

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 2929

By: Branham

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5
6 AS INTRODUCED

7 An Act relating to divorce; amending 43 O.S. 2011,
8 Section 109.3, which relates to custody,
9 guardianship, and visitation; expanding evidence
10 considered by the court; prioritizing child safety;
11 applying evidentiary standards; requiring
12 professional expertise when domestic violence is
13 alleged; defining expertise requirements and the
14 scope of expert testimony; providing for
15 reimbursement for court-appointed experts; preventing
16 adverse action for good-faith allegations; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 43 O.S. 2011, Section 109.3, is
20 amended to read as follows:

21 Section 109.3 A. In every case involving the custody of,
22 guardianship of or visitation with a child, the court shall consider
23 evidence of domestic abuse, sexual abuse, stalking and/or harassing
24 behavior properly brought before it. The court shall resolve safety
risks and claims of family violence first, as a fundamental
consideration, before assessing other best interest factors. If the
occurrence of domestic abuse, sexual abuse, stalking or harassing

1 behavior is established by a preponderance of the evidence, there
2 shall be a rebuttable presumption that it is not in the best
3 interest of the child to have custody, guardianship, or unsupervised
4 visitation granted to the person against whom domestic abuse, sexual
5 abuse, stalking or harassing behavior has been established.

6 B. Evidence of domestic abuse, sexual abuse, stalking and/or
7 harassing behavior considered pursuant to subsections A and C of
8 this section shall be subject to evidentiary admissibility
9 standards.

10 C. In all child custody, guardianship, or visitation cases in
11 which domestic abuse, sexual abuse, stalking, harassing behavior, or
12 any combination of these factors is alleged, the court shall appoint
13 a domestic violence expert to assist the court in determining
14 whether the allegations are valid. The court may permit a party to
15 a custody, guardianship, or visitation case to present evidence from
16 a domestic violence expert. Any domestic violence expert who
17 presents evidence pursuant to this subsection shall possess the
18 qualifications listed in subsection D of this section.

19 D. A domestic violence professional who presents evidence
20 pursuant to subsection C of this section shall have demonstrated
21 substantial expertise about subjects necessary to understand child
22 safety issues, including but not limited to the following:

23 1. Behaviors that are associated with a high risk of injury or
24 death;

- 1 2. Domestic violence dynamics;
- 2 3. The effects of domestic violence on children;
- 3 4. Recognition of domestic violence; and
- 4 5. Research regarding batterer narratives.

5 A degree in psychology, psychiatry, or social work shall not
6 constitute proof that a professional has the substantial expertise
7 described in this subsection.

8 E. Any expert who presents evidence pursuant to subsection C of
9 this section shall utilize current, valid, scientific research and
10 shall avoid theories of domestic violence that have been rejected by
11 reputable professional organizations. Such theories include but are
12 not limited to the following:

- 13 1. The belief that sexual intercourse between children and
14 adults can be acceptable; and
- 15 2. The assumption that women or children frequently make false
16 allegations of abuse.

17 F. If financially capable, the parties shall reimburse the
18 Court Fund partially or in full for the services of the domestic
19 violence expert appointed by the court pursuant to subsection C of
20 this section. The court may require, apportion, or suspend such
21 reimbursement in accordance with the ability of the parties to pay.

22 G. In any custody, guardianship, or visitation case in which
23 domestic abuse, sexual abuse, stalking, harassing behavior, or any
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1 combination of these factors has been alleged in good faith, the
2 court shall not take adverse action against the alleging party.

3 SECTION 2. This act shall become effective November 1, 2020.

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5 57-2-9128 AB 11/26/19

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