

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 977

By: Floyd of the Senate

and

Walke of the House

8
9
10 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

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

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

22 (2) The Department of Human Services or the
23 Department of Juvenile Justice shall not be
24 required by any court to conduct or provide for a

1 home study and report to the court on
2 guardianship placements for any child that is not
3 in the custody of either Department.

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

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

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

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.

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

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3 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/27/2019 - DO
4 PASS, As Amended.

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