

SB 469

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THE STATE SENATE  
Thursday, February 22, 2007

Senate Bill No. 469  
As Amended

SENATE BILL NO. 469 - By: EASLEY of the Senate and PETERS of the House.

[ children - foster parent eligibility - rules - intent of Legislature - effective date ]

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 404.1, as last amended by Section 1, Chapter 213, O.S.L. 2003 (10 O.S. Supp. 2006, Section 404.1), is amended to read as follows:

Section 404.1 A. 1. Except as otherwise provided by subsection B of this section, the Department of Human Services shall require a criminal history records search, conducted by the Oklahoma State Bureau of Investigation, for any person making application to establish or operate a child care facility prior to the issuance of a license to operate such facility.

2. a. Every child care facility shall arrange, prior to employment, for a criminal history records search to be conducted by the Oklahoma State Bureau of Investigation for any person to be employed by the child care facility.

1           b.    In addition, any child care facility, licensed or  
2                    approved pursuant to the Oklahoma Child Care  
3                    Facilities Licensing Act, and located in a private  
4                    residence, shall arrange for a criminal history  
5                    records search for any adult residing in the child  
6                    care facility. A criminal history records search  
7                    conducted by the Oklahoma State Bureau of  
8                    Investigation shall also be completed for any adult  
9                    who subsequently moves into the private residence.

10          3.    If the adult has lived in Oklahoma for less than one (1)  
11                year, a criminal history records search shall also be obtained from  
12                the previous state of residence. If the applicant planning to  
13                establish or operate a child care facility, or an employee or  
14                contract employee of the child care facility, or the contractor of  
15                the child care facility has resided in Oklahoma for less than one  
16                (1) year, the criminal history records search shall also be obtained  
17                from such person's previous state of residence.

18          4.    The Department of Juvenile Justice may directly request  
19                national criminal history records searches as defined by Section  
20                150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State  
21                Bureau of Investigation for the purpose of obtaining the national  
22                criminal history of any employee or applicant who has resided in  
23                Oklahoma for less than one (1) year for which a search is required.

1 B. 1. a. On and after September 1, ~~1998~~ 2007:

2 (1) any child-placing agency contracting with a  
3 person for foster family home services or in any  
4 manner for services for the care and supervision  
5 of children shall also, prior to executing a  
6 contract, complete:

7 (a) a foster parent eligibility assessment for  
8 the foster care provider except as otherwise  
9 provided by ~~divisions 2 and 4~~ division (4)  
10 of this subparagraph, and

11 (b) a national criminal history records search  
12 based upon submission of fingerprints for  
13 any adult residing in the foster family home  
14 through the Department of Human Services  
15 pursuant to the provisions of the Oklahoma  
16 Foster Care and Out-of-Home Placement Act,  
17 except as otherwise provided by ~~divisions 2~~  
18 ~~and 4~~ division (4) of this subparagraph, and  
19 a search of the child abuse and neglect  
20 files maintained for review by authorized  
21 entities by the Department of Human  
22 Services,

- 1 (2) the child-placing agency ~~may~~ shall not place a  
2 child pending completion of ~~the national criminal~~  
3 ~~history records search if the foster care~~  
4 ~~provider and every adult residing in the foster~~  
5 ~~family home has resided in this state for at~~  
6 ~~least five (5) years immediately preceding such~~  
7 ~~placement~~ any of the requirements listed in  
8 subdivision (b) of division (1) of this  
9 subparagraph,
- 10 (3) ~~a national criminal history records search based~~  
11 ~~upon submission of fingerprints to the Oklahoma~~  
12 ~~State Bureau of Investigation~~ the requirements  
13 listed in subdivision (b) of division (1) of this  
14 subparagraph shall also be completed for any  
15 adult who subsequently moves into the residence,
- 16 (4) provided, however, the Director of Human Services  
17 or the Director of the Department of Juvenile  
18 Justice, or a designee, may authorize an  
19 exception to the fingerprinting requirement for a  
20 person residing in the home who has a severe  
21 physical condition which precludes such person's  
22 being fingerprinted, and

1 (5) any child care facility contracting with any  
2 person for foster family home services shall  
3 request the Office of Juvenile Affairs to conduct  
4 a ~~juvenile justice information system~~ Juvenile  
5 Justice Information System review, pursuant to  
6 the provisions of Sections 7302-9.6 and 7302-3.8  
7 of this title, for any child over the age of  
8 thirteen (13) years residing in the foster family  
9 home, other than a foster child, or who  
10 subsequently moves into the private residence.  
11 As a condition of contract, the child care  
12 facility shall obtain the consent of the parent  
13 or legal guardian of the child for such review.

