

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 SENATE BILL 1701

By: Brooks

4
5
6 AS INTRODUCED

7 An Act relating to guardianship; creating the
8 Oklahoma Standby Guardianship Act; providing short
9 title; defining terms; authorizing written
10 designation for certain purposes; specifying required
11 contents of certain designation; providing for
12 commencement of certain authority upon specified
13 event; requiring filing of certain petition;
14 requiring certain notice; requiring certain order
15 upon specified findings; requiring hearing under
16 certain circumstances; authorizing appointment of
17 guardian ad litem; authorizing appointment of standby
18 guardian or alternate; specifying information to be
19 included in certain petition; allowing for revocation
20 of guardianship; permitting certain refusal;
21 providing for dismissal of guardianship under certain
22 circumstances; providing for review of standby
23 guardianship; providing for codification; and
24 providing an effective date.

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 7-101 of Title 30, unless there
21 is created a duplication in numbering, reads as follows:

22 This act shall be known and may be cited as the "Oklahoma
23 Standby Guardianship Act".
24

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7-102 of Title 30, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Deported" means an alien or noncitizen having been
6 involuntarily removed from the United States and sent back to their
7 country of origin;

8 2. "Deportation proceeding" means any proceeding by which an
9 alien or noncitizen may be expelled from the United States for
10 violations of immigration law;

11 3. "Designation" means a writing which is voluntarily executed
12 in conformance with the requirements of Section 3 of this act and
13 signed by a parent and names a person to act as standby guardian;

14 4. "Parent" means a genetic or adoptive parent or parent
15 determined in accordance with the standards set forth in Section
16 7700-201 of Title 10 of the Oklahoma Statutes, and includes a
17 person, other than a parent, who has physical custody of a child and
18 who has either been awarded custody by a court or claims a right to
19 custody;

20 5. "Qualified parent" means a parent who has been deported or
21 is currently the subject of a deportation proceeding, as evidenced
22 in writing, by a court of appropriate jurisdiction or by a state or
23 the federal government;

1 6. "Standby guardian" means a person who, in accordance with
2 this act, is designated in writing or approved by the court to
3 temporarily assume the duties of guardian of the person or guardian
4 of the property, or both, of a minor child on behalf of or in
5 conjunction with a qualified parent upon the occurrence of a
6 triggering event; and

7 7. "Triggering event" means the event upon the occurrence of
8 which the standby guardian may be authorized to act. The triggering
9 event shall be the earlier of either the commencement of a
10 deportation proceeding or the deportation of the qualified parent.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 7-103 of Title 30, unless there
13 is created a duplication in numbering, reads as follows:

14 A. A parent may execute a written designation of a standby
15 guardian at any time. The written designation shall state:

- 16 1. The name, address and birthdate of the child affected; and
17 2. The name and address of the person designated as standby
18 guardian or alternate.

19 The written designation shall be signed by the parent. The
20 designated standby guardian or alternate may not sign on behalf of
21 the parent. The signed designation shall be delivered to the
22 standby guardian and any alternate named as soon as practicable.

23 B. Following such delivery of the designation, the authority of
24 a standby guardian to act for a qualified parent shall commence upon

1 the occurrence of the triggering event, receipt of documentation, if
2 any, supporting the occurrence of the triggering event and the
3 qualified parent's written consent to such commencement signed by
4 the parent.

5 C. A standby guardian under a designation shall have the
6 authority of a guardian of the person and a guardian of the property
7 of the child, unless otherwise specified in the designation.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 7-104 of Title 30, unless there
10 is created a duplication in numbering, reads as follows:

11 A. A designated standby guardian or alternate shall file a
12 petition for approval as standby guardian. The petition shall be
13 filed as soon as practicable after the occurrence of the triggering
14 event but in no event later than thirty (30) days after the
15 triggering event. The authority of the standby guardian shall cease
16 upon his or her failure to so file but shall recommence upon such
17 filing. The petition shall be accompanied by a copy of the
18 designation and any documentation supporting the occurrence of the
19 triggering event.

20 B. Upon the filing of a petition, notice of the filing shall
21 promptly be given to each parent of the child whose identity and
22 whereabouts are known to the petitioner. The court shall direct the
23 issuance of summonses to the child, if the child is twelve (12)
24 years of age or older and the proposed standby guardian and

1 alternate, if any, and such other persons as appear to the court to
2 be necessary parties to the proceedings including the child's
3 parents, stepparents, grandparents, adult siblings, guardian, legal
4 custodian or other person standing in loco parentis, if the identity
5 and whereabouts of such persons are known.

