

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 1854

By: Roussetot

AS INTRODUCED

An Act relating to adoption; amending 10 O.S. 2011, Section 7501-1.3, which relates to definitions; adding term; requiring out-of-state agency to contract with specified entity to place minor for adoption; restricting specified terms to be used in advertisements and solicitations; amending 10 O.S. 2011, Section 7505-3.2, which relates to expenses paid by adoptive parent; updating statutory citation; modifying procedures for paying certain expenses; requiring specified payments through a child-placing agency; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2011, 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

1 identification for the minor, the whereabouts of the
2 parents are unknown, and the minor's identity cannot
3 be ascertained by the exercise of reasonable
4 diligence,

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

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

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

21 (2) exercising parental rights and responsibilities.
22 Incidental or token visits or communications
23 shall not be sufficient to establish or maintain
24

1 a substantial and positive relationship with the
2 minor.

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

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

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

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

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

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

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

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

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

1 10. "Out-of-state agency" means an individual or entity not
2 licensed in Oklahoma and from another state that advertises adoption
3 services or solicits birth mothers for adoption within the state;

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

9 ~~11.~~ 12. "Permanent relinquishment" means the voluntary
10 surrender of the rights of the parent or guardian with respect to a
11 minor, including legal and physical custody of the minor, to a
12 child-placing agency, Department of Human Services or any person
13 with the assent of the court, by a minor's parent or guardian, for
14 purposes of the minor's adoption;

15 ~~12.~~ 13. "Putative father" means the father of a minor born out
16 of wedlock or a minor whose mother was married to another person at
17 the time of the birth of the minor or within the ten (10) months
18 prior to the birth of the minor and includes, but is not limited to,
19 a man who has acknowledged or claims paternity of a minor, a man
20 named by the mother of the minor to be the father of the minor, or
21 any man who is alleged to have engaged in sexual intercourse with a
22 woman during a possible time of conception;

23 ~~13.~~ 14. "Relative adoption" means the placement of a child for
24 adoption with a parent, grandparent, stepparent, brother, sister,

1 first cousin, nephew, niece, uncle or aunt, who is related to the
2 child by either birth or marriage;

3 ~~14.~~ 15. "State" means any state, territory, or possession of
4 the United States, the commonwealth of Puerto Rico, and the District
5 of Columbia; and

6 ~~15.~~ 16. "Stepparent" means an individual who is the spouse or
7 surviving spouse of a parent of a minor, but who is not a legal
8 parent of the minor.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 7501-1.4 of Title 10, unless
11 there is created a duplication in numbering, reads as follows:

12 An out-of-state agency shall contract with the Department of
13 Human Services or a child-placing agency in order to place a minor
14 for adoption in the state.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 7503-1.3 of Title 10, unless
17 there is created a duplication in numbering, reads as follows:

18 Only a child-placing agency shall be authorized to use terms
19 such as "adoption counseling services" and "adoption counseling" in
20 printed and online advertisements and other solicitations regarding
21 the services provided to adoptive parents and birth parents during
22 the adoption process.

23 SECTION 4. AMENDATORY 10 O.S. 2011, Section 7505-3.2, is
24 amended to read as follows:

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

7 2. No final decree of adoption shall be entered until the court
8 is satisfied that all costs and expenses have been disclosed, are
9 reasonable, and that the costs and expenses do not violate the
10 provisions of subsection B of this section. Upon its review of the
11 affidavit of monies expended, the court shall in writing disapprove
12 any expenditure that the court deems unreasonable or in violation of
13 Sections 865 through ~~869~~ 870 of Title 21 of the Oklahoma Statutes
14 and, to the extent necessary to comply with Oklahoma law, shall
15 order reimbursement of any consideration given in violation of
16 Sections 865 through ~~869~~ 870 of Title 21 of the Oklahoma Statutes.
17 Payments made pursuant to this section shall not be a violation of
18 Sections 865 through ~~869~~ 870 of Title 21 of the Oklahoma Statutes.

