

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1362

By: Brooks

6 AS INTRODUCED

7 An Act relating to termination of parental rights;
8 amending 10A O.S. 2011, Section 1-4-905, which
9 relates to notice of hearing to terminate parental
10 rights; prohibiting continuance of certain
11 proceedings; providing exception; and providing an
12 effective date.

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

13 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-905, is
14 amended to read as follows:

15 Section 1-4-905. A. 1. Prior to a hearing on the petition or
16 motion for termination of parental rights, notice of the date, time,
17 and place of the hearing and a copy of the petition or motion to
18 terminate parental rights shall be served upon the parent who is the
19 subject of the termination proceeding by personal delivery, by
20 certified mail, or by publication as provided for in Section 1-4-304
21 of this title.

22 2. The notice shall contain the following or substantially
23 similar language: "FAILURE TO PERSONALLY APPEAR AT THIS HEARING
24 CONSTITUTES CONSENT TO THE TERMINATION OF YOUR PARENTAL RIGHTS TO

1 THIS CHILD OR THESE CHILDREN. IF YOU FAIL TO APPEAR ON THE DATE AND
2 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
3 CHILD OR CHILDREN NAMED IN THE PETITION OR MOTION ATTACHED TO THIS
4 NOTICE."

5 3. Notice shall be served upon the parent not less than fifteen
6 (15) calendar days prior to the hearing.

7 4. Any actual notice of termination of parental rights shall
8 state that the duty of the parent to support his or her minor child
9 will not be terminated except for adoption as provided by paragraph
10 3 of subsection B of Section 1-4-906 of this title.

11 5. The failure of a parent who has been served with notice
12 under this section to personally appear at the hearing shall
13 constitute consent to the termination of parental rights by the
14 parent given notice. When a parent who appears voluntarily or
15 pursuant to notice is directed by the court to personally appear for
16 a subsequent hearing on a specified date, time and location, the
17 failure of that parent to personally appear, or to instruct his or
18 her attorney to proceed in absentia at the trial, shall constitute
19 consent by that parent to termination of his or her parental rights.
20 Except as provided in subsection B of this section, a court shall
21 not continue proceedings pursuant to this section after a parent who
22 is the subject of a termination proceeding fails three (3)
23 consecutive times to appear as directed by the court.
24

1 B. 1. The court shall have the power to vacate an order
2 terminating parental rights if the parent whose parental rights were
3 terminated pursuant to subsection A of this section files a motion
4 to vacate the order within thirty (30) days after the order is filed
5 with the court clerk.

6 2. Notice of the motion shall be given to all the parties and
7 their attorneys and the court shall set the matter for hearing
8 expeditiously.

9 3. The burden of proof is on the defaulting parent to show that
10 he or she had no actual notice of the hearing, or due to unavoidable
11 casualty or misfortune the parent was prevented from either
12 contacting his or her attorney, if any, or from attending the
13 hearing or trial.

14 4. If the motion to vacate the order terminating parental
15 rights due to a failure to appear is found to have merit, the
16 statutory consent shall be set aside and a new trial conducted.

17 SECTION 2. This act shall become effective November 1, 2018.
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