14 b. The provisions of this paragraph shall not apply to  
15 foster care providers having a contract or contracting  
16 with a child-placing agency, the Department of Human  
17 Services or the Department of Juvenile Justice prior  
18 to September 1, ~~1998~~ 2007. Such existing foster care  
19 providers shall comply with the provisions of this  
20 section, until otherwise provided by rules of the  
21 Commission for Human Services or by law.

22 2. a. (1) On and after September 1, ~~1998~~ 2007, except as  
23 otherwise provided in ~~divisions 2 and 4~~ division

1                   (4) of this subparagraph, prior to contracting  
2                   with a foster family home for placement of any  
3                   child who is in the custody of the Department of  
4                   Human Services or the Department of Juvenile  
5                   Justice, each Department shall complete a foster  
6                   parent eligibility assessment, pursuant to the  
7                   provisions of the Oklahoma Child Care Facilities  
8                   Licensing Act, for such foster family applicant.  
9                   In addition, except as otherwise provided by  
10                  ~~divisions 2 and 4~~ division (4) of this  
11                  subparagraph, the Department shall complete a  
12                  national criminal history records search based  
13                  upon submission of fingerprints and a search of  
14                  the child abuse and neglect files maintained for  
15                  review by authorized entities by the Department  
16                  of Human Services for any adult residing in such  
17                  foster family home.

18                  (2) The Department of Human Services and Department  
19                  of Juvenile Justice ~~may~~ shall not place a child  
20                  pending completion of ~~the national criminal~~  
21                  ~~history records search if the foster care~~  
22                  ~~provider and every adult residing in the foster~~  
23                  ~~family home has resided in this state for at~~

1           ~~least (5) years immediately preceding such~~  
2           ~~placement~~ any of the requirements listed in  
3           division (1) of this subparagraph.

4           (3) ~~A national criminal history records search based~~  
5           ~~upon submission of fingerprints conducted by the~~  
6           ~~Oklahoma State Bureau of Investigation~~ The  
7           requirements listed in division (1) of this  
8           subparagraph shall also be completed for any  
9           adult who subsequently moves into the residence.

10          (4) The Director of Human Services or the Director of  
11          the Department of Juvenile Justice or designee  
12          may authorize an exception to the fingerprinting  
13          requirement for any person residing in the home  
14          who has a severe physical condition which  
15          precludes such person's being fingerprinted.

16          b. The provisions of this paragraph shall not apply to  
17          foster care providers having a contract or contracting  
18          with a child-placing agency, the Department of Human  
19          Services or the Department of Juvenile Justice prior  
20          to September 1, ~~1998~~ 2007. Such existing foster care  
21          providers shall comply with the provisions of this  
22          section, until otherwise provided by rules of the  
23          Commission for Human Services or by law.

1           3. Each Department shall provide for a ~~juvenile justice~~  
2 ~~information system~~ Juvenile Justice Information System review  
3 pursuant to Section 7302-3.8 of this title for any child over the  
4 age of thirteen (13) years residing in a foster family home, other  
5 than the foster child, or who subsequently moves into the private  
6 residence.

7           C. The Commission for Human Services or the Board of Juvenile  
8 Affairs shall promulgate rules to identify circumstances when a  
9 criminal history records search ~~or~~, foster parent eligibility  
10 assessment, or search of the child abuse and neglect files  
11 maintained for review by authorized entities by the Department of  
12 Human Services for an applicant or contractor, or any person over  
13 the age of thirteen (13) years residing in a private residence in  
14 which a child care facility is located, shall be expanded beyond the  
15 records search conducted by the Oklahoma State Bureau of  
16 Investigation, the search of the child abuse and neglect files, or  
17 other search as ~~otherwise~~ provided pursuant to this section.

18           D. 1. The following persons shall not be required to obtain a  
19 criminal history records search or a national criminal history  
20 records search based upon submission of fingerprints to the Federal  
21 Bureau of Investigation pursuant to this section:

- 22           a. a parent volunteer who transports children on an  
23           irregular basis, and

1           b.    a child of a child care center or family child care  
2                   home operator who became an adult during continuous  
3                   residence at the licensed or approved facility.

