

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 510

6 By: Russell of the Senate

7 and

8 Nelson of the House

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to adoption procedures; amending 10
11 O.S. 2001, Sections 7501-1.3, as amended by Section
12 8, Chapter 445, O.S.L. 2002, 7502-1.1, as amended by
13 Section 2, Chapter 69, O.S.L. 2005, 7505-1.1, 7505-
14 3.1, 7505-3.2, as last amended by Section 2, Chapter
15 288, O.S.L. 2009, 7505-5.4 and 7508-1.1 (10 O.S.
16 Supp. 2010, Sections 7501-1.3, 7502-1.1 and 7505-
17 3.2), which relate to the Oklahoma Adoption Code;
18 modifying definition; adding definition; providing
19 that jurisdiction shall be determined by certain law;
20 requiring certain statement concerning the Oklahoma
21 Indian Child Welfare Act; directing the
22 Administrative Director of the Courts to develop
23 certain form; directing court clerks to provide form
24 to Administrative Director of the Courts; directing
Administrative Director of the Courts to provide
information to the Department of Human Services;
directing the Department of Human Services to publish
certain information; specifying deadlines for the
distribution of report; specifying required contents
of form; modifying adoption cost disclosure
requirements; specifying certain allowable expenses;
specifying certain disallowed expenses; modifying
procedure; directing courts to consider certain
conflicts of interest in the appointment of home
study providers; authorizing certain organizations to
provide continuing education requirements; extending
period certain records shall be retained; amending 10
O.S. 2001, Section 7005-1.3, as renumbered by Section
271, Chapter 233, O.S.L. 2009, and as last amended by
Section 14, Chapter 278, O.S.L. 2010 (10A O.S. Supp.

1 2010, Section 1-6-103), which relates to the
2 inspection of certain court records without court
3 orders; authorizing the release of certain
4 information to out-of-state entities; amending 21
5 O.S. 2001, Section 866, as last amended by Section 4,
6 Chapter 107, O.S.L. 2009 (21 O.S. Supp. 2010, Section
7 866), which relates to the crime of child
8 trafficking; providing that any violation of statute
9 shall be a felony; and providing an effective date.

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

11 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7501-1.3, as
12 amended by Section 8, Chapter 445, O.S.L. 2002 (10 O.S. Supp. 2010,
13 Section 7501-1.3), is amended to read as follows:

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

15 1. "Abandonment" includes, but is not limited to, the
16 following:

17 a. the parent has left the minor alone or in the care of
18 another who is not the parent of the minor without
19 identifying the minor or furnishing a means of
20 identification for the minor, the whereabouts of the
21 parents are unknown, and the minor's identity cannot
22 be ascertained by the exercise of reasonable
23 diligence,

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

1 c. the parent fails to maintain a substantial and
2 positive relationship with the minor for a period of
3 six (6) consecutive months out of the last fourteen
4 (14) months immediately preceding the filing of a
5 petition for termination of parental rights. For
6 purposes of this section, "establish and/or maintain a
7 substantial, positive relationship" includes but is
8 not limited to:

9 (1) frequent and regular contact with the minor
10 through frequent and regular visitation or
11 frequent, regular communication to or with the
12 minor, and

13 (2) exercising parental rights and responsibilities.
14 Incidental or token visits or communications
15 shall not be sufficient to establish or maintain
16 a substantial and positive relationship with the
17 minor.

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

21 2. "Adoptee" means an individual who is adopted or is to be
22 adopted;

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

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

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

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

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

10 8. "Direct placement adoption" means any adoption in which the
11 minor is not placed for adoption by the Department of Human Services
12 or a child-placing agency. A stepparent or relative adoption shall
13 not be considered a direct placement adoption;

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

16 10. "Parent" means an individual who is the biological or
17 adoptive parent of a child or who is legally recognized as a mother
18 or father of a child. The term "parent" does not include an
19 individual whose parental relationship to a child has been
20 terminated;

21 11. "Permanent relinquishment" means the voluntary surrender of
22 the rights of the parent or guardian with respect to a minor,
23 including legal and physical custody of the minor, to a child-
24 placing agency, Department of Human Services or any person with the

1 assent of the court, by a minor's parent or guardian, for purposes
2 of the minor's adoption;

3 12. "Putative father" means the father of a minor born out of
4 wedlock or a minor whose mother was married to another person at the
5 time of the birth of the minor or within the ten (10) months prior
6 to the birth of the minor and includes, but is not limited to, a man
7 who has acknowledged or claims paternity of a minor, a man named by
8 the mother of the minor to be the father of the minor, or any man
9 who is alleged to have engaged in sexual intercourse with a woman
10 during a possible time of conception;

11 13. "Relative adoption" means the placement of a child for
12 adoption with a parent, grandparent, stepparent, brother, sister,
13 first cousin, nephew, niece, uncle or aunt, who is related to the
14 child by either birth or marriage;

15 14. "State" means any state, territory, or possession of the
16 United States, the commonwealth of Puerto Rico, and the District of
17 Columbia; and

18 ~~14.~~ 15. "Stepparent" means an individual who is the spouse or
19 surviving spouse of a parent of a minor, but who is not a legal
20 parent of the minor.

