

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 1276

By: Lawson and West (Josh) of
the House

4 and

5 Stanley of the Senate

6
7
8 An Act relating to marriage; amending 43 O.S. 2011,
9 Sections 109 and 110.1, which relate to child
10 custody; requiring court to comply with specified law
11 in determining custody; requiring equally shared
12 parenting time if requested by a parent; providing
13 exception for best interests of the child; directing
14 maximization of time with each parent if deviation is
15 warranted; and providing an effective date.

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AUTHOR: Add the following Senate Coauthors: Kidd and Sharp

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
and insert

"An Act relating to license revocation; amending 43
O.S. 2011, Sections 139 and 139.1, as amended by
Section 1, Chapter 38, O.S.L. 2014 (43 O.S. Supp.
2019, Section 139.1), which relate to revocation of
license for noncompliance with child support order;
modifying legislative intent; modifying definitions;
modifying certain punishments for failure to pay
child support; repealing 47 O.S. 2011, Section 6-
201.1, which relates to revocation of driving
privileges; and providing an effective date.

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

1 SECTION 1. AMENDATORY 43 O.S. 2011, Section 139, is
2 amended to read as follows:

3 Section 139. The Legislature finds and declares that child
4 support is a basic legal right of the state's parents and children,
5 that mothers and fathers have a legal obligation to provide
6 financial support for their children and that child support payments
7 can have a substantial impact on child poverty and state welfare
8 expenditures. It is therefore the Legislature's intent to encourage
9 payment of child support to decrease overall costs to the state's
10 taxpayers while increasing the amount of financial support collected
11 for the state's children by authorizing the district courts of this
12 state and the Department of Human Services to order the revocation,
13 suspension, nonissuance or nonrenewal of ~~an occupational,~~
14 ~~professional, business or~~ any recreational license or permit, or
15 permit including, but not limited to, a hunting and fishing license
16 or other authorization issued pursuant to the Oklahoma Wildlife
17 Conservation Code, Section 1-101 et seq. of Title 29 of the Oklahoma
18 Statutes, and certificates of title for vessels and motors and other
19 licenses of registration issued pursuant to the Oklahoma Vessel and
20 Motor Registration Act, Section 4001 et seq. of Title 63 of the
21 Oklahoma Statutes, ~~and the driving privilege of~~ or to order
22 probation for a parent who is in noncompliance with an order for
23 support for at least ninety (90) days or failing, after receiving
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1 appropriate notice to comply with subpoenas or warrants relating to
2 paternity or child support proceedings.

3 SECTION 2. AMENDATORY 43 O.S. 2011, Section 139.1, as
4 amended by Section 1, Chapter 38, O.S.L. 2014 (43 O.S. Supp. 2019,
5 Section 139.1), is amended to read as follows:

6 Section 139.1 A. As used in this section and Section 6-201.1
7 of Title 47 of the Oklahoma Statutes:

8 1. "Licensing board" means any bureau, department, division,
9 board, agency or commission of this state or of a municipality in
10 this state that issues a license;

11 2. "Noncompliance with an order for support" means that the
12 obligor has failed to make child support payments required by a
13 child support order in an amount equal to the child support payable
14 for at least ninety (90) days or has failed to make full payments
15 pursuant to a court-ordered payment plan for at least ninety (90)
16 days or has failed to obtain or maintain health insurance coverage
17 as required by an order for support for at least ninety (90) days or
18 has failed, after receiving appropriate notice to comply with
19 subpoenas or orders relating to paternity or child support
20 proceedings or has failed to comply with an order to submit to
21 genetic testing to determine paternity;

22 3. "Order for support" means any judgment or order for the
23 support of dependent children or an order to submit to genetic
24 testing to determine paternity issued by any court of this state or

1 other state or any judgment or order issued in accordance with an
2 administrative procedure established by state law that affords
3 substantial due process and is subject to judicial review;

4 4. "License" means ~~a license, certificate, registration,~~
5 ~~permit, approval or other similar document issued by a licensing~~
6 ~~board granting to an individual a right or privilege to engage in a~~
7 ~~profession, occupation, or business, or~~ any recreational license or
8 permit including, but not limited to, a hunting and fishing license
9 or other authorization issued pursuant to the Oklahoma Wildlife
10 Conservation Code, or certificates of title for vessels and motors
11 and other licenses or registrations issued pursuant to the Oklahoma
12 Vessel and Motor Registration Act, ~~or a driver license or other~~
13 ~~permit issued pursuant to Title 47 of the Oklahoma Statutes;~~

