

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1135

By: Floyd

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6 AS INTRODUCED

7 An Act relating to guardianship; amending 30 O.S.
8 2011, Section 2-101, which relates to guardian of
minor; requiring background check on certain persons;
9 and providing an effective date.

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

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

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

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

19 C. 1. Before making the appointment, the court may receive an
20 investigation and report regarding the background and home of the
21 prospective guardian. The investigation and report of the
22 prospective guardian and placement restrictions and requirements
23 shall be made pursuant to the requirements of the Oklahoma Adoption
24 Code. A background check shall be required for a prospective

1 guardian and all other household members eighteen (18) years of age
2 and older, consisting of a review of a national fingerprint-based
3 criminal background check, a search of the Department of
4 Corrections' files maintained pursuant to the Sex Offenders
5 Registration Act, and a search of the child abuse and neglect
6 information system maintained for review by authorized entities by
7 the Department of Human Services. In determining whether to require
8 a home study pursuant to the provisions of this paragraph, the court
9 shall balance the need for a home study to protect the best
10 interests of the minor with the ability of the prospective guardian
11 to pay for the home study.

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

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

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

1 report to the court on guardianship placements for
2 any child that is not in the custody of either
3 Department.

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

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

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

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

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

23 E. Such notice shall be mailed to each person, entitled to
24 notice pursuant to this section, at that person's address as last-

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

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

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