

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 1313

By: Graves

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to marriage and family; amending 43
9 O.S. 1991, Sections 111.1 and 112, as last amended by
10 Section 7, Chapter 323, O.S.L. 1998 (43 O.S. Supp.
11 1998, Section 112), which relate to child custody and
12 visitation; requiring compliance with visitation
13 orders and child support payment orders; providing
14 for prosecution of violations; providing for payment
15 of certain costs; making noncompliance with
16 visitation or child support orders contrary to the
17 best interests of the child; and providing an
18 effective date.

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

20 SECTION 1. AMENDATORY 43 O.S. 1991, Section 111.1, is
21 amended to read as follows:

22 Section 111.1 A. 1. Any order providing for the visitation of
23 a noncustodial parent with any of the children of such noncustodial
24 parent shall provide a specified minimum amount of visitation
25 between the noncustodial parent and the child unless the court
26 determines otherwise.

27 2. Except for good cause shown and when in the best interests
28 of the child, the order shall encourage additional visitations of
29 the noncustodial parent and the child and in addition encourage
30 liberal telephone communications between the noncustodial parent and
31 the child.

32 B. Except for good cause shown:

1. When a noncustodial parent who is ordered to pay child
support and who is awarded visitation rights fails to pay child

1 support, the custodial parent shall not refuse to honor the
2 noncustodial parent's visitation rights; and

3 2. When a custodial parent refuses to honor a noncustodial
4 parent's visitation rights, the noncustodial parent shall not fail
5 to pay any ordered child support or alimony.

6 C. 1. Violation of an order providing for the payment of child
7 support or providing for the visitation of a noncustodial parent
8 with any of the children of such noncustodial parent may be enforced
9 by the noncustodial parent by prosecuted as indirect civil contempt
10 pursuant to Section 566 of Title 21 of the Oklahoma Statutes or as
11 otherwise deemed appropriate by the court.

12 2. Unless the custodial parent establishes good cause is shown
13 for the noncompliance, the noncustodial parent prevailing party
14 shall be entitled to recover court costs and attorney fees expended
15 in enforcing the order and any other reasonable costs and expenses
16 incurred in connection with the denied child support or denied
17 visitation as authorized by the court. In an acton brought by a
18 state agency, fees, costs and expenses shall be awarded in
19 accordance with Section 941 of Title 12 of the Oklahoma Statutes.

20 SECTION 2. AMENDATORY 43 O.S. 1991, Section 112, as
21 last amended by Section 7, Chapter 323, O.S.L. 1998 (43 O.S. Supp.
22 1998, Section 112), is amended to read as follows:

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

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

29 2. Unless not in the best interests of the children, may
30 provide for the visitation of the noncustodial parent with any of
31 the children of the noncustodial parent; and
32

1 3. May modify or change any order whenever circumstances render
2 the change proper either before or after final judgment in the
3 action; provided, that the amount of the periodic child support
4 payment shall not be modified retroactively or payment of all or a
5 portion of the past due amount waived, except by mutual agreement of
6 the obligor and obligee, or if the obligee has assigned child
7 support rights to the Department of Human Services or other entity,
8 by agreement of the Department or other entity. Unless the parties
9 agree to the contrary, a completed child support computation form
10 provided for in Section 120 of this title shall be required to be
11 filed with the child support order.

12 The social security numbers of both parents and the child shall
13 be included on the child support order summary form provided for in
14 Section 120 of this title, which shall be filed with all child
15 support orders.

16 B. In any action in which there are minor unmarried children in
17 awarding or modifying the custody of the child or in appointing a
18 general guardian for the child, the court shall be guided by the
19 provisions of Section 21.1 of Title 10 of the Oklahoma Statutes and
20 shall consider what appears to be in the best interests of the
21 child.

22 C. 1. When it is in the best interests of a minor unmarried
23 child, the court shall:

24 a. assure children of frequent and continuing contact
25 with both parents after the parents have separated or
26 dissolved their marriage, and

27 b. encourage parents to share the rights and
28 responsibilities of child rearing in order to effect
29 this policy.

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

1 3. When in the best interests of the child, custody shall be
2 awarded in a way which assures the frequent and continuing contact
3 of the child with both parents. When awarding custody to either
4 parent, the court:

5 a. shall consider, among other facts, which parent is
6 more likely to allow the child or children frequent
7 and continuing contact with the noncustodial parent,
8 and

9 b. shall not prefer a parent as a custodian of the child
10 because of the gender of that parent.

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

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

16 a. unless there is a prior written agreement to change
17 the permanent residence of the child either parent
18 shall notify the other parent if the parent plans to
19 change the permanent residence of the child, and

20 b. the noncustodial parent is to notify the custodial
21 parent if the noncustodial parent plans to change
22 permanent residence.

23 D. 1. Except for good cause shown, a pattern of failure to
24 allow court-ordered visitation is hereby determined to be contrary
25 to the best interests of the child and as such may be grounds for
26 modification of the child custody order.

27 2. For any action brought pursuant to the provisions of this
28 section which the court determines to be contrary to the best
29 interests of the child, the prevailing party shall be entitled to
30 recover court costs, attorney fees and any other reasonable costs
31 and expenses incurred with the action. In an action brought by a
32 state agency, court costs, attorney fees and any other reasonable

1 costs and expenses shall be awarded in accordance with Section 941
2 of Title 12 of the Oklahoma Statutes.

3 E. Any child shall be entitled to support by the parents until
4 the child reaches eighteen (18) years of age. If a dependent child
5 is regularly and continuously attending high school, said child
6 shall be entitled to support by the parents through the age of
7 eighteen (18) years. No hearing shall be required to extend such
8 support through the age of eighteen (18) if the child is regularly
9 and continuously attending high school.

10 ~~E.~~ F. In any case in which provision is made for the custody or
11 support of a minor child or enforcement of such order, the court
12 shall inquire whether public assistance money has been provided by
13 the Department of Human Services for the benefit of each child. If
14 public assistance money has been provided for the benefit of the
15 child, the Department of Human Services shall be a necessary party
16 for the just adjudication and establishment of the debt due and
17 owing the State of Oklahoma, as defined in Section 238 of Title 56
18 of the Oklahoma Statutes and for the just adjudication and
19 establishment of current child support.

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

23 SECTION 3. This act shall become effective November 1, 1999.

24

25 47-1-6395 SD 6/11/15

26

27

28

29

30

31

32