

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 1708

By: Jech of the Senate

and

Tedford of the House

COMMITTEE SUBSTITUTE

An Act relating to child custody; amending 43 O.S. 2021, Sections 109, as amended by Section 1, Chapter 24, O.S.L. 2024, and 112 (43 O.S. Supp. 2025, Section 109), which relate to care and custody of children; creating a rebuttable presumption of joint child custody; creating a rebuttable presumption of sole custody if a parent is subject to certain registrations; 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, as amended by Section 1, Chapter 24, O.S.L. 2024 (43 O.S. Supp. 2025, 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 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. Subject to

1 subsection I of this section, there shall be a presumption,
2 rebuttable by a preponderance of the evidence, that joint custody
3 and equally shared parenting time, to the extent feasible, is in the
4 best interest of the child.

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

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

12 C. If either or both parents have requested joint custody, the
13 parents shall file with the court their plans for the exercise of
14 joint care, custody, and control of their child. The parents of the
15 child may submit a plan jointly, or either parent or both parents
16 may submit separate plans. Any plan shall include, but is not
17 limited to, provisions detailing the physical living arrangements
18 for the child, child support obligations, medical and dental care
19 for the child, school placement, and visitation rights. A plan
20 shall be accompanied by an affidavit signed by each parent stating
21 that the parent agrees to the plan and will abide by its terms. The
22 plan and affidavit shall be filed with the petition for a divorce or
23 legal separation or after the petition is filed.

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

7 E. The parents having joint custody of the child may modify the
8 terms of the plan for joint care, custody, and control. The
9 modification to the plan shall be filed with the court and included
10 with the plan. If the court determines the modifications are in the
11 best interests of the child, the court shall approve the
12 modifications.

13 F. The court also may modify the terms of the plan for joint
14 care, custody, and control upon the request of one parent. The
15 court shall not modify the plan unless the modifications are in the
16 best interests of the child.

17 G. 1. The court may terminate a joint custody decree upon the
18 request of one or both of the parents or whenever the court
19 determines the decree is not in the best interests of the child.

20 2. Upon termination of a joint custody decree, the court shall
21 proceed and issue a modified decree for the care, custody, and
22 control of the child as if no such joint custody decree had been
23 made.

1 H. In the event of a dispute between the parents having joint
2 custody of a child as to the interpretation of a provision of the
3 plan, the court may appoint an arbitrator to resolve the dispute.
4 The arbitrator shall be a disinterested person knowledgeable in
5 domestic relations law and family counseling. The determination of
6 the arbitrator shall be final and binding on the parties to the
7 proceedings until further order of the court. If a parent refuses
8 to consent to arbitration, the court may terminate the joint custody
9 decree.

10 I. 1. In every proceeding in which there is a dispute as to
11 the custody of a minor child, a determination by the court that
12 child abuse, domestic violence, stalking, or harassment has occurred
13 raises a rebuttable presumption that sole custody, joint legal or
14 physical custody, or any shared parenting plan with the perpetrator
15 of child abuse, domestic violence, harassing, or stalking behavior
16 is detrimental to and not in the best interest of the child, and it
17 is in the best interest of the child to reside with the parent who
18 is not a perpetrator of child abuse, domestic violence, harassing,
19 or stalking behavior. Further, in such proceedings, where a parent
20 is required to register pursuant to the Sex Offenders Registration
21 Act, the Mary Rippy Violent Crime Offenders Registration Act, or a
22 similar registration in another state, there shall be a presumption,
23 rebuttable by clear and convincing evidence, that sole custody,
24 joint legal or physical custody, or any shared parenting plan with

1 the parent subject to any of the above acts is detrimental to and
2 not in the best interest of the child and it is in the best interest
3 of the child to reside with the parent who is not subject to any
4 such registration requirements.