21 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7502-1.1, as
22 amended by Section 2, Chapter 69, O.S.L. 2005 (10 O.S. Supp. 2010,
23 Section 7502-1.1), is amended to read as follows:

24

1 Section 7502-1.1. ~~A. Except as otherwise provided in this~~
2 ~~section, a court of this state has jurisdiction~~ Jurisdiction over
3 proceedings to terminate parental rights and proceedings for the
4 adoption of a minor commenced pursuant to the Oklahoma Adoption Code
5 ~~if:~~

6 1. a. ~~Immediately preceding commencement of the proceeding,~~
7 ~~the minor lived in this state with a parent, a~~
8 ~~guardian, a prospective adoptive parent, or another~~
9 ~~person acting as parent, for at least six (6)~~
10 ~~consecutive months, excluding periods of temporary~~
11 ~~absence,~~

12 b. ~~In the case of a minor under six (6) months of age,~~
13 ~~the minor lived in this state from soon after birth~~
14 ~~with any of those individuals listed in subparagraph a~~
15 ~~of this paragraph and there is available in this state~~
16 ~~substantial evidence concerning the minor's present or~~
17 ~~future care, or~~

18 c. ~~A child is born in this state and the mother of the~~
19 ~~child has been a legal resident of this state for six~~
20 ~~(6) months prior to the birth or, if not a legal~~
21 ~~resident for six (6) months prior to birth, verifies~~
22 ~~compliance with or exemption from the Interstate~~
23 ~~Compact on the Placement of Children and executes her~~

1 ~~consent or permanent relinquishment before a judge of~~
2 ~~a court of this state;~~

3 ~~2. Immediately preceding commencement of the proceeding, the~~
4 ~~prospective adoptive parent lived in this state for at least six (6)~~
5 ~~consecutive months, excluding periods of temporary absence, and~~
6 ~~there is available in this state substantial evidence concerning the~~
7 ~~minor's present or future care;~~

8 ~~3. The child placing agency that placed the minor for adoption~~
9 ~~is located in this state and it is in the best interest of the minor~~
10 ~~that a court of this state, assume jurisdiction because:~~

11 ~~a. the minor and the minor's parents, or the minor and~~
12 ~~the prospective adoptive parent, have a significant~~
13 ~~connection with this state, and~~

14 ~~b. there is available in this state substantial evidence~~
15 ~~concerning the minor's present or future care;~~

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

21 ~~5. It appears that no other state would have jurisdiction under~~
22 ~~prerequisites substantially in accordance with paragraphs 1 through~~
23 ~~4 of this subsection, or another state has declined to exercise~~
24 ~~jurisdiction on the ground that this state is the more appropriate~~

1 ~~forum to hear a petition for adoption of the minor, and it is in the~~
2 ~~best interest of the minor that a court of this state assume~~
3 ~~jurisdiction.~~

4 ~~B. 1. If a child is born in this state and the mother of the~~
5 ~~child executes her consent or permanent relinquishment before a~~
6 ~~judge of a court of this state, a court of this state may exercise~~
7 ~~jurisdiction over a proceeding for the termination of parental~~
8 ~~rights of a putative father pursuant to Section 7505 2.1 of this~~
9 ~~title.~~

10 ~~2. If a parent has signed a permanent relinquishment in the~~
11 ~~presence of a court of this state pursuant to Section 7503 2.3 of~~
12 ~~this title, the court may exercise jurisdiction to issue an order~~
13 ~~terminating the parental rights of the parent to the child pursuant~~
14 ~~to Section 7503 2.3 of this title.~~

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

- 18 ~~a. a minor born in this state, or~~
- 19 ~~b. a minor brought into this state in compliance with the~~
20 ~~Interstate Compact on the Placement of Children, if~~
21 ~~the court is exercising jurisdiction pursuant to this~~
22 ~~section over an adoption proceeding concerning the~~
23 ~~minor that is pending before the court.~~

24

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

7 ~~C. Except as otherwise provided by this section, a court of~~
8 ~~this state shall not exercise jurisdiction over a proceeding for~~
9 ~~adoption of a minor or for termination of parental rights brought~~
10 ~~pursuant to Section 7505 2.1 or 7505 4.1 of this title if, at the~~
11 ~~time the petition for adoption or termination is filed.~~

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

16 ~~2. A proceeding concerning the custody or adoption of the minor~~
17 ~~is pending in a court of another state exercising jurisdiction~~
18 ~~substantially in conformity with the Uniform Child Custody~~
19 ~~Jurisdiction Act, the Uniform Child Custody Jurisdiction and~~
20 ~~Enforcement Act or the Oklahoma Adoption Code, unless the proceeding~~
21 ~~is stayed by the court of the other state because this state is a~~
22 ~~more appropriate forum or for another reason.~~

23 ~~D. In any instance when a court of this state is exercising~~
24 ~~jurisdiction over a proceeding for adoption of a minor who is a~~

1 ~~resident of this state by adoptive parents who are not legal~~
2 ~~residents of this state at the time of the filing of the petition~~
3 ~~for adoption, the court shall require, prior to the granting of a~~
4 ~~final decree of adoption, either proof of compliance with the~~
5 ~~Interstate Compact on the Placement of Children or verification that~~
6 ~~this adoptive placement is otherwise exempt from the Interstate~~
7 ~~Compact on the Placement of Children.~~

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

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

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

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

24

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

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

8 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7505-1.1, is
9 amended to read as follows:

10 Section 7505-1.1. A. Unless otherwise ordered by the district
11 court exercising jurisdiction over the adoption proceeding, all
12 hearings held in proceedings pursuant to the Oklahoma Adoption Code
13 shall be confidential and shall be held in closed court without
14 admittance of any person other than interested parties and their
15 counsel.

