

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 58th Legislature (2022)

4   HOUSE BILL 3851

                              By: Boatman

7                               AS INTRODUCED

8           An Act relating to children; amending 10A. O.S. 2021,  
9           Sections 1-4-901 and 1-4-902, which relate to  
10          termination of parental rights; modifying statutory  
11          references; permitting district attorney to file for  
12          termination of parental rights under certain  
13          circumstances; and providing an effective date.

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

15           SECTION 1.        AMENDATORY        10A O.S. 2021, Section 1-4-901, is  
16   amended to read as follows:

17           Section 1-4-901.   A.   A petition or motion for termination of  
18   parental rights may be filed independently by either the district  
19   attorney or the attorney of a child alleged to be or adjudicated  
20   deprived.

21           B.   A petition or motion for termination of parental rights  
22   shall be filed by the district attorney for those petitions or  
23   motions required to be filed pursuant to the provisions of  
24

1 paragraphs 1 through 4 of subsection A of Section 1-4-902 of this  
2 title.

3 C. A petition or motion for termination of parental rights may  
4 be filed by the district attorney for those petitions or motions  
5 permitted to be filed pursuant to the provisions of subsection C of  
6 Section 1-4-902 of this title.

7 D. If a child's attorney files a petition or motion for the  
8 termination of the parental rights of the parents of the child, the  
9 district attorney shall join in the petition or motion for those  
10 petitions or motions required to be filed by the district attorney  
11 pursuant to the provisions of Section 1-4-902 of this title, unless  
12 an exception to filing exists.

13 SECTION 2. AMENDATORY 10A O.S. 2021, Section 1-4-902, is  
14 amended to read as follows:

15 Section 1-4-902. A. The district attorney shall file a  
16 petition or motion for termination of the parent-child relationship  
17 and parental rights with respect to a child or shall join in the  
18 petition or motion, if filed by the child's attorney, in any of the  
19 following circumstances:

20 1. Prior to the end of the fifteenth month when a child has  
21 been placed in foster care by the Department of Human Services for  
22 fifteen (15) of the most recent twenty-two (22) months. For  
23 purposes of this paragraph, a child shall be considered to have  
24 entered foster care on the earlier of:

- a. the date of adjudication as a deprived child, or
- b. the date that is sixty (60) days after the date on which the child is removed from the home;

2. No later than sixty (60) days after a child has been judicially determined to be an abandoned infant;

3. No later than sixty (60) days after a court has determined that reasonable efforts to reunite are not required due to a felony conviction of a parent of any of the following acts:

- a. permitting a child to participate in pornography,
- b. rape, or rape by instrumentation,
- c. lewd molestation of a child under sixteen (16) years of age,
- d. child abuse or neglect,
- e. enabling child abuse or neglect,
- f. causing the death of a child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of the child,
- g. causing the death of a sibling of the child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of the child's sibling,
- h. murder of any child or aiding or abetting, attempting, conspiring in, or soliciting to commit murder of any child,
- i. voluntary manslaughter of any child,

- 1           j.    a felony assault that has resulted in serious bodily  
2               injury to the child or another child of the parent, or  
3           k.    murder or voluntary manslaughter of the child's parent  
4               or aiding or abetting, attempting, conspiring in, or  
5               soliciting to commit murder of the child's parent; or

6           4.   No later than ninety (90) days after the court has ordered  
7   the individualized service plan if the parent has made no measurable  
8   progress in correcting the conditions which caused the child to be  
9   adjudicated deprived.

10          B.   If any of the following conditions exist, the district  
11   attorney is not required to file a petition as provided in  
12   subsection A of this section for a deprived child:

13          1.   At the option of the Department or by order of the court,  
14   the child is properly being cared for by a relative;

15          2.   The Department has documented a compelling reason for  
16   determining that filing a petition to terminate parental rights  
17   would not serve the best interests of the child that may include  
18   consideration of any of the following circumstances:

19               a.   the parents or legal guardians have maintained a  
20                    relationship with the child and the child would  
21                    benefit from continuing this relationship,

22               b.   the child, who is twelve (12) years or older, objects  
23                    to the termination of the parent-child legal  
24                    relationship,

- 1           c.    the foster parents of the child are unable to adopt  
2               the child because of exceptional circumstances which  
3               do not include an unwillingness to accept legal  
4               responsibility for the child but are willing and  
5               capable of providing the child with a stable and  
6               permanent environment, and the removal of the child  
7               from the physical custody of the foster parents would  
8               be seriously detrimental to the emotional well-being  
9               of the child because the child has substantial  
10              psychological ties to the foster parents,  
11           d.   the child is not capable of achieving stability if  
12               placed in a family setting, or  
13           e.   the child is an unaccompanied, refugee minor and the  
14               situation regarding the child involves international  
15               legal issues or compelling foreign policy issues; or

16       3.   The state has not provided to the family of the child,  
17   consistent with the time period in the state case plan, services  
18   that the state deems necessary for the safe return of the child to  
19   the child's home, if reasonable efforts are required to be made with  
20   respect to the child.

21       C.   If, at the option of the Department or by order of the  
22       court, the child is properly being cared for by a relative, the  
23       district attorney may file a petition or motion for termination of  
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1 the parent-child relationship and parental rights with respect to a  
2 child upon request by such relative.

3 SECTION 3. This act shall become effective November 1, 2022.

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5 COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY  
6 SERVICES, dated 02/16/2022 - DO PASS.

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