

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1550

By: Pederson

AS INTRODUCED

An Act relating to children; amending 10A O.S. 2021, Section 1-4-904, which relates to termination of parental rights; adding grounds for which parental rights may be terminated by a court; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2021, 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

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

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

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

- 1 a. The voluntary consent for termination of parental
2 rights shall be signed under oath and recorded before
3 a judge of a court of competent jurisdiction and
4 accompanied by the judge's certificate that the terms
5 and consequences of the consent were fully explained
6 in detail in English and were fully understood by the
7 parent or that the consent was translated into a
8 language that the parent understood.
- 9 b. A voluntary consent for termination of parental rights
10 is effective when it is signed and may not be revoked
11 except upon clear and convincing evidence that the
12 consent was executed by reason of fraud or duress.
- 13 c. However, notwithstanding the provisions in this
14 paragraph, in any proceeding for a voluntary
15 termination of parental rights to an Indian child, the
16 consent of the parent may be withdrawn for any reason
17 at any time prior to the entry of a final decree of
18 termination. Any consent given prior to, or within
19 ten (10) days after, the birth of an Indian child
20 shall not be valid;

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

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

24 4. A finding that the parent of a child:
25

- a. has voluntarily placed physical custody of the child with the Department of Human Services or with a child-placing agency for out-of-home placement,
- b. has not complied with the placement agreement, and
- c. has not demonstrated during such period a firm intention to resume physical custody of the child or to make permanent legal arrangements for the care of the child;

5. A finding that:

- a. the parent has failed to correct the condition which led to the deprived adjudication of the child, and
- b. the parent has been given at least three (3) months to correct the condition;

6. A finding that:

- a. the rights of the parent to another child have been terminated, and
- b. the conditions that led to the prior termination of parental rights have not been corrected;

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

- a. as specified by an order entered by a court of competent jurisdiction adjudicating the duty, amount and manner of support, or
- b. where an order of child support does not exist, according to the financial ability of the parent to contribute to the child's support.

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

8. A finding that the parent has been convicted in a court of competent jurisdiction in any state 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, 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 any child or failed to protect any 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 child or a sibling of the child has been subjected to subsequent abuse;

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

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

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

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

13. A finding that all of the following exist:

- a. the parent has a diagnosed cognitive disorder, an extreme physical incapacity, or a medical condition, including behavioral health or substance dependency, which renders the parent incapable of adequately and appropriately exercising parental rights, duties, and responsibilities within a reasonable time considering the age of the child, and

1 b. allowing the parent to have custody would cause the
2 child actual harm or harm in the near future.

3 A parent's refusal or pattern of noncompliance with treatment,
4 therapy, medication, or assistance from outside the home can be used
5 as evidence that the parent is incapable of adequately and
6 appropriately exercising parental rights, duties, and
7 responsibilities.

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

12 14. A finding that:

13 a. the condition that led to the deprived adjudication
14 has been the subject of a previous deprived
15 adjudication of this child or a sibling of this child,
16 and

17 b. the parent has been given an opportunity to correct
18 the conditions which led to the determination of the
19 initial deprived child;

20 15. A finding that there exists a substantial erosion of the
21 relationship between the parent and child caused at least in part by
22 the parent's serious or aggravated neglect of the child, physical or
23 sexual abuse or exploitation of the child, a prolonged and
24 unreasonable absence of the parent from the child or an unreasonable

1 failure by the parent to visit or communicate in a meaningful way
2 with the child;

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

- 11 a. the adjudication date, or
- 12 b. the date that is sixty (60) days after the date on
13 which the child is removed from the home; ~~and~~

14 17. A finding that a child younger than four (4) years of age
15 at the time of placement has been placed in foster care by the
16 Department of Human Services for at least six (6) of the twelve (12)
17 months preceding the filing of the petition or motion for
18 termination of parental rights and the child cannot be safely
19 returned to the home of the parent.

- 20 a. For purposes of this paragraph, a child shall be
21 considered to have entered foster care on the earlier
22 of:
23 (1) the adjudication date, or
24

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

3 b. For purposes of this paragraph, the court ~~may~~ shall
4 consider:

5 (1) circumstances of the failure of the parent to
6 develop and maintain a parental bond with the
7 child in a meaningful, supportive manner, and

8 (2) whether allowing the parent to have custody would
9 likely cause the child actual serious
10 psychological harm or harm in the near future as
11 a result of the removal of the child from the
12 substitute caregiver due to the existence of a
13 strong, positive bond between the child and
14 caregiver; or

15 18. A finding that the mother has been the cause of a child
16 being born addicted to alcohol or a controlled dangerous substance,
17 other than a controlled dangerous substance legally obtained by
18 prescription. For purposes of this paragraph, "born addicted to
19 alcohol or a controlled dangerous substance" means a child who:

20 a. is born to a mother who during the pregnancy used
21 alcohol or a controlled dangerous substance as defined
22 by Section 2-101 of Title 63 of the Oklahoma Statutes
23 in excess, other than a controlled dangerous substance
24 legally obtained by prescription, and

1 b. exhibits after birth as a result of the mother's
2 excessive use of alcohol or a controlled dangerous
3 substance:

4 (1) observable withdrawal from the alcohol or
5 controlled dangerous substance,

6 (2) observable or harmful effects in the physical
7 appearance or functioning of the child, or

8 (3) the demonstrable presence of alcohol or a
9 controlled dangerous substance in the child's
10 bodily fluids.

11 C. An order directing the termination of parental rights is a
12 final appealable order.

13 D. The provisions of this section shall not apply to adoption
14 proceedings and actions to terminate parental rights which do not
15 involve a petition for deprived status of the child. Such
16 proceedings and actions shall be governed by the Oklahoma Adoption
17 Code.

18 SECTION 2. This act shall become effective November 1, 2022.

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