HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 510 By: Russell of the Senate

and

Nelson of the House

COMMITTEE SUBSTITUTE

An Act relating to adoption procedures; amending 10 O.S. 2001, Sections 7501-1.3, as amended by Section 8, Chapter 445, O.S.L. 2002, 7502-1.1, as amended by Section 2, Chapter 69, O.S.L. 2005, 7505-1.1, 7505-3.1, 7505-3.2, as last amended by Section 2, Chapter 288, O.S.L. 2009, 7505-5.4 and 7508-1.1 (10 O.S. Supp. 2010, Sections 7501-1.3, 7502-1.1 and 7505-3.2), which relate to the Oklahoma Adoption Code; modifying definition; adding definition; providing that jurisdiction shall be determined by certain law; updating statutory references; requiring certain statement concerning the Oklahoma Indian Child Welfare Act; directing the Administrative Director of the Courts to develop certain form; directing court clerks to provide form 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; modifying educational

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

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

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

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

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

a. the parent has left the minor alone or in the care of another who is not the parent of the minor without identifying the minor or furnishing a means of identification for the minor, the whereabouts of the parents are unknown, and the minor's identity cannot

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be ascertained by the exercise of reasonable diligence,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~b. In the case of a minor under six (6) months of age, the minor lived in this state from soon after birth with any of those individuals listed in subparagraph a~~

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~~of this paragraph and there is available in this state substantial evidence concerning the minor's present or future care, or~~

~~c. A child is born in this state and the mother of the child has been a legal resident of this state for six (6) months prior to the birth or, if not a legal resident for six (6) months prior to birth, verifies compliance with or exemption from the Interstate Compact on the Placement of Children and executes her consent or permanent relinquishment before a judge of a court of this state;~~

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

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

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

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

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

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

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

~~2. If a parent has signed a permanent relinquishment in the presence of a court of this state pursuant to Section 7503-2.3 of this title, the court may exercise jurisdiction to issue an order~~

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~~terminating the parental rights of the parent to the child pursuant to Section 7503-2.3 of this title.~~

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

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

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

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

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

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

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

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

~~E. If a court of another state has issued a decree or order concerning the custody of a minor who may be the subject of a proceeding for adoption or for termination of parental rights~~

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~~brought pursuant to Section 7505-2.1 or 7505-4.1 of this title in this state, a court of this state shall not exercise jurisdiction over a proceeding for adoption or termination of parental rights of the minor unless:~~

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

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

~~b. does not have jurisdiction over a proceeding for adoption substantially in conformity with paragraphs 1 through 4 of subsection A of this section or has declined to assume jurisdiction over a proceeding for adoption; and~~

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

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

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

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

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

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

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

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

E. Any person in charge of adoption records or having access to adoption records or information who discloses any information, including, but not limited to, all records and reports relevant to the case and any records and reports of examination of the minor's parent or other custodian pertaining to an adoption proceeding, contrary to the provisions of this section, upon conviction thereof, shall be guilty of a misdemeanor.

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

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

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

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

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

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

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

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

7. The name or relationship of the minor to any individual who has executed a consent, extrajudicial consent for adoption or a permanent relinquishment to the adoption, and the name or relationship to the minor of any individual whose consent, extrajudicial consent for adoption or permanent relinquishment may be required, and any fact or circumstance that may excuse the lack of consent;

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

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

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

11. A description of any previous court order, litigation or pending proceeding known to the petitioner concerning custody of or visitation with the minor or adoption of the minor and any other

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fact known to the petitioner and needed to establish the jurisdiction of the court;

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

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

B. Any written consent, extrajudicial consent for adoption or permanent relinquishment required by the Oklahoma Adoption Code may

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be attached to the petition, or may be filed, after the filing of the petition.

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

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

a. the age of each child at the time of the adoption,

b. the gender of each child,

c. the ethnicity of each child,

d. the status of the adoptive parent, such as a relative adoption, adoption by a married couple, or adoption by a single parent,

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e. the type of adoption services provider, such as the Department of Human Services, a licensed child-placement agency, an attorney, or a tribe, and

f. whether it is a domestic adoption subject to the requirements of the Oklahoma Indian Child Welfare Act, or the Interstate Compact on the Placement of Children, or an international adoption to include the country of origin.

