

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3047

By: Peterson (Pam)

4
5 AS INTRODUCED

6
7 An Act relating to children; amending 10 O.S. 2001,
8 Section 7501-1.3, as amended by Section 8, Chapter
9 445, O.S.L. 2002 (10 O.S. Supp. 2007, Section 7501-
10 1.3), which relates to definitions; modifying certain
11 definition; amending 10 O.S. 2001, Section 7502-1.4,
12 as amended by Section 1, Chapter 176, O.S.L. 2004 (10
13 O.S. Supp. 2007, Section 7502-1.4), which relates to
14 foreign adoptions; simplifying procedures to readopt;
15 amending 10 O.S. 2001, Section 7503-2.1, which
16 relates to consent; providing for preference of child
17 in certain circumstance; amending 10 O.S. 2001,
18 Section 7503-2.3, which relates to permanent
19 relinquishments; expanding list of those persons with
20 whom permanent relinquishment may be made; amending
21 10 O.S. 2001, Section 7505-2.1, as amended by Section
22 1, Chapter 253, O.S.L. 2006 (10 O.S. Supp. 2007,
23 Section 7505-2.1, which relates to preadoption
24 termination of parental rights; clarifying language;
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; eliminating 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; 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; 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 7501-1.3, as
2 amended by Section 8, Chapter 445, O.S.L. 2002 (10 O.S. Supp. 2007,
3 Section 7501-1.3), is amended to read as follows:

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

5 1. "Abandonment" includes, but is not limited to, the
6 following:

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

14 b. the parent has voluntarily left the minor alone or in
15 the care of another who is not the parent of the minor
16 and expressed a willful intent by words, actions, or
17 omissions not to return for the minor, or

18 c. the parent fails to maintain a substantial and
19 positive relationship with the minor for a period of
20 six (6) consecutive months out of the last fourteen
21 (14) months immediately preceding the filing of a
22 petition for termination of parental rights or a
23 petition for adoption. For purposes of this section,
24

1 "establish and/or maintain a substantial, positive
2 relationship" includes but is not limited to:

3 (1) frequent and regular contact with the minor
4 through frequent and regular visitation or
5 frequent, and regular communication to or with
6 the minor, and

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

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

15 2. "Adoptee" means an individual who is adopted or is to be
16 adopted;

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

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

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

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

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

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

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

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

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

21 12. "Putative father" means the father of a minor born out of
22 wedlock or a minor whose mother was married to another person at the
23 time of the birth of the minor or within the ten (10) months prior
24 to the birth of the minor and includes, but is not limited to, a man

1 | who has acknowledged or claims paternity of a minor, a man named by
2 | the mother of the minor to be the father of the minor, or any man
3 | who is alleged to have engaged in sexual intercourse with a woman
4 | during a possible time of conception;

5 | 13. "State" means any state, territory, or possession of the
6 | United States, the commonwealth of Puerto Rico, and the District of
7 | Columbia; and

8 | 14. "Stepparent" means an individual who is the spouse or
9 | surviving spouse of a parent of a minor, but who is not a legal
10 | parent of the minor.

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

14 | Section 7502-1.4 A. The courts of this state shall recognize a
15 | decree, judgment, or final order creating the relationship of parent
16 | and child by adoption, issued by a court or other governmental
17 | authority with appropriate jurisdiction in a foreign country or in
18 | another state or territory of the United States. The rights and
19 | obligations of the parties as to matters within the jurisdiction of
20 | this state shall be determined as though the decree, judgment, or
21 | final order were issued by a court of this state. Except that, this
22 | state, any of its agencies, or any court of this state shall not
23 | recognize an adoption by more than one individual of the same sex
24 | from any other state or foreign jurisdiction.

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

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

18 D. An adoptive parent of a minor adopted outside of the United
19 States may petition to readopt the minor under Oklahoma law, if one
20 or both of the petitioners are citizens of Oklahoma and the minor is
21 residing in Oklahoma at the time the petition for adoption is filed.

