

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 977 By: Floyd of the Senate
3 and
4 Walke of the House
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8 An Act relating to guardian and ward; amending 30
9 O.S. 2-101, as amended by Section 1, Chapter 196,
10 O.S.L. 2018 (30 O.S. Supp. 2018, Section 2-101),
11 which relates to guardianship of minor; creating
12 exception to certain background check requirement;
13 and providing an effective date.

14 AMENDMENT NO. 1. Replace the title, enacting clause and entire bill
15 and insert

16 "An Act relating to guardian and ward; amending 30
17 O.S. 2011, Section 2-101, as amended by Section 1,
18 Chapter 196, O.S.L. 2018 (30 O.S. Supp. 2018,
19 Section 2-101), which relates to guardianship of
20 minor; creating exception to certain background
21 check requirement; providing for a name-based
22 background check; and providing an effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
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1 SECTION 1. AMENDATORY 30 O.S. 2011, Section 2-101, as
2 amended by Section 1, Chapter 196, O.S.L. 2018 (30 O.S. Supp. 2018,
3 Section 2-101), is amended to read as follows:

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

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

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

18 2. a. Costs of the home study shall be assessed against any
19 private child-placing agency having custody of the
20 child, or the person having legal custody of the child
21 or the prospective guardians of the child.

22 b. (1) For any child in the custody of the Department of
23 Human Services or the Department of Juvenile
24 Justice, the applicable Department shall conduct

1 or provide for the home study for such child as
2 required by the Oklahoma Children's Code or the
3 Oklahoma Juvenile Code.

4 (2) The Department of Human Services or the
5 Department of Juvenile Justice shall not be
6 required by any court to conduct or provide for a
7 home study and report to the court on
8 guardianship placements for any child that is not
9 in the custody of either Department.

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

13 4. ~~The~~ Except in the case of an emergency guardianship
14 placement, the court shall receive a background check for a
15 prospective guardian and all other household members eighteen (18)
16 years of age and older, consisting of a review of a national
17 fingerprint-based criminal background check or an Oklahoma State
18 Bureau of Investigation name-based criminal history background
19 check, a search of the Department of Corrections' files maintained
20 pursuant to the Sex Offenders Registration Act, and a search of the
21 child abuse and neglect information system maintained for review by
22 authorized entities by the Department of Human Services. The
23 Department may charge a fee not to exceed Thirty-five Dollars
24 (\$35.00) for each search performed pursuant to this paragraph.

1 D. In addition, before making the appointment, the court must
2 cause notice of the hearing on the petition for appointment of a
3 guardian for a minor to be given in the form required by the court
4 to the minor if the minor has attained the age of fourteen (14) as
5 of the date the petition is filed. The court shall also cause
6 notice to be sent to the following persons:

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

10 2. If the minor has no then-living parent, then to one of the
11 then-living grandparents who is not one of the petitioners and who
12 is not married to one of the petitioners; and

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

17 E. Such notice shall be mailed to each person, entitled to
18 notice pursuant to this section, at that person's address as last-
19 known to the petitioner, at least ten (10) days prior to the date
20 set by the court for hearing on the petition. Provided the court
21 may direct a shorter notice period if the court deems such shorter
22 notice period to be appropriate under the circumstances. If there
23 is no person other than the minor who is entitled to notice, or if
24 the address of any person, other than the minor, who is entitled to

1 notice is not known to the petitioner, the petition shall so allege.
2 The court may direct that notice, other than notice to the minor if
3 the minor has attained the age of fourteen (14), be waived or be
4 given to any person or persons other than the minor in such manner
5 as the court determines and directs.

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

7 Passed the House of Representatives the 16th day of April, 2019.

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Presiding Officer of the House of
Representatives

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Passed the Senate the ____ day of _____, 2019.

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Presiding Officer of the Senate

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2 BILL NO. 977

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10 which relates to guardianship of minor; creating
11 exception to certain background check requirement;
12 and providing an effective date.

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

14 SECTION 3. AMENDATORY 30 O.S. 2011, Section 2-101, as
15 amended by Section 1, Chapter 196, O.S.L. 2018 (30 O.S. Supp. 2018,
16 Section 2-101), is amended to read as follows:

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

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

22 C. 1. Before making the appointment, the court may receive an
23 investigation and report regarding the background and home of the
24 prospective guardian. The investigation and report of the
prospective guardian and placement restrictions and requirements

1 shall be made pursuant to the requirements of the Oklahoma Adoption
2 Code. In determining whether to require a home study pursuant to
3 the provisions of this paragraph, the court shall balance the need
4 for a home study to protect the best interests of the minor with the
5 ability of the prospective guardian to pay for the home study.

6 2. a. Costs of the home study shall be assessed against any
7 private child-placing agency having custody of the
8 child, or the person having legal custody of the child
9 or the prospective guardians of the child.

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

16 (2) The Department of Human Services or the
17 Department of Juvenile Justice shall not be
18 required by any court to conduct or provide for a
19 home study and report to the court on
20 guardianship placements for any child that is not
21 in the custody of either Department.

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

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

12 D. In addition, before making the appointment, the court must
13 cause notice of the hearing on the petition for appointment of a
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15 to the minor if the minor has attained the age of fourteen (14) as
16 of the date the petition is filed. The court shall also cause
17 notice to be sent to the following persons:

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

21 2. If the minor has no then-living parent, then to one of the
22 then-living grandparents who is not one of the petitioners and who
23 is not married to one of the petitioners; and
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1 3. If there is no such then-living grandparent or if there is
2 no such then-living grandparent whose address is known to the
3 petitioner, then notice shall be given to an adult relative, if any,
4 of the minor residing in the county in which the petition was filed.

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

18 SECTION 4. This act shall become effective November 1, 2019.

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