

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 3085

By: Williams

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5
6 AS INTRODUCED

7 An Act relating to children; amending 10 O.S. 2001,
8 Section 7003-4.7, as last amended by Section 33,
9 Chapter 233, O.S.L. 2009, and as renumbered by
10 Section 262, Chapter 233, O.S.L. 2009 (10A O.S. Supp.
11 2009, Section 1-4-902), which relates to termination
12 of parental rights; providing for termination of
13 parental rights due to certain domestic violence
14 convictions; specifying that child or children need
15 not be adjudicated deprived; specifying that best
16 interests of child or children and victim are served
17 by terminating rights; specifying that child support
18 obligations continue despite termination; providing
19 certain exception; authorizing victim or private
20 attorney to notify district attorney of appropriate
21 cases; requiring district attorney to provide reason
22 if declining prosecution; and providing an effective
23 date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7003-4.7, as
last amended by Section 33, Chapter 233, O.S.L. 2009, and as
renumbered by Section 262, Chapter 233, O.S.L. 2009 (10A O.S. Supp.
2009, Section 1-4-902), is amended to read as follows:

Section 1-4-902. A. The district attorney shall file a
petition or motion for termination of the parent-child relationship

1 and parental rights with respect to a child or shall join in the
2 petition or motion, if filed by the child's attorney, in any of the
3 following circumstances:

4 1. Prior to the end of the fifteenth month when a child has
5 been placed in foster care by the Department of Human Services for
6 fifteen (15) of the most recent twenty-two (22) months. For
7 purposes of this paragraph, a child shall be considered to have
8 entered foster care on the earlier of:

- 9 a. the date of adjudication as a deprived child, or
- 10 b. the date that is sixty (60) days after the date on
11 which the child is removed from the home;

12 2. No later than sixty (60) days after a child has been
13 judicially determined to be an abandoned infant;

14 3. No later than sixty (60) days after a court has determined
15 that reasonable efforts to reunite are not required due to a felony
16 conviction of a parent who has:

- 17 a. committed the murder of any child or has aided or
18 abetted, attempted, conspired in, or solicited the
19 commission of the murder of any child,
- 20 b. committed voluntary manslaughter of another child of
21 the parent, or has aided or abetted, attempted,
22 conspired in, or solicited the commission of voluntary
23 manslaughter of any child, or

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1 c. committed a felony assault that has resulted in
2 serious bodily injury to the child or to any child.

3 B. If any of the following conditions exist, the district
4 attorney is not required to file a petition as provided in
5 subsection A of this section for a deprived child:

6 1. At the option of the Department or by order of the court,
7 the child is properly being cared for by a relative;

8 2. The Department has documented a compelling reason for
9 determining that filing a petition to terminate parental rights
10 would not serve the best interests of the child that may include
11 consideration of any of the following circumstances:

12 a. the parents or legal guardians have maintained a
13 relationship with the child and the child would
14 benefit from continuing this relationship,

15 b. the child, who is twelve (12) years or older, objects
16 to the termination of the parent-child legal
17 relationship,

18 c. the foster parents of the child are unable to adopt
19 the child because of exceptional circumstances which
20 do not include an unwillingness to accept legal
21 responsibility for the child but are willing and
22 capable of providing the child with a stable and
23 permanent environment, and the removal of the child
24 from the physical custody of the foster parents would

1 be seriously detrimental to the emotional well-being
2 of the child because the child has substantial
3 psychological ties to the foster parents,

4 d. the child is not capable of achieving stability if
5 placed in a family setting, or

6 e. the child is an unaccompanied, refugee minor and the
7 situation regarding the child involves international
8 legal issues or compelling foreign policy issues; or

9 3. The state has not provided to the family of the child,
10 consistent with the time period in the state case plan, services
11 that the state deems necessary for the safe return of the child to
12 the child's home, if reasonable efforts are required to be made with
13 respect to the child.

14 C. 1. The district attorney may file a petition or motion for
15 termination of the parent-child relationship and parental rights
16 with respect to a child or children due to a felony conviction of a
17 parent for assault and battery pursuant to subsection D, E or F of
18 Section 644, Section 644.1 or Section 647 of Title 21 of the
19 Oklahoma Statutes, provided that the perpetrator and victim of the
20 abuse are the parents of the child or children.

21 2. Termination of parental rights petitions or motions
22 initiated pursuant to this subsection shall not require that the
23 child or children be adjudicated deprived so long as the victim
24 parent retains custody of the child or children and the district

1 attorney determines that the best interests and future safety of the
2 child or children would be served by termination of parental rights
3 of the convicted parent.

4 D. 1. Termination of parental rights pursuant to subsection C
5 of this section shall not affect ongoing child support obligations,
6 although the support shall be directed to the parent who was the
7 victim of the assault and battery through the Child Support
8 Enforcement Division of the Department of Human Services.

9 2. Subsection C of this section shall not be applicable to
10 individuals subject to the Indian Child Welfare Act.

11 3. The parent who was the victim of the assault and battery, or
12 a private attorney representing the parent who was the victim of the
13 assault and battery, may notify the district attorney of appropriate
14 circumstances for termination of parental rights under subsection C
15 of this section. If within thirty (30) days of receiving the
16 notice, a district attorney decides not to pursue termination of
17 parental rights, the district attorney shall provide reasons for not
18 pursuing the termination to the person who provided the
19 notification.

20 SECTION 2. This act shall become effective November 1, 2010.

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22 52-2-8266 SDR 12/28/09

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