

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2013

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5
6 AS INTRODUCED

7 An Act relating to parents with disabilities;
8 creating the Persons with Disabilities Right to
9 Parent Act; defining terms; requiring compliance with
10 specified laws prior to action that could impact
11 parental rights of a person with a disability;
12 requiring Department of Human Services to make
13 reasonable efforts to avoid removal of child;
14 providing for referrals and reasonable
15 accommodations; prohibiting denial of reunification
16 services solely on basis of parental disability;
17 prescribing court to issue certain findings; banning
18 child-placing agency from denying person the right to
19 pursue adoption without certain considerations;
20 prohibiting Department from denying person the right
21 to access services; construing provision; requiring
22 assessments to take certain information into account;
23 specifying who shall conduct the assessments;
24 providing for codification; and providing an
effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2021 of Title 25, unless there
is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Persons
with Disabilities Right to Parent Act".

1 B. As used in the Persons with Disabilities Right to Parent
2 Act:

3 1. "Adaptive parenting equipment" means equipment or any other
4 item that is used to increase, maintain or improve the parenting
5 capabilities of a person with a disability;

6 2. "Adaptive parenting techniques" means strategies for
7 accomplishing childcare and other parenting tasks that enable
8 persons with disabilities to execute a task safely for themselves
9 and their children alone or in conjunction with adaptive parenting
10 equipment;

11 3. "Child custody proceeding" means a proceeding in court in
12 which a third party is seeking to be awarded temporary or permanent
13 legal or physical custody of a child, to obtain legal guardianship
14 of a child or to limit or deny visitation of a parent or legal
15 guardian, including an action filed by the other parent;

16 4. "Child protection proceeding" means a proceeding in court
17 provided for in the Oklahoma Children's Code relating to protection
18 of children from abuse or neglect, access to services and other
19 support for parents to preserve or reunify the family and permanency
20 planning for children whose parents are unable or unwilling to
21 parent adequately;

22 5. "Child-placing agency" means an agency that arranges for or
23 places a child in a foster family home, group home, adoptive home or
24 a successful adulthood program;

1 6. "Covered entity" has the same meaning as provided for in the
2 Americans with Disabilities Act, as amended;

3 7. "Department" means the Department of Human Services;

4 8. "Disability" means a physical or mental impairment that
5 substantially limits one or more of the major life activities of an
6 individual, a record of an impairment, or being regarded as having
7 an impairment, consistent with the Americans with Disabilities Act,
8 as amended, and as interpreted broadly under that act. An
9 individual who is currently engaging in the illegal use of drugs or
10 the abuse of alcohol, drugs or other substances is not an individual
11 with a "disability" for purposes of this act; and

12 9. "Supportive services" means services that help a person with
13 a disability compensate for those aspects of the disability that
14 affect the ability to care for a child and that enable the person to
15 fulfill parental responsibilities including, but not limited to,
16 specialized or adaptive training, evaluations and assistance with
17 effective use of adaptive equipment, and accommodations that enable
18 a person with a disability to benefit from other services, such as
19 braille text or sign language interpretation.

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2022 of Title 25, unless there
22 is created a duplication in numbering, reads as follows:

23 A. The Department of Human Services, courts and any other
24 covered entity shall comply with the Americans with Disabilities

1 Act, Section 504 of the Rehabilitation Act of 1973 and the
2 Fourteenth Amendment before taking any action that could impact the
3 parental rights of a person with a disability.

4 B. 1. The Department shall, consistent with its purposes:

5 a. make reasonable efforts, that are individualized and
6 based upon the specific disability of a parent or
7 legal guardian, to avoid removal of a child from the
8 home of a parent or legal guardian with a disability,
9 including referrals for access to adaptive parenting
10 equipment, referrals for instruction on adaptive
11 parenting techniques and reasonable accommodations
12 with regard to accessing services that are otherwise
13 made available to a parent or legal guardian who does
14 not have a disability, and

15 b. make reasonable accommodations to a parent or legal
16 guardian with a disability as part of placement and
17 visitation decisions; preventive, maintenance and
18 reunification services; and evaluations or assessments
19 of parenting capacity.

20 2. The Department, and any other covered entity, shall not deny
21 reunification services to a parent or legal guardian with a
22 disability solely on the basis of the disability.

23 C. If any party to the proceedings alleges that the parent or
24 legal guardian has a disability that affects the ability of the

1 parent or legal guardian to fulfill parental responsibilities, the
2 court shall determine and include as findings in the probable cause
3 order:

4 1. The nature of the parent or legal guardian's disability, if
5 any, that affects the parent or legal guardian's ability to fulfill
6 parental responsibilities;

7 2. The reasonable efforts made by the Department to avoid
8 removal of the child from the parent or legal guardian, including
9 reasonable efforts made to address the parenting limitations caused
10 by the disability; and

11 3. Reasonable accommodations the Department, and any other
12 covered entity, shall make to provide the parent or legal guardian
13 with the opportunity to participate fully in the child protection
14 proceedings throughout the duration of the case.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2023 of Title 25, unless there
17 is created a duplication in numbering, reads as follows:

18 A. A child-placing agency shall not deny a person with a
19 disability the right to pursue adoption of a child solely on the
20 basis of the disability without considering whether adaptive
21 parenting equipment, instruction in adaptive parenting techniques
22 and other supportive services could enable the person to parent
23 adequately.

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1 B. The Department and any other covered entity that provides
2 pre- or postadoption services shall not deny a person with a
3 disability the right to access services solely on the basis of the
4 disability without considering whether adaptive parenting equipment,
5 instruction in adaptive parenting techniques and other supportive
6 services could enable the person to parent adequately.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2024 of Title 25, unless there
9 is created a duplication in numbering, reads as follows:

10 Nothing within the Persons with Disabilities Right to Parent Act
11 shall be construed to allow discrimination on the basis of
12 disability. In cases involving a parent with a disability,
13 assessments under this act shall take into account the use of any
14 accommodation including, but not limited to, adaptive parenting
15 equipment, adaptive parenting techniques, assistive technology and
16 support services, whether formal or informal, and shall be conducted
17 by or with the assistance of one or more individuals who possess a
18 combination of experience, training, expertise and knowledge in the
19 use of the equipment, techniques and services.

20 SECTION 5. This act shall become effective November 1, 2019.

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