16 B. All papers, records, and books of proceedings in adoption
17 cases and any papers, records, and books relating to such
18 proceedings:

19 1. Shall be kept as a permanent record of the court and
20 maintained in a separate file by the court clerk; and

21 2. Shall be confidential and shall not be open to inspection or
22 copy except as authorized in Sections 7504-1.2, 7505-3.2, 7505-6.6,
23 7508-1.2 and 7508-1.3 of this title or upon order of a court of
24 record for good cause shown.

1 C. Upon application and notice to the person or agency in whose
2 possession the records being sought are held, and for good cause
3 being shown, any court of record may, by written order reciting its
4 findings, permit the necessary information to be released, or may
5 restrict the purposes for which it shall be used. The findings
6 shall include the reasons the information being sought cannot be
7 obtained through the methods authorized by Sections 7504-1.2, 7505-
8 3.2, 7505-6.6, 7508-1.2 and 7508-1.3 of this title.

9 D. The provisions of this section shall not prohibit persons
10 employed by the court, the Department of Human Services, a child-
11 placing agency, an attorney participating or assisting in a direct
12 placement adoption or any physician, minister or other person or
13 entity assisting or participating in an adoption from providing
14 partial or complete identifying information between a biological
15 parent and prospective adoptive or adoptive parent if a biological
16 parent and a prospective adoptive or adoptive parent mutually agree
17 to share specific identifying information and each gives written,
18 signed notice of their agreement to the court, the Department of
19 Human Services, the child-placing agency, or any attorney
20 participating or assisting in the direct placement adoption pursuant
21 to the Oklahoma Adoption Code.

22 E. Any person in charge of adoption records or having access to
23 adoption records or information who discloses any information,
24 including, but not limited to, all records and reports relevant to

1 the case and any records and reports of examination of the minor's
2 parent or other custodian pertaining to an adoption proceeding,
3 contrary to the provisions of this section, upon conviction thereof,
4 shall be guilty of a misdemeanor.

5 SECTION 4. AMENDATORY 10 O.S. 2001, Section 7505-3.1, is
6 amended to read as follows:

7 Section 7505-3.1. A. A petition for adoption shall be verified
8 by the petitioner, and shall specify:

9 1. The full names, ages and places of residence of the
10 petitioner or petitioners and, if married, the place and date of the
11 marriage;

12 2. When the petitioner acquired or intends to acquire custody
13 of the minor and from what person or agency custody is to be
14 acquired;

15 3. The date, place of birth, gender and race of the minor;

16 4. The name used for the minor in the proceeding and, if a
17 change in name is desired, the new name requested;

18 5. That it is the desire of the petitioner that the
19 relationship of parent and child be established between the
20 petitioner and the minor;

21 6. A full description and statement of value of all property
22 owned or possessed by the minor, if any;

23 7. The name or relationship of the minor to any individual who
24 has executed a consent, extrajudicial consent for adoption or a

1 permanent relinquishment to the adoption, and the name or
2 relationship to the minor of any individual whose consent,
3 extrajudicial consent for adoption or permanent relinquishment may
4 be required, and any fact or circumstance that may excuse the lack
5 of consent;

6 8. That a previous petition by the petitioner to adopt has or
7 has not been made in any court, and its disposition;

8 9. That a copy of the preplacement home study completed
9 pursuant to subsection A of Sections 7505-5.1 and 7505-5.3 of this
10 title is attached to or filed with the petition. If the
11 preplacement home study has not been completed, the petition shall
12 specify that a waiver has been signed by a court pursuant to
13 subsection B of Section 7505-5.1 of this title, and that a copy of
14 the waiver is attached to or filed with the petition; or shall
15 include a statement regarding why the preplacement home study is not
16 required pursuant to subsection C of Section 7505-5.1 of this title;
17 or shall specify that the minor is not yet in the physical custody
18 of the petitioner;

19 10. Whether any other home study or professional custody
20 evaluation has been conducted regarding one or both of the
21 petitioners, whether performed for this adoption or for any other
22 purpose. If such a study or evaluation has been completed, a copy
23 of the study or evaluation shall be attached to the petition, if
24 reasonably available;

1 11. A description of any previous court order, litigation or
2 pending proceeding known to the petitioner concerning custody of or
3 visitation with the minor or adoption of the minor and any other
4 fact known to the petitioner and needed to establish the
5 jurisdiction of the court;

6 12. The county in which the minor is currently residing, the
7 places where the minor has lived within the last five (5) years and
8 the name and present addresses, if known, of the persons with whom
9 the minor has lived during that period, and the name of any person,
10 if known, not a party to the proceeding who has physical custody of
11 the minor or claims to have custody or visitation rights with
12 respect to the minor; and

