

1 **SENATE FLOOR VERSION**

2 March 29, 2016

3 ENGROSSED HOUSE
4 BILL NO. 2431

By: Kern of the House

5 and

6 Standridge of the Senate

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

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

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

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

- 22 1. The child has been adjudicated to be a deprived child;
23 2. The parent has:
24 a. consented to the guardianship,

- b. had his or her parental rights terminated,
- c. failed to substantially correct the conditions that led to the adjudication of the child,
- d. been adjudicated as incompetent or incapacitated by a court,
- e. abandoned the child,
- f. failed to be identified or has not been located despite reasonably diligent efforts to ascertain the whereabouts of the parent, or
- g. died;

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

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

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

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

1 7. The prospective guardian agrees not to return the child to
2 the care of the person from whom the child was removed nor to allow
3 visitation without the approval of the court; and

4 8. The child has been residing or placed with the proposed
5 guardian for at least the six (6) preceding months or the permanent
6 guardian is a relative with whom the child has a relationship.

7 B. In proceedings for permanent guardianship, the court shall
8 give primary consideration to the physical and behavioral health
9 needs of the child.

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

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

1 SECTION 2. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
6 March 29, 2016 - DO PASS
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