An Act

ENROLLED HOUSE
BILL NO. 1964

By: Steele, Tibbs and Shelton
of the House

and

Crain of the Senate

An Act relating to children; providing for the presumption of custody of a child under certain circumstances; encouraging certain agreements to document custody; amending 10 O.S. 2001, Section 7103, as renumbered by Section 212, Chapter 233, O.S.L. 2009, and as last amended by Section 10, Chapter 338, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-2-101), which relates to child abuse reporting requirements; providing exception; amending Section 112, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-3-102), which relates to medical care and treatment; designating the provision of psychotropic medications as routine and ordinary medical care and treatment; amending 10 O.S. 2001, Section 7004-3.2, as last amended by Section 68, Chapter 233, O.S.L. 2009, and as renumbered by Section 279, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-7-105), which relates to policies and procedures for children in custody of the Department; providing for daily access to showers and clean clothing; amending 30 O.S. 2001, Section 2-103, as amended by Section 135, Chapter 234, O.S.L. 2009 (30 O.S. Supp. 2009, Section 2-103), which relates to the appointment of guardians; updating statutory references; amending 30 O.S. 2001, Section 2-109, which relates to conditions of appointment for guardians; specifying requirements for certain custody determinations; requiring review of placement within one year; requiring the inclusion of certain conditions; establishing criteria for guardianships by abandonment in certain circumstances; defining term; specifying the rights of certain guardians;

providing limitations of guardianship; specifying content of petition for custody by abandonment; specifying content of affidavits to be attached to petition; requiring that petition be notarized; specifying annual accounting requirements; providing for filing fees; providing for the issuance of letters of custody by abandonment; specifying that custody by abandonment is effective upon taking of oath; prohibiting return of certain minors to parent or person having legal custody absent certain conditions; providing the procedure and requirements for determination of custody in certain circumstances; providing that certain children shall remain in the home of potential guardian throughout proceedings; authorizing court to impose transition period for return of certain children to parents; providing grounds upon which custody by abandonment ceases; providing that certain abandonment circumstances shall not be reported to the Department of Human Services; amending 30 O.S. 2001, Section 4-404, which relates to costs in certain guardianship proceedings; establishing filing fee for guardianship by abandonment cases; allowing court to waive fee in certain circumstances; amending 10 O.S. 2001, Section 7202.3, as renumbered by Section 208, Chapter 233, O.S.L. 2009 (43 O.S. Supp. 2009, Section 109.5), which relates to child support; updating statutory reference; amending 43 O.S. 2001, Section 112, as last amended by Section 137, Chapter 234, O.S.L. 2009 (43 O.S. Supp. 2009, Section 112), which relates to the care, custody, and support of minor children; updating statutory reference; re-creating the Adoption Review Task Force; providing for membership; providing for vacancies; directing travel reimbursement; providing for administrative support; specifying duties; requiring certain report; providing for codification; providing for noncodification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7800 of Title 10, unless there is created a duplication in numbering, reads as follows:

The mother of a child whose paternity has not been established is presumed to have custody of the child until such time as the paternity of the child has been established pursuant to Sections 7700-101 through 7700-902 of Title 10 of the Oklahoma Statutes. The parents of a child whose paternity is established are presumed to each have custody of the child until determined otherwise by a court. Until otherwise ordered by a court, written agreements, preferably agreements that are the result of mediation, are encouraged to document the scope of the legal and physical custody of the respective parents.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7103, as renumbered by Section 212, Chapter 233, O.S.L. 2009, and as last amended by Section 10, Chapter 338, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-2-101), is amended to read as follows:

Section 1-2-101. A. 1. The Department of Human Services shall establish a statewide centralized hotline for the reporting of child abuse or neglect to the Department.

2. The Department shall provide hotline-specific training including, but not limited to, interviewing skills, customer service skills, narrative writing, necessary computer systems, making case determinations, and identifying priority situations.