13 13. A statement that to the best of the petitioner's actual
14 knowledge and belief, as of the date of filing, the minor is or is
15 not an Indian child, as defined by the Oklahoma Indian Child Welfare
16 Act, and identification of the minor's known or suspected Indian
17 tribe, if any. If the minor is an Indian child, as defined by the
18 Oklahoma Indian Child Welfare Act, the petition shall specify that
19 the requirements of the Oklahoma Indian Child Welfare Act have been
20 met pursuant to Sections 40 through 40.9 of this title. In
21 addition, the attorney shall provide notice to the parents or to the
22 Indian custodians, if any, and to the tribe that is or may be the
23 tribe of the Indian child pursuant to Section 40.4 of this title.
24

1 B. Any written consent, extrajudicial consent for adoption or
2 permanent relinquishment required by the Oklahoma Adoption Code may
3 be attached to the petition, or may be filed, after the filing of
4 the petition.

5 C. 1. The Administrative Director of the Courts (ADC) shall
6 develop a form no later than February 1, 2012, to be used to collect
7 data related to the adoption of each child. At the time of the
8 filing of the final decree of adoption, each court clerk shall
9 collect demographic data related to the adoption and shall make an
10 annual report to be delivered to the ADC no later than February 15
11 of each year. The ADC shall deliver all information received
12 pursuant to this section to the Department of Human Services no
13 later than March 15 of each year. The Department of Human Services
14 shall compile the information and make available to the public all
15 adoption-related information received.

16 2. The following information shall be included in the form to
17 be developed by the ADC:

- 18 a. the age of each child at the time of the adoption,
- 19 b. the gender of each child,
- 20 c. the ethnicity of each child,
- 21 d. the status of the adoptive parent, such as a relative
22 adoption, adoption by a married couple, or adoption by
23 a single parent,

1 e. the type of adoption services provider, such as the
2 Department of Human Services, a licensed child-
3 placement agency, an attorney, or a tribe, and
4 f. whether it is a domestic adoption subject to the
5 requirements of the Oklahoma Indian Child Welfare Act,
6 or the Interstate Compact on the Placement of
7 Children, or an international adoption to include the
8 country of origin.

9 SECTION 5. AMENDATORY 10 O.S. 2001, Section 7505-3.2, as
10 last amended by Section 2, Chapter 288, O.S.L. 2009 (10 O.S. Supp.
11 2010, Section 7505-3.2), is amended to read as follows:

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

18 2. No final decree of adoption shall be entered until the court
19 is satisfied that all costs and expenses have been disclosed, are
20 reasonable, and that the costs and expenses do not violate the
21 provisions of subsection B of this section. Upon its review of the
22 affidavit of monies expended, the court shall in writing disapprove
23 any expenditure that the court deems unreasonable or in violation of
24 Sections 865 through 869 of Title 21 of the Oklahoma Statutes and,

1 to the extent necessary to comply with Oklahoma law, shall order
2 reimbursement of any consideration given in violation of Sections
3 865 through 869 of Title 21 of the Oklahoma Statutes. Payments made
4 pursuant to this section shall not be a violation of Sections 865
5 through 869 of Title 21 of the Oklahoma Statutes.

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

- 10 a. reasonable attorney fees and court costs,
- 11 b. reasonable medical expenses for birth mother and minor
12 to be adopted,
- 13 c. reasonable adoption counseling expenses for birth
14 parents before and after the birth of the minor, not
15 to exceed six (6) months from placement of the minor,
- 16 d. reasonable fees of a licensed child-placement agency,
17 including social service fees,
- 18 e. (1) reasonable and necessary living expenses ~~for~~
19 ~~housing, food, clothing, utilities, and other~~
20 ~~necessities~~ of the birth mother that are incurred
21 during the adoption planning process or during
22 the pregnancy, not to exceed two (2) months after
23 the birth of the minor or after the consent or
24 relinquishment of the birth mother. Reasonable

1 and necessary living expenses include but are not
2 limited to:

3 (a) housing expenses,

4 (b) utilities, such as electric, gas, water, or
5 telephone bills,

6 (c) food for the birth mother and any minor
7 child of the birth mother residing in the
8 home of the birth mother,

9 (d) travel expenses for transportation to
10 support the pregnancy, such as gasoline, bus
11 fares, or providing for the temporary use of
12 a vehicle during the pregnancy, and

13 (e) child care or foster care for any minor
14 child of the birth mother associated with
15 pregnancy-related medical care.

16 (2) Reasonable and necessary living expenses shall
17 not include:

18 (a) any expenses met by existing resources of
19 the birth mother,

20 (b) any expenses used for the support of family
21 members who are not minor children of the
22 mother,

23 (c) any expenses for recreational or leisure
24 activities, and

- 1 (d) the purchase or gift of an automobile,
2 f. ~~reasonable costs for travel or transportation of the~~
3 ~~birth mother or minor as same is incurred for medical~~
4 ~~or adoption placement needs,~~
5 g. reasonable expenses for a home study, and
6 g. reasonable and necessary costs associated with an
7 international adoption,
8 h. reasonable expenses legally required by any
9 governmental entity related to the adoption of a
10 minor, and
11 i. a one-time gift to the birth mother from the
12 prospective adoptive parents of no greater value than
13 One Hundred Dollars (\$100.00).

