

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO. 994

By: Scott

6 AS INTRODUCED

7 An Act relating to child custody; amending 43 O.S.  
8 2011, Section 113, which relates to preference of  
9 child; removing certain rebuttable presumption;  
10 modifying requirements for court consideration of  
11 preference of child; and providing an effective date.

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

13 SECTION 1. AMENDATORY 43 O.S. 2011, Section 113, is  
14 amended to read as follows:

15 Section 113. A. In any action or proceeding in which a court  
16 must determine custody or limits to or periods of visitation, the  
17 child may express a preference as to which of the parents the child  
18 wishes to have custody or limits to or periods of visitation.

19 B. The court shall first determine whether the best interest of  
20 the child will be served by allowing the child to express a  
21 preference as to which parent should have custody or limits to or  
22 periods of visitation with either parent. If the court so finds,  
23 then the child may express such preference or give other testimony.  
24

1 C. ~~There shall be a rebuttable presumption that a child who is~~  
2 ~~twelve (12) years of age or older is of a sufficient age to form an~~  
3 ~~intelligent preference.~~

4 D. ~~If the child is of a sufficient age to form an intelligent~~  
5 ~~preference, the~~ The court ~~shall~~ may consider the expression of  
6 preference or other testimony of the child in determining custody or  
7 limits to or periods of visitation. Interviewing the child does not  
8 diminish the discretion of the court in determining the best  
9 interest of the child. The court shall not be bound by the child's  
10 choice or wishes and shall take all factors into consideration in  
11 awarding custody or limits of or period of visitation.

12 ~~E.~~ D. If the child is allowed to express a preference or give  
13 testimony, the court may conduct a private interview with the child  
14 in chambers without the parents, attorneys or other parties present.  
15 However, if the court has appointed a guardian ad litem for the  
16 child, the guardian ad litem shall be present with the child in  
17 chambers. The parents, attorneys or other parties may provide the  
18 court with questions or topics for the court to consider in its  
19 interview of the child; however, the court shall not be bound to ask  
20 any question presented or explore any topic requested by a parent,  
21 attorney or other party.

22 ~~F.~~ E. At the request of either party, a record shall be made of  
23 any child interview conducted in chambers. If the proceeding is  
24 transcribed, the parties shall be entitled to access to the

1 transcript only if a parent or the parents appeal the custody or  
2 visitation determination.

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

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