

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 1457

6 By: Roberts (Dustin)

7 COMMITTEE SUBSTITUTE

8 An Act relating to child custody; amending 43 O.S.
9 2011, Section 113, which relates to preference of
10 child; allowing home study and education review prior
11 to modifying order based on child preference; and
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 43 O.S. 2011, Section 113, is
15 amended to read as follows:

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

20 B. The court shall first determine whether the best interest of
21 the child will be served by allowing the child to express a
22 preference as to which parent should have custody or limits to or
23 periods of visitation with either parent. If the court so finds,
24 then the child may express such preference or give other testimony.

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

4 D. If the child is of a sufficient age to form an intelligent
5 preference, the court shall consider the expression of preference or
6 other testimony of the child in determining custody or limits to or
7 periods of visitation. Interviewing the child does not diminish the
8 discretion of the court in determining the best interest of the
9 child. The court shall not be bound by the child's choice or wishes
10 and shall take all factors into consideration in awarding custody or
11 limits of or period of visitation.

12 E. If the child is allowed to express a preference or give
13 testimony, the court may conduct a private interview with the child
14 in chambers without the parents, attorneys or other parties present.
15 However, if the court has appointed a guardian ad litem for the
16 child, the guardian ad litem shall be present with the child in
17 chambers. The parents, attorneys or other parties may provide the
18 court with questions or topics for the court to consider in its
19 interview of the child; however, the court shall not be bound to ask
20 any question presented or explore any topic requested by a parent,
21 attorney or other party.

22 F. At the request of either party, a record shall be made of
23 any child interview conducted in chambers. If the proceeding is
24 transcribed, the parties shall be entitled to access to the

1 transcript only if a parent or the parents appeal the custody or
2 visitation determination.

3 G. If the child expresses a preference or gives testimony
4 pursuant to subsection D of this section that is contrary to the
5 current custody or visitation order, the court may order and review
6 a home study to be completed for each parent, at the expense of the
7 parties as allocated according to the discretion of the court, and
8 review the education records of the child prior to modifying a
9 custody or visitation order in accordance with this section.

10 SECTION 2. This act shall become effective November 1, 2015.

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