

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2246

By: Peters

AS INTRODUCED

An Act relating to domestic abuse; amending 10 O.S. 2001, Section 21.1, which relates to order of preference for guardianship or custody of children; stating court shall consider evidence of domestic abuse and violations of protective orders; amending 10 O.S. 2001, Section 1211, which relates to training for judges having juvenile docket; requiring certain training for judges having protective order and domestic abuse docket responsibility; amending 21 O.S. 2001, Section 644, which relates to assault and battery; requiring certain offenses to be filed as felonies; modifying punishment for second and subsequent offenses of domestic abuse; authorizing court to order participation by defendants in treatment programs; specifying when review hearings will be held; authorizing revocation of probation under certain circumstances; modifying definition; specifying punishment for person convicted of domestic abuse three or more times; prohibiting domestic abuse by strangulation; setting penalty; setting minimum sentences for second and subsequent offenses of certain crimes; requiring court to make specific findings why term of imprisonment is not imposed under certain circumstances; providing immunity from liability or prosecution for judges and treatment programs; prohibiting charging victim of domestic abuse with court fees; requiring certain conviction records to be presented to and considered by the court prior to a plea agreement or sentencing; amending 21 O.S. 2001, Section 852.1, which relates to child endangerment; expanding circumstances which may be considered an affirmative defense; amending 21 O.S. 2001, Section 1173, which relates to stalking; modifying punishment; requiring minimum sentences of imprisonment for certain offenses; amending 22 O.S. 2001, Section 40.3, which relates to not discouraging victims from filing charges; prohibiting certain officials from discouraging victim of rape, forcible sodomy and domestic abuse from requesting that charges be pressed; amending 22 O.S. 2001, Sections 60.1, 60.2, 60.3, 60.4, 60.6, 60.9 and 60.11, which relate to the Protection from Domestic Abuse Act; adding definitions; modifying form for Petition for Protective Order; establishing new form for Petition for Protective Order Against Stalking or Harassment; prohibiting collection of costs from victim; stating circumstances which shall constitute a strong preference for granting emergency protective order; modifying and adding provisions that may be included in emergency protective order; authorizing private process server to be hired to obtain service on

defendant; requiring court to continue hearing on petition for protective order for specified periods of time; modifying and adding provisions that may be part of final protective order; authorizing court to order treatment; authorizing court to proceed with sentencing for violation of protective order under certain circumstances; specifying what court may order in protective order regarding child support and temporary custody; authorizing issuance of mutual protective orders under certain circumstances; authorizing court to enter orders regarding possession of residence, payment of utility bills, and payment of temporary shelter costs under certain circumstances; allowing plaintiff to be accompanied by victim or court advocate during all proceedings; defining term; modifying penalties for violation of protective order; specifying punishment for third or subsequent offense; requiring peace officer to make determination as to which party is dominant aggressor during domestic abuse incident; adding information to be printed on protective order regarding penalties for violations of law; amending 22 O.S. 2001, Section 196, which relates to arrests without warrants; expanding circumstances authorizing warrantless arrest for domestic abuse; requiring trials of certain offense to be held within ninety days of arrest; amending 22 O.S. 2001, Section 991a (Section 17, Chapter 437, O.S.L. 2001), which relates to sentencing powers of the court; authorizing court to order attendance in treatment program or counseling upon conviction of domestic abuse; amending 22 O.S. 2001, Section 1105, which relates to discharge of defendant upon giving bail; authorizing court to enter order prohibiting certain conduct upon release from custody; amending 43 O.S. 2001, Sections 120.3 and 120.4, which relate to parenting coordinators; limiting authority in cases involving protective orders; amending 43A O.S. 2001, Sections 3-313 and 3-314.1, which relate to domestic violence and sexual assault programs; adding records regarding batterers to confidential records; authorizing certification of treatment programs for batterers; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 21.1, is amended to read as follows:

Section 21.1 A. Custody should be awarded or a guardian appointed in the following order of preference according to the best interests of the child to:

1. A parent or to both parents jointly except as otherwise provided in subsection B of this section;

2. A grandparent;

3. A person who was indicated by the wishes of a deceased parent;

4. A relative of either parent;

5. The person in whose home the child has been living in a wholesome and stable environment; or

6. Any other person deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

B. When a parent having physical custody and providing support to a child becomes deceased or when the custody is judicially removed from such parent, the court may only deny the noncustodial parent custody of the child or guardianship of the child if:

1. a. for a period of at least twelve (12) months out of the last fourteen (14) months immediately preceding the determination of custody or guardianship action, the noncustodial parent has willfully failed, refused, or neglected to contribute to the child's support:

(1) in substantial compliance with a support provision or an order entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support, or

(2) according to such parent's financial ability to contribute to the child's support if no provision for support is provided in a decree of divorce or an order of modification subsequent thereto, and

b. the denial of custody or guardianship is in the best interest of the child;

2. The noncustodial parent has abandoned the child as such term is defined by Section 7006-1.1 of this title; or

3. The court finds it would be detrimental to the health or safety of the child for the noncustodial parent to have custody or be appointed guardian.

C. The court may consider the preference of the child in awarding custody of said child if the child is of sufficient age to form an intelligent preference.

D. In every case involving the custody of, guardianship of or visitation with a child, the court shall consider evidence of ~~ongoing~~ domestic abuse, any past history of domestic abuse, prior criminal convictions for domestic abuse, domestic abuse by strangulation, domestic abuse in the presence of a minor child, stalking, harassment, rape or any sexually related or violent crime, or violations of protective orders which is properly brought before it. If the occurrence of ongoing domestic abuse is established by clear and convincing evidence, there shall be a rebuttable presumption that it is not in the best interests of the child to have custody, guardianship or unsupervised visitation granted to the abusive person.

E. In every case involving the custody of, guardianship of or visitation with a child, the court shall determine whether any individual seeking custody of, guardianship of or visitation with a child is or has previously been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state. There shall be a rebuttable presumption that it is not in the best interests of the child to have custody, guardianship or unsupervised visitation granted to a person subject to or previously subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 1211, is amended to read as follows:

Section 1211. A. The Supreme Court is required to establish by rule, education and training requirements for judges, associate judges, special judges, and referees who have juvenile court docket responsibility. The Administrative Director of the Courts shall be responsible for developing and administering procedures and rules for such courses for judicial personnel.

B. All judges having juvenile, protective order, domestic-abuse-related criminal or domestic docket responsibility shall attend at least twelve (12) hours of training per year pertinent to issues relating to juvenile law, child abuse and neglect, domestic abuse issues and other issues relating to children such as foster care and parental divorce. The Administrative Office of the Courts shall monitor the attendance of judges having juvenile, domestic-abuse-related criminal, protective order or domestic docket responsibility at such training.

C. District attorneys and assistant district attorneys whose duties include responsibility for the juvenile court docket shall complete education and training courses in juvenile law, child abuse and neglect and other issues relating to children such as foster care and parental divorce. The District Attorneys Council shall be responsible for developing and administering procedures and rules for such courses for district attorneys and assistant district attorneys.

D. Any public defender, or assistant public defender, whose duties include responsibility for a juvenile court docket shall complete education and training courses in juvenile law, child abuse and neglect and other issues relating to children such as foster care and parental divorce. The public defender shall be responsible for developing and administering procedures and rules for such courses.

E. Any attorney employed by or under contract with the Oklahoma Indigent Defense System whose duties include responsibility for a

juvenile court docket shall complete education and training courses in juvenile law, child abuse and neglect and other issues relating to children such as foster care and parental divorce. The Executive Director of the Oklahoma Indigent Defense System shall be responsible for developing and administering procedures and rules for such courses.

F. Any court-appointed attorney or retained attorney whose duties routinely include responsibility for a juvenile court docket shall complete education and training courses in juvenile law, child abuse and neglect and other issues relating to children such as foster care and parental divorce. The chief judge of the judicial district for which a court-appointed attorney serves shall be responsible for developing and administering procedures and rules for such courses.

