

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

SENATE BILL 1708

By: Jech

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

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

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

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

20 D. The court shall issue a final plan for the exercise of joint
21 care, custody, and control of the child or children, based upon the
22 plan submitted by the parents, separate or jointly, with appropriate
23 changes deemed by the court to be in the best interests of the
24

1 child. The court also may reject a request for joint custody and
2 proceed as if the request for joint custody had not been made.

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

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

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

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

20 H. In the event of a dispute between the parents having joint
21 custody of a child as to the interpretation of a provision of the
22 plan, the court may appoint an arbitrator to resolve the dispute.
23 The arbitrator shall be a disinterested person knowledgeable in
24 domestic relations law and family counseling. The determination of

1 the arbitrator shall be final and binding on the parties to the
2 proceedings until further order of the court. If a parent refuses
3 to consent to arbitration, the court may terminate the joint custody
4 decree.

5 I. 1. In every proceeding in which there is a dispute as to
6 the custody of a minor child, a determination by the court that
7 child abuse, domestic violence, stalking, or harassment has occurred
8 raises a rebuttable presumption that sole custody, joint legal or
9 physical custody, or any shared parenting plan with the perpetrator
10 of child abuse, domestic violence, harassing, or stalking behavior
11 is detrimental and not in the best interest of the child, and it is
12 in the best interest of the child to reside with the parent who is
13 not a perpetrator of child abuse, domestic violence, harassing, or
14 stalking behavior.

15 2. For the purposes of this subsection:

- 16 a. "child abuse" shall have the same meaning as "abuse"
17 as defined pursuant to the Oklahoma Children's Code in
18 Section 1-1-105 of Title 10A of the Oklahoma Statutes,
19 b. "domestic violence" means the threat of the infliction
20 of physical injury, any act of physical harm or the
21 creation of a reasonable fear thereof, or the
22 intentional infliction of emotional distress by a
23 parent or a present or former member of the household
24 of the child, against the child or another member of

1 the household including coercive control by a parent
2 involving physical, sexual, psychological, emotional,
3 economic, or financial abuse,

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

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

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

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

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

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

8 Section 112. A. A petition or cross-petition for a divorce,
9 legal separation, or annulment must state whether or not the parties
10 have minor children of the marriage. If there are minor children of
11 the marriage, the court:

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

14 2. Unless not in the best interests of the children, may
15 provide for the visitation of the noncustodial parent with any of
16 the children of the noncustodial parent; and

17 3. May modify or change any order whenever circumstances render
18 the change proper either before or after final judgment in the
19 action; provided, that the amount of the periodic child support
20 payment shall not be modified retroactively or payment of all or a
21 portion of the past due amount waived, except by mutual agreement of
22 the obligor and obligee, or if the obligee has assigned child
23 support rights to the Department of Human Services or other entity,
24 by agreement of the Department or other entity. Unless the parties

1 agree to the contrary, a completed child support computation form
2 provided for in Section 120 of this title shall be required to be
3 filed with the child support order.

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

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

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

- 16 a. assure children of frequent and continuing contact
17 with both parents after the parents have separated or
18 dissolved their marriage, and
19 b. encourage parents to share the rights and
20 responsibilities of child rearing in order to effect
21 this policy.

22 2. There shall be ~~neither a legal preference nor~~ a presumption
23 ~~for or against~~, rebuttable by a preponderance of the evidence, that
24 joint legal custody, joint physical custody, ~~or sole custody~~ and

1 equally shared parenting time, to the extent feasible, is in the
2 best interest of the child. If the presumption is rebutted, the
3 court shall construct a parenting time schedule that is consistent
4 with the best interest of the child and maximizes the time each
5 parent has with the child.

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

10 a. shall consider, among other facts, which parent is
11 more likely to allow the child or children frequent
12 and continuing contact with the noncustodial parent,
13 and

14 b. shall not prefer a parent as a custodian of the child
15 because of the gender of that parent.

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

20 5. Notwithstanding any custody determination made pursuant to
21 the Oklahoma Children's Code, when a parent of a child is required
22 to be separated from a child due to military service, the court
23 shall not enter a final order modifying an existing custody order
24

1 until such time as the parent has completed the term of duty
2 requiring separation. For purposes of this paragraph:

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

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

21 c. the court may enter a temporary custody or visitation
22 order pursuant to the requirements of the Deployed
23 Parents Custody and Visitation Act.

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

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

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

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

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

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

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

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