

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1114

By: Griffin

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5
6 AS INTRODUCED

7 An Act relating to permanent guardianship; amending
8 10A O.S. 2011, Section 1-4-710, which relates to
9 notice, home assessment and review; modifying term;
10 modifying requirements for certain order; and
11 providing an effective date.

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

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

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

- 19 1. The name, gender, and date of birth of the child;
- 20 2. The facts and circumstances supporting the grounds for
21 permanent guardianship;
- 22 3. The name and address of the prospective guardian and a
23 statement that the prospective guardian agrees to accept the duties
24 and responsibilities of guardianship;

1 4. The relationship of the child to the prospective guardian;

2 5. That the prospective guardian understands that the
3 guardianship is intended to be permanent in nature and that the
4 person will be responsible as the guardian until the child reaches
5 the age of majority;

6 6. Whether the child has resided with the prospective guardian
7 prior to the motion being filed, and, if so, the length of time and
8 the circumstances surrounding the child's stay; and

9 7. Whether there exists a loving, emotional tie between the
10 child and the prospective guardian.

11 B. Notice of the hearing as well as a copy of the motion shall
12 be served upon the parties, the Department of Human Services, and
13 the guardian ad litem of the child, if any. Notice shall also be
14 sent to the tribe of an Indian child as defined by the federal
15 Indian Child Welfare Act. Service shall not be required on the
16 parent whose rights have been previously terminated.

17 C. 1. When the child is in the custody of the Department, the
18 Department shall cause ~~an assessment~~ a home study of the proposed
19 guardian's home to be completed and provide a report to the court
20 regarding the suitability of the proposed guardian and whether
21 guardianship is in the best interest of the child. The Department
22 shall promulgate rules in furtherance of the duties imposed by this
23 subsection. However, the prospective guardian shall be responsible
24

1 to obtain the home ~~assessment~~ study if the child is not in the
2 custody of the Department.

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

8 D. 1. Before issuing an order of permanent guardianship, the
9 court shall find by clear and convincing evidence all of the
10 following:

- 11 a. the factual basis for establishing parental unfitness
12 or unavailability to provide adequate care for the
13 child,
- 14 b. termination of the rights of the parent is either not
15 legally possible or not in the best interests of the
16 child, or adoption is not the permanency plan for the
17 child,
- 18 c. the child has resided with the permanent guardian for
19 at least six (6) months, or the permanent guardian is
20 a relative with whom the child has a relationship,
- 21 d. a permanent guardianship is in the best interests of
22 the child, and
- 23 e. the proposed permanent guardian:
- 24

- 1 (1) is emotionally, mentally, physically, and
2 financially suitable to become the permanent
3 guardian,
- 4 (2) has expressly committed to remain the permanent
5 guardian for the duration of the child's
6 minority, and
- 7 (3) has expressly demonstrated a clear understanding
8 of the financial implications of becoming a
9 permanent guardian.

10 2. A decree of permanent guardianship divests the parents of
11 legal custody or guardianship of the child, but is not a termination
12 of parental rights.

13 E. Upon finding that grounds exist for a permanent
14 guardianship, the court may also order visitation with the parent,
15 siblings, or other relatives of the child if such contact would be
16 in the child's best interests as well as any other provision
17 necessary to provide for the child's continuing safety and well-
18 being. The court shall order the parents to contribute to the
19 support of the child pursuant to child-support guidelines as
20 provided for in Sections 118 and 119 of Title 43 of the Oklahoma
21 Statutes.

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

- 23 a. require that the placement be reviewed within one (1)
24 year after transfer, and may require the permanent

1 guardian to submit any records or reports the court
2 deems necessary for purposes of such review,

3 b. ~~not require~~ divest the Department of legal custody and
4 supervision of the child, and the Department to
5 ~~supervise the placement during such period of time~~
6 shall have no further responsibility for the custody
7 or supervision of the child,

8 c. not require periodic reviews by the court thereafter
9 if the parties agree with the assent of the court that
10 the reviews are not necessary to serve the best
11 interests of the child, unless periodic reviews are
12 otherwise required by the court.

13 2. Unless periodic reviews are required, the court may close
14 the case; provided, the order of permanent guardianship shall
15 remain in full force and effect subject to the provisions of this
16 Code; and

17 a. shall remain in full force and effect and shall
18 control over any custody or child support order
19 entered in an administrative or district court action
20 initiated prior to or during the pendency of the
21 deprived action until such time as it is modified by a
22 subsequent order of the district court, and
23 b. may be docketed and filed in the prior existing or
24 pending administrative or district court action;

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

22 SECTION 2. This act shall become effective November 1, 2016.

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24 55-2-2619

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