

By: Shurden of the Senate
and
Braddock of the House

[domestic violence - reports of domestic abuse -
victim's rights for rape or sodomy - prohibiting
peace officer from discouraging victims to seek
certain actions - Protection from Domestic Abuse
Act - access to protection orders by law
enforcement - effective date -
emergency]

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 40, is
amended to read as follows:

Section 40. ~~As used in A.~~ Sections 40 through ~~40.4~~ 40.3 of
this title shall be known and may be cited as the "Protection from
Violent Assault Act".

B. As used in the Protection from Violent Assault Act:

1. "Rape" means an act of sexual intercourse accomplished with
a person pursuant to Sections 1111, 1111.1 and 1114 of Title 21 of
the Oklahoma Statutes that is punishable under Section 1115 of Title
21 of the Oklahoma Statutes;

2. "Forcible sodomy" means the act of forcing another person to
engage in the detestable and abominable crime against nature
pursuant to Sections 886 and 887 of Title 21 of the Oklahoma
Statutes that is punishable under Section 888 of Title 21 of the
Oklahoma Statutes;

3. "Domestic ~~abuse~~ violence" means any act of physical harm, or
the threat of imminent physical harm which is committed by an adult,

emancipated minor, or minor ~~age sixteen (16) or seventeen (17)~~ child thirteen (13) years of age or older against another adult, emancipated minor or minor child who are family or household members; and as defined by paragraph 4 of this subsection or who are or were in a dating relationship as defined in paragraph 8 of this subsection and which act is punishable under Section 644, 645, 652, 850, 888, 1115, 1172 or 1173 of Title 21 of the Oklahoma Statutes or any other criminal statute;

4. "Family or household members" means:

- a. spouses,
- b. ex-spouses,
- c. present spouses of ex-spouses,
- d. parents, including grandparents, stepparents, adoptive parents, and foster parents,
- e. children, including grandchildren, stepchildren, adopted children, and foster children,
- f. persons otherwise related by blood or marriage,
- g. persons living in the same household or who formerly lived in the same household, ~~or~~ and
- h. persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time. ~~This shall include the elderly and handicapped;~~

5. "Stalking" means an act of following or harassing another person in violation of Section 1173 of Title 21 of the Oklahoma Statutes;

6. "Harassment" means a knowing and willful course or pattern of conduct in violation of Section 850 or 1172 of Title 21 of the Oklahoma Statutes;

7. "Physical violence" means a willful, intentional, and malicious act committed by a person against another individual that

results in bodily injury or threat of imminent bodily injury or fear of death; and

8. "Dating relationship" means a courtship or engagement relationship. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 40.1, is amended to read as follows:

Section 40.1 Upon the preliminary investigation of any rape ~~or~~, forcible sodomy, or domestic violence as defined in Section 40 of this title, it shall be the duty of the officer who interviews the victim ~~of the rape or forcible sodomy~~ to inform the victim, or a responsible adult if the victim is a minor child or an incompetent person, of the twenty-four-hour statewide telephone communication service established by the Department of Mental Health and Substance Abuse Services for victims of sexual assault and domestic violence pursuant to Section 5 3-314 of this act Title 43A of the Oklahoma Statutes and to give notice to the victim or such responsible adult of certain victim's rights. The notice shall consist of handing such victim ~~the following~~ or responsible adult a written statement in substantially the following form:

"As a victim of the crime of rape ~~or~~, forcible sodomy, or domestic violence, you have certain rights. These rights are as follows:

1. The right to request that charges be pressed against your assailant;

2. The right to request protection from any harm or threat of harm arising out of your cooperation with law enforcement and prosecution efforts as far as facilities are available and to be provided with information on the level of protection available;

3. The right to be informed of financial assistance and other social services ~~as a result of being a victim~~ available to victims,

including information on how to apply for the assistance and services; and

4. The right to a free medical examination for the procurement of evidence to aid in the prosecution of your assailant for the crime of rape or forcible sodomy; and

5. The right to be informed by the district attorney of other victim's rights available pursuant to Section 215.33 of Title 19 of the Oklahoma Statutes.

The written notice shall also include the telephone number of the twenty-four-hour statewide telephone communication service established by the Department of Mental Health and Substance Abuse Services in Section 5 3-314 of this act Title 43A of the Oklahoma Statutes.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 40.2, as amended by Section 13, Chapter 325, O.S.L. 1993 (22 O.S. Supp. 1999, Section 40.2), is amended to read as follows:

Section 40.2 ~~Upon the preliminary investigation~~ A. Any victim of rape, forcible sodomy, any crime involving domestic abuse, it shall be the duty of the first peace officer who interviews the victim of the domestic abuse to inform the victim of the twenty-four-hour statewide telephone communication service established by Section 3-314 of Title 43A of the Oklahoma Statutes and to give notice to the victim of certain rights. The notice shall consist of handing such victim the following statement:

~~"As a victim of domestic abuse, you have certain rights. These rights are as follows:~~

~~1. The right to request that charges be pressed against your assailant;~~

~~2. The right to request protection from any harm or threat of harm arising out of your cooperation with law enforcement and prosecution efforts as far as facilities are available and to be provided with information on the level of protection available;~~

~~3. The right to be informed of financial assistance and other social services available as a result of being a victim, including information on how to apply for the assistance and services; and~~

~~4. The right to file a petition for a protective order or, when the domestic abuse occurs when the court is not open for business, to request an emergency temporary protective order physical violence, stalking or harassment as defined in Section 40 of this title where the assailant and the victim are not family or household members may seek a protective order in substantially similar form as provided in Section 60.2 of this title and shall be informed of victim's rights as provided in Section 215.33 of Title 19 of the Oklahoma Statutes and Section 3-314 of Title 43A of the Oklahoma Statutes.~~

B. The procedure for obtaining a protective order, giving notice to the defendant, and conducting a hearing may be substantially similar to the procedures provided in the Protection from Domestic Abuse Act.

C. A peace officer shall not discourage any victim of rape, forcible sodomy, domestic violence or any crime involving physical violence, stalking or harassment as defined in Section 40 of this title from pressing charges against the assailant of the victim. Nor shall any peace officer intentionally delay any duty imposed upon such officer to assist the victim in obtaining any protective order, to press for charges to be filed against the assailant or to serve process on the defendant.

D. Any protective order granted pursuant to this section for rape, forcible sodomy, any crime involving physical violence, stalking or harassment where the victim and the assailant are not family or household members shall expire three (3) years following the date of issuance, unless a motion is filed in the issuing court showing cause why the protective order should be extended for another three-year period.

E. Protective orders where the victim and the assailant are not family or household members as defined in Section 40 of this title may be served by a private process server or any person designated by Section 60.4 of this title.

F. A violation of a protective order issued pursuant to this section shall be punishable as provided in Section 60.6 of this title.

