

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 423

By: Pugh

AS INTRODUCED

An Act relating to children; amending 10 O.S. 2021, Section 7505-3.2, which relates to costs expended by adoptive family; increasing allowable amount for certain expenses; updating statutory reference; amending 10A O.S. 2021, Section 1-2-109, which relates to relinquishment of child to medical services provider or child rescuer; increasing certain age limit; amending 21 O.S. 2021, Section 851, which relates to desertion of children; increasing certain age limit; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2021, Section 7505-3.2, is amended to read as follows:

Section 7505-3.2. A. 1. An affidavit shall be attached to the petition for adoption, or may be filed after the filing of the petition for adoption, but prior to the final decree of adoption, which discloses to the court all of the costs, funds, or monies expended by the adoptive family or expected to be expended in connection with the adoption of a minor.

2. No final decree of adoption shall be entered until the court is satisfied that all costs and expenses have been disclosed, are

1 reasonable, and that the costs and expenses do not violate the
2 provisions of subsection B of this section. Upon its review of the
3 affidavit of monies expended, the court shall in writing disapprove
4 any expenditure that the court deems unreasonable or in violation of
5 Sections 865 through 870 of Title 21 of the Oklahoma Statutes and,
6 to the extent necessary to comply with Oklahoma law, shall order
7 reimbursement of any consideration given in violation of Sections
8 865 through 870 of Title 21 of the Oklahoma Statutes. Payments made
9 pursuant to this section shall not be a violation of Sections 865
10 through 870 of Title 21 of the Oklahoma Statutes. Court approval of
11 the affidavit of monies expended shall not exempt a person, attorney
12 or licensed child-placing agency from prosecution if the information
13 provided to the court is fraudulent or false.

14 B. 1. Except as otherwise specifically provided by law, the
15 following list of adoption-related costs and expenses specified in
16 this paragraph may be deemed proper items for a person to pay in
17 connection with an adoption:

- 18 a. reasonable attorney fees and court costs,
- 19 b. reasonable medical expenses for birth mother and minor
20 to be adopted,
- 21 c. reasonable adoption counseling expenses for birth
22 parents before and after the birth of the minor, not
23 to exceed six (6) months from placement of the minor,
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1 d. reasonable fees of a licensed child-placing agency,
2 including social services staff fees provided by
3 agency employees that include:

- 4 (1) casework services,
- 5 (2) adoptive child and family studies,
- 6 (3) placement services,
- 7 (4) certification of agency facilities,
- 8 (5) admission assessments, and
- 9 (6) service planning,

10 e. (1) reasonable and necessary living expenses of the
11 birth mother that are incurred during the
12 adoption planning process or during the
13 pregnancy, not to exceed two (2) months after the
14 birth of the minor or after the consent or
15 relinquishment of the birth mother. Reasonable
16 and necessary living expenses include but are not
17 limited to:

- 18 (a) housing expenses,
 - 19 (b) utilities, such as electric, gas, water, or
20 telephone bills,
 - 21 (c) food for the birth mother and any minor
22 child of the birth mother residing in the
23 home of the birth mother,
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1 (d) travel expenses for transportation to
2 support the pregnancy, such as gasoline, bus
3 fares, or providing for the temporary use of
4 a vehicle during the pregnancy, and

5 (e) child care or foster care for any minor
6 child of the birth mother associated with
7 pregnancy-related medical care~~-, and~~

8 (2) ~~Reasonable~~ reasonable and necessary living
9 expenses shall not include:

10 (a) any expenses met by existing resources of
11 the birth mother,

12 (b) any expenses used for the support of family
13 members who are not minor children of the
14 mother,

15 (c) any expenses for recreational or leisure
16 activities, and

17 (d) the purchase or gift of an automobile,

18 f. reasonable expenses for a home study,

19 g. reasonable and necessary costs associated with an
20 international adoption,

21 h. reasonable expenses legally required by any
22 governmental entity related to the adoption of a
23 minor, and
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1 i. a one-time gift to the birth mother from the
2 prospective adoptive parents of no greater value than
3 One Hundred Dollars (\$100.00).

4 2. In addition, all expenses approved by the court should be
5 commensurate with other customary fees for similar services by
6 persons of equivalent experience and training where the services are
7 performed. Any services provided outside this state shall be
8 allowed in an amount as if the services had been performed within
9 the State of Oklahoma.

10 3. The provisions of this subsection shall apply to living and
11 transportation expenses incurred after the biological mother of the
12 minor contacts the child-placing agency or attorney for adoption
13 services.

14 4. The provisions of this subsection shall not prohibit a court
15 from extending any time period, or including any additional costs
16 and expenses in connection with an adoption other than those
17 specified in this subsection based on unusual circumstances or need.
18 If additional costs and expenses in connection with an adoption are
19 approved by the court, the court shall specify in writing the
20 unusual circumstances that justify the approval.

