

STATE OF OKLAHOMA

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COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL 721

By: Cain

COMMITTEE SUBSTITUTE

[ marriage and family; creating the Oklahoma Family  
Law Code - codification -

effective date ]

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

CHAPTER 1

OKLAHOMA FAMILY LAW CODE

ARTICLE I. SHORT TITLE AND GENERAL INFORMATION

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1-1-101 of Title 43, unless  
there is created a duplication in numbering, reads as follows:

A. Chapter 1 of this title shall be known and may be cited as  
the "Oklahoma Family Law Code".

B. The Oklahoma Family Law Code shall consist of:

- Article I: General Information
- Article II: Marriage
- Article III: Dissolution of Marriage, Legal Separation,  
and Annulment
- Article IV: Equitable Division of Property
- Article V: Alimony
- Article VI: Custody and Parenting Time
- Article VII: Child Support
- Article VIII: Enforcement
- Article IX: Determination of Parentage

C. All statutes hereinafter enacted and codified in Chapter 1 of this title shall be considered and deemed part of the Oklahoma Family Law Code.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1-102 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The Rules of Civil Procedure apply to proceedings pursuant to the Oklahoma Family Law Code, except as otherwise provided in this Code.

B. 1. In any proceeding pursuant to the Oklahoma Family Law Code, a court may exercise jurisdiction on any basis consistent with the Constitution of this state and the Constitution of the United States.

2. When the person who is subject to the jurisdiction of the court is not within the state, such person may be served outside the state by any method that is authorized by the Rules of Civil Procedure.

C. 1. Subject to the provisions of the Oklahoma Family Law Code, the trial court, in cases governed by the Oklahoma Family Law Code, shall have full equity power and jurisdiction.

2. The court may issue injunctions or other orders which are necessary to protect the interests of the parties or to effectuate the purposes of the Oklahoma Family Law Code. The court may grant such other relief or remedy as equity or justice require against either party or against any third person over whom the court has jurisdiction and who has been joined pursuant to the provisions of the Oklahoma Family Law Code.

D. 1. In all cases arising pursuant to the Oklahoma Family Law Code, the court may make orders relative to the expenses incurred by or on behalf of a party, including, but not limited to, communication expenses, attorney fees, investigative fees, witness fees, and travel expenses.

2. An application made pursuant to this section may be brought by a party or the party's attorney.

3. An order for fees and expenses issued pursuant to this section may be made in favor of a party or the party's attorney.

## ARTICLE II. MARRIAGE

### Part 1. Marriage Requirements

SECTION 3. AMENDATORY 43 O.S. 1991, Section 1, is amended to read as follows:

Section 1. A. Marriage is a personal relation arising out of a civil contract to which the consent of parties legally competent of contracting and of entering into it is necessary, ~~and the.~~

B. The marriage relation shall only be entered into, maintained or abrogated as provided by ~~law~~ the Oklahoma Family Law Code.

SECTION 4. AMENDATORY 43 O.S. 1991, Section 2, is amended to read as follows:

Section 2. The following marriages are declared to be incestuous, illegal, void and are expressly prohibited. Marriages between ancestors:

1. Ancestors and descendants of any degree, ~~of a stepfather;~~

2. Stepfather with a stepdaughter, ~~stepmother;~~

3. Stepmother with stepson, ~~between uncles;~~

4. Uncles and nieces, or aunts and nephews, except in cases where such relationship is only by marriage, ~~between brothers;~~

5. Brothers and sisters of the half as well as the whole blood, ~~and first;~~ or

6. First cousins ~~are declared to be incestuous, illegal and void, and are expressly prohibited. Provided, that any marriage.~~ Marriages of first cousins performed in another state authorizing such marriages, which is otherwise legal, is hereby recognized as valid and binding in this state as of the date of such marriage.

SECTION 5. AMENDATORY 43 O.S. 1991, Section 3, is amended to read as follows:

Section 3. A. Any unmarried person of the age of eighteen (18) years or ~~upwards~~ over and not otherwise disqualified is capable of contracting and consenting to marriage with a person of the opposite sex ~~but no.~~

B. 1. a. Except as otherwise provided by this section, no person under the age of eighteen (18) years shall enter into the marriage relation, nor shall any license issue therefor, except upon:

(1) the consent and authority expressly given by the parent or guardian of such underage applicant in the presence of the authority issuing such license, or ~~or~~

(2) the written consent of the parent or guardian of such underage applicant executed and acknowledged in person before a judge of the district court or the court clerk of any county within the State of Oklahoma. ~~Provided, if such~~

b. If the parent or guardian resides outside of the State of Oklahoma ~~such~~ written consent may be executed before a judge or clerk of a court of record. Such executed foreign consent shall be duly authenticated in the same manner as proof of documents from foreign jurisdictions. ~~Provided that if~~

c. If the certificate of a duly licensed medical doctor or osteopath, acknowledged in the manner provided by law for the acknowledgment of deeds, and stating that such parent or guardian is unable by reason of health or incapacity to be present in person, is presented to such licensing authority, the license may issue on the written consent of such parent or guardian, acknowledged in the same manner as the accompanying medical certificate.

d. Any ~~such~~ certificate and written permission shall be retained by the official issuing the marriage license, ~~and provided that the~~.

2. A license may issue and the marriage relation be entered into if such parent or guardian is on active duty with the Armed Forces of the United States, on the written permission of such parent or guardian, acknowledged in the manner provided by law for acknowledgment of deeds by military personnel authorized to administer oaths, if such permission is presented to such licensing authority, accompanied by a certificate executed by a commissioned officer in command of said applicant, to the effect that said parent or guardian is on active duty in the Armed Forces of the United States. ~~Provided further, that in~~

3. In all cases where it is made to appear by affidavit of three ~~(3)~~ reputable persons that both parents of said minor are deceased, or mentally incompetent, or their whereabouts are unknown to the minor, and that no guardian has theretofore been appointed for said minor, the judge of the district court issuing said license may ~~in his discretion~~ consent to ~~said~~ the marriage in the same manner as in all cases in which consent may be given by a parent or guardian and with the same effect.

4. At the time of application for the license, the parent or guardian of such underage applicant or other person authorized by this section to give consent may sign a waiver, waiving the seventy-two-hour waiting period provided for in ~~Section 5 of this title part~~. ~~Provided, however, every~~

C. 1. Every person under the age of sixteen (16) years is expressly forbidden and prohibited from entering into the marriage relation. ~~Provided, that this section~~ This subsection shall not be construed to prevent the courts from authorizing the marriage of persons under the ages ~~herein mentioned~~, specified by this subsection:

a. in settlement of suits for seduction or paternity, ~~and the courts may also authorize the marriage of persons under the ages herein mentioned, or~~

b. when the unmarried female is pregnant, or has given birth to an illegitimate child, whether or not any suits for seduction or paternity have been brought, ~~provided that no.~~

2. No court shall authorize the marriage of any male under the age of sixteen (16) or any female under the age of sixteen (16) when the unmarried female is pregnant unless at least one parent of each minor, or the guardian or custodian of such child, is present before the court and has an opportunity to present evidence in the event such parent, guardian, or custodian objects to the issuance of a marriage license, ~~and if.~~ If they are not present ~~said,~~ the parent, guardian, or custodian may be given notice of the hearing at the discretion of the court.

D. No marriage may be authorized when ~~such a~~ a marriage would be incestuous ~~under~~ pursuant to this chapter article.

SECTION 6. AMENDATORY Section 9, Chapter 131, O.S.L. 1996 (43 O.S. Supp. 1998, Section 3.1), is amended to read as follows:

Section 3.1 A marriage between persons of the same gender performed in another state shall not be recognized as valid and binding in ~~this state~~ Oklahoma as of the date of the marriage.

SECTION 7. AMENDATORY 43 O.S. 1991, Section 7, as amended by Section 1, Chapter 214, O.S.L. 1998 (43 O.S. Supp. 1998, Section 7), is amended to read as follows:

Section 7. A. All marriages must be contracted by a formal ceremony performed or solemnized in the presence of at least two adult, competent persons as witnesses, by a judge or retired judge of any court in this state, or an ordained or authorized preacher or minister of the Gospel, priest or other ecclesiastical dignitary of

any denomination who has been duly ordained or authorized by the church to which he or she belongs to preach the Gospel, or a rabbi and who is at least eighteen (18) years of age.

B. 1. The judge shall place his or her order of appointment on file with the office of the court clerk of the county in which he or she resides.

2. The preacher, minister, priest, rabbi, or ecclesiastical dignitary who is a resident of this state shall have filed, in the office of the court clerk of the county in which he or she resides, a copy of the credentials or authority from his or her church or synagogue authorizing him or her to solemnize marriages.

3. The preacher, minister, priest, rabbi, or ecclesiastical dignitary who is not a resident of this state, but has complied with the laws of the state of which he or she is a resident, shall have filed once, in the office of the court clerk of the county in which he or she intends to perform or solemnize a marriage, a copy of the credentials or authority from his or her church or synagogue authorizing him or her to solemnize marriages.

4. The filing by resident or nonresident preachers, ministers, priests, rabbis, or ecclesiastical dignitaries shall be effective in and for all counties of this state; ~~provided, no.~~

5. No fee shall be charged for such recording.

C. No ~~person herein~~ preacher, minister, priest, rabbi, or ecclesiastical dignitary authorized to perform or solemnize a marriage ceremony shall do so unless ~~the~~:

1. The license issued therefor be first delivered into ~~his or her~~ the possession nor unless he or she of such preacher, minister, priest, rabbi, or ecclesiastical dignitary; or

2. Such preacher, minister, priest, rabbi, or ecclesiastical dignitary has good reason to believe the persons presenting themselves ~~before him or her~~ for marriage are the identical persons

named in the license, and for whose marriage the same was issued~~;~~  
and ~~that there~~

3. There is no legal objection or impediment to such marriage.

D. Marriages between persons belonging to the society called Friends, or Quakers, the spiritual assembly of the Baha'is, or the Church of Jesus Christ of Latter Day Saints, which have no ordained minister, may be solemnized by the persons and in the manner prescribed by and practiced in any such society, church, or assembly.

#### Part 2. Marriage Licenses

SECTION 8. AMENDATORY 43 O.S. 1991, Section 4, is amended to read as follows:

Section 4. No person shall enter into or contract the marriage relation, nor shall any person perform or solemnize the ceremony of any marriage in this state without a license being first issued by the judge or clerk of the district court, of ~~some~~ a county in this state, authorizing the marriage between the persons named in such license.

SECTION 9. AMENDATORY 43 O.S. 1991, Section 36, is amended to read as follows:

Section 36. A. Marriage licenses shall be issued to all applicants who have complied with the provisions of this ~~act~~ part and who are otherwise entitled under the laws of the State of Oklahoma to apply therefor and to contract matrimony.

B. Any person obtaining ~~such~~ a marriage license from the court clerk shall deliver ~~said~~ the license, within ten (10) days from the date of issue, to the clergyman or other qualified person who is to officiate before the marriage can be performed.

C. Each ~~such~~ license, when issued, shall have endorsed thereon or annexed thereto, at the end thereof, a statement, subscribed by the person issuing the license, that the application for the license was accompanied by papers complying with the applicable requirements

of ~~Sections 1 and 3 of this act~~ Part 4 of this article relative to examination and health of the parties or, if such compliance was dispensed with, wholly or partly, by order of the judge of the district court, a statement to that effect.

D. 1. The license issued, including the ~~above~~ statement, or including said statement in the certificate duly signed by the person who shall have performed the marriage therein authorized, shall be returned ~~by him~~ to the licensing authority who issued the same within five (5) days succeeding the date of the performance of the marriage therein authorized, ~~and any.~~

2. Any person ~~or persons~~ who ~~shall~~ willfully ~~neglect~~ neglects to make such return within the time ~~above~~ required by this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars (\$100.00) for each and every offense.

SECTION 10. AMENDATORY 43 O.S. 1991, Section 5, is amended to read as follows:

Section 5. ~~The judge or clerk of the district court, upon~~ A. Persons desiring to be married in this state shall submit an application in writing signed and sworn to in person before him the judge or clerk of the district court by both of the parties to be married setting forth their places:

1. Each party's place of residence and setting forth their;

2. Each party's full names name and ages age as the same appear upon a certified copy of birth certificate, ~~or upon~~ a current motor vehicle operator's, chauffeur's or commercial license, ~~or upon~~ a current voter's registration certificate, ~~or upon~~ a current passport or visa, or ~~upon~~ any other certificate, license or document issued by or existing pursuant to the laws of any nation or of any state or other governmental subdivision thereof, ~~when each such document~~ accepted as proof of identity and age ~~is described with reasonable~~

~~particularity in the application shall also set forth that such persons to be married; and~~

3. That the parties are not disqualified from or incapable of entering into the marriage relation, ~~nor of the relationship prohibited by law, and being.~~

B. Upon application pursuant to this section and the payment of fees as provided in Section 31 of Title 28 of the Oklahoma Statutes, if the judge of the district court is satisfied of the truth and sufficiency of ~~such~~ the application and that there is no legal impediment to such marriage, ~~and after application for such marriage license has issued,~~ the judge shall issue ~~under his hand and the seal of his court,~~ the license authorizing ~~such~~ the marriage; ~~provided that in.~~

C. In the event that one or both of the parties ~~to be married~~ are under legal age and a parent or guardian of each party ~~under legal age~~ or other authorized person has not signed the waiver as provided for in Section 3 of this title, ~~such~~ the application shall have been on file in the court clerk's office for a period of not less than seventy-two (72) hours prior to issuance of the marriage license. ~~Such~~

D. The marriage license shall be valid in any county within the state.

E. The provisions hereof are mandatory and not directory except under the circumstances set out in the ~~proviso to Section 3~~ provisions of Part 1 of this title article.

SECTION 11. AMENDATORY 43 O.S. 1991, Section 6, as amended by Section 9, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 1998, Section 6), is amended to read as follows:

Section 6. ~~The~~ A marriage license ~~herein provided for~~ shall contain ~~the:~~

1. The date and time of its issuance, ~~;~~
2. The name of the court, ~~the;~~

3. The name of the city or town and county in which it is located,~~the;~~

4. The full names of the persons to be married thereunder,~~their;~~

5. Their ages,~~places;~~

6. Places of residence,~~and social;~~ and

7. Social security numbers, if any,

and shall be directed to any person authorized by law to perform and solemnize the marriage ceremony,~~and.~~ The marriage license shall fix the time of the return thereof, which shall not be more than thirty (30) days from the date of its issuance, and shall contain a blank certificate to be made out by the person solemnizing or performing the marriage ceremony thereunder.

SECTION 12. AMENDATORY 43 O.S. 1991, Section 8, is amended to read as follows:

Section 8. A. The person performing or solemnizing the marriage ceremony shall immediately upon the completion thereof endorse upon the license authorizing the marriage ~~his name~~ such person's:

1. Name; ~~official~~

2. Official or clerical designation; the court of which ~~he~~ such person is judge or the congregation or body of which ~~he~~ such person is pastor, preacher, minister, priest, rabbi or dignitary, provided, that the authority to perform or solemnize marriages shall be coextensive with the congregation or body of which ~~he~~ such person is pastor, preacher, minister, priest, rabbi or dignitary; the town or city and county where the ~~same~~ court or congregation or body is located; ~~and signed by him with his~~

3. Signature with such person's official or clerical designation.

B. The witnesses to the ceremony shall endorse the license authorizing the marriage with their names and post office addresses.

C. The license with such certificate thereon shall be transmitted without delay to the judge or the court clerk who issued the ~~same~~ license. ~~Provided that all~~

D. All marriages solemnized among the society called Friends, or Quakers, the spiritual assembly of the Baha'Is, or the Church of Jesus Christ of Latter Day Saints, in the form heretofore practiced and in use in their meetings shall be good and valid. One person chosen by such society, church or assembly shall be responsible for completing the certification of marriage pursuant to this title in the same manner as a minister or other person authorized to perform marriages. Such person shall be chosen by the society, church or assembly for this purpose.