3. The Department is authorized to contract with third parties in order to train hotline workers.

4. The Department shall develop a system to track the number of calls received, and of that number:

a. the number of calls screened out,

b. the number of referrals assigned, and

c. the number of calls in which the allegations were later found to be unsubstantiated or ruled out.

B. 1. Every person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter promptly to the Department of Human Services.

Reports shall be made to the hotline provided for in subsection A of this section. Any allegation of abuse or neglect reported in any manner to a county office shall immediately be referred to the hotline by the Department. Provided, however, that in actions for custody by abandonment, provided for in Section 7 of this act, there shall be no reporting requirement.

2. Every physician, surgeon, or other health care professional including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who tests positive for alcohol or a controlled dangerous substance shall promptly report the matter to the Department.

3. No privilege or contract shall relieve any person from the requirement of reporting pursuant to this section.

4. The reporting obligations under this section are individual, and no employer, supervisor, or administrator shall interfere with the reporting obligations of any employee or other person or in any manner discriminate or retaliate against the employee or other person who in good faith reports suspected child abuse or neglect, or who provides testimony in any proceeding involving child abuse or neglect. Any employer, supervisor, or administrator who discharges, discriminates or retaliates against the employee or other person shall be liable for damages, costs and attorney fees.

5. Every physician, surgeon, or other health care professional making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall provide, upon request, copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

C. Any person who knowingly and willfully fails to promptly report suspected child abuse or neglect or who interferes with the prompt reporting of suspected child abuse or neglect may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

D. 1. Any person who knowingly and willfully makes a false report pursuant to the provisions of this section or a report that the person knows lacks factual foundation may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

2. If a court determines that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose a fine, not to exceed Five Thousand Dollars ($5,000.00) and reasonable attorney fees incurred in recovering the sanctions, against the person making the accusation. The remedy provided by this paragraph is in addition to paragraph 1 of this subsection or to any other remedy provided by law.

E. Nothing contained in this section shall be construed to exempt or prohibit any person from reporting any suspected child abuse or neglect pursuant to subsection B of this section.

SECTION 3. AMENDATORY Section 112, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-3-102), is amended to read as follows:

Section 1-3-102. A. For purposes of this section:

1. "Routine and ordinary medical care and treatment" includes any necessary medical and dental examinations and treatment, medical screenings, clinical laboratory tests, blood testing, preventative care, health assessments, physical examinations, immunizations, contagious or infectious disease screenings or tests and care required for treatment of illness and injury, including x-rays, stitches and casts, <u>or the provision of psychotropic medications</u> but does not include any type of extraordinary care; and

2. "Extraordinary medical care and treatment" includes, but is not limited to, surgery, general anesthesia, blood transfusions, <u>or</u> invasive or experimental procedures ~~or the provision of psychotropic medications~~.

B. If a child taken into protective custody without a court order requires emergency medical care prior to the emergency custody hearing, and either the treatment is related to the suspected abuse or neglect or the parent or legal guardian is unavailable or unwilling to consent to treatment recommended by a physician, a

peace officer, court employee or the court may authorize such treatment as is necessary to safeguard the health or life of the child. Before a peace officer, court employee or the court authorizes treatment based on unavailability of the parent or legal guardian, law enforcement shall exercise diligence in locating the parent or guardian, if known.

C. 1. If a child has been placed in the custody of the Department of Human Services, the Department shall have the authority to consent to routine and ordinary medical care and treatment. The Department shall make reasonable attempts to notify the child's parent or legal guardian of the provision of routine and ordinary medical care and treatment and to keep the parent or legal guardian involved in such care.

2. In no case shall the Department consent to a child's abortion, sterilization, termination of life support or a "Do Not Resuscitate" order. The court may authorize the withdrawal of life-sustaining medical treatment or the denial of the administration of cardiopulmonary resuscitation on behalf of a child in the Department's custody upon the written recommendation of a licensed physician, after notice to the parties and a hearing.

