the Director may  
4 designate, authorize, and direct in writing an employee of the  
5 Department to appear in the court of the county in which said  
6 adoption proceedings are to be completed and to give written consent  
7 for the adoption of such minor by the family whose application for  
8 adoption has been approved by the Department of Human Services, ~~or~~.

9 2. The executive head of a licensed child-placing agency whose  
10 consent is required for the adoption of a minor who is in the  
11 custody of the licensed child-placing agency may designate,  
12 authorize and direct in writing an employee of the agency to appear  
13 in the district court of the county in which the adoption  
14 proceedings are to be completed or before anyone authorized by law  
15 to take acknowledgements and to give written consent for the  
16 adoption of the minor.

17 SECTION 4. AMENDATORY 10 O.S. 2001, Section 7503-2.3, is  
18 amended to read as follows:

19 Section 7503-2.3 A. A permanent relinquishment may be executed  
20 by a person whose consent to the adoption of a minor is required by  
21 Section 7503-2.1 of this title. The permanent relinquishment shall  
22 be in writing and shall relinquish all of that individual's rights  
23 with respect to the minor, including legal and physical custody and  
24 the right to consent to the minor's adoption.

1 B. Permanent relinquishments may be made only to:

2 1. The Department of Human Services;

3 2. A child-placing agency; ~~or~~

4 3. A guardian ad litem;

5 4. A legal guardian, other than the prospective adoptive parent

6 of the child; or

7 5. Any other person, with the written consent of the Department  
8 or court.

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

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

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

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

19 4. Instructions that the permanent relinquishment is  
20 irrevocable, except upon the specific grounds specified in Section  
21 7503-2.7 of this title, upon which the permanent relinquishment can  
22 be revoked and the manner in which a motion to set aside the  
23 permanent relinquishment must be filed; and

1           5. The name of the person or agency as described in subsection  
2 B of this section to whom the permanent relinquishment is being  
3 given and who shall have the right to give consent to the minor's  
4 adoption.

5           D. A permanent relinquishment must state:

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

8           2. An understanding that after the permanent relinquishment is  
9 executed, it is final and, except for fraud or duress, may not be  
10 revoked or set aside for any reason except as otherwise authorized  
11 by the Oklahoma Adoption Code;

12           3. That the person executing the permanent relinquishment is  
13 represented by counsel or has waived any right to counsel;

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

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

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

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

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

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

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

18 G. The verification of the court shall be in substantially the  
19 following form:

20 I, \_\_\_\_\_, Judge of the District Court in and for  
21 \_\_\_\_\_ County, State of Oklahoma, a Court having original  
22 adoption jurisdiction, do hereby certify, that upon this day,  
23 \_\_\_\_\_ personally appeared in open Court, before me, and orally  
24

1 and in writing executed the above and foregoing permanent  
2 relinquishment for adoption.

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

13 I further certify that it was explained to the relinquishing  
14 person that this relinquishment is irrevocable and final except for  
15 fraud or duress and may not be revoked or set aside except and  
16 unless no Petition to Adopt is filed within nine (9) months after  
17 placement of the minor or if this or some other court decides not to  
18 terminate the rights of the other parent of the minor. I further  
19 certify that I am satisfied that the relinquishing person  
20 understands the consequences of an adoption; the relinquishing  
21 person has represented that such person has not received or been  
22 promised any money or anything of value for the giving of the  
23 permanent relinquishment except for those payments authorized by  
24 law; the relinquishing person has represented that such person is

1 not under the influence of alcohol or medication or any other  
2 substance that affects the person's competence; the person fully  
3 understood the English language and communicated in the English  
4 language at all times during said hearing, or all information was  
5 translated into the relinquishing person's language, and was fully  
6 understood by the person; and if the relinquishing person was the  
7 biological parent, such parent was advised regarding the affidavit  
8 of nondisclosure.

9 H. A permanent relinquishment shall be signed before any judge  
10 of a court having probate or adoption jurisdiction in this state or  
11 in the state of residence of the person executing the permanent  
12 relinquishment.

13 I. 1. a. If an individual permanently relinquishing the child  
14 resides in a country or place other than the United  
15 States of America, other than a member of the United  
16 States Armed Services stationed abroad, the permanent  
17 relinquishment of the individual may be obtained by a  
18 written instrument signed by such person and  
19 acknowledged before an officer of the legal  
20 subdivision of the government of the place of such  
21 person's residence who is authorized to administer  
22 oaths under the laws of such country or place.

23 b. If the foreign country's government does not involve  
24 itself in adoption matters, the permanent

1           relinquishment may be executed before an officer of  
2           the Judge Advocate General's Office of the United  
3           States Armed Services or before an officer of the  
4           United States Embassy located in that country,  
5           provided the execution of a permanent relinquishment  
6           is not a violation of the laws of the foreign country,  
7           or a violation of international law or treaty between  
8           the foreign country's government and the United  
9           States. The permanent relinquishment shall reflect  
10          that the permanent relinquishment is not given or  
11          accepted in violation of the laws of the foreign  
12          country or in violation of international law or treaty  
13          between such foreign country's government and the  
14          United States.

