

THE HOUSE OF REPRESENTATIVES  
Thursday, March 6, 2008

House Bill No. 3273

HOUSE BILL NO. 3273 - By: DUNCAN AND KERN of the House and ANDERSON of the Senate.

An Act relating to guardianship; amending 30 O.S. 2001, Section 2-108, which relates to education and maintenance expenses for minors; modifying and adding requirements; and providing an effective date.

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

1 SECTION 1. AMENDATORY 30 O.S. 2001, Section 2-108, is amended to read  
2 as follows:

3 Section 2-108. A. If any minor, having a parent or parents living, has property, the  
4 income of which is sufficient for his maintenance and education in a manner more  
5 expensive than such parent or parents can reasonably afford, regard being had to all of  
6 the circumstances of the case, the expenses of the education and maintenance of such  
7 minor may be defrayed out of the income of the property of the minor in whole or in part,  
8 as judged reasonable and as directed by the court. The charges therefore may be allowed  
9 accordingly in the settlement of the accounts of the guardian of the minor.

10 B. Except as provided in subsection A of this section:

11 1. Any order appointing a guardian of the minor who has a living parent ~~living~~ or  
12 other person legally responsible for the support of the child shall:

- 1 a. provide for the payment of child support by ~~the~~ each parent or other  
2 responsible party pursuant to the Oklahoma child support guidelines  
3 as set forth in Sections 118 and 119 of Title 43 of the Oklahoma  
4 Statutes. Each parent, including parents who reside together, shall be  
5 individually ordered to pay the percentage of the total monthly child  
6 support obligation attributable to that parent, and
- 7 b. contain an immediate income assignment provision pursuant to  
8 Section 115 of Title 43 of the Oklahoma Statutes;

9 2. ~~The provisions of this subsection shall not apply to parents whose rights and~~  
10 ~~responsibilities have been terminated to the child unless the termination order requires~~  
11 ~~payment of child support.~~ court may defer the issue of establishment or enforcement of  
12 child support to the appropriate administrative or district court when child support  
13 services are being provided pursuant to the state child support plan as provided in  
14 Section 237 of Title 56 of the Oklahoma Statutes; and

15 3. Any guardianship or conservatorship for a minor created on or after December 1,  
16 2000, shall comply with the provisions of this subsection. Guardianships or  
17 conservatorships for a minor in existence prior to December 1, 2000, shall comply with  
18 the provisions of this subsection as ordered by the court.

19 C. In any guardianship in which provision is made for the custody or support of a  
20 minor child or enforcement of an existing custody or support order or before hearing the  
21 matter or signing any orders, the court shall inquire whether public assistance money or  
22 medical support has been provided through the Department of Human Services,

1 hereafter referred to as the Department, for the benefit of each child, or whether the  
2 Department is providing child support services pursuant to the state child support plan  
3 as provided in Section 237 of Title 56 of the Oklahoma Statutes. If public assistance  
4 money, medical support, or child support services have been provided for the benefit of  
5 the child, the Department shall be a necessary party for the adjudication of the debt due  
6 to the state, as defined in Section 238 of Title 56 of the Oklahoma Statutes, and for the  
7 adjudication of paternity, child support, and medical insurance coverage for the minor  
8 children in accordance with federal regulations. When a guardianship action is filed, the  
9 petitioner shall give the Department notice of the action according to Section 2004 of  
10 Title 12 of the Oklahoma Statutes. The Department shall not be required to intervene in  
11 the action to have standing to appear and participate in the action. When the  
12 Department is a necessary party to the action, any orders concerning paternity, child  
13 support, medical support, or the debt due to the state shall be approved and signed by  
14 the Department.

15 SECTION 2. This act shall become effective November 1, 2008.

16 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 03-05-08 -  
17 DO PASS, As Coauthored.