

SENATE FLOOR VERSION

February 27, 2024

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1756

By: Seifried of the Senate

and

Lepak of the House

An Act relating to child custody; amending 43 O.S. 2021, Sections 110.1a and 112.2, which relate to the Oklahoma Child Supervised Visitation Program and child custody determinations; requiring court to make written determination prior to approval of certain volunteer; requiring court review of certain information; establishing certain requirements for supervised visitation protocol; requiring court to consider certain factor in custody determinations; establishing rebuttable presumption against granting custody under certain circumstances; updating statutory language; updating statutory references; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 2021, Section 110.1a, is amended to read as follows:

Section 110.1a. A. This section shall be known and may be cited as the "Oklahoma Child Supervised Visitation Program".

1 B. It is the policy of this state to ensure that the health,
2 safety, and welfare of the child is paramount when supervised
3 visitation is ordered by the court.

4 C. For purposes of the Oklahoma Child Supervised Visitation
5 Program:

6 1. "Supervised visitation" means the court-ordered contact
7 between a noncustodial parent and one or more children of such
8 parent in the presence of a third-party person who is responsible
9 for observing and overseeing the visitation in order to provide for
10 the safety of the child and any other parties during the visitation.
11 The court may require supervised visitation when deemed necessary by
12 the court to protect the child or other parties;

13 2. An "alcohol-dependent person" has the same meaning as such
14 term is defined in Section 3-403 of Title 43A of the Oklahoma
15 Statutes;

16 3. A "drug-dependent person" has the same meaning as such term
17 is defined in Section 3-403 of Title 43A of the Oklahoma Statutes;
18 and

19 4. "Domestic abuse" has the same meaning as such term is
20 defined in Section 60.1 of Title 22 of the Oklahoma Statutes.

21 D. 1. The associate district judge in each county within this
22 state may select trained volunteers to provide supervised visitation
23 pursuant to the Oklahoma Child Supervised Visitation Program.
24

1 2. The associate district judge of each county may appoint a
2 judicial district supervised visitation team to:

- 3 a. identify public and private entities which will be
4 willing to provide location sites for purposes of the
5 Oklahoma Child Supervised Visitation Program,
- 6 b. identify individuals who will be willing to serve as
7 third-party persons to observe and oversee court-
8 ordered supervised visitations,
- 9 c. establish training requirements for volunteers,
- 10 d. identify programs which may be available for the
11 training of the volunteers including, but not limited
12 to, the Department of Human Services, Office of the
13 Attorney General, child advocacy centers, domestic
14 violence groups, and the Department of Mental Health
15 and Substance Abuse Services,
- 16 e. develop written protocol for handling supervised
17 visitations so as to provide safety of the child and
18 other parties during the supervised visitation,
- 19 f. develop application forms for volunteers applying for
20 the Oklahoma Child Supervised Visitation Program.

21 Information listed on the form shall include, but not
22 be limited to:

- 23 (1) name, address and phone number of the volunteer,

- (2) place of employment and phone number of the volunteer,
- (3) areas of expertise,
- (4) listing of professional training in areas including, but not limited to, child abuse, domestic abuse, alcohol or drug abuse, mental illness or conflict management,
- (5) consent form specifying release of information, and
- (6) professional references, and

g. identify which information of the parties and the child will be confidential and which may be available to others.

3. From recommendations of the team established pursuant to this subsection, the associate district judge in each county within this state may authorize one or more public or private agencies to provide location sites for the Oklahoma Child Supervised Visitation Program. A district judge may require either party requesting supervised visitation of a child to identify a trained third-party volunteer to observe and oversee the visitation. A district court shall not:

a. require any state agency location or state employee to observe and oversee any supervised visitation, or

1 b. appoint a third party to observe and oversee a
2 supervised visitation who has not received the
3 training as specified by the judicial district
4 supervised visitation team unless agreed to by the
5 parties.

6 4. A participating public or private agency location site may
7 charge a fee for each visit.

8 E. Prior to approval of any third-party volunteer to observe
9 and oversee visitation under this section, the court shall make a
10 written determination of the fitness of the volunteer by reviewing
11 information including but not limited to:

12 1. A national criminal history record check conducted by the
13 Oklahoma State Bureau of Investigation within one (1) year prior to
14 the appointment of the volunteer;

15 2. A sworn affidavit from the volunteer accepting the rules of
16 supervision and whether the volunteer:

17 a. is an alcohol- or drug-dependent person,

18 b. is residing with a person who is required by law to
19 register pursuant to the Sex Offenders Registration
20 Act of this state or any other state,

21 c. is residing with a person who has been convicted of
22 domestic abuse within the past five (5) years, or

23 d. has had custody, guardianship, or visitation rights
24 terminated to any child; and

1 3. Any testimony by the potential volunteer or other witness
2 testimony deemed necessary by the court to determine the fitness of
3 the volunteer.

4 F. The protocol for supervised visitation established by each
5 judicial district supervised visitation team shall require that:

6 1. The volunteer supervising the visitation shall be able to
7 see and hear all interactions between the supervised parent and the
8 child; and

9 2. If the court determines that the supervised parent has
10 exhibited suicidal or violent behavior, all supervised visitation
11 shall occur within a professional setting unless and until the
12 supervised parent has submitted a non-self-reporting psychological
13 evaluation to the court.

14 G. The protocol for supervised visitation established by each
15 judicial district supervised visitation team may require that:

16 1. The location site require each participant who has court-
17 ordered supervised visitation for a child and who is participating
18 in the supervised visitation program to sign a time log upon arrival
19 and departure. The agency location site must have an employee
20 assigned to verify identification of each participant, initial each
21 signature, and record the time of arrival and departure of each
22 person; and

23 2. The agency location site also contain information on each
24 client case including, but not limited to:

1 a. a copy of the court order requiring supervised
2 visitation, and

3 b. name of individuals authorized to pick up or deliver a
4 child to the agency location site for supervised
5 visitation.

