

SHORT TITLE: Child support; allowing court to consider child's school attendance when awarding or modifying order for custody; allowing nonpayment of child support under certain circumstances; effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 1114

By: Shurden

AS INTRODUCED

An Act relating to child support; amending 43 O.S. 1991, Section 112, as amended by Section 1, Chapter 307, O.S.L. 1993 (43 O.S. Supp. 1993, Section 112), which relates to care and custody of children; allowing court to consider child's school attendance when awarding or modifying order for custody; allowing nonpayment of child support during certain time period; 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, as amended by Section 1, Chapter 307, O.S.L. 1993 (43 O.S. Supp. 1993, 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 children of the marriage, 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; and

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. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the child support order.

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, and
- c. may consider whether, under any existing custody arrangement, the child has regularly and continuously attended school during the regular school year.

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, and
- b. the noncustodial parent is to notify the custodial parent if such noncustodial parent plans to change permanent residence.

D. 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~~ the child shall be entitled to support by the parents through the age of eighteen (18) years. A noncustodial parent shall not be required to make support payments if a minor child is not regularly and continuously attending school during the regular school year.

E. 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. 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, 1994.

44-2-1567

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