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

21          J. If the written instrument containing a permanent  
22 relinquishment is written in a language other than the English  
23 language, the petitioner must have it translated into the English  
24 language by a person qualified to do so, and must file the original

1 instrument together with the translation with the court. The  
2 translation must be sworn to as being a true and correct translation  
3 by the person translating the document.

4 K. Except as otherwise required by subsection I of this  
5 section, when the person permanently relinquishing the child for the  
6 purposes of adoption resides outside of Oklahoma, the permanent  
7 relinquishment by such person may be executed in that state or  
8 country in the manner set forth in the Oklahoma Adoption Code or in  
9 the manner prescribed by the laws of the state or country of such  
10 person's residence.

11 L. 1. A court before which a permanent relinquishment has been  
12 executed may enter an order terminating parental rights of the  
13 parent of a child if such parent has executed a permanent  
14 relinquishment for adoption pursuant to the Oklahoma Adoption Code.

15 2. Any order terminating parental rights of a parent pursuant  
16 to this subsection shall state that the termination of parental  
17 rights shall not terminate the duty of the parent to support the  
18 child of such parent. The duty of the parent to support the child  
19 shall not be terminated until such time as a final decree of  
20 adoption has been entered.

21 3. Any proceedings held pursuant to this subsection shall not  
22 require the state as a necessary party.

23

24

1 SECTION 5. AMENDATORY 10 O.S. 2001, Section 7505-2.1, as  
2 amended by Section 1, Chapter 253, O.S.L. 2006 (10 O.S. Supp. 2007,  
3 Section 7505-2.1), is amended to read as follows:

4 Section 7505-2.1 A. 1. Prior to the filing of a petition for  
5 adoption, a child-placing agency, attorney, or prospective adoptive  
6 parent to whom a parent having legal custody has executed a consent  
7 to adoption or has permanently relinquished a minor born out of  
8 wedlock may file a petition for the termination of the parental  
9 rights of a putative father or a parent of the child. The petition  
10 shall be filed with the district court of the county in which the  
11 relinquishment was executed or in the county in which the putative  
12 father, a parent, the petitioner, or the minor resides at the time  
13 of the filing of the petition.

14 2. The affidavit of expenses required by subsection A of  
15 Section 7505-3.2 of this title is not required to be attached to a  
16 petition filed pursuant to this section, nor must it be filed prior  
17 to issuance of an order terminating parental rights entered in a  
18 proceeding brought under this section.

19 B. 1. Notice of the hearing on the petition to terminate  
20 parental rights and a copy of the petition shall be served upon such  
21 putative father or a parent in the same manner as summons is served  
22 in civil cases, not less than fifteen (15) days prior to the  
23 hearing.

24

1           2. The notice shall contain the name of the putative father or  
2 parent, or if unknown, the name of the minor, the date of birth of  
3 the minor, the date of the hearing, and the ground or grounds for  
4 which termination of parental rights is sought. The notice shall  
5 apprise the putative father or parent of his or her legal rights and  
6 shall include a clear statement that failure to appear at the  
7 hearing shall constitute a denial of interest in the minor which  
8 denial may result, without further notice of this proceeding or any  
9 subsequent proceeding, in the termination of his or her parental  
10 rights and the transfer of the care, custody or guardianship of the  
11 minor or in the adoption of the minor.

12           3. If the identity or whereabouts of a putative father or  
13 parent is unknown, the court ~~must~~ shall determine whether the  
14 putative father or parent can be identified or located. Following  
15 an inquiry pursuant to Section 7505-4.3 of this title, if the court  
16 finds that the identity or whereabouts of the putative father or  
17 parent cannot be ascertained, and this fact is attested to by  
18 affidavit of the consenting or permanently relinquishing person or  
19 the legal custodian or guardian of the child, it shall order that  
20 notice be given by publication and, if the identity is known, that a  
21 copy be mailed to the last-known address of the putative father or  
22 parent. The notice shall be published once pursuant to the laws  
23 relating to service of notice by publication, in the county in which  
24 the action to terminate parental rights is brought, and the hearing

1 shall not be held for at least fifteen (15) days after publication  
2 of the notice. When notice is given by publication, the order  
3 terminating parental rights shall not become final for a period of  
4 fifteen (15) days from the date of the order.

5 4. A putative father or parent may waive the right to notice  
6 pursuant to this section. The waiver shall be in writing and shall  
7 include a statement affirming that the person signing the waiver  
8 understands that the waiver shall constitute grounds for the  
9 termination of the parental rights of such person pursuant to the  
10 provisions of this section and Section 7505-4.2 of this title. A  
11 putative father or legal or biological father may also waive his  
12 right to notice pursuant to this section, by signing an  
13 extrajudicial consent pursuant to Section 7503-2.6 of this title, or  
14 by waiving notice on a form filed with the Paternity Registry of the  
15 Department of Human Services, or by failing to register with the  
16 Paternity Registry of the Department of Human Services after  
17 receiving a Notice of Plan for Adoption pursuant to Section 7503-3.1  
18 of this title.

