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**AS AMENDED**

BILL NO. 2318

and

Garvin of the Senate

An Act relating to children; amending 10A O.S. 2011, Section 1-4-904, as last amended by Section 1, Chapter 191, O.S.L. 2015 (10A O.S. Supp. 2020, Section 1-4-904), which relates to termination of parental rights; modifying standard for termination; allowing for termination of parental rights of an individual who has abused or neglected a child or failed to protect a child from heinous or shocking abuse; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-904, as last amended by Section 1, Chapter 191, O.S.L. 2015 (10A O.S. Supp. 2020, Section 1-4-904), is amended to read as follows:

Section 1-4-904. A. A court shall not terminate the rights of a parent to a child unless:

1. The child has been adjudicated to be deprived either prior to or concurrently with a proceeding to terminate parental rights; and

1        2. Termination of parental rights is in the best interests of  
2 the child.

3        B. The court may terminate the rights of a parent to a child  
4 based upon the following legal grounds:

5        1. Upon the duly acknowledged written consent of a parent, who  
6 voluntarily agrees to termination of parental rights.

7            a. The voluntary consent for termination of parental  
8 rights shall be signed under oath and recorded before  
9 a judge of a court of competent jurisdiction and  
10 accompanied by the judge's certificate that the terms  
11 and consequences of the consent were fully explained  
12 in detail in English and were fully understood by the  
13 parent or that the consent was translated into a  
14 language that the parent understood.

15           b. A voluntary consent for termination of parental rights  
16 is effective when it is signed and may not be revoked  
17 except upon clear and convincing evidence that the  
18 consent was executed by reason of fraud or duress.

19           c. However, notwithstanding the provisions in this  
20 paragraph, in any proceeding for a voluntary  
21 termination of parental rights to an Indian child, the  
22 consent of the parent may be withdrawn for any reason  
23 at any time prior to the entry of a final decree of  
24 termination. Any consent given prior to, or within

1                   ten (10) days after, the birth of an Indian child  
2                   shall not be valid;

3           2. A finding that a parent who is entitled to custody of the  
4 child has abandoned the child;

5           3. A finding that the child is an abandoned infant;

6           4. A finding that the parent of a child:

7               a. has voluntarily placed physical custody of the child  
8               with the Department of Human Services or with a child-  
9               placing agency for out-of-home placement,

10           b. has not complied with the placement agreement, and

11           c. has not demonstrated during such period a firm  
12           intention to resume physical custody of the child or  
13           to make permanent legal arrangements for the care of  
14           the child;

15           5. A finding that:

16               a. the parent has failed to correct the condition which  
17               led to the deprived adjudication of the child, and

18           b. the parent has been given at least three (3) months to  
19           correct the condition;

20           6. A finding that:

21               a. the rights of the parent to another child have been  
22               terminated, and

23           b. the conditions that led to the prior termination of  
24           parental rights have not been corrected;

1       7. A finding that a parent who does not have custody of the  
2 child has, for at least six (6) out of the twelve (12) months  
3 immediately preceding the filing of the petition or motion for  
4 termination of parental rights, willfully failed or refused or has  
5 neglected to contribute to the support of the child:

6           a. as specified by an order entered by a court of  
7               competent jurisdiction adjudicating the duty, amount  
8               and manner of support, or

9           b. where an order of child support does not exist,  
10               according to the financial ability of the parent to  
11               contribute to the child's support.

12 Incidental or token support shall not be construed or considered in  
13 establishing whether a parent has maintained or contributed to the  
14 support of the child;

15       8. A finding that the parent has been convicted in a court of  
16 competent jurisdiction in any state of any of the following acts:

- 17           a. permitting a child to participate in pornography,  
18           b. rape, or rape by instrumentation,  
19           c. lewd molestation of a child under sixteen (16) years  
20               of age,  
21           d. child abuse or neglect,  
22           e. enabling child abuse or neglect,
- 23  
24

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

9. A finding that the parent has abused or neglected ~~the~~ any child ~~or a sibling of the child~~ or failed to protect ~~the~~ any child ~~or a sibling of the child~~ from abuse or neglect that is heinous or shocking;

10. A finding that the parent has previously abused or neglected the child or a sibling of the child or failed to protect the child or a sibling of the child from abuse or neglect and the

1 child or a sibling of the child has been subjected to subsequent  
2 abuse;

3 11. A finding that the child was conceived as a result of rape  
4 perpetrated by the parent whose rights are sought to be terminated;

