

An Act

ENROLLED SENATE
BILL NO. 1756

By: Seifried of the Senate

and

Lepak of the House

An Act relating to child custody; amending 43 O.S. 2021, Sections 110.1a and 112.2, which relate to the Oklahoma Child Supervised Visitation Program and child custody determinations; requiring court to make written determination prior to approval of certain volunteer; requiring court review of certain 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.

SUBJECT: Child custody and visitation

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

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

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

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

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

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

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

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

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

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

- a. identify public and private entities which will be willing to provide location sites for purposes of the Oklahoma Child Supervised Visitation Program,
- b. identify individuals who will be willing to serve as third-party persons to observe and oversee court-ordered supervised visitations,
- c. establish training requirements for volunteers,
- d. identify programs which may be available for the training of the volunteers including, but not limited to, the Department of Human Services, Office of the

Attorney General, child advocacy centers, domestic violence groups, and the Department of Mental Health and Substance Abuse Services,

- e. develop written protocol for handling supervised visitations so as to provide safety of the child and other parties during the supervised visitation,
- f. develop application forms for volunteers applying for the Oklahoma Child Supervised Visitation Program. Information listed on the form shall include, but not be limited to:
 - (1) name, address and phone number of the volunteer,
 - (2) place of employment and phone number of the volunteer,
 - (3) areas of expertise,
 - (4) listing of professional training in areas including, but not limited to, child abuse, domestic abuse, alcohol or drug abuse, mental illness or conflict management,
 - (5) consent form specifying release of information, and
 - (6) professional references, and
- g. identify which information of the parties and the child will be confidential and which may be available to others.

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

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

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

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

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

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

- a. is an alcohol- or drug-dependent person,
- b. is residing with a person who is required by law to register pursuant to the Sex Offenders Registration Act of this state or any other state,
- c. is residing with a person who has been convicted of domestic abuse within the past five (5) years, or
- d. has had custody, guardianship, or visitation rights terminated to any child; and

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

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

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

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

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

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

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

a. a copy of the court order requiring supervised visitation, and

b. name of individuals authorized to pick up or deliver a child to the agency location site for supervised visitation.

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

1. Mental health professionals;

2. Police officers or other law enforcement agents;

3. Medical personnel;

4. Child protective services workers;
5. Child advocacy individuals; and
6. The district attorney or designee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Is an alcohol-dependent person or a drug-dependent person as established by clear and convincing evidence and who can be expected

in the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person as a result of such dependency;

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

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

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

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

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

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

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

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 15th day of April, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____