

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1923 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Daniel Sullivan

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 PROPOSED COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 1923

6 By: Lamb of the Senate

7 and

8 Sullivan of the House

9 PROPOSED COMMITTEE SUBSTITUTE

10 An Act relating to children; amending Section 2,
11 Chapter 198, O.S.L. 2004, as amended by Section 1,
12 Chapter 121, O.S.L. 2005, Section 40, Chapter 116,
13 O.S.L. 2006 and Section 46, Chapter 116, O.S.L. 2006
14 (10 O.S. Supp. 2007, Sections 7003-8.8, 7700-607 and
15 7700-621), which relate to paternity proceedings and
16 genetic testing; allowing certain proceedings under
17 specified circumstances; stating requirements for
18 certain order; modifying certain notice requirement;
19 amending 12 O.S. 2001, Section 95, as last amended by
20 Section 1, Chapter 159, O.S.L. 2005 (12 O.S. Supp.
21 2007, Section 95), which relates to limitation of
22 actions; modifies limitation for an action to
23 establish paternity; amending 43 O.S. 2001, Section
24 109.2, which relates to paternity determination;
modifying statutory reference; amending 43 O.S. 2001,
Section 111.1 and Section 8, Chapter 400, O.S.L. 2002
(43 O.S. Supp. 2007, Section 112.3), which relate to
custody of children and visitation guidelines;
providing for visitation with certain noncustodial
parents under certain circumstances; specifying
certain provisions in order; terminating visitation
upon certain occurrences; providing for certain
presumption; entitling domestic abuse or stalking
victims to have attorney fees and costs paid for
under certain circumstances; providing for
codification; repealing 10 O.S. 2001, Section 84,
which relates to liability of father for expenses of
mother; and providing an effective date.

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

2 SECTION 1. AMENDATORY Section 2, Chapter 198, O.S.L.
3 2004, as amended by Section 1, Chapter 121, O.S.L. 2005 (10 O.S.
4 Supp. 2007, Section 7003-8.8), is amended to read as follows:

5 Section 7003-8.8 A. 1. When paternity of an alleged or
6 adjudicated deprived child is at issue, the court, within six (6)
7 months after the filing of a deprived petition, shall either
8 establish paternity or defer the issue of paternity establishment to
9 the appropriate administrative or district court for any child for
10 whom paternity has not been legally established according to Section
11 ~~70~~ 7700-101 et seq. of this title.

12 2. When paternity is an issue, an alleged father and mother of
13 the child named in a deprived petition shall be given notice in the
14 petition and summons that paternity may be established in a deprived
15 action. The Oklahoma Department of Human Services Child Support
16 Enforcement Division shall proceed with paternity establishment for
17 any case deferred to the administrative or other district court
18 division under this subsection.

19 3. After the establishment of paternity, the court shall
20 address the issue of current child support pursuant to subsection B
21 of this section. In addition, the court may:

22 a. order the father to pay child support for past months
23 when no child support order was in effect according to
24 the provisions of Section 83 of this title, or

1 b. reserve or refer the issue of prior support to the
2 Oklahoma Department of Human Services Child Support
3 Enforcement Division.

4 4. The order establishing paternity shall be filed as a
5 separate document and shall not be confidential. The court clerk of
6 the district court where the child support order has been filed
7 shall provide, upon request, a copy of the order establishing
8 paternity to a representative of the Oklahoma Department of Human
9 Services Child Support Enforcement Division. A court order for the
10 release of the order establishing paternity or other information
11 contained in the court record pertaining to paternity and child
12 support shall not be required. The order may be captioned with a
13 different case style in order to establish and enforce a child
14 support order in an action other than the deprived proceeding.

15 B. 1. Each parent of any child named in a deprived petition
16 shall be given notice in the petition and summons that child support
17 may be ordered or modified in the deprived action.

18 2. Within six (6) months after the filing of a deprived
19 petition, the court shall either address the issue of child support
20 or defer the issue of establishment or enforcement of child support
21 to the appropriate administrative or district court. The Oklahoma
22 Department of Human Services Child Support Enforcement Division
23 shall proceed with the establishment or enforcement of child support
24

1 orders for any case deferred to the administrative or other district
2 court division under this subsection.

3 3. a. If there is an existing order for child support, the
4 existing order shall remain in effect unless the court
5 finds the existing order is not in the best interests
6 of the child or children involved.