19 C. When a putative father or parent appears at the hearing and  
20 desires counsel but is indigent and cannot for that reason employ  
21 counsel, the court shall appoint counsel. In all counties having  
22 county indigent defenders, the county indigent defenders shall  
23 assume the duties of the representation in ~~such~~ the proceedings.

24

1 D. At the hearing on the petition to terminate parental rights  
2 brought pursuant to this section, the court may, if it is in the  
3 best interest of the minor:

4 1. Accept a permanent relinquishment or consent to adoption  
5 executed by the putative father or parent of the minor pursuant to  
6 Sections 7503-2.1, 7503-2.3 and 7503-2.4 of this title; ~~or~~

7 2. Terminate any parental rights which the putative father or  
8 parent may have upon any of the grounds provided in Section 7505-4.2  
9 of this title for declaring a consent unnecessary; or

10 3. Determine that no legal relationship exists between the  
11 putative father and the child.

12 E. 1. If the court at the hearing determines that the putative  
13 father is the biological father of the minor, that a parental  
14 relationship exists between the biological father and the minor,  
15 that the adoption requires the consent of the putative father, that  
16 the putative father will not consent, and the court does not  
17 terminate the parental rights of the putative father or does not  
18 terminate the rights of the other parents, then the court shall  
19 schedule a separate hearing to issue an appropriate order for the  
20 legal and physical custody of the minor according to the best  
21 interests of the minor, if the court has jurisdiction to issue a  
22 custody order. Provided, no such hearing shall be scheduled if a  
23 preexisting custody order remains in effect.

1           2. The court shall certify that the child-placing agency or the  
2 attorney who filed the petition to terminate parental rights, the  
3 putative father, the parent, and any prospective adoptive parents  
4 have received notice of the date of the custody hearing at least  
5 fifteen (15) days prior to the date of the hearing. A parent having  
6 legal custody who has signed a consent or permanent relinquishment  
7 must be served with notice of the date of the custody hearing, by  
8 the party who filed the petition for termination, in the same manner  
9 as summons is served in civil cases at least fifteen (15) days prior  
10 to the date of the hearing.

11           3. Upon motion to intervene, the court shall join any person or  
12 entity entitled to notice under paragraph 2 of this subsection who  
13 is not already a party to the proceeding.

14           4. At the hearing, the court may award custody to the  
15 biological mother, the biological father, the biological parents, if  
16 they are married, a parent, the prospective adoptive parent, or the  
17 Department of Human Services or other licensed child-placing agency,  
18 if the Department or agency had legal custody when the petition was  
19 filed, according to paragraph 3 of subsection B of Section 21.1  
20 7505-6.4 of this title, in the best interests of the child.

21           5. The child shall be represented at this hearing by an  
22 attorney pursuant to Section 7505-1.2 of this title.

23           F. The court shall terminate the rights of a putative father or  
24 parent if the person fails to appear at the hearing on the petition

1 to terminate parental rights or if a waiver of notice pursuant to  
2 paragraph 4 of subsection B of this section has been filed with the  
3 court.

4 G. No order of the court shall be vacated, set aside, or  
5 annulled upon the application of any person who was properly served  
6 with notice in accordance with this section but failed to appear  
7 unless the applicant can establish by clear and convincing evidence  
8 that such failure to appear was due to unavoidable circumstances.  
9 Such application must be filed within ten (10) days of the date of  
10 the hearing at which the applicant failed to appear. No order of  
11 the court shall be vacated, set aside, or annulled upon the  
12 application of any person who waived notice pursuant to paragraph 4  
13 of subsection B of this section.

14 H. A proceeding pursuant to this section for termination of  
15 parental rights shall be heard by the court without a jury.

16 I. An appeal may be taken from any final order, judgment, or  
17 decree rendered pursuant to this section to the Supreme Court by any  
18 person aggrieved thereby, in the manner provided for appeals from  
19 the court as provided in this subsection.

20 1. In an appeal concerning the termination of parental rights  
21 pursuant to this section, the designation of record by the appellant  
22 shall be filed in the trial court within ten (10) days after the  
23 date of the judgment. The counter designation of record by the  
24

1 appellee shall be filed in the trial court ten (10) days after  
2 designation of record by the appellant is filed in the trial court.

3 2. All appeals of cases concerning the termination of parental  
4 rights pursuant to this section shall be initiated by filing a  
5 petition in error in the Supreme Court within thirty (30) days of  
6 the filing of the order, judgment, or decree appealed from. The  
7 record on appeal shall be completed within thirty (30) days from the  
8 filing of the petition in error. Any response to the petition in  
9 error shall be filed within twenty (20) days from the filing of the  
10 petition in error.

11 3. The briefing schedule is established as follows:

12 a. the brief in chief of the appellant shall be filed  
13 twenty (20) days after the trial court clerk notifies  
14 all parties that the record is complete and such  
15 notice has been filed in the office of the Clerk of  
16 the Supreme Court,

17 b. an answer brief of the appellee shall be filed fifteen  
18 (15) days after the brief in chief of the appellant is  
19 filed, and

20 c. a reply brief of the appellant may be filed within ten  
21 (10) days after the answer brief of the appellee is  
22 filed.

