An Act

ENROLLED HOUSE
BILL NO. 2484

By: Ownbey of the House

and

Griffin of the Senate

An Act relating to children; amending 10A O.S. 2011, Section 1-4-710, which relates to permanent guardianships; modifying assessment to study; divesting Department of Human Services of legal custody and supervision of a child when the court appoints a permanent guardian; specifying effect of permanent guardianship on custody or child support orders; providing for docketing and filing of new order for administrative or district court actions; directing juvenile court clerk to transmit documents and information to district court clerk; describing filing process of district court clerk; proscribing confidentiality of order; authorizing enforcement and modification after filing; and providing an effective date.

SUBJECT: Permanent guardianships of children

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-710, is amended to read as follows:

Section 1-4-710. A. The district attorney or child's attorney shall file a motion for permanent guardianship with the juvenile court in the deprived case. The motion shall be verified by the prospective guardian and shall include the following:

1. The name, gender, and date of birth of the child;

2. The facts and circumstances supporting the grounds for permanent guardianship;

3. The name and address of the prospective guardian and a statement that the prospective guardian agrees to accept the duties and responsibilities of guardianship;

4. The relationship of the child to the prospective guardian;

5. That the prospective guardian understands that the guardianship is intended to be permanent in nature and that the person will be responsible as the guardian until the child reaches the age of majority;

6. Whether the child has resided with the prospective guardian prior to the motion being filed, and, if so, the length of time and the circumstances surrounding the child's stay; and

7. Whether there exists a loving, emotional tie between the child and the prospective guardian.

B. Notice of the hearing as well as a copy of the motion shall be served upon the parties, the Department of Human Services, and the guardian ad litem of the child, if any. Notice shall also be sent to the tribe of an Indian child as defined by the federal Indian Child Welfare Act. Service shall not be required on the parent whose rights have been previously terminated.

C. 1. When the child is in the custody of the Department, the Department shall cause ~~an assessment~~ a home study of the proposed guardian's home to be completed and provide a report to the court regarding the suitability of the proposed guardian and whether guardianship is in the best interest of the child. The Department shall promulgate rules in furtherance of the duties imposed by this subsection. However, the prospective guardian shall be responsible to obtain the home ~~assessment~~ study if the child is not in the custody of the Department.

2. The findings of the home ~~assessment~~ study shall be set forth in a written report provided to the court, the district attorney, the child, and the guardian ad litem, if any, before the hearing. The court may require additional information as necessary to make an appropriate decision regarding the permanent guardianship.

D. 1. Before issuing an order of permanent guardianship, the court shall find by clear and convincing evidence all of the following:

a. the factual basis for establishing parental unfitness or unavailability to provide adequate care for the child,

b. termination of the rights of the parent is either not legally possible or not in the best interests of the child, or adoption is not the permanency plan for the child,

c. the child has resided with the permanent guardian for at least six (6) months, or the permanent guardian is a relative with whom the child has a relationship,

d. a permanent guardianship is in the best interests of the child, and

e. the proposed permanent guardian:

(1) is emotionally, mentally, physically, and financially suitable to become the permanent guardian,

(2) has expressly committed to remain the permanent guardian for the duration of the child's minority, and

(3) has expressly demonstrated a clear understanding of the financial implications of becoming a permanent guardian.

2. A decree of permanent guardianship divests the parents of legal custody or guardianship of the child, but is not a termination of parental rights.

E. Upon finding that grounds exist for a permanent guardianship, the court may also order visitation with the parent, siblings, or other relatives of the child if such contact would be in the child's best interests as well as any other provision necessary to provide for the child's continuing safety and well-being. The court shall order the parents to contribute to the support of the child pursuant to child-support guidelines as

provided for in Sections 118 and 119 of Title 43 of the Oklahoma Statutes.

F. 1. An order appointing a permanent guardian shall:

a. require that the placement be reviewed within one (1) year after transfer, and may require the permanent guardian to submit any records or reports the court deems necessary for purposes of such review,

b. ~~not require~~ divest the Department of legal custody and supervision of the child and the Department ~~to supervise the placement during such period of time~~ shall have no further responsibility for the custody or supervision of the child,

c. not require periodic reviews by the court thereafter if the parties agree with the assent of the court that the reviews are not necessary to serve the best interests of the child, unless periodic reviews are otherwise required by the court.

2. Unless periodic reviews are required, the court may close the case, provided the order of permanent guardianship shall remain in full force and effect subject to the provisions of this Code and:

a. shall remain in full force and effect and shall control over any custody or child support order entered in an administrative or district court action initiated prior to or during the pendency of the deprived action until it is modified by a subsequent order of the district court, and

b. may be docketed and filed in the prior existing or pending administrative or district court action; provided, however, if there is no administrative or district court action then in existence, the surviving order may be used as the sole basis for opening a new administrative or district court action in the same county where the deprived action was pending or in the county where the permanent guardian of the child resides. When applicable, the clerk of the juvenile court shall transmit the surviving order to the clerk of the district court of the county where the order is to be filed along with the names and last-known

addresses of the parents of the child. The clerk of the district court shall immediately upon receipt open a file without a filing fee, assign a new case number and, when applicable, file the order and send by first-class mail a copy of the order with the new or prior existing case number back to the juvenile court and to the parents of the child at their last-known address. The order shall not be confidential and may be enforced or modified after being docketed and filed in the prior existing or new administrative or district court action.

SECTION 2. This act shall become effective November 1, 2016.

Passed the House of Representatives the 18th day of February, 2016.

Presiding Officer of the House of Representatives

Passed the Senate the 7th day of April, 2016.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 11th day of April, 2016, at 3:05 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 14th day of April, 2016, at 3:26 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 14th day of April, 2016, at 3:44 o'clock P. M.

By: C. Benge