

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 SENATE BILL 163

By: Boren

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5
6 AS INTRODUCED

7 An Act relating to child custody; amending 43 O.S.
8 2021, Section 109, as amended by Section 1, Chapter
9 24, O.S.L. 2024 (43 O.S. Supp. 2024, Section 109),
10 which relates to awarding custody or appointing
11 guardian; defining term; and providing an effective
12 date.

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

13 SECTION 1. AMENDATORY 43 O.S. 2021, Section 109, as
14 amended by Section 1, Chapter 24, O.S.L. 2024 (43 O.S. Supp. 2024,
15 Section 109), is amended to read as follows:

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

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

23 For the purposes of this section, the terms joint custody and
24 joint care, custody, and control mean the sharing by parents in all

1 or some of the aspects of physical and legal care, custody, and
2 control of their children.

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

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

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

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

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

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

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

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

23 I. 1. In every proceeding in which there is a dispute as to
24 the custody of a minor child, a determination by the court that

1 child abuse, domestic violence, stalking, or harassment has occurred
2 raises a rebuttable presumption that sole custody, joint legal or
3 physical custody, or any shared parenting plan with the perpetrator
4 of child abuse, domestic violence, harassing or stalking behavior is
5 detrimental and not in the best interest of the child, and it is in
6 the best interest of the child to reside with the parent who is not
7 a perpetrator of child abuse, domestic violence, harassing or
8 stalking behavior.

9 2. For the purposes of this subsection:

- 10 a. "child abuse" shall have the same meaning as "abuse"
11 as defined pursuant to the Oklahoma Children's Code in
12 Section 1-1-105 of Title 10A of the Oklahoma Statutes,
13 b. "coercive control" means unreasonably engaging in any
14 of the following conduct with a current or former
15 spouse, persons who are or were in an intimate partner
16 or dating relationship, or persons who are biological
17 parents of the same child:
18 (1) intentionally isolating the person from friends,
19 relatives, or other sources of support,
20 (2) depriving the person of basic necessities,
21 (3) controlling, regulating, or monitoring the
22 person's movements, communications, daily
23 behavior, finances, economic resources, or access

1 to services, which includes stalking or
2 cyberstalking,

3 (4) compelling the person by force, threat, or
4 intimidation including, but not limited to,
5 threats based on actual or suspected immigration
6 status, to engage in conduct from which the
7 person has a right to abstain, or to abstain from
8 conduct that the person has a right to pursue,

9 (5) committing or threatening to commit cruelty to an
10 animal in a manner that intimidates the person,

11 (6) forced sex acts or threats of a sexual nature
12 including, but not limited to, threatened acts of
13 sexual conduct or threats to release sexual
14 images, or

15 (7) making demands on the person that limit free will
16 and lead to compliance,

17 c. "domestic violence" means the threat of the infliction
18 of physical injury, any act of physical harm or the
19 creation of a reasonable fear thereof, or the
20 intentional infliction of emotional distress by a
21 parent or a present or former member of the household
22 of the child, against the child or another member of
23 the household including coercive control as defined by
24 subparagraph b of this paragraph by a parent involving

1 physical, sexual, psychological, emotional, economic
2 or financial abuse,

3 ~~e.~~ d. "harassment" means a knowing and willful course or
4 pattern of conduct by a parent directed at another
5 parent which seriously alarms or is a nuisance to the
6 person, and which serves no legitimate purpose
7 including, but not limited to, harassing or obscene
8 telephone calls or conduct that would cause a
9 reasonable person to have a fear of death or bodily
10 injury, and

11 ~~d.~~ e. "stalking" means the willful course of conduct by a
12 parent who repeatedly follows or harasses another
13 person as defined in Section 1173 of Title 21 of the
14 Oklahoma Statutes.

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

19 4. The court shall consider, as a primary factor, the safety
20 and well-being of the child who is the victim of child abuse and of
21 the parent who is the victim of domestic violence, harassment, or
22 stalking behavior, in addition to other facts regarding the best
23 interest of the child.

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

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

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