

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2306

BY: DAVIS

AS INTRODUCED

AN ACT RELATING TO CRIMINAL PROCEDURE; AMENDING 22

O.S. 1991, SECTIONS 60.1, 60.2 AND 60.4 WHICH

RELATE TO THE PROTECTION FROM DOMESTIC ABUSE ACT;

MODIFYING DEFINITION; MODIFYING PETITION FORM;

CLARIFYING EFFECT OF EX PARTE ORDERS AND PROTECTIVE

ORDERS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 60.1, is amended to read as follows:

Section 60.1 As used in 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 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, or persons having previously established a significant personal relationship; and

2. "Family or household members" or "persons having previously established a significant personal relationship" means spouses, ex-spouses, present spouses of ex-spouses, parents, children, persons

otherwise related by blood or marriage, 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, or persons who prior to the occurrence of said act or acts had established a similar significant personal relationship. This shall include the elderly and handicapped.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 60.2, is amended to read as follows:

Section 60.2 A. A victim of domestic abuse, any adult or emancipated minor household member on behalf of any other family or household member or any adult person on behalf of a person having previously established a significant personal relationship 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 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

   / present spouse of an ex-spouse

   / persons living in the same household

   / persons formerly living in the same household

   / biological parents of the same child

   / persons having previously established a significant personal relationship

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
- present spouse of an ex-spouse
- 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 3. AMENDATORY 22 O.S. 1991, Section 60.4, is amended to read as follows:

Section 60.4 A. A copy of the petition, notice of hearing and a copy of any ex parte order issued by the court shall be served upon the defendant in the same manner as a summons. Ex parte orders shall be given priority for service by the sheriff's office and can be served twenty-four (24) hours a day.

B. Within ten (10) days of the filing of the petition the court shall schedule a full hearing on the petition, regardless of whether an emergency ex parte order has been previously issued, requested or denied.

C. At the hearing, the court may grant any protective order to bring about the cessation of domestic abuse against the victim.

D. Protective orders authorized by this section may include the following:

1. An order to the defendant not to abuse or injure the victim;
2. An order to the defendant not to visit, assault, molest, harass or otherwise interfere with the victim;
3. An order to the defendant not to threaten the victim;
4. An order to the defendant to leave the residence;
5. An order awarding attorney fees; and

6. An order awarding court costs.

E. When necessary to protect the victim and when authorized by the court, protective orders granted pursuant to the provisions of this section may be served upon the defendant by a peace officer, sheriff, constable, or policeman or other officer whose duty it is to preserve the peace, as defined by Section 99 of Title 21 of the Oklahoma Statutes.

F. Any protective order issued pursuant to subsection C of this section shall not be for a fixed period but shall be continuous until modified or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant. No order issued under the Protection from Domestic Abuse Act shall in any manner affect title to real property.

G. No order issued under the Protection from Domestic Abuse Act shall in any manner affect title to real property, purport to grant to the parties a divorce or otherwise purport to determine the issues between the parties as to child custody, visitation, child support or division of property or any other like relief obtainable under Sections 101 et seq. of Title 43 of the Oklahoma Statutes.

SECTION 4. This act shall become effective September 1, 1992.

43-2-7387

JAF