7 b. The court shall use the child support guidelines as
8 provided for in Sections 118 and 119 of Title 43 of
9 the Oklahoma Statutes in determining the amount each
10 parent is to pay for care and maintenance of a child
11 and issue an order describing the finding of the
12 court.

13 c. The court may deviate from the child support
14 guidelines when it is determined necessary in order
15 for the parent to meet the obligations of a court-
16 imposed individual treatment and service plan or for
17 other reasons as the court deems appropriate. If the
18 court deviates from the amount of child support
19 indicated by the child support guidelines, the court
20 shall make specific findings of fact supporting such
21 action.

22 d. Each parent shall be individually ordered to pay his
23 or her percentage of the total monthly child support
24 obligation including parents who reside together.

1 e. The court shall order the parent to provide medical
2 insurance whenever the parent has insurance available
3 through employment or other group plan, regardless of
4 whether insurance is available at the time the order
5 is entered.

6 f. The child support order shall contain an immediate
7 income assignment provision pursuant to Section 115 of
8 Title 43 of the Oklahoma Statutes.

9 g. A child support computation form as provided for in
10 Section 120 of Title 43 of the Oklahoma Statutes shall
11 be signed by the judge and incorporated as a part of
12 the child support order.

13 h. (1) A standard child support order form shall be used
14 in the deprived action. The form shall be
15 prescribed by the Oklahoma Department of Human
16 Services Child Support Enforcement Division and
17 shall be published by the Administrative Office
18 of the Courts.

19 (2) The child support order shall be filed as a
20 separate document and shall not be confidential.

21 (3) The court clerk of the district court where the
22 child support order has been filed shall provide,
23 upon request, a copy of the support order to a
24 representative of the Oklahoma Department of

1 Human Services Child Support Enforcement

2 Division. A court order for the release of the

3 child support order or other information

4 contained in the court record pertaining to child

5 support shall not be required.

6 (4) The order may be captioned with a different case

7 style in order to enforce the child support order

8 in an action other than the deprived proceeding.

9 i. The child support order may be modified upon a

10 material change in circumstances.

11 j. The child support order may be enforced by any method

12 allowed by law.

13 k. After a deprived action is dismissed, the most recent

14 child support order entered in the deprived action

15 shall remain in full force and effect, unless the

16 judge presiding over the deprived action orders

17 otherwise. If there was no prior administrative or

18 district court case, the deprived action child support

19 order shall be docketed and filed in a new district

20 court family division action and enforced for current

21 child support and arrearages. If the judge presiding

22 over the deprived action modified a preexisting child

23 support order or if there was an existing

24 administrative or district court case, the child

1 support order entered in the deprived action shall be
2 filed in the existing case and enforced for current
3 child support and arrearages. The child support order
4 may be modified after being docketed in district
5 court.

6 C. All child support payments shall be paid through the
7 Oklahoma Centralized Support Registry as provided for in Section 413
8 of Title 43 of the Oklahoma Statutes.

9 D. When a child's placement is changed from one parent or
10 caretaker to another pursuant to the Oklahoma Children's Code, the
11 change in placement shall transfer child support payments to the new
12 caretaker unless the caretaker is receiving foster care payments or
13 Temporary Assistance to Needy Families payments for the care of the
14 child. Child support payments to the caretaker shall terminate when
15 the child no longer resides with the caretaker.

16 E. The Department of Human Services shall promulgate rules
17 necessary to implement the provisions of this section.

18 SECTION 2. AMENDATORY Section 40, Chapter 116, O.S.L.
19 2006 (10 O.S. Supp. 2007, Section 7700-607), is amended to read as
20 follows:

21 Section 7700-607. A. Except as otherwise provided in
22 subsection B of this section, a proceeding brought by a presumed
23 father, the mother, or another individual to adjudicate the
24

1 parentage of a child having a presumed father shall be commenced not
2 later than two (2) years after the birth of the child.

3 B. A proceeding seeking to disprove the father-child
4 relationship between a child and the child's presumed father may be
5 maintained at any time in accordance with Section 7700-608 of this
6 title if the court, prior to an order disproving the father-child
7 relationship, determines that:

8 1. The presumed father and the mother of the child neither
9 cohabited nor engaged in sexual intercourse with each other during
10 the probable time of conception; and

11 2. The presumed father never openly held out the child as his
12 own.