4           2.    These exemptions shall not preclude the Department from  
5    requesting a criminal history records search or requesting a  
6    national criminal history records search based upon submission of  
7    fingerprints or investigating criminal, abusive or harmful behavior  
8    of such persons, if warranted.

9           E.    Except as otherwise provided by the Oklahoma Children's Code  
10   and subsection G of this section, a conviction for a crime shall not  
11   be an absolute bar to employment, but shall be considered in  
12   relation to specific employment duties and responsibilities.

13          F.    1.   Information received pursuant to this section by an  
14   owner or administrator of a child care facility shall be maintained  
15   in a confidential manner in a file that is separate from employment  
16   records. The information may be transmitted to the Department for  
17   child care facility licensing purposes.

18          2.    Whenever an applicant is subsequently employed by or  
19   contracts with a child care facility, the information received  
20   pursuant to a criminal history records search, foster parent  
21   eligibility assessment, or a national criminal history records  
22   search based upon submission of fingerprints shall not be made a  
23   part of that individual's personnel or contract records but shall be

1 maintained pursuant to this subsection. The information, along with  
2 any other information relevant to the individual's ability to  
3 perform tasks that require direct contact with children, may be  
4 released to another child care facility in response to a request  
5 from the child care facility that is considering employing or  
6 contracting with the individual.

7 3. Requirements for confidentiality and record keeping with  
8 regard to the information shall be the same for the child care  
9 facility receiving the information in response to a request as those  
10 provided for in paragraph 1 of this subsection for the child care  
11 facility releasing such information.

12 G. 1. A criminal history investigation or national criminal  
13 history records search based upon submission of fingerprints  
14 conducted by the Oklahoma State Bureau of Investigation shall  
15 include a search of Department of Corrections' files maintained  
16 pursuant to the Sex Offenders Registration Act.

17 2. a. It shall be unlawful for any person who is required to  
18 register pursuant to the Sex Offenders Registration  
19 Act or the Juvenile Sex Offender Registration Act to:  
20 (1) work with or provide services to children ~~or to,~~  
21 (2) reside in a child care facility ~~and,~~  
22 (3) for any employer who offers or provides services  
23 to children, to knowingly and willfully employ or

1 contract with, or allow continued employment of  
2 or contracting with any person who is required to  
3 register pursuant to the Sex Offenders  
4 Registration Act, or

5 (4) reside in a foster family home as anyone other  
6 than a foster child.

7 Any person required to register pursuant to the  
8 Sex Offenders Registration Act who violates any  
9 provision of this act shall, upon conviction, be  
10 guilty of a felony punishable by incarceration in  
11 a correctional facility for a period of not more  
12 than five (5) years and a fine of not more than  
13 Five Thousand Dollars (\$5,000.00) or both such  
14 fine and imprisonment.

15 b. Upon a determination by the Department of any  
16 violation of the provisions of this section, the  
17 violator shall be subject to and the Department may  
18 pursue:

- 19 (1) an emergency order,  
20 (2) license revocation or denial,  
21 (3) injunctive proceedings,  
22 (4) an administrative penalty not to exceed Ten  
23 Thousand Dollars (\$10,000.00), and

1 (5) referral for criminal proceedings.

2 c. In addition to the penalties specified by this  
3 section, the violator may be liable for civil damages.

4 SECTION 2. AMENDATORY 10 O.S. 2001, Section 21.1, as  
5 last amended by Section 2, Chapter 415, O.S.L. 2004 (10 O.S. Supp.  
6 2006, Section 21.1), is amended to read as follows:

7 Section 21.1 A. Except as otherwise provided by this section,  
8 custody should be awarded or a guardian appointed in the following  
9 order of preference according to the best interests of the child to:

10 1. A parent or to both parents jointly;

11 2. A grandparent;

12 3. A person who was indicated by the wishes of a deceased  
13 parent;

14 4. A relative of either parent, whether by blood or marriage;

15 5. The person in whose home the child has been living in a  
16 wholesome and stable environment including but not limited to a  
17 foster parent; or

18 6. Any other person deemed by the court to be suitable and able  
19 to provide adequate and proper care and guidance for the child.

20 B. It is the intent of the Legislature that every attempt be  
21 made to place a child with a member of the child's family.

