

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2307

By: Hamilton

COMMITTEE SUBSTITUTE

An Act relating to guardianship; amending 30 O.S. 2001, Section 2-101, which relates to appointment of a guardian for a minor; authorizing home study and report; providing procedures for certain home studies; prohibiting certain state agencies from making certain home studies; providing for payment; requiring certain compliance; and declaring an emergency.

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

SECTION 1. AMENDATORY 30 O.S. 2001, Section 2-101, is amended to read as follows:

Section 2-101. A. The court of each county, when it appears necessary or convenient, may appoint guardians for the persons and estates, or either, or both of them, of minors.

B. Such appointment may be made on the verified petition of a relative or other person in behalf of such minor.

C. 1. Before making the appointment, the court may receive an investigation and report regarding the background and home of the prospective guardian. The investigation and report of the prospective guardian and placement restrictions and requirements shall be made pursuant to the requirements of the Oklahoma Adoption Code.

2. Costs of the home study shall be assessed against any private child-placing agency having custody of the child, or the person having legal custody of the child or the prospective guardians of the child. For any child in the custody of the

Department of Human Services or the Department of Juvenile Justice, the applicable Department shall conduct or provide for the home study for such child as required by the Oklahoma Children's Code or the Oklahoma Juvenile Code. The Department of Human Services or the Department of Juvenile Justice shall not be required by any court to conduct or provide for a home study and report to the court on guardianship placements for any child that is not in the custody of either Department. An order appointing a guardian of the minor who has a parent living or other person legally responsible for the child shall comply with the provisions of Section 2-108 of this title.

D. In addition, before making the appointment, the court must cause notice of the hearing on the petition for appointment of a guardian for a minor to be given in the form required by the court to the minor ~~himself~~ if the minor has attained the age of fourteen (14) as of the date the petition is filed. The court shall also cause notice to be sent to the following persons:

1. The then-living parents of the minor and any other person having ~~care~~ custody of the minor, if such parent or person is not one of the petitioners;

2. If the minor has no then-living parent, then to one of the then-living grandparents who is not one of the petitioners and who is not married to one of the petitioners; and

3. If there is no such then-living grandparent or if there is no such then-living grandparent whose address is known to the petitioner, then notice shall be given to an adult relative, if any, of the minor residing in the county in which the petition was filed.

D. Such notice shall be mailed to each person, entitled to notice pursuant to this section, at that person's address as last-known to the petitioner, at least ten (10) days prior to the date set by the court for hearing on the petition. Provided the court may direct a shorter notice period if the court deems such

shorter notice period to be appropriate under the circumstances. If there is no person other than the minor who is entitled to notice, or if the address of any person, other than the minor, who is entitled to notice is not known to the petitioner, the petition shall so allege. The court may direct that notice, other than notice to the minor if the minor has attained the age of fourteen (14), be waived or be given to any person or persons other than the minor in such manner as the court determines and directs.

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.

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