

1 STATE OF OKLAHOMA

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

3 SENATE BILL 829

By: Deever

6 AS INTRODUCED

7 An Act relating to divorce; amending 43 O.S. 2021,  
8 Sections 101, 107.2, and 121, which relate to grounds  
9 for divorce, educational program, and division of  
10 property; modifying permissible grounds for divorce;  
11 updating statutory language; modifying requirements  
12 for certain educational program; requiring court to  
13 consider degree of fault when entering certain  
14 orders; requiring court to order establishment of  
15 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.

16

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

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

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

22 First. Abandonment including: desertion for one (1) year,  
23 habitual drunkenness, gross neglect of duty, or insanity for a  
24 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

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:  
25

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

5           C. Executor Upon the Child Turning Eighteen.

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

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

12          1. No funds shall be withdrawn from the trust fund until the  
13 child for whom the trust was established reaches the age of eighteen  
14 (18).

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

20          E. Access Upon Reaching Age Eighteen.

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

24          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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24       60-1-1343           TEK           1/16/2025 7:28:06 AM