

ENGROSSED SENATE
BILL NO. 397

BY: WRIGHT of the SENATE

and

SETTLE of the HOUSE

AN ACT RELATING TO CRIMINAL PROCEDURE; AMENDING SECTION 1, CHAPTER 220, O.S.L. 1982, SECTION 2, CHAPTER 255, O.S.L. 1982, AS AMENDED BY SECTION 1, CHAPTER 197, O.S.L. 1986 AND SECTION 3, CHAPTER 255, O.S.L. 1982, AS AMENDED BY SECTION 1, CHAPTER 290, O.S.L. 1983, AND SECTION 6, CHAPTER 290, O.S.L. 1983 (22 O.S. SUPP. 1990, SECTIONS 40, 60.1, 60.2 AND 60.7), WHICH RELATE TO DOMESTIC ABUSE, DEFINITIONS AND VICTIM PROTECTION ORDERS; MODIFYING STATUTORY LANGUAGE; CHANGING DEFINITION OF DOMESTIC ABUSE TO INCLUDE EMANCIPATED MINORS AND MINORS AGE SIXTEEN OR SEVENTEEN YEARS; EXPANDING DEFINITION OF FAMILY MEMBER TO INCLUDE BIOLOGICAL PARENTS OF CHILD AND PROVIDING CERTAIN EXCEPTION TO COHABITATION; AUTHORIZING EMANCIPATED MINORS AND MINORS AGES SIXTEEN OR SEVENTEEN YEARS TO FILE PETITION FOR PROTECTIVE ORDER; MODIFYING COURT FORM; CLARIFYING TITLE OF ACT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY Section 1, Chapter 220, O.S.L. 1982 (22 O.S. Supp. 1990, Section 40), is amended to read as follows:

Section 40. As used in Sections ~~1 through 5 of this act~~ 40 through 40.4 of this title:

1. "Rape" means an act of sexual intercourse accomplished with a person pursuant to Sections 1111, 1111.1 and 1114 of Title 21 of the Oklahoma Statutes;

2. "Forcible sodomy" means the act of forcing another person to engage in the detestable and abominable crime against nature pursuant to Sections 886 and 887 of Title 21 of the Oklahoma Statutes;

3. "Domestic abuse" means ~~the occurrence of one or more of the following acts between family or household members:~~

~~a. causing or attempting to cause physical harm; or~~

~~b. threatening another with physical harm~~ any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor age sixteen (16) or seventeen (17) years against another adult, emancipated minor or minor child who are family or household members; and

4. "Family or household members" means spouses, ex-spouses, parents, children, persons otherwise related by blood or marriage ~~or~~, persons living in the same household or who formerly ~~shared~~ lived in the same residence household, or persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time. This shall include the elderly and handicapped.

SECTION 2. AMENDATORY Section 2, Chapter 255, O.S.L. 1982, as amended by Section 1, Chapter 197, O.S.L. 1986 (22 O.S. Supp. 1990, Section 60.1), is amended to read as follows:

Section 60.1 As used in ~~this act~~ Section 60 et seq. of this title and in the Domestic Abuse Reporting Act, Sections 40.5 and 40.6 of this title and Section 150.12B of Title 74 of the Oklahoma Statutes:

1. "Domestic abuse" means ~~the occurrence of one or more of the following acts between family or household members:~~

~~a. causing or attempting to cause serious physical harm,~~
~~or~~

~~b. threatening another with imminent serious physical harm, and~~

~~c. includes but is not limited to: Assault, as defined by Section 641 of Title 21 of the Oklahoma Statutes; battery, as defined by Section 642 of Title 21 of the Oklahoma Statutes; rape, as defined by Section 1111 of Title 21 of the Oklahoma Statutes; and aggravated assault and battery, pursuant to Section 646 of Title 21 of the Oklahoma Statutes~~ any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor age sixteen (16) or seventeen (17) years against another adult, emancipated minor or minor child who are family or household members; and

2. "Family or household members" means spouses, ~~former spouses~~ ex-spouses, parents, children, persons otherwise related by blood or marriage, ~~or~~ persons living in the same household or who formerly lived in the same household, or persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time. This shall include the elderly and handicapped.

