

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2130
Pages 3-125 Sections 1-28 Line 9
Of the printed Bill
Of the Engrossed Bill

By deleting Sections 1 through 28 in their entirety and inserting in lieu thereof the following: [See attached]

And by renumbering subsequent sections

And Page 125, Section 29, Line 9, by deleting "2013" and inserting in lieu thereof "2014"

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Jason Nelson

Reading Clerk

1 "SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-904,
2 as amended by Section 1, Chapter 404, O.S.L. 2013 (10A O.S. Supp.
3 2013, Section 1-4-904), is amended to read as follows:

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

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

9 2. Termination of parental rights is in the best interests of
10 the child.

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

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

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

23 b. A voluntary consent for termination of parental rights
24 is effective when it is signed and may not be revoked

1 except upon clear and convincing evidence that the
2 consent was executed by reason of fraud or duress.

3 c. However, notwithstanding the provisions in this
4 paragraph, in any proceeding for a voluntary
5 termination of parental rights to an Indian child, the
6 consent of the parent may be withdrawn for any reason
7 at any time prior to the entry of a final decree of
8 termination. Any consent given prior to, or within
9 ten (10) days after, the birth of an Indian child
10 shall not be valid;

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

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

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

15 a. has voluntarily placed physical custody of the child
16 with the Department of Human Services or with a child-
17 placing agency for out-of-home placement,

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

19 c. has not demonstrated during such period a firm
20 intention to resume physical custody of the child or
21 to make permanent legal arrangements for the care of
22 the child;

23 5. A finding that:
24

- 1 a. the parent has failed to correct the condition which
2 led to the deprived adjudication of the child, and
3 b. the parent has been given at least three (3) months to
4 correct the condition;

5 6. A finding that:

- 6 a. the rights of the parent to another child have been
7 terminated, and
8 b. the conditions that led to the prior termination of
9 parental rights have not been corrected;

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

- 15 a. as specified by an order entered by a court of
16 competent jurisdiction adjudicating the duty, amount
17 and manner of support, or
18 b. where an order of child support does not exist,
19 according to the financial ability of the parent to
20 contribute to the child's support.

21 Incidental or token support shall not be construed or considered in
22 establishing whether a parent has maintained or contributed to the
23 support of the child;

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

- 3 a. permitting a child to participate in pornography,
- 4 b. rape, or rape by instrumentation,
- 5 c. lewd molestation of a child under sixteen (16) years
6 of age,
- 7 d. child abuse or neglect,
- 8 e. enabling child abuse or neglect,
- 9 f. causing the death of a child as a result of the
10 physical or sexual abuse or chronic abuse or chronic
11 neglect of the child,
- 12 g. causing the death of a sibling of the child as a
13 result of the physical or sexual abuse or chronic
14 abuse or chronic neglect of the child's sibling,
- 15 h. murder of any child or aiding or abetting, attempting,
16 conspiring, or soliciting to commit murder of any
17 child,
- 18 i. voluntary manslaughter of any child,
- 19 j. a felony assault that has resulted in serious bodily
20 injury to the child or another child of the parents,
21 or
- 22 k. murder or voluntary manslaughter of the child's parent
23 or aiding or abetting, attempting, conspiring, or
24 soliciting to commit murder of the child's parent;

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

5 10. A finding that the parent has previously abused or
6 neglected the child or a sibling of the child or failed to protect
7 the child or a sibling of the child from abuse or neglect and the
8 child or a sibling of the child has been subjected to subsequent
9 abuse;

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

12 12. A finding that the parent whose rights are sought to be
13 terminated is incarcerated, having been sentenced to a period of
14 incarceration for more than one (1) year, and:

- 15 a. reunification of the child with the parent is not in
16 the best interests of the child because of the child's
17 circumstances, including but not limited to the
18 child's age, and developmental, cognitive and
19 psychological needs,
- 20 b. the parent is repeatedly incarcerated, and the repeated
21 incarceration prevents the parent from providing care
22 for the child,
- 23 c. the parent, after notice by the Department of Human
24 Services, has refused or failed to provide a