SECTION 4. AMENDATORY 22 O.S. 1991, Section 40.3, as last amended by Section 1, Chapter 368, O.S.L. 1997 (22 O.S. Supp. 1999, Section 40.3), is amended to read as follows:

Section 40.3 A. ~~A peace officer shall not discourage a victim of rape, forcible sodomy or domestic abuse from pressing charges against the assailant of the victim.~~

~~B.~~ A peace officer may arrest without a warrant a person anywhere within the peace officer's jurisdiction, including ~~his~~ a place of residence, if the peace officer has probable cause to believe the person within the preceding seventy-two (72) hours has committed an act of domestic ~~abuse as defined by Section 60.1 of this title~~ violence as defined by Section 40 of this title, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first observing a recent physical injury to, or an impairment of the physical condition of, the alleged victim.

~~C.~~ B. When an arrest has been made pursuant to subsection ~~B~~ A of this section and the court is not open for business, the victim of domestic ~~abuse~~ violence may request a petition for an emergency temporary order of protection. The peace officer making the preliminary investigation shall:

1. Provide the victim with a petition for an emergency temporary order of protection and, if necessary, assist the victim in completing the petition form. The petition shall be in

substantially the same form as provided by Section 60.2 of this title for a petition for protective order;

2. Immediately notify, by telephone or otherwise, a judge of the district court of the request for an emergency temporary order of protection and describe the circumstances. ~~The judge shall inform the peace officer of his decision to approve or disapprove the emergency temporary order;~~

3. Inform the victim whether the judge has approved or disapproved ~~an~~ the emergency temporary order. If an emergency temporary order has been approved, the officer shall provide the victim, or a responsible adult if the victim is a minor child or an incompetent person, with a copy of the petition and a written statement signed by the officer attesting that the judge has approved the emergency temporary order of protection and ~~notify said victim that the emergency temporary order shall be effective only until the close of business on the next day that the court is open for business~~ the length of time the emergency temporary order of protection will remain in effect as determined by the judge;

4. Notify the person subject to the emergency temporary protection order of the issuance and conditions of the order. Notification pursuant to this paragraph may be made personally by the officer or in writing. A copy of the petition and the statement of the officer attesting to the order of the judge shall be made available to said person; and

5. File a copy of the petition and the statement of the officer with the district court of the county immediately upon the opening of the court on the next day the court is open for business.

~~D.~~ C. The judge, when contacted by a peace officer requesting an emergency temporary order of protection on behalf of a victim of domestic violence after an arrest has been made of the assailant, shall either approve or disapprove the request for an emergency temporary order of protection and inform the peace officer of the

decision. The judge may issue such order verbally or in writing. When the order is issued verbally, the judge shall direct the peace officer to complete and sign a statement attesting to the order. If the judge approves the emergency temporary order it shall be in full force and effect for such time as determined by the judge after giving consideration to the circumstances of the situation, including but not limited to, the need for emergency hospitalization of the victim, the potential harm to the victim and family, and any need to immediately relocate the victim and family. Unless an expiration date is set by the judge, the emergency temporary order of protection shall be effective only until the close of business on the next day that the court is open for business.

D. The forms utilized by law enforcement agencies in carrying out the provisions of this section may be substantially similar to those used under Section 60.2 of ~~Title 22 of the Oklahoma Statutes~~ this title.

SECTION 5. AMENDATORY 22 O.S. 1991, Section 40.5, is amended to read as follows:

Section 40.5 Sections ~~2 through 4~~ 40.6 and 40.7 of this ~~act~~ title and Section 150.12B of Title 74 of the Oklahoma Statutes shall be known and may be cited as the "Domestic Abuse Violence Reporting Act".

SECTION 6. AMENDATORY 22 O.S. 1991, Section 40.6, is amended to read as follows:

Section 40.6 A. It shall be the duty of every law enforcement agency to keep a record of each reported incident of domestic ~~abuse~~ violence as provided in subsection B of this section and to submit a monthly report of such incidents as provided in subsection C of this section to the Director of the Oklahoma State Bureau of Investigation.

B. The record of each reported incident of domestic ~~abuse~~ violence shall:

1. Show the type of crime involved in the domestic ~~abuse~~
violence;
2. Show the day of the week the incident occurred; ~~and~~
3. Show the time of day the incident occurred;
4. Show whether or not a protective order was issued; and
5. Contain other information requested by the Oklahoma State
Bureau of Investigation.

C. A monthly report of the recorded incidents of domestic ~~abuse~~
violence shall be submitted to the Director of the Oklahoma State
Bureau of Investigation on forms provided by the Oklahoma State
Bureau of Investigation for such purpose and in accordance with the
guidelines established pursuant to Section 4 150.12B of ~~this act~~
Title 74 of the Oklahoma Statutes.

SECTION 7. AMENDATORY Section 1, Chapter 145, O.S.L.
1992 (22 O.S. Supp. 1999, Section 40.7), is amended to read as
follows:

Section 40.7 In an action in a court of this state, if a party
offers evidence of domestic ~~abuse~~ violence, testimony of an expert
witness concerning the effects of such domestic ~~abuse~~ violence on
the beliefs, behavior and perception of the person being abused
shall be admissible as evidence.

SECTION 8. AMENDATORY 22 O.S. 1991, Section 60, is
amended to read as follows:

Section 60. ~~This act~~ Sections 60 through 60.11 of this title
shall be known and may be cited as the "Protection from Domestic
~~Abuse~~ Violence Act".

SECTION 9. AMENDATORY 22 O.S. 1991, Section 60.1, as
last amended by Section 29, Chapter 247, O.S.L. 1996 (22 O.S. Supp.
1999, Section 60.1), is amended to read as follows:

Section 60.1 As used in the Protection from Domestic ~~Abuse~~
Violence Act ~~and in~~, Section 60 et seq. of this title, the Domestic

~~Abuse~~ Violence Reporting Act, Sections 40.5 through 40.7 of this title, and Section 150.12B of Title 74 of the Oklahoma Statutes:

1. "Domestic ~~abuse~~ violence" means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor ~~age~~ child thirteen (13) years of age or older against another adult, emancipated minor or minor child who are family or household members as defined in paragraph 2 of this section or who are or were in a dating relationship as defined by paragraph 3 of this section and which act is punishable by Sections 644, 645, 652, 850, 888, 1115, 1172 or 1173 of Title 21 of the Oklahoma Statutes or any other criminal statute;

2. ~~"Stalking" means the willful, malicious, and repeated following of a person by an adult, emancipated minor, or minor thirteen (13) 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 thirteen (13) years of age or older, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of Section 1172 of Title 21 of the Oklahoma Statutes and fear of death or bodily injury;~~

4. "Family or household members" means:

- a. spouses,
- b. ex-spouses,
- c. present spouses of ex-spouses,
- d. parents, including grandparents, stepparents, adoptive parents, and foster parents,

- e. children, including grandchildren, stepchildren, adopted children, and foster children,
- f. persons otherwise related by blood or marriage,
- g. persons living in the same household or who formerly lived in the same household, and
- h. persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time. ~~This shall include the elderly and handicapped;~~ and

~~5.~~ 3. "Dating relationship" means a courtship or engagement relationship. For purposes of Section 60 et seq. of this act title, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship.