22 E. A proceeding to adopt or readopt a minor born outside of the
23 United States as provided for in subsection C or subsection D of
24

1 this section shall proceed pursuant to the Oklahoma Adoption Code,
2 with the following provisions:

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

19 2. If a minor born outside of the United States is in the legal
20 custody of a child-placing agency at the time that the petition for
21 adoption is filed, notice of the proceedings shall be given to the
22 child-placing agency prior to the hearing on the petition, and the
23 consent of the child-placing agency to the adoption shall be
24

1 obtained pursuant to Section 7503-2.1 of this title prior to the
2 granting of the decree of adoption; and

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

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

10 b. a postplacement report has been submitted to the
11 court.

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

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

17 1. Both parents of the minor;

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

19 a. the other parent is dead,

20 b. the parental rights of the other parent have been
21 terminated, or

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

24

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

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

9 a. the minor has been permanently relinquished to ~~such~~
10 the agency by:

11 (1) both parents, or

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

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

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

23 a. the parental rights of both parents have been
24 judicially terminated, and

1 b. the court that issued the custody order for the minor
2 has consented to adoption and a certified copy of its
3 order containing its consent is filed before the final
4 decree.

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

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

11 a. given by ~~such~~ the minor parent before a judge of the
12 district court, and

13 b. accompanied by the written consent of:

14 (1) the legal guardian of the minor parent,

15 (2) the parents of the minor parent,

16 (3) the parent having custody of the minor parent, if
17 the other parent of the minor parent is deceased
18 or the parents of the minor parent are divorced,
19 or

20 (4) the person having physical custody of the minor
21 parent, if both parents of the minor parent are
22 deceased, or

23 c. accompanied by a finding of the court issuing the
24 decree of adoption, if consent cannot be secured from

1 any individual whose consent is required by
2 subparagraph b of this paragraph, that:

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

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

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

23 D. 1. When consent for adoption is necessary for minors in the
24 custody of the Department of Human Services, the Director of the

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

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

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

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

23 B. Permanent relinquishments may be made only to:

24 1. The Department of Human Services;

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

2 3. A guardian ad litem;

3 4. A legal guardian, other than the prospective adoptive parent
4 of the child; or

5 ~~3-~~ 5. Any other person, with the written consent of the
6 Department or court.

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

10 1. The date, place, and time of the execution of the permanent
11 relinquishment;

12 2. The name and date of birth of the person executing the
13 permanent relinquishment;

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

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

22 5. The name of the person or agency as described in subsection
23 B of this section to whom the permanent relinquishment is being
24

1 given and who shall have the right to give consent to the minor's
2 adoption.

3 D. A permanent relinquishment must state:

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

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

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

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

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

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

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

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

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

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

16 G. The verification of the court shall be in substantially the
17 following form:

18 I, _____, Judge of the District Court in and for
19 _____ County, State of Oklahoma, a Court having original
20 adoption jurisdiction, do hereby certify, that upon this day,
21 _____ personally appeared in open Court, before me, and orally
22 and in writing executed the above and foregoing permanent
23 relinquishment for adoption.

24

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

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

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

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

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

21 b. If the foreign country's government does not involve
22 itself in adoption matters, the permanent
23 relinquishment may be executed before an officer of
24 the Judge Advocate General's Office of the United

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

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

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

1 translation must be sworn to as being a true and correct translation
2 by the person translating the document.

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

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

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

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

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

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

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

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

21 2. The notice shall contain the name of the putative father or
22 parent, or if unknown, the name of the minor, the date of birth of
23 the minor, the date of the hearing, and the ground or grounds for
24 which termination of parental rights is sought. The notice shall

1 apprise the putative father or parent of his or her legal rights and
2 shall include a clear statement that failure to appear at the
3 hearing shall constitute a denial of interest in the minor which
4 denial may result, without further notice of this proceeding or any
5 subsequent proceeding, in the termination of his or her parental
6 rights and the transfer of the care, custody or guardianship of the
7 minor or in the adoption of the minor.

