STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 3328

By: Glover, Askins and Cox of the House

and

Helton of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending 22 O.S. 1991, Section 60.6, as last amended by Section 33, Chapter 247, O.S.L. 1996 (22 O.S. Supp. 1997, Section 60.6), which relates to violation of a protective order; modifying penalty; 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 60.6, as last amended by Section 33, Chapter 247, O.S.L. 1996 (22 O.S. Supp. 1997, Section 60.6), is amended to read as follows:

Section 60.6 A. Except as otherwise provided by this section, any person who:

1. Has been served with an ex parte or final protective order and is in violation of such protective order, upon conviction, shall

be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by a term of imprisonment in the county jail of not more than one (1) year, or both such fine and imprisonment; and

2. After a previous conviction of a violation of a protective order, is convicted of a second or subsequent offense pursuant to the provisions of this section shall, upon conviction, be deemed guilty of a ~~misdemeanor and shall be punished by a term of imprisonment in the county jail of not less than ten (10) days and not more than one (1) year~~ felony. Any person convicted of a violation of this section committed before the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes shall be subject to incarceration in the custody of the Department of Corrections for a period not exceeding five (5) years. Any person convicted of a violation of this section committed on or after the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes shall be guilty of a Schedule E felony. In addition to the term of imprisonment, the person may be punished by a fine of not less than One Thousand Dollars ($1,000.00) and not more than Five Thousand Dollars ($5,000.00).

B. 1. Any person who has been served with an ex parte or final protective order who violates the protective order and without justifiable excuse causes physical injury or physical impairment to the plaintiff or to any other person named in said protective order shall, upon conviction, be guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail for not less than twenty (20) days nor more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine not to exceed Five Thousand Dollars ($5,000.00).

2. In determining the term of imprisonment required by this section, the jury or sentencing judge shall consider the degree of physical injury or physical impairment to the victim.

3. The provisions of this subsection shall not affect the applicability of Sections 644, 645, 647 and 652 of Title 21 of the Oklahoma Statutes.

C. The minimum sentence of imprisonment issued pursuant to the provisions of paragraph 2 of subsection A and subsection B of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation, provided the court may subject any remaining penalty under the jurisdiction of the court to the statutory provisions for suspended sentences, deferred sentences or probation.

D. In addition to any other penalty specified by this section, the court may require a defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim or to bring about the cessation of stalking or harassment of the victim.

E. Ex parte and final protective orders shall include notice of these penalties.

F. When a minor child violates the provisions of any protective order, the violation shall be heard in a juvenile proceeding and the court may order the child and the parent or parents of the child to participate in family counseling services necessary to bring about the cessation of domestic abuse against the victim and may order community service hours to be performed in lieu of any fine or imprisonment authorized by this section.

SECTION 2. This act shall become effective July 1, 1998.

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.

46-2-11658 LAC