3. Nothing herein shall prevent the Department from authorizing, in writing, any person, foster parent or administrator of a facility into whose care a child in its custody has been entrusted, to consent to routine and ordinary medical care and treatment to be rendered to a child upon the advice of a licensed physician, including the continuation of psychotropic medication.

D. Consent for a child's extraordinary medical care and treatment shall be obtained from the parent or legal guardian unless the treatment is either related to the abuse or neglect or the parent or legal guardian is unavailable or refuses to consent to such care, in which case in an emergency, based upon recommendation of a physician, the court may enter an ex parte order authorizing such treatment or procedure in order to safeguard the child's health or life. If the recommended extraordinary medical care and treatment is not an emergency, the court shall hold a hearing, upon application by the district attorney and notice to all parties, and may authorize such recommended extraordinary care.

E. If a child has been placed in the custody of a person, other than a parent or legal guardian, or an institution or agency other than the Department, the court shall determine the authority of the

person, institution, or agency to consent to medical care including routine and ordinary medical care and treatment and extraordinary care. The parent, legal guardian, or person having legal custody shall be responsible for the costs of medical care as determined by the court.

SECTION 4. AMENDATORY 10 O.S. 2001, Section 7004-3.2, as last amended by Section 68, Chapter 233, O.S.L. 2009, and as renumbered by Section 279, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-7-105), is amended to read as follows:

Section 1-7-105. A. The Department of Human Services shall promulgate written rules, policies, and procedures governing the operation of those facilities operated by or under contract with the Department wherein children may be placed.

B. The policies prescribed shall, at a minimum, ensure that:

1. A child shall not be punished by physical force, deprivation of nutritious meals or family visits, or solitary confinement;

2. A child shall have the opportunity to participate in physical exercise each day;

3. A child shall be allowed daily access to showers;

4. A child shall be allowed his or her own clothing or individualized clothing which is clean;

~~4.~~ 5. A child shall have constant access to writing materials and may send mail without limitation, censorship, or prior reading, and may receive mail without prior reading, except that mail may be opened in the presence of the child, without being read, to inspect for contraband or if authorized by the court for the protection of the child;

~~5.~~ 6. A child shall have a right to communicate and to visit with his or her family on a regular basis, and to communicate with persons in the community provided the communication or visitation is in the best interests of the child;

~~6.~~ 7. A child shall have timely access to medical care as needed;

~~7.~~ 8. A child in the custody or care of the Department shall be provided access to an education including teaching, educational materials, and books;

~~8.~~ 9. A child shall have a right to access to the child's attorney;

~~9.~~ 10. A child shall be afforded a grievance procedure, including an appeal procedure;

~~10.~~ 11. A child's behavioral health needs shall be met, protected, and served through provision of guidance, counseling, and treatment programs, staffed by competent, professionally qualified persons; and

~~11.~~ 12. Use of physical force, when authorized, shall be the least force necessary under the circumstances and shall be permitted only under the following circumstances:

a. for self-protection,

b. to separate children who are fighting,

c. to restrain children in danger of inflicting harm to themselves or others, or

d. to deter children who are in the process of leaving the facility without authorization.

C. Any contract or agreement entered into by the Department for the residential care and treatment of children in the custody of the Department shall provide that the contractor comply with the provisions of subsections A and B of this section.

SECTION 5. AMENDATORY 30 O.S. 2001, Section 2-103, as amended by Section 135, Chapter 234, O.S.L. 2009 (30 O.S. Supp. 2009, Section 2-103), is amended to read as follows:

Section 2-103. A. If the minor is under the age of fourteen (14) years, the court may name and appoint his guardian. If the minor has attained the age of fourteen (14) years, the minor may nominate his own guardian, who, if approved by the court, must be appointed accordingly.

B. The court, in appointing a guardian for a minor, is to be guided by Section ~~112.4~~ 112.5 of Title 43 of the Oklahoma Statutes.

SECTION 6. AMENDATORY 30 O.S. 2001, Section 2-109, is amended to read as follows:

Section 2-109. A. When any person is appointed guardian of a minor, the court ~~may~~ shall include in the order of appointment conditions providing for the care, treatment, education and welfare of the minor.

