

05/19/2014 04:34:28 PM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2130

By: Nelson of the House and Griffin of the Senate

Title: Children and juvenile code; clarifying juvenile detention requirements and case transfer procedure; effective date.

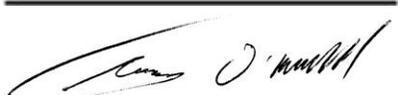
Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HB2130 CCR (A)
HOUSE CONFEREES

Biggs, Scott R.		Echols, Jon	
Grau, Randy		Inman, Scott	<hr/>
Johnson, Dennis		Jordan, Fred	<hr/>
Martin, Steve		McCall, Charles A.	<hr/>
McCullough, Mark		Morrisette, Richard	<hr/>
Newell, Tom		O'Donnell, Terry	
Russ, Todd	<hr/>	Sherrer, Ben	<hr/>
Stiles, Aaron		Virgin, Emily	<hr/>
Williams, Cory T.	<hr/>		

HB2130 CCR A

SENATE CONFEREES

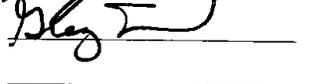
Griffin



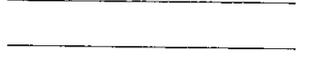
Sykes



Johnson (Rob)



Treat



McAffrey

Burrage

House Action _____ Date _____ Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2130

By: Nelson of the House

and

Griffin of the Senate

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8
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10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to children; amending 10A O.S. 2011,
12 Section 1-4-904, as amended by Section 1, Chapter
13 404, O.S.L. 2013 (10A O.S. Supp. 2013, Section 1-4-
14 904), which relates to termination of parental
15 rights; providing for termination if substantial
16 erosion of relationship exists; describing causes for
erosion; modifying timing of out-of-home placements
based on age of child; clarifying date used to
determine entry into foster care; permitting court to
consider certain factors; and providing an effective
date.

17
18
19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-904, as
21 amended by Section 1, Chapter 404, O.S.L. 2013 (10A O.S. Supp. 2013,
22 Section 1-4-904), is amended to read as follows:

23 Section 1-4-904. A. A court shall not terminate the rights of
24 a parent to a child unless:

1 1. The child has been adjudicated to be deprived either prior
2 to or concurrently with a proceeding to terminate parental rights;
3 and

4 2. Termination of parental rights is in the best interests of
5 the child.

6 B. The court may terminate the rights of a parent to a child
7 based upon the following legal grounds:

8 1. Upon the duly acknowledged written consent of a parent, who
9 voluntarily agrees to termination of parental rights.

10 a. The voluntary consent for termination of parental
11 rights shall be signed under oath and recorded before
12 a judge of a court of competent jurisdiction and
13 accompanied by the judge's certificate that the terms
14 and consequences of the consent were fully explained
15 in detail in English and were fully understood by the
16 parent or that the consent was translated into a
17 language that the parent understood.

18 b. A voluntary consent for termination of parental rights
19 is effective when it is signed and may not be revoked
20 except upon clear and convincing evidence that the
21 consent was executed by reason of fraud or duress.

22 c. However, notwithstanding the provisions in this
23 paragraph, in any proceeding for a voluntary
24 termination of parental rights to an Indian child, the

1 consent of the parent may be withdrawn for any reason
2 at any time prior to the entry of a final decree of
3 termination. Any consent given prior to, or within
4 ten (10) days after, the birth of an Indian child
5 shall not be valid;

6 2. A finding that a parent who is entitled to custody of the
7 child has abandoned the child;

8 3. A finding that the child is an abandoned infant;

9 4. A finding that the parent of a child:

10 a. has voluntarily placed physical custody of the child
11 with the Department of Human Services or with a child-
12 placing agency for out-of-home placement,

13 b. has not complied with the placement agreement, and

14 c. has not demonstrated during such period a firm
15 intention to resume physical custody of the child or
16 to make permanent legal arrangements for the care of
17 the child;

18 5. A finding that:

19 a. the parent has failed to correct the condition which
20 led to the deprived adjudication of the child, and

21 b. the parent has been given at least three (3) months to
22 correct the condition;

23 6. A finding that:
24

- 1 a. the rights of the parent to another child have been
- 2 terminated, and
- 3 b. the conditions that led to the prior termination of
- 4 parental rights have not been corrected;

5 7. A finding that a parent who does not have custody of the
6 child has, for at least six (6) out of the twelve (12) months
7 immediately preceding the filing of the petition or motion for
8 termination of parental rights, willfully failed or refused or has
9 neglected to contribute to the support of the child:

- 10 a. as specified by an order entered by a court of
- 11 competent jurisdiction adjudicating the duty, amount
- 12 and manner of support, or
- 13 b. where an order of child support does not exist,
- 14 according to the financial ability of the parent to
- 15 contribute to the child's support.

