

SENATE FLOOR VERSION

February 27, 2024

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1701

By: Brooks

An Act relating to guardianship; creating the Oklahoma Standby Guardianship Act; providing short title; defining terms; authorizing written designation for certain purposes; specifying required contents of certain designation; providing for commencement of certain authority upon specified event; requiring filing of certain petition; requiring certain notice; requiring certain order upon specified findings; requiring hearing under certain circumstances; authorizing appointment of guardian ad litem; authorizing appointment of standby guardian or alternate; specifying information to be included in certain petition; allowing for revocation of guardianship; permitting certain refusal; providing for dismissal of guardianship under certain circumstances; providing for review of standby guardianship; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-101 of Title 30, unless there is created a duplication in numbering, reads as follows:

1 This act shall be known and may be cited as the "Oklahoma
2 Standby Guardianship Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7-102 of Title 30, unless there
5 is created a duplication in numbering, reads as follows:

6 As used in this act:

7 1. "Designation" means a writing which is voluntarily executed
8 in conformance with the requirements of Section 3 of this act and
9 signed by a parent and names a person to act as standby guardian;

10 2. "Parent" means a genetic or adoptive parent or parent
11 determined in accordance with the standards set forth in Section
12 7700-201 of Title 10 of the Oklahoma Statutes, and includes a
13 person, other than a parent, who has physical custody of a child and
14 who has either been awarded custody by a court or claims a right to
15 custody;

16 3. "Qualified parent" means a parent who has become unavailable
17 due to a military deployment, court proceeding, incapacity, or other
18 matter, as evidenced in writing, by a court of appropriate
19 jurisdiction or by a state or the federal government;

20 4. "Standby guardian" means a person who, in accordance with
21 this act, is designated in writing or approved by the court to
22 temporarily assume the duties of guardian of the person or guardian
23 of the property, or both, of a minor child on behalf of or in
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1 conjunction with a qualified parent upon the occurrence of a
2 triggering event; and

3 5. "Triggering event" means the event upon the occurrence of
4 which the standby guardian may be authorized to act.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 7-103 of Title 30, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A parent may execute a written designation of a standby
9 guardian at any time. The written designation shall state:

10 1. The name, address and birthdate of the child affected; and

11 2. The name and address of the person designated as standby
12 guardian or alternate.

13 The written designation shall be signed by the parent. The
14 designated standby guardian or alternate may not sign on behalf of
15 the parent. The signed designation shall be delivered to the
16 standby guardian and any alternate named as soon as practicable.

17 B. Following such delivery of the designation, the authority of
18 a standby guardian to act for a qualified parent shall commence upon
19 the occurrence of the triggering event, receipt of documentation, if
20 any, supporting the occurrence of the triggering event and the
21 qualified parent's written consent to such commencement signed by
22 the parent.

1 C. A standby guardian under a designation shall have the
2 authority of a guardian of the person and a guardian of the property
3 of the child, unless otherwise specified in the designation.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 7-104 of Title 30, unless there
6 is created a duplication in numbering, reads as follows:

7 A. A designated standby guardian or alternate shall file a
8 petition for approval as standby guardian. The petition shall be
9 filed as soon as practicable after the occurrence of the triggering
10 event but in no event later than thirty (30) days after the
11 triggering event. The authority of the standby guardian shall cease
12 upon his or her failure to so file but shall recommence upon such
13 filing. The petition shall be accompanied by a copy of the
14 designation and any documentation supporting the occurrence of the
15 triggering event.

16 B. Upon the filing of a petition, notice of the filing shall
17 promptly be given to each parent of the child whose identity and
18 whereabouts are known to the petitioner. The court shall direct the
19 issuance of summonses to the child, if the child is twelve (12)
20 years of age or older and the proposed standby guardian and
21 alternate, if any, and such other persons as appear to the court to
22 be necessary parties to the proceedings including the child's
23 parents, stepparents, grandparents, adult siblings, guardian, legal
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1 custodian or other person standing in loco parentis, if the identity
2 and whereabouts of such persons are known.

3 C. The court shall enter an order approving the standby
4 guardian upon finding that:

5 1. The person was duly designated as standby guardian pursuant
6 to this act and the designation has not been revoked;

7 2. A triggering event occurred, and the parent consented to
8 commencement of the standby guardian's authority;

9 3. The best interests of the child will be served by approval
10 of the standby guardian; and

11 4. If the petition is by an alternate standby guardian, that
12 the designated standby guardian is unwilling or unable to serve.

