

SHORT TITLE: Criminal procedure; warrantless arrests; extending certain period; providing certain affidavit in lieu of certain appearance; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1150

By: Helton

AS INTRODUCED

An Act relating to criminal procedure; amending Section 1, Chapter 316, O.S.L. 1994 (22 O.S. Supp. 1995, Section 60.9), which relates to warrantless arrests; extending period to bring person before court; providing for certain affidavit in lieu of certain appearance; providing exception to requirement for certain court hearing; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 316, O.S.L. 1994 (22 O.S. Supp. 1995, Section 60.9), is amended to read as follows:

Section 60.9 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~~ this title;

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~~ the 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)~~ forty-eight (48) 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 of the court hearing and direct the party to appear at the hearing and give evidence on the charge unless the arresting officer has executed an affidavit which adequately describes the officer's probable cause for making the arrest and which is signed by the party who procured the order.

C. Subsection B of this section shall not apply if the district attorney has filed a complaint and information and the arrested person has been arraigned on the charges within forty-eight (48) hours of the arrest.

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.

45-2-2121

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