B. ~~The performance of such conditions shall be a part of the duties of the guardian, for the faithful performance of which he and the sureties on his bond are responsible~~ An order providing for the transfer of the permanent care and custody of a child:

1. Shall require that the placement be reviewed within one (1) year after transfer and may require the person to whom custody is transferred to submit any records or reports the court deems necessary for purposes of the review; and

2. Shall require periodic reviews by the court thereafter as necessary to serve the best interests of the child.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-117 of Title 30, unless there is created a duplication in numbering, reads as follows:

A. The court of each county, when it appears necessary or convenient, may grant a qualified relative custody by abandonment of a minor or minors who have been abandoned, as defined by Section 1-1-105 of Title 10A of the Oklahoma Statutes, in the care of the qualified relative if:

1. The minor is residing full-time with the qualified relative and the qualified relative contributes the major degree of support for the minor; and

2. The qualified relative is unable to contact the parent or parents or person or persons having legal custody of the minor, or the parent or parents or other person or persons having legal custody of the minor fail to or refuse to regain physical custody of the minor after a written request to do so by the qualified relative.

B. For purposes of this section, a "qualified relative" means an adult grandparent, great-grandparent, brother, sister, half-brother, half-sister, uncle, aunt, niece or nephew or a spouse of a qualified relative.

C. A qualified relative who is granted custody by abandonment shall have the same rights to arrange for, authorize, and consent to day care services, medical, psychological, dental, and educational assessment and services, and any other services that may be necessary to provide for the care, treatment, education, and welfare of the minor or minors that are given to legal guardians by the Oklahoma Guardianship and Conservatorship Act except that such relative may not consent to an adoption of the minor or minors.

D. Custody by abandonment shall be made on the verified petition of a qualified relative and shall be substantially in the following form:

PETITION FOR CUSTODY BY ABANDONMENT

Comes Now the Petitioner, _____, and informs the Court as follows:

1. That I am now a resident in good faith of _____ County, and the State of Oklahoma for at least six (6) months prior to the filing of this petition.

2. That my home address is _____.

3. That my date of birth is _____.

4. That my Oklahoma driver license or other identification card number is _____.

5. That _____ is/are minor child(ren) _____ years of age, respectively, having the following date(s) of birth: _____.

6. That I am related to the child(ren) as his/her/their _____.

7. That the child(ren) has/have been living in my home since the _____ day of _____, 20___. Prior to this date, the child(ren) resided at the following address and in the following county and state: _____.

8. That the Court has jurisdiction in this action to make a child custody determination pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act, Sections 551-101 through 551-402 of Title 43 of the Oklahoma Statutes in that Oklahoma is the home state of the minor child(ren). A Uniform Child Custody Jurisdiction and Enforcement Act Affidavit is attached to this petition.

9. That the minor child(ren) is/are not Indian children within the meaning of the Federal or State Indian Child Welfare Acts.

10. That (check one)

( ) I am unable to contact or locate either parent of the child(ren) or other person(s) having legal custody of the child(ren) at this time.

( ) I made a written request to the child(ren)'s parent(s) or other person(s) having legal custody of the child(ren) on the ____ day of _____, 20_____, to regain physical custody of the child(ren), and said custodian has failed to regain custody or such request has been refused.

11. That, at this time, I do/do not (choose one) intend to seek child support from the child(ren)'s parent(s) or legal guardian(s).

12. That granting Petitioner care and custody by abandonment is necessary to provide for the general welfare of the child(ren) and to allow Petitioner to authorize medical, dental, educational, child care and/or other services for the child(ren).

13. That I hereby accept care and custody of the child(ren). I will exercise continuing general supervision of the child(ren).

14. That I am qualified to be granted care and custody by abandonment. I further inform the Court that I am not a minor, incapacitated person or partially incapacitated person. Attached to this petition is a completed Oklahoma Sex Offenders Registration Act Affidavit. There are no conflicts of interest that would preclude or be substantially detrimental to my ability to act in the best interest(s) of the minor child(ren).