SECTION 3. AMENDATORY Section 3, Chapter 255, O.S.L. 1982, as amended by Section 1, Chapter 290, O.S.L. 1983 (22 O.S. Supp. 1990, Section 60.2), is amended to read as follows:

Section 60.2 A. A victim of domestic abuse, ~~or~~ any adult or emancipated minor household member on behalf of any other family or household member who is a minor or incompetent, or any minor age sixteen (16) or seventeen (17) years, may seek relief under the provisions of this act by filing a petition for protective order with the district court ~~of~~ in either the county in which the victim resides or the county in which the defendant resides.

B. The petition forms shall be provided by the clerk of the court and shall be in substantially the following form:

IN THE DISTRICT COURT IN AND FOR _____ COUNTY
STATE OF OKLAHOMA

_____)
Plaintiff)
))
vs.) Case No. _____
))
_____)
Defendant)

PETITION FOR PROTECTIVE ORDER

Plaintiff, being sworn, states:

1. (Check one or more)

 / The defendant caused or attempted to cause serious physical harm to _____.

 / The defendant threatened _____ with imminent serious physical harm.

2. The incident causing the filing of this petition occurred on or about _____.

(date)

(Describe what happened:)

3. The victim and the defendant are related as follows:

(check one)

- married
- divorced
- parent and child
- persons related by blood
- persons related by marriage
- persons living in the same household
- persons formerly living in the same household
- biological parents of the same child

4. (Answer this question only if the plaintiff is filing on behalf of someone else, minor or incompetent)

The plaintiff and the victim are related as follows:

- married
- divorced
- parent and child
- persons related by blood
- persons related by marriage
- persons living in the same household
- persons formerly living in the same household
- biological parents of the same child

5. (Check A or B)

(A) The victim is in immediate and present danger of abuse from

the defendant and an emergency ex parte order is necessary to protect

the victim from serious harm. The plaintiff requests the following

relief in the emergency ex parte order: (check one or more)

/ order the defendant not to abuse or injure
the victim.

 / order the defendant not to visit, assault,
molest, harass or otherwise interfere with
the victim.

 / order the defendant not to threaten the
victim.

 / order the defendant to leave the residence
located at _____ on or
before _____.

 / _____
(describe other relief that plaintiff
requests)

(B) / The plaintiff does not request an emergency
ex parte order.

6. Plaintiff requests the following order to be made by the court
following notice to the defendant and a hearing: (check one or
more)

 / order the defendant not to abuse or injure
the victim.

 / order the defendant not to visit, assault,
molest, harass or otherwise interfere with
the victim.

 / order the defendant not to threaten the
victim.

 / order the defendant to leave the residence
located at _____ on or
before _____.

 / _____
(describe other relief that plaintiff
requests)

____/ order the defendant to pay attorney fees of
the plaintiff in the sum of _____ on or
before _____.

____/ order the defendant to pay the court costs of
this action in the sum of _____ on or
before _____.

7. ____/ Victim is a resident of the county wherein this
petition is filed.

____/ Defendant is a resident of the county wherein this
petition is filed.

8. Plaintiff has stated the truth, the whole truth and
nothing but the truth in this petition.

Plaintiff

Witness my hand and seal,
affixed on the ____ day of _____, 19__.

Court Clerk, Deputy Court Clerk,
or Notary Public

C. No filing fee shall be charged the plaintiff at the time the
petition is filed. The court may assess court costs and filing fees
to either party at the hearing on the petition.

D. The plaintiff shall prepare the petition as set forth above
or, at the request of the plaintiff, the clerk of the court or the
victim-witness coordinator shall prepare or assist the plaintiff in
preparing the same.

SECTION 4. AMENDATORY Section 6, Chapter 290, O.S.L.
1983 (22 O.S. Supp. 1990, Section 60.7), is amended to read as
follows:

Section 60.7 All orders issued pursuant to the provisions of
the Protection from Domestic Abuse Act, Section 60 et seq. of this

title, shall have statewide validity, unless specifically modified or terminated by a judge of the district courts.

SECTION 5. This act shall become effective September 1, 1991.

Passed the Senate the 6th day of March, 1991.

President of the Senate

Passed the House of Representatives the ____ day of

_____, 1991.

Speaker of the House of Representatives