

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 829

By: Deevers

AS INTRODUCED

An Act relating to divorce; amending 43 O.S. 2021, Sections 101, 107.2, and 121, which relate to grounds for divorce, educational program, and division of property; modifying permissible grounds for divorce; updating statutory language; modifying requirements for certain educational program; requiring court to consider degree of fault when entering certain orders; requiring court to order establishment of trust fund under certain circumstances; establishing requirements for trust fund; requiring designation of executor; prohibiting certain access to trust fund; providing exception; authorizing access to trust fund upon attainment of certain age; requiring safeguards to protect against unauthorized withdrawals; establishing penalties; authorizing modification of executor; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 2021, Section 101, is amended to read as follows:

Section 101. The district court may grant a divorce for any of the following causes:

First. Abandonment including: desertion for one (1) year, habitual drunkenness, gross neglect of duty, or insanity for a period of five (5) years. In the case of insanity, the person must

1 have been admitted to a state institution for the insane in this
2 state or another state or a private sanitarium and received a poor
3 prognosis for recovery. No divorce shall be granted by reason of
4 insanity before a thorough examination of the insane person is
5 conducted by three physicians, one of whom shall be a superintendent
6 of a state institution or sanitarium in which the insane person was
7 admitted, and the other two shall be appointed by the court. If any
8 two of the three physicians agree that such insane person, at the
9 time the petition in the divorce action is filed, has a poor
10 prognosis for recovery, a divorce shall be granted; however, no
11 divorce shall be granted based on the provisions of this section to
12 any person whose husband or wife is an inmate of a state institution
13 in another state unless the person applying for such divorce shall
14 have been a resident of this state for at least five (5) years prior
15 to the commencement of a divorce action. A decree granted based on
16 the provisions of this section shall not relieve the successful
17 party from contributing to the support and maintenance of the
18 defendant. The court shall appoint a guardian ad litem to represent
19 the insane defendant, whose appointment shall be made at least ten
20 (10) days before any decree is entered.

21 Second. Adultery.

22 Third. ~~Impotency.~~

23 ~~Fourth.~~ Unknown pregnancy. When the wife at the time of her
24 marriage was pregnant by another than her husband unbeknownst to

1 him, or when the husband at the time of his marriage had impregnated
2 another woman other than his wife unbeknownst to her.

3 ~~Fifth.~~ Fourth. Extreme cruelty.

4 ~~Sixth.~~ Fifth. Fraudulent contract.

5 ~~Seventh. Incompatibility. Provided, however, where the~~
6 ~~interest of a child under eighteen (18) years of age is involved,~~
7 ~~the adult parties shall attend an educational program concerning the~~
8 ~~impact of divorce on children as provided in subsection B of Section~~
9 ~~107.2 of this title.~~

10 ~~Eighth. Habitual drunkenness.~~

11 ~~Ninth. Gross neglect of duty.~~

12 ~~Tenth. Imprisonment of the other party in a state or federal~~
13 ~~penal institution under sentence thereto for the commission of a~~
14 ~~felony at the time the petition is filed.~~

15 ~~Eleventh.~~ Sixth. The procurement of a final divorce decree
16 without this state by a husband or wife which does not in this state
17 release the other party from the obligations of the marriage.

18 ~~Twelfth. Insanity for a period of five (5) years, the insane~~
19 ~~person having been an inmate of a state institution for the insane~~
20 ~~in the State of Oklahoma, or inmate of a state institution for the~~
21 ~~insane in some other state for such period, or of a private~~
22 ~~sanitarium, and affected with a type of insanity with a poor~~
23 ~~prognosis for recovery; provided, that no divorce shall be granted~~
24 ~~because of insanity until after a thorough examination of such~~