SECTION 10. AMENDATORY 22 O.S. 1991, Section 60.2, as last amended by Section 7, Chapter 403, O.S.L. 1997 (22 O.S. Supp. 1999, Section 60.2), is amended to read as follows:

Section 60.2 A. A Any adult, emancipated minor, or child sixteen (16) or seventeen (17) years of age who is a victim of, or is acting on behalf of any minor child or incompetent family or household member as defined in Section 60 of this title who is a victim of domestic abuse violence, ~~a victim of stalking, a victim of harassment, any adult or emancipated minor household member on behalf of any other family or household member who is a minor or incompetent, or any minor age sixteen (16) or seventeen (17) years~~ may seek relief under the provisions of the Protection from Domestic Abuse Violence Act.

1. ~~Such~~ The person may seek seeking relief by filing shall file a petition for a protective order with the district court in ~~either~~ the county in which the victim resides ~~or,~~ the county in which the defendant resides, or the county in which the domestic violence occurred. The filing of a petition for a protective order shall not

require jurisdiction or venue of the criminal offense if either the plaintiff or defendant resides in the county. A petition for a protective order filed by a victim that is a family or household member of the defendant shall be given priority for service over other protective orders.

2. ~~When the abuse~~ The person seeking relief may request an emergency temporary protective order from the peace officer making the preliminary investigation of the offense as authorized by Section 40.3 of this title, if the offense occurs when the court is not open for business, such person may request an and an arrest has been made. Any request for an emergency temporary order of protection as provided authorized by Section 40.3 of this title shall be processed immediately.

B. The petition forms for a domestic violence protective order shall be provided by the clerk of the court and shall be in substantially the following form:

IN THE DISTRICT COURT IN AND FOR _____ COUNTY

STATE OF OKLAHOMA

_____)

Plaintiff)

)

vs.)

Case No. _____

)

_____)

Defendant)

PETITION FOR PROTECTIVE ORDER

Plaintiff, being sworn, states:

1. (Check one or more)

[] The defendant caused or attempted to cause serious physical harm to _____.

[] The defendant threatened _____ with imminent serious physical harm.

The defendant has stalked or harassed _____.

2. The incident causing the filing of this petition occurred on or about _____.

(date)

(Describe what happened:)

3. The victim and the defendant are related as follows:

(check one)

- married
- divorced
- parent and child
- persons related by blood
- persons related by marriage
- present spouse of an ex-spouse
- persons living in the same household
- persons formerly living in the same household
- biological parents of the same child
- persons in a dating relationship
- persons in a previous dating relationship
- not related

4. (Answer this question only if the plaintiff is filing on behalf of someone else, minor or incompetent)

The plaintiff and the victim are related as follows:

- married
- divorced
- parent and child

- persons related by blood
- persons related by marriage
- present spouse of an ex-spouse
- persons living in the same household
- persons formerly living in the same household
- biological parents of the same child
- persons in a dating relationship
- persons in a previous dating relationship
- not related

5. (Check A or B)

(A) The victim is in immediate and present danger of abuse from the defendant and an emergency ex parte order is necessary to protect the victim from serious harm. The plaintiff requests the following relief in the emergency ex parte order: (check one or more)

- order the defendant not to abuse or injure the victim.
- order the defendant not to telephone, visit, assault, molest, stalk or otherwise interfere with the victim.
- order suspension of child visitation orders due to physical violence or threat of abuse to the child by the defendant.
- order the defendant not to threaten the victim.
- order the defendant to cease stalking the victim.
- order the defendant to cease harassment of the victim.
- order the defendant to leave the residence located at _____ on or before _____.

If the defendant is served the protective order in the same residence as the victim, the peace officer or a qualified private investigator shall remain on the premises for the protection of the victim until the defendant can gather necessary personal effects and leave the residence.

- order the defendant who is a minor child to leave the residence located at _____ by immediately placing

the defendant in any type of care authorized for children taken into custody pursuant to subsection A of Section 7303-1.1 of Title 10 of the Oklahoma Statutes.

Circle age of defendant: Thirteen (13), fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years.

order firearms and other weapons removed as authorized by subsection I of Section 60.8 of this title to be held until further order of the court.

(describe other relief that plaintiff requests)

(B) The plaintiff does not request an emergency ex parte order.

6. Plaintiff requests the following order to be made by the court following notice to the defendant and a hearing: (check one or more)

order the defendant not to abuse or injure the victim.

order the defendant not to telephone, visit, assault, molest, stalk or otherwise interfere with the victim.

order suspension of child visitation orders due to physical violence or threat of abuse to the child by the defendant.

order the defendant not to threaten the victim.

order the defendant to cease stalking the victim.

order the defendant to cease harassment of the victim.

order the defendant to leave the residence located at _____ on or before _____.

If the defendant is served the protective order in the same residence as the victim, the peace officer or a qualified private investigator shall remain on the premises for the protection of the victim until the defendant can gather necessary personal effects and leave the residence.

order the defendant who is a minor child to leave the residence located at _____ by immediately placing the defendant in any type of care authorized for children

taken into custody pursuant to subsection A of Section 7303-1.1 of Title 10 of the Oklahoma Statutes.

Circle age of defendant: Thirteen (13), fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years.

_____ (describe other relief that plaintiff requests)

order the defendant to pay attorney fees of the plaintiff in the sum of _____ on or before _____.

order the defendant to pay the court costs and costs of service of process of this action in the sum of _____ on or before _____.

order the defendant to pay to the _____ law enforcement agency a photo evidence fee of Twenty-five Dollars (\$25.00) for photographs of the victim's injury or crime scene made by the investigating officer.

order the firearms and other weapons removed as authorized by subsection I of Section 60.8 of this title not to be returned to the defendant.

7. Victim is a resident of the county wherein this petition is filed.

Defendant is a resident of the county wherein this petition is filed.

The domestic violence occurred in the county where this petition is filed but neither the victim nor defendant are residents of the county.

8. WARNING: Whoever makes a statement or allegation in this Petition for Protective Order but does not believe that the statement or allegation is true, or knows that it is not true, or intends thereby to avoid or obstruct the ascertainment of the truth, may be found guilty of perjury. Pursuant to Sections 500 and 504 of Title 21 of the Oklahoma Statutes, the penalty for perjury, or

subornation of perjury, is a felony punishable by imprisonment for not more than five (5) years.

9. Plaintiff, being first duly sworn on oath states: That I have read the above and foregoing document, understand the meaning thereof, and declare, under penalty of perjury, that the facts and statements contained herein are believed to the best of my knowledge to be the truth, and nothing but the truth.