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

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

2. No final decree of adoption shall be entered until the court is satisfied that all costs and expenses have been disclosed, are reasonable, and that the costs and expenses do not violate the provisions of subsection B of this section. Upon its review of the affidavit of monies expended, the court shall in writing disapprove any expenditure that the court deems unreasonable or in violation of

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

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

a. reasonable attorney fees and court costs,

b. reasonable medical expenses for birth mother and minor to be adopted,

c. reasonable adoption counseling expenses for birth parents before and after the birth of the minor, not to exceed six (6) months from placement of the minor,

d. reasonable fees of a licensed child-placement agency, <u>including social service fees,</u>

e. <u>(1)</u> reasonable <u>and necessary</u> living expenses ~~for housing, food, clothing, utilities, and other necessities~~ of the birth mother that are incurred during the adoption planning process or during the pregnancy, not to exceed two (2) months after

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the birth of the minor or after the consent or relinquishment of the birth mother. Reasonable and necessary living expenses include but are not limited to:

(a) housing expenses,

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

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

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

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

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

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

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

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

(d) the purchase or gift of an automobile,

f. ~~reasonable costs for travel or transportation of the birth mother or minor as same is incurred for medical or adoption placement needs,~~

~~g.~~ reasonable expenses for a home study, ~~and~~

g. reasonable and necessary costs associated with an international adoption,

h. reasonable expenses legally required by any governmental entity related to the adoption of a minor, and

i. a one-time gift to the birth mother from the prospective adoptive parents, of no greater value than One Hundred Dollars ($100.00).

2. In addition, all expenses approved by the court should be commensurate with other customary fees for similar services by persons of equivalent experience and training where the services are performed. Any services provided outside this state shall be

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allowed in an amount as if the services had been performed within the State of Oklahoma.

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

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

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

C. Any person, attorney, or licensed child-placement agency desiring to pay living and transportation expenses ~~to or~~ on behalf of a birth ~~parent~~ mother is authorized to expend an initial amount

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not to exceed ~~Five Hundred Dollars ($500.00)~~ One Thousand Dollars ($1,000.00) plus deposits for housing and utilities for such costs and expenses without first obtaining court approval as required by paragraph 1 of subsection D of this section. Any such costs and expenses shall be disclosed as is otherwise required by the Oklahoma Adoption Code.

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

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

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

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

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

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

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

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

a. retainer fees, the hourly rate, and the number of hours billed for the adoption,

b. any fee charged for preplacement or other home studies of any prospective birth parents, regardless of whether the home study was performed by an outside agency,

c. any costs, fees or expenses or any other thing of value paid to or on behalf of the birth parents related to the adoption of a minor by any party other than the adoptive parents, and

d. any other fees and expenses related to the adoption not otherwise specifically listed in this section.

2. The Disclosure Statement of Adoption-related Costs and Expenditures containing true and accurate information shall be filed before <u>or when</u> the final decree of adoption is ordered in each

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adoption of a minor in this state. The statement shall be a public record; provided, that any information identifying the person, attorney or child-placing agency in the direct adoption shall not be made public. In addition, the identity of the child, the adoptive parents, and the birth parents shall not be made public.

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

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

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

2. The Department of Human Services;

3. A licensed child-placing agency; <u>or</u>

4. A person designated by the court who <u>does not have an interest in the outcome of the home study and who</u> meets one of the following qualifications:

a. a ~~master's degree in social work and one (1) year of experience in children's services~~ <u>Licensed Clinical Social Worker (LCSW)</u>,

b. a ~~member of the Academy of Certified Social Workers (ACSW) and one (1) year of experience in children's services~~ <u>Licensed Professional Counselor (LPC)</u>,

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c. a ~~master's degree in a behavioral or social science and two (2) years' experience in children's services~~ Licensed Marriage and Family Therapist (LMFT),

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

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

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

~~a. a bachelor's degree in social work, or~~

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

B. Persons satisfying the qualifications listed in ~~paragraphs~~ paragraph 4 ~~and 5~~ of subsection A of this section shall attend and satisfactorily complete at least once every three (3) years a minimum of a three-hour course in home study preparation and adoption trends taught by a licensed child-placing agency, by the Department of Human Services, a statewide organization composed of public and private adoption professionals, or by a college or university. Documentation of having met this educational

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requirement shall be provided by the person to the court or others upon request.

