

THE HOUSE OF REPRESENTATIVES  
Wednesday, February 24, 2010

Committee Substitute for  
House Bill No. 2648

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2648 - By: NELSON of the House.

An Act relating to children; amending 10 O.S. 2001, Section 7502-1.1, as amended by Section 2, Chapter 69, O.S.L. 2005 (10 O.S. Supp. 2009, Section 7502-1.1), which relates to jurisdiction in certain child custody cases; providing that jurisdictional issues shall be determined by certain law; amending 10 O.S. 2001, Section 7505-3.2, as last amended by Section 2, Chapter 288, O.S.L. 2009 (10 O.S. Supp. 2009, Section 7505-3.2), which relates to adoption-related expenses and requirements; providing for the selection of an attorney for birth mothers in some circumstances; allowing certain attorney fees to be approved prior to adoption filing; prohibiting certain attorneys from utilizing certain fees as expenses for birth mother; allowing for certain gifts to birth mother; raising maximum amount of expenses allowed for adoptions; 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 7502-1.1, as amended by  
2 Section 2, Chapter 69, O.S.L. 2005 (10 O.S. Supp. 2009, Section 7502-1.1), is amended to  
3 read as follows:  
4 Section 7502-1.1 A. ~~Except as otherwise provided in this section, a court of this~~  
5 ~~state has jurisdiction~~ Jurisdiction over proceedings to terminate parental rights and  
6 proceedings for the adoption of a minor commenced pursuant to the Oklahoma Adoption  
7 Code if:



- 1           a.     ~~the minor and the minor's parents, or the minor and the prospective~~  
2                     ~~adoptive parent, have a significant connection with this state, and~~  
3           b.     ~~there is available in this state substantial evidence concerning the~~  
4                     ~~minor's present or future care;~~

5           4. ~~The minor and the prospective adoptive parent are physically present in this~~  
6     ~~state, and the minor has been abandoned or it is necessary in an emergency to protect~~  
7     ~~the minor because the minor has been subjected to or threatened with mistreatment or~~  
8     ~~abuse or is otherwise neglected; or~~

9           5. ~~It appears that no other state would have jurisdiction under prerequisites~~  
10   ~~substantially in accordance with paragraphs 1 through 4 of this subsection, or another~~  
11   ~~state has declined to exercise jurisdiction on the ground that this state is the more~~  
12   ~~appropriate forum to hear a petition for adoption of the minor, and it is in the best~~  
13   ~~interest of the minor that a court of this state assume jurisdiction.~~

14           B. 1. ~~If a child is born in this state and the mother of the child executes her~~  
15   ~~consent or permanent relinquishment before a judge of a court of this state, a court of~~  
16   ~~this state may exercise jurisdiction over a proceeding for the termination of parental~~  
17   ~~rights of a putative father pursuant to Section 7505-2.1 of this title.~~

18           2. ~~If a parent has signed a permanent relinquishment in the presence of a court of~~  
19   ~~this state pursuant to Section 7503-2.3 of this title, the court may exercise jurisdiction to~~  
20   ~~issue an order terminating the parental rights of the parent to the child pursuant to~~  
21   ~~Section 7503-2.3 of this title.~~

1           ~~3. A court of this state may exercise jurisdiction to issue a temporary order of~~  
2 ~~custody pursuant to Section 7503-4.1 of this title for:~~

3           ~~a. a minor born in this state, or~~

4           ~~b. a minor brought into this state in compliance with the Interstate~~  
5 ~~Compact on the Placement of Children, if the court is exercising~~  
6 ~~jurisdiction pursuant to this section over an adoption proceeding~~  
7 ~~concerning the minor that is pending before the court.~~

8           ~~4. If the court does not have jurisdiction over an adoption proceeding pursuant to~~  
9 ~~subsection A of this section, any order issued pursuant to this subsection shall include a~~  
10 ~~finding by the court that states that the court is declining jurisdiction over the adoption~~  
11 ~~proceeding and is deferring jurisdiction to the more appropriate state.~~

12           ~~C. Except as otherwise provided by this section, a court of this state shall not~~  
13 ~~exercise jurisdiction over a proceeding for adoption of a minor or for termination of~~  
14 ~~parental rights brought pursuant to Section 7505-2.1 or 7505-4.1 of this title if, at the~~  
15 ~~time the petition for adoption or termination is filed:~~

16           ~~1. Another court of this state is exercising jurisdiction pursuant to Section 7002-1.1~~  
17 ~~of this title, unless after notice to the parties to such deprived action, the written consent~~  
18 ~~of such court is obtained and filed in the adoption proceeding, or,~~

19           ~~2. A proceeding concerning the custody or adoption of the minor is pending in a~~  
20 ~~court of another state exercising jurisdiction substantially in conformity with the~~  
21 ~~Uniform Child Custody Jurisdiction Act, the Uniform Child Custody Jurisdiction and~~  
22 ~~Enforcement Act or the Oklahoma Adoption Code, unless the proceeding is stayed by the~~

1 court of the other state because this state is a more appropriate forum or for another  
2 reason.