SECTION 13. AMENDATORY 43 O.S. 1991, Section 9, as amended by Section 6, Chapter 310, O.S.L. 1998 (43 O.S. Supp. 1998, Section 9), is amended to read as follows:

Section 9. A. The judge or clerk of the district court issuing any marriage license shall make a complete record of the application, license, and certificate thereon, in connected form, each subjoining the other on an optical disc, microfilm, microfiche, or in a book kept by the judge or clerk for that purpose, properly indexed; ~~and the.~~

B. The record of the license shall be made before it is delivered to the person procuring the ~~same~~ license, and the record of the certificate shall be made upon the return of the license; ~~provided, that all.~~

C. All records pertaining to the issuance of such license shall be open to public inspection during office hours; ~~provided further, that after.~~

D. After recording of the original license and completed certificate as ~~hereinbefore~~ required by this section, ~~it~~ the original shall be returned to the persons to whom ~~the same~~ it was

issued, with the issuing officer's certificate on the back thereof showing the book and page where the ~~same~~ license has been recorded.

SECTION 14. AMENDATORY 43 O.S. 1991, Section 10, is amended to read as follows:

Section 10. If the judge or clerk of the district court before whom application for a marriage license is made ~~shall be~~ is in doubt of the legal capacity of the parties for whose marriage a license is sought, to enter into the marriage relation, ~~such~~ the judge or clerk shall require ~~additional~~ evidence in addition to that contained in the application, ~~and~~. In addition, the judge or clerk of the district court may swear and examine witnesses or require affidavits in proof of the legality of ~~such~~ the marriage, and unless satisfied of the legality thereof, ~~he~~ the judge or clerk shall not issue a license therefor.

SECTION 15. AMENDATORY 43 O.S. 1991, Section 11, is amended to read as follows:

Section 11. Copies of any record required to be made and kept by the judge of the district court under the provisions of this ~~chapter~~ article, certified to by the judge ~~of said court~~, under ~~his~~ the judge's official signature and seal, shall be received as evidence in all courts of this state.

### Part 3. Penalties

SECTION 16. AMENDATORY 43 O.S. 1991, Section 14, as amended by Section 461, Chapter 133, O.S.L. 1997 (43 O.S. Supp. 1997, Section 14), is amended to read as follows:

Section 14. A. Any minister of the Gospel, or other person authorized to solemnize the rites of matrimony within this state, who shall knowingly solemnize the rites of matrimony between persons prohibited by this ~~chapter~~ article, from intermarrying shall upon conviction thereof be ~~deemed~~ guilty of a felony, ~~upon conviction thereof~~.

B. The fine for a violation of this section shall not exceed Five Hundred Dollars (\$500.00). Such fine shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

SECTION 17. AMENDATORY 43 O.S. 1991, Section 15, is amended to read as follows:

Section 15. Any judge of the district court, or clerk of the district court, knowingly issuing any marriage license, or concealing any record thereof, contrary to the provisions of this ~~chapter~~ article, or any person knowingly performing or solemnizing the marriage ceremony contrary to any of the provisions of this ~~chapter~~ article, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail not less than thirty (30) days nor more than one (1) year or by both such fine and imprisonment.

SECTION 18. AMENDATORY 43 O.S. 1991, Section 16, is amended to read as follows:

Section 16. A. It shall be unlawful for any person to solicit directly or indirectly within any courthouse, premises or grounds or lots on which a courthouse may be located in any county within the State of Oklahoma for himself or herself or for and on behalf of any minister of the Gospel or other person, the performance of a marriage ceremony.

B. Any person violating this section and upon conviction thereof shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed Twenty-five Dollars (\$25.00) for the first conviction, and for any second or subsequent conviction by a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00).

C. In addition to the penalty provided in this section, a cause of action shall exist in favor of any citizen of any county, or in favor of this state on the relation of the district attorney of any county where the offense is committed to apply to the district court of the county for an injunction restraining the violation of this section.

SECTION 19. AMENDATORY 43 O.S. 1991, Section 19, is amended to read as follows:

Section 19. A. It shall be unlawful for the court clerk of any county of this state to sell, offer for sale, or permit the sale of any paper or instrument relating, directly or indirectly, to marriage licenses issued from the office of said court clerk except the license herein. ~~Provided, any~~

B. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00), or by imprisonment in the county jail for not less than five (5) days nor more than ten (10) days, or by both such fine and imprisonment.

#### Part 4. Premarital Examinations

SECTION 20. AMENDATORY 43 O.S. 1991, Section 31, is amended to read as follows:

Section 31. Any person seeking to obtain a marriage license shall first file with the court clerk a certificate or affidavit from a duly licensed physician, licensed to practice within ~~the State of Oklahoma~~ this state, stating that each party to the marriage contract has been given a standard serological examination, as may be necessary for the discovery of syphilis, made not more than thirty (30) days prior to the date of such application to obtain a marriage license, and that, in the opinion of the physician, the persons named therein are not infected with syphilis,

or, if infected, said syphilis is not in a stage which may be communicable to the marriage partner.

SECTION 21. AMENDATORY 43 O.S. 1991, Section 32, is amended to read as follows:

Section 32. A. Because of an emergency or other cause shown by affidavit or other proof of both of the parties over the age of twenty-five (25) years, the judge of the district court, if satisfied by medical testimony, that neither the health of the individuals nor the public health and welfare will be injuriously affected thereby, may make an order, on joint application of both the parties desiring the marriage license, dispensing with those requirements of ~~Sections 1 and 3,~~ this part which relate to the filing with the licensing authority by either or both of the parties of the physician's certificates and the laboratory statements or, the said affidavits and statements having been filed, extending the thirty-day period following the examination and test to not later than ninety (90) days after such examination and test.

B. The order shall be accompanied by a memorandum in writing from the judge reciting ~~his~~ the reasons for granting said order. Application for such extension may be made before, on or after the expiration of such thirty-day period.

C. The order in the accompanying memorandum shall be filed with the court clerk ~~and said.~~ The clerk shall thereupon accept the application for the marriage license without the production or filing of the physician's certificates and the laboratory statements dispensed with by the order or shall accept the application within any such extended period, as the case may be. The court clerk and his clerks and employees shall hold such memorandum of the judge in absolute confidence.

SECTION 22. AMENDATORY 43 O.S. 1991, Section 33, is amended to read as follows:

Section 33. A. Each physician's statement shall be accompanied by a statement from the person in charge of the laboratory making the test, or from some other person authorized to make such statement, setting forth the name of the test, the date it was completed and the name and address of the person whose blood was tested, but not stating the result of the test.

B. The physician's statement and the laboratory statement shall be on the same form sheet. Upon ~~said~~ the form a detailed report of the laboratory test, showing the result of the test, shall be transmitted by the laboratory to the physician who, after examining it and ~~if he deems~~ deeming it desirable, discussing it with either or both of the proposed marital parties, shall file it with the State Commissioner of Health Officer, or ~~State Superintendent of Health, where it~~ the Commissioner's designated employee.

C. Such form shall be held in absolute confidence and shall not be open to public inspection; provided that it shall be produced for evidence at a trial or proceeding in a court of competent jurisdiction, involving issues in which it may be material and relevant, on an order of the judge of such court requiring its production.

SECTION 23. AMENDATORY 43 O.S. 1991, Section 34, is amended to read as follows:

Section 34. It shall be the duty of the State ~~Health Officer,~~ ~~or State Superintendent~~ Commissioner of Health, upon request, to make the examinations ~~herein provided~~ required by this part without charge to the person ~~or persons~~ applying therefor.

SECTION 24. AMENDATORY 43 O.S. 1991, Section 35, is amended to read as follows:

Section 35. A standard serological test shall be a laboratory test for syphilis, approved by the State Commissioner of ~~Public Health, and.~~ The test shall be performed by the State Department of ~~Public Health,~~ on request, free of charge, or at a laboratory

approved for this purpose by ~~said~~ the State Department of ~~Public~~ Health.

SECTION 25. AMENDATORY 43 O.S. 1991, Section 37, is amended to read as follows:

Section 37. It shall be a misdemeanor for:

1. Any applicant for a marriage license, any physician or any representative of a laboratory ~~who shall to~~ to misrepresent any of the facts called for by the physician's statement and the laboratory report or statement, ~~or any;~~

2. Any licensing officer ~~who shall to~~ to accept an application for a license without the accompanying physician's statement and laboratory report, as ~~requested by Sections 1 and 3 herein~~ required by this part, unless ~~the same shall have~~ it has been dispensed with by judicial order ~~as provided in Section 2~~, or ~~who shall have to~~ issue a marriage license when the officer has reason to believe that any of the facts contained in ~~said~~ the statement or report have been misrepresented ~~and shall nevertheless issue a marriage license, or any;~~

3. Any health officer or ~~his~~ such officer's employee ~~who shall to~~ to not hold a laboratory record confidential, except as provided in ~~Section 3 herein~~ this part with respect to its production for evidence on order of the judge of the district court, ~~or any;~~

4. Any officer, clerk or employee of the officer issuing the license ~~who shall to~~ to not hold in strictest confidence ~~the~~ such statement ~~filed with him~~ as to the reasons for granting a judicial order, ~~as provided in Section 2 herein~~, shall be guilty of a ~~misdemeanor and punishable accordingly.~~

### ARTICLE III. DISSOLUTION OF MARRIAGE,

#### LEGAL SEPARATION, AND ANNULMENT

#### Part 1. General Requirements and Venue

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-101 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. A proceeding for dissolution of marriage, legal separation or annulment shall be entitled "In re the Marriage of \_\_\_\_\_ and \_\_\_\_\_". An independent custody, parenting time or support proceeding shall be entitled "In re the Custody (or Support) of \_\_\_\_\_".

B. The initial pleading in all proceedings under this Code shall be denominated a petition. The person filing the petition shall be called the petitioner. A responsive pleading shall be denominated a response. The person filing the responsive pleading shall be called the respondent. Other pleadings shall be denominated as provided in the Rules of Civil Procedure, except as otherwise provided in this Code.

C. A decree of dissolution, legal separation, or annulment, if made, shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-102 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Either the petitioner or the respondent in an action for dissolution, legal separation, or annulment must have been an actual resident, in good faith, of this state for six (6) months immediately preceding the filing of the petition.

B. Any person who has been a resident of any United States army post or military reservation within this state for six (6) months immediately preceding the filing of the petition, or the spouse of such person, may bring an action for dissolution, legal separation, or annulment.

C. 1. Any person who has not been a resident of this state for six (6) months may file an application to request a temporary order under the provisions of Section 34 of this act in contemplation of filing an action for dissolution, legal separation, or annulment.

2. The application shall state the date the petitioner or the respondent became a resident of this state.

3. A petition for dissolution, legal separation, or annulment shall be filed within ten (10) days from the time when either the petitioner or the respondent has resided in this state for six (6) months. In the event a petition for dissolution, legal separation, or annulment is not so filed within the ten (10) days, any order of the court issued under this part shall be deemed vacated as a matter of law at the expiration of the ten-day period.

D. The venue of actions for dissolution, legal separation, and annulment may be in the county in which the petitioner has been a resident for thirty (30) days immediately preceding the filing of the petition or in the county in which the respondent is a resident.

#### Part 2. Annulment

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-201 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. An action for an annulment shall be commenced by filing a verified petition which shall allege that the marriage of parties is invalid pursuant to this part and shall set forth:

1. The basis of the court's jurisdiction and venue;

2. Information concerning any minor children of the invalid marriage, in conformity with the Uniform Child Custody Jurisdiction Act;

3. Whether the wife is pregnant; and

4. The relief sought.

B. A response to the petition shall be filed within twenty (20) days of service of summons. Within twenty (20) days after service

of the petition, the respondent may file an entry of appearance which shall extend the time to respond twenty (20) days from the last date for responding, subject to the provisions of subsection A of Section 2012 of Title 12 of the Oklahoma Statutes.

C. The court may join additional persons as parties if they are so situated as that their absence may:

1. As a practical matter, impair or impede that person's ability to protect their interest; or

2. Leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-202 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The court shall enter a decree of annulment declaring the invalidity of the marriage entered into under the following circumstances:

1. A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or infirmity or because of the influence of alcohol, drugs, or other incapacitating substances, or a party was induced to enter into a marriage by force or duress, or by fraud involving the essentials of marriage;

2. A party lacks the physical capacity to consummate the marriage by sexual intercourse, and at the time the marriage was solemnized the other party did not know of the incapacity;

3. A party was under the age of sixteen (16) years at the time of the marriage, or was sixteen (16) or seventeen (17) years old at the time of the marriage and did not have the consent of such party's parents, guardian, or the court; or

4. The marriage is otherwise prohibited pursuant to Article I of the Oklahoma Family Law Code.

B. A decree of annulment under paragraphs 1 through 4 of subsection A of this section may be sought by any of the following persons and must be commenced within the times specified:

1. For a reason set forth in paragraph 1 of subsection A of this section, by either party or by the legal representative of the party who lacked capacity to consent, no later than ninety (90) days after the petitioner obtained knowledge of the described condition;

2. For the reason set forth in paragraph 2 of subsection A of this section, by either party, no later than one (1) year after the petitioner obtained knowledge of the described condition;

3. For the reason set forth in paragraph 3 of subsection A of this section by the underage party, such party's parent or guardian, prior to the time the underage party reaches the age of eighteen (18) years;

4. For the reason set forth in paragraph 4 of subsection A of this section by either party, the legal spouse in case of a bigamous marriage, or a child of either party, at any time not to exceed five (5) years following the death of either party.

C. Children born of a marriage declared annulled are legitimate.

D. No petition for annulment shall be heard on its merits until it has been on file for at least ten (10) days if there are no minor children of the parties or at least thirty (30) days if there are minor children of the parties. The court may set an earlier hearing upon application setting forth good cause or by agreement of the parties. An entry of appearance and waiver of service by a party and decree of divorce must be in writing and signed at least one (1) day after the filing of the petition, and it must be filed in the action. When an entry of appearance and waiver of service is filed, the court shall not grant greater relief than is requested in the petition unless the respondent consents in writing thereto.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-203 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. 1. The decree of annulment shall declare the marriage invalid as of the date of the marriage. The court may, however, upon consideration of all relevant circumstances, make the decree of annulment effective as of the date of its pronouncement.

2. a. A decree of annulment is final when pronounced, except as set forth in this section. The provision of the decree annulling the marriage becomes final when pronounced unless the finding of the court that grounds for annulment exist is challenged on appeal. If no such appeal is made, either party may remarry at any time.

b. If an appeal challenges the finding that grounds for annulment exist, that part of the decree does not become final and take effect until the appeal is concluded and neither party may remarry until the appeal is final.

c. Subject to the provisions of Sections 990.3 and 990.4 of Title 12 of the Oklahoma Statutes and subsection B of this section, other appealed issues take effect when pronounced and become final when the appeal is concluded.

d. Pending disposition of the appeal, the trial court may enter an order with respect to any issue ancillary to the annulment, regardless of whether the subject of the order is an issue upon appeal.

B. 1. The provisions of this article relating to the petitions, pretrial conferences, written settlement agreements, orders and appeals are applicable to annulments.

2. The provisions of the Oklahoma Family Law Code relating to property rights of the spouses, alimony, child support, and custody of children are applicable to decrees of annulment that are effective when pronounced. Unless the court finds, after a consideration of all relevant circumstances, including the effect of a retroactive decree on third parties, that the interests of justice would be served by making the decree not retroactive, it shall declare the marriage invalid as of the date of the marriage.

3. The provisions of this Code relating to property rights of the spouses, maintenance child support, and custody of children on dissolution of marriage are applicable to nonretroactive decrees of annulment.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-204 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Any person who had cohabited with another to whom that person is not legally married, in the good faith belief that the marriage is legal, is a putative spouse until knowledge of the fact that the marriage is not legal terminates that status and prevents acquisition of future rights.

B. A putative spouse acquires the rights conferred upon a legal spouse, including the right to alimony following termination of the putative spouse status, whether or not the marriage is prohibited or annulled.

C. If there is a legal spouse or other putative spouses, rights acquired by a putative spouse do not supersede the rights of the legal spouse or those acquired by other putative spouses, but the court shall apportion property, alimony, and support rights among the claimants as appropriate in the circumstances and in the interests of justice.

### Part 3. Dissolution and Legal Separation

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-301 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The court shall enter a decree of dissolution or legal separation, if it finds that the parties to the marriage are incompatible.

B. All other grounds for dissolution of a marriage or legal separation are hereby abolished.

C. Previously existing defenses to dissolution and legal separation including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time are abolished.

D. If a party requests a decree of legal separation, the court may grant the request unless the other party requests a decree of dissolution.