WHEREFORE, the Petitioner prays the Court to grant Petitioner care and custody by abandonment and issue Letters of Custody by Abandonment upon the taking of the oath.

_____
Signature of Attorney or Pro Se Petitioner

Printed Name

Address

Verification

State of Oklahoma)

) SS.

County of _____)

I, _____, of lawful age, being first duly sworn upon oath depose and state that I am the Petitioner named above; that I have read the foregoing Petition and understand its contents; that I hereby state that the facts set forth in the foregoing Petition are true and correct to the best of my knowledge and belief.

_____
Signature of Petitioner

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____
Notary Public

My Commission Number is:_____

My Commission Expires:_____

E. Affidavits attesting to the compliance of the guardian with the Uniform Child Custody Jurisdiction and Enforcement Act and the Oklahoma Sex Offenders Registration Act shall be attached to the petition and shall be substantially in the following forms:

Uniform Child Custody
Jurisdiction And Enforcement Act
Affidavit

STATE OF OKLAHOMA)

) SS

COUNTY OF _____)

I, _____, of lawful age, am the Petitioner in the above-styled and numbered guardianship proceeding, being first duly sworn upon oath, depose and state:

1. The minor(s), _____, _____, presently live at _____ (city), _____ (state), _____ (zip).

2. The minor(s) has/have lived at the following address during the last five (5) years:

Name	Address	City	State	Zip	Date

3. I have/have not participated as a party, witness or otherwise been involved in a legal proceeding concerning the custody of, or visitation with, said minor(s).

If you have, list the Court, the case number(s) and the date(s) of participation:

Court	Case Number	Dates

4. I have knowledge of the following proceeding pertaining to a divorce of the minor's(s') parents, custody proceeding(s) concerning this/these minor(s) proceedings concerning domestic violence or

abuse, protective orders, termination of parental rights, adoptions or Department of Human Services or other proceedings.

Court	Case Number	Dates

5. I have knowledge that the following named persons claim a right to custody or a right to visitation with said minor.

Name	Address	City	State	Zip	Date

6. I acknowledge that I have a continuing duty under the law to inform the Court, in writing, of any additional information acquired by me after executing this "Affidavit".

Signature: _____

Print Name: _____
Petitioner

Subscribed and sworn to before me this _____ day of _____, _____.

_____
Court Clerk / Notary Public

My Commission Number: _____

My Commission Expires: _____

Oklahoma Sex Offenders Registration Act
Affidavit

I am not a person subject to registration under the Oklahoma Sex Offenders Registration Act. I am not married to or living with such a person, or a person who has been convicted of, or has charges pending for, a felony or any relevant misdemeanor, nor has anyone living with me or frequently present in my home previously been convicted of, or has charges pending for, a relevant felony or misdemeanor.

That as guardian of the above minor child(ren) under no circumstances shall I permit the child to be left in the custody of a person who is known to me to be subject to registration under the Oklahoma Sex Offenders Registration Act. Nor shall I permit the children to be left in the custody of a person married or living with such a person, or with any individual who has been convicted of any crime involving domestic abuse. Nor shall these children be placed in the custody of a person who has previously been convicted of, or has charges pending for, a relevant felony or misdemeanor.

_____
Petitioner

Subscribed and sworn to before me on this _____ day of _____.

_____
Court Clerk or Notary Public

My Commission Number: _____

My Commission Expires: _____

F. The provisions for satisfying notice requirements and receiving reports and investigations shall be identical to those provided for under subsection C of Section 2-101 of Title 30 of the Oklahoma Statutes.

G. The annual accounting requirements for custody by abandonment shall be identical to the accounting requirements provided in Section 4-303 of Title 30 of the Oklahoma Statutes.

H. The filing fees in matters pertaining to custody by abandonment shall not exceed the fees for matters pertaining to

relative guardianship under Section 4-404 of Title 30 of the Oklahoma Statutes.

