

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 1008

 By: Worthen

7 AS INTRODUCED

8 An Act relating to children and juvenile code;
9 amending 10A O.S. 2011, Section 1-4-904, as last
10 amended by Section 1, Chapter 191, O.S.L. 2015 (10A
11 O.S. Supp. 2016, Section 1-4-904), which relates to
12 termination of parental rights; modifying
13 circumstances that authorize termination of parental
14 rights; and providing an effective date.

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

15 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-904, as
16 last amended by Section 1, Chapter 191, O.S.L. 2015 (10A O.S. Supp.
17 2016, Section 1-4-904), is amended to read as follows:

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

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

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

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

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

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

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

17 c. However, notwithstanding the provisions in this
18 paragraph, in any proceeding for a voluntary
19 termination of parental rights to an Indian child, the
20 consent of the parent may be withdrawn for any reason
21 at any time prior to the entry of a final decree of
22 termination. Any consent given prior to, or within
23 ten (10) days after, the birth of an Indian child
24 shall not be valid;

- 1 2. A finding that a parent who is entitled to custody of the
2 child has abandoned the child;
- 3 3. A finding that the child is an abandoned infant;
- 4 4. A finding that the parent of a child:
- 5 a. has voluntarily placed physical custody of the child
6 with the Department of Human Services or with a child-
7 placing agency for out-of-home placement,
- 8 b. has not complied with the placement agreement, and
- 9 c. has not demonstrated during such period a firm
10 intention to resume physical custody of the child or
11 to make permanent legal arrangements for the care of
12 the child;
- 13 5. A finding that:
- 14 a. the parent has failed to correct the condition which
15 led to the deprived adjudication of the child, and
- 16 b. the parent has been given at least three (3) months to
17 correct the condition;
- 18 6. A finding that:
- 19 a. the rights of the parent to another child have been
20 terminated, and
- 21 b. the conditions that led to the prior termination of
22 parental rights have not been corrected;
- 23 7. A finding that a parent who does not have custody of the
24 child has, for at least six (6) out of the twelve (12) months

1 immediately preceding the filing of the petition or motion for
2 termination of parental rights, willfully failed or refused or has
3 neglected to contribute to the support of the child:

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

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

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

- 15 a. permitting a child to participate in pornography,
- 16 b. rape, or rape by instrumentation,
- 17 c. lewd molestation of a child under sixteen (16) years
18 of age,
- 19 d. child abuse or neglect,
- 20 e. enabling child abuse or neglect,
- 21 f. causing the death of a child as a result of the
22 physical or sexual abuse or chronic abuse or chronic
23 neglect of the child,

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- 1 g. causing the death of a sibling of the child as a
2 result of the physical or sexual abuse or chronic
3 abuse or chronic neglect of the child's sibling,
4 h. murder of any child or aiding or abetting, attempting,
5 conspiring, or soliciting to commit murder of any
6 child,
7 i. voluntary manslaughter of any child,
8 j. a felony assault that has resulted in serious bodily
9 injury to the child or another child of the parents,
10 or
11 k. murder or voluntary manslaughter of the child's parent
12 or aiding or abetting, attempting, conspiring, or
13 soliciting to commit murder of the child's parent;

14 9. A finding that the parent has abused or neglected the child
15 ~~or~~, a sibling of the child, or a child living in the home or failed
16 to protect the child ~~or~~, a sibling of the child, or a child living
17 in the home from abuse or neglect that is heinous or shocking;

18 10. A finding that the parent has previously abused or
19 neglected the child ~~or~~, a sibling of the child, or a child living in
20 the home or failed to protect the child ~~or~~, a sibling of the child,
21 or a child living in the home from abuse or neglect and the child
22 ~~or~~, a sibling of the child or a child living in the home has been
23 subjected to subsequent abuse;

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

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

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

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

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

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

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

18 14. A finding that:

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

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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, 2017.

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8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL JUSTICE AND
9 CORRECTIONS, dated 02/08/2017 - DO PASS.

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