1 ~~insane person by three physicians, one of whom shall be a~~
2 ~~superintendent of the hospital or sanitarium for the insane in which~~
3 ~~the insane defendant is confined, and the other two to be appointed~~
4 ~~by the court before whom the action is pending, and any two of such~~
5 ~~physicians shall agree that such insane person, at the time the~~
6 ~~petition in the divorce action is filed, has a poor prognosis for~~
7 ~~recovery; provided, further, however, that no divorce shall be~~
8 ~~granted on this ground to any person whose husband or wife is an~~
9 ~~inmate of a state institution in any other than the State of~~
10 ~~Oklahoma, unless the person applying for such divorce shall have~~
11 ~~been a resident of the State of Oklahoma for at least five (5) years~~
12 ~~prior to the commencement of an action; and provided further, that a~~
13 ~~decree granted on this ground shall not relieve the successful party~~
14 ~~from contributing to the support and maintenance of the defendant.~~
15 ~~The court shall appoint a guardian ad litem to represent the insane~~
16 ~~defendant, which appointment shall be made at least ten (10) days~~
17 ~~before any decree is entered.~~

18 SECTION 2. AMENDATORY 43 O.S. 2021, Section 107.2, is
19 amended to read as follows:

20 Section 107.2. A. ~~Except as provided in subsection B of this~~
21 ~~section, in~~ In all actions for divorce, separate maintenance,
22 guardianship, paternity, custody, or visitation, including
23 modifications or enforcements of a prior court order, where the
24 interest of a child under eighteen (18) years of age is involved,

1 the court may require all adult parties to attend an educational
2 program concerning, as appropriate, the impact of separate parenting
3 and coparenting on children, the implications for visitation and
4 conflict management, development of children, separate financial
5 responsibility for children, and such other instruction as deemed
6 necessary by the court. The program shall be educational in nature
7 and not designed for individual therapy.

8 ~~B. In actions for divorce based upon incompatibility filed on~~
9 ~~or after November 1, 2014, where the interest of a child under~~
10 ~~eighteen (18) years of age is involved, the adult parties shall~~
11 ~~attend, either separately or together, an educational program~~
12 ~~concerning the impact of divorce on children. The An educational~~
13 program shall include the following components:

- 14 1. Short-term and longitudinal effects of divorce on child
15 well-being;
- 16 2. Reconciliation as an optional outcome;
- 17 3. Effects of family violence;
- 18 4. Potential child behaviors and emotional states during and
19 after divorce including information on how to respond to the child's
20 needs;
- 21 5. Communication strategies to reduce conflict and facilitate
22 cooperative coparenting; and
- 23 6. Area resources, including, but not limited to, nonprofit
24 organizations or religious entities available to address issues of

1 substance abuse or other addictions, family violence, behavioral
2 health, individual and couples counseling, and financial planning.
3 Program attendees shall be required to pay a fee ~~of~~ not less than
4 Ten Dollars (\$10.00) and not more than Sixty Dollars (\$60.00) to the
5 program provider to offset the costs of the program. The fee may be
6 waived by the court if an attendee uses a qualified program that is
7 provided free of charge. Nothing in this paragraph shall prohibit a
8 third party from paying the fee to the program provider for an
9 attendee. A certificate of completion shall be issued upon
10 satisfying the attendance and fee requirements of the program, and
11 the certificate of completion shall be filed with the court. The
12 program provider shall carry general liability insurance and
13 maintain an accurate accounting of all business transactions and
14 funds received in relation to the program. The program shall be
15 completed prior to the temporary order or within forty-five (45)
16 days of receiving a temporary order. However, and in all events, a
17 final disposition of child custody shall not be granted until the
18 parties complete the program required by this subsection. The court
19 may waive attendance of the program for good cause shown which shall
20 include, but not be limited to, where domestic violence, stalking,
21 or harassment as defined by paragraph 2 of subsection I of Section
22 109 of this title occurred during the marriage.