13 C. A proceeding seeking to disprove the father-child
14 relationship between a child and the child's presumed or
15 acknowledged father may be maintained at any time if the court
16 determines that the biological father, presumed or acknowledged
17 father, and the mother agree to adjudicate the biological father's
18 parentage in accordance with Sections 7700-608 and 7700-636 of this
19 title. If the presumed or acknowledged father or mother is
20 unavailable, the court may proceed if it is determined that diligent
21 efforts have been made to locate the unavailable party and it would
22 not be prejudicial to the best interest of the child to proceed
23 without that party. In a proceeding under this section, the court
24 shall enter an order either confirming the existing father-child

1 relationship or adjudicating the biological father as the parent of
2 the child. A final order under this section shall not leave the
3 child without an acknowledged or adjudicated father.

4 SECTION 3. AMENDATORY Section 46, Chapter 116, O.S.L.
5 2006 (10 O.S. Supp. 2007, Section 7700-621), is amended to read as
6 follows:

7 Section 7700-621. A. Except as otherwise provided in
8 subsection C of this section, a record of a genetic-testing expert
9 is admissible as evidence of the truth of the facts asserted in the
10 report unless a party objects to its admission within fourteen (14)
11 days after its ~~receipt by the objecting party~~ mailing and cites
12 specific grounds for exclusion. The admissibility of the report is
13 not affected by whether the testing was performed:

14 1. Voluntarily or pursuant to an order of the court or the
15 Department of Human Services; or

16 2. Before or after the commencement of the proceeding.

17 B. A party objecting to the results of genetic testing may call
18 one or more genetic-testing experts to testify in person or by
19 telephone, videoconference, deposition, or another method approved
20 by the court. Unless otherwise ordered by the court, the party
21 offering the testimony bears the expense for the expert testifying.

22 C. If a child has a presumed, acknowledged, or adjudicated
23 father, the results of genetic testing are inadmissible to
24

1 adjudicate parentage unless performed pursuant to an order of the
2 court under Sections ~~24~~ 7700-502 and ~~41~~ 7700-608 of this ~~act~~ title.

3 D. Copies of bills for genetic testing and for prenatal and
4 postnatal health care for the mother and child which are furnished
5 to the adverse party not less than ten (10) days before the date of
6 a hearing are admissible to establish:

- 7 1. The amount of the charges billed; and
- 8 2. That the charges were reasonable, necessary, and customary.

9 SECTION 4. AMENDATORY 12 O.S. 2001, Section 95, as last
10 amended by Section 1, Chapter 159, O.S.L. 2005 (12 O.S. Supp. 2007,
11 Section 95), is amended to read as follows:

12 Section 95. A. Civil actions other than for the recovery of
13 real property can only be brought within the following periods,
14 after the cause of action shall have accrued, and not afterwards:

15 1. Within five (5) years: An action upon any contract,
16 agreement, or promise in writing;

17 2. Within three (3) years: An action upon a contract express
18 or implied not in writing; an action upon a liability created by
19 statute other than a forfeiture or penalty; and an action on a
20 foreign judgment;

21 3. Within two (2) years: An action for trespass upon real
22 property; an action for taking, detaining, or injuring personal
23 property, including actions for the specific recovery of personal
24 property; an action for injury to the rights of another, not arising

1 on contract, and not hereinafter enumerated; an action for relief on
2 the ground of fraud - the cause of action in such case shall not be
3 deemed to have accrued until the discovery of the fraud;

4 4. Within one (1) year: An action for libel, slander, assault,
5 battery, malicious prosecution, or false imprisonment; an action
6 upon a statute for penalty or forfeiture, except where the statute
7 imposing it prescribes a different limitation;

8 5. An action upon the official bond or undertaking of an
9 executor, administrator, guardian, sheriff, or any other officer, or
10 upon the bond or undertaking given in attachment, injunction,
11 arrest, or in any case whatever required by the statute, can only be
12 brought within five (5) years after the cause of action shall have
13 accrued;

14 6. An action based on intentional conduct brought by any person
15 for recovery of damages for injury suffered as a result of childhood
16 sexual abuse incidents or exploitation as defined by Section 7102 of
17 Title 10 of the Oklahoma Statutes or incest can only be brought
18 within the latter of the following periods:

19 a. within two (2) years of the act alleged to have caused
20 the injury or condition, or

21 b. within two (2) years of the time the victim discovered
22 or reasonably should have discovered that the injury
23 or condition was caused by the act or that the act
24 caused the injury for which the claim is brought.