I. If after consideration, the court finds that granting custody by abandonment to a qualified relative is in the best interest of the child, the court shall issue an order granting said relative custody by abandonment. A qualified relative who is granted custody by abandonment shall be issued Letters of Custody by Abandonment. Letters of Custody by Abandonment shall specify that the guardian shall have the authority to consent to medical services and shall be indemnified from personal liability for medical services provided to the child or children. Custody by abandonment shall take effect upon taking of an oath by the qualified relative.

J. 1. A minor who is in the permanent care of the qualified relative granted care and custody by abandonment and who is either:

a. twenty-four (24) months of age or less and who has been abandoned for at least six (6) months in the physical care of the qualified relative, or

b. over twenty-four (24) months of age and who has been abandoned for a period of twelve (12) months out of the last fourteen (14) months in the physical care of the qualified relative,

may not be reclaimed or recovered to the parent or parents or other person or persons having legal custody of the minor who abandoned the minor except through order of a court of competent jurisdiction or by voluntary release of the minor by the qualified relative.

2. Upon any action to determine the custody of the minor pursuant to the provisions of this subsection, the court shall base its findings and determination of custody on the best interests of the minor and:

a. the duration of the abandonment and integration of the minor into the home of the relative,

b. the preference of the minor if the minor is determined to be of sufficient maturity to express a preference,

c. the mental and physical health of the minor, and

d. such other factors as are deemed necessary in the particular circumstances.

3. During the pendency of any action to determine the custody of a minor pursuant to this subsection, unless it is determined not to be in the best interests of the minor, the minor shall remain in the custody of the qualified relative who has accepted custody by abandonment.

4. If the court orders the minor be returned to the minor's parent or parents or other legal guardian, the court may provide for a transitional period for the return in the best interest of the minor.

K. The provisions of this section shall not apply to the acceptance of care and custody by one parent of the minor from the other parent of the minor.

L. 1. Custody by abandonment for a minor ceases upon:

a. the minor attaining majority, or attaining the age of nineteen (19) years if the minor is a full-time student in high school,

b. the solemnized marriage of the minor,

c. the voluntary relinquishment by the qualified relative granted custody by abandonment, or

d. by order of the court.

2. If the minor stops residing with the relative, or if custody by abandonment has been terminated for any reason, the relative shall notify the court issuing the Letters of Custody by Abandonment and any school, health care provider, health care service plan, or other provider that has been given a copy of the Letters of Custody by Abandonment.

M. Actions establishing abandonment pursuant to this section shall not be required to be reported to the Department of Human Services under subsection B of Section 1-2-101 of Title 10A of the Oklahoma Statutes.

SECTION 8. AMENDATORY 30 O.S. 2001, Section 4-404, is amended to read as follows:

Section 4-404. A. No costs shall be required by the court clerk in any guardianship proceeding where the proceeding is for the purpose of appointing a guardian to approve or authorize the ward to enter the armed forces of the United States.

B. If the court waives the report, the court may waive the fee for the filing of the annual guardianship report required by Section 152 of Title 28 of the Oklahoma Statutes, for a guardian or limited guardian of the person of an incapacitated or partially incapacitated person or for a guardian of the person of a minor.

C. The clerk of the district court in which an application for a relative guardianship, defined as an application for the care and custody of a child to be transferred to an adult relative of the child within the third degree of consanguinity, is filed shall collect as court costs a fee of Fifty Dollars ($50.00). The court may waive the fee if, in the opinion of the court, it creates a financial hardship for the individual applying for a relative guardianship.

D. The performance of such conditions shall be a part of the duties of the guardian, for the faithful performance of which the guardian and the sureties on the guardian's bond are responsible.