5 2. For the purposes of this subsection:

- 6 a. "child abuse" shall have the same meaning as "abuse"
7 as defined pursuant to the Oklahoma Children's Code in
8 Section 1-1-105 of Title 10A of the Oklahoma Statutes,
- 9 b. "domestic violence" means the threat of the infliction
10 of physical injury, any act of physical harm or the
11 creation of a reasonable fear thereof, or the
12 intentional infliction of emotional distress by a
13 parent or a present or former member of the household
14 of the child, against the child or another member of
15 the household including coercive control by a parent
16 involving physical, sexual, psychological, emotional,
17 economic, or financial abuse,
- 18 c. "harassment" means a knowing and willful course or
19 pattern of conduct by a parent directed at another
20 parent which seriously alarms or is a nuisance to the
21 person, and which serves no legitimate purpose
22 including, but not limited to, harassing or obscene
23 telephone calls or conduct that would cause a
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1 reasonable person to have a fear of death or bodily
2 injury, and

3 d. "stalking" means the willful course of conduct by a
4 parent who repeatedly follows or harasses another
5 person as defined in Section 1173 of Title 21 of the
6 Oklahoma Statutes.

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

11 4. The court shall consider, as a primary factor, the safety
12 and well-being of the child who is the victim of child abuse and of
13 the parent who is the victim of domestic violence, harassment, or
14 stalking behavior, in addition to other facts regarding the best
15 interest of the child.

16 5. The court shall consider the history of the parent causing
17 physical harm, bodily injury, assault, verbal threats, stalking, or
18 harassing behavior, or the fear of physical harm, bodily injury, or
19 assault to another person including the minor child, in determining
20 issues regarding custody and visitation.

21 SECTION 2. AMENDATORY 43 O.S. 2021, Section 112, is
22 amended to read as follows:

23 Section 112. A. A petition or cross-petition for a divorce,
24 legal separation, or annulment must state whether or not the parties

1 have minor children of the marriage. If there are minor children of
2 the marriage, the court:

3 1. Shall make provision for guardianship, custody, medical
4 care, support, and education of the children;

5 2. Unless not in the best interests of the children, may
6 provide for the visitation of the noncustodial parent with any of
7 the children of the noncustodial parent; and

8 3. May modify or change any order whenever circumstances render
9 the change proper either before or after final judgment in the
10 action; provided, that the amount of the periodic child support
11 payment shall not be modified retroactively or payment of all or a
12 portion of the past due amount waived, except by mutual agreement of
13 the obligor and obligee, or if the obligee has assigned child
14 support rights to the Department of Human Services or other entity,
15 by agreement of the Department or other entity. Unless the parties
16 agree to the contrary, a completed child support computation form
17 provided for in Section 120 of this title shall be required to be
18 filed with the child support order.

19 The social security numbers of both parents and the child shall
20 be included on the child support order summary form provided for in
21 Section 120 of this title, which shall be submitted to the ~~Central~~
22 ~~Case Registry~~ central case registry as provided for in Section 112A
23 of this title with all child support or paternity orders.

1 B. In any action in which there are minor unmarried children in
2 awarding or modifying the custody of the child or in appointing a
3 general guardian for the child, the court shall be guided by the
4 provisions of Section 112.5 of this title and shall consider what
5 appears to be in the best interests of the child.

6 C. 1. When it is in the best interests of a minor unmarried
7 child, the court shall:

8 a. assure children of frequent and continuing contact
9 with both parents after the parents have separated or
10 dissolved their marriage, and

11 b. encourage parents to share the rights and
12 responsibilities of child rearing in order to effect
13 this policy.

14 2. There shall be ~~neither a legal preference nor~~ a presumption
15 ~~for or against~~, rebuttable by a preponderance of the evidence, that
16 joint legal custody, joint physical custody, ~~or sole custody~~ and
17 equally shared parenting time, to the extent feasible, is in the
18 best interest of the child. If the presumption is rebutted, the
19 court shall construct a parenting time schedule that is consistent
20 with the best interest of the child and maximizes the time each
21 parent has with the child.

22 3. When in the best interests of the child, custody shall be
23 awarded in a way which ~~assures~~ ensures the frequent and continuing
24

1 contact of the child with both parents. When awarding custody to
2 either parent, the court:

3 a. shall consider, among other facts, which parent is
4 more likely to allow the child or children frequent
5 and continuing contact with the noncustodial parent,
6 and

7 b. shall not prefer a parent as a custodian of the child
8 because of the gender of that parent.