1 Provided, however, that the time limit for commencement of an
2 action pursuant to this paragraph is tolled for a child until the
3 child reaches the age of eighteen (18) years or until five (5) years
4 after the perpetrator is released from the custody of a state,
5 federal or local correctional facility or jail, whichever is later.
6 No action may be brought against the alleged perpetrator or the
7 estate of the alleged perpetrator after the death of such alleged
8 perpetrator, unless the perpetrator was convicted of a crime of
9 sexual abuse involving the claimant. An action pursuant to this
10 paragraph must be based upon objective verifiable evidence in order
11 for the victim to recover damages for injuries suffered by reason of
12 such sexual abuse, exploitation, or incest. The evidence should
13 include both proof that the victim had psychologically repressed the
14 memory of the facts upon which the claim was predicated and that
15 there was corroborating evidence that the sexual abuse,
16 exploitation, or incest actually occurred. The victim need not
17 establish which act in a series of continuing sexual abuse
18 incidents, exploitation incidents, or incest caused the injury
19 complained of, but may compute the date of discovery from the date
20 of discovery of the last act by the same perpetrator which is part
21 of a common scheme or plan of sexual abuse, exploitation, or incest.
22 Provided further, any action based on intentional conduct specified
23 in paragraph 7 of this section must be commenced within twenty (20)
24 years of the victim reaching the age of eighteen (18);

1 7. An action based on intentional conduct brought by any person
2 for recovery of damages for injury suffered as a result of criminal
3 actions, as defined by the Oklahoma Statutes, may be brought against
4 any person incarcerated or under the supervision of a state, federal
5 or local correctional facility on or after November 1, 2003:

6 a. at any time during the incarceration of the offender
7 for the offense on which the action is based, or

8 b. within five (5) years after the perpetrator is
9 released from the custody of a state, federal or local
10 correctional facility, if the defendant was serving
11 time for the offense on which the action is based;

12 8. An action to establish paternity and to enforce support
13 obligations can be brought any time before the child reaches the age
14 of eighteen (18);

15 9. An action to establish paternity can be brought by a child
16 ~~if commenced within one (1) year after the child reaches the age of~~
17 ~~eighteen (18)~~ in accordance with Section 7700-606 of Title 10 of the
18 Oklahoma Statutes;

19 10. Court-ordered child support is owed until it is paid in
20 full and it is not subject to a statute of limitations;

21 11. All actions filed by an inmate or by a person based upon
22 facts that occurred while the person was an inmate in the custody of
23 one of the following:

24 a. the State of Oklahoma,

1 b. a contractor of the State of Oklahoma, or

2 c. a political subdivision of the State of Oklahoma,

3 to include, but not be limited to, the revocation of earned credits
4 and claims for injury to the rights of another, shall be commenced
5 within one (1) year after the cause of action shall have accrued;
6 and

7 12. An action for relief, not hereinbefore provided for, can
8 only be brought within five (5) years after the cause of action
9 shall have accrued.

10 B. Collection of debts owed by inmates who have received damage
11 awards pursuant to Section 566.1 of Title 57 of the Oklahoma
12 Statutes shall be governed by the time limitations imposed by that
13 section.

14 SECTION 5. AMENDATORY 43 O.S. 2001, Section 109.2, is
15 amended to read as follows:

16 Section 109.2 Except as otherwise provided by ~~Section 3 of~~
17 ~~Title 10 of the Oklahoma Statutes~~ Section 7700-607 of Title 10 of
18 the Oklahoma Statutes, in any action concerning the custody of a
19 minor unmarried child or the determination of child support, the
20 court may determine if the parties to the action are the parents of
21 the children. If the parties to the action are the parents of the
22 children, the court may determine which party should have custody of
23 said children, may award child support to the parent to whom it

1 awards custody, and may make an appropriate order for payment of
2 costs and ~~attorney's~~ attorney fees.

3 SECTION 6. AMENDATORY 43 O.S. 2001, Section 111.1, is
4 amended to read as follows:

5 Section 111.1 A. 1. Any order providing for the visitation of
6 a noncustodial parent with any of the children of ~~such~~ the
7 noncustodial parent shall provide a specified minimum amount of
8 visitation between the noncustodial parent and the child unless the
9 court determines otherwise.