14 5. "Obligor" means the person who is required to make payments
15 or comply with other provisions of an order for support;

16 6. "Oklahoma Child Support Services (OCSS)" means the state
17 agency designated to administer a statewide plan for child support
18 pursuant to Section 237 of Title 56 of the Oklahoma Statutes;

19 7. "Person entitled" means:
20 a. a person to whom a support debt or support obligation
21 is owed,
22 b. the OCSS or a public agency of another state that has
23 the right to receive current or accrued support
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1 payments or that is providing support enforcement
2 services, or

3 c. a person designated in a support order or as otherwise
4 specified by the court; and

5 8. "Payment plan" includes, but is not limited to, a plan
6 approved by the court that provides sufficient security to ensure
7 compliance with a support order and/or that incorporates voluntary
8 or involuntary income assignment or a similar plan for periodic
9 payment on an arrearage and, if applicable, current and future
10 support.

11 B. 1. Except as otherwise provided by this subsection, the
12 district courts of this state are hereby authorized to order the
13 revocation, suspension, nonissuance or nonrenewal of a license or
14 the placement of the obligor on probation who is in noncompliance
15 with an order for support.

16 ~~2. If the obligor is a licensed attorney, the court may report~~
17 ~~the matter to the State Bar Association to revoke or suspend the~~
18 ~~professional license of the obligor or other appropriate action in~~
19 ~~accordance with the rules of professional conduct and disciplinary~~
20 ~~proceedings.~~

21 ~~3. Pursuant to Section 6-201.1 of Title 47 of the Oklahoma~~
22 ~~Statutes, the district or administrative courts of this state are~~
23 ~~hereby authorized to order the revocation or suspension of a driver~~
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1 ~~license of an obligor who is in noncompliance with an order of~~
2 ~~support.~~

3 4. The remedy under this section is in addition to any other
4 enforcement remedy available to the court.

5 C. 1. At any hearing involving the support of a child, if the
6 district court finds evidence presented at the hearing that an
7 obligor is in noncompliance with an order for support and the
8 obligor is licensed by any licensing board, the court, in addition
9 to any other enforcement action available, may suspend or revoke the
10 license of the obligor who is in noncompliance with the order of
11 support or place the obligor on probation pursuant to paragraph 2 of
12 this subsection.

13 2. a. To be placed on probation, the obligor shall agree to
14 a payment plan to:

15 (1) make all future child support payments as
16 required by the current order during the period
17 of probation, and

18 (2) pay the full amount of the arrearage:

19 (a) by lump sum by a date certain, if the court
20 determines the obligor has the ability, or

21 (b) by making monthly payments in addition to
22 the monthly child support amount pursuant
23 to Section 137 of this title.

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1 b. The payments required to be made pursuant to this
2 section shall continue until the child support
3 arrearage and interest which was the subject of the
4 license revocation action have been paid in full.

5 3. ~~If the obligor is placed on probation, the obligor shall be~~
6 ~~allowed to practice or continue to practice the profession,~~
7 ~~occupation or business of the obligor, or to operate a motor~~
8 ~~vehicle.~~ If the court orders probation, the appropriate licensing
9 board shall not be notified and no action is required of that board.

10 4. Probation shall be conditioned upon full compliance with the
11 order. If the court grants probation, the probationary period shall
12 not exceed three (3) years.

13 5. If the obligor is placed on probation, the obligee or OCSS
14 may request a hearing at any time to review the status of the
15 obligor's compliance with the payment plan and to request immediate
16 suspension or revocation of the obligor's license. The obligor
17 shall be served with notice of the hearing by regular mail to the
18 obligor's address of record pursuant to Section 112A of this title.

19 6. If, by the completion of time allotted for the probationary
20 period, the obligor has failed to fully comply with the terms of
21 probation, the licenses of the obligor shall be automatically
22 suspended or revoked without further hearing. If the licenses of
23 the obligor are suspended or revoked, the obligor may thereafter
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1 apply for reinstatement in compliance with subsection D or E of this
2 section.

3 D. When all support due is paid in full and the obligor has
4 complied with all other provisions of the order for support, the
5 obligor, the obligee or OCSS may file a motion with the court for
6 reinstatement of the obligor's licenses or termination of probation
7 and the motion shall be set for hearing. If the court finds the
8 obligor has paid all support due in full and has complied with all
9 other provisions of the order for support, the court shall reinstate
10 the obligor's licenses or terminate the probation.

11 E. 1. An obligor whose licenses have been suspended or revoked
12 may file a motion with the court for reinstatement of the licenses
13 of the obligor prior to payment in full of all support due and the
14 motion shall be set for hearing.

