

1 ENGROSSED SENATE
2 BILL NO. 1756

By: Seifried of the Senate

3 and

4 Lepak of the House

5
6 An Act relating to child custody; amending 43 O.S.
7 2021, Sections 110.1a and 112.2, which relate to the
8 Oklahoma Child Supervised Visitation Program and
9 child custody determinations; requiring court to make
10 written determination prior to approval of certain
11 volunteer; requiring court review of certain
12 information; establishing certain requirements for
supervised visitation protocol; requiring court to
consider certain factor in custody determinations;
establishing rebuttable presumption against granting
custody under certain circumstances; updating
statutory language; updating statutory references;
and providing an effective date.

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

16 SECTION 1. AMENDATORY 43 O.S. 2021, Section 110.1a, is
17 amended to read as follows:

18 Section 110.1a. A. This section shall be known and may be
19 cited as the "Oklahoma Child Supervised Visitation Program".

20 B. It is the policy of this state to ensure that the health,
21 safety, and welfare of the child is paramount when supervised
22 visitation is ordered by the court.

23 C. For purposes of the Oklahoma Child Supervised Visitation
24 Program:

1 1. "Supervised visitation" means the court-ordered contact
2 between a noncustodial parent and one or more children of such
3 parent in the presence of a third-party person who is responsible
4 for observing and overseeing the visitation in order to provide for
5 the safety of the child and any other parties during the visitation.
6 The court may require supervised visitation when deemed necessary by
7 the court to protect the child or other parties;

8 2. An "alcohol-dependent person" has the same meaning as such
9 term is defined in Section 3-403 of Title 43A of the Oklahoma
10 Statutes;

11 3. A "drug-dependent person" has the same meaning as such term
12 is defined in Section 3-403 of Title 43A of the Oklahoma Statutes;
13 and

14 4. "Domestic abuse" has the same meaning as such term is
15 defined in Section 60.1 of Title 22 of the Oklahoma Statutes.

16 D. 1. The associate district judge in each county within this
17 state may select trained volunteers to provide supervised visitation
18 pursuant to the Oklahoma Child Supervised Visitation Program.

19 2. The associate district judge of each county may appoint a
20 judicial district supervised visitation team to:

- 21 a. identify public and private entities which will be
22 willing to provide location sites for purposes of the
23 Oklahoma Child Supervised Visitation Program,
24

- 1 b. identify individuals who will be willing to serve as
2 third-party persons to observe and oversee court-
3 ordered supervised visitations,
4 c. establish training requirements for volunteers,
5 d. identify programs which may be available for the
6 training of the volunteers including, but not limited
7 to, the Department of Human Services, Office of the
8 Attorney General, child advocacy centers, domestic
9 violence groups, and the Department of Mental Health
10 and Substance Abuse Services,
11 e. develop written protocol for handling supervised
12 visitations so as to provide safety of the child and
13 other parties during the supervised visitation,
14 f. develop application forms for volunteers applying for
15 the Oklahoma Child Supervised Visitation Program.
16 Information listed on the form shall include, but not
17 be limited to:
18 (1) name, address and phone number of the volunteer,
19 (2) place of employment and phone number of the
20 volunteer,
21 (3) areas of expertise,
22 (4) listing of professional training in areas
23 including, but not limited to, child abuse,
24

1 domestic abuse, alcohol or drug abuse, mental
2 illness or conflict management,

3 (5) consent form specifying release of information,
4 and

5 (6) professional references, and

6 g. identify which information of the parties and the
7 child will be confidential and which may be available
8 to others.

9 3. From recommendations of the team established pursuant to
10 this subsection, the associate district judge in each county within
11 this state may authorize one or more public or private agencies to
12 provide location sites for the Oklahoma Child Supervised Visitation
13 Program. A district judge may require either party requesting
14 supervised visitation of a child to identify a trained third-party
15 volunteer to observe and oversee the visitation. A district court
16 shall not:

- 17 a. require any state agency location or state employee to
18 observe and oversee any supervised visitation, or
19 b. appoint a third party to observe and oversee a
20 supervised visitation who has not received the
21 training as specified by the judicial district
22 supervised visitation team unless agreed to by the
23 parties.
24

1 4. A participating public or private agency location site may
2 charge a fee for each visit.