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

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

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

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

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

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SECTION 8. AMENDATORY 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. 2010, Section 1-6-103), is amended to read as follows:

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

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and court-appointed special advocates;

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

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

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

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

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

7. The Office of Juvenile Affairs;

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

a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody,

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b. providing services to or for the benefit of a child including, but not limited to, protective, emergency, social and medical services, or

c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

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

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

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

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

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

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

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

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

1. Employees of court-appointed special advocate programs, as defined in Section 1-1-105 of this title, in the course of their official duties pertaining to recruiting, screening, training, assigning cases, supervising, and supporting volunteers in their

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roles as guardian ad litem pursuant to Section 1-4-306 of this title;

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

a. psychological and medical records,

b. placement history and information, including the names and addresses of foster parents,

c. family assessments,

d. treatment or service plans, and

e. school records;

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

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

5. A person authorized by the court to conduct bona fide research, provided such research may not publish the names or

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identities of parents, children, or other persons contained in the records.

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

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

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

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

4. A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected or any health care or mental health professionals involved in the

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evaluation or treatment of the child or the parents, legal guardian, foster parent, custodian, or other family members of the child;

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

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

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

b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to the documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

7. The Oklahoma Health Care Authority; and

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

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

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

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

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

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

a. the acceptance, solicitation, offer, payment or transfer of any compensation, in money, property or

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other thing of value, at any time, by any person in connection with the acquisition or transfer of the legal or physical custody or adoption of a minor child, except as ordered by the court or except as otherwise provided by Section 7505-3.2 of Title 10 of the Oklahoma Statutes,

b. the acceptance or solicitation of any compensation, in money, property or other thing of value, by any person or organization for services performed, rendered or purported to be performed to facilitate or assist in the adoption or foster care placement of a minor child, except by the Department of Human Services, a child-placing agency licensed in Oklahoma pursuant to the Oklahoma Child Care Facilities Licensing Act, or an attorney authorized to practice law in Oklahoma. The provisions of this paragraph shall not prohibit an attorney licensed to practice law in another state or an out-of-state licensed child-placing agency from receiving compensation when working with an attorney licensed in this state who is, or when working with a child-placing agency licensed in this state which is, providing adoption services or other services

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necessary for placing a child in an adoptive arrangement,

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

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

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

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

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

g. advertising of services for compensation to assist with or effect the placement of a child for adoption or for care in a foster home by any person or organization except by the Department of Human

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Services, or a child-placing agency licensed in this state. Nothing in this paragraph shall prohibit an attorney authorized to practice law in Oklahoma from the advertisement of legal services related to the adoption of children, and

h. ~~(1)~~ advertisements for and solicitation of a woman who is pregnant to induce her to place her child upon birth for adoption, except by a child-placing agency licensed in this state or an attorney authorized to practice law in Oklahoma. Nothing in this section shall prohibit a person from advertising to solicit a pregnant woman to consider adoptive placement with the person or to locate a child for an adoptive placement into the person's own home, provided that such person has received a favorable preplacement home study recommendation in accordance with Section 7505-5.1 of Title 10 of the Oklahoma Statutes, which shall be verified by the signed written statement of the person or agency which performed the home study, and provided that no money or other thing of value is offered as part of such an inducement except as ordered by the court or except as

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otherwise provided by Section 7505-3.2 of Title 10 of the Oklahoma Statutes.

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

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

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

B. 1. No person shall knowingly publish for circulation within the borders of the State of Oklahoma an advertisement of any kind in any print, broadcast or electronic medium, including, but not limited to, newspapers, magazines, telephone directories, handbills, radio or television, which violates subparagraph g or h of paragraph 1 of subsection A of this section.

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 04-12-2011 - DO PASS, As Amended.

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