23 J. The pendency of an appeal shall not suspend the order of the  
24 district court regarding a minor, nor shall it remove the minor from

1 the custody of that court or of the person, institution, or agency  
2 to whose care such minor has been committed, unless the Supreme  
3 Court shall so order.

4 K. Any appeal when docketed should have priority over all cases  
5 pending on said docket. Adjudication of the appeals and in any  
6 other proceedings concerning the relinquishment of the child or the  
7 termination of parental rights pursuant to this section shall be  
8 expedited by the Supreme Court.

9 L. 1. The preadoption termination of parental rights pursuant  
10 to this section terminates the parent-child relationship, including  
11 the right of the parent to the custody of the child and the right of  
12 the parent to visit the child, the right of the parent to control  
13 the training and education of the child, the necessity for the  
14 parent to consent to the adoption of the child, the right of the  
15 parent to the earnings of the child, and the right of the parent to  
16 inherit from or through the child. Provided, that this subsection  
17 shall not in any way affect the right of the child to inherit from  
18 the parent.

19 2. Termination of parental rights shall not terminate the duty  
20 of the putative father or parent whose rights have been terminated  
21 to support the child unless the court determines the person is not  
22 the parent. The duty of a putative father or parent to support the  
23 minor child shall not be terminated until such time as a final  
24 decree of adoption has been entered.

1 SECTION 6. AMENDATORY 10 O.S. 2001, Section 7505-4.1, is  
2 amended to read as follows:

3 Section 7505-4.1 A. If a consent to adoption or permanent  
4 relinquishment for adoption has not been obtained from both parents  
5 of a minor who is the subject of a petition for adoption, and the  
6 rights of the nonconsenting parent or parents have not previously  
7 been terminated, the petitioner for adoption, a consenting parent,  
8 or a legal guardian or legal custodian of the minor to be adopted  
9 must file an application to the court stating the reason that the  
10 consent or relinquishment of the parent or parents is not necessary.  
11 In the alternative, if the nonconsenting parent is a putative father  
12 of a minor born out of wedlock, the petitioner for adoption, a  
13 consenting parent, or a legal guardian or legal custodian of the  
14 minor may file an application to terminate the parental rights of  
15 the putative father. The grounds for terminating a putative father  
16 pursuant to this section shall be identical to the grounds for  
17 permitting an adoption without the consent of a parent, pursuant to  
18 Section 7505-4.2 of this title.

19 B. A hearing on an application for adoption without consent or  
20 an application to terminate parental rights cannot be combined with  
21 the hearing on the application for a final decree of adoption. For  
22 good cause shown, a hearing on the application for a final decree of  
23 adoption may be heard as early as the same day as a hearing on an  
24 application for adoption without consent or an application to

1 terminate parental rights, without prejudice to the rights of any  
2 parties to appeal from the order terminating parental rights or from  
3 the final decree of adoption. Notice for the hearings provided for  
4 in this subsection may be served simultaneously.

5 C. 1. Prior to the hearing on the application to permit the  
6 adoption of the minor without the consent or relinquishment of a  
7 parent, or the application to terminate the rights of a putative  
8 father filed pursuant to this section, notice of the hearing on the  
9 application and a copy of the application shall be served upon the  
10 parent or putative father who is the subject of the application in  
11 the same manner as summons is served in civil cases, not less than  
12 fifteen (15) days prior to the hearing.

13 2. The notice shall contain the name of the parent, putative  
14 father, or if the father is unknown, the name of the child, date of  
15 birth of the child, the date of the hearing, and the ground or  
16 grounds for which application for adoption without consent or  
17 relinquishment or termination of parental rights is sought. The  
18 notice shall apprise the parent or putative father of the parent's  
19 legal rights and shall include a clear statement that failure to  
20 appear at the hearing shall constitute a denial of interest in the  
21 child, which denial may result, without further notice of this  
22 proceeding or any subsequent proceeding, in the granting of the  
23 application for adoption without consent or permanent relinquishment

24

1 or in the termination of the putative father's parental rights and  
2 in the child's adoption.

3 3. If the identity or whereabouts of a parent or putative  
4 father are unknown, the court must determine whether the parent or  
5 putative father can be identified or located. Following an inquiry  
6 pursuant to Section 7505-4.3 of this title, if the court finds that  
7 the identity or whereabouts of the putative father cannot be  
8 ascertained, and this fact is attested to by affidavit of the  
9 consenting parent, legal guardian or legal custodian of the minor,  
10 it shall order that notice be given by publication and, if the  
11 identity is known, that a copy be mailed to the last-known address  
12 of the parent or putative father. The notice shall be published  
13 once pursuant to the laws relating to the service of notice by  
14 publication in the county in which the petition to adopt is filed,  
15 and the hearing shall not be held for at least fifteen (15) days  
16 after publication of the notice. When notice is given by  
17 publication, an order terminating parental rights shall not become  
18 final for a period of fifteen (15) days from the date of the order.