13 D. An order approving the standby guardian shall not be entered
14 without a hearing if there is another known parent, stepparents,
15 adult siblings, or other adult related to the child by blood,
16 marriage, or adoption who requests a hearing within ten (10) days of
17 the date that notice of the filing was sent or if there is other
18 litigation pending regarding custody of the child.

19 E. Prior to any hearing on the petition, the court may appoint
20 a guardian ad litem to represent the child. The qualified parent
21 shall not be required to appear in court if the parent is detained
22 and unable to appear, or upon motion for any other good cause shown.

1 SECTION 5. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 7-105 of Title 30, unless there
3 is created a duplication in numbering, reads as follows:

4 A. If no designation for a standby guardian has been completed
5 by a qualified parent, upon petition of any person, the district
6 court of the jurisdiction in which a child resides may approve a
7 person as standby guardian for a child of a qualified parent upon
8 the occurrence of a triggering event. If requested in the petition,
9 the court may also approve an alternate standby guardian identified
10 by the petitioner, to act in the event that at any time after
11 approval pursuant to this section the standby guardian is unable or
12 unwilling to assume the responsibilities of the standby
13 guardianship.

14 B. The petition shall state:

15 1. The name and address of the petitioner and his relationship
16 to the child and the name and address of the child's qualified
17 parent, and the name and address of any other parent of the child
18 whose identity and whereabouts are known to the petitioner or can
19 reasonably be ascertained;

20 2. The name, address and birthdate of the child;

21 3. The triggering event;

22 4. The name and address of the person proposed as standby
23 guardian and any alternate and whether the petition requests that
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1 such person be given authority as a guardian of the person or
2 guardian of the property of the minor, or both;

3 5. A statement of any known reasons as to why the child's other
4 parent is not assuming or should not assume responsibility for the
5 child; and

6 6. Whether there is any prior judicial history regarding
7 custody of the child or any pending litigation regarding custody of
8 the child.

9 SECTION 6. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 7-106 of Title 30, unless there
11 is created a duplication in numbering, reads as follows:

12 A. The authority of a standby guardian approved by the court
13 may be revoked by the qualified parent by filing a notice of
14 revocation with the court. The notice of revocation shall identify
15 the standby guardian or alternate standby guardian to which the
16 revocation will apply. A copy of the revocation shall also be
17 delivered to the standby guardian whose authority is revoked and any
18 alternate standby guardian who may then be authorized to act.

19 B. At any time following his or her approval by the court, a
20 standby guardian may decline to serve by filing a written statement
21 of refusal with the court and having the statement personally served
22 on the qualified parent and any alternate standby guardian who may
23 then be authorized to act.

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1 C. When a written designation has been executed, but is not yet
2 effective because the triggering event has not yet occurred, the
3 parent may revoke or the prospective standby guardian may refuse the
4 designation by notifying the other party in writing. A written
5 designation may also be revoked by the execution of a subsequent
6 inconsistent designation.

7 D. When a standby guardian's authority becomes effective upon
8 the occurrence of a triggering event of the qualified parent, the
9 standby guardian's authority to act on behalf of the qualified
10 parent continues even though the qualified parent is no longer
11 unavailable, unless the qualified parent notifies the standby
12 guardian and the court, in writing, that the standby guardian's
13 authority is revoked due to the expiration of the triggering event.

14 E. If at any time the court finds that the parent no longer
15 meets the definition of "qualified parent," the court shall rescind
16 its approval of the standby guardian.

17 SECTION 7. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 7-107 of Title 30, unless there
19 is created a duplication in numbering, reads as follows:

20 A child's parent, stepparent, adult sibling or any adult related
21 to the child by blood, marriage or adoption may petition the court
22 which approved the standby guardian at any time following such
23 approval and prior to any termination of the standby guardianship
24 for review of whether continuation of the standby guardianship is in

1 the best interests of the child. Notice of the filing of a petition
2 shall promptly be given to the standby guardian, the child, if the
3 child is twelve (12) years of age or older, and each parent of the
4 child whose identity and whereabouts are known or could reasonably
5 be ascertained.

6 SECTION 8. This act shall become effective November 1, 2024.

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