

1 ENGROSSED HOUSE
2 BILL NO. 2318

By: Lawson of the House

3 and

4 Garvin of the Senate

5
6 [children - modifying standard for termination of
7 parental rights - effective date]
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10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-904, as
12 last amended by Section 1, Chapter 191, O.S.L. 2015 (10A O.S. Supp.
13 2020, Section 1-4-904), is amended to read as follows:

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

16 1. The child has been adjudicated to be deprived either prior
17 to or concurrently with a proceeding to terminate parental rights;
18 and

19 2. Termination of parental rights is in the best interests of
20 the child.

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

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

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

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

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16 consent of the parent may be withdrawn for any reason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

21 2. A finding that a parent who is entitled to custody of the
22 child has abandoned the child;

23 3. A finding that the child is an abandoned infant;

24 4. A finding that the parent of a child:

- 1 a. has voluntarily placed physical custody of the child
2 with the Department of Human Services or with a child-
3 placing agency for out-of-home placement,
4 b. has not complied with the placement agreement, and
5 c. has not demonstrated during such period a firm
6 intention to resume physical custody of the child or
7 to make permanent legal arrangements for the care of
8 the child;

9 5. A finding that:

- 10 a. the parent has failed to correct the condition which
11 led to the deprived adjudication of the child, and
12 b. the parent has been given at least three (3) months to
13 correct the condition;

14 6. A finding that:

- 15 a. the rights of the parent to another child have been
16 terminated, and
17 b. the conditions that led to the prior termination of
18 parental rights have not been corrected;

19 7. A finding that a parent who does not have custody of the
20 child has, for at least six (6) out of the twelve (12) months
21 immediately preceding the filing of the petition or motion for
22 termination of parental rights, willfully failed or refused or has
23 neglected to contribute to the support of the child:
24

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

7 Incidental or token support shall not be construed or considered in
8 establishing whether a parent has maintained or contributed to the
9 support of the child;

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

- 12 a. permitting a child to participate in pornography,
13 b. rape, or rape by instrumentation,
14 c. lewd molestation of a child under sixteen (16) years
15 of age,
16 d. child abuse or neglect,
17 e. enabling child abuse or neglect,
18 f. causing the death of a child as a result of the
19 physical or sexual abuse or chronic abuse or chronic
20 neglect of the child,
21 g. causing the death of a sibling of the child as a
22 result of the physical or sexual abuse or chronic
23 abuse or chronic neglect of the child's sibling,
24

- 1 h. murder of any child or aiding or abetting, attempting,
2 conspiring, or soliciting to commit murder of any
3 child,
4 i. voluntary manslaughter of any child,
5 j. a felony assault that has resulted in serious bodily
6 injury to the child or another child of the parents,
7 or
8 k. murder or voluntary manslaughter of the child's parent
9 or aiding or abetting, attempting, conspiring, or
10 soliciting to commit murder of the child's parent;

11 9. A finding that the parent has abused or neglected ~~the~~ any
12 ~~child or a sibling of the child~~ or failed to protect ~~the~~ any child
13 ~~or a sibling of the child~~ from abuse or neglect that is heinous or
14 shocking;

15 10. A finding that the parent has previously abused or
16 neglected ~~the~~ any child ~~or a sibling of the child~~ or failed to
17 protect ~~the~~ any child ~~or a sibling of the child~~ from abuse or
18 neglect and ~~the~~ any child ~~or a sibling of the child~~ has been
19 subjected to subsequent abuse;

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

22 12. A finding that the parent whose rights are sought to be
23 terminated is incarcerated, and the continuation of parental rights
24

1 would result in harm to the child based on consideration of the
2 following factors, among others:

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

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

19 13. A finding that all of the following exist:

- 20 a. the parent has a diagnosed cognitive disorder, an
21 extreme physical incapacity, or a medical condition,
22 including behavioral health, which renders the parent
23 incapable of adequately and appropriately exercising
24

1 parental rights, duties, and responsibilities within a
2 reasonable time considering the age of the child, and

- 3 b. allowing the parent to have custody would cause the
4 child actual harm or harm in the near future.

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

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

14 14. A finding that:

- 15 a. the condition that led to the deprived adjudication
16 has been the subject of a previous deprived
17 adjudication of this child or a sibling of this child,
18 and
19 b. the parent has been given an opportunity to correct
20 the conditions which led to the determination of the
21 initial deprived child;

22 15. A finding that there exists a substantial erosion of the
23 relationship between the parent and child caused at least in part by
24 the parent's serious or aggravated neglect of the child, physical or

1 sexual abuse or exploitation of the child, a prolonged and
2 unreasonable absence of the parent from the child or an unreasonable
3 failure by the parent to visit or communicate in a meaningful way
4 with the child;

5 16. A finding that a child four (4) years of age or older at
6 the time of placement has been placed in foster care by the
7 Department of Human Services for fifteen (15) of the most recent
8 twenty-two (22) months preceding the filing of the petition or
9 motion for termination of parental rights and the child cannot, at
10 the time of the filing of the petition or motion, be safely returned
11 to the home of the parent. For purposes of this paragraph, a child
12 shall be considered to have entered foster care on the earlier of:

- 13 a. the adjudication date, or
- 14 b. the date that is sixty (60) days after the date on
15 which the child is removed from the home; and

16 17. A finding that a child younger than four (4) years of age
17 at the time of placement has been placed in foster care by the
18 Department of Human Services for at least six (6) of the twelve (12)
19 months preceding the filing of the petition or motion for
20 termination of parental rights and the child cannot be safely
21 returned to the home of the parent.

- 22 a. For purposes of this paragraph, a child shall be
23 considered to have entered foster care on the earlier
24 of:

- 1 (1) the adjudication date, or
2 (2) the date that is sixty (60) days after the date
3 on which the child is removed from the home.

4 b. For purposes of this paragraph, the court may
5 consider:

- 6 (1) circumstances of the failure of the parent to
7 develop and maintain a parental bond with the
8 child in a meaningful, supportive manner, and
9 (2) whether allowing the parent to have custody would
10 likely cause the child actual serious
11 psychological harm or harm in the near future as
12 a result of the removal of the child from the
13 substitute caregiver due to the existence of a
14 strong, positive bond between the child and
15 caregiver.

16 C. An order directing the termination of parental rights is a
17 final appealable order.

18 D. The provisions of this section shall not apply to adoption
19 proceedings and actions to terminate parental rights which do not
20 involve a petition for deprived status of the child. Such
21 proceedings and actions shall be governed by the Oklahoma Adoption
22 Code.

23 SECTION 2. This act shall become effective November 1, 2021.
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1 Passed the House of Representatives the 11th day of March, 2021.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2021.

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9 Presiding Officer of the Senate