6 C. The court shall enter an order approving the standby
7 guardian upon finding that:

8 1. The person was duly designated as standby guardian pursuant
9 to this act and the designation has not been revoked;

10 2. A triggering event occurred, and the parent consented to
11 commencement of the standby guardian's authority;

12 3. The best interests of the child will be served by approval
13 of the standby guardian; and

14 4. If the petition is by an alternate standby guardian, that
15 the designated standby guardian is unwilling or unable to serve.

16 D. An order approving the standby guardian shall not be entered
17 without a hearing if there is another known parent, stepparents,
18 adult siblings, or other adult related to the child by blood,
19 marriage, or adoption who requests a hearing within ten (10) days of
20 the date that notice of the filing was sent or if there is other
21 litigation pending regarding custody of the child.

22 E. Prior to any hearing on the petition, the court may appoint
23 a guardian ad litem to represent the child. The qualified parent
24

1 shall not be required to appear in court if the parent is detained
2 and unable to appear, or upon motion for any other good cause shown.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7-105 of Title 30, unless there
5 is created a duplication in numbering, reads as follows:

6 A. If no designation for a standby guardian has been completed
7 by a qualified parent, upon petition of any person, the district
8 court of the jurisdiction in which a child resides may approve a
9 person as standby guardian for a child of a qualified parent upon
10 the occurrence of a triggering event. If requested in the petition,
11 the court may also approve an alternate standby guardian identified
12 by the petitioner, to act in the event that at any time after
13 approval pursuant to this section the standby guardian is unable or
14 unwilling to assume the responsibilities of the standby
15 guardianship.

16 B. The petition shall state:

17 1. The name and address of the petitioner and his relationship
18 to the child and the name and address of the child's qualified
19 parent, and the name and address of any other parent of the child
20 whose identity and whereabouts are known to the petitioner or can
21 reasonably be ascertained;

22 2. The name, address and birthdate of the child;

23 3. The triggering event;

1 4. Whether the qualified parent has been deported or the
2 deportation process has commenced and, if so, when and by whom;

3 5. The name and address of the person proposed as standby
4 guardian and any alternate and whether the petition requests that
5 such person be given authority as a guardian of the person or
6 guardian of the property of the minor, or both;

7 6. A statement of any known reasons as to why the child's other
8 parent is not assuming or should not assume responsibility for the
9 child; and

10 7. Whether there is any prior judicial history regarding
11 custody of the child or any pending litigation regarding custody of
12 the child.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 7-106 of Title 30, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The authority of a standby guardian approved by the court
17 may be revoked by the qualified parent by filing a notice of
18 revocation with the court. The notice of revocation shall identify
19 the standby guardian or alternate standby guardian to which the
20 revocation will apply. A copy of the revocation shall also be
21 delivered to the standby guardian whose authority is revoked and any
22 alternate standby guardian who may then be authorized to act.

23 B. At any time following his or her approval by the court, a
24 standby guardian may decline to serve by filing a written statement
25

1 of refusal with the court and having the statement personally served
2 on the qualified parent and any alternate standby guardian who may
3 then be authorized to act.

4 C. When a written designation has been executed, but is not yet
5 effective because the triggering event has not yet occurred, the
6 parent may revoke or the prospective standby guardian may refuse the
7 designation by notifying the other party in writing. A written
8 designation may also be revoked by the execution of a subsequent
9 inconsistent designation.

10 D. When a standby guardian's authority becomes effective upon
11 the occurrence of a triggering event of the qualified parent, the
12 standby guardian's authority to act on behalf of the qualified
13 parent continues even though the qualified parent is not deported or
14 the deportation proceeding is dismissed, unless the qualified parent
15 notifies the standby guardian and the court, in writing, that the
16 standby guardian's authority is revoked due to the triggering event
17 expiring.

18 E. If at any time the court finds that the parent no longer
19 meets the definition of "qualified parent," the court shall rescind
20 its approval of the standby guardian.

21 SECTION 7. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 7-107 of Title 30, unless there
23 is created a duplication in numbering, reads as follows:
24

1 A child's parent, stepparent, adult sibling or any adult related
2 to the child by blood, marriage or adoption may petition the court
3 which approved the standby guardian at any time following such
4 approval and prior to any termination of the standby guardianship
5 for review of whether continuation of the standby guardianship is in
6 the best interests of the child. Notice of the filing of a petition
7 shall promptly be given to the standby guardian, the child, if the
8 child is twelve (12) years of age or older, and each parent of the
9 child whose identity and whereabouts are known or could reasonably
10 be ascertained.

11 SECTION 8. This act shall become effective November 1, 2024.

12
13 59-2-3093 TEK 1/16/2024 3:46:10 PM
14
15
16
17
18
19
20
21
22
23
24
25