3 E. Prior to approval of any third-party volunteer to observe
4 and oversee visitation under this section, the court shall make a
5 written determination of the fitness of the volunteer by reviewing
6 information including but not limited to:

7 1. A national criminal history record check conducted by the
8 Oklahoma State Bureau of Investigation within one (1) year prior to
9 the appointment of the volunteer;

10 2. A sworn affidavit from the volunteer accepting the rules of
11 supervision and whether the volunteer:

12 a. is an alcohol- or drug-dependent person,

13 b. is residing with a person who is required by law to
14 register pursuant to the Sex Offenders Registration
15 Act of this state or any other state,

16 c. is residing with a person who has been convicted of
17 domestic abuse within the past five (5) years, or

18 d. has had custody, guardianship, or visitation rights
19 terminated to any child; and

20 3. Any testimony by the potential volunteer or other witness
21 testimony deemed necessary by the court to determine the fitness of
22 the volunteer.

23 F. The protocol for supervised visitation established by each
24 judicial district supervised visitation team shall require that:

1 1. The volunteer supervising the visitation shall be able to
2 see and hear all interactions between the supervised parent and the
3 child; and

4 2. If the court determines that the supervised parent has
5 exhibited suicidal or violent behavior, all supervised visitation
6 shall occur within a professional setting unless and until the
7 supervised parent has submitted a non-self-reporting psychological
8 evaluation to the court.

9 G. The protocol for supervised visitation established by each
10 judicial district supervised visitation team may require that:

11 1. The location site require each participant who has court-
12 ordered supervised visitation for a child and who is participating
13 in the supervised visitation program to sign a time log upon arrival
14 and departure. The agency location site must have an employee
15 assigned to verify identification of each participant, initial each
16 signature, and record the time of arrival and departure of each
17 person; and

18 2. The agency location site also contain information on each
19 client case including, but not limited to:

- 20 a. a copy of the court order requiring supervised
21 visitation, and
22 b. name of individuals authorized to pick up or deliver a
23 child to the agency location site for supervised
24 visitation.

1 ~~F.~~ H. Each judicial district supervised visitation team may
2 include, but not be limited to:

- 3 1. Mental health professionals;
- 4 2. Police officers or other law enforcement agents;
- 5 3. Medical personnel;
- 6 4. Child protective services workers;
- 7 5. Child advocacy individuals; and
- 8 6. The district attorney or designee.

9 ~~G.~~ I. An associate district judge of a county, the judicial
10 district supervised visitation team created pursuant to this section
11 and the ~~Office of the Court Administrator~~ Administrative Office of
12 the Courts may develop an informational brochure outlining the
13 provisions of the Oklahoma Child Supervised Visitation Program and
14 procedures to be used by volunteers in that judicial district. The
15 brochure may be distributed through the municipal and district
16 court, social service agency centers, county health departments,
17 hospitals, crisis or counseling centers, and community action
18 agencies.

19 ~~H.~~ J. Except for acts of dishonesty, willful criminal acts, or
20 gross negligence, no member of the judicial district supervised
21 visitation team or volunteer shall be charged personally with any
22 liability whatsoever by reason of any act or omission committed or
23 suffered in the performance of the duties pursuant to the provisions
24 of this section.

1 ~~F.~~ K. The provisions of this section shall not apply to cases
2 subject to the Oklahoma Children's Code and the Oklahoma Juvenile
3 Code.

