

and

Shurden of the Senate

An Act relating to children; amending 10 O.S. 2001, Section 5A, which relates to visitation rights of siblings; creating a rebuttable presumption that visitation of siblings is in their best interests; deleting certain restrictions; expanding certain visitation; modifying definition; requiring visitation in certain situations; defining term; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 5A, is amended to read as follows:

Section 5A. A. ~~Upon the death of a parent of an unmarried minor child, a parent of the unmarried minor child or a parent of a minor sibling of the unmarried minor child may file a verified petition to commence an action requesting rights of visitation between the siblings. The court may award reasonable rights of visitation between the siblings if the court determines that visitation is in the best interests of the siblings~~ 1. There shall be a rebuttable presumption that visitation between biological and/or legally related minor siblings shall be in the best interests of such minor siblings.

2. Pursuant to the provisions of this section, in any action relating to the custody of children, the court may require or provide for the reasonable visitation between such minor biological and/or legally related siblings unless the court determines such visitation not to be in the best interest of any of the minor biological or legally related siblings.

B. In determining whether visitation is in the best interests of the siblings, the court shall consider:

1. The willingness of the parents of the siblings to encourage or maintain a relationship between the siblings;

2. The length and quality of the relationship between the siblings including, but not limited to, whether the siblings previously resided together in the same household;

3. The time which has elapsed since the siblings last had contact;

4. The preference of the siblings, if they are of sufficient maturity to express a preference;

5. The effect that visitation will have on the relationship between the siblings and their parents;

6. The mental and physical health of the siblings; and

7. All other factors appropriate to the particular circumstances.

C. The district courts are vested with jurisdiction to issue orders granting visitation between siblings and to enforce these orders.

D. Notice as required by Section 2004 of Title 12 of the Oklahoma Statutes shall be given to all parents of the siblings.

E. Venue of an action under this section shall be in the county where the siblings reside or, if the siblings reside in different counties, in the county where the respondent resides.

F. The court may determine the location for visitation ordered pursuant to this section and require any transportation costs or other costs arising from visitation to be paid by a parent or parents of the siblings as the court deems equitable.

G. Any visitation rights granted pursuant to this section before the adoption of a sibling shall automatically terminate if the sibling is adopted by a person other than a stepparent or

grandparent of the sibling or other relative of the sibling within the third degree of blood, marriage, or adoption.

H. In any action for sibling visitation pursuant to this section, the court may award attorney fees and costs, as the court deems equitable.

I. As used in this section:

1. "Sibling" means sister, brother, stepsister, stepbrother, halfsister, halfbrother, adopted sister, or adopted brother; and

2. "Parent" means biological parent, stepparent, adoptive parent, legal custodian, or legal guardian of a minor.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20A of Title 10, unless there is created a duplication in numbering, reads as follows:

A. If the court orders the transfer of custody of the child to the Department of Human Services or another agency for placement in foster care or adoption or for purposes of guardianship, or other temporary or permanent custodial arrangements, including, but not limited to, divorce, annulments and separation, unless the court finds that substantial evidence exists to believe that reasonable visitation or supervised visitation would not be in the best interest of the child so transferred, the order shall allow any sibling of the child reasonable visitation or supervised visitation with the child.

B. For purposes of this section, "sibling" means an individual who is related to the person in question as a sister or brother by means of blood relationship, marriage, or adoption.

SECTION 3. This act shall become effective November 1, 2003.

Passed the House of Representatives the 27th day of February,
2003.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2003.

Presiding Officer of the Senate