

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 3542

By: Boatman of the House

5 and

6 **Daniels** of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to guardianships; amending 30 O.S.
11 2011, Section 2-101, as last amended by Section 1,
12 Chapter 401, O.S.L. 2019 (30 O.S. Supp. 2019, Section
13 2-101), which relates to appointment of guardians;
14 modifying requirement for background checks; allowing
15 court to waive certain requirements for emergency
16 placements; and providing an effective date.

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

17 SECTION 1. AMENDATORY 30 O.S. 2011, Section 2-101, as
18 last amended by Section 1, Chapter 401, O.S.L. 2019 (30 O.S. Supp.
19 2019, Section 2-101), is amended to read as follows:

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

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

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

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

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

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

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

4. Except in the case of an emergency guardianship placement, the court shall receive a background check for a prospective guardian and all other household members eighteen (18) years of age and older, consisting of a review of a national fingerprint-based criminal background check or an Oklahoma State Bureau of Investigation name-based criminal history background check, a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act, and a search of the child abuse and neglect information system (CANIS) maintained for review by authorized entities by the Department of Human Services. The Department may charge a fee not to exceed Thirty-five Dollars (\$35.00) for each search performed pursuant to this paragraph. In the case of an emergency placement, the court may waive the requirement for a CANIS search if it cannot be obtained in a reasonable time and the court determines that it is in the minor's best interest that the CANIS search be waived.

D. In addition, before making the appointment, the court must cause notice of the hearing on the petition for appointment of a guardian for a minor to be given in the form required by the court

1 to the minor if the minor has attained the age of fourteen (14) as
2 of the date the petition is filed. The court shall also cause
3 notice to be sent to the following persons:

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

7 2. If the minor has no then-living parent, then to one of the
8 then-living grandparents who is not one of the petitioners and who
9 is not married to one of the petitioners; and

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

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

1 given to any person or persons other than the minor in such manner
2 as the court determines and directs.

3 SECTION 2. This act shall become effective November 1, 2020.
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5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/13/2020 - DO
6 PASS, As Coauthored.
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