G. Any court-appointed special advocate (CASA) available for appointment pursuant to the Oklahoma Children's Code or the Oklahoma Juvenile Code shall complete education and training courses in juvenile law, child abuse and neglect and other issues relating to children such as foster care and parental divorce. The chief judge of the judicial district for which a court-appointed special advocate serves shall be responsible for developing and administering procedures and rules for such courses.

H. The training and education programs required by this section shall be developed and provided by or in cooperation with the Child Abuse Training and Coordinating Council.

SECTION 3. AMENDATORY 21 O.S. 2001, 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. 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 person convicted of domestic abuse as defined in this subsection that was committed in the presence of a child shall be sentenced to not less than six (6) months. Any second or subsequent conviction of domestic abuse shall be a felony. Any second or subsequent incident of domestic abuse or domestic abuse committed in the presence of a minor child shall be charged and prosecuted as a felony, if charged and prosecuted. Any person convicted of a second or subsequent domestic abuse as defined in this subsection that was committed in the presence of a child shall be sentenced to not less than one (1) year. Any person convicted of a second or subsequent incident of domestic abuse as defined in this subsection shall be sentenced to not less than six (6) months imprisonment. The fine for a felony violation of this subsection shall not be more than Five Thousand Dollars (\$5,000.00). Every conviction of domestic abuse 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 court may require the defendant to attend a treatment program. Any order that a defendant attend a treatment program as part of any suspended or deferred sentence or probation shall require the defendant to attend, finish and be evaluated before and after attendance by a treatment program. Counseling or treatment for anger management shall not qualify as a treatment program for purposes of this subsection. The court shall set a review hearing at least thirty (30) days but not more than sixty (60) days after the defendant is ordered to attend a treatment program to assure the attendance and compliance of the defendant with the program requirements. The court shall set a second review hearing not less than sixty (60) days nor more than ninety (90) days from the first review hearing to assure the attendance and compliance of the defendant with the program requirements and may set subsequent review hearings as the court determines necessary to assure the defendant attends and complies with the program requirements of the treatment program. If the defendant is not satisfactorily attending the treatment program or is not in compliance with the requirements of the program at any review hearing, the court may revoke all or any part of any suspended sentence, deferred sentence or probation immediately and subject the defendant to any or all remaining portions of the original sentence.

The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court. As used in this section, "in the presence of a child" means in the physical presence of a child; or having knowledge that a child is present or is present within the same residence and may or could see or hear an act of domestic violence. For purposes of this subsection a child may be any child whether or not related to the victim or the defendant. 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 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.

D. Any person who is convicted of three or more separate incidents of domestic abuse, domestic abuse in the presence of a minor child, domestic abuse by strangulation, stalking, harassment, rape or a violation of a protective order within a twelve-month period shall be, upon conviction, guilty of a felony, punishable by imprisonment for not less than one (1) year and not exceeding ten (10) years. In addition a fine not to exceed Five Thousand Dollars (\$5,000.00) may be imposed. The convictions do not have to have been committed against the same person and may be any combination of the above types of incidents.

E. Any person who commits any assault and battery with intent to cause great bodily harm, which uses two hands, or which uses a ligature 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 to strangle or attempted to strangle shall be guilty of domestic abuse by strangulation, which shall be a felony, and, upon conviction, the defendant shall be punished by imprisonment of not less than six (6) months nor more than one (1) year in the county jail or not less than six (6) months and not exceeding three (3) years in the State Penitentiary. In addition, a fine of not more than Three Thousand Dollars (\$3,000.00) may be imposed. Upon any second or subsequent conviction, the defendant shall be punished by imprisonment in the State Penitentiary for a period of not less than three (3) years and not exceeding ten (10) years. In addition, a fine of not more than Ten Thousand Dollars (\$10,000.00) may be imposed.

