

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2996

By: Johnson (Dennis)

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5
6 AS INTRODUCED

7 An Act relating to marriage; amending 43 O.S. 2001,
8 Section 113, as amended by Section 1, Chapter 373,
9 O.S.L. 2002 (43 O.S. Supp. 2007, Section 113, which
10 relates to the preference of a child; increasing age
11 of rebuttable presumption for intelligent preference;
12 and providing an effective date.

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

14 SECTION 1. AMENDATORY 43 O.S. 2001, Section 113, as
15 amended by Section 1, Chapter 373, O.S.L. 2002 (43 O.S. Supp. 2007,
16 Section 113), is amended to read as follows:

17 Section 113. A. In any action or proceeding in which a court
18 must determine custody or limits of or period of visitation, the
19 child may express a preference as to which of its parents the child
20 wishes to have custody.

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

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

12 3. There shall be a rebuttable presumption that a child who is
13 ~~twelve (12)~~ fourteen (14) years of age or older is of a sufficient
14 age to form an intelligent preference.

15 C. If the child expresses a preference or gives testimony, such
16 preference or testimony may be taken by the court in chambers
17 without the parents or other parties present. If attorneys are not
18 allowed to be present, the court shall state, for the record, the
19 reasons for their exclusion. At the request of either party, a
20 record shall be made of any such proceeding in chambers.

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

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