21 5. Except as otherwise ordered by the court except for good
22 cause shown, all payments made pursuant to this section shall be
23 paid directly to the third-party provider of services or goods. Any
24 living expense paid on behalf of a birth mother in a domestic
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1 adoption which is not supported by an itemized receipt shall not be
2 allowed for payment. If gift cards are issued to pay expenses, an
3 itemized receipt verifying purchases shall be required for approval
4 by the court. The accounting shall include vouchers for all monies
5 expended, copies of all checks written and receipts for all cash
6 payments attesting to the accuracy of the accounting.

7 6. No person, attorney or licensed child-placing agency shall
8 have a financial interest in a third-party provider of services or
9 goods, without disclosing in an affidavit the financial interest to
10 the court and the other parties to the adoption.

11 C. Any person, attorney, or licensed child-placing agency
12 desiring to pay living and transportation expenses on behalf of a
13 birth mother is authorized to expend an initial amount not to exceed
14 ~~One Thousand Dollars (\$1,000.00)~~ Three Thousand Five Hundred Dollars
15 (\$3,500.00) plus deposits for housing and utilities for such costs
16 and expenses without first obtaining court approval as required by
17 paragraph 1 of subsection D of this section. Any such costs and
18 expenses shall be disclosed as is otherwise required by the Oklahoma
19 Adoption Code.

20 D. 1. Except for the amount authorized by subsection C of this
21 section, the payment of any living or transportation expenses for
22 benefit of the birth mother as authorized in subparagraph e of
23 paragraph 1 of subsection B of this section shall be approved in
24 advance by the court.

1 2. The person, attorney, or licensed child-placing agency
2 desiring to pay living or transportation expenses on behalf of a
3 birth mother which exceed the amount in subsection C of this section
4 shall file a petition for an order approving payment of adoption-
5 related expenses.

6 3. The petition for an order approving payment of adoption-
7 related expenses shall be filed in the district court where the
8 adoption petition is to be filed, as provided in Section 7502-1.2 of
9 this title.

10 4. The petition shall be captioned: "In the matter of Baby
11 (name)." The petition shall include a listing of all anticipated
12 living or transportation expenses to be paid on behalf of the birth
13 mother for which court approval is being sought. If additional
14 expenditures not previously authorized by the court are needed on
15 behalf of the birth mother, an amended petition may be filed with
16 the court.

17 5. The petition shall be heard by the court within ten (10)
18 days of filing. The court clerk shall charge the same cost for a
19 petition for payment of expenses as is charged for the filing of an
20 adoption petition. In the event an adoption petition is later filed
21 in the same county, the adoption petition shall be filed as an
22 amended petition within the same case in which payment for expenses
23 was approved and no additional court costs shall be required. In
24 the event a petition for preadoption termination of parental rights
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1 is later filed in the same county, the court clerk shall not assess
2 an additional filing fee and may use the same case number as for the
3 petition for adoption.

4 6. Any order authorizing payment shall be attached to a
5 petition for adoption. If no adoption petition is filed, the court
6 shall retain jurisdiction to enter any orders deemed appropriate
7 regarding the reimbursement of costs and expenses paid. If the
8 child is placed for adoption outside the State of Oklahoma, any such
9 order shall be submitted to the Interstate Compact of the Placement
10 of Children and to the court in the other state where the petition
11 for adoption is to be filed.

12 E. 1. In addition to the adoptive family affidavit requirement
13 of subsection A of this section, a Disclosure Statement of Adoption-
14 related Costs and Expenditures shall be prepared in writing by the
15 person, attorney or child-placing agency in a direct-placement
16 adoption. The Disclosure Statement of Adoption-related Costs and
17 Expenditures shall include a declaration of all fees, expenses, and
18 costs charged or expected to be charged for the adoption including,
19 but not limited to, the following:

- 20 a. retainer fees, the hourly rate, and the number of
21 hours billed for the adoption,
- 22 b. any fee charged for preplacement or other home studies
23 of any prospective birth parents, regardless of
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1 whether the home study was performed by an outside
2 agency,

3 c. any costs, fees or expenses or any other thing of
4 value paid to or on behalf of the birth parents
5 related to the adoption of a minor by any party other
6 than the adoptive parents, and

7 d. any other fees and expenses related to the adoption
8 not otherwise specifically listed in this section.

9 2. The Disclosure Statement of Adoption-related Costs and
10 Expenditures containing true and accurate information shall be filed
11 before or when the final decree of adoption is ordered in each
12 adoption of a minor in this state. A statutory Disclosure Statement
13 of Adoption-related Costs and Expenditures is provided in Section 2
14 7505-3.3 of this ~~act~~ title. A copy of the statement shall be a
15 public record to be compiled and maintained by the court clerk and
16 available for public inspection; provided, that any information
17 identifying the person, attorney or child-placing agency in the
18 direct adoption shall be redacted from the document prior to filing
19 with the court clerk and shall not be made public. In addition, the
20 identity of the child, the adoptive parents, and the birth parents
21 shall be redacted from the document prior to filing with the court
22 clerk and shall not be made public.