10 2. Except for good cause shown and when in the best interests
11 of the child, the order shall encourage additional visitations of
12 the noncustodial parent and the child and in addition encourage
13 liberal telephone communications between the noncustodial parent and
14 the child.

15 3. A court may award visitation by a noncustodial parent who
16 was determined to have committed domestic violence or engaged in
17 stalking behavior as defined in Section 109 of this title, only if
18 the court is able to ensure the safety of the child and the parent
19 who is the victim of that domestic violence.

20 4. In a visitation order, a court shall provide for the safety
21 of the minor child and victim of domestic violence, stalking, or
22 harassment as defined in Section 109 of this title, and subject to
23 the provisions of Section 109 of this title, may:
24

- 1 a. order the exchange of a child to be facilitated by a
2 third party where the parents do not have any contact
3 with each other,
- 4 b. order an exchange of a child to occur in a protected
5 setting,
- 6 c. order visitation supervised by another person or
7 agency,
- 8 d. order the abusive, stalking, or harassing parent to
9 pay a fee to help defray the costs of supervised
10 visitation or other costs of child exchanges including
11 compensating third parties,
- 12 e. order the abusive, stalking, or harassing parent to
13 attend and complete, to the satisfaction of the court,
14 a batterers intervention program certified by the
15 Office of the Attorney General,
- 16 f. prohibit unsupervised or overnight visitation until
17 the abusive, stalking, or harassing parent has
18 successfully completed a specialized program for
19 abusers and the parent has neither threatened nor
20 exhibited violence for a substantial period of time,
- 21 g. order the abusive, stalking, or harassing parent to
22 abstain from the possession or consumption of alcohol
23 or controlled substances during the visitation and for
24 twenty-four (24) hours preceding visitation,

- 1 h. order the abusive, stalking, or harassing parent to
2 complete a danger/lethality assessment by a qualified
3 mental health professional, and
4 i. impose any other condition that is deemed necessary to
5 provide for the safety of the child, the victim of
6 domestic violence, stalking, or harassing behavior, or
7 another household member.

8 5. Visitation shall be terminated if:

- 9 a. the abusive, stalking, or harassing parent repeatedly
10 violates the terms and conditions of visitation,
11 b. the child becomes severely distressed in response to
12 visitation, including the determination by a mental
13 health professional or certified domestic violence
14 specialist that visitation with the abusive, stalking,
15 or harassing parent is causing the child severe
16 distress which is not in the best interest of the
17 child, or
18 c. there are clear indications that the abusive,
19 stalking, or harassing parent has threatened to either
20 harm or flee with the child, or has threatened to harm
21 the custodial parent.

22 6. Whether or not visitation is allowed, the court shall order
23 the address of the child and the victim of domestic violence,
24

1 stalking, or harassing behavior to be kept confidential if
2 requested.

3 a. The court may order that the victim of domestic
4 violence, stalking, or harassing behavior participate
5 in the address confidentiality program available
6 pursuant to Section 60.14 of Title 22 of the Oklahoma
7 Statutes.

8 b. The abusive, stalking, or harassing parent may be
9 denied access to the medical and educational records
10 of the child if those records may be used to determine
11 the location of the child.

12 B. 1. Except for good cause shown, when a noncustodial parent
13 who is ordered to pay child support and who is awarded visitation
14 rights fails to pay child support, the custodial parent shall not
15 refuse to honor the ~~noncustodial parent's~~ visitation rights of the
16 noncustodial parent.

17 2. When a custodial parent refuses to honor ~~a noncustodial~~
18 ~~parent's~~ the visitation rights of the noncustodial parent, the
19 noncustodial parent shall not fail to pay any ordered child support
20 or alimony.

21 C. 1. Violation of an order providing for the payment of child
22 support or providing for the visitation of a noncustodial parent
23 with any of the children of such noncustodial parent may be
24 prosecuted as indirect civil contempt pursuant to Section 566 of

1 Title 21 of the Oklahoma Statutes or as otherwise deemed appropriate
2 by the court.

3 2. Unless good cause is shown for the noncompliance, the
4 prevailing party shall be entitled to recover court costs and
5 attorney fees expended in enforcing the order and any other
6 reasonable costs and expenses incurred in connection with the denied
7 child support or denied visitation as authorized by the court.

