An Act

ENROLLED HOUSE
BILL NO. 2963

By: Nelson and Rousselot of the House

and

Treat of the Senate

An Act relating to adoption; amending 10 O.S. 2011, Section 7505-3.2, which relates to adoption expenses; updating statutory citation; prohibiting exemption from prosecution if information provided is fraudulent; clarifying reasonable social services staff fees; directing court to specify approval of unusual circumstances; requiring disclosure of financial interest in a third-party provider; providing for public disclosure of costs and fees; directing court clerk to maintain disclosure statement for public inspection; providing for the redacting of identifying information prior to filing; including statutory form for disclosure statement; providing additional language for disclosure statement available to the public; barring revocation of adoption in specified cases; providing for codification; and providing an effective date.

SUBJECT: Adoption

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 7505-3.2, is amended to read as follows:

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

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

2. No final decree of adoption shall be entered until the court is satisfied that all costs and expenses have been disclosed, are reasonable, and that the costs and expenses do not violate the provisions of subsection B of this section. Upon its review of the affidavit of monies expended, the court shall in writing disapprove any expenditure that the court deems unreasonable or in violation of Sections 865 through ~~869~~ 870 of Title 21 of the Oklahoma Statutes and, to the extent necessary to comply with Oklahoma law, shall order reimbursement of any consideration given in violation of Sections 865 through ~~869~~ 870 of Title 21 of the Oklahoma Statutes. Payments made pursuant to this section shall not be a violation of Sections 865 through ~~869~~ 870 of Title 21 of the Oklahoma Statutes. Court approval of the affidavit of monies expended shall not exempt a person, attorney or licensed child-placing agency from prosecution if the information provided to the court is fraudulent or false.

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

a. reasonable attorney fees and court costs,

b. reasonable medical expenses for birth mother and minor to be adopted,

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

d. reasonable fees of a licensed ~~child-placement~~ child-placing agency, including social ~~service~~ services staff fees provided by agency employees that include:

(1) casework services,

(2) adoptive child and family studies,

(3) placement services,

(4) certification of agency facilities,

(5) admission assessments, and

(6) service planning,

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

(a) housing expenses,

(b) utilities, such as electric, gas, water, or telephone bills,

(c) food for the birth mother and any minor child of the birth mother residing in the home of the birth mother,

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

(e) child care or foster care for any minor child of the birth mother associated with pregnancy-related medical care.

(2) Reasonable and necessary living expenses shall not include:

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

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

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

(d) the purchase or gift of an automobile,

f. reasonable expenses for a home study,

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

h. reasonable expenses legally required by any governmental entity related to the adoption of a minor, and

i. a one-time gift to the birth mother from the prospective adoptive parents of no greater value than One Hundred Dollars ($100.00).

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

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

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

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

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

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

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

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

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

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

5. The petition shall be heard by the court within ten (10) days of filing. The court clerk shall charge the same cost for a petition for payment of expenses as is charged for the filing of an adoption petition. In the event an adoption petition is later filed in the same county, the adoption petition shall be filed as an amended petition within the same case in which payment for expenses

was approved and no additional court costs shall be required. In the event a petition for preadoption termination of parental rights is later filed in the same county, the court clerk shall not assess an additional filing fee and may use the same case number as for the petition for adoption.

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

E. 1. In addition to the adoptive family affidavit requirement of subsection A of this section, a Disclosure Statement of Adoption-related Costs and Expenditures shall be prepared in writing by the person, attorney or child-placing agency in a direct-placement adoption. The Disclosure Statement of Adoption-related Costs and Expenditures shall include a declaration of all fees, expenses, and costs charged or expected to be charged for the adoption including, 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. ~~The~~ A statutory Disclosure Statement of Adoption-related Costs and Expenditures is provided in

Section 2 of this act. 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 shall be redacted from the document prior to filing with the court clerk and shall not be made public.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7505-3.3 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Disclosure Statement of Adoption-related Costs and Expenditures required by Section 7505-3.2 of Title 10 of the Oklahoma Statutes shall be in substantially the following form:

DISCLOSURE STATEMENT OF ADOPTION-RELATED COSTS AND EXPENDITURES

The following is a declaration of all fees, expenses, and costs charged or expected to be charged for the adoption:

1. Retainer fees in the amount of _____;

2. The hourly billing rate of _____ and the number of hours billed for the adoption _____ for a total amount of _____;

3. All fees charged for preplacement or other home studies of any prospective birth parents, regardless of whether the study was performed by a third-party _____;

4. All costs, fees, or expenses or any other thing of value paid to or on behalf of the birth parents related to the adoption by any party other than the adoptive parents _____
_____; and

5. Any other fees and expenses related to the adoption not previously listed in this disclosure statement _____
_____.

B. The Disclosure Statement of Adoption-related Costs and Expenditures that shall be filed with the court clerk and available for public inspection shall include the following:

"I, _____, Judge of the District Court in and for _____ County, State of Oklahoma, a Court having original adoption jurisdiction, do hereby certify that upon this day, _____, the disclosures contained in this disclosure statement are consistent with the sealed disclosure statement filed in the adoption case."

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7509-1.3 of Title 10, unless there is created a duplication in numbering, reads as follows:

If a person, attorney or licensed child-placing agency is investigated by law enforcement for suspected fraud or trafficking in children, the final decree of adoption shall not be invalidated or revoked. Provided, however, if an adoptive parent is investigated for suspected fraud or trafficking, the final decree of adoption may be invalidated or revoked by the court upon good cause shown.

SECTION 4. This act shall become effective November 1, 2016.

Passed the House of Representatives the 7th day of March, 2016.

Presiding Officer of the House
of Representatives

Passed the Senate the 11th day of April, 2016.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 12th

day of April, 2016, at 2:46 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 18th

day of April, 2016, at 2:46 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 18th

day of April, 2016, at 3:05 o'clock P. M.

By: Chris Benge