F. The minimum sentence of imprisonment imposed pursuant to the provisions of subsections C, D and E of this section concerning second or subsequent convictions shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation, and are mandatory sentences of imprisonment, 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. If the minimum sentence of imprisonment imposed pursuant to the provisions of subsection C of this section concerning any person convicted of a first incident of domestic abuse as defined in this subsection that was committed in the presence of a child or pursuant to the provisions of subsection E of this section concerning any person convicted of a first incident of domestic abuse by strangulation, is not imposed and a defendant receives a suspended sentence, a deferred sentence or probation, the court shall make specific findings as to why a term of imprisonment is not imposed.

G. Any district court of the State of Oklahoma and any judge thereof who shall require a defendant to attend a treatment program

for batterers, certified by the Department of Mental Health and Substance Abuse Services and makes any order that a defendant attend counseling or treatment services ordered as part of any suspended or deferred sentence or probation and who requires the defendant to attend, finish and be evaluated before and after attendance by a treatment program for batterers, certified by the Department of Mental Health and Substance Abuse Services shall be immune from any liability or prosecution for issuing such order.

H. Any treatment program for batterers, certified by the Department of Mental Health and Substance Abuse Services and operating within the established standards and criteria of a certified treatment program for batterers as established by the Department of Mental Health and Substance Abuse Services shall be immune from any liability or prosecution for providing treatment or counseling services to any court-ordered or court-referred defendant pursuant to subsection G of this section or any self-referred individual who voluntarily attends a certified treatment program for batterers.

I. There shall be no charge of fees or costs to any victim of domestic violence, stalking or sexual assault in connection with the prosecution of domestic violence, stalking or sexual assault offense in the State of Oklahoma.

J. In the course of prosecuting any charge of domestic abuse, domestic abuse by strangulation, stalking, harassment, rape or violation of a protective order it shall be the responsibility of the prosecutor to provide the court prior to the sentencing or any plea agreement with a local and any other available history of past convictions of the defendant within the last ten (10) years of domestic abuse, domestic abuse by strangulation, stalking, harassment, rape, violation of a protective order or other violent misdemeanors or felonies.

K. The court shall consider the past conviction record of the defendant prior to acceptance of any plea agreement and prior to sentencing. The court shall not accept any plea agreement which does not include the defendant serving at least half of any mandatory jail sentence required for the charge if the charge involves a second or subsequent offense for domestic abuse, stalking, harassment, rape or violation of a protective order or involves three or more separate incidents of domestic abuse, domestic abuse by strangulation, stalking, harassment, rape or violations of a protective order within a twelve-month period unless the court makes specific findings on the record as to why the term of imprisonment is to be reduced below the mandatory term of imprisonment. The court shall not accept any plea agreement which does not include the defendant serving at least half of any mandatory jail sentence required for the charge involved if the charge involves a third offense for domestic abuse, stalking, harassment, rape or violation of a protective order or a second offense for domestic abuse by strangulation, felony stalking or violation of a protective order which causes physical injury or physical impairment to the plaintiff or to any other person named in the protective order.

SECTION 4. AMENDATORY 21 O.S. 2001, Section 852.1, is amended to read as follows:

Section 852.1 A. A person who is the parent, guardian, or person having custody or control over a child as defined in Section 7001-1.3 of Title 10 of the Oklahoma Statutes, commits child endangerment when the person knowingly permits physical or sexual abuse of a child or who knowingly permits a child to be present at a location where a controlled dangerous substance is being manufactured or attempted to be manufactured as defined in Section 2-101 of Title 63 of the Oklahoma Statutes. However, it is an affirmative defense to this paragraph if the person had a reasonable

apprehension that any action to stop the abuse would result in substantial bodily harm to the person or the child, has a valid protective order against the perpetrator of the abuse, or has been the victim of domestic abuse, domestic abuse by strangulation, stalking or rape which resulted in the conviction of the perpetrator of the abuse within the last two (2) years. If the occurrence of two or more incidents of domestic abuse against the perpetrator of the abuse is established by clear and convincing evidence, or if the perpetrator is convicted of the abuse of the child or has a conviction for domestic abuse, stalking, domestic abuse by strangulation, violation of a protective order or rape against any person within the last two (2) years, there shall be a rebuttable presumption that it is not in the best interests of the child to have custody, guardianship or unsupervised visitation granted to the perpetrator of the abuse. The burden of proof shall then be on the perpetrator of the abuse to show by clear and convincing evidence that it would be in the best interests of the child to have custody, guardianship or unsupervised visitation granted to the perpetrator of the abuse despite the presumption and that if the court did grant custody, guardianship or unsupervised visitation to the perpetrator of the abuse that the child would not be in danger of physical, emotional, psychological or other harm from the perpetrator of the abuse.

