

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

HOUSE BILL 1082

By: Tedford

AS INTRODUCED

An Act relating to marriage and family; amending 43 O.S. 2021, Section 109, as amended by Section 1, Chapter 24, O.S.L. 2024 (43 O.S. Supp. 2024, Section 109), which relates to awarding child custody; modifying factors to consider for child custody; modifying determinations for terminating custody agreements; and providing an effective date.

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

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

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

B. ~~The court, pursuant~~ Pursuant to the provisions of subsection A of this section, ~~may grant the care, custody, and control of a child to either parent or to the parents jointly~~ there shall be a presumption, rebuttable by a preponderance of evidence that joint

1 custody and equally shared parenting time is in the best interest of
2 the child. If a deviation from equal parenting time is warranted,
3 the court shall construct a parenting time schedule which maximizes
4 the time each parent has with the child and is consistent with
5 ensuring the child's physical, mental, and moral welfare. The court
6 shall consider all relevant factors, including, but not limited to:

7 1. The wishes of the child's parent or parents as to his or her
8 custody;

9 2. The expressed preference of the child taken pursuant to the
10 provisions set forth in Section 113 of this title;

11 3. The interaction and interrelationship of the child with his
12 or her parent or parents, his or her siblings, and any other person
13 who may significantly affect the child's best interest;

14 4. The motivation of the adults participating in the custody
15 proceeding;

16 5. The child's adjustment and continuing proximity to his or
17 her home, school, and community;

18 6. The mental and physical health of all individuals involved;

19 7. The likelihood that a party will allow the child frequent,
20 meaningful, and continuing contact with the other parent, except
21 that the court shall not consider this likelihood if there is a
22 finding that the other parent engaged in domestic violence and abuse
23 against the party or the child and that a continuing relationship
24

1 with the other parent will endanger the health or safety of either
2 that party or the child.

3 8. The finding that domestic violence, stalking, or harassment
4 has occurred as defined in subsection I of this section.

5 For the purposes of this section, the terms joint custody and
6 joint care, custody, and control mean the sharing by parents in all
7 or some of the aspects of physical and legal care, custody, and
8 control of their children.

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

21 D. The court shall issue a final plan for the exercise of joint
22 care, custody, and control of the child or children, based upon the
23 plan submitted by the parents, separate or jointly, with appropriate
24 changes deemed by the court to be in the best interests of the

1 child. The court also may reject a request for joint custody and
2 proceed as if the request for joint custody had not been made.

3 E. The parents having joint custody of the child may modify the
4 terms of the plan for joint care, custody, and control. The
5 modification to the plan shall be filed with the court and included
6 with the plan. If the court determines the modifications are in the
7 best interests of the child, the court shall approve the
8 modifications.

9 F. The court also may modify the terms of the plan for joint
10 care, custody, and control upon the request of one parent. ~~The~~
11 ~~court shall not modify the plan unless the modifications are in the~~
12 ~~best interests of the child.~~

13 G. 1. The court may terminate a joint custody decree upon the
14 request of ~~one or~~ both of the parents or whenever the court
15 determines the decree is not in the best interests of the child.

16 2. a. The court may not terminate a joint custody
17 decree upon the request of one parent if made earlier
18 than two (2) years after its date unless the court
19 permits it to be made on the basis of affidavits
20 provided with the request that there is no reason to
21 believe that:

22 (1) the child's present environment may seriously
23 endanger his or her physical, mental, moral, or
24 emotional health and that joint care custody and

1 control is not in the best interest of the child,
2 or

3 (2) a parent has placed the child with another
4 custodian and no longer exercises his or her
5 care, custody, and control of the child;

6 b. During the hearing on the parent's motion, the court
7 shall consider all relevant factors, including, but
8 not limited to:

9 (1) the interaction and interrelationship of the
10 child with his or her parent or parents, his or
11 her siblings, and any other person who may
12 significantly affect the child's best interests,

13 (2) the mental and physical health of all individuals
14 involved,

15 (3) repeated or substantial failure, without good
16 cause, of either parent to observe visitation,
17 child support, or other provisions of the decree
18 which affect the child, except that modification
19 of custody orders shall not be made solely on the
20 basis of failure to comply with visitation or
21 child support provisions, and

22 (4) if domestic violence, stalking, harassment, or
23 abuse is found by the court to exist, the extent
24 to which domestic violence and abuse has affected

1 the child and the child's relationship to both
2 parents.

3 ~~2.~~ 3. Upon termination of a joint custody decree, the court
4 shall proceed and issue a modified decree for the care, custody, and
5 control of the child as if no such joint custody decree had been
6 made. The court shall construct a visitation schedule which
7 maximizes the time each parent has with the child and is consistent
8 with ensuring the child's welfare.

9 4. Attorney fees and costs shall be assessed against a party
10 seeking modification if the court finds that the modification action
11 is vexatious and constitutes harassment.

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

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

21 I. 1. In every proceeding in which there is a dispute as to
22 the custody of a minor child, a determination by the court that
23 child abuse, domestic violence, stalking, or harassment has occurred
24 raises a rebuttable presumption that sole custody, joint legal or

1 physical custody, or any shared parenting plan with the perpetrator
2 of child abuse, domestic violence, harassing or stalking behavior is
3 detrimental and not in the best interest of the child, and it is in
4 the best interest of the child to reside with the parent who is not
5 a perpetrator of child abuse, domestic violence, harassing or
6 stalking behavior.

7 2. For the purposes of this subsection:

- 8 a. "child abuse" shall have the same meaning as "abuse"
9 as defined pursuant to the Oklahoma Children's Code in
10 Section 1-1-105 of Title 10A of the Oklahoma Statutes,
11 b. "domestic violence" means the threat of the infliction
12 of physical injury, any act of physical harm or the
13 creation of a reasonable fear thereof, or the
14 intentional infliction of emotional distress by a
15 parent or a present or former member of the household
16 of the child, against the child or another member of
17 the household including coercive control by a parent
18 involving physical, sexual, psychological, emotional,
19 economic or financial abuse,
20 c. "harassment" means a knowing and willful course or
21 pattern of conduct by a parent directed at another
22 parent which seriously alarms or is a nuisance to the
23 person, and which serves no legitimate purpose
24 including, but not limited to, harassing or obscene

1 telephone calls or conduct that would cause a
2 reasonable person to have a fear of death or bodily
3 injury, and

4 d. "stalking" means the willful course of conduct by a
5 parent who repeatedly follows or harasses another
6 person as defined in Section 1173 of Title 21 of the
7 Oklahoma Statutes.

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

12 4. The court shall consider, as a primary factor, the safety
13 and well-being of the child who is the victim of child abuse and of
14 the parent who is the victim of domestic violence, harassment, or
15 stalking behavior, in addition to other facts regarding the best
16 interest of the child.

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

22 SECTION 2. This act shall become effective November 1, 2025.
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24 60-1-10111 TKR 12/27/24