

SHORT TITLE: Divorce; allowing court to issue certain ex parte temporary orders. Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1171

By: Smith

AS INTRODUCED

An Act relating to divorce; amending 43 O.S. 1991, Section 110, as last amended by Section 9, Chapter 403, O.S.L. 1997 (43 O.S. Supp. 1997, Section 110), which relates to temporary orders; deleting language which requires certain notice and hearing; allowing court to issue certain ex parte temporary orders; 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 last amended by Section 9, Chapter 403, O.S.L. 1997 (43 O.S. Supp. 1997, 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~~ or
- j. providing other injunctive relief proper in the circumstances-;

2. 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~~

3. The court may issue a an ex parte temporary order granting the relief as provided by this paragraph; ~~and/or~~ if the ex parte order provides that instead of performing thereunder, the opposing party may appear on a date certain, not more than twenty (20) days thereafter, and show good cause as to why he or she should not comply with the order; or

~~2. 4. 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. Any temporary orders may be vacated or modified prior to or in conjunction with a 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.

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

46-2-2102

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