

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3543

By: Townley

6 AS INTRODUCED

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

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

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

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

19 B. Consent to adoption is not required from a parent who, for a
20 period of twelve (12) consecutive months out of the last fourteen
21 (14) months immediately preceding the filing of a petition for
22 adoption of a child or a petition to terminate parental rights
23 pursuant to Section 7505-2.1 of this title, has willfully failed,
24 refused, or neglected to contribute to the support of such minor:

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

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

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

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

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

23 1. The minor is placed for adoption within ninety (90) days of
24 birth, and the father or putative father fails to show he has

1 exercised parental rights or duties towards the minor, including,
2 but not limited to, failure to contribute to the support of the
3 mother of the child to the extent of his financial ability during
4 her term of pregnancy; or

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

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

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

1 discover if he had fathered a minor or made sufficient attempts to
2 exercise parental rights and duties toward the minor prior to the
3 receipt of notice.

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

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

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

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

19 2. In any case where a parent of a minor claims that, prior to
20 the receipt of notice of the hearing provided for in Sections 7505-
21 2.1 and 7505-4.1 of this title, such parent had been denied the
22 opportunity to establish and/or maintain a substantial and positive
23 relationship with the minor by the custodian of the minor, such
24 parent shall prove to the satisfaction of the court that he or she

1 has taken sufficient legal action to establish and/or maintain a
2 substantial and positive relationship with the minor prior to the
3 receipt of such notice.

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

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

10 b. has not exercised parental rights and
11 responsibilities.

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

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

22 2. Physically or sexually abused the minor or a sibling of such
23 minor or failed to protect the minor or a sibling of such minor from
24 physical or sexual abuse subsequent to a previous finding that such

1 parent has physically or sexually abused the minor or a sibling of
2 such minor or failed to protect the minor or a sibling of such minor
3 from physical or sexual abuse.

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

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

20 L. Consent to adoption is not required from:

21 1. A parent who has a mental illness or mental deficiency, as
22 defined by paragraphs (f) and (g) of Article II of Section 6-201 of
23 Title 43A of the Oklahoma Statutes, which renders the parent
24

1 incapable of adequately and appropriately exercising parental
2 rights, duties and responsibilities;

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

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

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

20 N. Consent to adoption is not required from:

21 1. An individual who has permanently relinquished parental
22 rights and responsibilities to the minor pursuant to the Oklahoma
23 Adoption Code;

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

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

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

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

22 SECTION 2. This act shall become effective November 1, 2020.
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24 57-2-9793 JW 01/03/20