

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1566

By: Boyd (Laura)

COMMITTEE SUBSTITUTE

An Act relating to marriage; amending 43 O.S. 1991, Section 112, which relates to certain divorce actions; authorizing certain counseling or other evaluations; authorizing certain orders; providing purposes; providing for costs; providing factors to be considered by the court; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 1991, Section 112, is amended to read as follows:

Section 112. A. A petition or cross-petition for a divorce, legal separation, or annulment must state whether or not the parties have minor children of the marriage. If there are such children, the court:

1. Shall make provision for guardianship, custody, medical care, support and education of the minor children,

2. Unless not in the best interests of the minor children, may provide for the visitation of the noncustodial parent with any of the children of such noncustodial parent,

3. May modify or change any order whenever circumstances render such change proper either before or after final judgment in the action, provided that the amount of the periodic child support payment shall not be modified retroactively or payment of all or a portion of the past due amount waived, except by mutual agreement of the obligor and obligee, or if the obligee has assigned child support rights to the Department of Human Services or other entity, by agreement of the Department or such entity.

B. In awarding the custody of a minor unmarried child or in appointing a general guardian for the child, the court shall be

guided by the provisions of Section 21.1 of Title 10 of the Oklahoma Statutes and shall consider what appears to be in the best interests of the child.

C. 1. When it is in the best interests of the child, the court shall:

- a. assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and
- b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

2. There shall be neither a legal preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody.

3. When in the best interests of a child, custody shall be awarded in such a way so as to assure the frequent and continuing contact of the child with both parents. To this effect, in making an order for custody to either parent, the court:

- a. may consider, among other facts, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and
- b. shall not prefer a parent as a custodian because of the gender of that parent.

4. In making an order for custody, the court may specify that:

- a. unless there is a prior written agreement to change the permanent residence of the child either parent shall notify the other parent if such parent plans to change the permanent residence of the child.
- b. the noncustodial parent is to notify the custodial parent if such noncustodial parent plans to change permanent residence.

D. If there is a minor child of the marriage, in the best interests of the physical and mental welfare of the child, the court may order, before final judgment in the action, the parents

or the child, or both the parents and child to submit to counseling, mediation, or parenting/divorce education classes provided by such experts as may be helpful to the court, including but not limited to clergymen, psychiatrists, psychologists, licensed social workers, licensed professional counselors, licensed marital and family therapists, child guidance services, professional mediators or certified alcohol and drug counselors.

E. The court may apportion or charge the reasonable cost of such services thereof in the same manner as other costs of the action. In prescribing such services and the costs therefor, the court shall be guided by the need of such services, availability of the services, the ability of the parents to pay for such services if community mental health programs, or other public assistance services are unavailable.

F. Any child shall be entitled to support by the parents until the child reaches eighteen (18) years of age. If a dependent child is regularly and continuously attending high school, said child shall be entitled to support by the parents through the age of eighteen (18) years.

~~F.~~ G. In any case in which provision is made for the custody or support of a minor child after November 1, 1990, the court may determine whether public assistance money has been provided by the Department of Human Services for the benefit of each such minor child. If public assistance money has been provided for the benefit of the minor child since the date of the last child support order, the Department of Human Services is a necessary party for just adjudication and establishment of the debt due and owing the State of Oklahoma, as defined in Section 238 of Title 56 of the Oklahoma Statutes.

~~F.~~ H. In any case in which a child support order or custody order or both is entered, enforced or modified, the court may make a determination of the arrearages of child support, if any.

SECTION 2. This act shall become effective September 1, 1993.