

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1805

By: Boren

AS INTRODUCED

An Act relating to child custody; amending 43 O.S. 2021, Section 107.3, which relates to appointment of guardian ad litem; requiring appointment of guardian ad litem under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 2021, Section 107.3, is amended to read as follows:

Section 107.3. A. 1. In any proceeding when the custody or visitation of a minor child or children is contested by any party, the court may appoint an attorney at law as guardian ad litem upon motion of the court or upon application of any party to appear for and represent the minor children.

2. In any initial proceeding for dissolution of marriage involving a minor child or children where joint custody of a minor child or children is contested by either parent, and mediation of custody and visitation has been unsuccessful, the court shall appoint an attorney as guardian ad litem to appear for and represent

1 the minor child or children in the establishment of temporary and
2 final visitation and custody orders of the minor child or children.

3 3. The guardian ad litem may be appointed to objectively
4 advocate on behalf of the child and act as an officer of the court
5 to investigate all matters concerning the best interests of the
6 child. In addition to other duties required by the court and as
7 specified by the court, a guardian ad litem shall have the following
8 responsibilities:

- 9 a. review documents, reports, records and other
10 information relevant to the case, meet with and
11 observe the child in appropriate settings, and
12 interview parents, caregivers and health care
13 providers and any other person with knowledge relevant
14 to the case including, but not limited to, teachers,
15 counselors and child care providers,
- 16 b. advocate for the best interests of the child by
17 participating in the case, attending any hearings in
18 the matter and advocating for appropriate services for
19 the child when necessary,
- 20 c. monitor the best interests of the child throughout any
21 judicial proceeding,
- 22 d. present written factual reports to the parties and
23 court prior to trial or at any other time as specified
24

1 by the court on the best interests of the child, which
2 determination is solely the decision of the court, and
3 e. the guardian ad litem shall, as much as possible,
4 maintain confidentiality of information related to the
5 case and is not subject to discovery pursuant to the
6 Oklahoma Discovery Code.

7 3. Expenses, costs, and attorney fees for the guardian ad litem
8 may be allocated among the parties as determined by the court.

9 4. The Oklahoma Bar Association shall develop a standard
10 operating manual for guardians ad litem which shall include, but not
11 be limited to, legal obligations and responsibilities, information
12 concerning child abuse, child development, domestic abuse, sexual
13 abuse, and parent and child behavioral health and management
14 including best practices. After publication of the manual, all
15 guardians ad litem shall certify to the court in which he or she is
16 appointed as a guardian ad litem that the manual has been read and
17 all provisions contained therein are understood. The guardian ad
18 litem shall also certify that he or she agrees to follow the best
19 practices described within the standard operating manual. The
20 Administrative Office of the Courts shall provide public access to
21 the standard operating manual by providing a link to the manual on
22 the Oklahoma State Courts Network (OSCN) website.

23 B. When property, separate maintenance, or custody is at issue,
24 the court:

1 1. May refer the issue or issues to mediation if feasible
2 unless a party asserts or it appears to the court that domestic
3 violence or child abuse has occurred, in which event the court shall
4 halt or suspend professional mediation unless the court specifically
5 finds that:

6 a. the following three conditions are satisfied:

7 (1) the professional mediator has substantial
8 training concerning the effects of domestic
9 violence or child abuse on victims,

10 (2) a party who is or alleges to be the victim of
11 domestic violence is capable of negotiating with
12 the other party in mediation, either alone or
13 with assistance, without suffering an imbalance
14 of power as a result of the alleged domestic
15 violence, and

16 (3) the mediation process contains appropriate
17 provisions and conditions to protect against an
18 imbalance of power between parties resulting from
19 the alleged domestic violence or child abuse, or

20 b. in the case of domestic violence involving parents,
21 the parent who is or alleges to be the victim requests
22 mediation and the mediator is informed of the alleged
23 domestic violence; and

1 2. When custody is at issue, the court may order, in addition
2 to or in lieu of the provisions of paragraph 1 of this subsection,
3 that each of the parties undergo individual counseling in a manner
4 that the court deems appropriate, if the court finds that the
5 parties can afford the counseling.

6 C. As used in this section:

7 1. "Child abuse or neglect" shall have the same meaning as
8 "abuse" or "neglect" as defined by Section 1-1-105 of Title 10A of
9 the Oklahoma Statutes or shall mean the child has been adjudicated
10 deprived as a result of the actions or omission of either parent
11 pursuant to the Oklahoma Children's Code; and

12 2. "Domestic violence" shall have the same meaning as such term
13 is defined by the Protection from Domestic Abuse Act.

14 D. During any proceeding concerning child custody, should it be
15 determined by the court that a party has intentionally made a false
16 or frivolous accusation to the court of child abuse or neglect
17 against the other party, the court shall proceed with any or all of
18 the following:

19 1. Find the accusing party in contempt for perjury and refer
20 for prosecution;

21 2. Consider the false allegations in determining custody; and

22 3. Award the obligation to pay all court costs and legal
23 expenses encumbered by both parties arising from the allegations to
24 the accusing party.

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

2
3 59-2-3230 TEK 1/17/2024 3:39:24 PM
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25