1 reasonable plan for the appropriate care of the child
2 other than foster care, or

3 d. the continuation of parental rights would result in
4 harm to the child based on consideration of the
5 following factors, ~~among others:~~

6 ~~a.~~ ~~the duration of incarceration and its detrimental~~
7 ~~effect on the parent/child relationship,~~

8 ~~b.~~ ~~any previous convictions resulting in involuntary~~
9 ~~confinement in a secure facility,~~

10 ~~c.~~ ~~the parent's history of criminal behavior, including~~
11 ~~crimes against children,~~

12 ~~d.~~ ~~the age of the child,~~

13 ~~e.~~ ~~any evidence of abuse or neglect or failure to protect~~
14 ~~from abuse or neglect of the child or siblings of the~~
15 ~~child by the parent,~~

16 ~~f.~~ (1) the current relationship between the parent and
17 the child, and or

18 ~~g.~~ (2) the manner in which the parent has exercised
19 parental rights and duties in the past.

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

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

23 a. the parent has a diagnosed cognitive disorder, an
24 extreme physical incapacity, or a medical condition,

1 including behavioral health, which renders the parent
2 incapable of adequately and appropriately exercising
3 parental rights, duties, and responsibilities within a
4 reasonable time considering the age of the child, and

- 5 b. allowing the parent to have custody would cause the
6 child actual harm or harm in the near future.

7 A parent's refusal or pattern of noncompliance with treatment,
8 therapy, medication, or assistance from outside the home can be used
9 as evidence that the parent is incapable of adequately and
10 appropriately exercising parental rights, duties, and
11 responsibilities.

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

16 14. A finding that:

- 17 a. the condition that led to the deprived adjudication
18 has been the subject of a previous deprived
19 adjudication of this child or a sibling of this child,
20 and
21 b. the parent has been given an opportunity to correct
22 the conditions which led to the determination of the
23 initial deprived child; ~~and~~

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

8 16. A finding that a child four (4) years of age or older has
9 been placed in foster care by the Department of Human Services for
10 fifteen (15) of the most recent twenty-two (22) months preceding the
11 filing of the petition or motion for termination of parental rights
12 and the child cannot be safely returned to the home of the parent.

13 For purposes of this paragraph, a child shall be considered to have
14 entered foster care on the earlier of:

- 15 a. the adjudication date, or
- 16 b. the date that is sixty (60) days after the date on
17 which the child is removed from the home;

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

1 a. For purposes of this paragraph, a child shall be
2 considered to have entered foster care on the earlier
3 of:

4 (1) the adjudication date, or

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

7 b. For purposes of this paragraph, the court may
8 consider:

9 (1) circumstances of the failure of the parent to
10 develop and maintain a parental bond with the
11 child in a meaningful, supportive manner, and

12 (2) whether allowing the parent to have custody would
13 likely cause the child actual serious
14 psychological harm or harm in the near future as
15 a result of the removal of the child from the
16 substitute caregiver due to the existence of a
17 strong, positive bond between the child and
18 caregiver; and

19 18. A finding that all of the following exist:

20 a. the child is an infant twelve (12) months of age or
21 younger,

22 b. the parent knows or has reason to know of the birth of
23 the child,

1 c. the parent does not reside with the child or has not
2 married the child's other parent, and

3 d. the parent has failed for four (4) months to make
4 reasonable efforts to maintain substantial and
5 continuing contact with the child or to financially
6 support the child in a manner consistent with the
7 financial ability of the parent.

8 C. An order directing the termination of parental rights is a
9 final appealable order.

10 D. The provisions of this section shall not apply to adoption
11 proceedings and actions to terminate parental rights which do not
12 involve a petition for deprived status of the child. Such
13 proceedings and actions shall be governed by the Oklahoma Adoption
14 Code."

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16 54-2-10557 EK 03/12/14
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