SECTION 9. AMENDATORY 10 O.S. 2001, Section 7202.3, as renumbered by Section 208, Chapter 233, O.S.L. 2009 (43 O.S. Supp. 2009, Section 109.5), is amended to read as follows:

Section 109.5 When an order has been entered which provides for payment of child support and the legal custodian places physical custody of the child with any person, subject to the provisions ~~of Section 45~~ of the Oklahoma Children's Code or this ~~act~~ title, without obtaining a modification of the order to change legal custody, the placement of the physical custody, by operation of law, shall create a presumption that such person with whom the child was placed has legal physical custody of the child for the purposes of the payment of child support and the obligee shall remit such child support obligation to the person with whom the placement was made.

SECTION 10. AMENDATORY 43 O.S. 2001, Section 112, as last amended by Section 137, Chapter 234, O.S.L. 2009 (43 O.S. Supp. 2009, Section 112), is amended to read as follows:

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

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

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

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

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

B. In any action in which there are minor unmarried children in awarding or modifying the custody of the child or in appointing a general guardian for the child, the court shall be guided by the provisions of Section ~~112.4~~ 112.5 of this title and shall consider what appears to be in the best interests of the child.

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

a. assure children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and

b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

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

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

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

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

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

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

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

b. in the case of a parent who is a member of the National Guard, the term "military service" means service under a call to active service authorized by the President of the United States or the Secretary of Defense for a period of more than thirty (30)

consecutive days under 32 U.S.C. 502(f) for purposes of responding to a national emergency declared by the President and supported by federal funds. "Military service" shall include any period during which a member is absent from duty on account of sickness, wounds, leave or other lawful cause.

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

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

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

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

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

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

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

SECTION 11. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. There is hereby re-created, to continue until June 1, 2011, the "Adoption Review Task Force".

B. The membership of the Task Force shall consist of the same members appointed to the Adoption Review Task Force pursuant to Section 1, Chapter 44, O.S.L. 2008, and serving on the Task Force at the time it terminated. Any vacancy on the Task Force shall be filled by the original appointing authority and shall be subject to the same qualification requirements as the member whose vacancy is being filled.

C. A majority of the members of the Task Force shall constitute a quorum and a majority of the members present at a meeting may act for the Task Force. The Task Force shall meet as often as necessary.

D. Nonlegislative members of the Task Force shall be reimbursed by their respective agencies for necessary travel expenses incurred in the performance of duties pursuant to the provisions of the State Travel Reimbursement Act. Legislative members of the Task Force shall be reimbursed for necessary travel expenses incurred in the performance of duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes.

E. Administrative support for the Task Force including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Task Force shall be provided by the Department of Human Services to be supplemented, if necessary, by the state agencies involved in the Task Force, and the staff of the Oklahoma House of Representatives and the Senate. All participating state agencies shall provide for any administrative support requested by the Task Force.

F. The Task Force shall study and make recommendations concerning the laws and practices relating to adoption. The Task Force shall review and make recommendations regarding:

1. Allowable expenses paid by adoptive parents for the benefit of the birth parents;

2. Documentation evidencing a detailed accounting and full disclosure of all monies expended for adoptions including, but not limited to:

a. birth mother expenses,

b. agency fees,

c. social services fees, and

d. attorney fees;

3. Procedures concerning the approval of expenses including, but not limited to:

a. a mandatory hearing for uncommon expenses paid, and

b. a time limit for the approval of expenses;

4. The potential role of public defenders in adoption proceedings;

5. Procedures to ensure accuracy in the assessment of whether a child has Native American blood;

6. Information that should be required to be given to all parties involved in the adoption;

7. The standardization of the reporting of the number of adoptions finalized in Oklahoma;

8. Jurisdictional issues with respect to adoptions;

9. The use of technology to aid in the facilitation of adoptions;

10. The appointment of an advocate for the birth mother;

11. Confidentiality considerations; and

12. Industry advertising practices.

G. The Task Force shall publish a final report of findings and recommendations by January 1, 2011, including recommendations for any resulting legislation.

SECTION 12. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 17th day of May, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 26th day of May, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 27th

day of May, 20 10,

at 2:30 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 7th **day of** June, 20 10, **at** 7:54 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 8th **day of** June, 20 10,

at 4:38 **o'clock** P. **M.**

By: