

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 977

By: Floyd of the Senate

and

Walke of the House

6  
7  
8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to guardian and ward; amending 30  
11 O.S. 2-101, as amended by Section 1, Chapter 196,  
12 O.S.L. 2018 (30 O.S. Supp. 2018, Section 2-101),  
13 which relates to guardianship of minor; creating  
14 exception to certain background check requirement;  
15 providing for a name-based background check; and  
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 30 O.S. 2011, Section 2-101, as  
19 amended by Section 1, Chapter 196, O.S.L. 2018 (30 O.S. Supp. 2018,  
20 Section 2-101), is amended to read as follows:

21 Section 2-101. A. The court of each county, when it appears  
22 necessary or convenient, may appoint guardians for the persons and  
23 estates, or either, or both of them, of minors.

24 B. Such appointment may be made on the verified petition of a  
relative or other person in behalf of such minor.

1 C. 1. Before making the appointment, the court may receive an  
2 investigation and report regarding the background and home of the  
3 prospective guardian. The investigation and report of the  
4 prospective guardian and placement restrictions and requirements  
5 shall be made pursuant to the requirements of the Oklahoma Adoption  
6 Code. In determining whether to require a home study pursuant to  
7 the provisions of this paragraph, the court shall balance the need  
8 for a home study to protect the best interests of the minor with the  
9 ability of the prospective guardian to pay for the home study.

10 2. a. Costs of the home study shall be assessed against any  
11 private child-placing agency having custody of the  
12 child, or the person having legal custody of the child  
13 or the prospective guardians of the child.

14 b. (1) For any child in the custody of the Department of  
15 Human Services or the Department of Juvenile  
16 Justice, the applicable Department shall conduct  
17 or provide for the home study for such child as  
18 required by the Oklahoma Children's Code or the  
19 Oklahoma Juvenile Code.

20 (2) The Department of Human Services or the  
21 Department of Juvenile Justice shall not be  
22 required by any court to conduct or provide for a  
23 home study and report to the court on  
24

1 guardianship placements for any child that is not  
2 in the custody of either Department.

3 3. An order appointing a guardian of the minor who has a parent  
4 living or other person legally responsible for the child shall  
5 comply with the provisions of Section 2-108 of this title.

6 4. ~~The~~ Except in the case of an emergency guardianship  
7 placement, the court shall receive a background check for a  
8 prospective guardian and all other household members eighteen (18)  
9 years of age and older, consisting of a review of a national  
10 fingerprint-based criminal background check or an Oklahoma State  
11 Bureau of Investigation name-based criminal history background  
12 check, a search of the Department of Corrections' files maintained  
13 pursuant to the Sex Offenders Registration Act, and a search of the  
14 child abuse and neglect information system maintained for review by  
15 authorized entities by the Department of Human Services. The  
16 Department may charge a fee not to exceed Thirty-five Dollars  
17 (\$35.00) for each search performed pursuant to this paragraph.

18 D. In addition, before making the appointment, the court must  
19 cause notice of the hearing on the petition for appointment of a  
20 guardian for a minor to be given in the form required by the court  
21 to the minor if the minor has attained the age of fourteen (14) as  
22 of the date the petition is filed. The court shall also cause  
23 notice to be sent to the following persons:  
24

1           1. The then-living parents of the minor and any other person  
2 having custody of the minor, if such parent or person is not one of  
3 the petitioners;

4           2. If the minor has no then-living parent, then to one of the  
5 then-living grandparents who is not one of the petitioners and who  
6 is not married to one of the petitioners; and

7           3. If there is no such then-living grandparent or if there is  
8 no such then-living grandparent whose address is known to the  
9 petitioner, then notice shall be given to an adult relative, if any,  
10 of the minor residing in the county in which the petition was filed.

11           E. Such notice shall be mailed to each person, entitled to  
12 notice pursuant to this section, at that person's address as last-  
13 known to the petitioner, at least ten (10) days prior to the date  
14 set by the court for hearing on the petition. Provided the court  
15 may direct a shorter notice period if the court deems such shorter  
16 notice period to be appropriate under the circumstances. If there  
17 is no person other than the minor who is entitled to notice, or if  
18 the address of any person, other than the minor, who is entitled to  
19 notice is not known to the petitioner, the petition shall so allege.  
20 The court may direct that notice, other than notice to the minor if  
21 the minor has attained the age of fourteen (14), be waived or be  
22 given to any person or persons other than the minor in such manner  
23 as the court determines and directs.

24

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

SECTION 2. This act shall become effective November 1, 2019.

57-1-8541 EK 03/27/19