

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 2793

By: Walke

AS INTRODUCED

An Act relating to children; amending 10A O.S. 2011, Section 1-4-709, as last amended by Section 1, Chapter 94, O.S.L. 2019 (10A O.S. Supp. 2019, Section 1-4-709), which relates to permanent guardianships; allowing parents who have had parental rights terminated to become guardians under certain circumstances; establishing jurisdiction with the juvenile division of the court; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-709, as last amended by Section 1, Chapter 94, O.S.L. 2019 (10A O.S. Supp. 2019, Section 1-4-709), is amended to read as follows:

Section 1-4-709. A. The court may establish a permanent guardianship between a child and a relative or other adult if the guardianship is in the child's best interests and all of the following conditions are substantially satisfied:

1. The child has been adjudicated to be a deprived child;
2. The parent has:
 - a. consented to the guardianship,

- b. had his or her parental rights terminated,
- c. failed to substantially correct the conditions that led to the adjudication of the child,
- d. been adjudicated as incompetent or incapacitated by a court,
- e. abandoned the child,
- f. failed to be identified or has not been located despite reasonably diligent efforts to ascertain the whereabouts of the parent, or
- g. died;

3. The child consents to the guardianship if the court finds the child to be of sufficient intelligence, understanding, and experience to provide consent;

4. Termination of the parent's rights is either not legally possible or not in the best interests of the child or adoption is not the permanency plan for the child;

5. The child and the prospective guardian do not require protective supervision or preventive services to ensure the stability of the guardianship;

6. The prospective guardian is committed to providing for the child until the child reaches the age of majority and to preparing the child for adulthood and independence;

1 7. The prospective guardian agrees not to return the child to
2 the care of the person from whom the child was removed nor to allow
3 visitation without the approval of the court; and

4 8. The child has been residing or placed with the proposed
5 guardian for at least the six (6) preceding months or the permanent
6 guardian is a relative with whom the child has a relationship.

7 B. In proceedings for permanent guardianship, the court shall
8 give primary consideration to the physical and behavioral health
9 needs of the child.

10 C. A permanent guardianship pursuant to subsection A of this
11 section shall not be permitted if:

12 1. The prospective guardian would be denied placement as a
13 prospective foster or adoptive parent pursuant to subsection C of
14 Section 1-4-705 of this title;

15 2. The prospective guardian is subject to the Oklahoma Sex
16 Offenders Registration Act or living with an individual subject to
17 the Oklahoma Sex Offenders Registration Act; or

18 3. The prospective guardian is the parent of the child and has
19 had his or her parental rights terminated, unless the circumstances
20 that caused the termination of parental rights have changed in such
21 a way that the guardianship is in the best interest of the child;
22 provided, any such guardianship provided for in this paragraph shall
23 only be filed in and granted by the juvenile division of the court.
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1 D. Unless otherwise set forth in the final order of permanent
2 guardianship, a permanent guardian is vested with all of the rights
3 and responsibilities as set forth in Title 30 of the Oklahoma
4 Statutes relating to the powers and duties of a guardian of a minor,
5 other than those rights and responsibilities retained by the child's
6 parent, if any, that are set forth in the decree of permanent
7 guardianship.

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

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