Plaintiff

Witness my hand and seal, affixed on the ___ day of _____, 19__.

Court Clerk, Deputy Court Clerk,
or Notary Public

C. No filing fee or service of process fee shall be charged the plaintiff or victim at the time the petition is filed. The court ~~may shall~~ assess court costs, service of process fees, and filing fees ~~to either party~~ against the defendant at the hearing on the petition, if the petition is granted, or against either party if the petition is denied. No peace officer shall require payment of service of process fees in advance of service of any petition or order nor shall any peace officer deny service of a petition for a protective order or any ex parte, emergency or final protective order due to nonpayment of a process service fee in advance. A domestic violence petition for a protective order shall be served as provided in Section 60.4 of this title.

D. The ~~plaintiff~~ person seeking relief shall prepare the petition as set forth above or, at the request of the plaintiff, the court clerk of the court or, the victim-witness coordinator or a victim's advocate shall prepare or assist the plaintiff in preparing the same.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 60.2a of Title 22, unless there is created a duplication in numbering, reads as follows:

A. When a crime report is made for an act of domestic violence to a law enforcement agency, the law enforcement officer shall make an immediate response. Within twenty-four (24) hours of the completion of the preliminary investigation on any crime involving domestic violence, excluding weekends and holidays, the law enforcement agency shall notify the district attorney's office of the report.

B. Within seventy-two (72) hours of receiving a report on a preliminary investigation of any act of domestic violence, excluding weekends or holidays, the district attorney shall review the report and shall either file criminal charges against the assailant or give written notice to the law enforcement agency stating that the district attorney declines to prosecute at this time. The district attorney may state the reasons for a decision not to prosecute. Nothing in this subsection shall be construed to limit or deny any victim the right to know the status of a case or charge as required by Section 215.33 of Title 19 of the Oklahoma Statutes.

SECTION 12. AMENDATORY 22 O.S. 1991, Section 60.3, as last amended by Section 1, Chapter 34, O.S.L. 1999 (22 O.S. Supp. 1999, Section 60.3), is amended to read as follows:

Section 60.3 ~~A.~~ If a plaintiff requests an emergency ex parte order pursuant to Section 60.2 of this title, 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 any emergency ex parte order that it finds necessary to protect the victim from immediate and present danger of domestic ~~abuse, stalking, or harassment~~ violence. The emergency ex parte order shall be in effect until ~~after~~ the conclusion of the full hearing ~~is conducted~~

on the petition. Provided, if the defendant, after having been served, does not appear at the hearing, the emergency ex parte order shall remain in effect until the defendant is served with the permanent order. If the terms of the permanent order are the same as those in the emergency order, or are less restrictive, then it is not necessary to serve the defendant with the permanent order. Any emergency ex parte order entered shall state: "IF YOU FAIL TO APPEAR AT THE HEARING, A PERMANENT ORDER MAY BE ISSUED WITHOUT FURTHER NOTICE TO YOU." An emergency ex parte order 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 telephone, visit, assault, molest, stalk, harass or otherwise interfere with the victim;
3. An order suspending child visitation due to physical violence or threat of abuse to the child by the defendant or an order requiring supervised visitation with the child in a neutral setting.
4. An order to the defendant not to threaten the victim;
- ~~4.~~ 5. An order to the defendant not to stalk the victim;
- ~~5.~~ 6. An order to the defendant not to harass the victim;
- ~~6.~~ 7. An order to the defendant to leave the residence located at _____ on or before _____.

If the defendant is served the protective order at the same residence as the victim, the peace officer or qualified private investigator shall remain on the premise for protection of the victim until the defendant can gather necessary personal effects and leave the residence;

8. Order the firearms and other weapons removed as authorized by subsection I of Section 60.8 of this title to be held until further order of the court; or

~~7.~~ 9. An order removing the defendant who is a minor child from the residence by immediately placing the child in any type of care

authorized for children taken into custody pursuant to subsection A of Section 7303-1.1 of Title 10 of the Oklahoma Statutes.

~~B. If a plaintiff requests an emergency temporary ex parte order of protection as provided by Section 40.3 of this title, the judge who is notified of the request by a peace officer may issue such order verbally to the officer or in writing when there is reasonable cause to believe that the order is necessary to protect the victim from immediate and present danger of domestic abuse. When the order is issued verbally the judge shall direct the officer to complete and sign a statement attesting to the order. The emergency temporary ex parte order shall be in effect until the close of business on the next day the court is open for business after the order is issued.~~

SECTION 13. AMENDATORY 22 O.S. 1991, Section 60.4, as last amended by Section 1, Chapter 97, O.S.L. 1999 (22 O.S. Supp. 1999, Section 60.4), is amended to read as follows:

Section 60.4 A. A copy of the petition for a domestic violence protective order, notice of hearing and a copy of any emergency ex parte order issued by the court shall be served upon the defendant ~~in the same manner as a summons~~ by a peace officer, sheriff, or police officer or other officer whose duty it is to preserve the peace as defined by Section 99 of Title 21 of the Oklahoma Statutes or by a private investigator who has a valid license from the Council on Law Enforcement Education and Training (CLEET) as a private investigator with a firearms authorization endorsement and who has received domestic violence training approved by CLEET. The fee for service of an emergency ex parte order, petition for protective order, and notice of hearing shall be the same as the sheriff's service fee plus mileage expenses. ~~Ex~~ Emergency ex parte orders shall be given priority for service by the sheriff's office and can shall be served twenty-four (24) hours a day when the location of the defendant is known. When service cannot be made

upon the defendant within the jurisdiction of the sheriff or when service has not been made upon the defendant within three (3) days following the filing of a petition for a protective order or the issuance of an emergency ex parte order, the sheriff shall contact another law enforcement officer or a qualified private investigator to serve the defendant. An emergency ex parte order, a petition for protective order, and a notice of hearing shall have statewide validity and may be transferred to any law enforcement jurisdiction to effect service upon the defendant. Qualified private investigators may serve a defendant with documents authorized by this section and shall have statewide jurisdiction for service of such documents. Any qualified private investigator accepting service of domestic violence protective orders shall be immune from liability as provided for peace officers while serving process. Any qualified private investigator accepting responsibility for service of any documents under this section shall not thereafter refuse to serve the documents for nonpayment of service fees in advance. The plaintiff may voluntarily agree to pay the cost for surveillance and extended travel expenses for a qualified private investigator to serve the defendant or for the personal protection of the victim. The court shall order the defendant to reimburse or pay the service fees and mileage to the appropriate party at the hearing. 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 for a protective order 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. The court may schedule a full hearing on the petition for a protective order within seventy-two (72) hours when the court issues an emergency ex parte order suspending child visitation rights due to physical violence or threat of abuse to a child. If service has not been made on the defendant at the time of the hearing, the court shall continue the hearing. A petition for a protective order shall automatically renew every fifteen (15) days until the defendant is served. A petition for a protective order shall not expire and must be dismissed by court order. Failure to serve the defendant shall not be grounds for dismissal of a petition or an ex parte order unless the victim requests dismissal. All information on protective orders whether pending service upon the defendant or served upon the defendant pending hearing shall be available to all law enforcement agencies and other persons as provided pursuant to subsection B of Section 60.5 of this title and Section 150.12B of Title 74 of the Oklahoma Statutes.

