

SHORT TITLE: Criminal procedure; protective orders; authorizing mutual and bilateral protective order; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1114

By: Henry

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 1991, Section 60.4, as last amended by Section 57, Chapter 290, O.S.L. 1994 (22 O.S. Supp. 1995, Section 60.4), which relates to protective orders; authorizing a mutual and bilateral protective order; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 60.4, as last amended by Section 57, Chapter 290, O.S.L. 1994 (22 O.S. Supp. 1995, 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~~ may be served twenty-four (24) hours a day. When the defendant is a minor child who is ordered removed from the residence of the victim, in addition to those documents served upon the defendant, a copy of the petition, notice of hearing and a copy of any ex parte order issued by the court shall be delivered with the child to the caretaker of the place where such child is ~~taken into~~ to be held in custody by the Department of Human Services.

B. Within fifteen (15) 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. Provided, however, when a minor child has been removed from the residence and placed in the temporary custody of  
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the Department of Human Services, the court shall schedule a full hearing on the petition within seventy-two (72) hours, 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 or stalking or harassment of the victim, including committing any minor child into the custody of the Department of Human Services.

D. Protective orders authorized by this section may include one or more of the following:

1. A mutual and bilateral order prohibiting both parties from making contact with the other person or attempting to visit, harass, stalk, molest, assault or otherwise interfere with the other person;

2. An order to the defendant not to abuse or injure the victim;

~~2.~~ 3. An order to the defendant not to visit, assault, molest, harass or otherwise interfere with the victim;

~~3.~~ 4. An order to the defendant not to threaten the victim;

~~4.~~ 5. An order to the defendant to cease stalking the victim;

~~5.~~ 6. An order to the defendant to cease harassment of the victim;

~~6.~~ 7. An order to the defendant to leave the residence;

~~7.~~ 8. An order awarding attorney fees;

~~8.~~ 9. An order awarding court costs; and

~~9.~~ 10. An order placing any minor child in the custody of the Department of Human Services.

E. After notice and hearing, protective orders authorized by this section may require the plaintiff or the defendant or both to undergo treatment or participate in the counseling services necessary to bring about cessation of domestic abuse ~~against the victim~~. Either party or both may be required to pay all or any part

of the cost of such treatment or counseling services. The court shall not be responsible for such cost.

F. 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 ~~police man~~ police officer or other officer whose duty it is to preserve the peace, as defined by Section 99 of Title 21 of the Oklahoma Statutes.

G. 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, by the consent agreement entered into by the plaintiff and defendant of both parties. If a child has been removed from the residence of a parent or custodial adult because of repeated domestic abuse committed by the child and is placed in the custody of the Department of Human Services, the parent or custodial adult may refuse to accept the return of ~~such~~ the child to the residence, until the child demonstrates a cessation of abusive behavior.

H. No order issued under the Protection from Domestic Abuse Act, Section 60 et seq. of this title, 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 2. 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.

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