

1 ENGROSSED HOUSE
2 BILL NO. 2484

By: Ownbey of the House

3 and

4 Griffin of the Senate

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8 An Act relating to children; amending 10A O.S. 2011,
9 Section 1-4-710, which relates to permanent
10 guardianships; modifying assessment to study;
11 divesting Department of Human Services of legal
12 custody and supervision of a child when the court
13 appoints a permanent guardian; specifying effect of
14 permanent guardianship on custody or child support
15 orders; providing for docketing and filing of new
16 order for administrative or district court actions;
17 directing juvenile court clerk to transmit documents
18 and information to district court clerk; describing
19 filing process of district court clerk; proscribing
20 confidentiality of order; authorizing enforcement and
21 modification after filing; and providing an effective
22 date.

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

24 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-710, is
amended to read as follows:

Section 1-4-710. A. The district attorney or child's attorney
shall file a motion for permanent guardianship with the juvenile
court in the deprived case. The motion shall be verified by the
prospective guardian and shall include the following:

- 1 1. The name, gender, and date of birth of the child;
 - 2 2. The facts and circumstances supporting the grounds for
3 permanent guardianship;
 - 4 3. The name and address of the prospective guardian and a
5 statement that the prospective guardian agrees to accept the duties
6 and responsibilities of guardianship;
 - 7 4. The relationship of the child to the prospective guardian;
 - 8 5. That the prospective guardian understands that the
9 guardianship is intended to be permanent in nature and that the
10 person will be responsible as the guardian until the child reaches
11 the age of majority;
 - 12 6. Whether the child has resided with the prospective guardian
13 prior to the motion being filed, and, if so, the length of time and
14 the circumstances surrounding the child's stay; and
 - 15 7. Whether there exists a loving, emotional tie between the
16 child and the prospective guardian.
- 17 B. Notice of the hearing as well as a copy of the motion shall
18 be served upon the parties, the Department of Human Services, and
19 the guardian ad litem of the child, if any. Notice shall also be
20 sent to the tribe of an Indian child as defined by the federal
21 Indian Child Welfare Act. Service shall not be required on the
22 parent whose rights have been previously terminated.
- 23 C. 1. When the child is in the custody of the Department, the
24 Department shall cause ~~an assessment~~ a home study of the proposed

1 guardian's home to be completed and provide a report to the court
2 regarding the suitability of the proposed guardian and whether
3 guardianship is in the best interest of the child. The Department
4 shall promulgate rules in furtherance of the duties imposed by this
5 subsection. However, the prospective guardian shall be responsible
6 to obtain the home ~~assessment~~ study if the child is not in the
7 custody of the Department.

8 2. The findings of the home ~~assessment~~ study shall be set forth
9 in a written report provided to the court, the district attorney,
10 the child, and the guardian ad litem, if any, before the hearing.
11 The court may require additional information as necessary to make an
12 appropriate decision regarding the permanent guardianship.

13 D. 1. Before issuing an order of permanent guardianship, the
14 court shall find by clear and convincing evidence all of the
15 following:

- 16 a. the factual basis for establishing parental unfitness
17 or unavailability to provide adequate care for the
18 child,
- 19 b. termination of the rights of the parent is either not
20 legally possible or not in the best interests of the
21 child, or adoption is not the permanency plan for the
22 child,

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- 1 c. the child has resided with the permanent guardian for
2 at least six (6) months, or the permanent guardian is
3 a relative with whom the child has a relationship,
4 d. a permanent guardianship is in the best interests of
5 the child, and
6 e. the proposed permanent guardian:
7 (1) is emotionally, mentally, physically, and
8 financially suitable to become the permanent
9 guardian,
10 (2) has expressly committed to remain the permanent
11 guardian for the duration of the child's
12 minority, and
13 (3) has expressly demonstrated a clear understanding
14 of the financial implications of becoming a
15 permanent guardian.

16 2. A decree of permanent guardianship divests the parents of
17 legal custody or guardianship of the child, but is not a termination
18 of parental rights.

19 E. Upon finding that grounds exist for a permanent
20 guardianship, the court may also order visitation with the parent,
21 siblings, or other relatives of the child if such contact would be
22 in the child's best interests as well as any other provision
23 necessary to provide for the child's continuing safety and well-
24 being. The court shall order the parents to contribute to the

1 support of the child pursuant to child-support guidelines as
2 provided for in Sections 118 and 119 of Title 43 of the Oklahoma
3 Statutes.

4 F. 1. An order appointing a permanent guardian shall:

5 a. require that the placement be reviewed within one (1)
6 year after transfer, and may require the permanent
7 guardian to submit any records or reports the court
8 deems necessary for purposes of such review,

9 b. ~~not require~~ divest the Department of legal custody and
10 supervision of the child and the Department to
11 supervise the placement during such period of time
12 shall have no further responsibility for the custody
13 or supervision of the child,

14 c. not require periodic reviews by the court thereafter
15 if the parties agree with the assent of the court that
16 the reviews are not necessary to serve the best
17 interests of the child, unless periodic reviews are
18 otherwise required by the court.

19 2. Unless periodic reviews are required, the court may close
20 the case, provided the order of permanent guardianship shall remain
21 in full force and effect subject to the provisions of this Code, and

22 a. shall remain in full force and effect and shall
23 control over any custody or child support order
24 entered in an administrative or district court action

1 initiated prior to or during the pendency of the
2 deprived action until it is modified by a subsequent
3 order of the district court, and

4 b. may be docketed and filed in the prior existing or
5 pending administrative or district court action;
6 provided, however, if there is no administrative or
7 district court action then in existence, the surviving
8 order may be used as the sole basis for opening a new
9 administrative or district court action in the same
10 county where the deprived action was pending or in the
11 county where the permanent guardian of the child
12 resides. When applicable, the clerk of the juvenile
13 court shall transmit the surviving order to the clerk
14 of the district court of the county where the order is
15 to be filed along with the names and last-known
16 addresses of the parents of the child. The clerk of
17 the district court shall immediately upon receipt open
18 a file without a filing fee, assign a new case number
19 and, when applicable, file the order and send by
20 first-class mail a copy of the order with the new or
21 prior existing case number back to the juvenile court
22 and to the parents of the child at their last-known
23 address. The order shall not be confidential and may
24 be enforced or modified after being docketed and filed