23 C. Each judicial district may adopt its own local rules
24 governing the programs.

1 D. The Administrative Office of the Courts may enter into a
2 memorandum of understanding with a state entity or other
3 organization in order to compile data including, but not limited to,
4 the number of actions for divorce that were dismissed after
5 participating in the program, the number of programs that were
6 completed, and the number of program participants for each fiscal
7 year. The report shall include data collected from each judicial
8 district. The report shall be published on the Administrative
9 Office of the Courts website and electronically distributed to the
10 Governor, Speaker of the House of Representatives, Minority Leader
11 of the House of Representatives, President Pro Tempore of the
12 Senate, and Minority Leader of the Senate.

13 SECTION 3. AMENDATORY 43 O.S. 2021, Section 121, is
14 amended to read as follows:

15 Section 121. A. When a dissolution of marriage is granted, the
16 decree shall restore:

17 1. To the wife her maiden or former name, if her name was
18 changed as a result of the marriage and if she so desires; and

19 2. To the husband his former name, if his name was changed as a
20 result of the marriage and if he so desires.

21 B. The court shall enter its decree confirming in each spouse
22 the property owned by him or her before marriage and the undisposed-
23 of property acquired after marriage by him or her in his or her own
24 right. Either spouse may be allowed such alimony out of real and
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1 personal property of the other as the court shall think reasonable,
2 having due regard to the value of such property at the time of the
3 dissolution of marriage. Alimony may be allowed from real or
4 personal property, or both, or in the form of money judgment,
5 payable either in gross or in installments, as the court may deem
6 just and equitable. As to such property, whether real or personal,
7 which has been acquired by the parties jointly during their
8 marriage, whether the title thereto be in either or both of ~~said~~ the
9 parties, the court shall, subject to a valid antenuptial contract in
10 writing, make such division between the parties as may appear just
11 and reasonable, by a division of the property in kind, or by setting
12 the same apart to one of the parties, and requiring the other
13 thereof to be paid such sum as may be just and proper to effect a
14 fair and just division thereof. The court may set apart a portion
15 of the separate estate of a spouse to the other spouse for the
16 support of the children of the marriage where custody resides with
17 that spouse. In all orders entered pursuant to this section, the
18 court shall consider the degree of harm caused by a party, or both
19 parties, held at fault for the dissolution of the marriage.

20 C. A servicemember's portion of Special Monthly Compensation
21 (SMC) awarded by or from the United States Department of Veterans
22 Affairs for service-connected loss or loss of use of specific organs
23 or extremities shall be separate property, not divisible as a
24 marital asset nor as community property. For purposes of

1 identifying SMC, it is the sole responsibility of the servicemember
2 to prove with competent evidence what amount of his or her
3 disability compensation is SMC.

4 D. A servicemember's portion of Combat-Related Special
5 Compensation (CRSC) shall be separate property, not divisible as a
6 marital asset nor as community property, if a specific dollar amount
7 of CRSC can be proved by the servicemember as compensation for
8 combat-related loss of limb or loss of bodily function and the CRSC
9 award was applied for and established prior to the date of the
10 filing of the dissolution of marriage action.

11 E. Pursuant to the federal Uniformed Services Former Spouses'
12 Protection Act, 10 U.S.C., Section 1408, a court may treat
13 disposable retired or retainer pay payable to a military member
14 either as property solely of the member or as property of the member
15 and the spouse of the member. If a state court determines that the
16 disposable retired or retainer pay of a military member is the sole
17 and separate property of the military member, the court shall submit
18 clear and concise written findings of such determination to be
19 included in the decree or final order. If a state court determines
20 that the disposable retired or retainer pay of a military member is
21 marital property, the court shall submit clear and concise written
22 findings of such determination to be included in the decree or final
23 order and shall award an amount consistent with the rank, pay grade,
24 and time of service of the member at the date of the filing of the

1 petition, unless the court finds a more equitable date due to the
2 economic separation of the parties.

3 F. Unless otherwise agreed to by the parties, any division of
4 an active duty military member's retirement or retainer pay shall
5 use the following language:

6 "The former spouse is awarded a percentage of the member's
7 disposable military retired pay, to be computed by multiplying fifty
8 percent (50%) times a fraction, the numerator of which is ____x____
9 months of marriage during the member's creditable military service,
10 divided by the member's total number of months of creditable
11 military service."