E. No petition for dissolution of marriage or legal separation shall be heard on its merits until it has been on file for at least ten (10) days if there are no minor children of the parties or at least thirty (30) days if there are minor children of the parties. The court may set an earlier hearing upon application setting forth good cause or by agreement of the parties. An entry of appearance and waiver of service by a party and decree of divorce must be in writing and signed at least one (1) day after the filing of the petition, and it must be filed in the action. When an entry of appearance and waiver of service is filed, the court shall not grant greater relief than is requested in the petition unless the respondent consents in writing thereto.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-302 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. An action for dissolution of a marriage or legal separation shall be commenced by filing a verified petition which shall allege that the parties are incompatible and shall set forth:

1. The basis of the court's jurisdiction and venue;
2. Information concerning any minor children of the marriage, in conformity with the Uniform Child Custody Jurisdiction Act;
3. Whether the wife is pregnant; and
4. The relief sought.

B. A response to the petition shall be filed within twenty (20) days of service of summons. Within twenty (20) days after service of the petition, the respondent may file an entry of appearance which shall extend the time to respond twenty (20) days from the last date for responding, subject to the provisions of subsection A of Section 2012 of Title 12 of the Oklahoma Statutes.

C. The court may join additional persons as parties if they are so situated as that their absence may:

1. As a practical matter, impair or impede that person's ability to protect their interest; or
2. Leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-303 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. In a proceeding for dissolution or legal separation, either party may request the court to issue a temporary order:

1. Regarding child custody, support, or parenting time;
2. Regarding spousal maintenance;
3. Regarding payment of debt;
4. Regarding possession of property;
5. Regarding attorney fees;
6. Restraining any person from transferring, encumbering, concealing, or otherwise disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained, requiring such person to notify the other party

reasonably in advance of any proposed extraordinary expenditures made after the order is issued;

7. Enjoining a party from molesting or disturbing the peace of the other party or of any child;

8. Excluding a party from the family home or from the home of the other party;

9. Enjoining a party from removing a child from the jurisdiction of the court; and

10. Providing other injunctive relief proper in the circumstances.

B. All applications for temporary orders shall set forth the factual basis for the application and shall be verified by the party seeking relief. The application and a notice of hearing shall be served on the other party in any manner provided for in the Rules of Civil Procedure.

C. The court shall not issue a temporary order until at least five (5) days' notice of hearing is given to the other party.

D. After notice and hearing, a court may issue a temporary order granting the relief as provided by this subsection. If the court finds on the basis of a verified application and testimony of witnesses that irreparable harm will result to the moving party, or a child of a party if no order is issued before the adverse party or attorney for the adverse party can be heard in opposition, the court may issue a temporary restraining order which shall become immediately effective and enforceable without requiring notice and opportunity to be heard to the other party. If a temporary restraining order is issued pursuant to this subsection, the motion for a temporary order shall be set for hearing within ten (10) days.

E. Temporary orders may be vacated or modified before a final decree. Temporary orders terminate when the final judgment on all issues, except attorney fees and costs, is pronounced or when the action is dismissed. The court may reserve authority to rule on an

application for a contempt citation which is filed any time prior to the pronouncement of the final judgment.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-304 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. In lieu of a pretrial conference pursuant to Rule 5 of the rules for district courts of Oklahoma, the Rules of Civil Procedure apply to proceedings pursuant to the Oklahoma Family Law Code, except as otherwise provided in this Code, or subsequent rules of the district court pertaining to pretrial conferences. In all cases arising pursuant to the Oklahoma Family Law Code, a pretrial conference which complies with the requirements of this section shall be held unless:

1. The respondent is in default;
2. The respondent has waived the right to appear and plead; or
3. For good cause, the parties agree in writing to waive the pretrial conference; provided, however, such agreement shall be approved by the trial court. The order waiving the pretrial conference shall state the reasons for such waiver.

B. Unless a published local rule establishes a different time schedule, at least twenty (20) days' notice of the setting for a pretrial conference shall be given to the parties or to the attorneys of record by the court clerk. The pretrial conference shall be held no more than thirty (30) nor less than fourteen (14) days before the scheduled trial of the action.

C. The pretrial conference shall be conducted by the judge who will try the action. The judge shall take an active part in the conference. The judge shall conduct the conference in an informal manner in chambers, whenever possible.

D. The scheduling and conduct of the pretrial conference shall be designed to expedite the disposition of the action and improve the quality of the trial through more thorough preparation.

E. At least thirty (30) days in advance of the pretrial conference, attorneys shall have:

1. Completed discovery;

2. Provided to opposing counsel a list of all witnesses with addresses and telephone numbers and a concise statement of their testimony; and

3. Filed all motions.

F. At least five (5) days in advance of the pretrial conference, attorneys shall submit to the opposing attorney and to the assigned judge a pretrial conference statement which shall contain:

1. Home studies and evaluations, if applicable;

2. Expert medical, psychological, and financial reports, if applicable;

3. The Joint Custody Plan, if applicable;

4. All exhibits, marked;

5. Lists of witnesses with a brief summary of the testimony expected of each witness, unless discovered originally in the evaluation report submitted pursuant to Article V of this Code;

6. The court prescribed financial disclosure form;

7. Statements of disputed fact questions;

8. Listings of disputed legal issues with appropriate citations;

9. An estimate of the time to try the party's side of the case;

10. A proposed resolution pertaining to all matters regarding the action; and

11. Complied with the Oklahoma Indian Child Welfare Act and Uniform Child Custody Jurisdiction Act, if applicable.

G. The pretrial conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties, unless a substitute attorney is authorized by the court, and by any unrepresented party.

H. After the pretrial conference an order shall be issued reciting the action taken. The order shall include the results of the pretrial conference and shall state any rulings made by the court regarding the factual and legal issues. Attorneys for all parties and all pro se parties shall approve the order. The order shall be presented to the court for signature. The contents of the order shall govern the trial of the action unless departure therefrom is permitted by the court to prevent manifest injustice.

I. Absent a finding of good cause, failure to comply with the provisions of this section, failure to appear at a pretrial conference or appearance at a pretrial conference substantially unprepared shall result in at least one of the following sanctions:

1. Assessment of expenses and fees either against a party or the attorney, or both;

2. An order that any designated fact shall be deemed to be established for the purposes of the action in accordance with the claim of one of the parties;

3. An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the disobedient party from introducing designated matters in evidence;

4. An order striking out pleadings or parts thereof, or dismissing the action or proceedings, or rendering a judgment by default against the disobedient party;

5. In lieu of or in addition to the sanctions provided for in paragraphs 1 through 4 of this subsection, an order treating the infraction as contempt of court.

J. No sanction imposed under subsection I of this section shall effect custody or parenting time of the children; nor shall any sanction imposed lower the amount of monetary support of a child.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-305 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. To promote amicable settlement of marital disputes, the parties may enter into a written settlement agreement, distinct from the decree of dissolution or legal separation, containing provisions for disposition of any property owned by either of them, alimony for either of them, and support, custody, and parenting time of their children.

B. 1. In a proceeding for dissolution of marriage or legal separation, the terms of the settlement agreement, except those providing for the support, custody, and parenting time of children, are binding upon the court, unless the court finds that the agreement is unconscionable.

2. If the court finds the agreement unconscionable, the court may request the parties to submit a revised agreement or may make orders relative to property and alimony.

C. If the court finds that the agreement is not unconscionable:

1. Unless the agreement provides that its terms are not to be incorporated, terms of the agreement shall either be set forth, or incorporated by reference, in the decree of dissolution or legal separation, and the parties shall be ordered to comply with them;

2. If the agreement provides that its terms shall not be set forth in the decree, the decree shall identify the agreement and state that the court has found the terms not unconscionable;

3. The decree may preclude or limit modification of alimony in accordance with the terms of the agreement;

4. The decree shall always contain orders regarding child custody, child support, and parenting time regardless of any agreement of the parties.

D. 1. Terms of the agreement set forth, or incorporated, in the decree are enforceable by all remedies available for the enforcement of a judgment including, but not limited to, contempt of court, and are enforceable as contract terms.

2. Terms of an agreement found not unconscionable and not incorporated in the decree may only be enforced as a contract and may only be modified by an agreement of the parties.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-3-306 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. An appeal from a decree granting a dissolution or legal separation shall be made in the same manner as any other civil case.

B. A decree of dissolution or legal separation is final when pronounced, except as set forth in this section. The provision of the decree dissolving the marriage becomes final when pronounced unless the finding of the court that the parties are incompatible is challenged on appeal. If no such appeal is made, either party may remarry at any time.

C. If an appeal challenges the finding that the parties are incompatible, that part of the decree does not become final and take effect until the appeal is concluded and neither party may remarry until the appeal is final.

D. Subject to the provisions of Sections 990.3 and 990.4 of Title 12 of the Oklahoma Statutes and subsection C of this section, other appealed issues take effect when pronounced and become final when the appeal is concluded.

E. Pending disposition of the appeal, the trial court may enter an order with respect to any issue ancillary to the dissolution or legal separation, regardless of whether the subject of the order is an issue upon appeal.

#### ARTICLE IV. EQUITABLE DIVISION OF PROPERTY

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-101 of Title 43, unless there is created a duplication in numbering, reads as follows:

For purposes of this article:

1. "Property" means an interest in something of value, or a liability, present or future, legal or equitable, vested or contingent, regardless of transferability; and

2. "Acquired during the marriage" means property acquired from money earned or labor performed between the date of the marriage and the date a proceeding is commenced pursuant to Article II of this Code.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-102 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. 1. The provisions of this article are subject to valid antenuptial agreements and valid marital property agreements made pursuant to the Oklahoma Family Law Code.

2. Subject to a valid antenuptial agreement and valid marital property agreement, property that the spouses hold as joint tenants or as tenants in common is marital property.

B. In a proceeding for dissolution of marriage, legal separation, nonretroactive decrees of annulment, or disposition of property following a decree of dissolution of the marriage or legal separation by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's separate property and liabilities to that spouse. The court shall divide the marital property and liabilities, regardless of title, in accordance with the provisions of this article.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-103 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. 1. A marital property agreement must be a document signed during the marriage by both spouses.

2. A marital property agreement is enforceable without consideration; however, it shall contain a statement of the underlying purpose or intent for entering into the agreement.

B. A marital property agreement shall not affect custody or support of children.

C. In a marital property agreement, spouses may agree with respect to:

1. Rights and obligations in any of their property whenever and wherever acquired or located;

2. Management and control of any of their property;

3. Disposition of any of their property on dissolution, death, or the occurrence or nonoccurrence of any other event;

4. Making a will, trust, or other arrangement to carry out the agreement;

5. Choice of law governing construction of the agreement; and

6. Any other matter affecting their property not in violation of public policy or a statute imposing a criminal penalty.

D. A marital property agreement may be amended or revoked only by a later marital property agreement, or by an agreement valid pursuant to the provisions of Article II of this Code. The amended agreement or the revocation is enforceable without consideration.

E. A marital property agreement is not enforceable if the spouse against whom enforcement is sought proves that:

1. The agreement was unconscionable when made;

2. The spouse did not execute the agreement voluntarily;

3. The spouse, before execution of the agreement:

a. was not provided a fair and reasonable disclosure of the property or financial obligations of the other spouse,

b. did not voluntarily sign a written consent expressly waiving any right to disclosure of the property or

financial obligations of the other spouse beyond the disclosure provided, and

c. did not have a general understanding of the property or financial obligations of the other spouse; or

4. The agreement does not contain a statement of purpose as specified in subsection A of this section.

F. The issue of unconscionability of a marital property agreement shall be determined by the court as a matter of law.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-104 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section, all property and liabilities acquired during the marriage shall be presumed to be marital property. The presumption may be overcome by proving, by a preponderance of the evidence, that the property is separate property.

B. Separate property shall consist of:

1. Assets acquired and liabilities incurred by either party prior to marriage;

2. Assets acquired and liabilities incurred by either party from money earned or labor performed after the commencement of a proceeding pursuant to Article II of this Code;

3. Property acquired by either party in such party's own name by bequest, devise, or descent;

4. Property acquired by either party in such party's own name by a noninterspousal gift. Interspousal gifts purchased with marital funds are marital property unless:

a. the recipient demonstrates by clear and convincing evidence that the donor intended to relinquish a marital interest, or

b. the subject matter of the gift is intended to be used exclusively by the receiving party. Gifts of wearing

apparel, jewelry, and other items of a personal nature are presumed to be separate property of the receiving spouse;

5. Assets acquired or liabilities incurred by either party that are proved by clear and convincing evidence to be in exchange for separate property;

6. Income from separate property to the extent the income is not attributable to the personal effort of either spouse;

7. An increase in value of separate property to the extent the increase is not attributable to the personal effort of either spouse; and

8. Any judgment, or property obtained by judgment, awarded to a spouse from the other spouse.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-105 of Title 43, unless there is created a duplication in numbering, reads as follows:

Each spouse has an interest in the marital property which vests at the time a proceeding pursuant to Article II of this Code is commenced and continues only during the pendency of the action. Any such interest in marital property shall not encumber that property so as to restrict its transfer, assignment, or conveyance by the title holder unless such title holder is restrained, under the provisions of Article II of this Code from making such transfer, assignment, or conveyance.

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-106 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The court shall place a value on the items of marital property.

B. Marital property shall be valued as of the effective date of the domestic relations judgment. If the value of the marital property has fluctuated between the date of the commencement of a

proceeding pursuant to Article II of this Code and the effective date of the domestic relations order due to the labor and effort of one of the spouses, the trial judge may select a different valuation date. The court shall make specific written findings of fact setting forth why a different valuation date was selected.

C. If equitable, the court may select a valuation date which apportions the increase or decrease in value between the spouses.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-107 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The court shall distribute between the parties, the marital assets and liabilities in such proportions as are equitable, after considering all relevant factors, including:

1. The contribution to the marriage by each spouse including, but not limited to, contributions to the care and education of the children and services as homemaker;

2. The economic circumstances of the parties;

3. The duration of the marriage;

4. Any interruption of personal careers or educational opportunities of either party;

5. The contribution of one spouse to the personal career or educational opportunity of the other spouse;

6. The desirability of retaining any asset, including an interest in a business, corporation, or professional practice, intact and free from any claim or interference by the other party; and

7. The contribution of each spouse to the acquisition, enhancement, and production of income or the improvement of, or the incurring of liabilities related to, both the marital assets and the nonmarital assets of the parties.

B. The court shall not allow any of the marital property to remain jointly titled.

C. The court, after considering all the circumstances, may award a money judgment to one spouse to effect an equitable division of the marital estate. The money judgment shall specifically state that it is a payment pertaining to the division of property. The court shall state that the payments pertaining to a division of property shall continue until completed. Payments pertaining to a division of property are irrevocable and not subject to modification by the court making the award.

D. The decree of dissolution shall operate as a bar to any claim of either party in or to the property of the other, except in cases where actual fraud was committed by or on behalf of the successful party.

#### ARTICLE V. ALIMONY

SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-5-101 of Title 43, unless there is created a duplication in numbering, reads as follows:

The provisions of this article are subject to valid antenuptial agreements, valid marital property agreements made pursuant to the Oklahoma Family Law Code.

SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-5-102 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. In a proceeding for dissolution of marriage, legal separation, a nonretroactive decree of annulment, or a proceeding for alimony following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, the court may award alimony to either spouse if the court finds that the spouse seeking alimony:

1. Lacks sufficient income-producing property to provide for that spouse's reasonable needs;

2. Is unable to be self-supporting as a result of the lack of appropriate employment or the lack of earning ability;

3. Is the custodian of a child of the marriage whose age or needs are such that the custodian should not be required to seek employment outside the home; or

4. Had a marriage of long duration and is of an age which may preclude the likelihood of gaining employment adequate to be self-supporting;

B. An alimony award shall be in such amount and for such period of time as the court determines is equitable after considering all relevant factors, including:

1. The comparable age, education, employment history, earning ability, and the physical and emotional condition of the spouses;

2. The financial resources of the spouse seeking alimony, including income-producing property awarded to that spouse, and the ability of that spouse to meet such spouse's needs independently;

3. The time necessary to acquire sufficient education or training to enable the spouse seeking alimony to find appropriate employment and whether such education or training is readily available;

4. The length of the marriage;

5. The standard of living established during the marriage; and

6. The financial resources of the spouse from whom alimony is sought, including income-producing property awarded to that spouse, and the ability of that spouse to meet such spouse's needs while meeting those of the spouse seeking alimony.