B. The provisions of this section shall not apply to any parent, guardian or other person having custody or control of a child for the sole reason that the parent, guardian or other person in good faith selects and depends upon spiritual means or prayer for the treatment or cure of disease or remedial care for such child. This subsection shall in no way limit or modify the protections afforded said child in Section 852 of this title or Section 7006-1.1 of Title 10 of the Oklahoma Statutes.

C. Any person convicted of violating any provision of this section shall be guilty of a felony punishable by imprisonment for not more than four (4) years in the State Penitentiary or by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

SECTION 5. AMENDATORY 21 O.S. 2001, 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 when:

1. There is a permanent or temporary restraining order, a protective order, 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 for a conviction of a crime involving the use or threat of violence against the same party, or against 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 less than one (1) year and 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.

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 subsection B 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) nor more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the State Penitentiary for a term not less than two (2) years and not exceeding ten (10) years, or by both such fine and imprisonment.

E. The minimum sentences of imprisonment imposed pursuant to the provisions of subsections C and D of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation and are mandatory sentences of imprisonment, 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.

F. 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 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.~~ G. For purposes of this section:

1. "Harasses" means a pattern or course of conduct directed toward 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. 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 6. AMENDATORY 22 O.S. 2001, 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~~ requesting charges be filed against the assailant of the victim. A prosecutor, judge or other officer of the court shall not discourage a victim of rape, forcible sodomy or domestic abuse from requesting that charges be pressed against an assailant. However, the responsibility and duty for pursuing charges against a defendant and the right to determine when and if charges are filed and prosecuted rest entirely with the prosecutor.

B. A peace officer may arrest without a warrant a person anywhere, including his 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, 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. When the court is not open for business, the victim of domestic abuse 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 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;

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. 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 this title.

SECTION 7. AMENDATORY 22 O.S. 2001, Section 60.1, is amended to read as follows:

Section 60.1 As used in the Protection from Domestic Abuse Act and in the Domestic Abuse 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" means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who are family or household members or who are or were in a dating relationship;

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;

5. "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;

6. "Foreign protective order" means any valid order of protection issued by a court of another state or a tribal court; ~~and~~

7. "Rape" means rape and rape by instrumentation in violation of Sections 1111 and 1111.1 of Title 21 of the Oklahoma Statutes;

8. "Victim advocate" or "court advocate" means a person affiliated with a certified domestic violence or sexual assault program, certified by the Department of Mental Health and Substance Abuse Services or certified by a recognized Native American tribe if operating mainly within tribal lands, who provides support and assistance for a person who files a petition under the Protection from Domestic Violence Act; and

9. "Mutual protective order" means any final protective order or orders issued to both a plaintiff who has filed a petition for a protective order and any defendant included as the defendant in a petition without the defendant having filed with the court a petition for a protective order at least three (3) days, not including weekends or holidays, prior to the first scheduled full hearing on the matter of which the defendant had notice no less than forty-eight (48) hours prior to the hearing, and the defendant having alleged facts sufficient to establish domestic violence, stalking, harassment or rape against the plaintiff who first filed and the Court making specific findings that sufficient evidence exists of domestic abuse, stalking, harassment or rape against each party to grant each correctly and timely filed petition individually and that each party acted primarily as an aggressor.

SECTION 8. AMENDATORY 22 O.S. 2001, Section 60.2, is amended to read as follows:

Section 60.2 A. A victim of domestic abuse, a victim of stalking, a victim of harassment, a victim of rape, 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 who is a victim of domestic abuse, a victim of stalking, a victim of harassment or a victim of rape may seek relief under the provisions of the Protection from Domestic Abuse Act.