8 SECTION 7. AMENDATORY Section 8, Chapter 400, O.S.L.
9 2002 (43 O.S. Supp. 2007, Section 112.3), is amended to read as
10 follows:

11 Section 112.3 A. As used in this section:

12 1. "Change of residence address" means a change in the primary
13 residence of an adult;

14 2. "Child" means a child under the age of eighteen (18) who has
15 not been judicially emancipated;

16 3. "Person entitled to custody of or visitation with a child"
17 means a person so entitled by virtue of a court order or by an
18 express agreement that is subject to court enforcement;

19 4. "Principal residence of a child" means:

20 a. the location designated by a court to be the primary
21 residence of the child,

22 b. in the absence of a court order, the location at which
23 the parties have expressly agreed that the child will
24 primarily reside, or

1 c. in the absence of a court order or an express
2 agreement, the location, if any, at which the child,
3 preceding the time involved, lived with the child's
4 parents, a parent, or a person acting as parent for at
5 least six (6) consecutive months and, in the case of a
6 child less than six (6) months old, the location at
7 which the child lived from birth with any of the
8 persons mentioned. Periods of temporary absence of
9 any of the named persons are counted as part of the
10 six-month or other period; and

11 5. "Relocation" means a change in the principal residence of a
12 child over seventy-five (75) miles from the child's principal
13 residence for a period of sixty (60) days or more, but does not
14 include a temporary absence from the principal residence.

15 B. 1. Except as otherwise provided by this section, a person
16 who has the right to establish the principal residence of the child
17 shall notify every other person entitled to visitation with the
18 child of a proposed relocation of the child's principal residence as
19 required by this section.

20 2. Except as otherwise provided by this section, an adult
21 entitled to visitation with a child shall notify every other person
22 entitled to custody of or visitation with the child of an intended
23 change in the primary residence address of the adult as required by
24 this section.

1 C. 1. Except as provided by this section, notice of a proposed
2 relocation of the principal residence of a child or notice of an
3 intended change of the primary residence address of an adult must be
4 given:

5 a. by mail to the last-known address of the person to be
6 notified, and

7 b. no later than:

8 (1) the sixtieth day before the date of the intended
9 move or proposed relocation, or

10 (2) the tenth day after the date that the person
11 knows the information required to be furnished
12 pursuant to this subsection, if the person did
13 not know and could not reasonably have known the
14 information in sufficient time to comply with the
15 sixty-day notice, and it is not reasonably
16 possible to extend the time for relocation of the
17 child.

18 2. Except as provided by this section, the following
19 information, if available, must be included with the notice of
20 intended relocation of the child or change of primary residence of
21 an adult:

22 a. the intended new residence, including the specific
23 address, if known,

24 b. the mailing address, if not the same,

- c. the home telephone number, if known,
- d. the date of the intended move or proposed relocation,
- e. a brief statement of the specific reasons for the proposed relocation of a child, if applicable,
- f. a proposal for a revised schedule of visitation with the child, if any, and
- g. a warning to the nonrelocating parent that an objection to the relocation must be made within thirty (30) days or the relocation will be permitted.

3. A person required to give notice of a proposed relocation or change of residence address under this subsection has a continuing duty to provide a change in or addition to the information required by this subsection as that information becomes known.

D. After the effective date of this act, an order issued by a court directed to a person entitled to custody of or visitation with a child shall include the following or substantially similar terms:

"You, as a party in this action, are ordered to notify every other party to this action of a proposed relocation of the child, change of your primary residence address, and the following information:

1. The intended new residence, including the specific address, if known;
2. The mailing address, if not the same;
3. The home telephone number, if known;

1 4. The date of the intended move or proposed relocation;

2 5. A brief statement of the specific reasons for the proposed
3 relocation of a child, if applicable; and

4 6. A proposal for a revised schedule of visitation with the
5 child, if any.

6 You are further ordered to give notice of the proposed
7 relocation or change of residence address on or before the sixtieth
8 day before a proposed change. If you do not know and could not have
9 reasonably known of the change in sufficient time to provide a
10 sixty-day notice, you are ordered to give notice of the change on or
11 before the tenth day after the date that you know of the change.

