

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

SENATE BILL 1580

By: Frix

AS INTRODUCED

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 in certain circumstances; 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~~ is in the best interests of the physical and mental and moral welfare of the child.

B. ~~The court, pursuant~~ Pursuant to the provisions of subsection A of this section, the court may grant the care, custody, and control of a child to either parent or to the parents jointly, and there shall be a presumption, rebuttable by a preponderance of

1 evidence, that joint custody and equally shared parenting time is in
2 the best interest of the child.

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

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

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

1 E. The parents having joint custody of the child may modify the
2 terms of the plan for joint care, custody, and control. The
3 modification to the plan shall be filed with the court and included
4 with the plan. If the court determines the modifications are in the
5 best interests of the child, the court shall approve the
6 modifications.

7 F. The court also may modify the terms of the plan for joint
8 care, custody, and control upon the request of one parent. The
9 court shall not modify the plan unless the modifications are in the
10 best interests of the child.

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

14 2. Upon termination of a joint custody decree, the court shall
15 proceed and issue a modified decree for the care, custody, and
16 control of the child as if no such joint custody decree had been
17 made.

18 H. In the event of a dispute between the parents having joint
19 custody of a child as to the interpretation of a provision of the
20 plan, the court may appoint an arbitrator to resolve the dispute.
21 The arbitrator shall be a disinterested person knowledgeable in
22 domestic relations law and family counseling. The determination of
23 the arbitrator shall be final and binding on the parties to the
24 proceedings until further order of the court. If a parent refuses

1 to consent to arbitration, the court may terminate the joint custody
2 decree.

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

21 2. For the purposes of this subsection:

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

1 b. "domestic violence" means the threat of the infliction
2 of physical injury, any act of physical harm or the
3 creation of a reasonable fear thereof, or the
4 intentional infliction of emotional distress by a
5 parent or a present or former member of the household
6 of the child, against the child or another member of
7 the household including coercive control by a parent
8 involving physical, sexual, psychological, emotional,
9 economic, or financial abuse,

10 c. "harassment" means a knowing and willful course or
11 pattern of conduct by a parent directed at another
12 parent which seriously alarms or is a nuisance to the
13 person, and which serves no legitimate purpose
14 including, but not limited to, harassing or obscene
15 telephone calls or conduct that would cause a
16 reasonable person to have a fear of death or bodily
17 injury, and

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

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

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

8 5. The court shall consider the history of the parent causing
9 physical harm, bodily injury, assault, verbal threats, stalking, or
10 harassing behavior, or the fear of physical harm, bodily injury, or
11 assault to another person including the minor child, in determining
12 issues regarding custody and visitation.

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

15 Section 112. A. A petition or cross-petition for a divorce,
16 legal separation, or annulment must state whether or not the parties
17 have minor children of the marriage. If there are minor children of
18 the marriage, the court:

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

21 2. Unless not in the best interests of the children, may
22 provide for the visitation of the noncustodial parent with any of
23 the children of the noncustodial parent; and
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1 3. May modify or change any order whenever circumstances render
2 the change proper either before or after final judgment in the
3 action; provided, that the amount of the periodic child support
4 payment shall not be modified retroactively or payment of all or a
5 portion of the past due amount waived, except by mutual agreement of
6 the obligor and obligee, or if the obligee has assigned child
7 support rights to the Department of Human Services or other entity,
8 by agreement of the Department or other entity. Unless the parties
9 agree to the contrary, a completed child support computation form
10 provided for in Section 120 of this title shall be required to be
11 filed with the child support order.

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

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

22 C. 1. When it is in the best interests of a minor unmarried
23 child, the court shall:
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- a. assure children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and
- b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

2. There shall be ~~neither a legal preference nor~~ a presumption ~~for or against~~, rebuttable by a preponderance of the evidence, that joint legal custody, and joint physical custody, ~~or sole custody~~ is in the best interest of the child.

3. When in the best interests of the child, custody shall be awarded in a way which assures the frequent and continuing contact of the child with both parents. When awarding custody to either parent, the court:

- a. shall consider, among other facts, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and
- b. shall not prefer a parent as a custodian of the child because of the gender of that parent.

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

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

7 a. in the case of a parent who is a member of the Army,
8 Navy, Air Force, Marine Corps, or Coast Guard, the
9 term "military service" means a combat deployment,
10 contingency operation, or natural disaster requiring
11 the use of orders that do not permit any family member
12 to accompany the member,

13 b. in the case of a parent who is a member of the
14 National Guard, the term ~~"military service"~~ military
15 service means service under a call to active service
16 authorized by the President of the United States or
17 the Secretary of Defense for a period of more than
18 thirty (30) consecutive days under 32 U.S.C., Section
19 502(f) for purposes of responding to a national
20 emergency declared by the President and supported by
21 federal funds. ~~"Military service"~~ Military service
22 shall include any period during which a member is
23 absent from duty on account of sickness, wounds,
24 leave, or other lawful cause, and

1 c. the court may enter a temporary custody or visitation
2 order pursuant to the requirements of the Deployed
3 Parents Custody and Visitation Act.

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

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

10 2. For any action brought pursuant to the provisions of this
11 section which the court determines to be contrary to the best
12 interests of the child, the prevailing party shall be entitled to
13 recover court costs, attorney fees, and any other reasonable costs
14 and expenses incurred with the action.

15 E. Except as otherwise provided by Section 112.1A of this
16 title, any child shall be entitled to support by the parents until
17 the child reaches eighteen (18) years of age. If a child is
18 regularly enrolled in and attending high school, as set forth in
19 Section 11-103.6 of Title 70 of the Oklahoma Statutes, other means
20 of high school education, or an alternative high school education
21 program as a full-time student, the child shall be entitled to
22 support by the parents until the child graduates from high school or
23 until the age of twenty (20) years, whichever occurs first. Full-
24 time attendance shall include regularly scheduled breaks from the

1 school year. No hearing or further order is required to extend
2 support pursuant to this subsection after the child reaches the age
3 of eighteen (18) years.

4 F. In any case in which provision is made for the custody or
5 support of a minor child or enforcement of such order and before
6 hearing the matter or signing any orders, the court shall inquire
7 whether public assistance money or medical support has been provided
8 by the Department of Human Services, ~~hereafter referred to as the~~
9 ~~Department,~~ for the benefit of each child. If public assistance
10 money, medical support, or child support services under the state
11 child support plan as provided in Section 237 of Title 56 of the
12 Oklahoma Statutes have been provided for the benefit of the child,
13 the Department shall be a necessary party for the adjudication of
14 the debt due to the State of Oklahoma, as defined in Section 238 of
15 Title 56 of the Oklahoma Statutes, and for the adjudication of
16 paternity, child support, and medical insurance coverage for the
17 minor children in accordance with federal regulations. When an
18 action is filed, the petitioner shall give the Department notice of
19 the action according to Section 2004 of Title 12 of the Oklahoma
20 Statutes. The Department shall not be required to intervene in the
21 action to have standing to appear and participate in the action.
22 When the Department is a necessary party to the action, any orders
23 concerning paternity, child support, medical support, or the debt
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1 due to the State of Oklahoma shall be approved and signed by the
2 Department.

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

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

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