

1 **SENATE FLOOR VERSION**

2 February 21, 2023

3 SENATE BILL NO. 560

By: Boren

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6 An Act relating to child custody; amending 43 O.S.  
7 2021, Section 109, which relates to awarding custody  
8 or appointing guardian; defining term; and providing  
9 an effective date.

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

11 SECTION 1. AMENDATORY 43 O.S. 2021, Section 109, is  
12 amended to read as follows:

13 Section 109. A. In awarding the custody of a minor unmarried  
14 child or in appointing a general guardian for said child, the court  
15 shall consider what appears to be in the best interests of the  
16 physical and mental and moral welfare of the child.

17 B. The court, pursuant to the provisions of subsection A of  
18 this section, may grant the care, custody, and control of a child to  
19 either parent or to the parents jointly.

20 For the purposes of this section, the terms joint custody and  
21 joint care, custody, and control mean the sharing by parents in all  
22 or some of the aspects of physical and legal care, custody, and  
23 control of their children.

1 C. If either or both parents have requested joint custody, said  
2 parents shall file with the court their plans for the exercise of  
3 joint care, custody, and control of their child. The parents of the  
4 child may submit a plan jointly, or either parent or both parents  
5 may submit separate plans. Any plan shall include but is not  
6 limited to provisions detailing the physical living arrangements for  
7 the child, child support obligations, medical and dental care for  
8 the child, school placement, and visitation rights. A plan shall be  
9 accompanied by an affidavit signed by each parent stating that said  
10 parent agrees to the plan and will abide by its terms. The plan and  
11 affidavit shall be filed with the petition for a divorce or legal  
12 separation or after said petition is filed.

13 D. The court shall issue a final plan for the exercise of joint  
14 care, custody, and control of the child or children, based upon the  
15 plan submitted by the parents, separate or jointly, with appropriate  
16 changes deemed by the court to be in the best interests of the  
17 child. The court also may reject a request for joint custody and  
18 proceed as if the request for joint custody had not been made.

19 E. The parents having joint custody of the child may modify the  
20 terms of the plan for joint care, custody, and control. The  
21 modification to the plan shall be filed with the court and included  
22 with the plan. If the court determines the modifications are in the  
23 best interests of the child, the court shall approve the  
24 modifications.

1 F. The court also may modify the terms of the plan for joint  
2 care, custody, and control upon the request of one parent. The  
3 court shall not modify the plan unless the modifications are in the  
4 best interests of the child.

5 G. 1. The court may terminate a joint custody decree upon the  
6 request of one or both of the parents or whenever the court  
7 determines said decree is not in the best interests of the child.

8 2. Upon termination of a joint custody decree, the court shall  
9 proceed and issue a modified decree for the care, custody, and  
10 control of the child as if no such joint custody decree had been  
11 made.

12 H. In the event of a dispute between the parents having joint  
13 custody of a child as to the interpretation of a provision of said  
14 plan, the court may appoint an arbitrator to resolve said dispute.  
15 The arbitrator shall be a disinterested person knowledgeable in  
16 domestic relations law and family counseling. The determination of  
17 the arbitrator shall be final and binding on the parties to the  
18 proceedings until further order of the court.

19 If a parent refuses to consent to arbitration, the court may  
20 terminate the joint custody decree.

21 I. 1. In every proceeding in which there is a dispute as to  
22 the custody of a minor child, a determination by the court that  
23 domestic violence, stalking, or harassment has occurred raises a  
24 rebuttable presumption that sole custody, joint legal or physical

1 custody, or any shared parenting plan with the perpetrator of  
2 domestic violence, harassing or stalking behavior is detrimental and  
3 not in the best interest of the child, and it is in the best  
4 interest of the child to reside with the parent who is not a  
5 perpetrator of domestic violence, harassing or stalking behavior.

6 2. For the purposes of this subsection:

7 a. "domestic violence" means the threat of the infliction  
8 of physical injury, any act of physical harm or the  
9 creation of a reasonable fear thereof, or the  
10 intentional infliction of emotional distress by a  
11 parent or a present or former member of the household  
12 of the child, against the child or another member of  
13 the household, including coercive control as defined  
14 by subparagraph d of this paragraph by a parent  
15 involving physical, sexual, psychological, emotional,  
16 economic or financial abuse,

17 b. "stalking" means the willful course of conduct by a  
18 parent who repeatedly follows or harasses another  
19 person as defined in Section 1173 of Title 21 of the  
20 Oklahoma Statutes, ~~and~~

21 c. "harassment" means a knowing and willful course or  
22 pattern of conduct by a parent directed at another  
23 parent which seriously alarms or is a nuisance to the  
24 person, and which serves no legitimate purpose

1 including, but not limited to, harassing or obscene  
2 telephone calls or conduct that would cause a  
3 reasonable person to have a fear of death or bodily  
4 injury, and

5 d. "coercive control" means unreasonably engaging in any  
6 of the following conduct with a current or former  
7 spouse, persons who are or were in an intimate partner  
8 or dating relationship, or persons who are biological  
9 parents of the same child:

10 (1) intentionally isolating the person from friends,  
11 relatives, or other sources of support,

12 (2) depriving the person of basic necessities,

13 (3) controlling, regulating, or monitoring the  
14 person's movements, communications, daily

15 behavior, finances, economic resources, or access  
16 to services, which includes stalking or  
17 cyberstalking,

18 (4) compelling the person by force, threat, or  
19 intimidation including but not limited to threats

20 based on actual or suspected immigration status,

21 to engage in conduct from which the person has a  
22 right to abstain, or to abstain from conduct that

23 the person has a right to pursue,  
24

- 1           (5) committing or threatening to commit cruelty to an  
2           animal that intimidates the person,  
3           (6) forced sex acts or threats of a sexual nature  
4           including, but not limited to, threatened acts of  
5           sexual conduct or threats to release sexual  
6           images, or  
7           (7) making demands on the person that limits free  
8           will and leads to compliance.

9           3. If a parent is absent or relocates as a result of an act of  
10 domestic violence by the other parent, the absence or relocation  
11 shall not be a factor that weighs against the parent in determining  
12 custody or visitation.

13           4. The court shall consider, as a primary factor, the safety  
14 and well-being of the child and of the parent who is the victim of  
15 domestic violence or stalking behavior, in addition to other facts  
16 regarding the best interest of the child.

17           5. The court shall consider the history of the parent causing  
18 physical harm, bodily injury, assault, verbal threats, stalking, or  
19 harassing behavior, or the fear of physical harm, bodily injury, or  
20 assault to another person, including the minor child, in determining  
21 issues regarding custody and visitation.

22           SECTION 2. This act shall become effective November 1, 2023.

23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
24 February 21, 2023 - DO PASS