

SHORT TITLE: Criminal procedure; warrantless arrests; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1232

By: Brown

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 1991, Section 40.3, as amended by Section 14, Chapter 325, O.S.L. 1993 (22 O.S. Supp. 1995, Section 40.3), which relates to warrantless arrests; requiring certain forms and information be provided to victims; deleting procedure to provide emergency order; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 40.3, as amended by Section 14, Chapter 325, O.S.L. 1993 (22 O.S. Supp. 1995, Section 40.3), is amended to read as follows:

Section 40.3 A. A peace officer shall not discourage a victim of rape, forcible sodomy or domestic abuse from pressing charges against the assailant of the victim.

B. A peace officer may arrest without a warrant a person 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.

C. When an arrest has been made pursuant to subsection B of this section and the court is not open for business, the victim of

domestic abuse may request a petition for an emergency temporary order of protection. The peace officer making the preliminary investigation shall:

~~1. Provide provide the victim with a petition for the forms needed to obtain an emergency temporary order of protection and, if necessary, written information concerning how to obtain the emergency order, and a list of agencies available to assist the victim in completing the petition form. The petition shall be in substantially the same form as provided by Section 60.2 of this title for a petition for protective order;~~

~~2. Immediately notify, by telephone or otherwise, a judge of the district court of the request for an emergency temporary order of protection and describe the circumstances. The judge shall inform the peace officer of his decision to approve or disapprove the emergency temporary order;~~

~~3. Inform the victim whether the judge has approved or disapproved an emergency temporary order. If an emergency temporary order has been approved, the officer shall provide the victim with a copy of the petition and a statement signed by the officer that the judge has approved the emergency temporary order of protection and notify said victim that the emergency temporary order shall be effective only until the close of business on the next day that the court is open for business;~~

~~4. Notify the person subject to the emergency temporary protection order of the issuance and conditions of the order. Notification pursuant to this paragraph may be made personally by the officer or in writing. A copy of the petition and the statement of the officer attesting to the order of the judge shall be made available to said person; and~~

~~5. File a copy of the petition and the statement of the officer with the district court of the county immediately upon the opening of the court on the next day the court is open for business obtaining the order.~~

D. The forms utilized by law enforcement agencies in carrying out the provisions of this section may be substantially similar to those used under Section 60.2 of Title 22 of the Oklahoma Statutes.

SECTION 2. This act shall become effective July 1, 1996.

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.

45-2-2168

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