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

20 3. The provisions of this subsection shall apply to living and
21 transportation expenses incurred after the biological mother of the
22 minor contacts the child-placing agency or attorney for adoption
23 services.
24

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

5 5. Except as otherwise ordered by the court except for good
6 cause shown, all payments made pursuant to this section shall be
7 paid directly to the third-party provider of services or goods. Any
8 living expense paid on behalf of a birth mother in a domestic
9 adoption which is not supported by an itemized receipt shall not be
10 allowed for payment. If gift cards are issued to pay expenses, an
11 itemized receipt verifying purchases shall be required for approval
12 by the court. The accounting shall include vouchers for all monies
13 expended, copies of all checks written and receipts for all cash
14 payments attesting to the accuracy of the accounting.

15 C. Any person, attorney, or licensed child-placement agency
16 desiring to pay living and transportation expenses ~~to or~~ on behalf
17 of a birth ~~parent~~ mother is authorized to expend an initial amount
18 not to exceed ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars
19 (\$1,000.00) plus deposits for housing and utilities for such costs
20 and expenses without first obtaining court approval as required by
21 paragraph 1 of subsection D of this section. Any such costs and
22 expenses shall be disclosed as is otherwise required by the Oklahoma
23 Adoption Code.

1 D. 1. Except for the amount authorized by subsection C of this
2 section, the payment of any living or transportation expenses for
3 benefit of the birth mother as authorized in ~~subparagraphs~~
4 subparagraph e and f of paragraph 1 of subsection B of this ~~title~~
5 section shall be approved in advance by the court.

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

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

15 4. The petition shall be captioned: "In the matter of Baby
16 (name)." The petition shall include a listing of all anticipated
17 living or transportation expenses to be paid on behalf of the birth
18 mother for which court approval is being sought. If additional
19 expenditures not previously authorized by the court are needed on
20 behalf of the birth mother, an amended petition may be filed with
21 the court.

22 5. The petition shall be heard by the court within ten (10)
23 days of filing. The court clerk shall charge the same cost for a
24 petition for payment of expenses as is charged for the filing of an

1 adoption petition. In the event an adoption petition is later filed
2 in the same county, the adoption petition shall be filed as an
3 amended petition within the same case in which payment for expenses
4 was approved and no additional court costs shall be required. In
5 the event a petition for preadoption termination of parental rights
6 is later filed in the same county, the court clerk shall not assess
7 an additional filing fee and may use the same case number as for the
8 petition for adoption.

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

17 E. 1. In addition to the adoptive family affidavit requirement
18 of subsection A of this section, a Disclosure Statement of Adoption-
19 related Costs and Expenditures shall be prepared in writing by the
20 person, attorney or child-placing agency in a direct-placement
21 adoption. The Disclosure Statement of Adoption-related Costs and
22 Expenditures shall include a declaration of all fees, expenses, and
23 costs charged or expected to be charged for the adoption including,
24 but not limited to, the following:

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

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

21 SECTION 6. AMENDATORY 10 O.S. 2001, Section 7505-5.4, is
22 amended to read as follows:
23
24

1 Section 7505-5.4. A. Home studies satisfying Sections 7505-
2 5.1, 7505-5.2 and 7505-5.3 of this title must be conducted and the
3 reports prepared only by the following persons or agencies:

4 1. The agency having custody or legal guardianship of the
5 child;

6 2. The Department of Human Services;

7 3. A licensed child-placing agency; or

8 4. A person designated by the court who does not have an
9 interest in the outcome of the home study and who meets one of the
10 following qualifications:

11 a. a master's degree in social work and one (1) year of
12 experience in children's services,

13 b. a member of the Academy of Certified Social Workers
14 (ACSW) and one (1) year of experience in children's
15 services,

16 c. a master's degree in a behavioral or social science
17 and two (2) years' experience in children's services,

18 d. a doctorate in a behavioral or social science and one
19 (1) year of experience in children's services, or

20 e. is a member of the clergy with two (2) years of
21 experience in family counseling; ~~or~~

22 ~~5. A person who is supervised by a person described in~~
23 ~~paragraph 4 of this subsection, and who meets one of the following~~
24 ~~qualifications:~~

- 1 a. ~~a bachelor's degree in social work, or~~
2 b. ~~a bachelor's degree in behavioral or social science~~
3 ~~and one (1) year of experience in children's or family~~
4 ~~services~~ and is not the clergy for the adoptive
5 parents.

6 B. Persons satisfying the qualifications listed in ~~paragraphs~~
7 paragraph 4 and 5 of subsection A of this section shall attend and
8 satisfactorily complete at least once every three (3) years a
9 minimum of a three-hour course in home study preparation and
10 adoption trends taught by a licensed child-placing agency, by the
11 Department of Human Services, a statewide organization composed of
12 public and private adoption professionals, or by a college or
13 university. Documentation of having met this educational
14 requirement shall be provided by the person to the court or others
15 upon request.

16 C. The court may order agencies named in subsection A of this
17 section located in one or more counties to make separate
18 investigations on separate parts of the inquiry, as may be
19 appropriate.

20 D. The Department of Human Services shall not be required by
21 the court to make a home study and report to the court on adoptive
22 placements made by private adoption agencies or persons providing
23 private adoption services.

