

1 **SENATE FLOOR VERSION**

2 April 1, 2014

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 2130

6 By: Nelson of the House

7 and

8 Griffin of the Senate

9 [children and juvenile code - termination of
10 parental rights - effective date]

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

12 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-904, as
13 amended by Section 1, Chapter 404, O.S.L. 2013 (10A O.S. Supp. 2013,
14 Section 1-4-904), is amended to read as follows:
15

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

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

21 2. Termination of parental rights is in the best interests of
22 the child.

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

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

3 a. The voluntary consent for termination of parental
4 rights shall be signed under oath and recorded before
5 a judge of a court of competent jurisdiction and
6 accompanied by the judge's certificate that the terms
7 and consequences of the consent were fully explained
8 in detail in English and were fully understood by the
9 parent or that the consent was translated into a
10 language that the parent understood.

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

15 c. However, notwithstanding the provisions in this
16 paragraph, in any proceeding for a voluntary
17 termination of parental rights to an Indian child, the
18 consent of the parent may be withdrawn for any reason
19 at any time prior to the entry of a final decree of
20 termination. Any consent given prior to, or within
21 ten (10) days after, the birth of an Indian child
22 shall not be valid;

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

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

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

3 a. has voluntarily placed physical custody of the child
4 with the Department of Human Services or with a child-
5 placing agency for out-of-home placement,

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

7 c. has not demonstrated during such period a firm
8 intention to resume physical custody of the child or
9 to make permanent legal arrangements for the care of
10 the child;

11 5. A finding that:

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

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

16 6. A finding that:

17 a. the rights of the parent to another child have been
18 terminated, and

19 b. the conditions that led to the prior termination of
20 parental rights have not been corrected;

21 7. A finding that a parent who does not have custody of the
22 child has, for at least six (6) out of the twelve (12) months
23 immediately preceding the filing of the petition for termination of
24

1 parental rights, willfully failed or refused or has neglected to
2 contribute to the support of the child:

3 a. as specified by an order entered by a court of
4 competent jurisdiction adjudicating the duty, amount
5 and manner of support, or

6 b. where an order of child support does not exist,
7 according to the financial ability of the parent to
8 contribute to the child's support.

9 Incidental or token support shall not be construed or considered in
10 establishing whether a parent has maintained or contributed to the
11 support of the child;

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

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

- 11 k. murder or voluntary manslaughter of the child's parent
12 or aiding or abetting, attempting, conspiring, or
13 soliciting to commit murder of the child's parent;

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

18 10. A finding that the parent has previously abused or
19 neglected the child or a sibling of the child or failed to protect
20 the child or a sibling of the child from abuse or neglect and the
21 child or a sibling of the child has been subjected to subsequent
22 abuse;

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

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

- 4 a. reunification of the child with the parent is not in
5 the best interests of the child because of the child's
6 circumstances, including but not limited to the
7 child's age, and developmental, cognitive and
8 psychological needs,
- 9 b. the parent is repeatedly incarcerated, and the repeated
10 incarceration prevents the parent from providing care
11 for the child,
- 12 c. the parent, after notice by the Department of Human
13 Services, has refused or failed to provide a
14 reasonable plan for the appropriate care of the child
15 other than foster care, or
- 16 d. the continuation of parental rights would result in
17 harm to the child based on consideration of the
18 following factors, ~~among others:~~
- 19 a. ~~the duration of incarceration and its detrimental~~
20 ~~effect on the parent/child relationship,~~
- 21 b. ~~any previous convictions resulting in involuntary~~
22 ~~confinement in a secure facility,~~
- 23 c. ~~the parent's history of criminal behavior, including~~
24 ~~crimes against children,~~

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

5 14. A finding that:

6 a. the condition that led to the deprived adjudication
7 has been the subject of a previous deprived
8 adjudication of this child or a sibling of this child,
9 and

10 b. the parent has been given an opportunity to correct
11 the conditions which led to the determination of the
12 initial deprived child; ~~and~~

13 15. A finding that there exists a substantial erosion of the
14 relationship between the parent and child caused at least in part by
15 the parent's serious or aggravated neglect of the child, physical or
16 sexual abuse or exploitation of the child, a prolonged and
17 unreasonable absence of the parent from the child or an unreasonable
18 failure by the parent to visit or communicate in a meaningful way
19 with the child;

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

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

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

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

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

- 14 (1) the adjudication date, or
- 15 (2) the date that is sixty (60) days after the date
16 on which the child is removed from the home.

17 b. For purposes of this paragraph, the court may
18 consider:

- 19 (1) circumstances of the failure of the parent to
20 develop and maintain a parental bond with the
21 child in a meaningful, supportive manner, and
- 22 (2) whether allowing the parent to have custody would
23 likely cause the child actual serious
24 psychological harm or harm in the near future as

1 a result of the removal of the child from the
2 substitute caregiver due to the existence of a
3 strong, positive bond between the child and
4 caregiver; and

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

- 6 a. the child is an infant twelve (12) months of age or
7 younger,
- 8 b. the parent knows or has reason to know of the birth of
9 the child,
- 10 c. the parent does not reside with the child or has not
11 married the child's other parent, and
- 12 d. the parent has failed for four (4) months to make
13 reasonable efforts to maintain substantial and
14 continuing contact with the child or to financially
15 support the child in a manner consistent with the
16 financial ability of the parent.

17 C. An order directing the termination of parental rights is a
18 final appealable order.

19 D. The provisions of this section shall not apply to adoption
20 proceedings and actions to terminate parental rights which do not
21 involve a petition for deprived status of the child. Such
22 proceedings and actions shall be governed by the Oklahoma Adoption
23 Code.

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

2 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
3 April 1, 2014 - DO PASS AS AMENDED
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