C. The court may not consider marital misconduct in determining the alimony award.

D. The order providing for alimony need not provide for a sum certain amount.

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-5-103 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The court shall provide in the order for alimony that it shall terminate upon:

1. The death of either the recipient or the payor; or

2. The remarriage of the recipient. The alimony order must require the recipient to notify the payor of the recipient's remarriage.

B. An order for the payment of alimony may be modified or terminated upon proof of changed circumstances relating to the need for support or ability to support which are substantial and continuing. The court may determine that an order entered under this subsection is effective as of the date of the filing of the motion to terminate or modify the alimony.

#### ARTICLE VI. CUSTODY AND PARENTING TIME

##### Part 1. Best Interests of the Child

SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-101 of Title 43, unless there is created a duplication in numbering, reads as follows:

It is the policy of this state:

1. That in determining issues of custody and parenting time, that the best interests of the child shall be the standard for orders made pursuant to the provisions of the Oklahoma Family Law Code.

2. To assure minor children of frequent and continuing contact with parents who have shown the ability to act in the best interests of the child; and

3. To encourage parents to share in the rights and responsibilities of raising their children after the parents have separated, dissolved, or annulled their marriage.

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-102 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. In determining the best interests of the child, the court shall consider all relevant factors, which may include, but is not limited to, the following:

1. The preference of the child's parent or parents as to custody;
2. The ability of the parents to encourage the sharing of love, affection, and contact between the child and the other parent;
3. The interaction and relationship of the child with the child's parent or parents, siblings, and any other person who may significantly affect the child's best interests;
4. The child's adjustment to home, school, and community; and
5. The mental and physical health of the child and all proposed custodians.

B. 1. The court shall not base a determination relating to the custody of, guardianship of, or parenting time with a child solely on the misconduct of a proposed custodian unless such misconduct has a detrimental effect on the welfare of the child.

2. a. In every case involving the custody of, guardianship of, or parenting time with a child, the court shall consider evidence of ongoing domestic abuse which is properly brought before it.

b. If the occurrence of ongoing domestic abuse is established by clear and convincing evidence, there shall be a rebuttable presumption that it is not in the best interests of the child to have custody, guardianship, or unsupervised parenting time granted to the abusive person.

## Part 2. General Provisions

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-201 of Title 43, unless there is created a duplication in numbering, reads as follows:

In all actions involving minor children, 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 parenting time and conflict management, development of children, separate financial responsibility for children and such other instruction as deemed necessary by the court. The programs shall be educational in nature and not designed for individual therapy. Each judicial district may adopt its own local rules governing the program.

SECTION 51. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-202 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Petitions under this article for custody and parenting time must be verified. Certified copies of all orders sought to be enforced must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

B. A petition for enforcement of a child custody and parenting time determination must state:

1. Whether the court that issued the determination had jurisdiction to do so;

2. Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court with authority to do so, and, if so, identify the court, the case number, and the nature of the proceeding;

3. Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

4. The present physical address of the child and the respondent, if known; and

5. Whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

C. Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the first judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

D. An order issued under subsection C of this section must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of attorney fees, costs, and expenses, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

1. The court that issued the determination for which enforcement is sought did not have jurisdiction to do so;

2. The order for which enforcement is sought has been vacated, stayed, or modified by a court having authority to do so;

3. The respondent was entitled to notice of the order for which enforcement is sought, but notice was not given.

E. The petition and order must be served upon respondent and any person who has physical custody of the child.

### Part 3. Custody

SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-301 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. A parent may commence a custody proceeding pursuant to this article, other than for modification of an existing order, by filing a petition for:

1. Dissolution, legal separation, or annulment; or

2. A writ of habeas corpus which shall be brought in accordance with the procedure set forth in Chapter 23 of Title 12 of the Oklahoma Statutes.

B. A custody proceeding, other than for modification of an existing order, may also be commenced:

1. By a person who, not unlawfully, is acting as a parent, in whose home the child is living in a wholesome and stable environment; or

2. When the child is not in the physical custody of a parent, a grandparent, or a person who was indicated by the wishes of a deceased parent, or a relative of either parent.

C. The venue for a custody proceeding brought under this section is as follows:

1. For proceedings brought under paragraph 1 of subsection A of this section, as determined by Section 102(e);

2. For proceedings brought under paragraph 2 of subsection A of this section, where the child is illegally detained; and

3. For proceedings brought under subsection B of this section, where the child is a resident.

D. Notice of a child custody proceeding under this section shall be given to the child's parents, guardian, physical custodian, and any other person who claims to have custody or parenting time rights with respect to the child. The court, upon a finding of good cause, may allow intervention or joinder as a party of any person seeking custody of, or parenting time rights with, the child.

SECTION 53. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-302 of Title 43, unless there is created a duplication in numbering, reads as follows:

In a custody proceeding between parents and nonparents, the court shall award custody to a parent, or parents jointly, unless the parents are proven to be affirmatively unfit. A parent is affirmatively unfit if:

1. The court finds it would be detrimental to the health or safety of the child for the parent to have custody of the child;

2. The parent has abandoned the child; or

3. The parent has willfully failed, refused, or neglected to contribute to the support of the child for a period of at least twelve (12) of the last fourteen (14) months immediately preceding the determination of the child's custody:

a. in substantial compliance with a support provision contained in a decree of dissolution, legal separation, or annulment, or an order adjudicating responsibility to support in a reciprocal enforcement of support proceeding, paternity action, juvenile proceeding, guardianship proceeding, or orders of modification to such decree, or other lawful orders of support entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support, or

b. according to such parent's financial ability to contribute to such child's support if no provision for support is provided in a decree of dissolution, legal separation, or annulment, or an order of modification subsequent thereto.

SECTION 54. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-303 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The court shall not prefer a parent as a custodian because of the gender of that parent.

B. In awarding custody or in appointing a guardian of a child there shall be neither a presumption for or against private or public school or home schooling.

C. In making an order for custody, the court may specify that both parents shall keep the other informed of their current residential address and telephone number.

D. Unless otherwise provided by court order, all records and information pertaining to the child including, but not limited to, medical, dental, school, and law enforcement records shall be equally available to both parents, in all types of custody arrangements.

SECTION 55. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-304 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section:

1. "Joint legal custody" means both parents have equal rights and responsibilities for major decisions concerning the child including, but not limited to, the child's education, health care, and religious training. The court may designate one parent to have sole power to make certain decisions while both parents retain equal rights and responsibilities for other decisions; and

2. "Joint physical custody" means that physical custody is shared by the parents in such a way as to assure the child of substantial time and contact with both parents.

B. In making an order for joint custody, the court shall specify joint legal custody, joint physical custody, or both.

C. 1. The court, upon the request of either or both parents, or upon its own motion, may award either form of joint custody if it is determined to be in the best interests of the child.

2. If the court orders either form of joint custody over the objection of a parent, the court shall make specific written

findings of fact setting forth why it is in the best interests of the child.

D. In determining whether either form of joint custody is in the best interests of the child, the court shall consider all relevant factors and the following factors:

1. Section 49 of this act;

2. The agreement or lack of agreement of the parents on joint custody;

3. The past and present abilities of the parents to cooperate and to make decisions jointly; and

4. The geographic proximity of the parents to each other as this relates to the practical considerations of joint physical custody.

E. The court shall not award joint custody in cases where it finds that spousal abuse, child abuse, or parental kidnapping is probable to occur.

F. 1. In order to implement either form of joint custody, the court may require the parents to submit a joint custody plan.

2. If the parents are not able to agree on all elements of a plan, either parent may submit to the court a proposed plan.

3. A joint custody plan voluntarily submitted by a parent shall be accompanied by an affidavit signed by the parent stating that the parent agrees to the plan and will abide by its terms.

4. The trial court shall have the authority to determine the final plan and include those terms found necessary for the best interests of the child whether or not such terms were proposed by either parent.

5. The plan shall include, but is not limited to, the following matters relevant to the care and custody of the child:

a. a schedule for physical custody and access to the child,

b. the child's care and education,

- c. the child's medical, orthodontic, dental, psychological, and other physical and mental care,
- d. holidays and vacations,
- e. child support pursuant to subsection G of this section and the Child Support Guidelines, and
- f. any other matter the court deems necessary that affects the physical or emotional health and well-being of the child.

G. An award of joint custody shall not diminish the responsibility of each parent to provide support for the child. The court shall determine the support for the child in accordance with Sections 118 and 119 of Title 43 of the Oklahoma Statutes.

H. 1. Either one or both of the parents having joint legal or joint physical custody of the child may move the court to modify or terminate the terms of the joint custody plan.

2. The court may modify or terminate an order of joint legal custody or joint physical custody, or any provision thereof if it is in the best interests of the child to do so. If the court modifies or terminates the joint legal custody or joint physical custody, decree, the court shall issue a modified decree for the care, custody, and control of the child. The provisions of Section 8 of this act shall apply if the child primarily resides with one parent.

I. In making an order of joint legal or joint physical custody, the court shall specify the right of each parent to the physical control of the child in sufficient detail to enable a parent deprived of that control to enforce the court order and to enable law enforcement authorities to implement laws for relief of parental kidnapping.

SECTION 56. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-305 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. In contested custody proceedings, and in other custody proceedings, if requested by a parent or the child's custodian, the court may order an evaluation or investigation and report concerning custodial arrangements for the child. The evaluation or investigation and report may be made by anyone determined by the court to be competent to conduct an evaluation.

B. 1. In preparing the report concerning the child, the evaluator or investigator may consult any person who may have information about the child and the child's potential custody arrangements.

2. The evaluator or investigator may request the court to order any contestant to submit to an appropriate psychological examination.

3. The evaluator or investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of sixteen (16) years, unless the court finds that the child lacks mental capacity to consent.

C. 1. The evaluator's or investigator's report shall be mailed by the evaluator to counsel and to any party not represented by counsel at least fifteen (15) days prior to the pretrial conference.

2. At least fifteen (15) days prior to the pretrial conference, the investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data, and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection B of this section, and the names and addresses of all persons whom the investigator has consulted.

3. Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination.

4. If the requirements of this subsection are fulfilled, the evaluator's or investigator's verified report may be received in evidence at the hearing.

D. In contested custody cases, upon a showing that it is in the best interests of the child, the court may order any party to submit to an evaluation by a qualified person selected by the moving party. The court may also order the custodian of the child to present the child for such an evaluation.

E. In contested custody proceedings, the court may appoint a guardian ad litem for the minor children on the court's motion or upon application of any party. The court may also appoint an attorney to represent the guardian ad litem, or, if no guardian is appointed, the minor children.

F. Expenses and costs incurred by proceedings pursuant to this article, including but not limited to fees for the guardian ad litem, may be allocated among the parties as determined by the court.

SECTION 57. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-306 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Any party to any custody proceedings may request a temporary custody order. The court may award temporary custody, in accord with the requirements of Chapter 1 Section 107(b)-(e) of this Code. In awarding temporary custody, the court shall follow the provisions of this article.

B. If a proceeding for dissolution, legal separation, or annulment is dismissed or terminated, any temporary custody order issued in conjunction therewith is vacated.

C. If a custody proceeding commenced in the absence of a petition for dissolution, legal separation or annulment is dismissed or terminated any temporary custody order issued under this section is vacated.

SECTION 58. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-307 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in Section 65 of this act, a court may modify a prior custody decree only if it finds that:

1. a. Since the prior decree, there has occurred a continuing, substantial, and material change in the environment of the child that has adversely affected the child, or that has a substantial probability of adversely affecting the child, and

b. As a result of such environmental change, the child would be substantially better off if the requested custody change was granted; or

2. a. Material facts are disclosed which were unknown, and could not have been ascertained with reasonable diligence, at the time of the prior custody decree, and

b. As a result of such facts, the child would now be substantially better off with respect to physical, mental, moral, and emotional health, if the requested custody change was granted.

B. Nothing in this section shall prevent the parties from agreeing, subject to the approval of the court in the child's best interests, to a temporary or permanent modification of custody.

C. A motion to modify custody shall only be brought by a parent.

D. The court may award attorney fees and costs for proceedings under this section. If the court finds that the modification action

is frivolous, vexatious, or constitutes harassment, attorney fees and costs shall be assessed against a party seeking modification.

SECTION 59. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-308 of Title 43, unless there is created a duplication in numbering, reads as follows:

During any proceeding concerning child custody, should it be determined by the court that a party has intentionally made a false or frivolous accusation to the court of child abuse against the other party, the court shall proceed with any or all of the following:

1. Refer the accusing party for prosecution for perjury;
2. Consider the false allegations in determining custody; and
3. Assess against the accusing party all costs of litigation and legal expenses, including attorney fees, incurred by both parties as a result of the false allegations.

#### Part 4. Parenting Time

SECTION 60. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-401 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. A parent not granted custody of the child is entitled to reasonable parenting time rights unless the court finds, after a hearing, that parenting time would seriously endanger the child's physical, mental, emotional, or moral health.

B. Any order providing for the parenting time of a noncustodial parent shall provide a specified minimum amount of parenting time between the noncustodial parent and the child unless the court determines otherwise. Except for good cause shown and when in the best interests of the child, the order shall encourage additional parenting time of the noncustodial parent with the child and in addition encourage liberal telephone communication between the noncustodial parent and the child.

C. The court shall not restrict a parent's parenting time rights unless it finds that the parenting time would endanger the child's physical, mental, emotional, or moral health. Upon good cause shown, the court may require the parties to identify reasonable alternative arrangements for parenting time by a noncustodial parent, including supervised parenting time of the minor at the residence of another person or at a local public or private facility.

D. The court may modify an order granting or denying parenting time rights whenever modification would serve the best interests of the child.

SECTION 61. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-402 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. 1. Pursuant to the provisions of this section, each and every grandparent of an unmarried minor child shall have reasonable rights of visitation to the child if the district court deems it to be in the best interests of the child.

2. Except as otherwise provided by paragraphs 5 and 6 of this subsection, if a child is born out of wedlock, the parents of the father of such child shall not have the right of visitation authorized by this section unless such father has been legally determined to be the father of the child.

3. If one natural parent is deceased and the surviving natural parent remarries, any subsequent adoption proceedings shall not terminate any court-ordered grandparental rights unless said visitation rights are terminated by the court after all parties are given an opportunity to be heard, and the district court determines termination to be in the best interests of the child.

4. Except as otherwise provided by paragraphs 5, 6 and 7 of this subsection, if the parental rights of a parent have been terminated, the parent of the person whose parental rights have been

terminated may be given reasonable rights of visitation if the court determines that a previous grandparental relationship existed between the grandparent and the child and the district court determines it to be in the best interests of the child for the relationship to continue.

5. If the child has been born out of wedlock and the parental rights of the father of the child have been terminated, the paternal grandparents shall not be granted any visitation authorized by this section unless:

- a. their son been legally determined to be the father of the child,
- b. the court determines that a prior beneficial grandparental relationship existed between the grandparents and the child, and
- c. the court determines such visitation to be in the best interests of the child.

6. If the child is born out of wedlock and the parental rights of the mother of the child have been terminated, the maternal grandparents shall not be granted any visitation authorized by this section unless:

- a. the court determines that a prior beneficial grandparental relationship existed between the grandparents and the child, and
- b. the court determines such visitation to be in the best interests of the child.

7. For the purposes of paragraphs 4, 5 and 6 of this section, the district court shall not grant to the grandparents of an unmarried minor child, visitation rights to that child:

- a. subsequent to the final order of adoption of the child, provided however, any subsequent adoption proceedings shall not terminate any prior court-ordered grandparental visitation unless said

termination of visitation is ordered by the court after all parties are given an opportunity to be heard and the district court determines termination of the prior order is in the best interests of the child, or

- b. if the child had been placed for adoption prior to attaining six (6) months of age.

B. In determining the best interests of the minor child under this section, the court shall consider:

1. The willingness of the grandparents to encourage a close relationship between the child and the parents;

2. The length and quality of the prior relationship between the child and the grandparent;

3. The preference of the child if the child is determined to be of sufficient maturity to express a preference;

4. The mental and physical health of the child;

5. The mental and physical health of the grandparent or grandparents; and

6. Such other factors as are relevant in the particular circumstances

C. Any order for grandparental visitation issued under this section may be modified in the best interests of the child.

D. 1. The district courts are vested with authority to issue orders granting grandparental visitation in an action for divorce, legal separation, or annulment or in an independent proceeding upon the filing of a verified application for such visitation rights.