C. At the hearing, the court may ~~grant~~ impose any terms and conditions in the protective order that the court reasonably believes are necessary to bring about the cessation of domestic ~~abuse violence and threats to~~ against the victim ~~or stalking or harassment of the victim~~ or the victim's immediate family including, but not limited to, counseling or treatment at the defendant's expense. 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 should be taken against a juvenile defendant. When the court grants a final protective order

the court shall order the defendant to be fingerprinted for the purpose of entering the protective order upon the criminal history record of the defendant. The Director of the Oklahoma State Bureau of investigation shall include final protective orders in the information contained in a person's criminal history record.

D. ~~Protective~~ Final protective orders authorized by this section may include the following, in addition to any other order specified by the court:

1. An order to the defendant not to abuse or injure the victim;
2. An order to the defendant not to telephone, visit, assault, molest, stalk, harass or otherwise interfere with the victim;
3. An order suspending child visitation rights due to physical violence or threat of abuse to the child by the defendant or a order requiring supervised visitation with the child in a neutral setting;
4. An order to the defendant not to threaten the victim;
- ~~4.~~ 5. An order to the defendant to cease stalking the victim;
- ~~5.~~ 6. An order to the defendant to cease harassment of the victim;
- ~~6.~~ 7. An order to the defendant to leave the residence located at _____ on or before _____ ;
- ~~7.~~ 8. An order awarding attorney fees;
- ~~8.~~ 9. An order ~~awarding~~ requiring payment of court costs and service of process fees, including reimbursement of any private investigator surveillance fees and expenses required to serve the defendant; and
10. An order requiring the defendant to pay an evidence fee of Twenty-five Dollars (\$25.00) to the law enforcement agency making the preliminary investigation for photographic evidence of the abuse;
11. An order requiring the defendant to be monitored by an electronic surveillance device and to pay the cost of maintaining such device;

12. An order requiring firearms and other weapons removed as authorized by subsection I of Section 60.8 of this title not to be returned to the defendant;

~~9.~~ 13. An order requiring a preliminary inquiry in a juvenile proceeding pursuant to the Oklahoma Juvenile Code; and

14. An order requiring the defendant or plaintiff or both to undergo treatment or to participate in the counseling services necessary to bring about cessation of physical violence or threat of violence against the victim or the victim's family. The court may order the defendant to pay all or part of the cost of such treatment or counseling services. The court shall not be responsible for payment of such cost.

~~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 final protective order issued on or after November 1, 1999,~~ to a victim pursuant to subsection C of this section against any family or household member shall not be for a fixed period but shall be continuous until the protective order is modified or rescinded by the issuing court after notice and hearing. Any final protective order issued on or after November 1, 2000, pursuant to subsection C of this section where the victim and defendant are not

family or household members shall be for a fixed period not to exceed a period of three (3) years unless extended, modified, vacated or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant. The court shall notify the parties at the time of the issuance of the protective order of the duration of the protective order. Upon the filing of a motion by either party to modify, extend, vacate or rescind a protective order, or upon the court's own motion, a hearing shall be scheduled and notice given to the parties. At the hearing, the issuing court may take such action as is necessary under the circumstances. If a child has been removed from the residence of a parent or custodial adult because of domestic ~~abuse~~ violence 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 is no longer a threat and should be allowed to return to the residence.

F. A protective order shall not be modified in any divorce proceeding or separation action. Once a divorce proceeding or legal separation has been filed, granted, or a temporary order has been issued in such case, the plaintiff or defendant may file a motion to modify the protective order in the issuing court if the protective order conflicts with the orders of the divorce court. Following a hearing on the motion, modification of the protective order may be made as necessary to protect the victim.

G. If shall be unlawful for any person to knowingly and willfully seek a domestic violence protective order against a spouse or ex-spouse pursuant to Section 60 et seq. of this title for purposes of harassment, undue advantage, intimidation, or limitation of child visitation rights in any divorce proceeding or separation action without justifiable cause. The violator shall, upon

conviction, be guilty of a misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00).

H. ~~No~~ A protective order issued under the Protection from Domestic Abuse Violence Act, Section 60 et seq. of this title, shall not 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 schedules, child support or division of property or any other like relief obtainable under Sections 101 et seq. of Title 43 of the Oklahoma Statutes, except child visitation orders may be temporarily suspended or modified to protect a minor child from threats of abuse or physical violence by the defendant. When granting any protective order for the protection of a minor child from violence or threats of abuse, the court shall allow visitation only under conditions that provide adequate supervision and protection to the child while maintaining the integrity of a divorce decree or temporary order.

SECTION 14. AMENDATORY 22 O.S. 1991, Section 60.5, as last amended by Section 2, Chapter 97, O.S.L. 1999 (22 O.S. Supp. 1999, Section 60.5), is amended to read as follows:

Section 60.5 A. 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 and any law enforcement agencies required to be informed of the order pursuant to this act. A certified copy of any extension, modification, vacation, cancellation or consent agreement concerning a final protective order shall be sent within twenty-four (24) hours by the clerk of the issuing court to those law enforcement agencies receiving the original orders pursuant to this section and to any law enforcement agencies designated by the court.

B. Any law enforcement agency receiving copies of the documents listed in subsection A of this section shall be required to ensure

that other law enforcement agencies have access twenty-four (24) hours a day to the information contained in the documents and access to any other protective order information originating from such jurisdiction as may be required by Section 150.12B of Title 74 of the Oklahoma Statutes for protective orders.

SECTION 15. AMENDATORY 22 O.S. 1991, Section 60.6, as last amended by Section 33, Chapter 247, O.S.L. 1996 (22 O.S. Supp. 1999, Section 60.6), is amended to read as follows:

Section 60.6 A. ~~Except as otherwise provided by this section, any~~ Any person who has been served a protective order pursuant to Section 60 et seq. of this title or Section 40.2 of this title and who thereafter violates any of the terms and conditions of such protective order shall, upon conviction, be punished as follows:

1. ~~Has been served with an ex parte or final protective order and is in violation of such protective order, upon conviction, For a first offense, the violator shall, upon conviction, be guilty of a misdemeanor and shall be punished~~ punishable 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 protective order, is convicted of For a second or subsequent offense pursuant to the provisions of this section, the violator shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished~~ felony punishable by a term of imprisonment in the ~~county jail~~ State Penitentiary 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~~ and not more than three (3) years and a fine of not less than One Thousand Dollars (\$1,000.00) ~~and not~~ nor more than Five Thousand Dollars (\$5,000.00).

