

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

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

4   ENGROSSED SENATE  
5   BILL NO. 1135

                              By: Floyd and Pittman of the  
                              Senate

6                                               and

7                                               Nollan of the House

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

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

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

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

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

24           C.   1.   Before making the appointment, the court may receive an  
              investigation and report regarding the background and home of the

1 prospective guardian. The investigation and report of the  
2 prospective guardian and placement restrictions and requirements  
3 shall be made pursuant to the requirements of the Oklahoma Adoption  
4 Code. In determining whether to require a home study pursuant to  
5 the provisions of this paragraph, the court shall balance the need  
6 for a home study to protect the best interests of the minor with the  
7 ability of the prospective guardian to pay for the home study.

8       2. a. Costs of the home study shall be assessed against any  
9             private child-placing agency having custody of the  
10            child, or the person having legal custody of the child  
11            or the prospective guardians of the child.

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

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

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

4        4. The court shall receive a background check for a prospective  
5 guardian and all other household members eighteen (18) years of age  
6 and older, consisting of a review of a national fingerprint-based  
7 criminal background check, a search of the Department of  
8 Corrections' files maintained pursuant to the Sex Offenders  
9 Registration Act, and a search of the child abuse and neglect  
10 information system maintained for review by authorized entities by  
11 the Department of Human Services. The Department may charge a fee  
12 not to exceed Thirty-five Dollars (\$35.00) for each search performed  
13 pursuant to this paragraph.

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

20        1. The then-living parents of the minor and any other person  
21 having custody of the minor, if such parent or person is not one of  
22 the petitioners;  
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1        2. If the minor has no then-living parent, then to one of the  
2 then-living grandparents who is not one of the petitioners and who  
3 is not married to one of the petitioners; and

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

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

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

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23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/11/2018 - DO  
24 PASS, As Coauthored.