12 G. In the case of a member's retiring from reserve duty, unless
13 otherwise agreed by the parties, any division of a reservist's
14 retirement or retainer pay shall use the following language:

15 "The former spouse is awarded a percentage of the member's
16 disposable military retired pay, to be computed by multiplying fifty
17 percent (50%) times a fraction, the numerator of which is
18 ____x____ reserve retirement points earned during the period of the
19 marriage, divided by the member's total number of reserve retirement
20 points earned."

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 121.1 of Title 43, unless there
23 is created a duplication in numbering, reads as follows:

24 A. Trust Fund Requirement.

1 In addition to other child support and alimony ordered by the
2 court, in cases where a divorce is granted on the basis of fault,
3 the court shall order the at-fault parent to establish a trust fund
4 for the benefit of each child within the marriage being dissolved.
5 The trust fund shall be:

6 1. Established within sixty (60) days of the final divorce
7 decree;

8 2. Funded in an amount determined by the court, taking into
9 account the at-fault parent's financial capacity and the child's
10 needs; and

11 3. Created with the sole purpose of supporting the child's
12 welfare, education, health, and general needs.

13 B. Executor Prior to the Child Turning Eighteen.

14 The court shall designate an executor for the trust fund until
15 the child reaches the age of eighteen (18). The court shall:

16 1. Give priority to the non-at-fault parent to serve as the
17 executor of the trust;

18 2. Assess the fitness and capacity of the non-at-fault parent
19 to serve in such role, considering factors such as financial
20 responsibility, moral character, and ability to act in the best
21 interests of the child; and

22 3. Retain the discretion to appoint another suitable individual
23 as executor if the non-at-fault parent is deemed unfit for this
24 responsibility. Such alternative executors may include:

- a. a family member,
- b. a professional trustee or fiduciary, or
- c. another individual or entity deemed appropriate by the court.

C. Executor Upon the Child Turning Eighteen.

Upon reaching the age of eighteen (18), the child shall automatically become the sole executor of his or her trust fund, with full authority to manage and use the funds for his or her benefit.

D. Restriction on Trust Fund Withdrawals Until the Child Reaches Age Eighteen.

1. No funds shall be withdrawn from the trust fund until the child for whom the trust was established reaches the age of eighteen (18).

2. Funds may only be accessed prior to the child reaching age eighteen (18) to cover emergency expenses essential to the child's immediate health or safety as determined by the court. Such withdrawals shall be limited to the amount necessary to address the specific medical or safety emergency.

E. Access Upon Reaching Age Eighteen.

Upon reaching the age of eighteen (18), the child shall gain full control of his or her respective trust fund and may use the funds at his or her discretion.

F. Safeguards Against Unauthorized Withdrawals.

1 The trust fund shall be held in a secured account with
2 restrictions to prevent unauthorized access or withdrawals.

3 All financial institutions managing the trust fund shall be
4 provided with a copy of the court order establishing these
5 restrictions and shall not permit withdrawals without court
6 authorization. Any attempt to withdraw or access trust fund money
7 in violation of this section shall result in:

- 8 1. Contempt of court proceedings against the violator; and
- 9 2. Restitution to the trust fund for any misappropriated
10 amounts plus additional sanctions up to fifty percent (50%) of the
11 amount misappropriated as deemed appropriate by the court.

12 G. Penalties for Noncompliance.

13 Failure by the at-fault parent to establish or adequately fund
14 the trust within the specified time frame shall result in:

- 15 1. Contempt of court proceedings; and
- 16 2. Additional financial penalties as determined by the court.

17 H. Modification of Executor Designation.

18 The court reserves the right to modify the designation of the
19 executor prior to the child turning eighteen (18) based on changes
20 in circumstances or upon a motion from an interested party, provided
21 such changes are in the best interests of the child.

22 SECTION 5. This act shall become effective November 1, 2025.
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