1 SECTION 7. AMENDATORY 10 O.S. 2001, Section 7508-1.1, is
2 amended to read as follows:

3 Section 7508-1.1. A. All records of any adoption finalized in
4 this state shall be maintained for ~~twenty two (22)~~ ninety-nine (99)
5 years by the child-placing agency, entity, organization or person
6 arranging or facilitating the adoption.

7 B. Child-placing agencies, attorneys, or other entities that
8 facilitate adoptions who cease to operate or to practice in this
9 state shall transfer their adoption records to the Department of
10 Human Services, Adoption Division, or, after giving notice to the
11 Department of Human Services, to a transferee agency that is
12 assuming responsibility for the preservation of the agency's
13 adoption records.

14 SECTION 8. AMENDATORY 10 O.S. 2001, Section 7005-1.3, as
15 renumbered by Section 271, Chapter 233, O.S.L. 2009, and as last
16 amended by Section 14, Chapter 278, O.S.L. 2010 (10A O.S. Supp.
17 2010, Section 1-6-103), is amended to read as follows:

18 Section 1-6-103. A. Juvenile court records and Department of
19 Human Services agency records pertaining to a child may be
20 inspected, and their contents shall be disclosed, without a court
21 order to the following persons upon showing of proper credentials
22 and pursuant to their lawful duties:

23 1. The court having the child currently before it in any
24 proceeding pursuant to this title, any district court or tribal

1 court to which such proceedings may be transferred, employees and
2 officers of the court in the performance of their duties, including
3 but not limited to guardians ad litem appointed by the court, and
4 court-appointed special advocates;

5 2. A district attorney, United States Attorney, or Attorney
6 General of this or another state and the employees of such offices
7 in the course of their official duties pursuant to this title or the
8 prosecution of crimes against children, or upon their request in
9 their official capacity as advisor in a grand jury proceeding;

10 3. The attorney representing a child who is the subject of a
11 proceeding pursuant to the provisions of this title or other
12 proceeding where child custody or visitation is at issue;

13 4. Employees of juvenile bureaus in the course of their
14 official duties pursuant to this title, and employees of the
15 Department of Human Services in the course of their official duties;

16 5. Employees of a law enforcement agency of this or another
17 state or military enclave and employees of a child protective
18 service of another state or military enclave in the course of their
19 official duties pertaining to investigations of a report of known or
20 suspected child abuse or neglect or crimes against children or for
21 the purpose of determining whether to place a child in protective
22 custody;

23 6. The Oklahoma Commission on Children and Youth as provided by
24 Sections 601.2 and 601.6 of Title 10 of the Oklahoma Statutes;

1 7. The Office of Juvenile Affairs;

2 8. A federally recognized Indian tribe in which the child who
3 is the subject of the record is a member or is eligible to become a
4 member of the tribe and is the biological child of a member of an
5 Indian tribe pursuant to the provisions of the Federal Indian Child
6 Welfare Act and the Oklahoma Indian Child Welfare Act; provided such
7 Indian tribe, in the course of its official duties, is:

- 8 a. investigating a report of known or suspected child
9 abuse or neglect or crimes against children or for the
10 purpose of determining whether to place a child in
11 protective custody,
- 12 b. providing services to or for the benefit of a child
13 including, but not limited to, protective, emergency,
14 social and medical services, or
- 15 c. the tribe, the tribal court or the tribal child
16 welfare program has asserted jurisdiction or
17 intervened in any case in which the child is the
18 subject of the proceedings or is a party to the
19 proceedings pursuant to the authority provided in the
20 Oklahoma Indian Child Welfare Act.

21 The records that are to be provided to Indian tribes under this
22 subsection shall include all case records, reports, and documents as
23 defined in Section 1-6-101 of this title;

1 9. The Governor or to any person the Governor designates, in
2 writing;

3 10. Any federal official of the United States Department of
4 Health and Human Services;

5 11. Any member of the Legislature approved in writing by the
6 Speaker of the House of Representatives or the President Pro Tempore
7 of the Senate;

8 12. A foster parent, with regard to records concerning the
9 social, medical, psychological, or educational needs of a child
10 currently placed with that foster parent or of a child being
11 considered for placement with that foster parent;

12 13. An employee of any state or federal corrections or law
13 enforcement agency in the performance of the official duties of the
14 employee concerning presentence investigations or supervision of a
15 parent of an alleged or adjudicated deprived child, or the legal
16 guardian, custodian, or any other adult member of the child's home
17 who is responsible for the health, safety, or welfare of the child;
18 and

19 14. An employee of a state agency of this or another state in
20 the performance of the official duties of the employee concerning
21 the establishment of paternity or the establishment or enforcement
22 of a child support order or other entitlement for the benefit of a
23 child; provided, disclosure shall be limited to information directly
24 related to the purpose of such disclosure.

