

1 **SENATE FLOOR VERSION**

2 February 27, 2024

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1756

By: Seifried of the Senate

and

Lepak of the House

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8  
9 An Act relating to child custody; amending 43 O.S.  
10 2021, Sections 110.1a and 112.2, which relate to the  
11 Oklahoma Child Supervised Visitation Program and  
12 child custody determinations; requiring court to make  
13 written determination prior to approval of certain  
14 volunteer; requiring court review of certain  
15 information; establishing certain requirements for  
16 supervised visitation protocol; requiring court to  
17 consider certain factor in custody determinations;  
18 establishing rebuttable presumption against granting  
19 custody under certain circumstances; updating  
20 statutory language; updating statutory references;  
21 and providing an effective date.

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

23 SECTION 1. AMENDATORY 43 O.S. 2021, Section 110.1a, is  
24 amended to read as follows:

Section 110.1a. A. This section shall be known and may be  
cited as the "Oklahoma Child Supervised Visitation Program".

1 B. It is the policy of this state to ensure that the health,  
2 safety, and welfare of the child is paramount when supervised  
3 visitation is ordered by the court.

4 C. For purposes of the Oklahoma Child Supervised Visitation  
5 Program:

6 1. "Supervised visitation" means the court-ordered contact  
7 between a noncustodial parent and one or more children of such  
8 parent in the presence of a third-party person who is responsible  
9 for observing and overseeing the visitation in order to provide for  
10 the safety of the child and any other parties during the visitation.  
11 The court may require supervised visitation when deemed necessary by  
12 the court to protect the child or other parties;

13 2. An "alcohol-dependent person" has the same meaning as such  
14 term is defined in Section 3-403 of Title 43A of the Oklahoma  
15 Statutes;

16 3. A "drug-dependent person" has the same meaning as such term  
17 is defined in Section 3-403 of Title 43A of the Oklahoma Statutes;  
18 and

19 4. "Domestic abuse" has the same meaning as such term is  
20 defined in Section 60.1 of Title 22 of the Oklahoma Statutes.

21 D. 1. The associate district judge in each county within this  
22 state may select trained volunteers to provide supervised visitation  
23 pursuant to the Oklahoma Child Supervised Visitation Program.

1           2. The associate district judge of each county may appoint a  
2 judicial district supervised visitation team to:

3           a. identify public and private entities which will be  
4 willing to provide location sites for purposes of the  
5 Oklahoma Child Supervised Visitation Program,

6           b. identify individuals who will be willing to serve as  
7 third-party persons to observe and oversee court-  
8 ordered supervised visitations,

9           c. establish training requirements for volunteers,

10          d. identify programs which may be available for the  
11 training of the volunteers including, but not limited  
12 to, the Department of Human Services, Office of the  
13 Attorney General, child advocacy centers, domestic  
14 violence groups, and the Department of Mental Health  
15 and Substance Abuse Services,

16          e. develop written protocol for handling supervised  
17 visitations so as to provide safety of the child and  
18 other parties during the supervised visitation,

19          f. develop application forms for volunteers applying for  
20 the Oklahoma Child Supervised Visitation Program.

21 Information listed on the form shall include, but not  
22 be limited to:

23           (1) name, address and phone number of the volunteer,  
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- 1 (2) place of employment and phone number of the  
2 volunteer,  
3 (3) areas of expertise,  
4 (4) listing of professional training in areas  
5 including, but not limited to, child abuse,  
6 domestic abuse, alcohol or drug abuse, mental  
7 illness or conflict management,  
8 (5) consent form specifying release of information,  
9 and  
10 (6) professional references, and

11 g. identify which information of the parties and the  
12 child will be confidential and which may be available  
13 to others.

14 3. From recommendations of the team established pursuant to  
15 this subsection, the associate district judge in each county within  
16 this state may authorize one or more public or private agencies to  
17 provide location sites for the Oklahoma Child Supervised Visitation  
18 Program. A district judge may require either party requesting  
19 supervised visitation of a child to identify a trained third-party  
20 volunteer to observe and oversee the visitation. A district court  
21 shall not:

22 a. require any state agency location or state employee to  
23 observe and oversee any supervised visitation, or  
24

1           b.    appoint a third party to observe and oversee a  
2                    supervised visitation who has not received the  
3                    training as specified by the judicial district  
4                    supervised visitation team unless agreed to by the  
5                    parties.

