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February 13, 2024

AS AMENDED

SENATE BILL NO. 901

By: Jett

An Act relating to child custody; amending 43 O.S. 2021, Section 109, which relates to care and custody of children; modifying requirements for certain presumption; defining term; modifying definitions; requiring court to consider certain factors; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 2021, Section 109, is amended to read as follows:

Section 109. A. In awarding the custody of a minor unmarried child or in appointing a general guardian for ~~said~~ the child, the court shall consider what appears to be in the best interests of the physical and mental and moral welfare of the child.

B. The court, pursuant to the provisions of subsection A of this section, may grant the care, custody, and control of a child to either parent or to the parents jointly.

For the purposes of this section, the terms joint custody and joint care, custody, and control mean the sharing by parents in all or some of the aspects of physical and legal care, custody, and control of their children.

1 C. If either or both parents have requested joint custody, ~~said~~
2 the parents shall file with the court their plans for the exercise
3 of joint care, custody, and control of their child. The parents of
4 the child may submit a plan jointly, or either parent or both
5 parents may submit separate plans. Any plan shall include but is
6 not limited to provisions detailing the physical living arrangements
7 for the child, child support obligations, medical and dental care
8 for the child, school placement, and visitation rights. A plan
9 shall be accompanied by an affidavit signed by each parent stating
10 that ~~said~~ the parent agrees to the plan and will abide by its terms.
11 The plan and affidavit shall be filed with the petition for a
12 divorce or legal separation or after ~~said~~ the petition is filed.

13 D. The court shall issue a final plan for the exercise of joint
14 care, custody, and control of the child or children, based upon the
15 plan submitted by the parents, separate or jointly, with appropriate
16 changes deemed by the court to be in the best interests of the
17 child. The court also may reject a request for joint custody and
18 proceed as if the request for joint custody had not been made.

19 E. The parents having joint custody of the child may modify the
20 terms of the plan for joint care, custody, and control. The
21 modification to the plan shall be filed with the court and included
22 with the plan. If the court determines the modifications are in the
23 best interests of the child, the court shall approve the
24 modifications.

1 F. The court also may modify the terms of the plan for joint
2 care, custody, and control upon the request of one parent. The
3 court shall not modify the plan unless the modifications are in the
4 best interests of the child.

5 G. 1. The court may terminate a joint custody decree upon the
6 request of one or both of the parents or whenever the court
7 determines ~~said~~ the decree is not in the best interests of the
8 child.

9 2. Upon termination of a joint custody decree, the court shall
10 proceed and issue a modified decree for the care, custody, and
11 control of the child as if no such joint custody decree had been
12 made.

13 H. In the event of a dispute between the parents having joint
14 custody of a child as to the interpretation of a provision of ~~said~~
15 the plan, the court may appoint an arbitrator to resolve ~~said~~ the
16 dispute. The arbitrator shall be a disinterested person
17 knowledgeable in domestic relations law and family counseling. The
18 determination of the arbitrator shall be final and binding on the
19 parties to the proceedings until further order of the court.

20 If a parent refuses to consent to arbitration, the court may
21 terminate the joint custody decree.

22 I. 1. In every proceeding in which there is a dispute as to
23 the custody of a minor child, a determination by the court that
24 child abuse, domestic violence, stalking, or harassment has occurred

1 raises a rebuttable presumption that sole custody, joint legal or
2 physical custody, or any shared parenting plan with the perpetrator
3 of child abuse, domestic violence, harassing or stalking behavior is
4 detrimental and not in the best interest of the child, and it is in
5 the best interest of the child to reside with the parent who is not
6 a perpetrator of child abuse, domestic violence, harassing or
7 stalking behavior.

8 2. For the purposes of this subsection:

9 a. "child abuse" shall have the same meaning as "abuse"
10 as defined pursuant to the Oklahoma Children's Code in
11 Section 1-1-105 of Title 10A of the Oklahoma Statutes,

12 b. "domestic violence" means the threat of the infliction
13 of physical injury, any act of physical harm or the
14 creation of a reasonable fear thereof, or the
15 intentional infliction of emotional distress by a
16 parent or a present or former member of the household
17 of the child, against the child or another member of
18 the household, including coercive control by a parent
19 involving physical, sexual, psychological, emotional,
20 economic or financial abuse,

21 ~~b. "stalking" means the willful course of conduct by a~~
22 ~~parent who repeatedly follows or harasses another~~
23 ~~person as defined in Section 1173 of Title 21 of the~~
24 ~~Oklahoma Statutes, and~~

1 c. "harassment" means a knowing and willful course or
2 pattern of conduct by a parent directed at another
3 parent which seriously alarms or is a nuisance to the
4 person, and which serves no legitimate purpose
5 including, but not limited to, harassing or obscene
6 telephone calls or conduct that would cause a
7 reasonable person to have a fear of death or bodily
8 injury, and

9 d. "stalking" means the willful course of conduct by a
10 parent who repeatedly follows or harasses another
11 person as defined in Section 1173 of Title 21 of the
12 Oklahoma Statutes.

13 3. If a parent is absent or relocates as a result of an act of
14 domestic violence by the other parent, the absence or relocation
15 shall not be a factor that weighs against the parent in determining
16 custody or visitation.

17 4. The court shall consider, as a primary factor, the safety
18 and well-being of the child who is the victim of child abuse and of
19 the parent who is the victim of domestic violence, harassment, or
20 stalking behavior, in addition to other facts regarding the best
21 interest of the child.

22 5. The court shall consider the history of the parent causing
23 physical harm, bodily injury, assault, verbal threats, stalking, or
24 harassing behavior, or the fear of physical harm, bodily injury, or

1 assault to another person, including the minor child, in determining
2 issues regarding custody and visitation.

3 SECTION 2. This act shall become effective November 1, **2024**.

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
5 February 13, 2024 - DO PASS AS AMENDED
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