

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 495

By: Bullard

AS INTRODUCED

An Act relating to child custody; amending 43 O.S. 2021, Section 112, which relates to care and custody of children; requiring court to consider certain factors; requiring hearing upon certain allegation; requiring court to make determination and enter findings; setting deadline for evidentiary hearing upon certain pleading; authorizing certain emergency orders; prohibiting denial or restriction of custody or visitation for certain reasonable and good-faith actions; requiring award of sole custody and suspension of visitation upon certain findings; prohibiting refusal to consider certain evidence; authorizing court to order payment of certain costs and fees; 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 112, is amended to read as follows:

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

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

3 2. Unless not in the best interests of the children, may
4 provide for the visitation of the noncustodial parent with any of
5 the children of the noncustodial parent; and

6 3. May modify or change any order whenever circumstances render
7 the change proper either before or after final judgment in the
8 action; provided, that the amount of the periodic child support
9 payment shall not be modified retroactively or payment of all or a
10 portion of the past due amount waived, except by mutual agreement of
11 the obligor and obligee, or if the obligee has assigned child
12 support rights to the Department of Human Services or other entity,
13 by agreement of the Department or other entity. Unless the parties
14 agree to the contrary, a completed child support computation form
15 provided for in Section 120 of this title shall be required to be
16 filed with the child support order.

17 The social security numbers of both parents and the child shall
18 be included on the child support order summary form provided for in
19 Section 120 of this title, which shall be submitted to the Central
20 Case Registry as provided for in Section 112A of this title with all
21 child support or paternity orders.

22 B. In any action in which there are minor unmarried children in
23 awarding or modifying the custody of the child or in appointing a
24 general guardian for the child, the court shall be guided by the

1 provisions of Section 112.5 of this title and shall consider what
2 appears to be in the best interests of the child.

3 C. In awarding or modifying custody or visitation of a child,
4 if a party to the action alleges that the other party has committed
5 an act of child abuse against the child, or committed an act of
6 domestic violence against the party making the allegation or a
7 family or household member of either party, the court shall, before
8 considering any other best interest factors, hear and determine upon
9 competent admissible evidence the allegations set forth and enter
10 findings regarding any child abuse or domestic violence. The
11 evidentiary hearing for such determination shall be held within
12 sixty (60) days of the filing of a verified pleading; provided,
13 however, the court may issue any necessary emergency orders to
14 protect the child. If a parent makes a good-faith allegation based
15 on a reasonable belief supported by facts that the child is the
16 victim of child abuse or the effects of domestic violence, and if
17 that parent acts lawfully and in good faith in response to that
18 reasonable belief to protect the child or seek treatment for the
19 child, then that parent shall not be deprived of custody,
20 visitation, or contact with the child, or restricted in custody,
21 visitation, or contact, based solely on that belief or the
22 reasonable actions taken based on that belief. If the court finds a
23 pattern of child abuse or domestic violence by a parent, the court
24 shall award sole custody of the child to the non-offending parent or

1 party and shall suspend visitation or award only supervised
2 visitation to the parent engaged in a pattern of abusive or violent
3 behavior. If the court finds that a party has not engaged in a
4 pattern of child abuse or domestic violence, the court may not
5 refuse to consider additional evidence of child abuse or domestic
6 violence presented later in the case. Upon a finding that a parent
7 has committed child abuse or domestic violence, the court may order
8 payment by the offending parent of court costs and fees including,
9 but not limited to, attorney and expert fees that are incurred by
10 the non-offending parent to prepare for and participate in the
11 evidentiary hearing.

12 D. 1. When it is in the best interests of a minor unmarried
13 child, the court shall:

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

20 2. There shall be neither a legal preference nor a presumption
21 for or against joint legal custody, joint physical custody, or sole
22 custody.

23 3. When in the best interests of the child, custody shall be
24 awarded in a way which assures the frequent and continuing contact

1 of the child with both parents. When awarding custody to either
2 parent, the court:

3 a. shall consider, among other facts, which parent is
4 more likely to allow the child or children frequent
5 and continuing contact with the noncustodial parent,
6 and

7 b. shall not prefer a parent as a custodian of the child
8 because of the gender of that parent.

9 4. In any action, there shall be neither a legal preference ~~or~~
10 nor a presumption for or against private or public school or home-
11 schooling in awarding the custody of a child, or in appointing a
12 general guardian for the child.

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

19 a. in the case of a parent who is a member of the Army,
20 Navy, Air Force, Marine Corps or Coast Guard, the term
21 "military service" means a combat deployment,
22 contingency operation, or natural disaster requiring
23 the use of orders that do not permit any family member
24 to accompany the member,

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

12 c. the court may enter a temporary custody or visitation
13 order pursuant to the requirements of the Deployed
14 Parents Custody and Visitation Act.

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

17 ~~D.~~ E. 1. Except for good cause shown, a pattern of failure to
18 allow court-ordered visitation may be determined to be contrary to
19 the best interests of the child and as such may be grounds for
20 modification of the child custody order.

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

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

16 ~~F.~~ G. In any case in which provision is made for the custody or
17 support of a minor child or enforcement of such order and before
18 hearing the matter or signing any orders, the court shall inquire
19 whether public assistance money or medical support has been provided
20 by the Department of Human Services, hereafter referred to as the
21 Department, for the benefit of each child. If public assistance
22 money, medical support, or child support services under the state
23 child support plan as provided in Section 237 of Title 56 of the
24 Oklahoma Statutes have been provided for the benefit of the child,

1 the Department shall be a necessary party for the adjudication of
2 the debt due to the State of Oklahoma, as defined in Section 238 of
3 Title 56 of the Oklahoma Statutes, and for the adjudication of
4 paternity, child support, and medical insurance coverage for the
5 minor children in accordance with federal regulations. When an
6 action is filed, the petitioner shall give the Department notice of
7 the action according to Section 2004 of Title 12 of the Oklahoma
8 Statutes. The Department shall not be required to intervene in the
9 action to have standing to appear and participate in the action.
10 When the Department is a necessary party to the action, any orders
11 concerning paternity, child support, medical support, or the debt
12 due to the State of Oklahoma shall be approved and signed by the
13 Department.

14 G. H. In any case in which a child support order or custody
15 order or both is entered, enforced or modified, the court may make a
16 determination of the arrearages of child support.

17 SECTION 2. This act shall become effective November 1, 2025.
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