1. The person seeking relief may file a petition for a protective order with the district court in the county in which the victim resides, 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 occurs when the court is not open for business, such person may request an emergency temporary order of protection as authorized by Section 40.3 of this title.

B. The petition forms shall be provided by the clerk of the court and shall be in substantially one of the following form forms:

IN THE DISTRICT COURT IN AND FOR _____ COUNTY

STATE OF OKLAHOMA

_____)	
Plaintiff)	
)	
vs.)	Case No. _____
)	
_____)	
Defendant)	

PETITION FOR PROTECTIVE ORDER

AGAINST DOMESTIC ABUSE

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. Check the relationship which is most applicable. If filing on behalf of someone else, a minor or incompetent proceed directly to paragraph 4.

The victim and the defendant ~~are~~ must be related ~~as follows~~ in one of the following ways:

(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
- guardian of the child or incompetent person
- 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 by the defendant or a threat to violate a custody order by the defendant.
 - order the defendant not to threaten the victim.
 - order the defendant ~~to cease stalking~~ not to stalk the victim.
 - order the defendant ~~to cease harassment of~~ not to harass the victim.

order the defendant not to cause or attempt to cause any third party to do anything which the defendant is ordered or required not to do by any part of this order.

order the defendant to leave the residence located at _____ on or before _____ and not to return to the residence or any other residence at which the victim resides during the term of this order.

order the defendant not to go to any place of employment of the victim.

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)

(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 by the defendant or a threat to violate a custody order by the defendant.

order child support for _____, _____, _____, _____, _____, and _____, in the amount of _____. (see attached child support computations).

order that temporary custody of

(name of child) , (age) , (DOB) ,

(name of child) , (age) , (DOB) ,

(name of child) , (age) , (DOB) ,

(name of child) , (age) , (DOB) ,

(name of child) , (age) , (DOB) ,

be awarded to the plaintiff for the term of the final order.

order that supervised visitation, supervised by

, shall occur as follows (include times and

specific site of exchange as well as who shall (generally)

transport the child to and from the exchange:

_____.

order the defendant not to threaten the victim.

order the defendant ~~to cease stalking~~ not to stalk the victim.

order the defendant ~~to cease harassment of~~ not to harass the victim.

order the defendant not to cause or attempt to cause any third party to do anything which the defendant is order or required not to do by any part of this order.

order the defendant to leave the residence located at _____ on or before _____ and not to return to the residence or any other residence at which the victim resides during the term of this order.

order the defendant not to go to any place of employment of the victim.

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 reasonable costs for emergency shelter of the plaintiff and any minor child (whether the child is specifically included in the protective order or not) during the term of the protective order action and for a reasonable time afterwards.

order the defendant to pay the law enforcement agency or other agency taking photographs a photo evidence fee of Ten Dollars (\$10.00) for photographs taken of the victim's injury or crime scenes.

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 abuse occurred in the county where this petition is filed, but neither the victim nor defendant are residents of this 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 _____, 20__.

Court Clerk, Deputy Court Clerk,
or Notary Public

IN THE DISTRICT COURT IN AND FOR _____ COUNTY

STATE OF OKLAHOMA

_____))

Plaintiff))

))

vs.) Case No. _____

))

_____))

Defendant))

PETITION FOR PROTECTIVE ORDER

AGAINST STALKING OR HARASSMENT

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 during each incident:)

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

(check one)

married

divorced

parent and child

persons related by blood

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

guardian of the child or incompetent person

not related

4. (Check A or B)

(A) The victim is in immediate and present danger of death or
great bodily injury 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 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 not to cause or attempt to cause any third party to do anything which the defendant is ordered or required not to do by any part of this order.

order the defendant to stay away from the residence located at _____ and not to return to the residence or any other residence at which victim resides during the term of this order.

order the defendant not to go to or near any place of employment of the victim.