6           4.    A participating public or private agency location site may  
7 charge a fee for each visit.

8           E.    Prior to approval of any third-party volunteer to observe  
9 and oversee visitation under this section, the court shall make a  
10 written determination of the fitness of the volunteer by reviewing  
11 information including but not limited to:

12           1.    A national criminal history record check conducted by the  
13 Oklahoma State Bureau of Investigation within one (1) year prior to  
14 the appointment of the volunteer;

15           2.    A sworn affidavit from the volunteer accepting the rules of  
16 supervision and whether the volunteer:

17           a.    is an alcohol- or drug-dependent person,

18           b.    is residing with a person who is required by law to  
19 register pursuant to the Sex Offenders Registration  
20 Act of this state or any other state,

21           c.    is residing with a person who has been convicted of  
22 domestic abuse within the past five (5) years, or

23           d.    has had custody, guardianship, or visitation rights  
24 terminated to any child; and

1       3. Any testimony by the potential volunteer or other witness  
2 testimony deemed necessary by the court to determine the fitness of  
3 the volunteer.

4       F. The protocol for supervised visitation established by each  
5 judicial district supervised visitation team shall require that:

6       1. The volunteer supervising the visitation shall be able to  
7 see and hear all interactions between the supervised parent and the  
8 child; and

9       2. If the court determines that the supervised parent has  
10 exhibited suicidal or violent behavior, all supervised visitation  
11 shall occur within a professional setting unless and until the  
12 supervised parent has submitted a non-self-reporting psychological  
13 evaluation to the court.

14       G. The protocol for supervised visitation established by each  
15 judicial district supervised visitation team may require that:

16       1. The location site require each participant who has court-  
17 ordered supervised visitation for a child and who is participating  
18 in the supervised visitation program to sign a time log upon arrival  
19 and departure. The agency location site must have an employee  
20 assigned to verify identification of each participant, initial each  
21 signature, and record the time of arrival and departure of each  
22 person; and

23       2. The agency location site also contain information on each  
24 client case including, but not limited to:

- 1 a. a copy of the court order requiring supervised  
2 visitation, and  
3 b. name of individuals authorized to pick up or deliver a  
4 child to the agency location site for supervised  
5 visitation.

6 ~~F.~~ H. Each judicial district supervised visitation team may  
7 include, but not be limited to:

- 8 1. Mental health professionals;  
9 2. Police officers or other law enforcement agents;  
10 3. Medical personnel;  
11 4. Child protective services workers;  
12 5. Child advocacy individuals; and  
13 6. The district attorney or designee.

14 ~~G.~~ I. An associate district judge of a county, the judicial  
15 district supervised visitation team created pursuant to this section  
16 and the ~~Office of the Court Administrator~~ Administrative Office of  
17 the Courts may develop an informational brochure outlining the  
18 provisions of the Oklahoma Child Supervised Visitation Program and  
19 procedures to be used by volunteers in that judicial district. The  
20 brochure may be distributed through the municipal and district  
21 court, social service agency centers, county health departments,  
22 hospitals, crisis or counseling centers, and community action  
23 agencies.

1        ~~H.~~ J. Except for acts of dishonesty, willful criminal acts, or  
2 gross negligence, no member of the judicial district supervised  
3 visitation team or volunteer shall be charged personally with any  
4 liability whatsoever by reason of any act or omission committed or  
5 suffered in the performance of the duties pursuant to the provisions  
6 of this section.

7        ~~I.~~ K. The provisions of this section shall not apply to cases  
8 subject to the Oklahoma Children's Code and the Oklahoma Juvenile  
9 Code.

