ENROLLED SENATE
BILL NO. 73

By: Hendrick, Henry, Price, Campbell, Weedn and Martin of the Senate

and

Vaughn, Graves, Reese, Pope (Tim), Adkins, Pettigrew and O'Neal of the House

An Act relating to child visitation; creating the Oklahoma Child Visitation Registry Act and providing short title; allowing associate district judges to enter into agreements to provide for child visitation registries with public or private agencies; authorizing maximum fee; requiring use of certain records; requiring verification of records; requiring copies of log to be available for participants; providing for certification of records; requiring preservation of records for minimum time period; stating that records shall be rebuttable presumptive proof of compliance with certain court order; providing for court order for certain persons to participate in certain registry program; requiring development of certain forms and specifying contents; authorizing modification of visitation rights under certain circumstances; requiring the court to hear applications for participation in the registry within certain time; amending Section 1, Chapter 243, O.S.L. 1992, as amended by Section 1, Chapter 124, O.S.L. 1994 (43 O.S. Supp. 1995, Section 107.1), which relates to divorces in which minor children are involved; authorizing court to require parties to attend

certain educational program; authorizing court to require parties to certain actions to attend certain educational programs; prohibiting recognition of certain marriages not performed in this state; amending 43 O.S. 1991, Section 112, as last amended by Section 12, Chapter 356, O.S.L. 1994 (43 O.S. Supp. 1995, Section 112), which relates to care and custody of children involved in a divorce action; prohibiting certain preferences or presumptions concerning schooling when awarding custody of a child or in appointing a general guardian for a child; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 420 of Title 43, unless there is created a duplication in numbering, reads as follows:

This act shall be known as the "Oklahoma Child Visitation Registry Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 421 of Title 43, unless there is created a duplication in numbering, reads as follows:

The associate district judge in each county within this state may authorize one or more public or private agencies to provide a child visitation registry program. Eligible governmental agencies shall include, but not be limited to, county sheriffs' offices, State Department of Health child guidance centers, social service agencies, and police departments. A participating agency may charge a fee not to exceed Two Dollars ($2.00) per parent, per visit.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 422 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The child visitation registry program shall include a log for each case participating in the program which must be signed by each parent at the time of arrival and departure. The agency must have an employee assigned to verify identification of each parent or guardian, initial each signature, and record the time of each person's arrival and departure.

B. Copies of a participant's log shall be available for purchase by the participant at the agency's reproduction cost. Copies of the records may be certified by stamp. Each agency shall maintain participants' records for a minimum of three (3) years.

C. Entries in child visitation registry records shall be rebuttable presumptive proof of compliance or noncompliance with court-ordered visitation.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 423 of Title 43, unless there is created a duplication in numbering, reads as follows:

The court may order parents to participate in the child visitation registry program either before or after divorce or custody proceedings have become final. The court may order parents to participate in the program on its own motion or upon the motion of either parent.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 424 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The Office of the Court Administrator shall develop:

1. A form for use in petitioning the court for inclusion in the child visitation registry which shall be distributed to all court clerk offices; and

2. A form for the court's order requiring participation in the registry. This form shall provide for the following:

a. a requirement that a copy of the order be given to each parent, the child visitation registry agency, and court file,

b. a determination of who is authorized to pick up or deliver a child to the child visitation registry agency. The list may include, but is not limited to, parents, stepparents, and grandparents,

c. a determination of when the participants shall meet to pick up or deliver a child to the child visitation registry agency. This decision shall include specific days of the week and time periods,

d. the date when participation in the program shall begin or end, and

e. a requirement that the participant delivering the child to the registry must wait at the agency and sign out after the participant picking up the child has departed from the agency.

B. If a parent, or other person with custody, is habitually late to pick up or deliver the child or children, the court may, upon proper notice, consider reducing or canceling visitation temporarily or permanently.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 425 of Title 43, unless there is created a duplication in numbering, reads as follows:

The court shall hear applications for inclusion in the child visitation registry within thirty (30) days after service upon the nonapplicant.

SECTION 7. AMENDATORY Section 1, Chapter 243, O.S.L. 1992, as amended by Section 1, Chapter 124, O.S.L. 1994 (43 O.S. Supp. 1995, Section 107.1), is amended to read as follows:

Section 107.1 A. 1. In an action for divorce where there are minor children involved, the court shall not issue a final order thereon for at least ninety (90) days from the date of filing the petition which ninety (90) days may be waived by the court for good cause shown and without objection by either party.

2. The court may require that within the ninety-day period specified by paragraph 1 of this subsection, the parties attend and complete an educational program specified by Section 8 of this act.

B. This section shall not apply to divorces filed for any of the following causes:

1. Abandonment for one (1) year;

2. Extreme cruelty;

3. Habitual drunkenness;

4. Imprisonment of the other party in a state or federal penal institution under sentence thereto for the commission of a felony at the time the petition is filed;

5. The procurement of a final divorce decree outside this state by a husband or wife which does not in this state release the other party from the obligations of the marriage; and

6. Insanity for a period of five (5) years, the insane person having been an inmate of a state institution for the insane in the State of Oklahoma, or an inmate of a state institution for the insane in some other state for such period, or an inmate of a private sanitarium, and affected with a type of insanity with a poor prognosis for recovery.

C. After a petition has been filed in an action for divorce where there are minor children involved, the court may make any such order concerning property, children, support and expenses of the suit as provided for in Section 110 of this title, to be enforced during the pendency of the action, as may be right and proper.

D. The court may issue a final order in an action for divorce where minor children are involved before the ninety-day time period set forth in subsection A of this section has expired, if the parties voluntarily participate in marital or family counseling and the court finds reconciliation is unlikely.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 107.2 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. In all actions for divorce, separate maintenance, guardianship, paternity, custody or visitation, including modifications or enforcements of a prior court order, where the interest of a child under eighteen (18) years of age is involved, the court may require all adult parties to attend an educational program concerning, as appropriate, the impact of separate parenting and coparenting on children, the implications for visitation and conflict management, development of children, separate financial responsibility for children and such other instruction as deemed necessary by the court. The program shall be educational in nature and not designed for individual therapy.

B. Each judicial district may adopt its own local rules governing the program.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.1 of Title 43, unless there is created a duplication in numbering, reads as follows:

A marriage between persons of the same gender performed in another state shall not be recognized as valid and binding in this state as of the date of the marriage.

SECTION 10. AMENDATORY 43 O.S. 1991, Section 112, as last amended by Section 12, Chapter 356, O.S.L. 1994 (43 O.S. Supp. 1995, 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 minor children of the marriage, the court:

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

2. Unless not in the best interests of the 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 any action if there are minor unmarried children concerned in awarding the custody of the 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 a minor unmarried child, the court shall:

a. assure 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 the 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 of the child because of the gender of that parent.

4. In any action, there shall be neither a legal preference or a presumption for or against private or public school or home-schooling in awarding the custody of a child, or in appointing a general guardian for the child.

5. 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 child shall be entitled to support by the parents through the age of eighteen (18) years. No hearing shall be required to extend such support through the age of eighteen (18) if the child is regularly and continuously attending high school.

E. In any case in which provision is made for the custody or support of a minor child or enforcement of such order, the court shall inquire whether public assistance money has been provided by the Department of Human Services for the benefit of each child. If public assistance money has been provided for the benefit of the child, the Department of Human Services shall be a necessary party for the 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 and for the just adjudication and establishment of current child support.

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 11. This act shall become effective January 1, 1997.