

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2462

By: Hill

AS INTRODUCED

An Act relating to children; amending 10A O.S. 2021, Section 1-4-905, which relates to parental rights; requiring certain procedure in 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 1-4-905, is amended to read as follows:

Section 1-4-905. A. 1. Prior to a hearing on the petition or motion for termination of parental rights, notice of the date, time, and place of the hearing and a copy of the petition or motion to terminate parental rights shall be served upon the parent who is the subject of the termination proceeding by personal delivery, by certified mail, or by publication as provided for in Section 1-4-304 of this title.

2. The notice shall contain the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS HEARING

1 CONSTITUTES CONSENT TO THE TERMINATION OF YOUR PARENTAL RIGHTS TO
2 THIS CHILD OR THESE CHILDREN. IF YOU FAIL TO APPEAR ON THE DATE AND
3 TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE
4 CHILD OR CHILDREN NAMED IN THE PETITION OR MOTION ATTACHED TO THIS
5 NOTICE."

6 3. Notice shall be served upon the parent not less than fifteen
7 (15) calendar days prior to the hearing.

8 4. Any actual notice of termination of parental rights shall
9 state that the duty of the parent to support his or her minor child
10 will not be terminated except for adoption as provided by paragraph
11 3 of subsection B of Section 1-4-906 of this title.

12 5. The failure of a parent who has been served with notice
13 under this section to personally appear at the hearing shall
14 constitute consent to the termination of parental rights by the
15 parent given notice. When a parent who appears voluntarily or
16 pursuant to notice is directed by the court to personally appear for
17 a subsequent hearing on a specified date, time and location, the
18 failure of that parent to personally appear, or to instruct his or
19 her attorney to proceed in absentia at the trial, shall constitute
20 consent by that parent to termination of his or her parental rights.

21 B. 1. The court shall have the power to vacate an order
22 terminating parental rights if the parent whose parental rights were
23 terminated pursuant to subsection A of this section files a motion
24 to vacate the order within thirty (30) days after the order is filed

1 with the court clerk. This section shall be the exclusive procedure
2 by which a parent can move to vacate an order terminating parental
3 rights entered under this section.

4 2. Notice of the motion shall be given to all the parties and
5 their attorneys and the court shall set the matter for hearing
6 expeditiously.

7 3. The burden of proof is on the defaulting parent to show that
8 he or she had no actual notice of the hearing, or due to unavoidable
9 casualty or misfortune the parent was prevented from either
10 contacting his or her attorney, if any, or from attending the
11 hearing or trial.

12 4. If the motion to vacate the order terminating parental
13 rights due to a failure to appear is found to have merit, the
14 statutory consent shall be set aside and a new trial conducted.

15 SECTION 2. This act shall become effective November 1, 2023.
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