2. Notice as ordered by the court shall be given to the physical and legal custodian of the child and any parent whose parental rights have not been previously terminated.

3. If the visitation rights pursuant to this section are sought while an action for divorce, legal separation, or annulment is pending or after a decree of divorce, legal separation, or annulment

has been granted, such action shall be in the county where the divorce, legal separation, or annulment is filed.

4. If no divorce, legal separation, or annulment has been filed, such action shall be brought in the county where the child resides.

E. Any transportation costs or other costs arising from any visitation ordered pursuant to this section shall be paid by the grandparent or grandparents requesting such visitation. Other expenses and costs incurred by proceedings under this section, including attorney fees, may be allocated among the parties as determined by the court.

SECTION 62. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-403 of Title 43, unless there is created a duplication in numbering, reads as follows:

In addition to the remedies provided for in Part 5 of this article, the district court shall in an appropriate case order one or more of the following:

1. Modification of the parenting time order to specifically outline periods of parenting time or restrict parenting time;

2. Supervision of parenting time with a third party or public agency;

3. Make-up parenting time of the same time period such as weekend for weekend, holiday for holiday;

4. Restitution of monetary amounts expended because of parenting time abuse; or

5. Other appropriate relief deemed equitable, including attorney fees.

SECTION 63. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-404 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The associate district judge in each county within this state may authorize one or more public or private agencies to

provide a child parenting time 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.

B. The child parenting time 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. 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. Entries in child parenting time registry records shall be rebuttable presumptive proof of compliance or noncompliance with court-ordered parenting time.

C. The court may order parents to participate in the child parenting time 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.

D. The Office of the Court Administrator shall develop:

1. A form for use in petitioning the court for inclusion in the child parenting time 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 parenting time registry agency, and court file,

- b. a determination of who is authorized to pick up or deliver a child to the child parenting time 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 parenting time 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.

E. 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 and opportunity to be heard, consider reducing or canceling parenting time temporarily or permanently.

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

#### Part 5. Enforcement

SECTION 64. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-501 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of a petition seeking enforcement of a child custody or parenting time determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is imminently likely to suffer serious physical harm or be removed from this state.

B. If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious

physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by subsection B of Section 11 of this act.

C. A warrant to take physical custody of a child must:

1. Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

2. Direct law enforcement officers to take physical custody of the child immediately; and

3. Provide for the placement of the child pending final relief.

D. The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

E. A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

F. The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

SECTION 65. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-6-502 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Upon a finding at the hearing pursuant to this part that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate

physical custody of the child unless the respondent establishes that:

1. The court that issued the determination did not have authority to do so;

2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having authority to do so; or

3. The respondent was entitled to notice of the custody determination, but notice was not given in the proceedings before the court that issued the order for which enforcement is sought.

B. The court shall award the attorney fees, costs, and expenses and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief in accordance with Section 14 of this act is appropriate.

C. Nothing in this section shall be construed to limit the court's contempt power.

## ARTICLE VII. CHILD SUPPORT

### Part 1. Definitions

SECTION 66. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-101 of Title 43, unless there is created a duplication in numbering, reads as follows:

As used in this article:

1. "Arrearage" means the total amount of unpaid support obligations;

2. "Delinquency" means any payment under an order for support which becomes due and remains unpaid;

3. "Gross income" or "income" means any form of payment to an individual regardless of source including, but not limited to, earnings, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, retirement benefits, rent, interest income, trust income, annuities, compensation as an

independent contractor, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, any form of periodic or lump sum payment to an individual regardless of source, any other payments made by any person, private entity, federal or state government, any unit of local government, school district, or any entity created by law;

4. "Obligor" means the person who is required to make payments under an order for support;

5. "Obligee" means the person or entity to whom support is owed, or the Department of Human Services in cases in which support services are being provided under the state child support plan pursuant to Section 237 of Title 56 of the Oklahoma Statutes, or as otherwise specified by the court or by law;

6. "Payor" means any person or entity paying monies, income or earnings to an obligor. In the case of a self-employed person, the "payor" and "obligor" may be the same person;

7. "Support order" means an order for the payment of support issued by a district court or the Department of Human Services, or any other order for the payment of support entitled to full faith and credit;

8. "Income assignment", "wage assignment" or "wage withholding" order is an order which assigns to the obligee the monies, income, or periodic earnings due and owing to the obligor to pay current support and any past-due support;

9. "Support" means all payments or other obligations due and owing to the obligee by the obligor pursuant to a support order, including, but not limited to, child support, medical insurance or other health care premiums, medical expenses, child care obligations, support alimony payments, and such other expenses and obligations as specified in Section 118 of Title 43 of the Oklahoma Statutes;

10. "Order/Notice to Withhold Income for Child Support", hereinafter referred to as "Notice", means the notice to the payor to withhold support, as defined in paragraph 9 of this subsection, from the obligor's income. The Notice shall be on the form prescribed by the Secretary of Health and Human Services for use in interstate cases and shall be available from the Department of Human Services and the Administrative Office of the Courts. The original Notice shall be filed with the court and a copy shall be served upon the payor as hereinafter provided;

11. "Aggregate disposable earnings" means the net earnings after making mandatory deductions required by law, including state, federal, local taxes, Social Security taxes and Medicare taxes;

12. "Earnings" are amounts paid to a person as an employee, including wages and salary; and

13. "Centralized Support Registry" is the state entity designated in Section 413 of Title 43 of the Oklahoma Statutes for remittance of income assignment payments.

## Part 2. General Responsibilities

SECTION 67. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-201 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. 1. Any child shall be entitled to support by the parents until the child reaches the age of eighteen (18) years.

a. If a child is pursuing a secondary education on a full-time basis with comparable or equivalent standards required by the State Department of Education, the child shall be entitled to support by the parents until the age of nineteen (19) years, or until completion of the requirements for a secondary education, whichever occurs first. No hearing shall be required to extend the support until the age of nineteen (19) years.

b. If a child is pursuing a secondary education on a full-time basis with comparable or equivalent standards required by the State Department of Education past the age of nineteen (19) years, the custodial parent may petition the court to have the support continue until the child completes the requirements for a secondary education, provided that the custodial parent is still providing the reasonable necessities of life for the child. In no event shall support be extended by the court past the age of twenty (20) years, except as otherwise provided by law. In deciding whether to order support after the age of nineteen (19) years, the court may consider the needs of the child, the income of the child, the incomes of the parties, and other equitable factors.

2. The child support obligation required by these guidelines shall not extend to postmajority education beyond high school; however, the parties to a divorce or other action in which child support is ordered may agree that child support will be provided for postmajority education. The agreement may be incorporated into the decree or order and, if incorporated, the court shall have jurisdiction to enforce the agreement by indirect civil contempt or other remedies for enforcing a judgment.

3. If a child remains dependent upon the parents because of special needs which necessitate continuing medical care, hospitalization, institutionalization, assisted care, or other support after the age of majority, support may be ordered pursuant to the provisions of this article.

B. Support as set forth in subsection A of this section shall not terminate except by operation of law, unless a court of competent jurisdiction finds that the minor child is emancipated and

it is in the best interests of the child that support shall terminate.

C. If support is ordered for more than one child, the order shall state the amount of support which shall be paid according to the child support guidelines, including child care and medical insurance, as each child emancipates. The court, to the extent reasonably possible, shall make provision in an order for prospective adjustment of support to address any foreseen changes, including changes in medical insurance, day care costs, and parenting time transportation costs.

D. 1. Payment of all or a portion of past due child support shall not be waived, except by:

- a. a written agreement of the obligor and obligee, and
- b. a finding by the court that the agreement is equitable and in the best interests of the child.

2. Any amounts owed to the Department of Human Services pursuant to an assignment of support rights shall not be waived.

E. Future child support shall not be waived.

F. The social security numbers of both parents and the children who are the subject of the order shall be included in all support orders.

G. In any action in which a child support order or custody order, or both, are entered, enforced or modified, the court may make a determination of the arrearages of child support, if any.

SECTION 68. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-202 of Title 43, unless there is created a duplication in numbering, reads as follows:

Whenever a parent is required by a court or administrative order to provide health coverage which is available through an employer doing business in this state, the employer of the parent shall:

1. Permit the parent to enroll under family or dependent coverage any child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

2. Enroll the child under family or dependent coverage and deduct the cost of the coverage from the employee's wages, if the parent is enrolled but fails to make application to obtain coverage of the child, upon application by the child's other parent, by the state agency administering the Medicaid program or child support program under Title IV-D of the Social Security Act;

3. Not terminate enrollment or eliminate coverage of a child of an employee unless the employer is provided satisfactory written evidence that:

- a. the court order is no longer in effect,
- b. the child is or will be enrolled in comparable coverage which will take effect no later than the effective date of termination of enrollment, or
- c. the employer has eliminated family and dependent health coverage for all of its employees; and

4. Upon request, provide complete information to the custodial person, the state agency administering the Medicaid program, or the state agency administering the child support program under Title IV-D of the Social Security Act, regarding any insurance benefit to which the child is entitled, and any forms, publications, or documents necessary to apply for or to utilize the benefits.

SECTION 69. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-203 of Title 43, unless there is created a duplication in numbering, reads as follows:

In all actions filed in which the custody or support of a minor child is an issue, if services or assistance is being provided or has been provided by the Department of Human Services for the minor child, including but not limited to Medicaid, day care assistance, child support services, or other types of assistance, the Department

of Human Services shall be given notice of the filing of the action, and upon request of the Department, the Department shall be joined as a necessary party to the action.

### Part 3. Guidelines

SECTION 70. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-301 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. 1. In any proceeding for dissolution of marriage, legal separation, annulment, determination of paternity, or any other judicial or administrative proceeding in which a temporary or final order for child support is established or modified, the amount of the child support obligation shall be determined according to the following guidelines. The amount of the child support obligation determined according to the schedule shall be presumed to be the appropriate amount of support and to be in the best interests of the minor child.

2. This presumption shall be rebuttable by one of the parties showing to the court that application of the schedule would be unjust, inequitable, unreasonable or inappropriate under the circumstances, or not in the best interests of the child involved. If the court deviates from the amount of support indicated by the schedule, it shall make specific findings of fact supporting such action.

B. 1. The parties may submit a written agreement to the court providing for the support of the child and for prospective modification of the agreement, including a deviation from the child support schedule provided for in this section. If the court finds the agreement is in the best interests of the child, the court shall approve the agreement and order support in accordance with the agreement. If the agreement deviates from the amount of support indicated by the schedule, the court shall make specific findings of fact supporting such action.

2. If the court finds the agreement is not in the best interests of the child, the court may request the parties to submit a revised agreement, or the court may order support in accordance with the child support schedule.

SECTION 71. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-302 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. 1. The amount of the monthly child support obligation shall be computed by combining the gross incomes of both parents after adjustments are made in accordance with this section, and determining the amount of the total combined base child support provided for in the Child Support Guideline Schedule set forth in this article.

2. The percentage share of child support that each parent shall pay shall be determined by computing the percentage contribution of each parent to the combined adjusted gross income and allocating that same percentage to the child support obligation to determine the base child support obligation of each parent.

3. The dependent medical insurance premium and child care costs shall be determined as set forth in this section and allocated between the parents in the same proportion as base child support and shall be added to the base child support obligation.

4. The child support obligations of each parent shall be computed, and the noncustodial parent's share shall be paid to the custodial parent each month.

B. Gross income shall include income from any source, except as excluded or otherwise provided in this act. Gross income shall include, but is not limited to:

1. Salaries and wages;
2. Overtime, shift premiums, and income from additional jobs;
3. Sick pay and vacation pay;
4. Commissions, bonuses, and longevity pay;

5. Severance pay;
6. Income or benefits received as an independent contractor;
7. Distribution of or withdrawals from profit-sharing plans, qualified and nonqualified pension plans, retirement plans, deferred compensation plans, and other tax deferred savings plans;
8. Dividends and interest income;
9. Distribution of or payment from an annuity;
10. Income received from ownership of oil and gas and other mineral interests;
11. Royalties;
12. Distribution of or withdrawals from trust funds;
13. Unemployment benefits and supplemental unemployment benefits;
14. Strike pay;
15. Social Security retirement and disability benefits;
16. Veteran's Administration benefits, except as otherwise provided in subsection F of this section;
17. Disability insurance or benefits;
18. Workers' compensation periodic or lump sum benefits;
19. GI benefits;
20. Armed Services members, including National Guard and Reserve - base pay, drill pay, active duty pay, allowances for rations and quarters, specialty pay, temporary duty pay, reenlistment bonuses, and other military pay;
21. Reimbursements for rent, meals, automobile, or other in-kind payments or fringe benefits, which reduce living expenses, provided by an employer, or received in the course of self-employment, or operation of a business;
22. Net rental income, which is defined as rent after deducting operating expenses and mortgage payments, but not including depreciation and other noncash items;
23. Alimony and spousal support;

24. Gambling winnings;

25. Cash prizes or gifts;

26. Income from self-employment which includes, but is not limited to, rent, royalties, proprietorship of a business, or ownership of a partnership or closely held corporation. Gross income is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses for purposes of this subsection are amounts determined by the court to be inappropriate for determining gross income for purposes of calculating child support. The court shall carefully review income and expenses from self-employment or operation of a business to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. A determination of business income for tax purposes shall not control for purposes of determining a child support obligation; and

27. Anything of value received by a party on a recurring basis, less any amount which is a return of capital or which is a reasonable and necessary business expense.

C. The court shall determine to what extent nonrecurring income should be considered as gross income in determining the child support obligation pursuant to this section. In determining how much of the nonrecurring income should be considered as gross income, the court may consider, among other things, the amount of nonrecurring income received by the party in the past and the likelihood the income will continue.

D. For purposes of this section, the court shall determine which of the following is most equitable to determine gross income of both parties:

1. Actual monthly income;

2. Average of the gross monthly income for the time actually employed during the previous thirty-six (36) months; or

3. Imputed income, in the amount of the minimum wage paid for a forty-hour week, or the amount a person with comparable education, skills, training, or prior employment experience could reasonably expect to earn for a forty-hour week. In determining what income to impute, the court shall consider the following factors including, but not limited to, the availability of employment and prevailing wage in the local geographic area, any physical or mental disabilities of the person, any evidence that the party in question is able to earn the imputed income, the presence of children who are the subject of the order residing in the party's home and the impact on the earnings of the party, and whether the children are school age or preschool age.

a. Income may be imputed to a person whose only source of income is a means-tested public assistance program, including but not limited to Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps, General Assistance and State Supplemental Payments for Aged, Blind and the Disabled, if the court finds that it is equitable to do so.

b. If, as a result of voluntary unemployment or underemployment, the actual income of a party is significantly less than what the person would reasonably be expected to earn, the court may impute income in accordance with this paragraph.

E. Gross income shall not include the following:

1. Actual child support received for children not before the court; and

2. Benefits received from means-tested public assistance programs, including but not limited to Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps,

General Assistance and State Supplemental Payments for Aged, Blind and the Disabled.

F. 1. Veterans' disability pensions or regular compensation for disability incurred in or aggravated by service in the United States military paid by the Veterans Administration shall be disclosed to the court.

2. The court may consider either type of compensation as income for purposes of calculating the child support obligation. Aid and attendant care payments to prevent hospitalization paid by the Veterans Administration solely to provide home care for a disabled veteran and special medical compensation paid to provide either special care or special aids, or both, to assist with routine daily functions shall also be disclosed.

3. The court may not include either aid and attendant care or special medical compensation payments in gross income for purposes of calculating the child support obligation or for purposes of deviating from the child support schedule.

G. 1. Benefits a child receives from a Social Security Retirement, Survivor's or Disability Insurance program based upon the earnings record of the custodial or noncustodial parent shall be added to the custodial parent's gross income for the purpose of calculating the amount of the child support obligation.

2. If a child begins to receive benefits after a child support order is entered, the child support obligation shall not be automatically modified, but it shall be a basis for a party to seek a modification of the child support obligation prospectively in accordance with this subsection.

H. A minor child's benefits from Supplemental Security Income (SSI) and income from the child's employment prior to the age of eighteen (18) years, or if still enrolled in and attending high school, prior to the age of nineteen (19) years, or graduation from high school, whichever occurs first, shall not be considered when

computing a child support obligation pursuant to this section, unless the court finds that it is equitable to consider the income.