10        SECTION 2.        AMENDATORY        43 O.S. 2021, Section 112.2, is  
11 amended to read as follows:

12        Section 112.2. A. In every case involving the custody of,  
13 guardianship of or visitation with a child, the court shall consider  
14 for determining the custody of, guardianship of or the visitation  
15 with a child whether any person seeking custody or who has custody  
16 of, guardianship of or visitation with a child:

17        1. Is or has been subject to the registration requirements of  
18 the ~~Oklahoma~~ Sex Offenders Registration Act or any similar act in  
19 any other state;

20        2. Has been convicted of a crime listed in the Oklahoma Child  
21 Abuse Reporting and Prevention Act or in Section 582 of Title 57 of  
22 the Oklahoma Statutes;

23        3. Is an alcohol-dependent person or a drug-dependent person as  
24 established by clear and convincing evidence and who can be expected

1 in the near future to inflict or attempt to inflict serious bodily  
2 harm to himself or herself or another person as a result of such  
3 dependency;

4 4. Has been convicted of domestic abuse within the past five  
5 (5) years;

6 5. Is residing with an individual who is or has been subject to  
7 the registration requirements of the ~~Oklahoma~~ Sex Offenders  
8 Registration Act or any similar act in any other state;

9 6. Is residing with a person who has been convicted of a crime  
10 listed in the Oklahoma Child Abuse Reporting and Prevention Act or  
11 in Section 582 of Title 57 of the Oklahoma Statutes; ~~or~~

12 7. Is residing with a person who has been convicted of domestic  
13 abuse within the past five (5) years; or

14 8. Has had custody, guardianship, or visitation rights  
15 terminated due to failure to complete or participate in any court-  
16 ordered substance abuse or mental health treatment.

17 B. There shall be a rebuttable presumption that it is not in  
18 the best interests of the child to have custody or guardianship  
19 granted to a person who:

20 1. Is subject to or has been subject to the registration  
21 requirements of the ~~Oklahoma~~ Sex Offenders Registration Act or any  
22 similar act in any other state;

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1           2. Has been convicted of a crime listed in the Oklahoma Child  
2 Abuse Reporting and Prevention Act or in Section 582 of Title 57 of  
3 the Oklahoma Statutes;

4           3. Is an alcohol-dependent person or a drug-dependent person as  
5 established by clear and convincing evidence and who can be expected  
6 in the near future to inflict or attempt to inflict serious bodily  
7 harm to himself or herself or another person as a result of such  
8 dependency;

9           4. Has been convicted of domestic abuse within the past five  
10 (5) years;

11           5. Is residing with a person who is or has been subject to the  
12 registration requirements of the ~~Oklahoma~~ Sex Offenders Registration  
13 Act or any similar act in any other state;

14           6. Is residing with a person who has been convicted of a crime  
15 listed in the Oklahoma Child Abuse Reporting and Prevention Act or  
16 in Section 582 of Title 57 of the Oklahoma Statutes; ~~or~~

17           7. Is residing with a person convicted of domestic abuse within  
18 the past five (5) years; or

19           8. Has had custody, guardianship, or visitation rights  
20 terminated due to failure to complete or participate in any court-  
21 ordered substance abuse or mental health treatment.

22           C. Custody of, guardianship of, or visitation with a child  
23 shall not be granted to any person if it is established that the  
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1 custody, guardianship or visitation will likely expose the child to  
2 a foreseeable risk of material harm.

3 D. Except as otherwise provided by the Oklahoma Child  
4 Supervised Visitation Program, court-ordered supervised visitation  
5 shall be governed by the Oklahoma Child Supervised Visitation  
6 Program.

7 E. For purposes of this section:

8 1. "Alcohol-dependent person" has the same meaning as such term  
9 is defined in Section 3-403 of Title 43A of the Oklahoma Statutes;

10 2. "Domestic abuse" has the same meaning as such term is  
11 defined in Section 60.1 of Title 22 of the Oklahoma Statutes;

12 3. "Drug-dependent person" has the same meaning as such term is  
13 defined in Section 3-403 of Title 43A of the Oklahoma Statutes; and

14 4. "Supervised visitation" means a program established pursuant  
15 to Section ~~5~~ 110.1a of this ~~act~~ title.

16 SECTION 3. This act shall become effective November 1, 2024.

17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
18 February 27, 2024 - DO PASS AS AMENDED BY CS

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