3 ~~D. In any instance when a court of this state is exercising jurisdiction over a~~  
4 ~~proceeding for adoption of a minor who is a resident of this state by adoptive parents who~~  
5 ~~are not legal residents of this state at the time of the filing of the petition for adoption,~~  
6 ~~the court shall require, prior to the granting of a final decree of adoption, either proof of~~  
7 ~~compliance with the Interstate Compact on the Placement of Children or verification that~~  
8 ~~this adoptive placement is otherwise exempt from the Interstate Compact on the~~  
9 ~~Placement of Children.~~

10 ~~E. If a court of another state has issued a decree or order concerning the custody of~~  
11 ~~a minor who may be the subject of a proceeding for adoption or for termination of~~  
12 ~~parental rights brought pursuant to Section 7505-2.1 or 7505-4.1 of this title in this~~  
13 ~~state, a court of this state shall not exercise jurisdiction over a proceeding for adoption or~~  
14 ~~termination of parental rights of the minor unless:~~

15 ~~1. The court of this state finds that the court of the state which issued the decree or~~  
16 ~~order:~~

17 ~~a. does not have continuing jurisdiction to modify the decree or order~~  
18 ~~under the law of the state which issued the decree or order or has~~  
19 ~~declined to assume jurisdiction to modify the decree or order, or~~

20 ~~b. does not have jurisdiction over a proceeding for adoption substantially~~  
21 ~~in conformity with paragraphs 1 through 4 of subsection A of this~~

1                    ~~section or has declined to assume jurisdiction over a proceeding for~~  
2                    ~~adoption; and~~

3                    ~~2. The court of this state has jurisdiction pursuant to this section over the~~  
4 ~~proceeding for adoption or termination of parental rights~~ shall be governed by the  
5 Uniform Child Custody Jurisdiction and Enforcement Act as provided in Sections 551-  
6 101 through 551-402 of Title 43 of the Oklahoma Statutes.

7                    SECTION 2.    AMENDATORY    10 O.S. 2001, Section 7505-3.2, as last amended  
8 by Section 2, Chapter 288, O.S.L. 2009 (10 O.S. Supp. 2009, Section 7505-3.2), is  
9 amended to read as follows:

10                    Section 7505-3.2 A. 1. An affidavit shall be attached to the petition for adoption, or  
11 may be filed after the filing of the petition for adoption, but prior to the final decree of  
12 adoption, which discloses to the court all of the costs, funds, or monies expended by the  
13 adoptive family or expected to be expended in connection with the adoption of a minor.

14                    2. No final decree of adoption shall be entered until the court is satisfied that all  
15 costs and expenses have been disclosed, are reasonable, and that the costs and expenses  
16 do not violate the provisions of subsection B of this section. Upon its review of the  
17 affidavit of monies expended, the court shall in writing disapprove any expenditure that  
18 the court deems unreasonable or in violation of Sections 865 through 869 of Title 21 of  
19 the Oklahoma Statutes and, to the extent necessary to comply with Oklahoma law, shall  
20 order reimbursement of any consideration given in violation of Sections 865 through 869  
21 of Title 21 of the Oklahoma Statutes. Payments made pursuant to this section shall not  
22 be a violation of Sections 865 through 869 of Title 21 of the Oklahoma Statutes.

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

1           3. The court shall select an attorney to represent the birth mother, to be  
2 compensated by the adoptive parents, provided that the court determines that such  
3 representation shall be necessary to protect the interests of the birth mother.

4           4. The court may approve attorney fees negotiated between adoptive parents and  
5 counsel prior to the filing of the petition for adoption if the court determines that the fees  
6 are reasonable.

7           5. Private attorneys shall not utilize any fee designated as a service or legal fee  
8 received from the adoptive parents for the expenses of the birth mother for any purpose  
9 not authorized by the provisions of this section.

10           B. 1. Except as otherwise specifically provided by law, the following list of  
11 adoption-related costs and expenses specified in this paragraph may be deemed proper  
12 items for a person to pay in connection with an adoption:

- 13           a.     reasonable attorney fees and court costs,
- 14           b.     reasonable medical expenses for birth mother and minor to be adopted,
- 15           c.     reasonable adoption counseling expenses for birth parents before and  
16                    after the birth of the minor, not to exceed six (6) months from  
17                    placement of the minor,
- 18           d.     reasonable fees of a licensed child-placement agency,
- 19           e.     reasonable living expenses for housing, food, clothing, utilities, and  
20                    other necessities of the birth mother that are incurred during the  
21                    adoption planning process or during the pregnancy, not to exceed two

- 1 (2) months after the birth of the minor or after the consent or  
2 relinquishment of the birth mother,  
3 f. reasonable costs for travel or transportation of the birth mother or  
4 minor as same is incurred for medical or adoption placement needs,  
5 g. reasonable expenses for a home study, ~~and~~  
6 h. reasonable expenses legally required by any governmental entity  
7 related to the adoption of a minor, and  
8 i. reasonable small gifts to the birth mother, provided that all such gifts  
9 do not exceed One Hundred Dollars (\$100.00).