12 Your obligation to furnish this information to every other party
13 continues as long as you, or any other person, by virtue of this
14 order, are entitled to custody of or visitation with a child covered
15 by this order.

16 Your failure to obey the order of this court to provide every
17 other party with notice of information regarding the proposed
18 relocation or change of residence address may result in further
19 litigation to enforce the order, including contempt of court.

20 In addition, your failure to notify of a relocation of the child
21 may be taken into account in a modification of custody of,
22 visitation with, possession of or access to the child. Reasonable
23 costs and attorney fees also may be assessed against you if you fail
24 to give the required notice.

1 If you, as the nonrelocating parent, do not file a proceeding
2 seeking a temporary or permanent order to prevent the relocation
3 within thirty (30) days after receipt of notice of the intent of the
4 other party to relocate the residence of the child, relocation is
5 authorized."

6 E. 1. On a finding by the court that the health, safety, or
7 liberty of a person or a child would be unreasonably put at risk by
8 the disclosure of the required identifying information in
9 conjunction with a proposed relocation of the child or change of
10 residence of an adult, the court may order that:

11 a. the specific residence address and telephone number of
12 the child or of the adult and other identifying
13 information shall not be disclosed in the pleadings,
14 other documents filed in the proceeding, or the final
15 order, except for an in camera disclosure,

16 b. the notice requirements provided by this article be
17 waived to the extent necessary to protect
18 confidentiality and the health, safety or liberty of a
19 person or child, and

20 c. any other remedial action that the court considers
21 necessary to facilitate the legitimate needs of the
22 parties and the best interest of the child.

23 2. If appropriate, the court may conduct an ex parte hearing
24 pursuant to this subsection.

1 3. The finding of domestic violence creates a presumption that
2 the custodial parent and child will be put at risk by the disclosure
3 of information required by this section and is sufficient to waive
4 all requirements of this section. It is the policy of this state
5 that a child should reside with a nonviolent parent and that parent
6 should be free to make a choice about a safe, secure place of
7 residence, even if it means relocation to another city or state
8 without disclosure to the violent parent.

9 F. 1. The court may consider a failure to provide notice of a
10 proposed relocation of a child as provided by this section as:

- 11 a. a factor in making its determination regarding the
12 relocation of a child,
- 13 b. a factor in determining whether custody or visitation
14 should be modified,
- 15 c. a basis for ordering the return of the child if the
16 relocation has taken place without notice, and
- 17 d. sufficient cause to order the person seeking to
18 relocate the child to pay reasonable expenses and
19 attorney fees incurred by the person objecting to the
20 relocation.

21 2. In addition to the sanctions provided by this subsection,
22 the court may make a finding of contempt if a party violates the
23 notice requirement required by this section and may impose the
24 sanctions authorized for contempt of a court order.

1 G. 1. The person entitled to custody of a child may relocate
2 the principal residence of a child after providing notice as
3 provided by this section unless a parent entitled to notice files a
4 proceeding seeking a temporary or permanent order to prevent the
5 relocation within thirty (30) days after receipt of the notice.

6 2. A parent entitled by court order or written agreement to
7 visitation with a child may file a proceeding objecting to a
8 proposed relocation of the principal residence of a child and seek a
9 temporary or permanent order to prevent the relocation.

10 3. If relocation of the child is proposed, a nonparent entitled
11 by court order or written agreement to visitation with a child may
12 file a proceeding to obtain a revised schedule of visitation, but
13 may not object to the proposed relocation or seek a temporary or
14 permanent order to prevent the relocation.

15 4. A proceeding filed pursuant to this subsection must be filed
16 within thirty (30) days of receipt of notice of a proposed
17 relocation.

18 H. 1. The court may grant a temporary order restraining the
19 relocation of a child, or ordering return of the child if a
20 relocation has previously taken place, if the court finds:

- 21 a. the required notice of a proposed relocation of a
22 child as provided by this section was not provided in
23 a timely manner and the parties have not presented an
24

1 agreed-upon revised schedule for visitation with the
2 child for the court's approval,

3 b. the child already has been relocated without notice,
4 agreement of the parties, or court approval, or

5 c. from an examination of the evidence presented at the
6 temporary hearing there is a likelihood that on final
7 hearing the court will not approve the relocation of
8 the primary residence of the child.

