

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1462

By: Askins

COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; enacting the Workplace and Employee Protection Act; providing short title; authorizing the exercise of certain rights; prohibiting the diminishing of certain rights; stating purpose; stating intent; defining terms; authorizing certain persons to seek relief under certain circumstances; authorizing the filing of petitions for certain protective orders; requiring the Administrative Office of the Courts to establish a uniform petition for certain protective orders; specifying such petition; providing for a filing fee; providing for the preparation of the petition; providing for an emergency ex parte order; specifying certain relief; providing for service on the defendant; providing for scheduling of the hearing; specifying certain relief on a protective order concerning business premises and business duties; providing for certain service; requiring any protective order issued be for fixed period of time; limiting time period; providing for the distribution of copies; providing for certain transfer of information; providing penalties; providing for judicial considerations; authorizing applicability of other sections of law; prohibiting suspended sentences, deferred sentences or probation for certain offenses and requiring certain notice of such; requiring statewide and nationwide validity for certain orders; stating legislative intent concerning foreign protective orders; providing for validity of foreign protective orders except under certain circumstances; providing immunity for peace officers enforcing foreign protective orders; providing for affirmative defense for employing entity for certain purposes; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Workplace and Employee Protection Act".

B. No provision of the Workplace and Employee Protection Act shall diminish the exercise of the right to peacefully picket workplaces or diminish any other right allowed by the Constitution of the United States, the Constitution of the State of Oklahoma, or any other law including, but not limited to, the National Labor Relations Act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

The general purpose of the Workplace and Employee Protection Act is to provide for security in the workplace in this state through prohibition of threats of or actual physical harm, harassment, stalking or violent acts against an employing entity or its employees, agents, contractors, or business invitees. The Workplace and Employee Protection Act is intended to provide optional remedies against workplace violence which shall supplement rather than replace existing remedies against workplace violence and shall not obligate or create a duty on an employer to seek those optional remedies.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70.2 of Title 22, unless there is created a duplication in numbering, reads as follows:

As used in the Workplace and Employee Protection Act:

1. "Employing entity" means any individual, proprietor, partnership, contractor, or corporation employing one or more individuals and the agents of the employing entity;

2. "Stalking" means the willful, malicious, and repeated following of a person by an adult, emancipated minor, or minor sixteen (16) years of age or older with the intent of placing the person in reasonable fear of death or great bodily injury;

3. "Harassment" means a knowing and willful course or pattern of conduct by an adult, emancipated minor, or minor sixteen (16) years of age or older directed at one or more employees, agents, contractors, or invitees of an employing entity which serves no legitimate purpose, and the course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress to the person or such that would create a reasonable fear on the part of the agents of an employing entity of harm to the employees, agents, contractors, or business invitees of the employing entity;

4. "Victim" means any employing entity or authorized representatives, employees, agents, contractors, or business invitees of the employing entity; and

5. "Foreign protective order" means any valid order of protection issued by a court of another state or tribal court.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70.3 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. An employer, employee or an authorized representative of the employing entity on behalf of its employees, agents, contractors, or business invitees receiving threats of physical harm, harassment, or stalking may seek relief under the provisions of the Workplace and Employee Protection Act by filing a petition for a protective order with the district court in either the county in which the employing entity does business or the county in which the offense occurred.

B. On or before November 1, 2000, the Administrative Office of the Courts shall establish a uniform petition for a protective order and emergency ex parte order pursuant to the Workplace and Employee Protection Act. This petition shall be consistent with the information necessary for inclusion into the National Crime Information Center (NCIC) database.

C. A filing fee shall be charged to the plaintiff at the time the petition is filed. The court may assess court costs and filing fees to either party at the hearing on the petition.