10 2. In addition, all expenses approved by the court should be commensurate with  
11 other customary fees for similar services by persons of equivalent experience and  
12 training where the services are performed. Any services provided outside this state shall  
13 be allowed in an amount as if the services had been performed within the State of  
14 Oklahoma.

15 3. The provisions of this subsection shall apply to living and transportation  
16 expenses incurred after the biological mother of the minor contacts the child-placing  
17 agency or attorney for adoption services.

18 4. The provisions of this subsection shall not prohibit a court from extending any  
19 time period, or including any additional costs and expenses in connection with an  
20 adoption other than those specified in this subsection based on unusual circumstances or  
21 need.

1           5. Except as otherwise ordered by the court except for good cause shown, all  
2 payments made pursuant to this section shall be paid directly to the third-party provider  
3 of services or goods.

4           C. Any person desiring to pay living and transportation expenses to or on behalf of  
5 a birth parent is authorized to expend an initial amount not to exceed ~~Five Hundred~~  
6 ~~Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00) for such costs and expenses without  
7 first obtaining court approval as required by paragraph 1 of subsection D of this section.  
8 Any such costs and expenses shall be disclosed as is otherwise required by the Oklahoma  
9 Adoption Code.

10          D. 1. Except for the amount authorized by subsection C of this section, the  
11 payment of any living or transportation expenses for benefit of the birth mother as  
12 authorized in subparagraphs e and f of paragraph 1 of subsection B of this title shall be  
13 approved in advance by the court.

14          2. The person, attorney, or licensed child-placing agency desiring to pay living or  
15 transportation expenses on behalf of a birth mother which exceed the amount in  
16 subsection C of this section shall file a petition for an order approving payment of  
17 adoption-related expenses.

18          3. The petition for an order approving payment of adoption-related expenses shall  
19 be filed in the district court where the adoption petition is to be filed, as provided in  
20 Section 7502-1.2 of this title.

21          4. The petition shall be captioned: "In the matter of Baby (name)." The petition  
22 shall include a listing of all anticipated living or transportation expenses to be paid on

1 behalf of the birth mother for which court approval is being sought. If additional  
2 expenditures not previously authorized by the court are needed on behalf of the birth  
3 mother, an amended petition may be filed with the court.

4 5. The petition shall be heard by the court within ten (10) days of filing. The court  
5 clerk shall charge the same cost for a petition for payment of expenses as is charged for  
6 the filing of an adoption petition. In the event an adoption petition is later filed in the  
7 same county, the adoption petition shall be filed as an amended petition within the same  
8 case in which payment for expenses was approved and no additional court costs shall be  
9 required. In the event a petition for preadoption termination of parental rights is later  
10 filed in the same county, the court clerk shall not assess an additional filing fee and may  
11 use the same case number as for the petition for adoption.

12 6. Any order authorizing payment shall be attached to a petition for adoption. If no  
13 adoption petition is filed, the court shall retain jurisdiction to enter any orders deemed  
14 appropriate regarding the reimbursement of costs and expenses paid. If the child is  
15 placed for adoption outside the State of Oklahoma, any such order shall be submitted to  
16 the Interstate Compact of the Placement of Children and to the court in the other state  
17 where the petition for adoption is to be filed.

18 E. 1. In addition to the adoptive family affidavit requirement of subsection A of  
19 this section, a Disclosure Statement of Adoption-related Costs and Expenditures shall be  
20 prepared in writing by the person, attorney or child-placing agency in a direct-placement  
21 adoption. The Disclosure Statement of Adoption-related Costs and Expenditures shall

1 include a declaration of all fees, expenses, and costs charged or expected to be charged for  
2 the adoption including, but not limited to, the following:

- 3 a. retainer fees, the hourly rate, and the number of hours billed for the  
4 adoption,
- 5 b. any fee charged for preplacement or other home studies of any  
6 prospective birth parents, regardless of whether the home study was  
7 performed by an outside agency,
- 8 c. any costs, fees or expenses or any other thing of value paid to or on  
9 behalf of the birth parents related to the adoption of a minor by any  
10 party other than the adoptive parents, and
- 11 d. any other fees and expenses related to the adoption not otherwise  
12 specifically listed in this section.

13 2. The Disclosure Statement of Adoption-related Costs and Expenditures

14 containing true and accurate information shall be filed before the final decree of adoption  
15 is ordered in each adoption of a minor in this state. The statement shall be a public  
16 record; provided, that any information identifying the person, attorney or child-placing  
17 agency in the direct adoption shall not be made public. In addition, the identity of the  
18 child, the adoptive parents, and the birth parents shall not be made public.

19 SECTION 3. This act shall become effective November 1, 2010.

20 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02-23-10 -  
21 DO PASS, As Amended.