

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 3543

 By: Townley

7 AS INTRODUCED

8 An Act relating to children; amending 10 O.S. 2011,
9 Section 7505-4.2, which relates to exceptions to
10 requirement for parental consent in adoption; making
11 consent of parent who perpetrated rape which led to
12 conception of child unnecessary; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 10 O.S. 2011, Section 7505-4.2, is
16 amended to read as follows:

17 Section 7505-4.2 A. Consent to adoption is not required from a
18 putative father of a minor who, at the hearing provided for in
19 Section 7505-2.1 or 7505-4.1 of this title, fails to prove he is the
20 father of the child.

21 B. Consent to adoption is not required from a parent who, for a
22 period of twelve (12) consecutive months out of the last fourteen
23 (14) months immediately preceding the filing of a petition for
24 adoption of a child or a petition to terminate parental rights

pursuant to Section 7505-2.1 of this title, has willfully failed, refused, or neglected to contribute to the support of such minor:

1. In substantial compliance with an order entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support; or

2. According to such parent's financial ability to contribute to such minor's support if no provision for support is provided in an order. For the purposes of this section, support for the minor shall benefit the minor by providing a necessity. Payments that shall not be considered support shall include, but are not limited to:

- a. genetic and drug testing,
- b. supervised visitation,
- c. counseling for any person other than the minor,
- d. court fees and costs,
- e. restitution payments, and
- f. transportation costs for any person other than the minor, unless such transportation expenses are specifically ordered in lieu of support in a court order.

The incarceration of a parent in and of itself shall not prevent the adoption of a minor without consent.

C. Consent to adoption is not required from a father or putative father of a minor born out of wedlock if:

1 1. The minor is placed for adoption within ninety (90) days of
2 birth, and the father or putative father fails to show he has
3 exercised parental rights or duties towards the minor, including,
4 but not limited to, failure to contribute to the support of the
5 mother of the child to the extent of his financial ability during
6 her term of pregnancy; or

7 2. The minor is placed for adoption within fourteen (14) months
8 of birth, and the father or putative father fails to show that he
9 has exercised parental rights or duties towards the minor,
10 including, but not limited to, failure to contribute to the support
11 of the minor to the extent of his financial ability, which may
12 include consideration of his failure to contribute to the support of
13 the mother of the child to the extent of his financial ability
14 during her term of pregnancy. Failure to contribute to the support
15 of the mother during her term of pregnancy shall not in and of
16 itself be grounds for finding the minor eligible for adoption
17 without such father's consent.

18 The incarceration of a parent in and of itself shall not prevent
19 the adoption of a minor without consent.

20 D. In any case where a father or putative father of a minor
21 born out of wedlock claims that, prior to the receipt of notice of
22 the hearing provided for in Sections 7505-2.1 and 7505-4.1 of this
23 title, he had been specifically denied knowledge of the minor or
24 denied the opportunity to exercise parental rights and duties toward

1 the minor, such father or putative father must prove to the
2 satisfaction of the court that he made sufficient attempts to
3 discover if he had fathered a minor or made sufficient attempts to
4 exercise parental rights and duties toward the minor prior to the
5 receipt of notice.

6 E. Consent to adoption is not required from a parent or
7 putative father who waives in writing his right to notice of the
8 hearing provided for in Section 7505-2.1 or 7505-4.1 of this title.

9 F. Consent to adoption is not required from a parent or
10 putative father who fails to appear at the hearing provided for in
11 Section 7505-2.1 or 7505-4.1 of this title if all notice
12 requirements contained in or pursuant to such sections have been
13 met.

14 G. Consent to adoption is not required from a parent who is
15 entitled to custody of a minor and has abandoned the minor.

16 H. 1. Consent to adoption is not required from a parent who
17 fails to establish and/or maintain a substantial and positive
18 relationship with a minor for a period of twelve (12) consecutive
19 months out of the last fourteen (14) months immediately preceding
20 the filing of a petition for adoption of the child.

21 2. In any case where a parent of a minor claims that, prior to
22 the receipt of notice of the hearing provided for in Sections 7505-
23 2.1 and 7505-4.1 of this title, such parent had been denied the
24 opportunity to establish and/or maintain a substantial and positive

1 relationship with the minor by the custodian of the minor, such
2 parent shall prove to the satisfaction of the court that he or she
3 has taken sufficient legal action to establish and/or maintain a
4 substantial and positive relationship with the minor prior to the
5 receipt of such notice.