B. ~~1. Any person who has been served with an ex parte or final~~ A violation of a 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) shall be prosecuted in addition to any other criminal offense that may be charged.~~

~~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~~ section shall not affect the applicability of Sections 644, 645, 647 ~~and~~, 652, 850, 1115, 1172, 1173 or any other criminal offense of Title 21 of the Oklahoma Statutes.

C. The minimum sentence of imprisonment ~~issued~~ imposed 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~~ law, 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~~ violence against the victim or to bring about the cessation of stalking or harassment of the victim. The court may order the defendant to pay all or part of the cost for such treatment or counseling services. The court shall not be responsible for such costs.

E. Ex parte and final protective orders shall include notice of ~~these~~ the penalties specified in this section.

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 treatment or family counseling services necessary to bring about the cessation of domestic ~~abuse~~ violence against the victim and may order community service hours to be performed in lieu of any fine or imprisonment authorized by this section.

SECTION 16. AMENDATORY 22 O.S. 1991, Section 60.7, is amended to read as follows:

Section 60.7 All protective orders issued pursuant to the provisions of the Protection from Domestic ~~Abuse~~ Violence Act, Section 60 et seq. of this title, protective orders issued pursuant to the Protection from Violent Assault Act under Section 40.3 of this title, and protective orders from any court of competent jurisdiction shall have statewide validity if the order has been issued under proper jurisdiction of the parties and due process rights, unless specifically modified or terminated rescinded by a judge of the district courts court issuing such order or until such order expires as provided by law.

SECTION 17. AMENDATORY Section 1, Chapter 235, O.S.L. 1993 (22 O.S. Supp. 1999, Section 60.8), is amended to read as follows:

Section 60.8 A. Each peace officer of this state shall seize any weapon or instrument when such officer has probable cause to believe such weapon or instrument has been used to commit an act of domestic ~~abuse~~ violence as defined by Section 60.1 of ~~Title 22 of the Oklahoma Statutes~~ this title, provided an arrest is made, if possible, at the same time.

B. After any such seizure, the District Attorney shall file a forfeiture action as provided in this section within ten (10) days

of such seizure, or any weapon or instrument seized pursuant to this section shall be returned to the owner.

C. ~~The seizure and forfeiture provisions of Section 991a-11 of Title 22 of the Oklahoma Statutes shall be followed for any seizure and forfeiture of property pursuant to this section~~ Notice shall be given to all owners of the seized property and any parties in interest by mailing a copy of the notice of forfeiture by registered mail to the last-known address of any owner or party in interest. Within thirty (30) days after the mailing of the notice, the owner of the seized property and any party in interest may file a verified answer and claim to the property described in the notice. If at the end of the thirty-day period after the notice has been mailed, there is no verified answer on file, the court shall order the property forfeited and sold, unless the property is being held as evidence in a criminal proceeding. If a verified answer has been timely filed, the forfeiture proceeding shall be set for hearing not less than ten (10) days nor more than twenty (20) days after the filing of the answer by an owner or party in interest.

D. At the hearing for forfeiture, evidence of ownership shall be satisfied by a preponderance of the evidence. The claimant of any right, title or interest in the property may waive such right, title or interest and allow forfeiture of the property. The court shall order the property released to a bona fide innocent owner upon proof of ownership, provided the owner is not a person who was arrested for an act of domestic violence resulting in the seizure of the property. It is the intention of this section to forfeit only the right, title and interest of the offender and to forfeit property belonging to persons who have waived the right to redeem the property used in an act of domestic violence. If no bona fide claim of an innocent owner is established, the property shall be forfeited and sold under judgment of the court, as on sale upon execution.

E. Property taken or detained under the provisions of this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county in which the domestic violence occurred and the property was seized, subject only to the orders and decrees of the court having jurisdiction of the criminal offense.

F. The proceeds of the sale of any property forfeited shall be distributed as follows:

1. To the payment of the actual expenses of storing the property;

2. To the payment of court costs and costs of the sheriff in conducting the sale;

3. To the payment of restitution to the victim; and

4. The balance of the proceeds, if any, shall be paid to the Crime Victims Compensation Fund.

G. In addition to the provisions for forfeiture, seized property shall be released upon the following conditions;

1. The dismissal of the forfeiture proceeding;

2. The failure to file a forfeiture proceeding within the ten-day requirement; or

3. Failure to file criminal charges within the time provided for the forfeiture hearing, provided the property is held as evidence and has not been returned to the owner as provided in this section.

H. Dismissal or acquittal of criminal charges shall not be grounds to release any seized property subject to forfeiture proceedings under this section. ~~Provided, however, no~~ No weapon or instrument seized pursuant to this section or monies from the sale of any such seized weapon or instrument shall be turned over to the person from whom such property was seized if a forfeiture action has been filed within the time required by subsection B of this section, unless authorized by this section. Provided further, the owner may

prove at the forfeiture hearing that the conduct giving rise to the seizure was justified, and if the owner proves justification, the seized property shall be returned to the owner. ~~Any proceeds gained from this seizure shall be placed in the Crime Victims Compensation Revolving Fund.~~

I. At the request of any victim of domestic violence, a peace officer may voluntarily take into custody any firearms or other weapons located at the scene of a domestic violence incident upon the preliminary investigation of such offense; provided, the victim completes a written statement authorizing such firearms and other weapons to be removed by the peace officer. A law enforcement agency may charge a fee for storing any firearms or other weapons taken into custody for safekeeping as provided in this subsection. Property removed as provided in this subsection shall not be held as evidence but shall be held only for safekeeping and protection for the victim. Any property removed at the request of the victim shall not be subject to forfeiture proceedings or replevin action and shall be returned after thirty (30) days, except as otherwise provided in this subsection. After thirty (30) days from the date of removal of any firearms or other weapons pursuant to this subsection, the owner may make a written request to the law enforcement agency for the return of the property. Upon payment of any storage costs by the owner, the law enforcement agency shall return the property to the owner, except when the agency has received a protective order that specifies the firearms or weapons are to be held until further order of the court.

SECTION 18. AMENDATORY Section 1, Chapter 316, O.S.L. 1994 (22 O.S. Supp. 1999, Section 60.9), is amended to read as follows:

Section 60.9 A. A peace officer, without a warrant and within the jurisdiction of the employing agency, may arrest and take into

custody a person if the peace officer has reasonable cause to believe that:

1. An emergency ex parte or final protective order has been issued and served upon the person, pursuant to Section 60.1 et seq. ~~of Title 22 of the Oklahoma Statutes~~ or Section 40.2 of this title;

2. A true copy and proof of service of the order has been filed with the law enforcement agency having jurisdiction of the area in which the plaintiff or any family or household member named in the order resides or a certified copy of the order and proof of service is presented to the peace officer as provided in subsection C of this section;

3. The person named in the order has received notice of the order and has had a reasonable time to comply with such order; and

4. The person named in the order has violated the order or is then acting in violation of the order.

B. A person arrested pursuant to this section shall be brought before the court within twenty-four (24) hours after arrest to answer to a charge for violation of the order pursuant to Section 60.8 of this title, at which time the court shall do each of the following:

1. Set a time certain for a hearing on the alleged violation of the order within seventy-two (72) hours after arrest, unless extended by the court on the motion of the arrested person;

2. Set a reasonable bond pending a hearing of the alleged violation of the order; and

3. Notify the party who has procured the order and direct the party to appear at the hearing and give evidence on the charge.

