

ENROLLED HOUSE
BILL NO. 2783

By: Glover, Adair, Adkins, Askins,
Balkman, Begley, Bengel, Benson,
Blackburn, Bonny, Braddock, Calvey,
Cargill, Case, Claunch, Coleman, Corn,
Covey, Cox, Dank, Davis,
Deutschendorf, DeWitt, Dunegan,
Easley, Eddins, Ericson, Ervin, Erwin,
Ferguson, Fields, Friskup, Gilbert,
Graves, Gray, Greenwood, Hastings,
Hefner, Hiett, Hilliard, Hutchison,
Ingmire, Jones, Kirby, Langmacher,
Leist, Lindley, Liotta, Maddux, Mass,
Matlock, McCarter, Miller (Doug),
Miller (Ray), Mitchell, Morgan, Nance,
Nations, Newport, O'Neal, Paulk,
Perry, Peters, Peterson, Pettigrew,
Phillips, Piatt, Plunk, Pope (Clay),
Pope (Tim), Rice, Roach, Roan,
Roberts, Roggow, Ross, Smaligo, Smith
(Dale), Smith (Hopper), Staggs,
Stanley, Steele, Stites (Chad), Stites
(J.T.), Sullivan, Sweeden, Taylor,
Tibbs, Toure, Turner, Tyler, Vaughn,
Walker, Webb, Wells, Wilson, Wilt,
Winchester, Worthen, Wright and Young
of the House

and

Stipe, Smith, Cain, Campbell, Capps,
Coffee, Crutchfield, Douglass, Dunlap,
Easley, Fair, Fisher, Ford, Haney,
Harrison, Helton, Henry, Herbert,
Hobson, Horner, Johnson, Kerr,
Laughlin, Leftwich, Littlefield,
Maddox, Martin, Mickle, Milacek,
Monson, Morgan, Muegge, Nichols,
Price, Pruitt, Rabon, Reynolds, Riley,
Robinson, Rozell, Shurden, Snyder,
Taylor, Wilcoxson, Wilkerson, Williams
and Williamson of the Senate

An Act relating to marriage and family; amending 43
O.S. 2001, Section 113, which relates to preferences
of a child relating to custody and visitation;
mandating certain consideration; requiring certain
findings of fact supporting certain actions if
requested by a party; and declaring an emergency.

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

SECTION 1. AMENDATORY 43 O.S. 2001, Section 113, is amended to read as follows:

Section 113. A. In any action ~~for divorce, legal separation, or annulment~~ or proceeding in which a court must determine custody or limits of or period of visitation, the child may express a preference as to which of its parents the child wishes to have custody.

B. 1. The court ~~may~~ shall determine whether the best interest of the child will be served by the child's expression of preference as to which parent should have custody or limits of or period of visitation rights of either parent. If the court so finds, the child may express such preference or give other testimony. ~~The~~

2. If the child is of a sufficient age to form an intelligent preference, the court ~~may~~ shall consider the expression of preference or other testimony of the child in determining custody or limits of or period of visitation. ~~Provided, however, the~~ The court shall not be bound by the child's choice and may take other facts into consideration in awarding custody or limits of or period of visitation. However, if the child is of a sufficient age to form an intelligent preference and the court does not follow the expression of preference of the child as to custody, or limits of visitation, the court shall make specific findings of fact supporting such action if requested by either party.

3. There shall be a rebuttable presumption that a child who is twelve (12) years of age or older is of a sufficient age to form an intelligent preference.

C. If the child expresses a preference or gives testimony, such preference or testimony may be taken by the court in chambers, ~~with or without the parents or other parties present, at the court's discretion.~~ If attorneys are not allowed to be present, the court shall state, for the record, the reasons for their exclusion. At the request of either party, a record shall be made of any such proceeding in chambers.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 22nd day of May, 2002.

Presiding Officer of the House of
Representatives

Passed the Senate the 23rd day of May, 2002.

Presiding Officer of the Senate