15 2. The court may reinstate the licenses of the obligor if the
16 obligor has:

17 a. paid the current child support and the monthly
18 arrearage payments each month for the current month
19 and two (2) months immediately preceding, or paid an
20 amount equivalent to three (3) months of child support
21 and arrearage payments which satisfies the current
22 child support and monthly arrearage payments for the
23 current month and two (2) months immediately
24 preceding,

1 b. disclosed all information regarding health insurance
2 availability and obtained and maintained health

3 insurance coverage required by an order for support,

4 c. complied with all subpoenas and orders relating to
5 paternity or child support proceedings,

6 d. complied with all orders to submit to genetic testing
7 to determine paternity, and

8 e. disclosed all employment and address information.

9 3. If the court terminates the order of suspension, revocation,
10 nonissuance or nonrenewal, it shall place the obligor on probation,
11 conditioned upon compliance with any payment plan and the provisions
12 of the order for support.

13 4. If the obligor fails to comply with the terms of probation,
14 the court may refuse to reinstate the licenses ~~and driving~~
15 ~~privileges~~ of the obligor unless the obligor makes additional
16 payments in an amount determined by the court to be sufficient to
17 ensure future compliance, and the obligor complies with the other
18 terms set by the court.

19 F. The obligor shall serve on the custodian or the state a copy
20 of the motion for reinstatement of the licenses of the obligor and
21 notice of hearing pursuant to Section 2005 of Title 12 of the
22 Oklahoma Statutes, or if there is an address of record, by regular
23 mail to the address of record on file with the central case registry
24 pursuant to Section 112A of this title. When child support services

1 are being provided pursuant to Section 237 of Title 56 of the
2 Oklahoma Statutes, the obligor shall serve a copy of the motion for
3 reinstatement of the licenses of the obligor on OCSS.

4 G. If the court orders termination of the order of suspension
5 or revocation, the obligor shall send a copy of the order
6 reinstating the licenses of the obligor to the licensing board, the
7 custodian and OCSS when child support services are being provided
8 pursuant to Section 237 of Title 56 of the Oklahoma Statutes.

9 H. Entry of this order does not limit the ability of the court
10 to issue a new order requiring the licensing board to revoke or
11 suspend the license of the same obligor in the event of another
12 delinquency or failure to comply.

13 I. Upon receipt of a court order to suspend or revoke the
14 license of an obligor, the licensing board shall comply with the
15 order by:

16 1. Determining if the licensing board has issued a license to
17 the individual whose name appears on the order for support;

18 2. Notifying the obligor of the suspension or revocation;

19 3. Demanding surrender of the license, if required;

20 4. Entering the suspension or revocation of the license on the
21 appropriate records; and

22 5. Reporting the suspension or revocation of the license as
23 appropriate.

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1 J. Upon receipt of a court order to not issue or not renew the
2 license of an obligor, the licensing board shall implement by:

3 1. Determining if the licensing board has received an
4 application for issuance or renewal of a license from the individual
5 whose name appears on the order of support;

6 2. Notifying the obligor of the nonissuance or nonrenewal; and

7 3. Entering the nonissuance or nonrenewal of the license as
8 appropriate.

9 K. An order, issued by the court, directing the licensing board
10 to suspend, revoke, not issue or not renew the license of the
11 obligor shall be processed and implemented by the licensing board
12 without any additional review or hearing and shall continue until
13 the court or appellate court advises the licensing board by order
14 that the suspension, revocation, nonissuance or nonrenewal is
15 terminated.

16 L. The licensing board has no jurisdiction to modify, remand,
17 reverse, vacate, or stay the order of the court for the suspension,
18 revocation, nonissuance or nonrenewal of a license.

19 M. In the event of suspension, revocation, nonissuance or
20 nonrenewal of a license, any funds paid by the obligor to the
21 licensing board for costs related to issuance, renewal, or
22 maintenance of a license shall not be refunded to the obligor.

23 N. A licensing board may charge the obligor a fee to cover the
24 administrative costs incurred by the licensing board to administer

1 the provisions of this section. Fees collected pursuant to this
2 section by a licensing board which has an agency revolving fund
3 shall be deposited in the agency revolving fund for the use by the
4 licensing board to pay the costs of administering this section.
5 Otherwise, the administrative costs shall be deposited in the
6 General Revenue Fund of the state.

7 O. Each licensing board shall promulgate rules necessary for
8 the implementation and administration of this section.

9 P. The licensing board is exempt from liability to the obligor
10 for activities conducted in compliance with Section 139 et seq. of
11 this title.