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

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

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

20 D. At the hearing on the petition to terminate parental rights
21 brought pursuant to this section, the court may, if it is in the
22 best interest of the minor:
23
24

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

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

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

18 2. The court shall certify that the child-placing agency or the
19 attorney who filed the petition to terminate parental rights, the
20 putative father, the parent, and any prospective adoptive parents
21 have received notice of the date of the custody hearing at least
22 fifteen (15) days prior to the date of the hearing. A parent having
23 legal custody who has signed a consent or permanent relinquishment
24 must be served with notice of the date of the custody hearing, by

1 the party who filed the petition for termination, in the same manner
2 as summons is served in civil cases at least fifteen (15) days prior
3 to the date of the hearing.

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

7 4. At the hearing, the court may award custody to the
8 biological mother, the biological father, the biological parents, if
9 they are married, a parent, the prospective adoptive parent, or the
10 Department of Human Services or other licensed child-placing agency,
11 if the Department or agency had legal custody when the petition was
12 filed, according to Section 21.1 of this title, in the best
13 interests of the child.

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

16 F. The court shall terminate the rights of a putative father or
17 parent if the person fails to appear at the hearing on the petition
18 to terminate parental rights or if a waiver of notice pursuant to
19 paragraph 4 of subsection B of this section has been filed with the
20 court.

21 G. No order of the court shall be vacated, set aside, or
22 annulled upon the application of any person who was properly served
23 with notice in accordance with this section but failed to appear
24 unless the applicant can establish by clear and convincing evidence

1 that such failure to appear was due to unavoidable circumstances.
2 Such application must be filed within ten (10) days of the date of
3 the hearing at which the applicant failed to appear. No order of
4 the court shall be vacated, set aside, or annulled upon the
5 application of any person who waived notice pursuant to paragraph 4
6 of subsection B of this section.

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

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

13 1. In an appeal concerning the termination of parental rights
14 pursuant to this section, the designation of record by the appellant
15 shall be filed in the trial court within ten (10) days after the
16 date of the judgment. The counter designation of record by the
17 appellee shall be filed in the trial court ten (10) days after
18 designation of record by the appellant is filed in the trial court.

19 2. All appeals of cases concerning the termination of parental
20 rights pursuant to this section shall be initiated by filing a
21 petition in error in the Supreme Court within thirty (30) days of
22 the filing of the order, judgment, or decree appealed from. The
23 record on appeal shall be completed within thirty (30) days from the
24 filing of the petition in error. Any response to the petition in

1 error shall be filed within twenty (20) days from the filing of the
2 petition in error.

3 3. The briefing schedule is established as follows:

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

9 b. an answer brief of the appellee shall be filed fifteen
10 (15) days after the brief in chief of the appellant is
11 filed, and

12 c. a reply brief of the appellant may be filed within ten
13 (10) days after the answer brief of the appellee is
14 filed.

15 J. The pendency of an appeal shall not suspend the order of the
16 district court regarding a minor, nor shall it remove the minor from
17 the custody of that court or of the person, institution, or agency
18 to whose care such minor has been committed, unless the Supreme
19 Court shall so order.

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

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

11 2. Termination of parental rights shall not terminate the duty
12 of the putative father or parent whose rights have been terminated
13 to support the child unless the court determines the person is not
14 the parent. The duty of a putative father or parent to support the
15 minor child shall not be terminated until such time as a final
16 decree of adoption has been entered.

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

19 Section 7505-4.1 A. If a consent to adoption or permanent
20 relinquishment for adoption has not been obtained from both parents
21 of a minor who is the subject of a petition for adoption, and the
22 rights of the nonconsenting parent or parents have not previously
23 been terminated, the petitioner for adoption, a consenting parent,
24 or a legal guardian or legal custodian of the minor to be adopted

1 must file an application to the court stating the reason that the
2 consent or relinquishment of the parent or parents is not necessary.
3 In the alternative, if the nonconsenting parent is a putative father
4 of a minor born out of wedlock, the petitioner for adoption, a
5 consenting parent, or a legal guardian or legal custodian of the
6 minor may file an application to terminate the parental rights of
7 the putative father. The grounds for terminating a putative father
8 pursuant to this section shall be identical to the grounds for
9 permitting an adoption without the consent of a parent, pursuant to
10 Section 7505-4.2 of this title.

