

1 3. A person who was indicated by the wishes of a deceased
2 parent;

3 4. A relative of either parent;

4 5. The person in whose home the child has been living in a
5 wholesome and stable environment including, but not limited to, a
6 foster parent; or

7 6. Any other person deemed by the court to be suitable and able
8 to provide adequate and proper care and guidance for the child.

9 B. In applying subsection A of this section, a court shall
10 award custody or guardianship of a child to a parent, unless a
11 nonparent proves by clear and convincing evidence that:

12 1. For a period of at least twelve (12) months out of the last
13 fourteen (14) months immediately preceding the commencement of the
14 custody or guardianship proceeding, the parent has willfully failed,
15 refused, or neglected to contribute to the support of the child:

16 a. in substantial compliance with a support provision or
17 an order entered by a court of competent jurisdiction
18 adjudicating the duty, amount, and manner of support,
19 or

20 b. according to the financial ability of the parent to
21 contribute to the support of the child if no provision
22 for support is entered by a court of competent
23 jurisdiction, or an order of modification subsequent
24 thereto.

1 For purposes of this paragraph, incidental or token financial
2 contributions shall not be considered in establishing whether a
3 parent has satisfied his or her obligation under subparagraphs a and
4 b of this paragraph; or

5 2. a. the child has been left in the physical custody of a
6 nonparent by a parent or parents of the child for one
7 (1) year or more, excluding parents on active duty in
8 the military, and

9 b. the parent or parents have not maintained regular
10 visitation or communication with the child.

11 For purposes of this paragraph, incidental or token visits or
12 communications shall not be considered in determining whether a
13 parent or parents have regularly maintained visitation or
14 communication.

15 C. In applying subsection A of this section, a court shall
16 award custody or guardianship of a child to a parent, unless the
17 court finds that the parent is affirmatively unfit. There shall be
18 a rebuttable presumption that a parent is affirmatively unfit if the
19 parent:

20 1. Is or has been subject to the registration requirements of
21 the Oklahoma Sex Offenders Registration Act or any similar act in
22 any other state, except as provided in subsection D of this section;

23 2. Has been convicted of a crime listed in Section 582 of Title
24 57 of the Oklahoma Statutes;

1 3. Is an alcohol-dependent person or a drug-dependent person as
2 established by clear and convincing evidence and who can be expected
3 in the near future to inflict or attempt to inflict serious bodily
4 harm to himself or herself or another person as a result of such
5 dependency;

6 4. Has been convicted of domestic abuse within the past five
7 (5) years;

8 5. Is residing with a person who is or has been subject to the
9 registration requirements of the Oklahoma Sex Offenders Registration
10 Act or any similar act in any other state;

11 6. Is residing with a person who has been convicted of a crime
12 listed in Section 843.5 of Title 21 or in Section 582 of Title 57 of
13 the Oklahoma Statutes; ~~or~~

14 7. Is residing with a person who has been convicted of domestic
15 abuse within the past five (5) years; or

16 8. Has been convicted of a crime listed in the Oklahoma Child
17 Abuse Reporting and Prevention Act.

18 D. In applying subsection A of this section, a court shall not
19 award custody or guardianship of a child to any person who has been
20 convicted, whether upon a verdict or plea of guilty or upon a plea
21 of nolo contendere, or received a suspended sentence or any
22 probationary term, or is currently serving a sentence or any form of
23 probation or parole in a court in any state of any of the following
24 crimes:

- 1 1. Sexual abuse or sexual exploitation of a child, Section
2 843.5 of Title 21 of the Oklahoma Statutes;
- 3 2. Child endangerment, if the offense involved sexual abuse of
4 a child, Section 852.1 of Title 21 of the Oklahoma Statutes;
- 5 3. Kidnapping, if the offense involved sexual abuse or sexual
6 exploitation of a child, Section 741 of Title 21 of the Oklahoma
7 Statutes;
- 8 4. Incest, Section 885 of Title 21 of the Oklahoma Statutes;
- 9 5. Forcible sodomy of a child, Section 888 of Title 21 of the
10 Oklahoma Statutes;
- 11 6. Child stealing, if the offense involved sexual abuse or
12 sexual exploitation, Section 891 of Title 21 of the Oklahoma
13 Statutes;
- 14 7. Procuring minors for participation in child sexual abuse
15 material, Section 1021.2 of Title 21 of the Oklahoma Statutes;
- 16 8. Consent to participation of minors in child sexual abuse
17 material, Section 1021.3 of Title 21 of the Oklahoma Statutes;
- 18 9. Facilitating, encouraging, offering or soliciting sexual
19 conduct with a minor by use of technology, Section 1040.13a of Title
20 21 of the Oklahoma Statutes;
- 21 10. Distributing child sexual abuse material, Section 1040.13
22 of Title 21 of the Oklahoma Statutes;
- 23 11. Possession, purchase or procurement of child sexual abuse
24 material, Section 1024.2 of Title 21 of the Oklahoma Statutes;

1 12. Aggravated possession of child sexual abuse material,
2 Section 1040.12a of Title 21 of the Oklahoma Statutes;

3 13. Procuring a child under eighteen (18) years of age for
4 prostitution, Section 1087 of Title 21 of the Oklahoma Statutes;

5 14. Inducing, keeping, detaining or restraining a child under
6 eighteen (18) years of age for prostitution, Section 1088 of Title
7 21 of the Oklahoma Statutes;

8 15. First degree rape, Section 1114 of Title 21 of the Oklahoma
9 Statutes;

10 16. Lewd or indecent proposals or acts to a child under sixteen
11 (16) years of age, Section 1123 of Title 21 of the Oklahoma
12 Statutes; or

13 17. Solicitation of minors in any crime provided in subsection
14 B of Section 1021 of Title 21 of the Oklahoma Statutes.

15 E. Subject to subsection F of this section, a custody
16 determination made in accordance with subsections B and C of this
17 section shall not be modified unless the person seeking the
18 modification proves that:

19 1. Since the making of the order sought to be modified, there
20 has been a permanent, material, and substantial change of conditions
21 that directly affects the best interests of the child; and

22 2. That as a result of such change of circumstances, the child
23 would be substantially better off with regard to its temporal,
24 mental, and moral welfare if custody were modified.

1 F. If the custody determination made in accordance with
2 subsections B and C of this section indicates that custody is
3 temporary, the determination may be modified upon a showing that the
4 conditions which led to the custody or guardianship determination no
5 longer exist.

6 SECTION 2. This act shall become effective November 1, 2025.

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8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY
9 OVERSIGHT, dated 03/06/2025 - DO PASS.

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