22 ~~B.~~ C. In addition to subsection ~~D~~ E of this section, when a  
23 parent having custody of a child becomes deceased or when custody of

1 a child is judicially removed from the parent having custody of the  
2 child, the court may only deny the noncustodial parent custody of  
3 the child or guardianship of the child if:

4 1. a. For a period of at least twelve (12) months out of the  
5 last fourteen (14) months immediately preceding the  
6 determination of custody or guardianship action, the  
7 noncustodial parent has willfully failed, refused, or  
8 neglected to contribute to the child's support:

- 9 (1) in substantial compliance with a support  
10 provision or an order entered by a court of  
11 competent jurisdiction adjudicating the duty,  
12 amount, and manner of support, or  
13 (2) according to such parent's financial ability to  
14 contribute to the child's support if no provision  
15 for support is provided in a decree of divorce or  
16 an order of modification subsequent thereto, and

17 b. The denial of custody or guardianship is in the best  
18 interest of the child;

19 2. The noncustodial parent has abandoned the child as such term  
20 is defined by Section 7006-1.1 of this title;

21 3. The parental rights of the noncustodial parent have been  
22 terminated;

1           4. The noncustodial parent has been convicted of any crime  
2 against public decency and morality pursuant to Title 21 of the  
3 Oklahoma Statutes;

4           5. The child has been adjudicated deprived pursuant to the  
5 Oklahoma Children's Code and the noncustodial parent has not  
6 successfully completed a service or treatment plan if required by  
7 the court; or

8           6. The court finds it would be detrimental to the health or  
9 safety of the child for the noncustodial parent to have custody or  
10 be appointed guardian.

11           ~~C.~~ D. The court shall consider the preference of the child in  
12 awarding custody of the child pursuant to Section 113 of Title 43 of  
13 the Oklahoma Statutes.

14           ~~D.~~ E. 1. In every case involving the custody of, guardianship  
15 of or visitation with a child, the court shall determine whether any  
16 individual seeking custody or who has custody of, guardianship of or  
17 visitation with a child:

18                   a. is or has been subject to the registration  
19 requirements of the Oklahoma Sex Offenders  
20 Registration Act or any similar act in any other  
21 state,

- 1           b.    has been convicted of a crime listed in the Oklahoma  
2                    Child Abuse Reporting and Prevention Act or in Section  
3                    582 of Title 57 of the Oklahoma Statutes,  
4           c.    is an alcohol-dependent person or a drug-dependent  
5                    person as established by clear and convincing evidence  
6                    and who can be expected in the near future to inflict  
7                    or attempt to inflict serious bodily harm to himself  
8                    or herself or another person as a result of such  
9                    dependency,  
10          d.    has been convicted of domestic abuse within the past  
11                    five (5) years,  
12          e.    is residing with a person who is or has been subject  
13                    to the registration requirements of the Oklahoma Sex  
14                    Offenders Registration Act or any similar act in any  
15                    other state,  
16          f.    is residing with a person who has been convicted of a  
17                    crime listed in the Oklahoma Child Abuse Reporting and  
18                    Prevention Act or in Section 582 of Title 57 of the  
19                    Oklahoma Statutes, or  
20          g.    is residing with a person who has been convicted of  
21                    domestic abuse within the past five (5) years.

1           2. There shall be a rebuttable presumption that it is not in  
2 the best interests of the child to have custody, or guardianship  
3 granted to:

- 4           a. a person who is or has been subject to the  
5 registration requirements of the Oklahoma Sex  
6 Offenders Registration Act or any similar act in any  
7 other state,  
8           b. a person who has been convicted of a crime listed in  
9 the Oklahoma Child Abuse Reporting and Prevention Act  
10 or in Section 582 of Title 57 of the Oklahoma  
11 Statutes,  
12           c. an alcohol-dependent person or a drug-dependent person  
13 as established by clear and convincing evidence and  
14 who can be expected in the near future to inflict or  
15 attempt to inflict serious bodily harm to himself or  
16 herself or another person as a result of such  
17 dependency,  
18           d. a person who has been convicted of domestic abuse  
19 within the past five (5) years,  
20           e. a person who is residing with an individual who is or  
21 has been subject to the registration requirements of  
22 the Oklahoma Sex Offenders Registration Act or any  
23 similar act in any other state,

1           f.    a person who is residing with a person who has been  
2                    previously convicted of a crime listed in the Oklahoma  
3                    Child Abuse Reporting and Prevention Act or in Section  
4                    582 of Title 57 of the Oklahoma Statutes, or

5           g.    a person who is residing with a person who has been  
6                    convicted of domestic abuse within the past five (5)  
7                    years.