C. A certified copy of a protective order together with a certified copy of proof of service shall be prima facie evidence that such order is valid in this state when such documentation is presented to a law enforcement officer by the plaintiff, defendant, or another person on behalf of a person named in the order. Any law

enforcement officer may rely on such evidence to make an arrest for a violation of such order, if there is reason to believe the defendant has violated or is then acting in violation of the order without justifiable excuse. When a law enforcement officer relies upon the evidence specified in this subsection, such officer and the employing agency shall be immune from liability for the arrest of the defendant if it is later proved the evidence was false.

D. Any person who knowingly and willfully presents any false or materially altered protective order to any law enforcement officer to effect an arrest of any person shall, upon conviction, be guilty of a misdemeanor punishable by a fine not exceeding Five Thousand Dollars (\$5,000.00), and shall, in addition, be liable for any civil damages to the defendant.

SECTION 19. AMENDATORY Section 3, Chapter 297, O.S.L. 1995, as last amended by Section 4, Chapter 417, O.S.L. 1999 (22 O.S. Supp. 1999, 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~~ Violence Act, or otherwise required by law, each ex parte or final protective order issued pursuant to the Protection from Domestic ~~Abuse~~ Violence Act or the Protection From Violent Assault 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. THIS ORDER SHALL BE ~~IN EFFECT~~ VALID FOR ~~THREE~~ (3) YEARS UNLESS EXTENDED, MODIFIED, VACATED OR RESCINDED BY A PERIOD OF TIME AS STATED ON THE ORDER OF THE COURT. PROTECTIVE

ORDERS PRIOR TO NOVEMBER 1, 2000, AND ALL ORDERS AGAINST FAMILY MEMBERS SHALL NOT EXPIRE UNLESS MODIFIED, VACATED OR RESCINDED BY THE COURT. A VIOLATION OF THIS ORDER IS PUNISHABLE BY ~~A FINE OF UP TO ONE THOUSAND DOLLARS (\$1,000.00) OR UP TO ONE (1) YEAR IN THE COUNTY JAIL, OR BY BOTH SUCH~~ CRIMINAL PROSECUTION, FINE AND IMPRISONMENT. ~~A VIOLATION OF THIS ORDER WHICH CAUSES INJURY SHALL BE PUNISHABLE BY TWENTY (20) DAYS TO ONE (1) YEAR IN THE COUNTY JAIL OR A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000.00), OR BY BOTH SUCH FINE AND IMPRISONMENT.~~ POSSESSION OF A FIREARM OR AMMUNITION BY A DEFENDANT WHILE THIS ORDER IS IN EFFECT MAY SUBJECT THE DEFENDANT TO PROSECUTION FOR A VIOLATION OF FEDERAL LAW EVEN IF THIS ORDER DOES NOT SPECIFICALLY PROHIBIT THE DEFENDANT FROM POSSESSING A FIREARM OR AMMUNITION."

SECTION 20. AMENDATORY 22 O.S. 1991, Section 196, as amended by Section 2, Chapter 316, O.S.L. 1994 (22 O.S. Supp. 1999, Section 196), is amended to read as follows:

Section 196. A peace officer may, without a warrant and within the jurisdiction of the employing agency, arrest a person:

1. For a public offense, committed or attempted in ~~his~~ the officer's presence;
2. When the person arrested has committed a felony, although not in ~~his~~ the officer's presence;
3. When a felony has in fact been committed, and ~~he~~ the officer has reasonable cause ~~for believing~~ to believe the person arrested to have committed it;
4. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested;
5. When ~~he~~ the officer has probable cause to believe that the party was driving or in actual physical control of a motor vehicle involved in an accident upon the public highways, streets or turnpikes and was under the influence of alcohol or intoxicating liquor or who was under the influence of any substance included in

the Uniform Controlled Dangerous Substances Act, Sections 2-101 et seq. of Title 63 of the Oklahoma Statutes;

6. Anywhere, including ~~his~~ a place of residence, if the peace officer has probable cause to believe the person within the preceding ~~four (4)~~ seventy-two (72) hours has committed an act of domestic ~~abuse as defined by~~ violence under Section ~~60.1~~ 40.3 of this title, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first observing a recent physical injury to, or an impairment of the physical condition of, the alleged victim; or

7. ~~When a peace officer, in accordance with the provisions of Section 1 of this act, is acting on a violation of a protective order offense~~ the person has violated or is then acting in violation of a protective order issued pursuant to Section 60.1 et seq. of this title or Section 40.2 of this title or a protective order issued pursuant to any court of competent jurisdiction and the order has been filed with the law enforcement agency or the victim has presented a certified copy of the order and proof of service as provided in Section 60.9 of this title.

SECTION 21. AMENDATORY 21 O.S. 1991, Section 644, as last amended by Section 3, Chapter 368, O.S.L. 1997 (21 O.S. Supp. 1999, Section 644), is amended to read as follows;

Section 644. A. Assault shall be punishable by imprisonment in a county jail not exceeding thirty (30) days, or by a fine of not more than Five Hundred Dollars (\$500.00), or both such fine and imprisonment.

B. Assault and battery shall be punishable by imprisonment in a county jail not exceeding ninety (90) days, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine.

C. Any person who commits any assault and battery against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall be guilty of domestic ~~abuse~~ assault and battery. Upon conviction, the defendant shall be punished by imprisonment in the county jail not exceeding one (1) year, or by a fine of not more than Three Thousand Dollars (\$3,000.00), or by both such fine and imprisonment. Any second or subsequent conviction of domestic ~~abuse~~ assault and battery shall be a felony punishable by imprisonment in the custody of the Department of Corrections for not more than two (2) years, or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. Every conviction of domestic ~~abuse~~ assault and battery shall require as a condition of a suspended sentence that the defendant participate in counseling or treatment to bring about the cessation of domestic abuse. The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court. For the purposes of this subsection, any conviction for assault and battery against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or any person living in the same household as the defendant, shall constitute a sufficient basis for a felony charge:

1. If that conviction is rendered in any state, county or ~~parish~~ municipal court of record of this or any other state; or

2. If that conviction is rendered in any municipal court of record of this or any other state for which any jail time was served; provided, no conviction in a municipal court of record entered prior to November 1, 1997, shall constitute a prior conviction for purposes of a felony charge.