I. The court may attribute a reasonable amount of income to income-producing assets that a party has voluntarily transferred or on which earnings have been intentionally reduced.

J. Adoption subsidies shall not be considered as income or considered by the court in determining child support.

K. Adjustments to gross income:

1. a. The amount of any preexisting district or administrative court order for support alimony payments or current child support for children not before the court shall be deducted from gross income to the extent that payment is actually made pursuant to the prior order. For purposes of determining the amount that has actually been paid, the party claiming the deduction shall provide documentation of the amount actually paid for the past twelve (12) months.
- b. The amount of current child support and support alimony actually paid for the past twelve (12) months may be averaged over a twelve-month period and the average amount paid each month deducted from gross monthly income. The amount deducted from gross monthly income shall not include amounts ordered to be paid on arrearages;

2. The amount of the support alimony ordered in the case before the court shall be deducted from the gross income of the obligor and shall be added to the gross income of the obligee. The order shall provide for prospective upward adjustment of the amount of the child support in accordance with the child support guidelines when support alimony terminates; and

3. The court may order that all or a portion of the amount of reasonable monthly payments to be made by a party attributable to

debt service for preexisting, jointly acquired debts of the parties be deducted from gross income. If a deduction is made, the order shall provide for prospective upward adjustment of support on a date certain when the debt is expected to be reduced or paid in full.

L. The deductions from gross income shall be made as set forth above and shall be denominated "adjusted gross income". The adjusted gross income of both parents shall be added together and the Child Support Guideline Schedule consulted to determine the total combined child support.

M. If the combined gross income of both parents exceeds the maximum amount provided for in the child support schedule, the support shall be that amount computed for the maximum monthly income in the schedule, and such additional support as the court shall determine. Factors the court shall consider in determining the amount of additional support are the needs of the child, the parents' ability to pay, and the prior standard of living of the parents and the child.

N. After the total combined child support is determined, the percentage share of each parent shall be allocated by computing the percentage contribution of each parent to the combined adjusted gross income and allocating that same percentage to the child support obligation to determine the base child support obligation of each parent.

O. 1. The actual medical and dental insurance premium for the children before the court shall be allocated between the parents in the same proportion as the base child support and shall be added to the base child support obligation. If the insurance policy also covers the policy holder and/or persons other than the children before the court, the obligee and the obligor shall determine the number of people covered by the dependent portion of the policy, divide the premium by that number and multiply the result by the number of children before the court.

2. The obligee's allocated share of the monthly medical and dental insurance premium which the obligor pays to the provider shall be deducted from the child support obligation. If the obligee is the parent who pays the premium to the provider, the amount of the obligor's allocated share of the medical and dental insurance premium shall be added to the obligor's base child support obligation.

3. In split custody arrangements as set forth in paragraph 3 of subsection S of this section, the medical insurance premium shall be calculated and allocated between the parents so that the parent who pays the premium is given credit in the child support calculation for paying the other parent's portion of the premium.

4. Payment of reasonable and necessary medical, dental, orthodontic, optometrical, psychological, or any other physical or mental health expenses of the child not reimbursed by insurance shall be allocated in addition to the child support obligation, as a percentage contribution by each parent. The expenses shall be allocated between the parents in the same proportion as base child support.

P. Child Care Expenses:

1. a. The child care expenses incurred due to employment or active employment search, or incurred as a result of the custodial parent actually attending school or training for the purpose of enhancing his or her employment or income, shall be allocated in the same proportion as base child support.
- b. Except as otherwise provided in this subsection, the amount for child care shall not be established as a sum certain, but rather, the obligor shall pay the obligor's proportionate share of actual monthly child care costs to the obligee on or before the date the child care provider requires payment.

- c. Upon request of the obligor, not to exceed one request each month, the obligee shall provide to the obligor documentation of the actual child care costs incurred due to the obligee's employment or education.
  - d. The court may require more frequent notification or additional documentation of child care expenses by the obligee, to include requiring that the obligee periodically verify that incurred child care costs are related to employment or education;
2. a. As an alternative, in the following instances the court shall set a sum certain to be paid each month for child care expenses:
- (1) if the parties so agree,
  - (2) upon request of the Department of Human Services in a child support case in which child support services are being provided under the state child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes,
  - (3) upon request of the obligee when the obligor has paid less than the full amount of his proportionate share of child care expenses for at least three (3) consecutive or nonconsecutive months, or
  - (4) upon request of the obligee for other good cause shown.
- b. The sum certain shall be determined by calculating the amount paid annually for child care expenses, based upon actual expenses or an estimate of expected annual expenses, and that amount shall be averaged to compute a monthly amount. The average monthly amount shall be a sum certain allocated between the obligor and obligee in the same proportion as base child support

and shall be added to the base child support and paid to the obligee each month;

3. a. The amount allocated for child care expenses terminates when the cost for child care ends. If the child care expense is set as a sum certain to be paid each month, unless otherwise provided in the order, the obligee shall notify the obligor when a decrease occurs of at least twenty percent (20%) in the annual amount of child care expenses set forth in the order. The notice shall be filed with the district court within thirty (30) days of when the change occurs and a copy shall be mailed to the obligor by certified mail to the last-known address of the obligor.
- b. Failure of the obligee to notify the obligor may be enforced as an indirect civil contempt of court. If the obligee fails to notify the obligor as provided in this section and the court finds that it will not cause undue hardship to the child, the obligee may be required to reimburse the obligor for child care costs not actually incurred. The court may require more frequent notification or additional documentation of child care expenses by the obligee, to include requiring that the obligee periodically verify that incurred child care costs are related to employment or education;

4. If the monthly child care expense is set as a sum certain, the child support obligation is not automatically modified when the child care expense changes or terminates, but it shall be a basis for a party to seek a modification of the child support obligation prospectively;

5. If the court determines that it will not cause detriment to the child or will not cause undue hardship to either parent, in lieu

of payment of child care expenses incurred during employment, active employment search, or while the custodial parent is attending school or training, the noncustodial parent may be allowed to provide care of the child during such time; and

6. If income is imputed to a parent who provides full-time child care for a child who is the subject of the child support order, then the court shall determine the value of the child care services utilizing the Department of Human Services' schedule for reimbursement of day care costs. The other parent shall be ordered to pay his or her proportionate share of the child care expenses to the parent providing the service.

Q. If a person who has custody of a child is not the natural or legal parent of the child, the court shall not consider the income of the custodian in determining the child support obligation of a parent of the child, nor shall the custodian be responsible for any medical, dental, or child care expenses for the child, unless the court finds that it is equitable to do so.

R. Guidelines and Multiple Support Obligations:

1. The court shall not take into account any stepchildren of either parent in determining the amount of child support to be awarded. The court may, however, take into account the reasonable obligation of either parent to support only natural, legal, or legally adopted minor children in the custody of the parent. If the court finds it is appropriate to make an adjustment for children in the home, the court shall determine a reasonable deduction from the gross incomes of parents who have other natural, legal, or legally adopted minor children in their custody, within the framework of the child support guidelines, to ensure that all children are treated fairly and equally, to the extent this is possible; and

2. If a motion to establish or modify child support is pending in more than one case in the same county, involving the same noncustodial parent, the court may, upon motion of a party or sui

sponte, and after notice to all parties, consolidate those cases to determine the child support obligation. Any remaining issues shall not be consolidated and shall be heard separately.

S. 1. Regardless of the custody arrangement, the court shall determine if one parent will have physical custody of the child significantly more of the time than the other parent. If one parent will have physical custody significantly more time than the other, child support shall be set according to the child support guidelines schedule with the parent having the most custodial time designated as the obligee and the other parent as the obligor.

2. If the court determines that the parents share physical custody of the child equally the child support obligation of each parent shall be calculated separately as if each parent is awarded sole custody of the child. The obligation of each parent shall be compared with the other and the difference shall be paid to the parent with the smaller obligation, in order to equalize the support of the child.

3. If custody is split so that each parent is awarded primary physical custody of one or more children, the child support obligation of each parent shall be computed separately for the number of children residing with that parent, using the child support guidelines schedule. The obligation of each parent shall be compared with the other and the difference shall be paid to the parent with the smaller obligation, after consideration of how the medical insurance premium should be allocated as provided in paragraph 3 of subsection 0 of this section.

T. Guidelines - Extended Parenting Time:

1. The district or administrative court may make adjustments to or abatement of the child support obligation for periods of extended parenting time; provided that the court shall take into consideration the ongoing expenses of the custodial parent for maintaining a household for the minor children. If the court

determines that an adjustment or abatement is appropriate, the court may provide for it to be made in the months when extended parenting time is to occur, or it may prorate the adjustment or abatement throughout the entire year so that a constant amount of base child support is paid each month; and

2. The order shall state the amount of the support obligation without the adjustment or abatement for extended parenting time and the amount of the support obligation with the adjustment or abatement. If the noncustodial parent fails to exercise a period of extended parenting time for which an adjustment or abatement of support has been made, the full amount of support without adjustment or abatement for parenting time shall be due each month without the necessity of obtaining a modification of the order. In such instances, any arrearage which has accrued for past months due to the failure of the noncustodial parent to exercise extended parenting time shall be a judgment for past due support owed by the noncustodial parent to the custodial parent.

U. Guidelines - Parenting Time Transportation Expenses:

Allocation of parenting time transportation expenses shall be determined by the court on a case-by-case basis. This allocation shall not affect the base amount of child support, and shall be independent of such guideline calculations. In considering how to allocate expenses, the court may consider, among other factors, the respective incomes of the parties, what is a reasonable method of transportation, the frequency of ordered parenting time, if a parent has moved or relocated, and the reasons a party moved or relocated. Allocation of parenting time transportation expenses may be modified upon a showing of a change in circumstances.

SECTION 72. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-303 of Title 43, unless there is created a duplication in numbering, reads as follows:

The Administrative Director of the Courts shall prepare and publish a child support computation form. A completed child support computation form shall be signed by the judge and, unless the court orders otherwise, it shall be filed with the child support order.

SECTION 73. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-304 of Title 43, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services shall prepare a form for reporting of information to the central case registry, pursuant to the Oklahoma Centralized Support Registry Act, which shall be published by the Administrative Director of the Courts. The form shall be prepared and filed with every support order entered in this state on or after October 1, 1997.

#### Part 4. Modification

SECTION 74. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-401 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Child support orders may be modified if the amount of the support is not in accordance with the child support guidelines or upon a material change in circumstances. Providing support for children born to either party after the entry of a child support order shall not be considered a change in circumstances to warrant modification of a prior order.

B. Periodic child support payments shall not be modified retroactively regardless of whether support was ordered in a temporary order, a decree of divorce, an order establishing paternity, modification of an order of support, or other action to establish support. A final order shall state how much past-due support has accrued pursuant to a temporary order; however, failure to state the past due amount shall not bar collection of that amount after entry of the final support order.

C. The effective date of the modification shall not be earlier than the date of filing of the motion to modify.

SECTION 75. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-402 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Every district or administrative court order establishing or modifying child support, including a temporary order, entered in a case in which support services are being provided under the state child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes shall contain an income assignment provision which shall be effective immediately to collect current child support and support alimony, and any payment ordered on arrearages for support, regardless of whether support payments are in arrears.

B. In all other cases, an immediate income assignment shall be ordered, regardless of whether support payments by the parent are in arrears, unless:

1. One of the parties demonstrates and the district or administrative court finds there is good cause not to require immediate income withholding; or

2. A written agreement is reached between the parties which provides for an alternative arrangement, and as it concerns the child support obligation, the court finds that it is in the best interests of the child.

C. The obligated party may execute a voluntary income assignment at any time with the district or administrative court; provided, that if a voluntary assignment is revoked at a later time by the obligor, the obligor's revocation will not revoke or terminate an involuntary income assignment which was ordered prior to or after the voluntary income assignment.

SECTION 76. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-403 of Title 43, unless there is created a duplication in numbering, reads as follows:

The child support guidelines schedule shall be reviewed at least once every four (4) years by the state agency which administers the child support program pursuant to Title IV-D of the Social Security Act to ensure that their application results in the determination of appropriate child support obligation amounts. The agency shall present its findings and recommendations to the Legislature.

SECTION 77. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-404 of Title 43, unless there is created a duplication in numbering, reads as follows:

Court-ordered child support payments shall draw interest at the statutory rate for judgments from the date they become delinquent, and the interest shall be collected in the same manner as the payments upon which the interest accrues.

Part 5. Income Assignments

SECTION 78. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-501 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Any obligee may proceed to collect any current and past-due support by income assignment.

B. In all cases in which support services are being provided under the state child support plan pursuant to Section 237 of Title 56 of the Oklahoma Statutes, an obligor's income shall be subject to an immediate income assignment to pay support, and a notice shall be served upon the payor, regardless of whether support payments by such obligor are in arrears, and without the requirement of a hearing or a modification of the support order. Such cases shall be governed by Title 56 of the Oklahoma Statutes.

C. 1. In all support orders entered in cases in which support services are not being provided under the state child support plan pursuant to Section 237 of Title 56 of the Oklahoma Statutes, the court shall order that the obligor's income be subject to an immediate income assignment to pay support, regardless of whether

support payments are in arrears at the time the order is entered, unless:

- a. one of the parties demonstrates and the court finds that there is good cause not to require immediate wage withholding, or
- b. a written agreement is reached between the parties which provides for an alternative arrangement, and the court finds that it is in the best interests of the child to not order an immediate income assignment.

2. If an immediate income assignment is not ordered pursuant to paragraph 1 of this subsection, the support order shall contain a provision that if the obligor becomes delinquent in payment of the support in an amount equal to the amount payable for thirty (30) days, the obligor's income shall be subject to an immediate income assignment to pay the support, and at the option of the obligee, a notice may be served upon the payor, without the requirement of a hearing, or a modification of the support order.

D. The obligor may execute a voluntary income assignment at any time. The voluntary assignment shall be filed with the district or administrative court; provided, that if a voluntary assignment is revoked at a later time by the obligor, the obligor's revocation will not revoke or terminate an involuntary income assignment which was ordered prior to or after the voluntary income assignment.

E. All support payments withheld and paid pursuant to an income assignment shall be remitted by the payor to the Centralized Support Registry unless the court orders otherwise in accordance with Section 413 of Title 43 of the Oklahoma Statutes.

F. An obligee may initiate income assignment proceedings by filing with the court a notice of income assignment or notice of enforcement. The matter shall be set for hearing, and shall be served with notice of hearing upon the obligor as in other civil cases. The notice shall inform the obligor of the following:

1. The amount of support monies owed, if any;

2. That the obligor may contest the allegations in the notice only with regard to mistake of identity, or to the existence or the amount of support monies owed; provided, however, if the case is one in which services are not being provided under the state child support plan pursuant to Section 237 of Title 56 of the Oklahoma Statutes, the obligor may further contest the allegations in the notice by:

- a. one of the parties demonstrating and the court finding that there is good cause not to require immediate wage withholding, or
- b. a written agreement is reached by the obligor and obligee which provides for an alternative arrangement, and the court finds that it is in the best interests of the child to not order an immediate income assignment; and

3. That the income assignment issued pursuant to this section shall remain in effect for as long as current support is due or until all arrearages for support are paid in full, whichever is later; that the payment of any arrearages shall not prevent the income assignment from taking effect; and that the Notice shall be served upon the obligor's current payor and any subsequent payors until the current support is no longer due and all arrearages are paid in full.

G. 1. After hearing, or after the obligor fails to appear for hearing, the court shall enter an order confirming the amount of any judgment for delinquent support and the amount of any judgment payments. Further, the court shall order that an income assignment take effect immediately against the obligor's income, unless:

- a. the obligor successfully shows that there is a mistake of identity or a mistake as to the existence of current and delinquent support, or

b. in cases in which support services are not being provided under the state child support plan pursuant to Section 237 of Title 56 of the Oklahoma Statutes, one of the parties demonstrates and the court finds that there is good cause not to require immediate wage withholding; or a written agreement is reached by the obligor and obligee which provides for an alternative arrangement, and the court finds that it is in the best interests of the child to not order an immediate income assignment.

2. The court may order an obligor to pay all court costs and attorney fees incurred in an income assignment proceeding pursuant to this section.

3. The order shall be a final judgment for purposes of appeal. The income assignment shall not be stayed on appeal except by order of the court pursuant to Section 990.4 of Title 12 of the Oklahoma Statutes.