11 B. A hearing on an application for adoption without consent or
12 an application to terminate parental rights cannot be combined with
13 the hearing on the application for a final decree of adoption. For
14 good cause shown, a hearing on the application for a final decree of
15 adoption may be heard as early as the same day as a hearing on an
16 application for adoption without consent or an application to
17 terminate parental rights, without prejudice to the rights of any
18 parties to appeal from the order terminating parental rights.
19 Notice for the hearings provided for in this subsection may be
20 served simultaneously.

21 C. 1. Prior to the hearing on the application to permit the
22 adoption of the minor without the consent or relinquishment of a
23 parent, or the application to terminate the rights of a putative
24 father filed pursuant to this section, notice of the hearing on the

1 application and a copy of the application shall be served upon the
2 parent or putative father who is the subject of the application in
3 the same manner as summons is served in civil cases, not less than
4 fifteen (15) days prior to the hearing.

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

18 3. If the identity or whereabouts of a parent or putative
19 father are unknown, the court must determine whether the parent or
20 putative father can be identified or located. Following an inquiry
21 pursuant to Section 7505-4.3 of this title, if the court finds that
22 the identity or whereabouts of the putative father cannot be
23 ascertained, and this fact is attested to by affidavit of the
24 consenting parent, legal guardian or legal custodian of the minor,

1 it shall order that notice be given by publication and, if the
2 identity is known, that a copy be mailed to the last-known address
3 of the parent or putative father. The notice shall be published
4 once pursuant to the laws relating to the service of notice by
5 publication in the county in which the petition to adopt is filed,
6 and the hearing shall not be held for at least fifteen (15) days
7 after publication of the notice. When notice is given by
8 publication, an order terminating parental rights shall not become
9 final for a period of fifteen (15) days from the date of the order.

10 4. A parent or putative father may waive such person's right to
11 notice pursuant to this section. The waiver, signed by the parent
12 or putative father, shall include a statement affirming that the
13 person signing the waiver understands that the waiver shall
14 constitute grounds for ordering adoption without consent of the
15 parent or for the termination of the parental rights of a putative
16 father pursuant to the provisions of this section and Section 7505-
17 4.2 of this title. A putative father may waive his right to notice
18 under this section, by signing an extrajudicial consent pursuant to
19 Section 7503-2.6 of this title, or by waiving notice on a form filed
20 with the Paternity Registry of the Department of Human Services, or
21 by failing to register with the Paternity Registry of the Department
22 of Human Services after receiving a Notice of Plan for Adoption
23 pursuant to Section 7503-3.1 of this title.

24

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

6 E. At the hearing on an application to permit adoption without
7 the consent or relinquishment of a parent, the court may determine
8 whether the minor is eligible for adoption pursuant to Section 7505-
9 4.2 of this title. At the hearing on an application to terminate
10 the parental rights of a putative father, the court may, if it is in
11 the best interests of the minor, determine that the consent of the
12 putative father to the adoption of the minor is not required, and
13 terminate any parental rights which the putative father may have, as
14 provided in Section 7505-4.2 of this title. If a putative father
15 has neither appeared at the hearing after notice, nor established
16 that he is the parent of the child, then he is not entitled to
17 notice as provided for in Section 7505-6.3 of this title.

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

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

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

11 I. 1. a. An appeal may be taken from any final order, judgment,
12 or decree terminating parental rights rendered
13 pursuant to this section to the Supreme Court by any
14 person aggrieved thereby, in the manner provided for
15 appeals from the court as provided in this subsection.

16 b. An appeal from an order determining a child eligible
17 for adoption which does not terminate parental rights
18 may be taken in the same manner provided for appeals
19 from the court as provided in this subsection. The
20 failure of a parent to appeal from an order declaring
21 a child eligible for adoption without consent of the
22 parent which does not terminate parental rights shall
23 not preclude such parent from asserting error in the
24 order after the final decree is rendered.