8           3.    Custody of, guardianship of, or any visitation with a child  
9                   shall not be granted to any person if it is established that the  
10                  custody, guardianship or visitation will likely expose the child to  
11                  a foreseeable risk of material harm.

12           ~~E.~~ F.   Except as otherwise provided by the Oklahoma Child  
13                  Supervised Visitation Program, court-ordered supervised visitation  
14                  shall be governed by the Oklahoma Child Supervised Visitation  
15                  Program.

16           ~~F.~~ G.   For purposes of this section:

17           1.    "Alcohol-dependent person" has the same meaning as such term  
18                  is defined in Section 3-403 of Title 43A of the Oklahoma Statutes;

19           2.    "Domestic abuse" has the same meaning as such term is  
20                  defined in Section 60.1 of Title 22 of the Oklahoma Statutes;

21           3.    "Drug-dependent person" has the same meaning as such term is  
22                  defined in Section 3-403 of Title 43A of the Oklahoma Statutes; and

1 4. "Supervised visitation" means a program established pursuant  
2 to Section ~~5~~ 110.1a of ~~this act~~ Title 43 of the Oklahoma Statutes.

3 **SECTION 3. AMENDATORY 10 O.S. 2001, Section 7505-4.2, is**  
4 **amended to read as follows:**

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

9 B. Consent to adoption is not required from a parent who, for a  
10 period of twelve (12) consecutive months out of the last fourteen  
11 (14) months immediately preceding the filing of a petition for  
12 adoption of a child or a petition to terminate parental rights  
13 pursuant to Section 7505-2.1 of this title, has willfully failed,  
14 refused, or neglected to contribute to the support of such minor:

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

18 2. According to such parent's financial ability to contribute  
19 to such minor's support if no provision for support is provided in  
20 an order. For the purposes of this section, support for the minor  
21 shall benefit the minor by providing a necessity. Payments that  
22 shall not be considered support shall include, but are not limited  
23 to:

- 1           a. genetic and drug testing;
- 2           b. supervised visitation;
- 3           c. counseling for any person other than the minor;
- 4           d. court fees and costs;
- 5           e. restitution payments; and
- 6           f. transportation costs for any person other than the  
7           minor, unless such transportation expenses are  
8           specifically ordered in lieu of support in a court  
9           order.

10           The incarceration of a parent in and of itself shall not prevent  
11 the adoption of a minor without consent.

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

14           1. The minor is placed for adoption within ninety (90) days of  
15 birth, and the father or putative father fails to show he has  
16 exercised parental rights or duties towards the minor, including,  
17 but not limited to, failure to contribute to the support of the  
18 mother of the child to the extent of his financial ability during  
19 her term of pregnancy; or

20           2. The minor is placed for adoption within fourteen (14) months  
21 of birth, and the father or putative father fails to show that he  
22 has exercised parental rights or duties towards the minor,  
23 including, but not limited to, failure to contribute to the support

1 of the minor to the extent of his financial ability, which may  
2 include consideration of his failure to contribute to the support of  
3 the mother of the child to the extent of his financial ability  
4 during her term of pregnancy. Failure to contribute to the support  
5 of the mother during her term of pregnancy shall not in and of  
6 itself be grounds for finding the minor eligible for adoption  
7 without such father's consent.

8 The incarceration of a parent in and of itself shall not prevent  
9 the adoption of a minor without consent.

10 D. In any case where a father or putative father of a minor  
11 born out of wedlock claims that, prior to the receipt of notice of  
12 the hearing provided for in Sections 7505-2.1 and 7505-4.1 of this  
13 title, he had been specifically denied knowledge of the minor or  
14 denied the opportunity to exercise parental rights and duties toward  
15 the minor, such father or putative father must prove to the  
16 satisfaction of the court that he made sufficient attempts to  
17 discover if he had fathered a minor or made sufficient attempts to  
18 exercise parental rights and duties toward the minor prior to the  
19 receipt of notice.

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

1 F. Consent to adoption is not required from a parent or  
2 putative father who fails to appear at the hearing provided for in  
3 Section 7505-2.1 or 7505-4.1 of this title if all notice  
4 requirements contained in or pursuant to such sections have been  
5 met.

