

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4

February 26, 2019

By: Floyd

An Act relating to guardian and ward; amending 30 O.S. 2-101, as amended by Section 1, Chapter 196, O.S.L. 2018 (30 O.S. Supp. 2018, Section 2-101), which relates to guardianship of minor; creating exception to certain background check requirement; 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, as amended by Section 1, Chapter 196, O.S.L. 2018 (30 O.S. Supp. 2018, 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

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

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

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

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

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

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

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

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

21        2. If the minor has no then-living parent, then to one of the  
22 then-living grandparents who is not one of the petitioners and who  
23 is not married to one of the petitioners; and  
24

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

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

18        SECTION 2. This act shall become effective November 1, 2019.

19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
20 February 26, 2019 - DO PASS  
21  
22  
23  
24