19 4. A parent or putative father may waive such person's right to  
20 notice pursuant to this section. The waiver, signed by the parent  
21 or putative father, shall include a statement affirming that the  
22 person signing the waiver understands that the waiver shall  
23 constitute grounds for ordering adoption without consent of the  
24 parent or for the termination of the parental rights of a putative

1 father pursuant to the provisions of this section and Section 7505-  
2 4.2 of this title. A putative father may waive his right to notice  
3 under this section, by signing an extrajudicial consent pursuant to  
4 Section 7503-2.6 of this title, or by waiving notice on a form filed  
5 with the Paternity Registry of the Department of Human Services, or  
6 by failing to register with the Paternity Registry of the Department  
7 of Human Services after receiving a Notice of Plan for Adoption  
8 pursuant to Section 7503-3.1 of this title.

9 D. When a parent or putative father appears at the hearing and  
10 desires counsel but is indigent and cannot for that reason employ  
11 counsel, the court shall appoint counsel. In all counties having  
12 county indigent defenders, the county's indigent defenders shall  
13 assume the duties of representation in such proceedings.

14 E. At the hearing on an application to permit adoption without  
15 the consent or relinquishment of a parent or putative father, the  
16 court may determine whether the minor is eligible for adoption  
17 pursuant to Section 7505-4.2 of this title. If a putative father  
18 has neither appeared at the hearing on an application to permit  
19 adoption without the consent or relinquishment of a parent or  
20 putative father after notice, nor established that he is the  
21 biological father and the parent of the minor, then he is not  
22 entitled to notice as provided for in Section 7505-6.3 of this  
23 title. At the hearing on an application to terminate the parental  
24 rights of a putative father, the court may, if it is in the best

1 interests of the minor, determine that the consent of the putative  
2 father to the adoption of the minor is not required, and terminate  
3 any parental rights which the putative father may have, as provided  
4 in Section 7505-4.2 of this title.

5 F. The court shall terminate the parental rights of a putative  
6 father if he fails to appear at the hearing on the application to  
7 terminate his parental rights or if he has waived notice pursuant to  
8 paragraph 4 of subsection C of this section.

9 G. A proceeding pursuant to this section for determination of  
10 necessity of parental consent or for termination of parental rights  
11 shall be heard by the court without a jury.

12 H. No order of the court shall be vacated, set aside, or  
13 annulled upon the application of any person who was properly served  
14 with notice in accordance with this section but failed to appear,  
15 unless the applicant has established by clear and convincing  
16 evidence that such failure to appear was due to unavoidable  
17 circumstances. Such application must be filed within ten (10) days  
18 of the date of the hearing at which the applicant failed to appear.  
19 No order of the court shall be vacated, set aside or annulled upon  
20 the application of any person who waived notice pursuant to  
21 paragraph 4 of subsection C of this section.

22 I. 1. a. An appeal may be taken from any final order, judgment,  
23 or decree terminating parental rights rendered  
24 pursuant to this section to the Supreme Court by any

1 person aggrieved thereby, in the manner provided for  
2 appeals from the court as provided in this subsection.

3 b. An appeal from an order determining a child eligible  
4 for adoption which does not terminate parental rights  
5 may be taken in the same manner provided for appeals  
6 from the court as provided in this subsection. The  
7 failure of a parent to appeal from an order declaring  
8 a child eligible for adoption without consent of the  
9 parent which does not terminate parental rights shall  
10 not preclude such parent from asserting error in the  
11 order after the final decree is rendered.

12 2. In an appeal concerning the termination of parental rights  
13 for purposes of adoption pursuant to this section or from an order  
14 determining a child eligible for adoption which does not terminate  
15 parental rights pursuant to this section, the appellant's  
16 designation of record shall be filed in the trial court within ten  
17 (10) days after the date of the judgment or order. Appellee's  
18 counter designation of record shall be filed in the trial court ten  
19 (10) days after appellant's designation of record is filed in the  
20 trial court.

21 3. All appeals of cases concerning the termination of parental  
22 rights for purposes of adoption or an order determining a child  
23 eligible for adoption which does not terminate parental rights  
24 pursuant to this section shall be initiated by filing a petition in

1 error in the Supreme Court within thirty (30) days of the filing of  
2 the order, judgment, or decree appealed from. The record on appeal  
3 shall be completed within thirty (30) days from the filing of the  
4 petition in error. Any response to the petition in error shall be  
5 filed within twenty (20) days from the filing of the petition in  
6 error.

7 4. The briefing schedule is established as follows:

8 a. appellant's brief in chief shall be filed twenty (20)  
9 days after the trial court clerk notifies all parties  
10 that the record is complete and such notice has been  
11 filed in the office of the Clerk of the Supreme Court,

12 b. appellant's answer brief shall be filed fifteen (15)  
13 days after the appellant's brief in chief is filed,  
14 and

15 c. appellant's reply brief may be filed within ten (10)  
16 days after the appellee's answer brief is filed.

17 J. Any appeal when docketed should have priority over all cases  
18 pending on said docket. Adjudication of appeals and any other  
19 proceedings concerning the termination of parental rights or the  
20 determination that a child is eligible for adoption without consent  
21 which does not terminate parental rights pursuant to this section  
22 shall be expedited by the Supreme Court.