9 4. In any action, there shall be neither a legal preference or
10 a presumption for or against private or public school or home-
11 schooling in awarding the custody of a child, or in appointing a
12 general guardian for the child.

13 5. Notwithstanding any custody determination made pursuant to
14 the Oklahoma Children's Code, when a parent of a child is required
15 to be separated from a child due to military service, the court
16 shall not enter a final order modifying an existing custody order
17 until such time as the parent has completed the term of duty
18 requiring separation. For purposes of this paragraph:

19 a. in the case of a parent who is a member of the Army,
20 Navy, Air Force, Marine Corps, or Coast Guard, the
21 term "military service" means a combat deployment,
22 contingency operation, or natural disaster requiring
23 the use of orders that do not permit any family member
24 to accompany the member,

1 b. in the case of a parent who is a member of the
2 National Guard, the term ~~"military service"~~ military
3 service means service under a call to active service
4 authorized by the President of the United States or
5 the Secretary of Defense for a period of more than
6 thirty (30) consecutive days under 32 U.S.C., Section
7 502(f) for purposes of responding to a national
8 emergency declared by the President and supported by
9 federal funds. ~~"Military service"~~ Military service
10 shall include any period during which a member is
11 absent from duty on account of sickness, wounds,
12 leave, or other lawful cause, and

13 c. the court may enter a temporary custody or visitation
14 order pursuant to the requirements of the Deployed
15 Parents Custody and Visitation Act.

16 6. In making an order for custody, the court shall require
17 compliance with Section 112.3 of this title.

18 D. 1. Except for good cause shown, a pattern of failure to
19 allow court-ordered visitation may be determined to be contrary to
20 the best interests of the child and as such may be grounds for
21 modification of the child custody order.

22 2. For any action brought pursuant to the provisions of this
23 section which the court determines to be contrary to the best
24 interests of the child, the prevailing party shall be entitled to

1 recover court costs, attorney fees, and any other reasonable costs
2 and expenses incurred with the action.

3 E. Except as otherwise provided by Section 112.1A of this
4 title, any child shall be entitled to support by the parents until
5 the child reaches eighteen (18) years of age. If a child is
6 regularly enrolled in and attending high school, as set forth in
7 Section 11-103.6 of Title 70 of the Oklahoma Statutes, other means
8 of high school education, or an alternative high school education
9 program as a full-time student, the child shall be entitled to
10 support by the parents until the child graduates from high school or
11 until the age of twenty (20) years, whichever occurs first. Full-
12 time attendance shall include regularly scheduled breaks from the
13 school year. No hearing or further order is required to extend
14 support pursuant to this subsection after the child reaches the age
15 of eighteen (18) years.

16 F. In any case in which provision is made for the custody or
17 support of a minor child or enforcement of such order and before
18 hearing the matter or signing any orders, the court shall inquire
19 whether public assistance money or medical support has been provided
20 by the Department of Human Services, ~~hereafter referred to as the~~
21 ~~Department,~~ for the benefit of each child. If public assistance
22 money, medical support, or child support services under the state
23 child support plan as provided in Section 237 of Title 56 of the
24 Oklahoma Statutes have been provided for the benefit of the child,

1 the Department shall be a necessary party for the adjudication of
2 the debt due to the State of Oklahoma, as defined in Section 238 of
3 Title 56 of the Oklahoma Statutes, and for the adjudication of
4 paternity, child support, and medical insurance coverage for the
5 minor children in accordance with federal regulations. When an
6 action is filed, the petitioner shall give the Department notice of
7 the action according to Section 2004 of Title 12 of the Oklahoma
8 Statutes. The Department shall not be required to intervene in the
9 action to have standing to appear and participate in the action.
10 When the Department is a necessary party to the action, any orders
11 concerning paternity, child support, medical support, or the debt
12 due to the State of Oklahoma shall be approved and signed by the
13 Department.

14 G. In any case in which a child support order or custody order
15 or both is entered, enforced, or modified, the court may make a
16 determination of the arrearages of child support.

17 SECTION 3. This act shall become effective November 1, 2026.

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