

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2431

By: Kern

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6 AS INTRODUCED

7 An Act relating to children; amending 10A O.S. 2011,
8 Section 1-4-709, which relates to permanent
9 guardianships for deprived child; prohibiting
10 guardianship if prospective guardian is not eligible
11 for foster or adoptive placement; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-709, is
15 amended to read as follows:

16 Section 1-4-709. A. The court may establish a permanent
17 guardianship between a child and a relative or other adult if the
18 guardianship is in the child's best interests and all of the
19 following conditions are substantially satisfied:

- 20 1. The child has been adjudicated to be a deprived child;
- 21 2. The parent has:
 - 22 a. consented to the guardianship,
 - 23 b. had his or her parental rights terminated,
 - 24 c. failed to substantially correct the conditions that
led to the adjudication of the child,

- 1 d. been adjudicated as incompetent or incapacitated by a
2 court,
3 e. abandoned the child,
4 f. failed to be identified or has not been located
5 despite reasonably diligent efforts to ascertain the
6 whereabouts of the parent, or
7 g. died;

8 3. The child consents to the guardianship if the court finds
9 the child to be of sufficient intelligence, understanding, and
10 experience to provide consent;

11 4. Termination of the parent's rights is either not legally
12 possible or not in the best interests of the child or adoption is
13 not the permanency plan for the child;

14 5. The child and the prospective guardian do not require
15 protective supervision or preventive services to ensure the
16 stability of the guardianship;

17 6. The prospective guardian is committed to providing for the
18 child until the child reaches the age of majority and to preparing
19 the child for adulthood and independence;

20 7. The prospective guardian agrees not to return the child to
21 the care of the person from whom the child was removed nor to allow
22 visitation without the approval of the court; and
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1 8. The child has been residing or placed with the proposed
2 guardian for at least the six (6) preceding months or the permanent
3 guardian is a relative with whom the child has a relationship.

4 B. In proceedings for permanent guardianship, the court shall
5 give primary consideration to the physical and behavioral health
6 needs of the child.

7 C. A permanent guardianship pursuant to subsection A of this
8 section shall not be permitted if the prospective guardian would be
9 denied placement as a prospective foster or adoptive parent pursuant
10 to subsection C of Section 1-4-705 of this title or if the
11 prospective guardian is subject to the Oklahoma Sex Offenders
12 Registration Act or married to or living with an individual subject
13 to the Oklahoma Sex Offenders Registration Act.

14 D. Unless otherwise set forth in the final order of permanent
15 guardianship, a permanent guardian is vested with all of the rights
16 and responsibilities as set forth in Title 30 of the Oklahoma
17 Statutes relating to the powers and duties of a guardian of a minor,
18 other than those rights and responsibilities retained by the child's
19 parent, if any, that are set forth in the decree of permanent
20 guardianship.

21 SECTION 2. This act shall become effective November 1, 2016.

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