(describe other relief that plaintiff requests)

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

5. 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 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 not to cause or attempt to cause any third party to do anything which the defendant is ordered or required not to do by any part of this order.

order the defendant to stay away from the residence located at _____ and not to return to the residence or any other residence at which victim resides during the term of this order.

order the defendant not to go to or near any place of employment of the victim.

(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 of this action 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 reasonable costs for emergency shelter of the plaintiff and any minor child (whether the child is specifically included in the protective order or not) during the term of the protective order action and for a reasonable time thereafter.

order the defendant to pay the law enforcement agency or other agency taking photographs a photo evidence fee of Ten Dollars (\$10.00) for photographs taken of the injury of the victim or crime scenes.

6. 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 abuse occurred in the county where this petition is filed, but neither the victim nor defendant are residents of this county.

7. 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.

8. 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 _____, 20 ____ .

Court Clerk, Deputy Court Clerk,
or Notary Public

C. ~~No~~ Notwithstanding any provision of law to the contrary, no filing fee ~~or~~, service of process fee, attorney fee or any other fee or costs shall be charged the plaintiff or victim at the time the petition is filed any time for filing a petition for a protective order whether a protective order is granted or not. The court shall may assess court costs, service of process fees, attorney fees, other fees and filing fees against the defendant at the hearing on the petition, if the petition a protective order is granted, or against either party if the petition is denied the defendant. 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.

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

SECTION 9. AMENDATORY 22 O.S. 2001, 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. If, however, sufficient allegations are made of domestic abuse, stalking or harassment to allow a permanent protective order to be granted at the full hearing, a strong preference shall exist towards granting an emergency ex parte order so requested for the protection of the victim. The emergency ex parte order shall be in effect until after the full hearing is conducted. 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 by the defendant or a threat to violate a custody order 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;

5. An order to the defendant not to stalk the victim;

6. An order to the defendant not to harass the victim;

7. An order to the defendant to leave the residence located at _____ on or before _____ and not to return to the residence or any other residence at which the victim resides during the term of the order;

8. 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; ~~or~~

9. An order that the defendant not cause or attempt to cause any third party to do anything which the defendant is ordered or required not to do by any part of this order;

10. An order that the defendant not go to any place of employment of the victim; and

11. An order granting other relief as requested by the victim.

B. An emergency ex parte protective order authorized by this section shall include the name, sex, race, date of birth of the defendant, and the dates of issue and expiration of the protective order.

C. 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 10. AMENDATORY 22 O.S. 2001, Section 60.4, is amended to read as follows:

Section 60.4 A. A copy of the petition, notice of hearing and a copy of any emergency ex parte order issued by the court shall be served upon the defendant in the same manner as a summons. ~~The~~ Any fee for service of an emergency ex parte order, petition for protective order, and notice of hearing shall only be charged pursuant to subsection C of Section 60.2 of this title and shall, if charged, be the same as the sheriff's service fee plus mileage expenses. Emergency ex parte orders shall be given priority for service and can be served twenty-four (24) hours a day when the location of the defendant is known. When service cannot be made upon the defendant by the sheriff 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 may contact another law enforcement officer or a private investigator to serve the defendant. If, after the first scheduled hearing, the defendant has not been served, a licensed private process server may be hired at the expense of the plaintiff to obtain service on the defendant. If the plaintiff uses a licensed private process server, the sheriff will be notified when service has been obtained. If the plaintiff does not hire a licensed private process server, the sheriff will continue to attempt to obtain service on the defendant as above, including attempting to serve the defendant at any location where the defendant may be. 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. The return of service shall be submitted to the sheriff's office in the court where the petition, notice of hearing or order was issued. 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. If service has not been made on the defendant at the time of the hearing, the court shall continue the hearing. A second hearing shall be scheduled within fifteen (15) days of the first scheduled hearing. If service has still not been obtained on the defendant, a third hearing will be scheduled no less than thirty (30) days and no more than forty-five (45) days after the date of the second scheduled hearing. If service has still not been obtained on the defendant at the third scheduled hearing, hearings will continue to be scheduled no less than sixty (60) days and no more than one hundred twenty (120) days from the last

scheduled hearing until service is obtained on the defendant or until the victim chooses to and requests the dismissal of the protective order. Any emergency protective order or other protective order in effect at the first scheduled hearing shall remain in effect, including all of its provisions, until a hearing is held after service has been obtained. 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~~ of an ex parte order unless the victim requests dismissal. If service is obtained on the defendant at any time under this section a hearing will be scheduled and held within fifteen (15) days from the time the defendant was served.