23 SECTION 2. AMENDATORY 10A O.S. 2021, Section 1-2-109, is
24 amended to read as follows:

1 Section 1-2-109. A. A parent subject to the provisions of this
2 act shall not be prosecuted for child abandonment or child neglect
3 under the provisions of any statute which makes child abandonment or
4 child neglect a crime, when the allegations of child abandonment or
5 child neglect are based solely on the relinquishment of a child
6 ~~thirty (30)~~ sixty (60) days of age or younger to a medical services
7 provider or a child rescuer as defined in this section.

8 B. The following entities shall, without a court order, take
9 possession of a child ~~thirty (30)~~ sixty (60) days of age or younger
10 if the child is voluntarily delivered to the entity by the parent of
11 the child and the parent did not express an intent to return for the
12 child:

- 13 1. A medical services provider; or
- 14 2. A child rescuer.

15 C. Delivery of the child may be effectuated by an in-person
16 transfer of the child to the medical services provider or child
17 rescuer or by leaving the child in a newborn safety device that is:

- 18 1. Voluntarily installed by the medical services provider or
19 child rescuer;
 - 20 2. Physically located inside a police station, fire station,
21 child protective services agency, hospital or other medical
22 facility; and
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1 3. Located in an area that is conspicuous and visible to the
2 employees of the police station, fire station, child protective
3 services agency, hospital or other medical facility.

4 D. A medical services provider or child rescuer that installs a
5 newborn safety device shall:

6 1. Be responsible for the cost of the installation; and

7 2. Install an adequate dual alarm system connected to the
8 physical location of the newborn safety device that is:

9 a. tested at least one time per week to ensure the alarm
10 system is in working order, and

11 b. visually checked at least two times per day to ensure
12 the alarm system is in working order.

13 E. Any entity identified in subsection B of this section to
14 which a parent seeks to relinquish a child pursuant to the
15 provisions of this section may:

16 1. Request, but not demand, any information about the child
17 that the parent is willing to share. The entity is encouraged to
18 ask about, but not demand, the details of any relevant medical
19 history relating to the child or the parents of the child. The
20 entity shall respect the wish of the parent if the parent desires to
21 remain anonymous; and

22 2. Provide the parent with printed information relating to the
23 rights of the parents, including both parents, with respect to
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1 reunification with the child and sources of counseling for the
2 parents, if desired.

3 F. Once a child has been relinquished to any entity identified
4 in subsection B of this section, the entity receiving the child
5 shall:

6 1. Perform or provide for the performance of any act necessary
7 to protect the physical health or safety of the child; and

8 2. Notify the local office of the Department that a parent of a
9 child thirty (30) days of age or younger, in the best judgment of
10 the receiving entity, has relinquished such child and that the
11 entity has taken possession of the child.

12 G. Upon being made aware that a medical services provider or
13 child rescuer has possession of a child under the provisions of this
14 section, the Department of Human Services shall immediately check
15 with law enforcement authorities to determine if a child has been
16 reported missing and whether the missing child could be the
17 relinquished child.

18 H. The Department shall design and disseminate:

19 1. A simplified form for the recording of medical or other
20 information that a relinquishing parent wishes to share with the
21 entity to whom the child is being relinquished;

22 2. Easily understood printed materials that give information
23 about parents' rights with regard to reunification with a child
24 including, but not limited to, information on how a parent can

1 contact the appropriate entity regarding reunification, and
2 information on sources of counseling for relinquishing parents; and

3 3. Media information including printed material that creates
4 public awareness about the provisions of this act.

5 I. For purposes of this section:

6 1. "Medical services provider" means a person authorized to
7 practice the healing arts including a physician's assistant or nurse
8 practitioner, a registered or practical nurse and a nurse aide; and

9 2. "Child rescuer" means any employee or other designated
10 person on duty at a police station, fire station, child protective
11 services agency, hospital or other medical facility.

12 J. A medical services provider or child rescuer with
13 responsibility for performing duties pursuant to this section shall
14 be immune from any criminal liability that might otherwise result
15 from the actions of the entity, if acting in good faith in receiving
16 a relinquished child. In addition, such medical provider or child
17 rescuer shall be immune from any civil liability that might
18 otherwise result from merely receiving a relinquished child.

19 SECTION 3. AMENDATORY 21 O.S. 2021, Section 851, is
20 amended to read as follows:

21 Section 851. A. Any parent of any child or children under the
22 age of ten (10) years, and every person to whom such child or
23 children have been confided for nurture or education, who deserts
24 such child or children within this state, or takes such child or
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1 children without this state, with the intent wholly to abandon it
2 shall be deemed guilty of a felony and upon conviction thereof shall
3 be punished by imprisonment in the State Penitentiary for any period
4 of time not less than one (1) year nor more than ten (10) years.

5 B. It is an affirmative defense to a prosecution under this
6 section that a parent voluntarily delivered a child under the age of
7 ~~thirty (30)~~ sixty (60) days to and left the child with, or
8 voluntarily arranged for another person to deliver a child to and
9 leave the child with, a medical services provider or child rescuer
10 as provided in Section 1-2-109 of Title 10A of the Oklahoma
11 Statutes.

12 SECTION 4. This act shall become effective November 1, 2023.

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