

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1990

By: Morrissette

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5
6 AS INTRODUCED

7 An Act relating to marriage and family; amending 43
8 O.S. 2001, Section 105, as last amended by Section 1,
9 Chapter 302, O.S.L. 2003 (43 O.S. Supp. 2008, Section
10 105), which relates to procedural requirements for
11 divorce petitions and responses; requiring certain
12 information be provided upon the filing of certain
13 pleadings; amending 43 O.S. 2001, Section 109, which
14 relates to child custody determinations and
15 establishment; requiring parenting plan be filed with
16 the response to petition; and providing an effective
17 date.

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

19 SECTION 1. AMENDATORY 43 O.S. 2001, Section 105, as last
20 amended by Section 1, Chapter 302, O.S.L. 2003 (43 O.S. Supp. 2008,
21 Section 105), is amended to read as follows:

22 Section 105. A. A proceeding for dissolution of marriage, an
23 annulment of a marriage, or a legal separation shall be titled "In
24 re the Marriage of _____ and _____".

B. The initial pleading in all proceedings under this title
shall be denominated a petition. The person filing the petition
shall be called the petitioner. A responsive pleading shall be
denominated a response. The person filing the responsive pleading

1 shall be called the respondent. Other pleadings shall be
2 denominated as provided in the Rules of Civil Procedure, except as
3 otherwise provided in this section.

4 C. Income information as required in Section 118B of this title
5 shall be attached to the petition, answer or motion to modify in all
6 cases involving the custody of children.

7 D. The petition must be verified as true, by the affidavit of
8 the petitioner.

9 ~~D.~~ E. A summons may issue thereon, and shall be served, or
10 publication made, as in other civil cases.

11 ~~E.~~ F. Wherever it occurs in this title or in any other title of
12 the Oklahoma Statutes or in any forms or court documents prepared
13 pursuant to the provisions of the Oklahoma Statutes, the term
14 "divorce" shall mean and be deemed to refer to a "dissolution of
15 marriage" unless the context or subject matter otherwise requires.

16 SECTION 2. AMENDATORY 43 O.S. 2001, Section 109, is
17 amended to read as follows:

18 Section 109. A. In awarding the custody of a minor unmarried
19 child or in appointing a general guardian for said child, the court
20 shall consider what appears to be in the best interests of the
21 physical and mental and moral welfare of the child.

22 B. The court, pursuant to the provisions of subsection A of
23 this section, may grant the care, custody, and control of a child to
24 either parent or to the parents jointly.

1 For the purposes of this section, the terms joint custody and
2 joint care, custody, and control mean the sharing by parents in all
3 or some of the aspects of physical and legal care, custody, and
4 control of their children.

5 C. If either or both parents have requested joint custody, said
6 parents shall file with the court their plans for the exercise of
7 joint care, custody, and control of their child. The parents of the
8 child may submit a plan jointly, or either parent or both parents
9 may submit separate plans. Any plan shall include but is not
10 limited to provisions detailing the physical living arrangements for
11 the child, child support obligations, medical and dental care for
12 the child, school placement, and visitation rights. A plan shall be
13 accompanied by an affidavit signed by each parent stating that said
14 parent agrees to the plan and will abide by its terms. The plan and
15 affidavit shall be filed with the petition for a divorce or legal
16 separation ~~or after said petition is filed~~, and the response
17 thereto.

18 D. The court shall issue a final plan for the exercise of joint
19 care, custody, and control of the child or children, based upon the
20 plan submitted by the parents, separate or jointly, with appropriate
21 changes deemed by the court to be in the best interests of the
22 child. The court also may reject a request for joint custody and
23 proceed as if the request for joint custody had not been made.

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1 E. The parents having joint custody of the child may modify the
2 terms of the plan for joint care, custody, and control. The
3 modification to the plan shall be filed with the court and included
4 with the plan. If the court determines the modifications are in the
5 best interests of the child, the court shall approve the
6 modifications.

7 F. The court also may modify the terms of the plan for joint
8 care, custody, and control upon the request of one parent. The
9 court shall not modify the plan unless the modifications are in the
10 best interests of the child.

11 G. 1. The court may terminate a joint custody decree upon the
12 request of one or both of the parents or whenever the court
13 determines said decree is not in the best interests of the child.

14 2. Upon termination of a joint custody decree, the court shall
15 proceed and issue a modified decree for the care, custody, and
16 control of the child as if no such joint custody decree had been
17 made.

18 H. In the event of a dispute between the parents having joint
19 custody of a child as to the interpretation of a provision of said
20 plan, the court may appoint an arbitrator to resolve said dispute.
21 The arbitrator shall be a disinterested person knowledgeable in
22 domestic relations law and family counseling. The determination of
23 the arbitrator shall be final and binding on the parties to the
24 proceedings until further order of the court.

1 If a parent refuses to consent to arbitration, the court may
2 terminate the joint custody decree.

3 SECTION 3. This act shall become effective November 1, 2009.

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