D. The plaintiff shall prepare the petition as set forth in this section or, at the request of the plaintiff, the clerk of the court shall prepare or assist the plaintiff in preparing the petition.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70.4 of Title 22, unless there is created a duplication in numbering, reads as follows:

If the plaintiff requests an emergency ex parte order pursuant to Section 4 of this act, the court shall hold an ex parte hearing on the same day the petition is filed. The court may, for good cause shown at the hearing, issue an emergency ex parte order that it finds necessary to protect the victim(s) from immediate and present danger or threats, abuse, stalking, or harassment. The emergency ex parte order shall be in effect until after the full hearing is conducted. An emergency ex parte order authorized by this section may include the following relief while on business premises or performing business duties:

1. Order the defendant not to abuse or injure the victim(s);
2. Order the defendant not to telephone the victim(s);
3. Order the defendant not to assault, molest, or otherwise interfere with the victim(s);
4. Order the defendant not to visit the place of employment of the victim(s) unless requested by the victim(s);
5. Order the defendant to cease stalking the victim(s); and
6. Order the defendant to cease harassment of the victim(s).

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70.5 of Title 22, unless there is created a duplication in numbering, reads as follows:

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.

B. Within ten (10) 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.

C. At the hearing, the court may grant any protective order to bring about the cessation of threats or abuse against the victim(s), or stalking or harassment of the victim(s).

D. Protective orders authorized by this section may include the following relief while on business premises or performing business duties:

1. Order the defendant not to abuse or injure the victim(s);
2. Order the defendant not to telephone the victim(s);
3. Order the defendant not to assault, molest, or otherwise interfere with the victim(s);
4. Order the defendant not to visit the place of employment of the victim(s) unless requested by the victim(s);
5. Order the defendant to cease stalking the victim(s); and
6. Order the defendant to cease harassment of the victim(s).

E. When necessary to protect the victim(s) and when authorized by the court, protective orders granted pursuant to the provisions of this section may be served pursuant to Section 60.4 of Title 22 of the Oklahoma Statutes.

F. Any protective order issued pursuant to subsection C of this section shall be for a fixed period not to exceed one (1) year, unless renewed by the plaintiff and approved by the court.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70.6 of Title 22, unless there is created a duplication in numbering, reads as follows:

Within twenty-four (24) hours of the return of service of any ex parte or final protective order, the clerk of the issuing court shall send certified copies thereof to all appropriate law enforcement agencies designated by the plaintiff. The clerk shall forward a certified copy of the order to the place of employment of the plaintiff if requested by the plaintiff. Any law enforcement agency receiving a certified copy of the order shall transfer the information contained in the order for inclusion in the National Crime Information Center (NCIC) database.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70.7 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section, any person who has been served with an ex parte or final protective order or foreign 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 by both such fine and imprisonment.

B. Any person who, after a previous conviction of a violation of any protective order provided for in the Workplace and Employee Protection Act, is convicted of a second or subsequent offense pursuant to the provisions of this section shall 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. In addition to the term of imprisonment, the person may be punished by a fine of not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00).

C. 1. Any person who has been served with an ex parte, final protective order or foreign 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 the 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 ten (10) 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 and/or emotional injury, or physical and/or emotional 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.

D. The minimum sentence of imprisonment issued pursuant to the provisions of subsections B and C 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.

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

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70.8 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. All orders issued pursuant to the provisions of the Workplace and Employee Protection Act shall have statewide and

nationwide validity, unless specifically modified or terminated by a judge of the district courts.

B. It is the intent of the Legislature that all foreign protective orders shall have the rebuttable presumption of validity, even if the foreign protective order contains provisions which could not be contained in a protective order issued by an Oklahoma court. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective order is declared invalid by a court of competent jurisdiction it shall be given full faith and credit by all peace officers and courts in the State of Oklahoma.

C. A peace officer of this state shall be immune from liability for enforcing provisions of a foreign protective order.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70.9 of Title 22, unless there is created a duplication in numbering, reads as follows:

Actions taken in good faith by an employing entity pursuant to the Workplace and Employee Protection Act shall establish an affirmative defense for the employing entity in a civil action.

SECTION 11. This act shall become effective November 1, 2000.

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