16 Incidental or token support shall not be construed or considered in
17 establishing whether a parent has maintained or contributed to the
18 support of the child;

19 8. A finding that the parent has been convicted in a court of
20 competent jurisdiction in any state of any of the following acts:

- 21 a. permitting a child to participate in pornography,
- 22 b. rape, or rape by instrumentation,
- 23 c. lewd molestation of a child under sixteen (16) years
- 24 of age,

- d. child abuse or neglect,
- e. enabling child abuse or neglect,
- f. causing the death of a child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of the child,
- g. causing the death of a sibling of the child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of the child's sibling,
- h. murder of any child or aiding or abetting, attempting, conspiring, or soliciting to commit murder of any child,
- i. voluntary manslaughter of any child,
- j. a felony assault that has resulted in serious bodily injury to the child or another child of the parents, or
- k. murder or voluntary manslaughter of the child's parent or aiding or abetting, attempting, conspiring, or soliciting to commit murder of the child's parent;

9. A finding that the parent has abused or neglected the child or a sibling of the child or failed to protect the child or a sibling of the child from abuse or neglect that is heinous or shocking;

10. A finding that the parent has previously abused or neglected the child or a sibling of the child or failed to protect

1 the child or a sibling of the child from abuse or neglect and the
2 child or a sibling of the child has been subjected to subsequent
3 abuse;

4 11. A finding that the child was conceived as a result of rape
5 perpetrated by the parent whose rights are sought to be terminated;

6 12. A finding that the parent whose rights are sought to be
7 terminated is incarcerated, and the continuation of parental rights
8 would result in harm to the child based on consideration of the
9 following factors, among others:

- 10 a. the duration of incarceration and its detrimental
11 effect on the parent/child relationship,
- 12 b. any previous convictions resulting in involuntary
13 confinement in a secure facility,
- 14 c. the parent's history of criminal behavior, including
15 crimes against children,
- 16 d. the age of the child,
- 17 e. any evidence of abuse or neglect or failure to protect
18 from abuse or neglect of the child or siblings of the
19 child by the parent,
- 20 f. the current relationship between the parent and the
21 child, and
- 22 g. the manner in which the parent has exercised parental
23 rights and duties in the past.

24

1 Provided, that the incarceration of a parent shall not in and of
2 itself be sufficient to deprive a parent of parental rights;

3 13. A finding that all of the following exist:

- 4 a. the parent has a diagnosed cognitive disorder, an
5 extreme physical incapacity, or a medical condition,
6 including behavioral health, which renders the parent
7 incapable of adequately and appropriately exercising
8 parental rights, duties, and responsibilities within a
9 reasonable time considering the age of the child, and
10 b. allowing the parent to have custody would cause the
11 child actual harm or harm in the near future.

12 A parent's refusal or pattern of noncompliance with treatment,
13 therapy, medication, or assistance from outside the home can be used
14 as evidence that the parent is incapable of adequately and
15 appropriately exercising parental rights, duties, and
16 responsibilities.

17 A finding that a parent has a diagnosed cognitive disorder, an
18 extreme physical incapacity, or a medical condition, including
19 behavioral health or substance dependency, shall not in and of
20 itself deprive the parent of parental rights;

21 14. A finding that:

- 22 a. the condition that led to the deprived adjudication
23 has been the subject of a previous deprived
24

1 adjudication of this child or a sibling of this child,
2 and

- 3 b. the parent has been given an opportunity to correct
4 the conditions which led to the determination of the
5 initial deprived child; ~~and~~

6 15. A finding that there exists a substantial erosion of the
7 relationship between the parent and child caused at least in part by
8 the parent's serious or aggravated neglect of the child, physical or
9 sexual abuse or exploitation of the child, a prolonged and
10 unreasonable absence of the parent from the child or an unreasonable
11 failure by the parent to visit or communicate in a meaningful way
12 with the child;

13 16. A finding that a child four (4) years of age or older at
14 the time of placement has been placed in foster care by the
15 Department of Human Services for fifteen (15) of the most recent
16 twenty-two (22) months preceding the filing of the petition or
17 motion for termination of parental rights and the child cannot, at
18 the time of the filing of the petition or motion, be safely returned
19 to the home of the parent. For purposes of this paragraph, a child
20 shall be considered to have entered foster care on the earlier of:

- 21 a. the adjudication date, or
22 b. the date that is sixty (60) days after the date on
23 which the child is removed from the home; and

1 17. A finding that a child younger than four (4) years of age
2 at the time of the filing of the petition or motion has been placed
3 in foster care by the Department of Human Services for at least six
4 (6) of the twelve (12) months preceding the filing of the petition
5 or motion for termination of parental rights and the child cannot be
6 safely returned to the home of the parent.

7 a. For purposes of this paragraph, a child shall be
8 considered to have entered foster care on the earlier
9 of:

10 (1) the adjudication date, or

11 (2) the date that is sixty (60) days after the date
12 on which the child is removed from the home.

13 b. For purposes of this paragraph, the court may
14 consider:

15 (1) circumstances of the failure of the parent to
16 develop and maintain a parental bond with the
17 child in a meaningful, supportive manner, and

18 (2) whether allowing the parent to have custody would
19 likely cause the child actual serious
20 psychological harm or harm in the near future as
21 a result of the removal of the child from the
22 substitute caregiver due to the existence of a
23 strong, positive bond between the child and
24 caregiver.

1 C. An order directing the termination of parental rights is a
2 final appealable order.

3 D. The provisions of this section shall not apply to adoption
4 proceedings and actions to terminate parental rights which do not
5 involve a petition for deprived status of the child. Such
6 proceedings and actions shall be governed by the Oklahoma Adoption
7 Code.

8 SECTION 2. This act shall become effective November 1, 2014.

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10 54-2-11005 EK 05/13/14

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