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[child custody - care and custody of children -
parental behaviors - modification of certain order -
effective date]

By: Shaw

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

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

3. May modify or change any order whenever circumstances render the change proper either before or after final judgment in the

1 action; provided, that the amount of the periodic child support
2 payment shall not be modified retroactively or payment of all or a
3 portion of the past due amount waived, except by mutual agreement of
4 the obligor and obligee, or if the obligee has assigned child
5 support rights to the Department of Human Services or other entity,
6 by agreement of the Department or other entity. Unless the parties
7 agree to the contrary, a completed child support computation form
8 provided for in Section 120 of this title shall be required to be
9 filed with the child support order.

10 The social security numbers of both parents and the child shall
11 be included on the child support order summary form provided for in
12 Section 120 of this title, which shall be submitted to the Central
13 Case Registry as provided for in Section 112A of this title with all
14 child support or paternity orders.

15 B. In any action in which there are minor unmarried children in
16 awarding or modifying the custody of the child or in appointing a
17 general guardian for the child, the court shall be guided by the
18 provisions of Section 112.5 of this title and shall consider what
19 appears to be in the best interests of the child.

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

22 a. assure children of frequent and continuing contact
23 with both parents after the parents have separated or
24 dissolved their marriage, ~~and~~

- 1 b. encourage parents to promote and facilitate a close
2 and continuing relationship between the child and both
3 parents and to minimize exposure of the child to
4 parental conflict, and
5 c. encourage parents to share the rights and
6 responsibilities of child rearing and to communicate
7 and cooperate in matters relating to the child in
8 order to effect this policy.

9 2. There shall be neither a legal preference nor a presumption
10 for or against joint legal custody, joint physical custody, or sole
11 custody.

12 3. When in the best interests of the child, custody shall be
13 awarded in a way which assures the frequent and continuing contact
14 of the child with both parents. When awarding custody to either
15 parent, the court:

16 a. shall consider, among other facts, which parent is
17 more likely to allow the child or children frequent
18 and continuing contact with the noncustodial parent,
19 and

20 b. shall not prefer a parent as a custodian of the child
21 because of the gender of that parent.

22 4. In any action, there shall be neither a legal preference or
23 a presumption for or against private or public school or home-

1 schooling in awarding the custody of a child, or in appointing a
2 general guardian for the child.

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

9 a. in the case of a parent who is a member of the Army,
10 Navy, Air Force, Marine Corps or Coast Guard, the term
11 "military service" means a combat deployment,
12 contingency operation, or natural disaster requiring
13 the use of orders that do not permit any family member
14 to accompany the member,

15 b. in the case of a parent who is a member of the
16 National Guard, the term "military service" means
17 service under a call to active service authorized by
18 the President of the United States or the Secretary of
19 Defense for a period of more than thirty (30)
20 consecutive days under 32 U.S.C. 502(f) for purposes
21 of responding to a national emergency declared by the
22 President and supported by federal funds. "Military
23 service" shall include any period during which a
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1 member is absent from duty on account of sickness,
2 wounds, leave or other lawful cause, and

3 c. the court may enter a temporary custody or visitation
4 order pursuant to the requirements of the Deployed
5 Parents Custody and Visitation Act.

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

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

12 2. Any behavior or pattern of behavior by a parent to alienate
13 or attempt to alienate the child from the other parent may be
14 determined to be contrary to the best interests of the child and as
15 such may be grounds for modification of the child custody order.

16 3. For any action brought pursuant to the provisions of this
17 section which the court determines to be contrary to the best
18 interests of the child, the prevailing party shall be entitled to
19 recover court costs, attorney fees and any other reasonable costs
20 and expenses incurred with the action.

21 E. Except as otherwise provided by Section 112.1A of this
22 title, any child shall be entitled to support by the parents until
23 the child reaches eighteen (18) years of age. If a child is
24 regularly enrolled in and attending high school, as set forth in

1 Section 11-103.6 of Title 70 of the Oklahoma Statutes, other means
2 of high school education, or an alternative high school education
3 program as a full-time student, the child shall be entitled to
4 support by the parents until the child graduates from high school or
5 until the age of twenty (20) years, whichever occurs first. Full-
6 time attendance shall include regularly scheduled breaks from the
7 school year. No hearing or further order is required to extend
8 support pursuant to this subsection after the child reaches the age
9 of eighteen (18) years.

10 F. In any case in which provision is made for the custody or
11 support of a minor child or enforcement of such order and before
12 hearing the matter or signing any orders, the court shall inquire
13 whether public assistance money or medical support has been provided
14 by the Department of Human Services, hereafter referred to as the
15 Department, for the benefit of each child. If public assistance
16 money, medical support, or child support services under the state
17 child support plan as provided in Section 237 of Title 56 of the
18 Oklahoma Statutes have been provided for the benefit of the child,
19 the Department shall be a necessary party for the adjudication of
20 the debt due to the State of Oklahoma, as defined in Section 238 of
21 Title 56 of the Oklahoma Statutes, and for the adjudication of
22 paternity, child support, and medical insurance coverage for the
23 minor children in accordance with federal regulations. When an
24 action is filed, the petitioner shall give the Department notice of

1 the action according to Section 2004 of Title 12 of the Oklahoma
2 Statutes. The Department shall not be required to intervene in the
3 action to have standing to appear and participate in the action.
4 When the Department is a necessary party to the action, any orders
5 concerning paternity, child support, medical support, or the debt
6 due to the State of Oklahoma shall be approved and signed by the
7 Department.

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

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

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
13 February 20, 2018 - DO PASS AS AMENDED
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