

1 ENGROSSED SENATE
2 BILL NO. 1701

By: Brooks of the Senate

3 and

4 Kannady of the House

5
6
7 An Act relating to guardianship; creating the
8 Oklahoma Standby Guardianship Act; providing short
9 title; defining terms; authorizing written
10 designation for certain purposes; specifying required
11 contents of certain designation; providing for
12 commencement of certain authority upon specified
13 event; requiring filing of certain petition;
14 requiring certain notice; requiring certain order
15 upon specified findings; requiring hearing under
16 certain circumstances; authorizing appointment of
17 guardian ad litem; authorizing appointment of standby
18 guardian or alternate; specifying information to be
19 included in certain petition; allowing for revocation
20 of guardianship; permitting certain refusal;
21 providing for dismissal of guardianship under certain
22 circumstances; providing for review of standby
23 guardianship; providing for codification; and
24 providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 7-101 of Title 30, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma
Standby Guardianship Act".

1 SECTION 2. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 7-102 of Title 30, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Designation" means a writing which is voluntarily executed
6 in conformance with the requirements of Section 3 of this act and
7 signed by a parent and names a person to act as standby guardian;

8 2. "Parent" means a genetic or adoptive parent or parent
9 determined in accordance with the standards set forth in Section
10 7700-201 of Title 10 of the Oklahoma Statutes, and includes a
11 person, other than a parent, who has physical custody of a child and
12 who has either been awarded custody by a court or claims a right to
13 custody;

14 3. "Qualified parent" means a parent who has become unavailable
15 due to a military deployment, court proceeding, incapacity, or other
16 matter, as evidenced in writing, by a court of appropriate
17 jurisdiction or by a state or the federal government;

18 4. "Standby guardian" means a person who, in accordance with
19 this act, is designated in writing or approved by the court to
20 temporarily assume the duties of guardian of the person or guardian
21 of the property, or both, of a minor child on behalf of or in
22 conjunction with a qualified parent upon the occurrence of a
23 triggering event; and
24

1 5. "Triggering event" means the event upon the occurrence of
2 which the standby guardian may be authorized to act.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7-103 of Title 30, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A parent may execute a written designation of a standby
7 guardian at any time. The written designation shall state:

8 1. The name, address and birthdate of the child affected; and

9 2. The name and address of the person designated as standby
10 guardian or alternate.

11 The written designation shall be signed by the parent. The
12 designated standby guardian or alternate may not sign on behalf of
13 the parent. The signed designation shall be delivered to the
14 standby guardian and any alternate named as soon as practicable.

15 B. Following such delivery of the designation, the authority of
16 a standby guardian to act for a qualified parent shall commence upon
17 the occurrence of the triggering event, receipt of documentation, if
18 any, supporting the occurrence of the triggering event and the
19 qualified parent's written consent to such commencement signed by
20 the parent.

21 C. A standby guardian under a designation shall have the
22 authority of a guardian of the person and a guardian of the property
23 of the child, unless otherwise specified in the designation.

1 SECTION 4. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 7-104 of Title 30, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A designated standby guardian or alternate shall file a
5 petition for approval as standby guardian. The petition shall be
6 filed as soon as practicable after the occurrence of the triggering
7 event but in no event later than thirty (30) days after the
8 triggering event. The authority of the standby guardian shall cease
9 upon his or her failure to so file but shall recommence upon such
10 filing. The petition shall be accompanied by a copy of the
11 designation and any documentation supporting the occurrence of the
12 triggering event.

13 B. Upon the filing of a petition, notice of the filing shall
14 promptly be given to each parent of the child whose identity and
15 whereabouts are known to the petitioner. The court shall direct the
16 issuance of summonses to the child, if the child is twelve (12)
17 years of age or older and the proposed standby guardian and
18 alternate, if any, and such other persons as appear to the court to
19 be necessary parties to the proceedings including the child's
20 parents, stepparents, grandparents, adult siblings, guardian, legal
21 custodian or other person standing in loco parentis, if the identity
22 and whereabouts of such persons are known.

23 C. The court shall enter an order approving the standby
24 guardian upon finding that:

1 1. The person was duly designated as standby guardian pursuant
2 to this act and the designation has not been revoked;

3 2. A triggering event occurred, and the parent consented to
4 commencement of the standby guardian's authority;

5 3. The best interests of the child will be served by approval
6 of the standby guardian; and

7 4. If the petition is by an alternate standby guardian, that
8 the designated standby guardian is unwilling or unable to serve.