12 ~~Q. The provisions of this section may be used to revoke or~~
13 ~~suspend the licenses and driving privileges of the custodian of a~~
14 ~~child who fails to comply with an order to submit to genetic testing~~
15 ~~to determine paternity.~~

16 ~~R.~~ A final order entered pursuant to this section may be
17 appealed to the Supreme Court of Oklahoma pursuant to Section 990A
18 of Title 12 of the Oklahoma Statutes.

19 SECTION 3. REPEALER 47 O.S. 2011, Section 6-201.1, is
20 hereby repealed.

21 SECTION 4. This act shall become effective November 1, 2020."
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1 ENGROSSED HOUSE
2 BILL NO. 1276

By: Lawson and West (Josh) of
the House

3 and

4 Stanley of the Senate
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8 An Act relating to marriage; amending 43 O.S. 2011,
9 Sections 109 and 110.1, which relate to child
10 custody; requiring court to comply with specified law
11 in determining custody; requiring equally shared
12 parenting time if requested by a parent; providing
13 exception for best interests of the child; directing
14 maximization of time with each parent if deviation is
15 warranted; and providing an effective date.

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

15 SECTION 5. AMENDATORY 43 O.S. 2011, Section 109, is
16 amended to read as follows:

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

21 B. The court, pursuant to the provisions of subsection A of
22 this section and Section 110.1 of this title, may grant the care,
23 custody, and control of a child to either parent or to the parents
24 jointly.

1 For the purposes of this section, the terms joint custody and
2 joint care, custody, and control mean the sharing by parents in all
3 or some of the aspects of physical and legal care, custody, and
4 control of their children.

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

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

23 E. The parents having joint custody of the child may modify the
24 terms of the plan for joint care, custody, and control. The

1 modification to the plan shall be filed with the court and included
2 with the plan. If the court determines the modifications are in the
3 best interests of the child, the court shall approve the
4 modifications.

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

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

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

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

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

1 I. 1. In every proceeding in which there is a dispute as to
2 the custody of a minor child, a determination by the court that
3 domestic violence, stalking, or harassment has occurred raises a
4 rebuttable presumption that sole custody, joint legal or physical
5 custody, or any shared parenting plan with the perpetrator of
6 domestic violence, harassing or stalking behavior is detrimental and
7 not in the best interest of the child, and it is in the best
8 interest of the child to reside with the parent who is not a
9 perpetrator of domestic violence, harassing or stalking behavior.

10 2. For the purposes of this subsection:

11 a. "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 b. "stalking" means the willful course of conduct by a
21 parent who repeatedly follows or harasses another
22 person as defined in Section 1173 of Title 21 of the
23 Oklahoma Statutes, and
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1 c. "harassment" means a knowing and willful course or
2 pattern of conduct by a parent directed at another
3 parent which seriously alarms or is a nuisance to the
4 person, and which serves no legitimate purpose
5 including, but not limited to, harassing or obscene
6 telephone calls or conduct that would cause a
7 reasonable person to have a fear of death or bodily
8 injury.

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

13 4. The court shall consider, as a primary factor, the safety
14 and well-being of the child and of the parent who is the victim of
15 domestic violence or stalking behavior, in addition to other facts
16 regarding the best 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 6. AMENDATORY 43 O.S. 2011, Section 110.1, is
23 amended to read as follows:

1 Section 110.1 A. It is the policy of this state to assure that
2 minor children have frequent and continuing contact with parents who
3 have shown the ability to act in the best interests of their
4 children and to encourage parents to share in the rights and
5 responsibilities of rearing their children after the parents have
6 separated or dissolved their marriage, provided that the parents
7 agree to cooperate and that domestic violence, stalking, or
8 harassing behaviors as defined in Section 109 of this title are not
9 present in the parental relationship.

10 B. To effectuate this policy, if requested by a parent, the
11 court ~~may shall~~ provide ~~substantially equal access~~ equally shared
12 parenting time to the minor children to both parents at a temporary
13 order hearing, unless the court finds that shared parenting time
14 would not be ~~detrimental to~~ in the best interests of the child. If
15 a deviation from shared parenting time is warranted, the court shall
16 approve a parenting plan which maximizes the time each parent has
17 with the child and is consistent with the best interests of the
18 child.

19 SECTION 7. This act shall become effective November 1, 2019.
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1 Passed the House of Representatives the 12th day of March, 2019.

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3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2019.

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9 Presiding Officer of the Senate