4 SECTION 2. AMENDATORY 43 O.S. 2021, Section 112.2, is
5 amended to read as follows:

6 Section 112.2. A. In every case involving the custody of,
7 guardianship of or visitation with a child, the court shall consider
8 for determining the custody of, guardianship of or the visitation
9 with a child whether any person seeking custody or who has custody
10 of, guardianship of or visitation with a child:

11 1. Is or has been subject to the registration requirements of
12 the ~~Oklahoma~~ Sex Offenders Registration Act or any similar act in
13 any other state;

14 2. Has been convicted of a crime listed in the Oklahoma Child
15 Abuse Reporting and Prevention Act or in Section 582 of Title 57 of
16 the Oklahoma Statutes;

17 3. Is an alcohol-dependent person or a drug-dependent person as
18 established by clear and convincing evidence and who can be expected
19 in the near future to inflict or attempt to inflict serious bodily
20 harm to himself or herself or another person as a result of such
21 dependency;

22 4. Has been convicted of domestic abuse within the past five
23 (5) years;

1 5. Is residing with an individual who is or has been subject to
2 the registration requirements of the ~~Oklahoma~~ Sex Offenders
3 Registration Act or any similar act in any other state;

4 6. Is residing with a person who has been convicted of a crime
5 listed in the Oklahoma Child Abuse Reporting and Prevention Act or
6 in Section 582 of Title 57 of the Oklahoma Statutes; ~~or~~

7 7. Is residing with a person who has been convicted of domestic
8 abuse within the past five (5) years; or

9 8. Has had custody, guardianship, or visitation rights
10 terminated due to failure to complete or participate in any court-
11 ordered substance abuse or mental health treatment.

12 B. There shall be a rebuttable presumption that it is not in
13 the best interests of the child to have custody or guardianship
14 granted to a person who:

15 1. Is subject to or has been subject to the registration
16 requirements of the ~~Oklahoma~~ Sex Offenders Registration Act or any
17 similar act in any other state;

18 2. Has been convicted of a crime listed in the Oklahoma Child
19 Abuse Reporting and Prevention Act or in Section 582 of Title 57 of
20 the Oklahoma Statutes;

21 3. Is an alcohol-dependent person or a drug-dependent person as
22 established by clear and convincing evidence and who can be expected
23 in the near future to inflict or attempt to inflict serious bodily
24

1 harm to himself or herself or another person as a result of such
2 dependency;

3 4. Has been convicted of domestic abuse within the past five
4 (5) years;

5 5. Is residing with a person who is or has been subject to the
6 registration requirements of the ~~Oklahoma~~ Sex Offenders Registration
7 Act or any similar act in any other state;

8 6. Is residing with a person who has been convicted of a crime
9 listed in the Oklahoma Child Abuse Reporting and Prevention Act or
10 in Section 582 of Title 57 of the Oklahoma Statutes; ~~or~~

11 7. Is residing with a person convicted of domestic abuse within
12 the past five (5) years; or

13 8. Has had custody, guardianship, or visitation rights
14 terminated due to failure to complete or participate in any court-
15 ordered substance abuse or mental health treatment.

16 C. Custody of, guardianship of, or visitation with a child
17 shall not be granted to any person if it is established that the
18 custody, guardianship or visitation will likely expose the child to
19 a foreseeable risk of material harm.

20 D. Except as otherwise provided by the Oklahoma Child
21 Supervised Visitation Program, court-ordered supervised visitation
22 shall be governed by the Oklahoma Child Supervised Visitation
23 Program.

24 E. For purposes of this section:

1. "Alcohol-dependent person" has the same meaning as such term is defined in Section 3-403 of Title 43A of the Oklahoma Statutes;

2. "Domestic abuse" has the same meaning as such term is defined in Section 60.1 of Title 22 of the Oklahoma Statutes;

3. "Drug-dependent person" has the same meaning as such term is defined in Section 3-403 of Title 43A of the Oklahoma Statutes; and

4. "Supervised visitation" means a program established pursuant to Section 5 110.1a of this ~~act~~ title.

SECTION 3. This act shall become effective November 1, 2024.

Passed the Senate the 5th day of March, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2024.

Presiding Officer of the House
of Representatives