

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 ENGROSSED SENATE
5 BILL NO. 423

By: Pugh of the Senate

and

Roe and **Crosswhite Hader** of
the House

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10 An Act relating to children; amending 10 O.S. 2021,
11 Section 7505-3.2, which relates to costs expended by
12 adoptive family; increasing allowable amount for
13 certain expenses; updating statutory reference;
14 amending 10A O.S. 2021, Section 1-2-109, which
15 relates to relinquishment of child to medical
16 services provider or child rescuer; increasing
17 certain age limit; amending 21 O.S. 2021, Section
18 851, which relates to desertion of children;
19 increasing certain age limit; and providing an
20 effective date.

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

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

24 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

1 expended by the adoptive family or expected to be expended in
2 connection with the adoption of a minor.

3 2. No final decree of adoption shall be entered until the court
4 is satisfied that all costs and expenses have been disclosed, are
5 reasonable, and that the costs and expenses do not violate the
6 provisions of subsection B of this section. Upon its review of the
7 affidavit of monies expended, the court shall in writing disapprove
8 any expenditure that the court deems unreasonable or in violation of
9 Sections 865 through 870 of Title 21 of the Oklahoma Statutes and,
10 to the extent necessary to comply with Oklahoma law, shall order
11 reimbursement of any consideration given in violation of Sections
12 865 through 870 of Title 21 of the Oklahoma Statutes. Payments made
13 pursuant to this section shall not be a violation of Sections 865
14 through 870 of Title 21 of the Oklahoma Statutes. Court approval of
15 the affidavit of monies expended shall not exempt a person, attorney
16 or licensed child-placing agency from prosecution if the information
17 provided to the court is fraudulent or false.

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

- 22 a. reasonable attorney fees and court costs,
- 23 b. reasonable medical expenses for birth mother and minor
24 to be adopted,

1 c. reasonable adoption counseling expenses for birth
2 parents before and after the birth of the minor, not
3 to exceed six (6) months from placement of the minor,

4 d. reasonable fees of a licensed child-placing agency,
5 including social services staff fees provided by
6 agency employees that include:

7 (1) casework services,

8 (2) adoptive child and family studies,

9 (3) placement services,

10 (4) certification of agency facilities,

11 (5) admission assessments, and

12 (6) service planning,

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

21 (a) housing expenses,

22 (b) utilities, such as electric, gas, water, or
23 telephone bills,
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1 (c) food for the birth mother and any minor
2 child of the birth mother residing in the
3 home of the birth mother,

4 (d) travel expenses for transportation to
5 support the pregnancy, such as gasoline, bus
6 fares, or providing for the temporary use of
7 a vehicle during the pregnancy, and

8 (e) child care or foster care for any minor
9 child of the birth mother associated with
10 pregnancy-related medical care, and

11 (2) ~~Reasonable~~ reasonable and necessary living
12 expenses shall not include:

13 (a) any expenses met by existing resources of
14 the birth mother,

15 (b) any expenses used for the support of family
16 members who are not minor children of the
17 mother,

18 (c) any expenses for recreational or leisure
19 activities, and

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

21 f. reasonable expenses for a home study,

22 g. reasonable and necessary costs associated with an
23 international adoption,

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

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

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

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

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

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

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

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1 D. 1. Except for the amount authorized by subsection C of this
2 section, the payment of any living or transportation expenses for
3 benefit of the birth mother as authorized in subparagraph e of
4 paragraph 1 of subsection B of this section shall be approved in
5 advance by the court.

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

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

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

22 5. The petition shall be heard by the court within ten (10)
23 days of filing. The court clerk shall charge the same cost for a
24 petition for payment of expenses as is charged for the filing of an

1 adoption petition. In the event an adoption petition is later filed
2 in the same county, the adoption petition shall be filed as an
3 amended petition within the same case in which payment for expenses
4 was approved and no additional court costs shall be required. In
5 the event a petition for preadoption termination of parental rights
6 is later filed in the same county, the court clerk shall not assess
7 an additional filing fee and may use the same case number as for the
8 petition for adoption.

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

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

- a. retainer fees, the hourly rate, and the number of hours billed for the adoption,
- b. any fee charged for preplacement or other home studies of any prospective birth parents, regardless of whether the home study was performed by an outside agency,
- c. any costs, fees or expenses or any other thing of value paid to or on behalf of the birth parents related to the adoption of a minor by any party other than the adoptive parents, and
- d. any other fees and expenses related to the adoption not otherwise specifically listed in this section.

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

1 shall be redacted from the document prior to filing with the court
2 clerk and shall not be made public.

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

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

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

- 17 1. A medical services provider; or
- 18 2. A child rescuer.

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

- 22 1. Voluntarily installed by the medical services provider or
23 child rescuer;

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1 2. Physically located inside a police station, fire station,
2 child protective services agency, hospital or other medical
3 facility; and

4 3. Located in an area that is conspicuous and visible to the
5 employees of the police station, fire station, child protective
6 services agency, hospital or other medical facility.

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

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

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

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

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

16 E. Any entity identified in subsection B of this section to
17 which a parent seeks to relinquish a child pursuant to the
18 provisions of this section may:

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

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

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

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

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

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

20 H. The Department shall design and disseminate:

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

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1 2. Easily understood printed materials that give information
2 about parents' rights with regard to reunification with a child
3 including, but not limited to, information on how a parent can
4 contact the appropriate entity regarding reunification, and
5 information on sources of counseling for relinquishing parents; and

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

8 I. For purposes of this section:

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

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

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

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

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

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

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

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18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated
19 04/10/2023 - DO PASS, As Coauthored.
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