

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2616

By: Humphrey

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5  
6 AS INTRODUCED

7 An Act relating to guardianship and ward; amending 30  
8 O.S. 2021, Section 2-101, which relates to guardians  
9 of minors; providing when minor children shall not be  
10 removed from certain shelters; providing that a copy  
11 of certain documents be served; and providing an  
12 effective date.

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

15 SECTION 1. AMENDATORY 30 O.S. 2021, Section 2-101, is  
16 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

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

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

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

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

23 c. (1) No minor child or children temporarily residing  
24 in a licensed, certified domestic violence

1           shelter in the state or out of state shall be  
2           removed by an ex parte order or without proper  
3           service and notice for an evidentiary hearing to  
4           modify custody.

5           (2) No minor child or children temporarily residing  
6           in a licensed, certified domestic violence  
7           shelter in the state or out of state shall be  
8           removed by a guardianship custody order when a  
9           valid protective order has been issued for the  
10           natural parent or the minor child or children.

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

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

1 (\$35.00) for each search performed pursuant to this paragraph. In  
2 the case of an emergency placement, the court may waive the  
3 requirement for a CANIS search if it cannot be obtained in a  
4 reasonable time and the court determines that it is in the minor's  
5 best interest that the CANIS search be waived.

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

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

15 2. If the minor has no then-living parent, then to one of the  
16 then-living grandparents who is not one of the petitioners and who  
17 is not married to one of the petitioners; and

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

22 E. Such notice ~~shall be mailed to each person entitled to~~  
23 notice and a copy of the Petition for Guardianship shall be  
24 personally served at least ten (10) days prior to the date set by

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

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

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16 59-1-6530 CMA 12/21/22

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