5 12. A finding that the parent whose rights are sought to be  
6 terminated is incarcerated, and the continuation of parental rights  
7 would result in harm to the child based on consideration of the  
8 following factors, among others:

- 9 a. the duration of incarceration and its detrimental  
10 effect on the parent/child relationship,
- 11 b. any previous convictions resulting in involuntary  
12 confinement in a secure facility,
- 13 c. the parent's history of criminal behavior, including  
14 crimes against children,
- 15 d. the age of the child,
- 16 e. any evidence of abuse or neglect or failure to protect  
17 from abuse or neglect of the child or siblings of the  
18 child by the parent,
- 19 f. the current relationship between the parent and the  
20 child, and
- 21 g. the manner in which the parent has exercised parental  
22 rights and duties in the past.

23 Provided, that the incarceration of a parent shall not in and of  
24 itself be sufficient to deprive a parent of parental rights;

1       13. A finding that all of the following exist:

- 2           a. the parent has a diagnosed cognitive disorder, an  
3               extreme physical incapacity, or a medical condition,  
4               including behavioral health, which renders the parent  
5               incapable of adequately and appropriately exercising  
6               parental rights, duties, and responsibilities within a  
7               reasonable time considering the age of the child, and  
8           b. allowing the parent to have custody would cause the  
9               child actual harm or harm in the near future.

10       A parent's refusal or pattern of noncompliance with treatment,  
11       therapy, medication, or assistance from outside the home can be used  
12       as evidence that the parent is incapable of adequately and  
13       appropriately exercising parental rights, duties, and  
14       responsibilities.

15       A finding that a parent has a diagnosed cognitive disorder, an  
16       extreme physical incapacity, or a medical condition, including  
17       behavioral health or substance dependency, shall not in and of  
18       itself deprive the parent of parental rights;

19       14. A finding that:

- 20           a. the condition that led to the deprived adjudication  
21               has been the subject of a previous deprived  
22               adjudication of this child or a sibling of this child,  
23               and  
24

1           b.     the parent has been given an opportunity to correct  
2                 the conditions which led to the determination of the  
3                 initial deprived child;

4         15.   A finding that there exists a substantial erosion of the  
5         relationship between the parent and child caused at least in part by  
6         the parent's serious or aggravated neglect of the child, physical or  
7         sexual abuse or exploitation of the child, a prolonged and  
8         unreasonable absence of the parent from the child or an unreasonable  
9         failure by the parent to visit or communicate in a meaningful way  
10        with the child;

11        16.   A finding that a child four (4) years of age or older at  
12        the time of placement has been placed in foster care by the  
13        Department of Human Services for fifteen (15) of the most recent  
14        twenty-two (22) months preceding the filing of the petition or  
15        motion for termination of parental rights and the child cannot, at  
16        the time of the filing of the petition or motion, be safely returned  
17        to the home of the parent. For purposes of this paragraph, a child  
18        shall be considered to have entered foster care on the earlier of:

- 19           a.     the adjudication date, or  
20           b.     the date that is sixty (60) days after the date on  
21                 which the child is removed from the home; and

22        17.   A finding that a child younger than four (4) years of age  
23        at the time of placement has been placed in foster care by the  
24        Department of Human Services for at least six (6) of the twelve (12)



1 months preceding the filing of the petition or motion for  
2 termination of parental rights and the child cannot be safely  
3 returned to the home of the parent.

4       a. For purposes of this paragraph, a child shall be  
5 considered to have entered foster care on the earlier  
6 of:

7           (1) the adjudication date, or

8           (2) the date that is sixty (60) days after the date  
9 on which the child is removed from the home.

10       b. For purposes of this paragraph, the court may  
11 consider:

12           (1) circumstances of the failure of the parent to  
13 develop and maintain a parental bond with the  
14 child in a meaningful, supportive manner, and

15           (2) whether allowing the parent to have custody would  
16 likely cause the child actual serious  
17 psychological harm or harm in the near future as  
18 a result of the removal of the child from the  
19 substitute caregiver due to the existence of a  
20 strong, positive bond between the child and  
21 caregiver.

22       C. An order directing the termination of parental rights is a  
23 final appealable order.

1 D. The provisions of this section shall not apply to adoption  
2 proceedings and actions to terminate parental rights which do not  
3 involve a petition for deprived status of the child. Such  
4 proceedings and actions shall be governed by the Oklahoma Adoption  
5 Code.

6 SECTION 2. This act shall become effective November 1, 2021.

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
8 March 23, 2021 - DO PASS AS AMENDED  
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