

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1577

By: Prieto

AS INTRODUCED

An Act relating to guardianship; amending 30 O.S. 2021, Section 2-101, which relates to appointment of guardian of minor; prohibiting removal of child from certain shelter under specified circumstances; modifying certain notice requirements; updating statutory language; updating statutory reference; and providing an effective date.

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

SECTION 1. AMENDATORY 30 O.S. 2021, Section 2-101, is amended to read as follows:

Section 2-101. A. ~~The~~ When the court of ~~each a~~ county, ~~when it appears~~ determines it necessary or convenient, such court may appoint ~~guardians~~ a guardian or guardians for the ~~persons and estates, or either,~~ person or estate or both ~~of them,~~ of minors a minor.

B. Such appointment may be made on the verified petition of a relative or other person ~~in~~ on 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

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

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

13 b. (1) For any child in the custody of the Department of  
14 Human Services or the ~~Department~~ Office of  
15 Juvenile ~~Justice Affairs~~, the ~~applicable~~  
16 Department or Office shall conduct or provide for  
17 the home study for such child as required by the  
18 Oklahoma Children's Code or the Oklahoma Juvenile  
19 Code.

20 (2) The Department of Human Services or the  
21 ~~Department~~ Office of Juvenile ~~Justice Affairs~~  
22 shall not be required by any court to conduct or  
23 provide for a home study and report to the court  
24 on guardianship placements for any child that is

1 not in the custody of ~~either~~ the Department or  
2 Office.

3 c. (1) No child temporarily residing in a licensed,  
4 certified domestic violence shelter in this state  
5 or another state shall be removed by an ex parte  
6 order or without proper notice for an evidentiary  
7 hearing for custody modification.

8 (2) No child temporarily residing in a licensed,  
9 certified domestic violence shelter in this state  
10 or another state shall be removed by a  
11 guardianship custody order when a valid  
12 protective order has been issued for the  
13 custodial parent of the child.

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

17 4. Except in the case of an emergency guardianship placement,  
18 the court shall receive a background check for a prospective  
19 guardian and all other household members eighteen (18) years of age  
20 and older, consisting of a review of a national fingerprint-based  
21 criminal background check or an Oklahoma State Bureau of  
22 Investigation name-based criminal history background check, a search  
23 of the Department of Corrections' files maintained pursuant to the  
24 Sex Offenders Registration Act, and a search of the child abuse and  
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1 neglect information system (CANIS) maintained for review by  
2 authorized entities by the Department of Human Services. The  
3 Department may charge a fee not to exceed Thirty-five Dollars  
4 (\$35.00) for each search performed pursuant to this paragraph. In  
5 the case of an emergency placement, the court may waive the  
6 requirement for a CANIS search if it cannot be obtained in a  
7 reasonable time and the court determines that it is in the minor's  
8 best interest that the CANIS search be waived.

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

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

18 2. If the minor has no then-living parent, then to one of the  
19 then-living grandparents who is not one of the petitioners and who  
20 is not married to one of the petitioners; and

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

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

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

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