

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1017

By: Shaw of the Senate

and

Loring of the House

11 COMMITTEE SUBSTITUTE

12 An Act relating to child custody; amending 43 O.S.
13 2011, Section 112, which relates to care and custody
14 of children; requiring court to encourage certain
15 parental behaviors if in the best interest of a
16 child; adding certain grounds for modification of
17 child custody order; authorizing prevailing party to
18 recover specified costs and fees; and providing an
19 effective date.

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

19 SECTION 1. AMENDATORY 43 O.S. 2011, Section 112, is
20 amended to read as follows:

21 Section 112. A. A petition or cross-petition for a divorce,
22 legal separation, or annulment must state whether or not the parties
23 have minor children of the marriage. If there are minor children of
24 the marriage, the court:

1 1. Shall make provision for guardianship, custody, medical
2 care, support and education of the children;

3 2. Unless not in the best interests of the children, may
4 provide for the visitation of the noncustodial parent with any of
5 the children of the noncustodial parent; and

6 3. May modify or change any order whenever circumstances render
7 the change proper either before or after final judgment in the
8 action; provided, that the amount of the periodic child support
9 payment shall not be modified retroactively or payment of all or a
10 portion of the past due amount waived, except by mutual agreement of
11 the obligor and obligee, or if the obligee has assigned child
12 support rights to the Department of Human Services or other entity,
13 by agreement of the Department or other entity. Unless the parties
14 agree to the contrary, a completed child support computation form
15 provided for in Section 120 of this title shall be required to be
16 filed with the child support order.

17 The Social Security numbers of both parents and the child shall
18 be included on the child support order summary form provided for in
19 Section 120 of this title, which shall be submitted to the Central
20 Case Registry as provided for in Section 112A of this title with all
21 child support or paternity orders.

22 B. In any action in which there are minor unmarried children in
23 awarding or modifying the custody of the child or in appointing a
24 general guardian for the child, the court shall be guided by the

1 provisions of Section 112.5 of this title and shall consider what
2 appears to be in the best interests of the child.

3 C. 1. When it is in the best interests of a minor unmarried
4 child, the court shall:

5 a. assure children of frequent and continuing contact
6 with both parents after the parents have separated or
7 dissolved their marriage, ~~and~~

8 b. encourage parents to promote and facilitate a close
9 and continuing relationship between the child and both
10 parents and to minimize exposure of the child to
11 parental conflict, and

12 c. encourage parents to share the rights and
13 responsibilities of child rearing and to communicate
14 and cooperate in matters relating to the child in
15 order to effect this policy.

16 2. There shall be neither a legal preference nor a presumption
17 for or against joint legal custody, joint physical custody, or sole
18 custody.

19 3. When in the best interests of the child, custody shall be
20 awarded in a way which assures the frequent and continuing contact
21 of the child with both parents. When awarding custody to either
22 parent, the court:

23 a. shall consider, among other facts, which parent is
24 more likely to allow the child or children frequent

1 and continuing contact with the noncustodial parent,
2 and

3 b. shall not prefer a parent as a custodian of the child
4 because of the gender of that parent.

5 4. In any action, there shall be neither a legal preference or
6 a presumption for or against private or public school or home-
7 schooling in awarding the custody of a child, or in appointing a
8 general guardian for the child.

9 5. Notwithstanding any custody determination made pursuant to
10 the Oklahoma Children's Code, when a parent of a child is required
11 to be separated from a child due to military service, the court
12 shall not enter a final order modifying an existing custody order
13 until such time as the parent has completed the term of duty
14 requiring separation. For purposes of this paragraph:

15 a. in the case of a parent who is a member of the Army,
16 Navy, Air Force, Marine Corps or Coast Guard, the term
17 "military service" means a combat deployment,
18 contingency operation, or natural disaster requiring
19 the use of orders that do not permit any family member
20 to accompany the member,

21 b. in the case of a parent who is a member of the
22 National Guard, the term "military service" means
23 service under a call to active service authorized by
24 the President of the United States or the Secretary of

1 Defense for a period of more than thirty (30)
2 consecutive days under 32 U.S.C. 502(f) for purposes
3 of responding to a national emergency declared by the
4 President and supported by federal funds. "Military
5 service" shall include any period during which a
6 member is absent from duty on account of sickness,
7 wounds, leave or other lawful cause, and

8 c. the court may enter a temporary custody or visitation
9 order pursuant to the requirements of the Deployed
10 Parents Custody and Visitation Act.

11 6. In making an order for custody, the court shall require
12 compliance with Section 112.3 of this title.

13 D. 1. Except for good cause shown, a pattern of failure to
14 allow court-ordered visitation may be determined to be contrary to
15 the best interests of the child and as such may be grounds for
16 modification of the child custody order.

17 2. Any behavior or pattern of behavior by a parent to alienate
18 or attempt to alienate the child from the other parent may be
19 determined to be contrary to the best interests of the child and as
20 such may be grounds for modification of the child custody order.

21 3. For any action brought pursuant to the provisions of this
22 section which the court determines to be contrary to the best
23 interests of the child, the prevailing party ~~shall~~ may be entitled
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1 to recover court costs, attorney fees and any other reasonable costs
2 and expenses incurred with the action.

3 E. Except as otherwise provided by Section 112.1A of this
4 title, any child shall be entitled to support by the parents until
5 the child reaches eighteen (18) years of age. If a child is
6 regularly enrolled in and attending high school, as set forth in
7 Section 11-103.6 of Title 70 of the Oklahoma Statutes, other means
8 of high school education, or an alternative high school education
9 program as a full-time student, the child shall be entitled to
10 support by the parents until the child graduates from high school or
11 until the age of twenty (20) years, whichever occurs first. Full-
12 time attendance shall include regularly scheduled breaks from the
13 school year. No hearing or further order is required to extend
14 support pursuant to this subsection after the child reaches the age
15 of eighteen (18) years.

16 F. In any case in which provision is made for the custody or
17 support of a minor child or enforcement of such order and before
18 hearing the matter or signing any orders, the court shall inquire
19 whether public assistance money or medical support has been provided
20 by the Department of Human Services, hereafter referred to as the
21 Department, for the benefit of each child. If public assistance
22 money, medical support, or child support services under the state
23 child support plan as provided in Section 237 of Title 56 of the
24 Oklahoma Statutes have been provided for the benefit of the child,

1 the Department shall be a necessary party for the adjudication of
2 the debt due to the State of Oklahoma, as defined in Section 238 of
3 Title 56 of the Oklahoma Statutes, and for the adjudication of
4 paternity, child support, and medical insurance coverage for the
5 minor children in accordance with federal regulations. When an
6 action is filed, the petitioner shall give the Department notice of
7 the action according to Section 2004 of Title 12 of the Oklahoma
8 Statutes. The Department shall not be required to intervene in the
9 action to have standing to appear and participate in the action.
10 When the Department is a necessary party to the action, any orders
11 concerning paternity, child support, medical support, or the debt
12 due to the State of Oklahoma shall be approved and signed by the
13 Department.

14 G. In any case in which a child support order or custody order
15 or both is entered, enforced or modified, the court may make a
16 determination of the arrearages of child support.

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

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19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/28/2018 - DO
20 PASS, As Amended.
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