1 B. In addition to the persons listed in subsection A of this
2 section, juvenile court records may be inspected, and their contents
3 shall be disclosed, without a court order to the following persons
4 upon showing of proper credentials and pursuant to their lawful
5 duties:

6 1. Employees of court-appointed special advocate programs, as
7 defined in Section 1-1-105 of this title, in the course of their
8 official duties pertaining to recruiting, screening, training,
9 assigning cases, supervising, and supporting volunteers in their
10 roles as guardian ad litem pursuant to Section 1-4-306 of this
11 title;

12 2. Members of postadjudication review boards established
13 pursuant to the provisions of Section 1116.2 of Title 10 of the
14 Oklahoma Statutes, the Child Death Review Board, and
15 multidisciplinary personnel. In addition to juvenile court records,
16 members of such postadjudication review boards may inspect, without
17 a court order, information that includes, but is not limited to:

- 18 a. psychological and medical records,
- 19 b. placement history and information, including the names
20 and addresses of foster parents,
- 21 c. family assessments,
- 22 d. treatment or service plans, and
- 23 e. school records;

24

1 3. The Department of Human Services or other public or private
2 agency or individual having court-ordered custody or physical
3 custody pursuant to Department placement of the child who is the
4 subject of the record;

5 4. The child who is the subject of the record and the parents,
6 legal guardian, custodian, or foster parent of such child; and

7 5. A person authorized by the court to conduct bona fide
8 research, provided such research may not publish the names or
9 identities of parents, children, or other persons contained in the
10 records.

11 C. In addition to the persons and entities named in subsection
12 A of this section, Department of Human Services agency records may
13 be inspected, and their contents shall be disclosed, without a court
14 order to the following persons upon showing of proper credentials
15 and pursuant to their lawful duties:

16 1. Postadjudicatory review boards, court-appointed special
17 advocates, and members of the Child Death Review Board;

18 2. Any district court which has ordered a home study by the
19 Department in an action for divorce, annulment, custody of a child,
20 or appointment of a legal guardian of a child, or any subsequent
21 proceeding in such actions; provided, however, the Department may
22 limit disclosure in the home study to summaries or to information
23 directly related to the purpose of the disclosure;

24

1 3. Members of multidisciplinary teams or multidisciplinary
2 personnel designated by the Department, investigating a report of
3 known or suspected child abuse or neglect or providing services to a
4 child or family which is the subject of the report;

5 4. A physician who has before him or her a child whom the
6 physician reasonably suspects may be abused or neglected or any
7 health care or mental health professionals involved in the
8 evaluation or treatment of the child or the parents, legal guardian,
9 foster parent, custodian, or other family members of the child;

10 5. Any public or private agency or person authorized by the
11 Department to diagnose, or provide care, treatment, supervision, or
12 other services to a child who is the subject of a report or record
13 of child abuse or neglect; provided, the Department may limit such
14 disclosure to summaries or to information directly necessary for the
15 purpose of such disclosure;

16 6. Any person or agency for research purposes, if all of the
17 following conditions are met:

18 a. the person or agency conducting the research is
19 employed by the State of Oklahoma or is under contract
20 with this state and is authorized by the Department to
21 conduct the research, and

22 b. the person or agency conducting the research ensures
23 that all documents containing identifying information
24 are maintained in secure locations and access to the

1 documents by unauthorized persons is prohibited; that
2 no identifying information is included in documents
3 generated from the research conducted; and that all
4 identifying information is deleted from documents used
5 in the research when the research is completed;

6 7. The Oklahoma Health Care Authority; and

7 8. A medical examiner when such person is determining the cause
8 of death of a child.

9 D. In accordance with the rules promulgated for such purpose
10 pursuant to Section 620.6 of ~~this title~~ Title 10 of the Oklahoma
11 Statutes, records listed in subsection A of Section 1-6-102 of this
12 title may be inspected and their contents disclosed without a court
13 order to participating agencies.

14 E. The court may disclose to an employee of an out-of-state
15 entity, licensed to perform adoption home studies in that state,
16 whether the prospective adoptive parent has had parental rights to a
17 child terminated in Oklahoma or whether the prospective adoptive
18 parent has relinquished parental rights to a child in Oklahoma.

19 F. Nothing in this section shall be construed as prohibiting
20 the Department from disclosing such confidential information as may
21 be necessary to secure appropriate care, treatment, protection or
22 supervision of a child alleged to be abused or neglected.

1 SECTION 9. AMENDATORY 21 O.S. 2001, Section 866, as last
2 amended by Section 4, Chapter 107, O.S.L. 2009 (21 O.S. Supp. 2010,
3 Section 866), is amended to read as follows:

4 Section 866. A. 1. The crime of trafficking in children is
5 defined to consist of any of the following acts or any part thereof:

6 a. the acceptance, solicitation, offer, payment or
7 transfer of any compensation, in money, property or
8 other thing of value, at any time, by any person in
9 connection with the acquisition or transfer of the
10 legal or physical custody or adoption of a minor
11 child, except as ordered by the court or except as
12 otherwise provided by Section 7505-3.2 of Title 10 of
13 the Oklahoma Statutes,

14 b. the acceptance or solicitation of any compensation, in
15 money, property or other thing of value, by any person
16 or organization for services performed, rendered or
17 purported to be performed to facilitate or assist in
18 the adoption or foster care placement of a minor
19 child, except by the Department of Human Services, a
20 child-placing agency licensed in Oklahoma pursuant to
21 the Oklahoma Child Care Facilities Licensing Act, or
22 an attorney authorized to practice law in Oklahoma.
23 The provisions of this paragraph shall not prohibit an
24 attorney licensed to practice law in another state or

