

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2921

By: Hastings

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 1991, Section 60.4, as last amended by Section 32, Chapter 247, O.S.L. 1996 and Section 3, Chapter 297, O.S.L. 1995 (22 O.S. Supp. 1997, Sections 60.4 and 60.11), which relates to the Protection from Domestic Abuse Act; extinguishing certain protective orders by operation of law in event of certain marriages, remarriages or cohabitation; expanding notice statement; and providing an effective date.

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 32, Chapter 247, O.S.L. 1996 (22 O.S. Supp. 1997, 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 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 pursuant to Section 7303-1.1 of Title 10 of the Oklahoma Statutes.

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 the defendant is a minor child who has been removed from the residence pursuant to Section 7303-1.1 of Title 10 of the Oklahoma Statutes, 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. If the court grants a protective order and the defendant is a minor child, the court shall order a preliminary inquiry in a juvenile proceeding to determine whether further court action pursuant to the Oklahoma Juvenile Code be taken against a juvenile defendant.

D. Protective orders authorized by this section may include the following:

1. An order to the defendant not to abuse or injure the victim;
2. An order to the defendant not to visit, assault, molest, harass or otherwise interfere with the victim;
3. An order to the defendant not to threaten the victim;
4. An order to the defendant to cease stalking the victim;
5. An order to the defendant to cease harassment of the victim;
6. An order to the defendant to leave the residence;
7. An order awarding attorney fees;
8. An order awarding court costs; and

9. An order requiring a preliminary inquiry in a juvenile proceeding pursuant to the Oklahoma Juvenile Code.

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 policeman 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 consent agreement entered into by the plaintiff and defendant. If a child has been removed from the residence of a parent or custodial adult because of domestic abuse committed by the child, the parent or custodial adult may refuse the return of such child to the residence, unless upon further consideration by the court, in a juvenile proceeding, it is determined that the child should be allowed to return to the residence.

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~~ pursuant to Title 43 of the Oklahoma Statutes.

I. The subsequent marriage, remarriage or cohabitation of the victim and the defendant shall extinguish by operations of law, an emergency or final protective order entered against the defendant.

SECTION 2. AMENDATORY Section 3, Chapter 297, O.S.L. 1995 (22 O.S. Supp. 1997, Section 60.11), is amended to read as follows:

Section 60.11 In addition to any other provisions required by the Protection from Domestic Abuse Act, or otherwise required by law, each ex parte or final protective order issued pursuant to the Protection from Domestic Abuse Act shall have the following statement printed in bold-faced type or in capital letters:

"THE FILING OR NONFILING OF CRIMINAL CHARGES AND THE PROSECUTION OF THE CASE SHALL NOT BE DETERMINED BY A PERSON WHO IS PROTECTED BY THIS ORDER, BUT SHALL BE DETERMINED BY THE PROSECUTOR. NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER OR A PERSON PROTECTED BY THIS ORDER MARRIES, REMARRIES OR COHABITATES WITH THE PERSON WHO HAS BEEN SERVED WITH THE PROTECTIVE ORDER."

SECTION 3. This act shall become effective November 1, 1998.

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