6 ~~F.~~ H. Each judicial district supervised visitation team may
7 include, but not be limited to:

- 8 1. Mental health professionals;
- 9 2. Police officers or other law enforcement agents;
- 10 3. Medical personnel;
- 11 4. Child protective services workers;
- 12 5. Child advocacy individuals; and
- 13 6. The district attorney or designee.

14 ~~G.~~ I. An associate district judge of a county, the judicial
15 district supervised visitation team created pursuant to this section
16 and the ~~Office of the Court Administrator~~ Administrative Office of
17 the Courts may develop an informational brochure outlining the
18 provisions of the Oklahoma Child Supervised Visitation Program and
19 procedures to be used by volunteers in that judicial district. The
20 brochure may be distributed through the municipal and district
21 court, social service agency centers, county health departments,
22 hospitals, crisis or counseling centers, and community action
23 agencies.

1 ~~H.~~ J. Except for acts of dishonesty, willful criminal acts, or
2 gross negligence, no member of the judicial district supervised
3 visitation team or volunteer shall be charged personally with any
4 liability whatsoever by reason of any act or omission committed or
5 suffered in the performance of the duties pursuant to the provisions
6 of this section.

7 ~~I.~~ K. The provisions of this section shall not apply to cases
8 subject to the Oklahoma Children's Code and the Oklahoma Juvenile
9 Code.

10 SECTION 2. AMENDATORY 43 O.S. 2021, Section 112.2, is
11 amended to read as follows:

12 Section 112.2. A. In every case involving the custody of,
13 guardianship of or visitation with a child, the court shall consider
14 for determining the custody of, guardianship of or the visitation
15 with a child whether any person seeking custody or who has custody
16 of, guardianship of or visitation with a child:

17 1. Is or has been subject to the registration requirements of
18 the ~~Oklahoma~~ Sex Offenders Registration Act or any similar act in
19 any other state;

20 2. Has been convicted of a crime listed in the Oklahoma Child
21 Abuse Reporting and Prevention Act or in Section 582 of Title 57 of
22 the Oklahoma Statutes;

23 3. Is an alcohol-dependent person or a drug-dependent person as
24 established by clear and convincing evidence and who can be expected

1 in the near future to inflict or attempt to inflict serious bodily
2 harm to himself or herself or another person as a result of such
3 dependency;

4 4. Has been convicted of domestic abuse within the past five
5 (5) years;

6 5. Is residing with an individual who is or has been subject to
7 the registration requirements of the ~~Oklahoma~~ Sex Offenders
8 Registration Act or any similar act in any other state;

9 6. Is residing with a person who has been convicted of a crime
10 listed in the Oklahoma Child Abuse Reporting and Prevention Act or
11 in Section 582 of Title 57 of the Oklahoma Statutes; ~~or~~

12 7. Is residing with a person who has been convicted of domestic
13 abuse within the past five (5) years; or

14 8. Has had custody, guardianship, or visitation rights
15 terminated due to failure to complete or participate in any court-
16 ordered substance abuse or mental health treatment.

17 B. There shall be a rebuttable presumption that it is not in
18 the best interests of the child to have custody or guardianship
19 granted to a person who:

20 1. Is subject to or has been subject to the registration
21 requirements of the ~~Oklahoma~~ Sex Offenders Registration Act or any
22 similar act in any other state;

1 2. Has been convicted of a crime listed in the Oklahoma Child
2 Abuse Reporting and Prevention Act or in Section 582 of Title 57 of
3 the Oklahoma Statutes;

4 3. Is an alcohol-dependent person or a drug-dependent person as
5 established by clear and convincing evidence and who can be expected
6 in the near future to inflict or attempt to inflict serious bodily
7 harm to himself or herself or another person as a result of such
8 dependency;

9 4. Has been convicted of domestic abuse within the past five
10 (5) years;

11 5. Is residing with a person who is or has been subject to the
12 registration requirements of the ~~Oklahoma~~ Sex Offenders Registration
13 Act or any similar act in any other state;

14 6. Is residing with a person who has been convicted of a crime
15 listed in the Oklahoma Child Abuse Reporting and Prevention Act or
16 in Section 582 of Title 57 of the Oklahoma Statutes; ~~or~~

17 7. Is residing with a person convicted of domestic abuse within
18 the past five (5) years; or

19 8. Has had custody, guardianship, or visitation rights
20 terminated due to failure to complete or participate in any court-
21 ordered substance abuse or mental health treatment.

22 C. Custody of, guardianship of, or visitation with a child
23 shall not be granted to any person if it is established that the
24

1 custody, guardianship or visitation will likely expose the child to
2 a foreseeable risk of material harm.

3 D. Except as otherwise provided by the Oklahoma Child
4 Supervised Visitation Program, court-ordered supervised visitation
5 shall be governed by the Oklahoma Child Supervised Visitation
6 Program.

7 E. For purposes of this section:

8 1. "Alcohol-dependent person" has the same meaning as such term
9 is defined in Section 3-403 of Title 43A of the Oklahoma Statutes;

10 2. "Domestic abuse" has the same meaning as such term is
11 defined in Section 60.1 of Title 22 of the Oklahoma Statutes;

12 3. "Drug-dependent person" has the same meaning as such term is
13 defined in Section 3-403 of Title 43A of the Oklahoma Statutes; and

14 4. "Supervised visitation" means a program established pursuant
15 to Section ~~5~~ 110.1a of this ~~act~~ title.

16 SECTION 3. This act shall become effective November 1, 2024.

17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
18 February 27, 2024 - DO PASS AS AMENDED BY CS
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