23 K. The pendency of an appeal shall not suspend the order of the  
24 district court regarding a minor, nor shall it remove the minor from

1 the custody of that court or of the person, institution, or agency  
2 to whose care such minor has been committed, unless the Supreme  
3 Court shall so order.

4 L. 1. The termination of parental rights terminates the  
5 parent-child relationship, including the parent's right to the  
6 custody of the child and the parent's right to visit the child, the  
7 parent's right to control the child's training and education, the  
8 necessity for the parent to consent to the adoption of the child,  
9 the parent's right to the earnings of the child, and the parent's  
10 right to inherit from or through the child. Provided, that this  
11 subsection shall not in any way affect the right of the child to  
12 inherit from the parent.

13 2. Termination of parental rights pursuant to this section  
14 shall not terminate the duty of either parent to support the minor  
15 child of such parent. The duty of the parent to support the minor  
16 child shall not be terminated until such time as a final decree of  
17 adoption has been entered.

18 3. A determination that the consent to adoption is not required  
19 from the parent of a minor shall not, by itself, act to relieve such  
20 parent of the obligation to provide for the support of the minor as  
21 otherwise required by law. The duty of the parent to support the  
22 minor child shall not be terminated until such time as a final  
23 decree of adoption has been entered.

24

1 SECTION 7. AMENDATORY 10 O.S. 2001, Section 7505-4.2, as  
2 amended by Section 2, Chapter 94, O.S.L. 2007 (10 O.S. Supp. 2007,  
3 Section 7505-4.2), is amended to read as follows:

4 Section 7505-4.2 A. Consent to adoption is not required from a  
5 putative father of a minor who, at the hearing provided for in  
6 Section 7505-2.1 or 7505-4.1 of this title, fails to prove he is the  
7 father of the ~~child~~ minor.

8 B. Consent to adoption is not required from a parent or  
9 putative father who, for a period of twelve (12) consecutive months  
10 out of the last fourteen (14) months immediately preceding the  
11 filing of ~~a petition for adoption of a child~~ an application for  
12 determination that the minor is eligible for adoption without the  
13 consent of the parent or putative father pursuant to Section 7505-  
14 4.1 of this title, or a petition to terminate parental rights  
15 pursuant to Section 7505-2.1 of this title, has refused, neglected,  
16 or willfully failed, refused, or neglected to contribute to the  
17 support of ~~such~~ the minor:

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

21 2. According to ~~such parent's~~ the financial ability of the  
22 parent or putative father to contribute to ~~such~~ the minor's support  
23 if no provision for support is provided in an order. For the  
24 purposes of this section, "contribute to the support for of the

1 minor ~~shall benefit the minor by providing a necessity~~ means to  
2 either actually provide, according to the financial ability of the  
3 parent or putative father, or make multiple attempts to provide the  
4 minor's necessities such as food, clothing, housing, and medical  
5 care. Payments ~~that~~ which shall not be considered support shall  
6 include, but are not limited to:

- 7 a. genetic and drug testing,
- 8 b. supervised visitation,
- 9 c. counseling for any person other than the minor,
- 10 d. court fees and costs,
- 11 e. restitution payments, and
- 12 f. attorney fees for any person or entity other than the  
13 minor's attorney, and
- 14 g. transportation costs for any person other than the  
15 mother during pregnancy or the minor, unless such  
16 transportation expenses are specifically ordered in  
17 lieu of support in a court order.

18 The incarceration of a parent or putative father in and of  
19 itself shall not prevent the adoption of a minor without consent.

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

- 22 1. The minor is placed for adoption within ~~ninety (90) days~~  
23 fourteen (14) months of birth, and the father or putative father  
24 fails to show he has exercised parental rights or fulfilled parental

1 duties towards the minor, including, but not limited to, ~~failure to~~  
2 ~~contribute~~ contributing to the support of the mother of the ~~child~~  
3 minor to the extent of his financial ability during her term of  
4 pregnancy; or

5 2. ~~The minor is placed for adoption within~~ For a period of  
6 twelve (12) consecutive months of the last fourteen (14) months of  
7 birth, and immediately preceding the filing of an application for  
8 determination that the minor is eligible for adoption without the  
9 consent of the parent or putative father pursuant to Section 7505-  
10 4.1 of this title or a petition to terminate parental rights  
11 pursuant to Section 7505-2.1 of this title or a petition for  
12 adoption the father or putative father fails to show that he has  
13 exercised parental rights or fulfilled parental duties towards the  
14 minor, including, but not limited to, ~~failure to contribute~~  
15 contributing to the support of the minor to the extent of his  
16 financial ability, which may include consideration of his failure to  
17 contribute to the support of the mother of the ~~child~~ minor to the  
18 extent of his financial ability during her term of pregnancy.  
19 ~~Failure~~ A father's or putative father's failure to contribute to the  
20 support of the mother during her term of pregnancy shall not in and  
21 of itself be grounds for finding the minor eligible for adoption  
22 without ~~such~~ the father's or putative father's consent.