6 G. Consent to adoption is not required from a parent who is  
7 entitled to custody of a minor and has abandoned the minor.

8 H. 1. Consent to adoption is not required from a parent who  
9 fails to establish and/or maintain a substantial and positive  
10 relationship with a minor for a period of twelve (12) consecutive  
11 months out of the last fourteen (14) months immediately preceding  
12 the filing of a petition for adoption of the child.

13 2. In any case where a parent of a minor claims that prior to  
14 the receipt of notice of the hearing provided for in Sections 7505-  
15 2.1 and 7505-4.1 of this title, such parent had been denied the  
16 opportunity to establish and/or maintain a substantial and positive  
17 relationship with the minor by the custodian of the minor, such  
18 parent shall prove to the satisfaction of the court that he or she  
19 has taken sufficient legal action to establish and/or maintain a  
20 substantial and positive relationship with the minor prior to the  
21 receipt of such notice.

22 3. For purposes of this subsection, "fails to establish and/or  
23 maintain a substantial and positive relationship" means the parent:

- 1           a.    has not maintained frequent and regular contact with  
2                    the minor through frequent and regular visitation or  
3                    frequent and regular communication to or with the  
4                    minor, or  
5           b.    has not exercised parental rights and  
6                    responsibilities.

7           I.    Consent to adoption is not required from a parent who has  
8    been convicted in a criminal action pursuant to the provisions of  
9    Sections 7102 and 7115 of this title and Sections 1021.3, 1111 and  
10   1123 of Title 21 of the Oklahoma Statutes or who has either:

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

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

22           J.    Consent to adoption is not required from a parent who has  
23   been convicted in a criminal action of having caused the death of a

1 sibling of the minor as a result of the physical or sexual abuse or  
2 chronic neglect of such sibling.

3 K. Consent to adoption is not required from a parent if the  
4 parent has been sentenced to a period of incarceration of not less  
5 than ten (10) years and the continuation of parental rights would  
6 result in harm to the minor based on consideration of the following  
7 factors, among others: the duration of incarceration and its  
8 detrimental effect on the parent/child relationship; any previous  
9 incarcerations; any history of criminal behavior, including crimes  
10 against children; the age of the minor; the evidence of abuse or  
11 neglect of the minor or siblings of the minor by the parent; and the  
12 current relationship between the parent and the minor and the manner  
13 in which the parent has exercised parental rights and duties in the  
14 past.

15 L. Consent to adoption is not required from:

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

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

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

5           M. Consent to adoption is not required from a putative father  
6 who has been served with a Notice of Plan for Adoption pursuant to  
7 Section 7503-3.1 of this title and who returns the form to the  
8 Paternity Registry of the Department of Human Services or agency or  
9 attorney who served him explicitly waiving a right to notice and  
10 legal rights to the minor or who fails to return the form pursuant  
11 to Section 7503-3.1 of this title in time for the form to be  
12 received by the Paternity Registry of the Department of Human  
13 Services or the agency or attorney who served him within thirty (30)  
14 days from the date the Notice of Plan for Adoption was served upon  
15 the putative father.

16           N. Consent to adoption is not required from:

17           1. An individual who has permanently relinquished parental  
18 rights and responsibilities to the minor pursuant to the Oklahoma  
19 Adoption Code;

20           2. An individual whose parental relationship to a minor has  
21 been legally terminated or legally determined not to exist; or

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

1           O. Consent to adoption is not required from a parent who has  
2 voluntarily placed a minor child in the care of a licensed child  
3 care institution or child-placing agency, if the minor has remained  
4 in out-of-home care for eighteen (18) months or more, and the parent  
5 has willfully failed to substantially comply for twelve (12)  
6 consecutive months out of the fourteen-month period immediately  
7 preceding the filing of the petition for adoption with a reasonable  
8 written plan of care. Provided, the willful failure to comply with  
9 the written plan of care may not be a ground for adoption without  
10 consent unless the plan of care, at the time it was initially  
11 executed by the parent, contained notice that failure to  
12 substantially comply constitutes grounds for adoption without  
13 consent. The reasonableness of the plan shall be a question of fact  
14 to be determined by the court.

15           SECTION 4. This act shall become effective November 1, 2007.

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-20-07 - DO  
17 PASS, As Amended and Coauthored.