SECTION 22. AMENDATORY Section 1, Chapter 107, O.S.L. 1992, as last amended by Section 205, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 1173), is amended to read as follows:

Section 1173. A. Any person who willfully, maliciously, and repeatedly follows or harasses another person in a manner that:

1. Would cause a reasonable person or a member of the immediate family of that person as defined in subsection F of this section to feel frightened, intimidated, threatened, harassed, or molested; and

2. Actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed, or molested,

upon conviction, shall be guilty of the crime of stalking, which is a misdemeanor punishable by imprisonment in a county jail for not more than one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

B. Any person who violates the provisions of subsection A of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the State Penitentiary for a term not exceeding five (5) years or by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00), or by both such fine and imprisonment when:

1. There is a permanent or temporary restraining order, a protective order ~~or~~, an emergency ex parte protective order, or an injunction in effect prohibiting the behavior described in

subsection A of this section against the same party, when the person violating the provisions of subsection A of this section has actual notice of the issuance of such order or injunction; or

2. Said person is on probation or parole, ~~a condition of which prohibits the behavior described in subsection A of this section against the same party~~ or under the conditions of a community or alternative punishment; or

3. Said person, within ten (10) years preceding the violation of subsection A of this section, completed the execution of sentence ~~or~~ for a conviction of a crime involving the use or threat of violence against the same party, or against a any member of the immediate family of such party, ~~upon conviction, shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a term not exceeding five (5) years or by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00), or by both such fine and imprisonment.~~

C. Any person who commits a second act of stalking within ten (10) years of the completion of sentence for a prior conviction under subsection A of this section, upon conviction thereof, shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a term not exceeding ~~five (5)~~ seven (7) years, or by a fine of not more than ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Three Thousand Five Hundred Dollars (\$3,500.00), or by both such fine and imprisonment.

D. Any person who commits an act of stalking within ten (10) years of the completion of execution of sentence for a prior conviction under ~~subsections~~ subsection B and or C of this section, shall, upon conviction thereof, be guilty of a felony punishable by a fine of not less than ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Three Thousand Five Hundred Dollars (\$3,500.00) nor more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the

State Penitentiary for a term not exceeding ten (10) years, or by both such fine and imprisonment.

E. Evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact as defined in subsection F of this section with the victim after having been requested by the victim to discontinue the same or ~~a different~~ any other form of unconsented contact, and to refrain from any further unconsented contact with the victim, shall give rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

F. For purposes of this section:

1. "Harasses" means a willful pattern or course of conduct directed toward a person another individual that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable person to suffer emotional distress, and that actually causes emotional distress to the victim and which serves no legitimate purpose. Harassment shall include harassing or obscene phone calls as prohibited by Section 1172 of this title and conduct prohibited by Section 850 of this title. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose;

2. "Course of conduct" means a pattern of conduct composed of a series of two (2) or more separate acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct";

3. "Emotional distress" means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling;

4. "Unconsented contact" means any contact with another individual that is initiated or continued without the consent of the

individual, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Constitutionally protected activity is not included within the meaning of unconsented contact. Unconsented contact includes but is not limited to any of the following:

- a. following or appearing within the sight of that individual,
- b. approaching or confronting that individual in a public place or on private property,
- c. appearing at the workplace or residence of that individual,
- d. entering onto or remaining on property owned, leased, or occupied by that individual,
- e. contacting that individual by telephone,
- f. sending mail or electronic communications to that individual, and
- g. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual; and

5. "Member of the immediate family" for the purposes of this section means any spouse, parent, child, person related within the third degree of consanguinity or affinity or any other person who regularly resides in the household or who regularly resided in the household within the prior six (6) months.

SECTION 23. AMENDATORY 74 O.S. 1991, Section 150.12B, is amended to read as follows:

Section 150.12B A. The Oklahoma State Bureau of Investigation shall provide forms for the reporting of domestic ~~abuse~~ violence to each person required to submit such reports pursuant to the provisions of Section ~~3~~ 40.6 of ~~this act~~ Title 22 of the Oklahoma Statutes and shall establish guidelines for the collection and

reporting of domestic ~~abuse~~ abuse violence incident information pursuant to the provisions of the Domestic ~~Abuse~~ Abuse Violence Reporting Act.

B. The Director of the Oklahoma State Bureau of Investigation shall compile a monthly and annual statistical report which shall include the number of reported incidents of domestic ~~abuse~~ abuse violence for each county and for the state as a whole, the types of crime involved in the domestic ~~abuse~~ abuse violence, the days of the week the incidents occurred, and the hours of the day the incidents occurred. The statistical reports shall not include the names of any of the persons involved in an incident of domestic ~~abuse~~ abuse violence or any information which would serve to identify such persons as individuals.

C. Copies of the monthly and annual statistical reports shall be available to the public upon request.

D. The Director of the Oklahoma State Bureau of Investigation in collaboration with the Director of the Administrative Office of the Courts shall establish rules for the dissemination of information on domestic violence protective orders.

SECTION 24. AMENDATORY 22 O.S. 1991, Section 1291, is amended to read as follows:

Section 1291. When a defendant is held to answer on a charge of misdemeanor for any property offense, for which the person by the act constituting the offense has a remedy by a civil action, the offense may be compromised as provided in ~~the next section~~ Section 1292 of this title, except when it was committed:

1. By or upon an officer of justice while in the execution of the duties of ~~his~~ the office~~;~~;
2. Riotously; or~~;~~
3. With an intent to commit a felony.

SECTION 25. AMENDATORY 22 O.S. 1991, Section 1292, is amended to read as follows:

Section 1292. ~~If Pursuant to the provisions of Sections 1291 through 1294 of this title, if~~ the party injured appear before the court to which the deposition and statement are required to be returned at any time before trial, on an indictment or information for the offense, and acknowledge in writing that he or she has received full satisfaction for the ~~injury, property offense,~~ the court may, in its discretion, on payment of the costs incurred, order all proceedings to be stayed upon the prosecution and the defendant to be discharged therefrom. But in that case the reasons for the order must be set forth therein and entered upon the minutes.

SECTION 26. AMENDATORY 22 O.S. 1991, Section 1293, is amended to read as follows:

Section 1293. The order authorized by ~~the last section~~ Section 1292 of this title is a bar to another prosecution for the same offense.

SECTION 27. AMENDATORY 22 O.S. 1991, Section 1294, is amended to read as follows:

Section 1294. No public offense can be compromised, nor can any proceedings for the prosecution or punishment thereof, upon a compromise, be stayed, except as provided in Sections ~~6113~~ 1291 and ~~6114~~ 1292 of this title.

SECTION 28. This act shall become effective July 1, 2000.

SECTION 29. 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.

Passed the Senate the 13th day of March, 2000.

President of the Senate

Passed the House of Representatives the ____ day of _____,
2000.

Speaker of the House of
Representatives