23 The incarceration of a parent or putative father in and of  
24 itself shall not prevent the adoption of a minor without consent.

1 D. In any case where a father or putative father of a minor  
2 born out of wedlock claims that, prior to the receipt of notice of  
3 the hearing provided for in ~~Sections~~ Section 7505-2.1 and or Section  
4 7505-4.1 of this title, he had been specifically denied knowledge of  
5 the existence of the minor or denied by the minor or the parent or  
6 guardian of the minor the opportunity to exercise parental rights  
7 and fulfill parental duties toward the minor, such father or  
8 putative father must prove to the satisfaction of the court that he  
9 made sufficient attempts to discover if he had fathered a minor or  
10 made sufficient attempts to exercise parental rights and fulfill  
11 parental duties toward the minor prior to the receipt of notice.

12 For purposes of this section:

13 1. A single attempt by a father or putative father is  
14 insufficient;

15 2. Offers made by a father or putative father during the  
16 mother's term of pregnancy to take a paternity test are  
17 insufficient; and

18 3. The required knowledge is that knowledge which is imputed to  
19 a male person, based upon his having had sexual relations with a  
20 female person, and the male person's concomitant responsibilities  
21 to:

22 a. inform himself of the existence and needs of any child  
23 conceived therefrom, and

24

1           b. exercise parental rights and fulfill parental duties  
2           toward that minor even before the child's birth,  
3           including but not limited to the person's having acted  
4           timely, positively, and affirmatively to seize his  
5           parental opportunity interest.

6           E. Consent to adoption is not required from a parent or  
7 putative father who waives in writing his or her right to notice of  
8 the hearing provided for in Section 7505-2.1 or Section 7505-4.1 of  
9 this title.

10          F. Consent to adoption is not required from a parent or  
11 putative father who fails to appear at the hearing provided for in  
12 Section 7505-2.1 or Section 7505-4.1 of this title if all notice  
13 requirements contained in or pursuant to ~~such sections~~ the section  
14 have been met.

15          G. Consent to adoption is not required from a parent or  
16 putative father who is entitled to custody of a minor and has  
17 abandoned the minor.

18          H. 1. Consent to adoption is not required from a parent or  
19 putative father who fails to establish and/or maintain a substantial  
20 and positive relationship with a minor for a period of twelve (12)  
21 consecutive months out of the last fourteen (14) months immediately  
22 preceding the filing of ~~a petition for adoption of the child~~ an  
23 application for determination that the minor is eligible for  
24 adoption without the consent of the parent or putative father

1 pursuant to Section 7505-4.1 of this title or a petition to  
2 terminate parental rights pursuant to Section 7505-2.1 of this  
3 title.

4 2. In any case where a parent or putative father of a minor  
5 claims that prior to the receipt of notice of the hearing provided  
6 for in ~~Sections~~ Section 7505-2.1 ~~and or~~ Section 7505-4.1 of this  
7 title, ~~such~~ the parent or putative father had been denied the  
8 opportunity to establish and/or maintain a substantial and positive  
9 relationship with the minor by the custodian of the minor, ~~such~~ the  
10 parent or putative father shall prove to the satisfaction of the  
11 court that he or she has taken sufficient legal action to establish  
12 and/or maintain a substantial and positive relationship with the  
13 minor prior to the receipt of such notice.

14 3. For purposes of this subsection, "fails to establish and/or  
15 maintain a substantial and positive relationship" means the parent  
16 or putative father:

17 a. has not maintained frequent and regular contact with  
18 the minor through frequent and regular visitation or  
19 frequent and regular communication to or with the  
20 minor, or

21 b. has not exercised parental rights and fulfilled  
22 parental responsibilities, including but not limited  
23 to a putative father not acting timely, positively,

24

1                   and affirmatively to seize his parental opportunity  
2                   interest.

3           I.   Consent to adoption is not required from a parent or  
4 putative father who has been convicted in a criminal action pursuant  
5 to the provisions of Sections 7102 and 7115 of this title and  
6 Sections 1021.3, 1111 and 1123 of Title 21 of the Oklahoma Statutes  
7 or who has either:

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

13           2.   Physically or sexually abused the minor or a sibling of such  
14 minor or failed to protect the minor or a sibling of such minor from  
15 physical or sexual abuse subsequent to a previous finding that such  
16 parent has physically or sexually abused the minor or a sibling of  
17 such minor or failed to protect the minor or a sibling of such minor  
18 from physical or sexual abuse.

19           J.   Consent to adoption is not required from a parent or  
20 putative father who has been convicted in a criminal action of  
21 having caused the death of a sibling of the minor as a result of the  
22 physical or sexual abuse or chronic neglect of ~~such~~ the sibling.

23           K.   Consent to adoption is not required from a parent if the  
24 parent has been sentenced to a period of incarceration of not less

1 than ten (10) years and the continuation of parental rights would  
2 result in harm to the minor based on consideration of the following  
3 factors, among others: the duration of incarceration and its  
4 detrimental effect on the parent/child relationship; any previous  
5 incarcerations; any history of criminal behavior, including crimes  
6 against children; the age of the minor; the evidence of abuse or  
7 neglect of the minor or siblings of the minor by the parent; and the  
8 current relationship between the parent and the minor and the manner  
9 in which the parent has exercised parental rights and fulfilled  
10 parental duties in the past.