6 3. For purposes of this subsection, "fails to establish and/or
7 maintain a substantial and positive relationship" means the parent:

8 a. has not maintained frequent and regular contact with
9 the minor through frequent and regular visitation or
10 frequent and regular communication to or with the
11 minor, or

12 b. has not exercised parental rights and
13 responsibilities.

14 I. Consent to adoption is not required from a parent who has
15 been convicted in a criminal action pursuant to the provisions of
16 ~~Sections 7102 and 7115 of this title and~~ Sections 843.5, 1021.3,
17 1111 and 1123 of Title 21 of the Oklahoma Statutes or who has
18 either:

19 1. Physically or sexually abused the minor or a sibling of such
20 minor or failed to protect the minor or a sibling of such minor from
21 physical or sexual abuse that is heinous or shocking to the court or
22 that the minor or sibling of such minor has suffered severe harm or
23 injury as a result of such physical or sexual abuse; or
24

1 2. Physically or sexually abused the minor or a sibling of such
2 minor or failed to protect the minor or a sibling of such minor from
3 physical or sexual abuse subsequent to a previous finding that such
4 parent has physically or sexually abused the minor or a sibling of
5 such minor or failed to protect the minor or a sibling of such minor
6 from physical or sexual abuse.

7 J. Consent to adoption is not required from a parent who has
8 been convicted in a criminal action of having caused the death of a
9 sibling of the minor as a result of the physical or sexual abuse or
10 chronic neglect of such sibling.

11 K. Consent to adoption is not required from a parent if the
12 parent has been sentenced to a period of incarceration of not less
13 than ten (10) years and the continuation of parental rights would
14 result in harm to the minor based on consideration of the following
15 factors, among others: the duration of incarceration and its
16 detrimental effect on the parent/child relationship; any previous
17 incarcerations; any history of criminal behavior, including crimes
18 against children; the age of the minor; the evidence of abuse or
19 neglect of the minor or siblings of the minor by the parent; and the
20 current relationship between the parent and the minor and the manner
21 in which the parent has exercised parental rights and duties in the
22 past.

23 L. Consent to adoption is not required from:
24

1 1. A parent who has a mental illness or mental deficiency, as
2 defined by paragraphs (f) and (g) of Article II of Section 6-201 of
3 Title 43A of the Oklahoma Statutes, which renders the parent
4 incapable of adequately and appropriately exercising parental
5 rights, duties and responsibilities;

6 2. The continuation of parental rights would result in harm or
7 threatened harm to the minor; and

8 3. The mental illness or mental deficiency of the parent is
9 such that it will not respond to treatment, therapy or medication
10 and, based upon competent medical opinion, the condition will not
11 substantially improve.

12 M. Consent to adoption is not required from a putative father
13 who has been served with a Notice of Plan for Adoption pursuant to
14 Section 7503-3.1 of this title and who returns the form to the
15 Paternity Registry of the Department of Human Services or agency or
16 attorney who served him explicitly waiving a right to notice and
17 legal rights to the minor or who fails to return the form pursuant
18 to Section 7503-3.1 of this title in time for the form to be
19 received by the Paternity Registry of the Department of Human
20 Services or the agency or attorney who served him within thirty (30)
21 days from the date the Notice of Plan for Adoption was served upon
22 the putative father.

23 N. Consent to adoption is not required from:
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1 1. An individual who has permanently relinquished parental
2 rights and responsibilities to the minor pursuant to the Oklahoma
3 Adoption Code;

4 2. An individual whose parental relationship to a minor has
5 been legally terminated or legally determined not to exist; or

6 3. The personal representative of a deceased parent's estate.

7 O. Consent to adoption is not required from a parent who has
8 voluntarily placed a minor child in the care of a licensed child
9 care institution or child-placing agency, if the minor has remained
10 in out-of-home care for eighteen (18) months or more, and the parent
11 has willfully failed to substantially comply for twelve (12)
12 consecutive months out of the fourteen-month period immediately
13 preceding the filing of the petition for adoption with a reasonable
14 written plan of care. Provided, the willful failure to comply with
15 the written plan of care may not be a ground for adoption without
16 consent unless the plan of care, at the time it was initially
17 executed by the parent, contained notice that failure to
18 substantially comply constitutes grounds for adoption without
19 consent. The reasonableness of the plan shall be a question of fact
20 to be determined by the court.

21 P. Consent to adoption is not required from a parent when the
22 court makes a finding, by clear and convincing evidence, that the
23 child was conceived as a result of rape perpetrated by the parent
24 whose consent is at issue.

SECTION 2. This act shall become effective November 1, 2020.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/25/2020 - DO
PASS.