H. After an income assignment has been ordered by the court, the obligee shall file the original Notice with the court, and shall serve a copy upon the payor by certified mail, return receipt requested, or as otherwise allowed in civil actions.

I. Support orders entered by another state, or an order otherwise entitled to full faith and credit, shall be enforced through income assignment proceedings specified in this section to the same extent as orders entered by this state, as provided in the Uniform Interstate Family Support Act. Venue for enforcement of out-of-state orders is at the option of the obligee in the county in Oklahoma in which the obligee or obligor resides.

SECTION 79. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-502 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The maximum amount which can be withheld from earnings for payment of child support is:

1. Fifty percent (50%) of the obligor's aggregate disposable earnings for that pay period, if the obligor is supporting a spouse or a dependent child other than the child for whom support is being deducted;

2. Sixty percent (60%) of the obligor's aggregate disposable earnings for that pay period, if the obligor is not supporting a spouse or dependent child other than the child for whom support is being deducted; and

3. If there are arrears more than twelve (12) weeks old, an additional five percent (5%) may be withheld in addition to the amounts listed in paragraphs 1 and 2 of this subsection.

B. The maximum withholding amounts set forth in subsection A of this section apply to earnings only, and not to other forms of income.

SECTION 80. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-503 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The notice shall be served by the obligee upon the payor by certified mail, return receipt requested, or as otherwise allowed in civil actions. The payor shall withhold the support as specified in the notice. Except as otherwise provided by this section, the payor shall comply with all of the provisions specified in the notice.

B. The assignment shall take effect on the next payment of income to the obligor after the payor receives the notice. The payor shall send the amount withheld to the address specified in the notice for remittance of payments within seven (7) days after the date upon which the obligor is paid. The payor shall include with each payment a statement reporting the date on which the support was withheld from the obligor's income.

C. The amount withheld from the obligor's earnings by an employer shall not exceed the limits on withholding from earnings pursuant to subsection A of Section 79 of this act.

D. The notice shall be binding upon the payor for as long as current support is due or until all arrearages for support are paid in full, whichever is later, or until further order of the court.

E. If a payor receives two or more notices of income assignment for the same obligor from one or more persons or entities, the payor shall remit the amount to be withheld in one payment to the Centralized Support Registry for allocation between all orders, regardless of the address the notice or other notice or order of income assignment designates for remittance of payments. A copy of the notice or other notice or order of income assignment received by the payor shall be sent to the Centralized Support Registry with the initial payment made pursuant to the income assignment. Thereafter, the payor shall not be required to include a copy of the notice or other notice or order of income assignment with subsequent payments. Each payment shall identify the obligor and the obligor's social security number, and, if available, case numbers associated with the income assignment.

F. If the amount of support to be withheld exceeds the amount of the obligor's earnings which may be withheld for income assignment pursuant to subsection A of Section 79 of this act, or in the case of income other than earnings, if the support exceeds the total amount of the obligor's income, the payor shall withhold the maximum amount that can be withheld according to law and shall send written notice to the Centralized Support Registry, or if the support is not required to be paid to the Registry, to the address specified in the notice for remittance of payments, stating the reason that the full amount of support was not withheld.

G. If the payor is the obligor's employer, within ten (10) days of the date when the obligor terminates employment the payor shall

send written notice to the Centralized Support Registry, or if the support is not paid to the Registry, to the address specified in the notice for the remittance of payments, stating that the obligor is no longer employed, and the obligor's last-known address and the name of the obligor's new employer, if known.

H. If the payor has no income due or to be due to the obligor in the payor's possession or control, or if the obligor has terminated employment with the payor prior to the receipt of the notice, the payor shall send written notice to the Centralized Support Registry, or if the support is not paid to the Registry, to the address specified in the notice for the remittance of payments, within ten (10) days of receipt of the notice.

I. The payor is liable to the obligee for any amount up to the accumulated amount that should have been withheld and paid, and may be fined up to Two Hundred Dollars (\$200.00) for each willful failure to make the required deductions, if the payor fails to withhold or to pay the support in accordance with the provisions of this act, or fails to notify the obligee as required by this section.

J. The payor may combine withheld amounts from income of two or more obligors to be paid to the same entity in a single payment and separately identify that portion of the single payment which is attributable to each individual obligor. The payment shall identify each obligor and the obligor's social security number, and, if available, case numbers associated with the income assignment.

K. The payor may not discipline, fail to promote, suspend, or discharge an obligor because of an income assignment issued pursuant to this section. Any payor who violates this section shall be liable to the obligor for all income, earnings, wages, and employment benefits lost by the obligor from the period of unlawful discipline, failure to promote, suspension, or discharge, to the period of reinstatement.

L. An income assignment issued pursuant to this section shall have priority over any prior or subsequent garnishments of the same wages; provided, however, income assignments and garnishments for support shall be of equal priority, except as otherwise provided in this act.

M. The payor may deduct from any income of the obligor a sum not exceeding Five Dollars (\$5.00) per pay period, and not to exceed a total of Ten Dollars (\$10.00) per month, as reimbursement for costs incurred by the payor in administering the income assignment.

N. The assignment shall remain effective against:

1. Any successors of an original payor served with a Notice, without the necessity of serving a new notice upon said successors; and

2. Any subsequent payors served with a notice.

O. The obligee or obligor may bring an action against the payor to enforce the notice, or any of the provisions of this section. The action may be filed in the district court case in which the income assignment order is filed, or in a separate proceeding in district court. If the payor is found liable pursuant to this section the person or entity who brought the action to enforce shall be entitled to the costs of the action, including reasonable attorney fees.

SECTION 81. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-504 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by law, the obligee or obligor may request the district or administrative court to:

1. Modify, suspend, or terminate the order for income assignment because of a modification, suspension, or termination of the underlying order for support;

2. Modify the amount of income to be withheld to reflect payment in full of the delinquency by income assignment or otherwise; or

3. Suspend the order for income assignment because of inability to deliver income withheld to the obligee due to the failure of the obligee to provide a mailing address or other means of delivery.

B. If a case is being enforced under the state child support plan pursuant to Section 237 of Title 56 of the Oklahoma Statutes, the court shall notify the Department of Human Services and provide an opportunity for hearing prior to the termination, modification, or suspension of the income assignment order.

#### ARTICLE VIII. ENFORCEMENT

SECTION 82. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-8-101 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Indirect civil contempt shall consist of willful disobedience of an order of the district or administrative court pertaining to alimony, property division, custody, parenting time, child support, or costs including attorney fees.

B. For purposes of this article:

1. "Respondent" means the person who is alleged to be in violation of the order of the court; and

2. "Petitioner" means the person or entity seeking to hold the obligor in contempt of court. In cases being enforced under Title IV-D of the Social Security Act, the Department of Human Services shall be considered the petitioner.

C. An action for indirect civil contempt may be combined with a proceeding to obtain a judgment or other relief.

SECTION 83. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-8-102 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. An action for indirect civil contempt of court shall be commenced by the filing of a verified application in the district court. The application shall inform the respondent of the following:

1. The order upon which the charge of indirect contempt is based;

2. The amount of any past-due support or amounts owed pursuant to a division of property, and the time period for which it is owed; and

3. Other alleged willful violations of the order supporting the charge of indirect contempt.

B. Upon filing of the application, the court shall issue a citation for indirect civil contempt to the respondent, setting forth the allegations of indirect contempt and ordering the respondent to appear for arraignment on the charge of indirect contempt.

C. The application and citation shall be served upon the respondent as in other civil actions. If the respondent has an attorney of record in the action in which the application for indirect contempt is filed, service may be upon the respondent's attorney of record.

D. 1. It shall not be necessary for the petitioner or an attorney for the petitioner to attend an arraignment hearing for the respondent. If no appearance is made by or on behalf of the petitioner, the clerk of the court shall, if requested, notify the petitioner of the date of the trial. The respondent must appear at the arraignment unless the court waives the respondent's appearance and allows the respondent's attorney of record to appear on the respondent's behalf.

2. At the arraignment the respondent shall be advised of the charge, the right to a jury trial or to request a trial before a judge of the district court, the right to counsel, including the

right to request court-appointed counsel, the right to present and cross-examine witnesses, the right to have an appearance bond set by the court, and the penalties for indirect civil contempt of court. The respondent shall be required to enter a plea of guilty or not guilty.

3. All trials for indirect civil contempt shall be before a jury unless both the petitioner and the respondent waive a jury trial. If a jury trial is not waived the court shall set the case for trial at the next jury term, unless such time is waived by both the petitioner and respondent, in which event the case shall be set for jury trial at a time determined by the court. If a jury trial is waived, a trial date shall be set by the court. If no appearance is made by the petitioner at the arraignment, a jury trial shall not be deemed waived, unless the petitioner waives a jury trial affirmatively in a pleading filed with the court.

E. 1. If the matter is set for a trial or further hearing the court shall set the amount of any appearance bond to be posted by the respondent. If the court orders an appearance bond the bond shall be undertaken as provided by law.

2. If a respondent fails to appear for arraignment or a subsequent trial or hearing the court shall order a bench warrant to issue for the respondent's arrest and shall set an appearance bond. If amounts are owed pursuant to the indirect contempt, the amount of the bond shall not exceed double the amount owed.

3. If a respondent fails to appear after posting an appearance bond, the petitioner may make application to the court to disburse the bond to discharge any amounts owed pursuant to the evidence. Upon proper application, the court shall order the court clerk to disburse the bond to the petitioner, regardless of whether the bond was posted by the respondent or by a person or entity on the respondent's behalf. The penalty on the bond, or any part thereof, when recovered, shall be first applied to discharge the respondent's

debt, including any attorney fees and costs awarded by the court. The party who is the petitioner on the bond shall have the right to enforce its penalty to the same extent and in the same manner as the state may enforce the penalty on a forfeited bail bond.

F. If a respondent fails to appear for arraignment or a subsequent trial or hearing, the court may grant a judgment for any amounts owed pursuant to the evidence, including past-due support, amounts owed pursuant to a division of property, attorney fees and costs, and may grant other relief and make additional orders relative to the indirect contempt.

G. It shall be prima facie evidence of an indirect civil contempt of court if the petitioner demonstrates to the court that the respondent is in noncompliance with the order and it is shown that:

1. The order was made, filed and served on the respondent;
2. The respondent had actual or constructive knowledge of the existence of the order;
3. The order was granted by default after prior due process notice to the respondent; or
4. The respondent was present in court at the time the order was pronounced.

H. 1. In order to be found guilty of indirect contempt the respondent must be shown to have disobeyed the court's order by clear and convincing evidence. If the respondent shows by a preponderance of the evidence that he made a good faith effort to comply with the court's order and that he was unable to comply, or that noncompliance with the court's order was through no fault of the respondent, the respondent shall not be found guilty of indirect contempt of court.

2. If the respondent is found not guilty of indirect contempt, the court may grant a judgment for any amounts owed pursuant to the

evidence, and may make other orders necessary to enforce the court's order.

I. If a respondent is found guilty of indirect contempt the court shall set sentencing no less than forty-eight (48) hours from the date of the finding of guilt; provided, that the respondent may waive the forty-eight-hour delay and be sentenced immediately.

J. 1. If a respondent is found guilty of indirect contempt and amounts are owed pursuant to the evidence, the court shall consider the following factors in determining the sentence and purge fee:

- a. the proportion of the amount owed that was unpaid in relation to the amount that was ordered paid,
- b. the proportion of the amount owed that could have been paid by respondent in relation to the amount that was ordered paid,
- c. the present capacity of the respondent to pay any arrearages,
- d. any willful actions taken by the respondent to reduce the factor in subparagraph c of this paragraph,
- e. the past history of compliance or noncompliance with the order, and
- f. willful acts to avoid the jurisdiction of the court.

2. If amounts are owed pursuant to the evidence, the court shall utilize the following guidelines in setting forth a method by which the respondent may purge the contempt. The respondent shall purge by making all future court-ordered payments timely and in the manner prescribed by the court; and shall pay the past-due support by:

- a. paying the past-due amount in full, or some portion thereof, as a lump sum or by periodic payments based upon the respondent's income and assets, or
- b. making monthly payments in an amount determined to be equitable by the court; provided, that said monthly

payments shall not exceed forty percent (40%) of the respondent's actual or imputed gross income, or

- c. a combination of the payment options in subparagraphs a and b of this paragraph.

3. All payments made pursuant to this subsection shall be applied to reduce the past-due amount which was the subject of the contempt action, and shall continue until the past-due amount has been paid in full, at which time the contempt shall be deemed purged. Payments made in accordance with the provisions of this subsection shall bear interest as set forth in Article VI of this Code.

4. If the respondent is unemployed or employed less than full-time, the court may make additional orders as a condition of a suspended or deferred sentence for indirect contempt, such as requiring the respondent to seek employment or to participate in designated educational programs, training, or substance abuse treatment programs, and to take other actions necessary to enable the respondent to comply with the order.

5. If a respondent who is employed or attending school or training in order to become employed is sentenced to incarceration, the court may order the sentence to be served at times other than the respondent's regularly scheduled hours of employment, school or training, such as weekends and nights, with the remaining portion of each week being suspended so that the respondent can continue employment or education. The court may also set an alternative schedule of incarceration in other situations if the court finds it is equitable to do so.

6. If a respondent is committed to the custody of the sheriff to serve the sentence imposed by the court, except as provided in paragraph 5 of this subsection or as otherwise provided in the order of commitment, the respondent may thereafter only be discharged from the custody of the sheriff:

- a. upon payment in full of the adjudicated past-due amount,
- b. upon serving the full sentence, or
- c. upon the making of a subsequent agreement by the petitioner and respondent providing for payment of the past-due amount, which agreement has been approved by the court, and entry of a court order directing that the respondent be released from the custody of the sheriff with the balance of the sentence to be conditionally suspended, subject to performance of the terms of the agreement and the provisions of the court order for release.

7. Persons incarcerated pursuant to the provisions of this section shall not be entitled to credit for good time, blood time, trustee time, or any other credit for time served. Persons incarcerated in accordance with this section shall serve flat time in all cases.

SECTION 84. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-8-103 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Unless otherwise provided for by law, punishment for indirect civil contempt shall be by the imposition of a fine in a sum not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the county jail not exceeding six (6) months, or by both, at the discretion of the court.

B. Whenever a person shall be imprisoned for contempt the substance of the offense shall be set forth in the order for confinement, and made a matter of record in the court.

#### ARTICLE IX. DETERMINATION OF PARENTAGE

##### Part 1. General Provisions

SECTION 85. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-101 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. All children are legitimate.

B. Wherever reference is made in the Oklahoma Statutes to "illegitimate" or "bastard" it shall be deemed to refer to a child born out of wedlock.

C. The term "child born out of wedlock" shall be used in lieu of the terms illegitimate or bastard.

SECTION 86. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-102 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by Section 215 of Title 84 of the Oklahoma Statutes, a man is presumed to be the natural father of a child for all intents and purposes if:

1. The man and the child's natural mother are or have been married to each other and the child is born during the marriage, or within ten (10) months after the termination of the marriage by death, annulment, declaration of invalidity, divorce or dissolution, or after a decree of separation is entered by a court. A child born before wedlock becomes legitimate by the subsequent marriage of his parents even if the marriage is, was or could be declared invalid. Any child born within the ten-month period specified in this paragraph which is born during a subsequent marriage to another person shall be presumed to be the legitimate child of that subsequent marriage;

2. Before the child's birth, the man and the child's natural mother have cohabitated and the child is born within ten (10) months after the termination of cohabitation. As used in this paragraph, the term "cohabitation" means the dwelling together continuously and habitually of a man and a woman who are in a private conjugal relationship not solemnized as a marriage according to law;

3. While the child is under the age of majority, the man receives the child into his home for a period of at least two (2) years, and he does not dispute paternity of that child during those two (2) years;

4. The United States Immigration and Naturalization Service made or accepted a determination that he was the father of the child at the time of the child's entry into the United States and he had the opportunity at the time of the child's entry into the United States to admit or deny the paternal relationship; or

5. Statistical probability of paternity is established at ninety-five percent (95%) or more by scientifically reliable genetic tests, including, but not limited to, blood tests.

B. Except as otherwise provided by law, the presumption of paternity created pursuant to subsection A of this section is overcome if the court finds that the evidence, including, but not limited to, medical, scientific, and genetic tests, shows that the presumed father is not the father of the child.