11 L. Consent to adoption is not required from:

12 1. A parent who has a mental illness or mental deficiency, as  
13 defined by paragraphs f and g of Article II of Section 6-201 of  
14 Title 43A of the Oklahoma Statutes, which renders the parent  
15 incapable of adequately and appropriately exercising parental  
16 rights, and fulfilling parental duties and responsibilities;

17 2. The continuation of parental rights would result in harm or  
18 threatened harm to the minor; and

19 3. The mental illness or mental deficiency of the parent is  
20 such that it will not respond to treatment, therapy or medication  
21 and, based upon competent medical opinion, the condition will not  
22 substantially improve.

23 M. Consent to adoption is not required from a putative father  
24 who has been served with a Notice of Plan for Adoption pursuant to

1 Section 7503-3.1 of this title and who either returns the form to  
2 the Paternity Registry of the Department of Human Services or agency  
3 or attorney who served him explicitly waiving a right to notice and  
4 legal rights to the minor, or who fails to return the form pursuant  
5 ~~to Section 7503-3.1 of this title~~ in time for the form to be  
6 received by the Paternity Registry of the Department of Human  
7 Services or the agency or attorney who served him within thirty (30)  
8 days from the date the Notice of Plan for Adoption was served upon  
9 the putative father.

10 N. Consent to adoption is not required from:

11 1. An individual who has permanently relinquished his or her  
12 parental rights and responsibilities to the minor pursuant to the  
13 Oklahoma Adoption Code;

14 2. An individual whose parental relationship to a minor has  
15 been legally terminated or legally determined not to exist,  
16 including but not limited to a putative father not acting timely,  
17 positively, and affirmatively to seize his parental opportunity  
18 interest; or

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

20 O. Consent to adoption is not required from a parent who has  
21 voluntarily placed a minor ~~child~~ in the care of a licensed child  
22 care institution or child-placing agency, if the minor has remained  
23 in out-of-home care for eighteen (18) months or more, and the parent  
24 has willfully failed to substantially comply for twelve (12)

1 consecutive months out of the fourteen-month period immediately  
2 preceding the filing of the petition for adoption or the petition to  
3 terminate parental rights with a reasonable written plan of care.  
4 Provided, the willful failure to comply with the written plan of  
5 care may not be a ground for adoption without consent unless the  
6 plan of care, at the time it was initially executed by the parent,  
7 contained notice that failure to substantially comply constitutes  
8 grounds for adoption without consent. The reasonableness of the  
9 plan shall be a question of fact to be determined by the court.

10 SECTION 8. AMENDATORY 10 O.S. 2001, Section 7505-6.4, is  
11 amended to read as follows:

12 Section 7505-6.4 A. If the court denies a petition for  
13 adoption or vacates a decree of adoption, it shall dismiss the  
14 proceeding. If no preexisting custody order remains in effect, the  
15 court shall issue an appropriate order for the legal and physical  
16 custody of the minor according to the best interests of the minor,  
17 if the court has jurisdiction to issue a custody order.

18 B. 1. If the court has jurisdiction to issue a custody order,  
19 the court shall schedule a separate hearing to determine custody of  
20 the minor. The court shall certify that the petitioner for adoption  
21 and each parent of the minor has received notice of the date of the  
22 custody hearing at least fifteen (15) days prior to the date of the  
23 hearing and that each biological parent who has signed a consent or  
24 permanent relinquishment has been served in the same manner as

1 summons is served in civil cases at least fifteen (15) days prior to  
2 the date of the hearing. The petitioner for adoption shall be  
3 responsible for serving any parent who has not entered an appearance  
4 in the adoption proceeding. If the Department of Human Services or  
5 any licensed child-placing agency had legal custody at the time the  
6 petition was filed, the petitioner shall notify the Department or  
7 agency of the date of the custody hearing.

8 2. Upon motion to intervene, the court shall join any person  
9 entitled to notice under this subsection who is not already a party  
10 to the proceeding.

11 3. At the hearing, the court may award custody to the  
12 biological mother, the biological father, the biological parents, if  
13 they are married, the prospective adoptive parents or parent, if  
14 there is only one petitioning prospective adoptive parent, or the  
15 Department or other licensed child-placing agency if the Department  
16 or agency had legal custody of the ~~child~~ minor at the time that the  
17 petition was filed, ~~pursuant to Section 21.1 of this title~~, in the  
18 best interests of the ~~child~~ minor.

19 4. The ~~child~~ minor shall be represented at this hearing  
20 pursuant to Section 7505-1.2 of this title.

21 SECTION 9. This act shall become effective November 1, 2008.

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1 Passed the House of Representatives the 12th day of March, 2008.

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4 Presiding Officer of the House of  
Representatives  
5

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2008.

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9 Presiding Officer of the Senate  
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