

ENROLLED HOUSE  
BILL NO. 2850

By: Case of the House

and

Monson of the Senate

An Act relating to children; amending 10 O.S. 2001, Section 21.1, which relates to custody or guardianship of children; requiring courts to make determination regarding sex offenders; adding circumstances that shall constitute a rebuttable presumption; amending 10 O.S. 2001, Section 7302-7.3, which relates to delinquency prevention; requiring coordination among agencies on establishing an out-of-school resource center; amending 43 O.S. 2001, Section 112.2, which relates to care and custody of children; requiring courts to make determinations regarding sex offenders; adding circumstances that shall constitute a rebuttable presumption; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 21.1, is amended to read as follows:

Section 21.1 A. Custody should be awarded or a guardian appointed in the following order of preference according to the best interests of the child to:

1. A parent or to both parents jointly except as otherwise provided in subsection B of this section;
2. A grandparent;
3. A person who was indicated by the wishes of a deceased parent;
4. A relative of either parent;
5. The person in whose home the child has been living in a wholesome and stable environment; or
6. Any other person deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

B. When a parent having physical custody and providing support to a child becomes deceased or when the custody is judicially removed from such parent, the court may only deny the noncustodial parent custody of the child or guardianship of the child if:

1. a. For a period of at least twelve (12) months out of the last fourteen (14) months immediately preceding the determination of custody or guardianship action, the noncustodial parent has willfully failed, refused, or neglected to contribute to the child's support:
  - (1) in substantial compliance with a support provision or an order entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support, or
  - (2) according to such parent's financial ability to contribute to the child's support if no provision for support is provided in a decree of divorce or an order of modification subsequent thereto, and
- b. The denial of custody or guardianship is in the best interest of the child;

2. The noncustodial parent has abandoned the child as such term is defined by Section 7006-1.1 of this title; or

3. The court finds it would be detrimental to the health or safety of the child for the noncustodial parent to have custody or be appointed guardian.

C. The court may consider the preference of the child in awarding custody of ~~said~~ the child if the child is of sufficient age to form an intelligent preference.

D. In every case involving the custody of, guardianship of or visitation with a child, the court shall consider evidence of ongoing domestic abuse which is properly brought before it. 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 visitation granted to the abusive person.

E. 1. In every case involving the custody of, guardianship of or visitation with a child, the court shall determine whether any individual seeking custody or who has custody of, guardianship of or visitation with a child:

- a. is or has ~~previously~~ been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state,
- b. is residing with a person who is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state, or
- c. is residing with a person who has been previously convicted of a crime listed in Section 582 of Title 57 of the Oklahoma Statutes.

2. There shall be a rebuttable presumption that it is not in the best interests of the child to have custody, guardianship or unsupervised visitation granted to:

- a. a person who is or has been subject to ~~or previously subject to~~ the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state,
- b. a person who is residing with an individual who is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state, or
- c. a person who is residing with a person who has been previously convicted of a crime listed in Section 582 of Title 57 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7302-7.3, is amended to read as follows:

Section 7302-7.3 A. From funds appropriated or otherwise available for that purpose, the Office of Juvenile Affairs through its Department of Juvenile Justice shall:

1. Issue requests for proposals and contract with eligible entities for delinquency prevention and early intervention programs; ~~and~~

2. Provide information and technical assistance to school districts, neighborhood and community organizations, and agencies within the children and youth service system, as that term is defined by the Serious and Habitual Juvenile Offender Act, for the purpose of assisting them to make application for federal, state and private grants for delinquency prevention and early intervention programs; and

3. Coordinate efforts among the Office of Juvenile Affairs, Department of Human Services, State Department of Education, State Department of Health, Department of Mental Health and Substance Abuse Services, State Arts Council, Oklahoma Commission on Children and Youth, the Oklahoma Health Care Authority, 4-H Clubs, Oklahoma Cooperative Extension Service and other organizations identified by the Department of Juvenile Justice that provide services to children and youth on the creation of an out-of-school resource center subject to the availability of funds.

B. The Department of Juvenile Justice, with the assistance of and information provided by the Oklahoma Commission on Children and Youth and the Oklahoma State Bureau of Investigation, shall establish criteria for:

1. Identifying at-risk neighborhoods, school districts, communities and specific areas within school districts and communities for the purposes of determining eligibility for any grants for at-risk areas available pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act; and

2. Determining eligibility for communities seeking other grants pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act.

The Oklahoma Commission on Children and Youth and the Oklahoma State Bureau of Investigation shall provide the Department of Juvenile Justice with information and assistance, as requested by the Department, for the purpose of establishing the criteria required by this section.

SECTION 3. AMENDATORY 43 O.S. 2001, Section 112.2, is amended to read as follows:

Section 112.2 A. In every case involving the custody of, guardianship of or visitation with a child, the court shall consider evidence for determining the custody of, guardianship of or the visitation with a child:

1. Evidence of ongoing domestic abuse which is properly brought before it. 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 visitation granted to the abusive person; and

2. Whether any person seeking custody or who has custody of, guardianship of or visitation with a child:

- a. is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state,
- b. is residing with an individual who is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state, or
- c. is residing with a person who has been previously convicted of a crime listed in Section 582 of Title 57 of the Oklahoma Statutes.

B. There shall be a rebuttable presumption that it is not in the best interests of the child to have custody, guardianship or unsupervised visitation granted to a person who:

1. Is subject to or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state;

2. Is residing with a person who is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state; or

3. Is residing with a person who has been previously convicted of a crime listed in Section 582 of Title 57 of the Oklahoma Statutes.

SECTION 4. This act shall become effective November 1, 2002.

Passed the House of Representatives the 21st day of May, 2002.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 24th day of May, 2002.

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Presiding Officer of the Senate