

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3851

By: Boatman

AS INTRODUCED

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

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

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

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

B. A petition or motion for termination of parental rights shall be filed by the district attorney for those petitions or motions required to be filed pursuant to the provisions of paragraphs 1 through 4 of subsection A of Section 1-4-902 of this title.

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

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

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

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

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

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

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

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

8           a.   permitting a child to participate in pornography,

9           b.   rape, or rape by instrumentation,

10          c.   lewd molestation of a child under sixteen (16) years  
11               of age,

12          d.   child abuse or neglect,

13          e.   enabling child abuse or neglect,

14          f.   causing the death of a child as a result of the  
15               physical or sexual abuse or chronic abuse or chronic  
16               neglect of the child,

17          g.   causing the death of a sibling of the child as a  
18               result of the physical or sexual abuse or chronic  
19               abuse or chronic neglect of the child's sibling,

20          h.   murder of any child or aiding or abetting, attempting,  
21               conspiring in, or soliciting to commit murder of any  
22               child,

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

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

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

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

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

- a. the parents or legal guardians have maintained a relationship with the child and the child would benefit from continuing this relationship,
- b. the child, who is twelve (12) years or older, objects to the termination of the parent-child legal 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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