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February 11, 2014

SENATE BILL NO. 1612

By: Sharp and Johnson
(Constance) of the Senate

and

Echols of the House

An Act relating to enforcement of visitation rights; amending 43 O.S. 2011, Section 111.3, which relates to interference with visitation rights of noncustodial parent; updating statutory reference; modifying procedures related to enforcement of visitation rights; requiring assessment of attorney fees and court costs under certain circumstances; providing certain form; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 2011, Section 111.3, is amended to read as follows:

Section 111.3. A. When a noncustodial parent has been granted visitation rights and those rights are denied or otherwise interfered with by the custodial parent, in addition to the remedy provided in subsection B of Section 111.1 of ~~Title 43 of the Oklahoma Statutes~~ this title, the noncustodial parent may file with the court clerk a motion for enforcement of visitation rights. The motion shall be filed on a form provided by the court clerk. Upon filing of the motion, the court shall immediately÷

1 ~~1. Issue ex parte an order for mediation; or~~

2 ~~2. Set~~ set a hearing on the motion, which shall be not more
3 than twenty-one (21) days after the filing of the motion.

4 ~~B. Within five (5) days of termination of mediation ordered~~
5 ~~pursuant to paragraph 1 of subsection A of this section, the~~
6 ~~mediator shall submit the record of termination and a summary of the~~
7 ~~parties' agreement, if any, to the court. Upon receipt of the~~
8 ~~record of termination, the court shall enter an order in accordance~~
9 ~~with the parties' agreement, if any, or set the matter for hearing,~~
10 ~~which shall be not more than ten (10) days after the record of~~
11 ~~termination is received by the court.~~

12 ~~C.~~ Notice of a hearing pursuant to subsection A ~~or~~ B of this
13 section shall be given to all interested parties by certified mail,
14 return receipt requested, or as ordered by the court.

15 ~~D.~~ C. If the court finds that visitation rights of the
16 noncustodial parent have been unreasonably denied or otherwise
17 interfered with by the custodial parent, the court shall enter an
18 order providing for one or more of the following:

19 1. A specific visitation schedule;

20 2. Compensating visitation time for the visitation denied or
21 otherwise interfered with, which time shall be of the same type
22 (e.g. holiday, weekday, weekend, summer) as the visitation denied or
23 otherwise interfered with, and shall be at the convenience of the
24 noncustodial parent;

1 3. Posting of a bond, either cash or with sufficient sureties,
2 conditioned upon compliance with the order granting visitation
3 rights;

4 ~~4. Assessment of reasonable attorney fees, mediation costs, and~~
5 ~~court costs to enforce visitation rights against the custodial~~
6 ~~parent;~~

7 ~~5.~~ Attendance of one or both parents at counseling or
8 educational sessions which focus on the impact of visitation
9 disputes on children;

10 ~~6.~~ 5. Supervised visitation; or

11 ~~7.~~ 6. Any other remedy the court considers appropriate, which
12 may include an order which modifies a prior order granting child
13 custody.

14 E. ~~If the court finds that the motion for enforcement of~~
15 ~~visitation rights has been unreasonably filed or pursued by the~~
16 ~~noncustodial parent, the~~ The court may shall assess reasonable
17 attorney fees, ~~mediation costs,~~ and court costs to the prevailing
18 party on the motion for enforcement of visitation rights ~~against the~~
19 ~~noncustodial parent.~~

20 F. Final disposition of a motion filed pursuant to this section
21 shall take place no later than forty-five (45) days after filing of
22 the motion.

23 G. If the court finds that a custodial parent has unreasonably
24 denied or otherwise interfered with the visitation rights of a

1 noncustodial parent three (3) times, the court shall find the
2 custodial parent in contempt and impose punishment as provided by
3 Section 566 of Title 21 of the Oklahoma Statutes.

4 H. ~~The Office of the Court Administrator shall develop the form~~
5 ~~required by subsection A of this section to be used for a motion to~~
6 ~~enforce visitation rights~~ shall be in substantially the following
7 form:

8 IN THE DISTRICT COURT OF _____ COUNTY

9 STATE OF OKLAHOMA

10 _____, Petitioner/Plaintiff,

11 v.

12 _____, Respondent/Defendant.

13 Case No. _____

14 Assigned Judge _____

15 MOTION FOR ENFORCEMENT OF NON-CUSTODIAL PARENT VISITATION RIGHTS

16 The undersigned Non-Custodial Parent in the above case moves the
17 Court, pursuant to the provisions of Section 111.3 of Title 43 of
18 the Oklahoma Statutes, to enforce visitation rights which have been
19 unreasonably denied or interfered with by the Custodial Parent.

20 The Name(s) and Age(s) of the Child(ren) to which my visitation
21 rights have been unreasonably denied are:

22 _____
23 Date of Birth: _____

1 Date of Birth:
2 _____
3 Date of Birth:
4 The approximate date of my last visit with the Child(ren) was:
5 _____.
6 Within the past 12 months, I have visited with the Child(ren)
7 approximately _____ of times of visitation times.
8 Within the past 12 months, I have been denied requested visitation
9 approximately _____ of times of denied visitation times.
10 On the attached page, I have stated THE SPECIFIC DETAILS as to how
11 and when my visitation with the Child(ren) was denied.
12 Signed under penalties of perjury this _____ day of
13 _____, 20 _____.
14 My Signature:
15 My Full Name:
16 _____
17 My Mailing Address:
18 _____
19 My Telephone Numbers:
20 _____
21 _____
22 _____
23 Subscribed and sworn to before me this _____ day of _____,
24 20 _____.

Notary Public (or Clerk or Judge)

My Commission Expires:

ORDER

The people of the State of Oklahoma, to the within-named defendant:

You are hereby directed to appear and answer the foregoing claim and to have with you all books, papers, and witnesses needed by you to establish your defense to the claim.

This matter shall be heard at _____ (name or address

of building), in _____, County of _____, State

of Oklahoma, at the hour of _____ o'clock of the _____ day of

_____, 20 ____ . And you are further notified that in case you do not so appear judgment will be given against you as follows:

For the enforcement or modification of custody as requested by the movant.

And, in addition, for costs of the action (including attorney fees where provided by law), including costs of service of the order.

Dated this _____ day of _____, 20 ____ .

Clerk of the Court (or Judge)

A copy of this order must be mailed certified mail, return receipt requested to the non-moving party and return of service brought to the hearing.

SECTION 2. This act shall become effective November 1, 2014.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
February 11, 2014 - DO PASS