1 an out-of-state licensed child-placing agency from
2 receiving compensation when working with an attorney
3 licensed in this state who is, or when working with a
4 child-placing agency licensed in this state which is,
5 providing adoption services or other services
6 necessary for placing a child in an adoptive
7 arrangement,

8 c. bringing or causing to be brought into this state or
9 sending or causing to be sent outside this state any
10 child for the purpose of placing such child in a
11 foster home or for the adoption thereof and thereafter
12 refusing to comply upon request with the Interstate
13 Compact on the Placement of Children. Provided,
14 however, that this provision shall have no application
15 to the parent or guardian of the child nor to a person
16 bringing said child into this state for the purpose of
17 adopting the child into such person's own family,

18 d. the solicitation or receipt of any money or any other
19 thing of value for expenses related to the placement
20 of a child for the purpose of an adoption by the birth
21 parent of the child who at the time of the
22 solicitation or receipt had no intent to consent to
23 eventual adoption,

1 e. the solicitation or receipt of any money or any other
2 thing of value for expenses related to the placement
3 of a child for adoption by a woman who knows she is
4 not pregnant but who holds herself out to be pregnant
5 and offers to place a child upon birth for adoption,

6 f. (1) the receipt of any money or any other thing of
7 value for expenses related to the placement of a
8 child for adoption by a birth parent, child-
9 placing agency or attorney who receives, from one
10 or more parties, any money or any other thing of
11 value without disclosing to each prospective
12 adoptive parent, child-placing agency, and
13 attorney the receipt of any money or any other
14 thing of value immediately upon receipt,

15 (2) the solicitation or receipt of any money or any
16 other thing of value by a birth parent, an
17 attorney or child-placing agency for expenses
18 related to the placement of a child for the
19 purpose of adoption from more than one
20 prospective adoptive family for the adoption of
21 one child. A birth parent, child-placing agency
22 or attorney shall not represent that a child is,
23 or will be, available for adoption to more than
24 one prospective adoptive family at one time,

1 g. advertising of services for compensation to assist
2 with or effect the placement of a child for adoption
3 or for care in a foster home by any person or
4 organization except by the Department of Human
5 Services, or a child-placing agency licensed in this
6 state. Nothing in this paragraph shall prohibit an
7 attorney authorized to practice law in Oklahoma from
8 the advertisement of legal services related to the
9 adoption of children, and

10 h. ~~(1)~~ advertisements for and solicitation of a woman
11 who is pregnant to induce her to place her child
12 upon birth for adoption, except by a child-
13 placing agency licensed in this state or an
14 attorney authorized to practice law in Oklahoma.
15 Nothing in this section shall prohibit a person
16 from advertising to solicit a pregnant woman to
17 consider adoptive placement with the person or to
18 locate a child for an adoptive placement into the
19 person's own home, provided that such person has
20 received a favorable preplacement home study
21 recommendation in accordance with Section 7505-
22 5.1 of Title 10 of the Oklahoma Statutes, which
23 shall be verified by the signed written statement
24 of the person or agency which performed the home

1 study, and provided that no money or other thing
2 of value is offered as part of such an inducement
3 except as ordered by the court or except as
4 otherwise provided by Section 7505-3.2 of Title
5 10 of the Oklahoma Statutes.

6 ~~(2) Any person violating the provisions of this~~
7 ~~paragraph shall, upon conviction thereof, be~~
8 ~~guilty of a misdemeanor.~~

9 2. a. Except as otherwise provided by this ~~subsection~~
10 section, the violation of any of the subparagraphs in
11 paragraph 1 of this subsection shall constitute a
12 felony and shall be punishable by imprisonment of up
13 to ten (10) years or a fine of up to Ten Thousand
14 Dollars (\$10,000.00) per violation or both such fine
15 and imprisonment.

16 b. Prospective adoptive parents who violate subparagraph
17 a of paragraph 1 of this subsection, upon conviction
18 thereof, shall be guilty of a misdemeanor and may be
19 punished by a fine not to exceed Five Thousand Dollars
20 (\$5,000.00) per violation.

21 B. 1. No person shall knowingly publish for circulation within
22 the borders of the State of Oklahoma an advertisement of any kind in
23 any print, broadcast or electronic medium, including, but not
24 limited to, newspapers, magazines, telephone directories, handbills,

1 radio or television, which violates subparagraph g or h of paragraph
2 1 of subsection A of this section.

3 2. Any person violating the provisions of this subsection
4 shall, upon conviction thereof, be guilty of a misdemeanor and shall
5 be punished by a fine not to exceed Five Thousand Dollars
6 (\$5,000.00) per violation.

7 C. The payment or acceptance of costs and expenses listed in
8 Section 7505-3.2 of Title 10 of the Oklahoma Statutes shall not be a
9 violation of this section as long as the petitioner or birth parent
10 has complied with the applicable procedure specified in Section
11 7505-3.2 of Title 10 of the Oklahoma Statutes and such costs and
12 expenses are approved by the court.

13 D. Any person knowingly failing to file an affidavit of all
14 adoption costs and expenses before the final decree of adoption as
15 required by Sections 7505-3.2 and 7505-6.2 of Title 10 of the
16 Oklahoma Statutes shall be guilty of a misdemeanor.

17 SECTION 10. This act shall become effective November 1, 2011.

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