1 2. In an appeal concerning the termination of parental rights
2 for purposes of adoption pursuant to this section or from an order
3 determining a child eligible for adoption which does not terminate
4 parental rights pursuant to this section, the appellant's
5 designation of record shall be filed in the trial court within ten
6 (10) days after the date of the judgment or order. Appellee's
7 counter designation of record shall be filed in the trial court ten
8 (10) days after appellant's designation of record is filed in the
9 trial court.

10 3. All appeals of cases concerning the termination of parental
11 rights for purposes of adoption or an order determining a child
12 eligible for adoption which does not terminate parental rights
13 pursuant to this section shall be initiated by filing a petition in
14 error in the Supreme Court within thirty (30) days of the filing of
15 the order, judgment, or decree appealed from. The record on appeal
16 shall be completed within thirty (30) days from the filing of the
17 petition in error. Any response to the petition in error shall be
18 filed within twenty (20) days from the filing of the petition in
19 error.

20 4. The briefing schedule is established as follows:

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

1 b. appellant's answer brief shall be filed fifteen (15)
2 days after the appellant's brief in chief is filed,
3 and

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

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

12 K. The pendency of an appeal shall not suspend the order of the
13 district court regarding a minor, nor shall it remove the minor from
14 the custody of that court or of the person, institution, or agency
15 to whose care such minor has been committed, unless the Supreme
16 Court shall so order.

17 L. 1. The termination of parental rights terminates the
18 parent-child relationship, including the parent's right to the
19 custody of the child and the parent's right to visit the child, the
20 parent's right to control the child's training and education, the
21 necessity for the parent to consent to the adoption of the child,
22 the parent's right to the earnings of the child, and the parent's
23 right to inherit from or through the child. Provided, that this
24

1 subsection shall not in any way affect the right of the child to
2 inherit from the parent.

3 2. Termination of parental rights pursuant to this section
4 shall not terminate the duty of either parent to support the minor
5 child of such parent. The duty of the parent to support the minor
6 child shall not be terminated until such time as a final decree of
7 adoption has been entered.

8 3. A determination that the consent to adoption is not required
9 from the parent of a minor shall not, by itself, act to relieve such
10 parent of the obligation to provide for the support of the minor as
11 otherwise required by law. The duty of the parent to support the
12 minor child shall not be terminated until such time as a final
13 decree of adoption has been entered.

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

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

21 B. Consent to adoption is not required from a parent or
22 putative father who, for a period of twelve (12) consecutive months
23 out of the last fourteen (14) months immediately preceding the
24 filing of a ~~petition for adoption of a child~~ an application for

1 determination that the child is eligible for adoption without the
2 consent of the parent or putative father pursuant to Section 7505-
3 4.1 of this title, or a petition to terminate parental rights
4 pursuant to Section 7505-2.1 of this title, has refused, neglected,
5 or willfully failed, ~~refused, or neglected~~ to contribute to the
6 support of ~~such~~ the minor:

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

10 2. According to ~~such parent's~~ the financial ability of the
11 parent or putative father to contribute to ~~such~~ the minor's support
12 if no provision for support is provided in an order. For the
13 purposes of this section, "contribute to the support for of the
14 minor shall benefit the minor by providing a necessity" means to
15 either actually provide or make multiple attempts to provide the
16 minor's necessities such as food, clothing, housing, and medical
17 care. Payments ~~that~~ which shall not be considered support shall
18 include, but are not limited to:

- 19 a. genetic and drug testing,
20 b. supervised visitation,
21 c. counseling for any person other than the minor,
22 d. court fees and costs,
23 e. restitution payments, ~~and~~

24

- 1 f. attorney fees for any person or entity other than the
2 minor's attorney, and
- 3 g. transportation costs for any person other than the
4 mother during pregnancy or the minor, unless such
5 transportation expenses are specifically ordered in
6 lieu of support in a court order.