C. Except as provided in subsection B of this section or otherwise by law, evidence of a statistical probability of paternity established at greater than ninety-eight percent (98%) by scientifically reliable genetic tests creates a conclusive presumption of paternity.

SECTION 87. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-103 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. The presumption of paternity created pursuant to subsection A of Section 86 of this part may be disputed only by the Department of Human Services, the husband or wife, the putative father, the child, or their descendants.

B. If a child is born during the course of the marriage and is reared by the husband and wife as a member of their family without

disputing the child's legitimacy for a period of at least two (2) years, the presumption of paternity cannot be disputed by anyone.

C. If a child is born during the course of the marriage and is reared by the husband and wife as a member of their family without disputing the child's legitimacy for a period of less than two (2) years, the presumption of paternity may be disputed by a putative father only if a court of competent jurisdiction finds that it is in the best interests of the child, taking into consideration the child's physical, mental and emotional needs, to allow the putative father to dispute the presumption. The court shall appoint an attorney to represent the child in the proceeding to determine whether the presumption of paternity may be disputed by the putative father.

SECTION 88. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-104 of Title 43, unless there is created a duplication in numbering, reads as follows:

Until a district court makes an initial determination of custody, the mother of an unmarried minor child born out of wedlock is entitled to the exclusive care, custody, services, earnings and control of the minor child.

#### Part 2. Establishment of Paternity

SECTION 89. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-201 of Title 43, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided by law, paternity may be established by:

1. A district or administrative court order; or
2. A notarized written statement of the father and mother acknowledging paternity on a form prescribed by the Department of Human Services pursuant to Section 1-311.3 of Title 63 of the Oklahoma Statutes. The statement acknowledging paternity shall have the same legal effect as an order of paternity entered by a district

or administrative court. The statement may be contested for a period of not more than sixty (60) days after it is signed, and thereafter paternity may not be disputed by anyone; provided however, that if paternity has been established otherwise by law prior to the signing of the notarized written statement acknowledging paternity, the statement shall not establish paternity.

SECTION 90. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-202 of Title 43, unless there is created a duplication in numbering, reads as follows:

Proceedings to establish paternity, support and education pursuant to the Oklahoma Family Law Code may be brought by:

1. The mother;
2. The putative father;
3. The child;
4. The descendants of the mother, putative father or the child;
5. The guardian or custodian of the child;
6. The Department of Human Services in all cases in which

support services are being provided under the state child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes;

7. The district attorney; or

8. A public or private agency or authority chargeable with the support of the child.

SECTION 91. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-203 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. An action to establish paternity and support obligations can be brought any time before the child reaches the age of eighteen (18) years.

B. An action to establish paternity and support obligations can be brought by the child if commenced within one (1) year after the child reaches the age of eighteen (18) years.

C. An action to establish paternity and support obligations can be brought for any child for whom a paternity action was brought and dismissed because of the application of a statute of limitations of less than eighteen (18) years.

SECTION 92. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-204 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Venue of an action to determine the paternity and support of a child pursuant to this article shall be, at the option of the plaintiff, in either the county where the putative father, mother, or child resides.

B. In an action brought in this state to determine paternity, jurisdiction shall be determined pursuant to the Uniform Interstate Family Support Act.

C. The petition shall be verified as true by the affidavit of the plaintiff. A summons shall be issued thereon and shall be served or publication made as in other civil cases. The court shall order the defendant to appear to acknowledge paternity, or to deny paternity and request a genetic test. The order to appear shall be served with the petition and summons.

D. Paternity actions brought in district court shall be tried before a judge of the district court.

E. If the defendant fails to answer the petition of the plaintiff, or fails to appear for hearing or for genetic testing after being ordered to appear, the district court shall proceed to determine the issues of paternity, support, custody and parenting time.

F. If paternity is disputed, the court shall enter an order directing genetic testing to determine paternity. The court may

order the putative father, the mother, the child, or other individuals necessary to make a determination of paternity to submit to genetic testing.

G. Issues of custody and parenting time in a paternity proceeding shall be determined by the district court when raised by a party. If parenting time and custody are not determined in the paternity proceeding, an action to establish parenting time or custody may be brought in the district court any time after paternity is established. The issues of parenting time or custody may be brought by motion in the original action, or by petition, if paternity has been established without an order.

H. In a proceeding brought by the Child Support Enforcement Division of the Department of Human Services, the district court shall limit the issues to paternity and support, unless custody or parenting time are raised. If custody or parenting time are raised, the mother, the father, and the custodian of the child, if other than the mother or father, shall be served by the party raising the issue with notice of the hearing to determine custody or parenting time.

I. The Department of Human Services, Office of Administrative Hearings: Child Support shall not have jurisdiction to determine custody or parenting time. Attorneys for the Child Support Enforcement Division may not represent a party in a proceeding to determine custody or parenting time. If custody or parenting time is raised in an administrative action, the administrative law judge shall first determine paternity and support and enter an order which shall be docketed with the appropriate district court in accordance with paragraph 10 of subsection B of Section 238.6B of Title 56 of the Oklahoma Statutes. A hearing to establish parenting time or to determine custody shall be scheduled before a district judge by the requesting party, and notice of the hearing shall be served upon the

mother, the father, and the custodian of the child, if other than the mother or father.

J. The court has the authority to enforce a subpoena or order to appear or to submit to genetic testing, or any other order entered pursuant to this section.

K. The Social Security numbers of the child and both parents shall be included in all orders establishing paternity.

SECTION 93. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-205 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. When a civil or administrative action is filed to determine paternity of a minor child, an interested party may request the court to enter a temporary order for support of the child pending a final determination of paternity. The application for temporary support shall set forth facts supporting the application and shall be verified by the party or entity seeking the order. The application and notice of hearing shall be served as in other civil cases.

B. After service of the application and opportunity for hearing, the court shall enter a temporary order for support if the court finds there is clear and convincing evidence of paternity, including, but not limited to:

1. A genetic test which establishes a rebuttable presumption of paternity pursuant to subsection C of Section 99 of this act, or a conclusive presumption of paternity pursuant to subsection D of Section 99 of this act;

2. A notarized written statement acknowledging paternity of the child executed by the putative father;

3. A presumption of paternity pursuant to this act; or

4. Other evidence which establishes a high probability of paternity.

C. Temporary orders for support shall be established in accordance with the child support guidelines pursuant to Section 118 of Title 43 of the Oklahoma Statutes. A temporary support order terminates when a final judgment is entered which establishes support or when the action is dismissed. A temporary support order shall not be retroactively modified, but it may be modified prospectively before final judgment upon motion of an interested party and a showing of facts supporting a modification.

SECTION 94. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-206 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. All persons who have had sexual intercourse with a woman during the possible time of conception of a child for whom paternity is not determined may be joined as defendants in an action to determine the paternity of the child.

B. When more than one defendant is named or joined in a paternity action, the court shall order all defendants to appear. The court shall order genetic testing of all defendants who are duly served, including defendants who fail to answer or appear. The court may order the mother, the child, or other individuals necessary to make a determination of paternity to submit to genetic testing.

C. 1. When genetic testing indicates a probability of paternity greater than ninety-eight percent (98%) for a specific defendant as provided in subsection D of Section 99 of this act, the court shall enter an order establishing that defendant as the father.

2. If a defendant fails to answer, or to appear for hearing or genetic testing after being ordered to appear, and all other duly served defendants have been excluded as possible fathers by genetic testing, the court shall enter an order establishing the defendant who failed to answer or appear as the father.

3. If one or more defendants fail to appear for genetic testing after being ordered to appear for testing, the court, upon request of the plaintiff, may proceed to determine paternity and related issues based upon competent testimony and genetic test results, if any.

D. The court has the authority to enforce a subpoena or order to appear or to submit to genetic testing, or any other order entered pursuant to this section.

E. After paternity is determined by the court, the court shall dismiss the paternity action against the other defendants.

SECTION 95. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-207 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. A child born out of wedlock is entitled to support and education to the same extent as a child born in wedlock.

B. A parent's obligation to support is terminated if the child is adopted.

C. The court may order the payments made to the custodian or guardian of the child, or to some other person, corporation or agency.

D. 1. An individual who has been legally determined to be the father of a child shall be ordered to pay his proportionate share according to the child support guidelines of the costs of the birth and support for the child prior to the determination of paternity. Liability for support prior to the determination of paternity shall be imposed for five (5) years preceding the filing of the action.

2. If the natural mother of a child is not the custodian of a child, the mother shall be liable for her proportionate share according to the child support guidelines of the costs of the birth and support of the child prior to the determination of paternity for the time period she was not the custodian of the child. The mother's liability for support prior to the determination of

paternity shall be imposed for five (5) years preceding the filing of the action.

E. The child support guidelines shall be used in determining current support and the amount of support for the five (5) years preceding the filing of the paternity action, or back to the date of birth of the child, whichever is less. In determining the amount of past support, the court may give credit for actual support or other necessities provided for the child by the obligor prior to the filing of the action.

SECTION 96. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-208 of Title 43, unless there is created a duplication in numbering, reads as follows:

The father of a child born out of wedlock is liable for his proportionate share according to the child support guidelines of the reasonable expenses of the mother during the period of her pregnancy and recovery, whether or not the child is born alive. This liability may only be enforced within five (5) years after the birth of the child.

SECTION 97. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-209 of Title 43, unless there is created a duplication in numbering, reads as follows:

In a civil or administrative action in which paternity is a relevant issue, the court, upon its own initiative or upon motion of any party to the action, shall order the mother, child, the putative father, and any other person necessary to determine paternity, to submit to genetic testing. The court, upon request made by or on behalf of any other person whose blood or other genetic markers are involved, may order the mother, child, the putative father, and any other person necessary to determine paternity, to submit to genetic testing.

SECTION 98. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-210 of Title 43, unless there is created a duplication in numbering, reads as follows:

The tests shall be conducted by experts qualified as examiners of genetic markers in the human body. Except as otherwise provided in this act, experts may be called by the court or by a party as witnesses to testify as to their findings and shall be subject to cross-examination by the parties. Any party may request that additional experts qualified as examiners of genetic markers in the human body perform independent tests subject to order of the court, the results of which may be offered in evidence. The number and qualifications of the experts shall be determined by the court. The party requesting additional tests shall be responsible for paying the costs of additional testing in advance.

SECTION 99. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-211 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. In an action in which paternity is a relevant issue, evidence which shows a statistical probability of paternity is admissible and shall be weighed in addition to other evidence of the paternity of the child. Evidence which shows a statistical probability of paternity may include, but is not limited to:

1. Genetic test results; and
2. Medical, scientific, or other genetic evidence relating to the paternity of the child based upon tests performed by experts.

B. Except as otherwise provided by law, if the court finds that the evidence based upon the medical, scientific, and genetic tests, shows that the defendant is not the father of the child, said evidence shall be conclusive proof of nonpaternity and the court shall dismiss the action.

C. Except as otherwise provided by law, evidence of statistical probability of paternity established at ninety-five percent (95%) or

more creates a presumption of paternity. This presumption is rebuttable by clear and convincing evidence admitted on behalf of the defendant.

D. Except as otherwise provided by law, evidence of statistical probability of paternity established at greater than ninety-eight percent (98%) creates a conclusive presumption of paternity.

E. The party receiving the copy of the genetic test results from the court-appointed expert shall deliver a copy or mail a copy to the last-known address of each party. If a party is represented by counsel, service shall be made upon the attorney. A certificate of service shall be filed with the results stating the date of mailing or date of delivery.

F. Any objection to the genetic test results must be made in writing within fifteen (15) days from the date of mailing of the results, and any hearing on the issue of paternity may not be held any sooner than fifteen (15) days after filing of the objection to the genetic test results. If no objection is filed within the specified time, the genetic test results shall be admitted as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

SECTION 100. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-212 of Title 43, unless there is created a duplication in numbering, reads as follows:

The provisions of this part shall also apply to criminal cases, subject to the following limitations and provisions:

1. An order for the tests shall be made on the application of a defendant or the state;

2. The compensation of the experts appointed by the court shall be paid by the state or by the court fund, under order of the court; and

3. The court may direct a verdict of acquittal upon the conclusions of all the experts under the provisions of Section 98 of

this act, but otherwise the case shall be submitted for determination upon all the evidence.

SECTION 101. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-213 of Title 43, unless there is created a duplication in numbering, reads as follows:

Copies of bills for pregnancy, child birth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for genetic testing on behalf of the child.

SECTION 102. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-214 of Title 43, unless there is created a duplication in numbering, reads as follows:

In an action to determine paternity brought pursuant to this article, the court may award and tax fees and costs, including the compensation of each expert witness appointed by the court or called by a party pursuant to Section 98 of this part, and the cost of tests required pursuant to the provisions of Section 98 of this part, and apportion them between the parties as in actions for dissolution, legal separation or annulment. In an action brought by a state agency, costs and fees shall be awarded in accordance with Section 941 of Title 12 of the Oklahoma Statutes.

SECTION 103. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-215 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. At any time during an action to determine paternity, the mother, father, child or custodian or guardian of the child, may request the court to order that the surname of the child be changed to the surname of the child's father. If the parties agree, the court shall order that the surname of the child be changed to that of the father. If there is no agreement, or after paternity has already been established, the party requesting the change of name

shall file a motion with the district court to change the surname of the child to the surname of the father. The motion and notice of the hearing shall be served upon the necessary parties as in other civil actions.

B. If, after the hearing, the judge finds that it is in the best interest of the child to bear the paternal surname, the court may enter an order changing the surname of the child to the surname of the father.

SECTION 104. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-216 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. When a court of competent jurisdiction makes a determination as to the parentage of any person in any criminal or civil proceeding, the clerk of the court shall send to the State Department of Health, on a form prescribed by the Department, a written notification of the determination. The court clerk shall also send notification of the determination of parentage to the Department of Human Services on a form prescribed by the Department of Human Services, for recordation in the paternity registry established pursuant to Section 7506-1.1 of Title 10 of the Oklahoma Statutes. Such notification shall include the name and address of the person whose parentage was determined and the person who was determined to be the father.

B. If a determination of parentage is reversed, set aside, or abrogated by a later judgment, decree or order of the court, the court clerk shall send such information in writing to the Department of Health and to the Department of Human Services, if appropriate, for inclusion in or deletion from the paternity registry established pursuant to Section 7506-1.1 of Title 10 of the Oklahoma Statutes.

SECTION 105. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-217 of Title 43, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall apply to administrative proceedings to establish paternity brought by the Department of Human Services pursuant to Title 56 of the Oklahoma Statutes, to the extent that they are applicable and are not inconsistent.

SECTION 106. REPEALER 43 O.S. 1991, Sections 17 and 18, are hereby repealed.

SECTION 107. RECODIFICATION 43 O.S. 1991, Sections 1, 2, 3, and Section 9, Chapter 131, O.S.L. 1996, as amended by Sections 3, 4, 5 and 6 of this act, and 7, as last amended by Section 7 of this act (43 O.S. Supp. 1998, Sections 3.1 and 7) shall be recodified as Sections 1-2-101, 1-2-102, 1-2-103, 1-2-104 and 1-2-105 of Title 43 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 108. RECODIFICATION 43 O.S. 1991, Sections 4, 36, and 5, as amended by Sections 8, 9, and 10 of this act, 6, as last amended by Section 11 of this act, 8, as amended by Section 12 of this act, 9, as last amended by Section 13 of this act, 10, and 11 as amended by Sections 14 and 15 of this act (43 O.S. Supp. 1998, Sections 6 and 9) shall be recodified as Sections 1-2-201, 1-2-202, 1-2-203, 1-2-204, 1-2-205, 1-2-206, 1-2-207 and 1-2-208 of Title 43 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 109. RECODIFICATION 43 O.S. 1991, Sections 14, as last amended by Section 16 of this act, 15, 16 and 19, as amended by Sections 17, 18 and 19 of this act, shall be recodified as Section 1-2-301, 1-2-302, 1-2-303 and 1-2-304 of Title 43 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 110. RECODIFICATION 43 O.S. 1991, Sections 31, 32, 33, 34, 35 and 37, as amended by Sections 20 through 25 of this act, shall be recodified as Sections 1-2-401, 1-2-402, 1-2-403, 1-2-

404, 1-2-405 and 1-2-406 of Title 43 of the Oklahoma Statutes,  
unless there is created a duplication in numbering.

SECTION 111. This act shall become effective March 31, 2000.

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