9 2. The court may grant a temporary order permitting the
10 relocation of the child pending final hearing if the court:

11 a. finds that the required notice of a proposed
12 relocation of a child as provided by this section was
13 provided in a timely manner and issues an order for a
14 revised schedule for temporary visitation with the
15 child, and

16 b. finds from an examination of the evidence presented at
17 the temporary hearing there is a likelihood that on
18 final hearing the court will approve the relocation of
19 the primary residence of the child.

20 I. A proposed relocation of a child may be a factor in
21 considering a change of custody.

22 J. 1. In reaching its decision regarding a proposed
23 relocation, the court shall consider the following factors:
24

- 1 a. the nature, quality, extent of involvement, and
2 duration of the child's relationship with the person
3 proposing to relocate and with the nonrelocating
4 person, siblings, and other significant persons in the
5 child's life,
- 6 b. the age, developmental stage, needs of the child, and
7 the likely impact the relocation will have on the
8 child's physical, educational, and emotional
9 development, taking into consideration any special
10 needs of the child,
- 11 c. the feasibility of preserving the relationship between
12 the nonrelocating person and the child through
13 suitable visitation arrangements, considering the
14 logistics and financial circumstances of the parties,
- 15 d. the child's preference, taking into consideration the
16 age and maturity of the child,
- 17 e. whether there is an established pattern of conduct of
18 the person seeking the relocation, either to promote
19 or thwart the relationship of the child and the
20 nonrelocating person,
- 21 f. whether the relocation of the child will enhance the
22 general quality of life for both the custodial party
23 seeking the relocation and the child, including but
24

1 not limited to financial or emotional benefit or
2 educational opportunity,

3 g. the reasons of each person for seeking or opposing the
4 relocation, and

5 h. any other factor affecting the best interest of the
6 child.

7 2. The court may not:

8 a. give undue weight to the temporary relocation as a
9 factor in reaching its final decision, if the court
10 has issued a temporary order authorizing a party
11 seeking to relocate a child to move before final
12 judgment is issued, or

13 b. consider whether the person seeking relocation of the
14 child has declared that he or she will not relocate if
15 relocation of the child is denied.

16 K. The relocating person has the burden of proof that the
17 proposed relocation is made in good faith. If that burden of proof
18 is met, the burden shifts to the nonrelocating person to show that
19 the proposed relocation is not in the best interest of the child.

20 L. 1. After notice and a reasonable opportunity to respond,
21 the court may impose a sanction on a person proposing a relocation
22 of the child or objecting to a proposed relocation of a child if it
23 determines that the proposal was made or the objection was filed:

- a. to harass a person or to cause unnecessary delay or needless increase in the cost of litigation,
- b. without being warranted by existing law or was based on frivolous argument, or
- c. based on allegations and other factual contentions which had no evidentiary support or, if specifically so identified, could not have been reasonably believed to be likely to have evidentiary support after further investigation.

2. A sanction imposed under this subsection shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. The sanction may include directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the other party of some or all of the reasonable attorney fees and other expenses incurred as a direct result of the violation.

M. If the issue of relocation is presented at the initial hearing to determine custody of and visitation with a child, the court shall apply the factors set forth in this section in making its initial determination.

N. 1. The provisions of this section apply to an order regarding custody of or visitation with a child issued:

- a. after the effective date of this act, and

1 b. before the effective date of this act, if the existing
2 custody order or enforceable agreement does not
3 expressly govern the relocation of the child or there
4 is a change in the primary residence address of an
5 adult affected by the order.

6 2. To the extent that a provision of this section conflicts
7 with an existing custody order or enforceable agreement, this
8 section does not apply to the terms of that order or agreement that
9 govern relocation of the child or a change in the primary residence
10 address of an adult.

11 SECTION 8. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 112.4 of Title 43, unless there
13 is created a duplication in numbering, reads as follows:

14 In a dissolution of marriage or separate maintenance proceeding,
15 a victim of domestic violence or stalking shall be entitled to
16 reasonable attorney fees and costs after the filing of a petition,
17 upon application and a showing by a preponderance of evidence that
18 the party is currently being stalked or has been stalked or is the
19 victim of domestic abuse. The court shall order that the attorney
20 fees and costs of the victimized party for the proceeding be
21 substantially paid for by the abusing party.

22 SECTION 9. REPEALER 10 O.S. 2001, Section 84, is hereby
23 repealed.

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SECTION 10. This act shall become effective November 1, 2008.

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