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

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

11 1. ~~The minor is placed for adoption within ninety (90) days of~~
12 ~~birth, and the~~ father or putative father fails to show 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 mother of the ~~child~~ minor to the
16 extent of his financial ability during her term of pregnancy; or

17 2. ~~The minor is placed for adoption within~~ For a period of
18 twelve (12) consecutive months of the last fourteen (14) months ~~of~~
19 ~~birth, and~~ immediately preceding the filing of a petition to
20 terminate parental rights or a petition for adoption the father or
21 putative father fails to show that he has exercised parental rights
22 or fulfilled parental duties towards the minor, including, but not
23 limited to, ~~failure to contribute~~ contributing to the support of the
24 minor to the extent of his financial ability, which may include

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

8 The incarceration of a parent or putative father in and of
9 itself shall not prevent 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~~ Section 7505-2.1 ~~and~~ or Section
13 7505-4.1 of this title, he had been specifically denied knowledge of
14 the existence of the minor or denied the opportunity to exercise
15 parental rights and fulfill parental duties toward the minor, such
16 father or putative father must prove to the satisfaction of the
17 court that he made sufficient attempts to discover if he had
18 fathered a minor or made sufficient attempts to exercise parental
19 rights and fulfill parental duties toward the minor prior to the
20 receipt of notice. For purposes of this section:

21 1. A single attempt by a father or putative father is
22 insufficient;

23

24

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

4 3. The required knowledge is that knowledge which is imputed to
5 a male person, based upon his having had sexual relations with a
6 female person, and the male person's concomitant responsibilities
7 to:

8 a. inform himself of the existence and needs of any child
9 conceived therefrom, and

10 b. exercise parental rights and fulfill parental duties
11 toward that child even before the child's birth,
12 including but not limited to the person's having acted
13 timely, positively, and affirmatively to seize his
14 parental opportunity interest.

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

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

1 G. Consent to adoption is not required from a parent or
2 putative father who is entitled to custody of a minor and has
3 abandoned the minor.

4 H. 1. Consent to adoption is not required from a parent or
5 putative father who fails to establish and/or maintain a substantial
6 and positive relationship with a minor for a period of twelve (12)
7 consecutive months out of the last fourteen (14) months immediately
8 preceding the filing of ~~a petition for adoption of the child~~ an
9 application for determination that the child is eligible for
10 adoption without the consent of the parent or putative father
11 pursuant to Section 7505-4.1 of this title or a petition to
12 terminate parental rights pursuant to Section 7505-2.1 of this
13 title.

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

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

4 a. has not maintained frequent and regular contact with
5 the minor through frequent and regular visitation or
6 frequent and regular communication to or with the
7 minor, or

8 b. has not exercised parental rights and fulfilled
9 parental responsibilities, including but not limited
10 to a putative father not acting timely, positively,
11 and affirmatively to seize his parental opportunity
12 interest.

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

18 1. Physically or sexually abused the minor or a sibling of such
19 minor or failed to protect the minor or a sibling of such minor from
20 physical or sexual abuse that is heinous or shocking to the court or
21 that the minor or sibling of such minor has suffered severe harm or
22 injury as a result of such physical or sexual abuse; or

23 2. Physically or sexually abused the minor or a sibling of such
24 minor or failed to protect the minor or a sibling of such minor from

1 physical or sexual abuse subsequent to a previous finding that such
2 parent has physically or sexually abused the minor or a sibling of
3 such minor or failed to protect the minor or a sibling of such minor
4 from physical or sexual abuse.

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

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

21 L. Consent to adoption is not required from:

22 1. A parent who has a mental illness or mental deficiency, as
23 defined by paragraphs f and g of Article II of Section 6-201 of
24 Title 43A of the Oklahoma Statutes, which renders the parent

1 incapable of adequately and appropriately exercising parental
2 rights, and fulfilling parental duties and responsibilities;

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

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

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

20 N. Consent to adoption is not required from:

21 1. An individual who has permanently relinquished his or her
22 parental rights and responsibilities to the minor pursuant to the
23 Oklahoma Adoption Code;

24

1 2. An individual whose parental relationship to a minor has
2 been legally terminated or legally determined not to exist,
3 including but not limited to a putative father not acting timely,
4 positively, and affirmatively to seize his parental opportunity
5 interest; or

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

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

21 SECTION 8. This act shall become effective November 1, 2008.

22
23 51-2-8432 SAB 1/17/07
24