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

23 a. reasonable attorney fees and court costs,
24

- 1 b. reasonable medical expenses for birth mother and minor
2 to be adopted,
- 3 c. reasonable adoption counseling expenses for birth
4 parents before and after the birth of the minor, not
5 to exceed six (6) months from placement of the minor
6 and paid through a child-placing agency,
- 7 d. reasonable fees of a licensed ~~child-placement~~ child-
8 placing agency, including social service fees,
- 9 e. (1) reasonable and necessary living expenses of the
10 birth mother that are incurred during the
11 adoption planning process or during the
12 pregnancy, not to exceed two (2) months after the
13 birth of the minor or after the consent or
14 relinquishment of the birth mother and paid
15 through a child-placing agency. Reasonable and
16 necessary living expenses include but are not
17 limited to:
- 18 (a) housing expenses,
19 (b) utilities, such as electric, gas, water, or
20 telephone bills,
21 (c) food for the birth mother and any minor
22 child of the birth mother residing in the
23 home of the birth mother,
24

- 1 (d) travel expenses for transportation to
2 support the pregnancy, such as gasoline, bus
3 fares, or providing for the temporary use of
4 a vehicle during the pregnancy, and
5 (e) child care or foster care for any minor
6 child of the birth mother associated with
7 pregnancy-related medical care.

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

- 10 (a) any expenses met by existing resources of
11 the birth mother,
12 (b) any expenses used for the support of family
13 members who are not minor children of the
14 mother,
15 (c) any expenses for recreational or leisure
16 activities, and
17 (d) the purchase or gift of an automobile,
18 f. reasonable expenses for a home study,
19 g. reasonable and necessary costs associated with an
20 international adoption,
21 h. reasonable expenses legally required by any
22 governmental entity related to the adoption of a
23 minor, and
24

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

4 2. In addition, all expenses approved by the court should be
5 commensurate with other customary fees for similar services by
6 persons of equivalent experience and training where the services are
7 performed. Any services provided outside this state shall be
8 allowed in an amount as if the services had been performed within
9 the State of Oklahoma.

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

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

18 5. Except as otherwise ordered by the court except for good
19 cause shown and except as provided in subparagraphs c and e of
20 paragraph 1 of this subsection, all payments made pursuant to this
21 section shall be paid directly to the third-party provider of
22 services or goods. All counseling expenses and living expenses
23 shall be paid through a child-placing agency directly to the third-
24 party provider of services or goods pursuant to subparagraphs c and

1 e of paragraph 1 of this subsection. Any living expense paid on
2 behalf of a birth mother in a domestic adoption which is not
3 supported by an itemized receipt shall not be allowed for payment.
4 If gift cards are issued to pay expenses, an itemized receipt
5 verifying purchases shall be required for approval by the court.
6 The accounting shall include vouchers for all monies expended,
7 copies of all checks written and receipts for all cash payments
8 attesting to the accuracy of the accounting.

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

17 D. 1. Except for the amount authorized by subsection C of this
18 section, the payment of any living or transportation expenses for
19 benefit of the birth mother as authorized in subparagraph e of
20 paragraph 1 of subsection B of this section shall be approved in
21 advance by the court.

22 2. The ~~person, attorney, or licensed~~ child-placing agency
23 desiring to pay living or transportation expenses on behalf of a
24 birth mother which exceed the amount in subsection C of this section

1 shall file a petition for an order approving payment of adoption-
2 related expenses.

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

7 4. The petition shall be captioned: "In the matter of Baby
8 (name)." The petition shall include a listing of all anticipated
9 living or transportation expenses to be paid on behalf of the birth
10 mother for which court approval is being sought. If additional
11 expenditures not previously authorized by the court are needed on
12 behalf of the birth mother, an amended petition may be filed with
13 the court.

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

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

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

- 17 a. retainer fees, the hourly rate, and the number of
18 hours billed for the adoption,
- 19 b. any fee charged for preplacement or other home studies
20 of any prospective birth parents, regardless of
21 whether the home study was performed by an outside
22 agency,
- 23 c. any costs, fees or expenses or any other thing of
24 value paid to or on behalf of the birth parents

1 related to the adoption of a minor by any party other
2 than the adoptive parents, and

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

5 2. The Disclosure Statement of Adoption-related Costs and
6 Expenditures containing true and accurate information shall be filed
7 before or when the final decree of adoption is ordered in each
8 adoption of a minor in this state. The statement shall be a public
9 record; provided, that any information identifying the person,
10 attorney or child-placing agency in the direct adoption shall not be
11 made public. In addition, the identity of the child, the adoptive
12 parents, and the birth parents shall not be made public.

13 SECTION 5. This act shall become effective November 1, 2015.

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