ENGROSSED HOUSE
BILL NO. 2055

By: Rice and Ostrander of the House

and

Long of the Senate

An Act relating to marriage and family; amending 43 O.S. 1991, Section 110, as amended by Section 1, Chapter 252, O.S.L. 1992 (43 O.S. Supp. 1996, Section 110), which relates to certain court orders in actions for divorce or separate maintenance; requiring certain statement as to effect of decree; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 1991, Section 110, as amended by Section 1, Chapter 252, O.S.L. 1992 (43 O.S. Supp. 1996, Section 110), is amended to read as follows:

Section 110. A. After a petition has been filed in an action for divorce or separate maintenance either party may request the court to issue:

1. A temporary order:

a. regarding child custody, support or visitation,

b. regarding spousal maintenance,

c. regarding payment of debt,

d. regarding possession of property,

e. regarding attorney fees,

f. restraining any person from transferring, encumbering, concealing, or otherwise disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained, requiring such person to notify the other party reasonably in advance of any proposed extraordinary expenditures made after the order is issued,

g. enjoining a party from molesting or disturbing the peace of the other party or of any child,

h. excluding a party from the family home or from the home of the other party,

i. enjoining a party from removing a child from the jurisdiction of the court, and

j. providing other injunctive relief proper in the circumstances.

All applications for temporary orders shall set forth the factual basis for the application and shall be verified by the party seeking relief. The application and a notice of hearing shall be served on the other party in any manner provided for in the Rules of Civil Procedure.

The court shall not issue a temporary order until at least five (5) days' notice of hearing is given to the other party.

After notice and hearing, a court may issue a temporary order granting the relief as provided by this paragraph; and/or

2. A temporary restraining order. If the court finds on the basis of a verified application and testimony of witnesses that irreparable harm will result to the moving party, or a child of a party if no order is issued before the adverse party or attorney for the adverse party can be heard in opposition, the court may issue a temporary restraining order which shall become immediately effective and enforceable without requiring notice and opportunity to be heard to the other party. If a temporary restraining order is issued

pursuant to this paragraph, the motion for a temporary order shall be set within ten (10) days.

B. Temporary orders may be vacated or modified before final decree on a showing by either party of facts necessary for vacation or modification. Temporary orders terminate when the final judgment on all issues, except attorney fees and costs, is rendered or when the action is dismissed. The court may reserve jurisdiction to rule on an application for a contempt citation for a violation of a temporary order which is filed any time prior to the time the temporary order terminates.

C. Upon granting a decree of divorce or separate maintenance, the court may require either party to pay such reasonable expenses of the other as may be just and proper under the circumstances.

D. The court may in its discretion make additional orders relative to the expenses of any such subsequent actions, including but not limited to writs of habeas corpus, brought by the parties or their attorneys, for the enforcement or modification of any interlocutory or final orders in the divorce action made for the benefit of either party or their respective attorneys.

E. Any order of the court issued in an action for divorce or separate maintenance which provides for the payment of a debt by either party wherein both parties to the action are responsible for payment thereof, shall clearly state that the order does not release the obligation of any party for payment of the debt.

SECTION 2. This act shall become effective November 1, 1997.

Passed the House of Representatives the 3rd day of March, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate