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February 6, 2018

By: Floyd

An Act relating to guardianship; amending 30 O.S. 2011, Section 2-101, which relates to guardian of minor; requiring background check on certain persons; and providing an effective date.

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

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

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

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

C. 1. Before making the appointment, the court may receive an investigation and report regarding the background and home of the prospective guardian. The investigation and report of the prospective guardian and placement restrictions and requirements shall be made pursuant to the requirements of the Oklahoma Adoption Code. A background check shall be required for a prospective 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. In determining whether to require  
7 a home study pursuant to the provisions of this paragraph, the court  
8 shall balance the need for a home study to protect the best  
9 interests of the minor with the ability of the prospective guardian  
10 to pay for the home study.

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

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

21       (2) The Department of Human Services or the Department  
22             of Juvenile Justice shall not be required by any  
23             court to conduct or provide for a home study and  
24             report to the court on guardianship placements for

1                   any child that is not in the custody of either  
2                   Department.

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

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

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

15           2.   If the minor has no then-living parent, then to one of the  
16 then-living grandparents who is not one of the petitioners and who  
17 is not married to one of the petitioners; and

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

22           E.   Such notice shall be mailed to each person, entitled to  
23 notice pursuant to this section, at that person's address as last-  
24 known to the petitioner, at least ten (10) days prior to the date

1 set by the court for hearing on the petition. Provided the court  
2 may direct a shorter notice period if the court deems such shorter  
3 notice period to be appropriate under the circumstances. If there  
4 is no person other than the minor who is entitled to notice, or if  
5 the address of any person, other than the minor, who is entitled to  
6 notice is not known to the petitioner, the petition shall so allege.  
7 The court may direct that notice, other than notice to the minor if  
8 the minor has attained the age of fourteen (14), be waived or be  
9 given to any person or persons other than the minor in such manner  
10 as the court determines and directs.

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

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
13 February 6, 2018 - DO PASS  
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