

1 ENGROSSED SENATE
2 BILL NO. 1135

By: Floyd of the Senate

3 and

4 Nollan of the House

5
6 An Act relating to guardianship; amending 30 O.S.
7 2011, Section 2-101, which relates to guardian of
8 minor; requiring background check on certain persons;
9 creating fee for certain search; establishing maximum
10 amount for certain fee; and providing an effective
11 date.

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

13 SECTION 1. AMENDATORY 30 O.S. 2011, Section 2-101, is
14 amended to read as follows:

15 Section 2-101. A. The court of each county, when it appears
16 necessary or convenient, may appoint guardians for the persons and
17 estates, or either, or both of them, of minors.

18 B. Such appointment may be made on the verified petition of a
19 relative or other person in behalf of such minor.

20 C. 1. Before making the appointment, the court may receive an
21 investigation and report regarding the background and home of the
22 prospective guardian. The investigation and report of the
23 prospective guardian and placement restrictions and requirements
24 shall be made pursuant to the requirements of the Oklahoma Adoption
Code. In determining whether to require a home study pursuant to

1 the provisions of this paragraph, the court shall balance the need
2 for a home study to protect the best interests of the minor with the
3 ability of the prospective guardian to pay for the home study.

4 2. a. Costs of the home study shall be assessed against any
5 private child-placing agency having custody of the
6 child, or the person having legal custody of the child
7 or the prospective guardians of the child.

8 b. (1) For any child in the custody of the Department of
9 Human Services or the Department of Juvenile
10 Justice, the applicable Department shall conduct or
11 provide for the home study for such child as
12 required by the Oklahoma Children's Code or the
13 Oklahoma Juvenile Code.

14 (2) The Department of Human Services or the Department
15 of Juvenile Justice shall not be required by any
16 court to conduct or provide for a home study and
17 report to the court on guardianship placements for
18 any child that is not in the custody of either
19 Department.

20 3. An order appointing a guardian of the minor who has a parent
21 living or other person legally responsible for the child shall
22 comply with the provisions of Section 2-108 of this title.

23 4. The court shall receive a background check for a prospective
24 guardian and all other household members eighteen (18) years of age

1 and older, consisting of a review of a national fingerprint-based
2 criminal background check, a search of the Department of
3 Corrections' files maintained pursuant to the Sex Offenders
4 Registration Act, and a search of the child abuse and neglect
5 information system maintained for review by authorized entities by
6 the Department of Human Services. The Department may charge a fee
7 not to exceed Thirty-five Dollars (\$35.00) for each search performed
8 pursuant to this paragraph.

9 D. In addition, before making the appointment, the court must
10 cause notice of the hearing on the petition for appointment of a
11 guardian for a minor to be given in the form required by the court
12 to the minor if the minor has attained the age of fourteen (14) as
13 of the date the petition is filed. The court shall also cause
14 notice to be sent to the following persons:

15 1. The then-living parents of the minor and any other person
16 having custody of the minor, if such parent or person is not one of
17 the petitioners;

18 2. If the minor has no then-living parent, then to one of the
19 then-living grandparents who is not one of the petitioners and who
20 is not married to one of the petitioners; and

21 3. If there is no such then-living grandparent or if there is
22 no such then-living grandparent whose address is known to the
23 petitioner, then notice shall be given to an adult relative, if any,
24 of the minor residing in the county in which the petition was filed.

1 E. Such notice shall be mailed to each person, entitled to
2 notice pursuant to this section, at that person's address as last-
3 known to the petitioner, at least ten (10) days prior to the date
4 set by the court for hearing on the petition. Provided the court
5 may direct a shorter notice period if the court deems such shorter
6 notice period to be appropriate under the circumstances. If there
7 is no person other than the minor who is entitled to notice, or if
8 the address of any person, other than the minor, who is entitled to
9 notice is not known to the petitioner, the petition shall so allege.
10 The court may direct that notice, other than notice to the minor if
11 the minor has attained the age of fourteen (14), be waived or be
12 given to any person or persons other than the minor in such manner
13 as the court determines and directs.

14 SECTION 2. This act shall become effective November 1, 2018.

15 Passed the Senate the 8th day of March, 2018.

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Presiding Officer of the Senate

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19 Passed the House of Representatives the ____ day of _____,
20 2018.

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Presiding Officer of the House
of Representatives

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