9 D. An order approving the standby guardian shall not be entered
10 without a hearing if there is another known parent, stepparents,
11 adult siblings, or other adult related to the child by blood,
12 marriage, or adoption who requests a hearing within ten (10) days of
13 the date that notice of the filing was sent or if there is other
14 litigation pending regarding custody of the child.

15 E. Prior to any hearing on the petition, the court may appoint
16 a guardian ad litem to represent the child. The qualified parent
17 shall not be required to appear in court if the parent is detained
18 and unable to appear, or upon motion for any other good cause shown.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 7-105 of Title 30, unless there
21 is created a duplication in numbering, reads as follows:

22 A. If no designation for a standby guardian has been completed
23 by a qualified parent, upon petition of any person, the district
24 court of the jurisdiction in which a child resides may approve a

1 person as standby guardian for a child of a qualified parent upon
2 the occurrence of a triggering event. If requested in the petition,
3 the court may also approve an alternate standby guardian identified
4 by the petitioner, to act in the event that at any time after
5 approval pursuant to this section the standby guardian is unable or
6 unwilling to assume the responsibilities of the standby
7 guardianship.

8 B. The petition shall state:

9 1. The name and address of the petitioner and his relationship
10 to the child and the name and address of the child's qualified
11 parent, and the name and address of any other parent of the child
12 whose identity and whereabouts are known to the petitioner or can
13 reasonably be ascertained;

14 2. The name, address and birthdate of the child;

15 3. The triggering event;

16 4. The name and address of the person proposed as standby
17 guardian and any alternate and whether the petition requests that
18 such person be given authority as a guardian of the person or
19 guardian of the property of the minor, or both;

20 5. A statement of any known reasons as to why the child's other
21 parent is not assuming or should not assume responsibility for the
22 child; and
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1 6. Whether there is any prior judicial history regarding
2 custody of the child or any pending litigation regarding custody of
3 the child.

4 SECTION 6. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 7-106 of Title 30, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The authority of a standby guardian approved by the court
8 may be revoked by the qualified parent by filing a notice of
9 revocation with the court. The notice of revocation shall identify
10 the standby guardian or alternate standby guardian to which the
11 revocation will apply. A copy of the revocation shall also be
12 delivered to the standby guardian whose authority is revoked and any
13 alternate standby guardian who may then be authorized to act.

14 B. At any time following his or her approval by the court, a
15 standby guardian may decline to serve by filing a written statement
16 of refusal with the court and having the statement personally served
17 on the qualified parent and any alternate standby guardian who may
18 then be authorized to act.

19 C. When a written designation has been executed, but is not yet
20 effective because the triggering event has not yet occurred, the
21 parent may revoke or the prospective standby guardian may refuse the
22 designation by notifying the other party in writing. A written
23 designation may also be revoked by the execution of a subsequent
24 inconsistent designation.

1 D. When a standby guardian's authority becomes effective upon
2 the occurrence of a triggering event of the qualified parent, the
3 standby guardian's authority to act on behalf of the qualified
4 parent continues even though the qualified parent is no longer
5 unavailable, unless the qualified parent notifies the standby
6 guardian and the court, in writing, that the standby guardian's
7 authority is revoked due to the expiration of the triggering event.

8 E. If at any time the court finds that the parent no longer
9 meets the definition of "qualified parent," the court shall rescind
10 its approval of the standby guardian.

11 SECTION 7. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 7-107 of Title 30, unless there
13 is created a duplication in numbering, reads as follows:

14 A child's parent, stepparent, adult sibling or any adult related
15 to the child by blood, marriage or adoption may petition the court
16 which approved the standby guardian at any time following such
17 approval and prior to any termination of the standby guardianship
18 for review of whether continuation of the standby guardianship is in
19 the best interests of the child. Notice of the filing of a petition
20 shall promptly be given to the standby guardian, the child, if the
21 child is twelve (12) years of age or older, and each parent of the
22 child whose identity and whereabouts are known or could reasonably
23 be ascertained.

24 SECTION 8. This act shall become effective November 1, 2024.

1 Passed the Senate the 12th day of March, 2024.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2024.

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8 _____
9 Presiding Officer of the House
10 of Representatives