

ENROLLED HOUSE
BILL NO. 1770

By: Fallin, Phillips,
Hamilton (Jeff) and
Perry of the House

and

Robinson, Douglass and
Fair of the Senate

An Act relating to criminal procedure; authorizing warrantless arrest for violation of certain emergency ex parte and final protective orders pursuant to certain conditions; setting time for appearance before the court; providing court procedures; amending 22 O.S. 1991, Section 196, which relates to warrantless arrests; adding violations of certain emergency ex parte and final protective orders to list of offenses for such warrantless arrests; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.9 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. A peace officer, without a warrant, may arrest and take into custody a person if the peace officer has reasonable cause to believe that:

1. An emergency ex parte or final protective order has been issued and served upon the person, pursuant to Section 60.1 et seq. of Title 22 of the Oklahoma Statutes;

2. A true copy and proof of service of the order has been filed with the law enforcement agency having jurisdiction of the area in which the plaintiff or any family or household member named in the order resides;

3. The person named in the order has received notice of the order and has had a reasonable time to comply with such order; and

4. The person named in the order has violated the order or is then acting in violation of the order.

B. A person arrested pursuant to this section shall be brought before the court within twenty-four (24) hours after arrest to answer to a charge for violation of the order, at which time the court shall do each of the following:

1. Set a time certain for a hearing on the alleged violation of the order within seventy-two (72) hours after arrest, unless extended by the court on the motion of the arrested person;

2. Set a reasonable bond pending a hearing of the alleged violation of the order; and

3. Notify the party who has procured the order and direct the party to appear at the hearing and give evidence on the charge.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 196, is amended to read as follows:

Section 196. A peace officer may, without a warrant, arrest a person:

1. For a public offense, committed or attempted in his presence;
2. When the person arrested has committed a felony, although not in his presence;
3. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it;
4. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested;
5. When he has probable cause to believe that the party was driving or in actual physical control of a motor vehicle involved in an accident upon the public highways, streets or turnpikes and was under the influence of alcohol or intoxicating liquor or who was under the influence of any substance included in the Uniform Controlled Dangerous Substances Act, Sections 2-101 et seq. of Title 63 of the Oklahoma Statutes; ~~or~~
6. Anywhere, including his place of residence, if the peace officer has probable cause to believe the person within the preceding four (4) hours has committed an act of domestic abuse as defined by Section 60.1 of this title, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first observing a recent physical injury to, or an impairment of the physical condition of, the alleged victim; or
7. When a peace officer, in accordance with the provisions of Section 1 of this act, is acting on a violation of a protective order offense.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 23rd day of May, 1994.

Speaker of the House of
Representatives

Passed the Senate the 25th day of May, 1994.

President of the Senate