

An Act

ENROLLED HOUSE
BILL NO. 1607

By: Stiles of the House

and

Anderson of the Senate

An Act relating to child custody proceedings; amending 43 O.S. 2001, Section 113, as amended by Section 1, Chapter 373, O.S.L. 2002 (43 O.S. Supp. 2010, Section 113), which relates to child preference in certain custody determinations; providing for consideration of child preference for visitation; modifying court considerations and procedure in determining custody and visitation; providing for a record; and providing an effective date _____

SUBJECT: Child custody proceedings

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

SECTION 1. AMENDATORY 43 O.S. 2001, Section 113, as amended by Section 1, Chapter 373, O.S.L. 2002 (43 O.S. Supp. 2010, Section 113), is amended to read as follows:

Section 113. A. In any action or proceeding in which a court must determine custody or ~~limits of to or period~~ periods of visitation, the child may express a preference as to which of ~~its~~ the parents the child wishes to have custody or limits to or periods of visitation.

B. ~~1-~~ The court shall first determine whether the best interest of the child will be served by allowing the child's ~~expression of child to express~~ a preference as to which parent should have custody or ~~limits of to or period~~ periods of visitation ~~rights of with~~ either parent. If the court so finds, then the child may express such preference or give other testimony.

~~2. C. There shall be a rebuttable presumption that a child who is twelve (12) years of age or older is of a sufficient age to form an intelligent preference.~~

~~D. If the child is of a sufficient age to form an intelligent preference, the court shall consider the expression of preference or other testimony of the child in determining custody or limits of to or period periods of visitation. Interviewing the child does not diminish the discretion of the court in determining the best interest of the child. The court shall not be bound by the child's choice and may take other facts or wishes and shall take all factors into consideration in awarding custody or limits of or period of visitation. However, if the child is of a sufficient age to form an intelligent preference and the court does not follow the expression of preference of the child as to custody, or limits of visitation, the court shall make specific findings of fact supporting such action if requested by either party.~~

~~3. There shall be a rebuttable presumption that a child who is twelve (12) years of age or older is of a sufficient age to form an intelligent preference.~~

~~E. If the child expresses is allowed to express a preference or gives give testimony, such preference or testimony may be taken by the court may conduct a private interview with the child in chambers without the parents, attorneys or other parties present. If attorneys are not allowed to be present, the court shall state, for the record, the reasons for their exclusion. At the request of either party, a record shall be made of any such proceeding in chambers. However, if the court has appointed a guardian ad litem for the child, the guardian ad litem shall be present with the child in chambers. The parents, attorneys or other parties may provide the court with questions or topics for the court to consider in its interview of the child; however, the court shall not be bound to ask any question presented or explore any topic requested by a parent, attorney or other party.~~

~~F. At the request of either party, a record shall be made of any child interview conducted in chambers. If the proceeding is transcribed, the parties shall be entitled to access to the transcript only if a parent or the parents appeal the custody or visitation determination.~~

SECTION 2. This act shall become effective November 1, 2011.

Passed the House of Representatives the 5th day of May, 2011.


Presiding Officer of the House
of Representatives

Passed the Senate the 26th day of April, 2011.

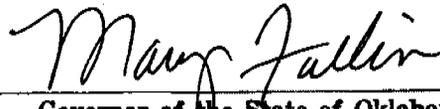

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 9th
day of May, 20 ,
at 3:08 o'clock P.M.

By: Jessica R. Payne

Approved by the Governor of the State of Oklahoma the 13th day of
May, 2011, at 10:38 o'clock A.M.


Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this
13th day of May, 2011,
at 1:45 o'clock M.

By: Michelle R. Day