

THE HOUSE OF REPRESENTATIVES  
Tuesday, February 26, 2008

Committee Substitute for  
House Bill No. 3002

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3002 - By: JOHNSON (DENNIS)  
AND PITTMAN of the House.

An Act relating to children; amending 10 O.S. 2001, Sections 7503-2.1, 7503-2.2, 7503-2.4 and 7510-1.3, as amended by Section 12, Chapter 445, O.S.L. 2002 (10 O.S. Supp. 2007, Section 7510-1.3), which relate to adoption; increasing age of consent by minor; providing certain limitation for children in substitute care; and providing an effective date.

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

1 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7503-2.1, is amended to  
2 read as follows:

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

- 5 1. Both parents of the minor;
- 6 2. One parent of the minor, alone, if:
  - 7 a. the other parent is dead,
  - 8 b. the parental rights of the other parent have been terminated, or
  - 9 c. the consent of the other parent is otherwise not required pursuant to
- 10 Section 7505-4.2 of this title;

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

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

7           a. the minor has been permanently relinquished to such agency by:

8                   (1) both parents, or

9                   (2) one parent alone if the other parent is dead, the parental rights  
10                   of the other parent have been terminated, or the consent of the  
11                   other parent is otherwise not required pursuant to Section 7505-  
12                   4.2 of this title, or

13           b. the rights of both parents have been judicially terminated and custody  
14           of the minor has been legally vested in such agency with authority to  
15           consent to adoption of the minor; or

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

17           a. the parental rights of both parents have been judicially terminated,  
18           and

19           b. the court that issued the custody order for the minor has consented to  
20           adoption and a certified copy of its order containing its consent is filed  
21           before the final decree.

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

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

- 5 a. given by such minor parent before a judge of the district court, and  
6 b. accompanied by the written consent of:
- 7 (1) the legal guardian of the minor parent,
  - 8 (2) the parents of the minor parent,
  - 9 (3) the parent having custody of the minor parent, if the other  
10 parent of the minor parent is deceased or the parents of the  
11 minor parent are divorced, or
  - 12 (4) the person having physical custody of the minor parent, if both  
13 parents of the minor parent are deceased, or
- 14 c. accompanied by a finding of the court issuing the decree of adoption, if  
15 consent cannot be secured from any individual whose consent is  
16 required by subparagraph b of this paragraph, that:
- 17 (1) either notice was given by mail by the court to such person  
18 directing the person to show cause at a time appointed by the  
19 court, which shall be not less than ten (10) days from the date of  
20 mailing, why the adoption should not be granted without the  
21 individual's consent, or that notice was waived by the personal  
22 appearance of the individual, and



1 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7503-2.2, is amended to  
2 read as follows:

3 Section 7503-2.2 A. The mother of a minor shall not execute a valid consent to the  
4 adoption of the minor or a permanent relinquishment of the minor prior to the birth of  
5 the minor.

6 B. The father of a minor born in wedlock shall not execute a valid consent to the  
7 adoption of the minor or a permanent relinquishment of the minor prior to the birth of  
8 the minor.

9 C. A putative father of a minor may execute a consent to the adoption of the minor,  
10 a permanent relinquishment of the minor, or an extrajudicial consent to the adoption of  
11 the minor before or after the birth of the minor.

12 D. A guardian, guardian ad litem or legal custodian of a child may execute a  
13 consent to the adoption of a minor or a permanent relinquishment at any time after  
14 being authorized by a court to do so.

15 E. A child-placing agency that places a child for adoption may execute its consent  
16 at any time at or before the hearing on the petition for adoption.

17 F. A minor ~~twelve (12)~~ fourteen (14) years of age or older whose consent is required  
18 pursuant to Section 7503-2.1 of this title may execute a consent to adoption at any time  
19 at or before the hearing on the petition for adoption.

20 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7503-2.4, is amended to  
21 read as follows:

1 Section 7503-2.4 A. A consent to an adoption of a minor shall be in writing,  
2 recorded by a court reporter, and executed before a judge of the district court in this state  
3 and contain:

4 1. The date, place, and time of the execution of the consent;

5 2. The name and date of birth of the person executing the consent;

6 3. The current mailing address, telephone number, and social security number of  
7 the person executing the consent; and

8 4. Instructions that the consent is irrevocable, except upon the specific grounds  
9 specified in Section 7503-2.7 of this title, upon which the consent can be revoked and the  
10 manner in which a motion to set aside the consent must be filed.

11 B. A consent must state:

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

14 2. An understanding that after the consent is executed, it is final and, except for  
15 fraud or duress, may not be revoked or set aside for any reason except as otherwise  
16 authorized by the Oklahoma Adoption Code;

17 3. That the person executing the consent is represented by counsel or has waived  
18 any right to counsel;

19 4. That the execution of the consent does not terminate any duty of the person  
20 executing the consent to support the mother or the minor until the adoption is completed;

21 5. That the person executing the consent has not received or been promised any  
22 money or anything of value for the consent, except for payments authorized by law;

1           6. Whether the individual executing the consent is a member of an Indian tribe and  
2 whether the minor is eligible for membership or the child is a member of an Indian tribe;

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

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

10          C. Before executing a consent, a minor ~~twelve (12)~~ fourteen (14) years of age or  
11 older must have been informed by the court of the meaning and consequences of the  
12 adoption and the availability of social and medical history information, pursuant to  
13 Section 7504-1.2 of this title, when the minor turns eighteen (18) years of age.

14          D. When it appears to the court that the parent or guardian executing a consent  
15 desires counsel but is indigent and cannot for that reason employ counsel, the court shall  
16 appoint counsel. In all counties having county indigent defenders, the county indigent  
17 defenders shall assume the duties of representation in such proceedings.

18          E. The transcript of the court proceedings pursuant to this section shall be placed  
19 in the court record.

20          F. Except as otherwise provided by subsection K of this section, verification of the  
21 court shall be in substantially the following form:

1 I, \_\_\_\_\_, Judge of the District Court in and for \_\_\_\_\_ County, State  
2 of Oklahoma, a Court having original adoption jurisdiction, do hereby certify, that upon  
3 this day, \_\_\_\_\_ personally appeared in open Court, before me, and orally and in  
4 writing executed the above and foregoing Appearance and Consent to Adoption.

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

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

1 English language and communicated in the English language at all times during said  
2 hearing, or all information was translated into the consenting person's language, and  
3 was fully understood by the person; and if the consenting person was the biological  
4 parent, such parent was advised regarding the affidavit of nondisclosure.

5 G. A consent may be signed before any judge of a court having probate or adoption  
6 jurisdiction in this state or in the state of residence of the person executing the consent.

7 H. 1. a. If an individual whose consent is necessary resides in a country or  
8 place other than the United States of America, other than a member of  
9 the United States Armed Services stationed abroad, the consent of the  
10 individual to the adoption may be obtained by a written instrument  
11 signed by such person and acknowledged before an officer of the legal  
12 subdivision of the government of the place of such person's residence  
13 who is authorized to administer oaths under the laws of such country  
14 or place.

15 b. If the foreign country's government does not involve itself in adoption  
16 matters, the consent may be executed before an officer of the Judge  
17 Advocate General's Office of the United States Armed Services or  
18 before an officer of the United States Embassy located in that country,  
19 provided the execution of such consent is not a violation of the laws of  
20 the foreign country, or a violation of international law or treaty  
21 between the foreign country's government and the United States. The  
22 consent shall reflect that the consent is not given or accepted in

1 violation of the laws of the foreign country or in violation of  
2 international law or treaty between such foreign country's government  
3 and the United States.

4 2. If an individual whose consent is necessary is a member of the United States  
5 Armed Services stationed in a country or place other than the United States, the  
6 individual's consent may be acknowledged before an officer of the Judge Advocate  
7 General's Office or other legal officer possessing the authority to administer oaths.

8 I. If the written instrument containing a consent to adoption is written in a  
9 language other than the English language, the petitioner must have it translated into  
10 the English language by a qualified translator, and must file the original instrument  
11 together with the translation with the court. The translation must be sworn to as being  
12 a true and correct translation by the person translating the document.

13 J. Except as otherwise required by subsection H of this section, when the person  
14 whose consent is or may be required resides outside of Oklahoma, the consent to  
15 adoption by such person may be executed in that state or country in the manner set forth  
16 in the Oklahoma Adoption Code or in the manner prescribed by the laws of the state or  
17 country of such person's residence.

18 K. 1. When the person whose consent is required is the Director or designee of the  
19 Department of Human Services for minors in the custody of the Department of Human  
20 Services, the contents of the consent need only contain the full name of the person  
21 executing the consent, that the person executing the consent is duly authorized by the

1 Director to consent to the adoption, the full name of the child being adopted, and the  
2 names and addresses of adoptive petitioners.

3 2. The verification of the court shall be in substantially the following form:

4 I, \_\_\_\_\_, Judge of the District Court in and for \_\_\_\_\_ County, State  
5 of Oklahoma, a Court having original adoption jurisdiction, do hereby certify, that upon  
6 this day, \_\_\_\_\_ personally appeared in open Court, before me, and orally and in  
7 writing executed the above and foregoing Appearance and Consent to Adoption.

8 SECTION 4. AMENDATORY 10 O.S. 2001, Section 7510-1.3, as amended by  
9 Section 12, Chapter 445, O.S.L. 2002 (10 O.S. Supp. 2007, Section 7510-1.3), is amended  
10 to read as follows:

11 Section 7510-1.3 A. The Department of Human Services shall establish and  
12 administer an ongoing program of adoption assistance for eligible special needs children  
13 in the legal custody of the Department or a federally recognized Indian tribe, as defined  
14 by the federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act,  
15 who are not eligible for federally funded adoption assistance benefits. Adoption  
16 assistance benefits under this program shall be provided out of funds appropriated to the  
17 Department for the maintenance of children in foster care or made available to it from  
18 other sources.

19 B. Adoption assistance benefits under this program may include Medicaid  
20 coverage, a monthly adoption assistance payment, reimbursement of nonrecurring  
21 adoption expenses, special services, or any combination of such benefits.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1           C. To comply with 42 U.S.C., Section 471(a)(14) of the Social Security Act and 45  
2 C.F.R., Section 1356.21(n), the Department shall limit the number of children under the  
3 responsibility of the Department, who remain in substitute care for a period over twenty-  
4 four (24) months, to no more than thirty percent (30%) of the children in care during any  
5 fiscal year.

6           SECTION 5. This act shall become effective November 1, 2008.

7           COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02-25-08 -  
8           DO PASS, As Amended and Coauthored.