C. At the hearing, the court may impose any terms and conditions in the protective order that the court reasonably believes are necessary to bring about the cessation of domestic abuse against the victim ~~or~~ of stalking or harassment of the victim or the victim's immediate family including, but not limited to, ordering the defendant to obtain counseling or treatment in a program certified by the Department of Mental Health and Substance Abuse Services 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.

D. Final protective orders authorized by this section may include the following, in addition to any other order specified by the court and shall include any orders previously requested by the plaintiff in the petition or granted in an emergency or temporary emergency protective order unless specific findings are made by the court that the order is unnecessary for the safety of the victim,

that the facts of the matter do not support an order or that the victim no longer requests the relief:

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 by the defendant, or a threat to violate a custody order, or an order requiring supervised visitation with the child in a neutral setting;
4. An order to the defendant not to threaten the victim;
5. An order to the defendant to cease stalking the victim;
6. An order to the defendant to cease harassment of the victim;
7. An order to the defendant to leave the residence located at _____ on or before _____ and not return to the residence or any other residence at which the victim resides during the term of the order;
8. An order awarding attorney fees to the plaintiff;
9. An order requiring payment of court costs and service of process fees;
10. An order requiring a preliminary inquiry in a juvenile proceeding pursuant to the Oklahoma Juvenile Code; ~~and~~
11. An order for child support for _____, _____, _____, and _____ in the amount of _____ . (see attached child support computations).
12. An order that the defendant not cause or attempt to cause any third party to do anything which the defendant is ordered or required not to do by any part of this order.
13. An order that the defendant not go to any place of employment of the victim.
14. An order that temporary custody of
(name of child) _____, (age) _____, (DOB) _____
(name of child) _____, (age) _____, (DOB) _____

(name of child) , (age) , (DOB)

(name of child) , (age) , (DOB)

(name of child) , (age) , (DOB) ,

be awarded to the plaintiff for the term of the final order.

15. An order that supervised visitation, supervised by

, shall occur as follows (include times and specific site of exchange as well as who shall transport the child to and from the exchange)

_____.

16. An order that the defendant pay reasonable costs for emergency shelter of the plaintiff and any minor child (whether the child is specifically included in the protective order or not) during the term of the protective order action and for a reasonable time afterwards; and

17. An order granting other relief as requested by the victim.

E. A final protective order authorized by this section shall include the name, sex, race, and date of birth of the defendant and the dates of issue and expiration of the protective order and specific findings that:

1. The defendant has caused or planned, attempted, conspired or endeavored to cause physical harm to (name of plaintiff or family or household member).

2. The defendant threatened (name of plaintiff or family or household member) with imminent serious physical harm.

3. The defendant has stalked or harassed (name of plaintiff or family or household member).

F. 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~~ The defendant shall 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. Any protective order that requires a defendant to attend counseling or treatment services shall require the defendant to attend, finish and be evaluated before and after attendance by the treatment program. Counseling or treatment for anger management shall not qualify as a certified treatment program for purposes of this subsection. If the court orders the defendant to undergo treatment or participate in the counseling services necessary to bring about cessation of domestic abuse against the victim, the court shall schedule a review hearing of the progress of the defendant in counseling within three (3) months of the issuance of the protective order. There shall generally be no requirement for the victim to attend review hearings. The court shall retain continuing jurisdiction over the defendant during the course of ordered counseling through the final review hearing. At the first review hearing, if the defendant is not in compliance with the attendance policies of the treatment program, the court may determine that the defendant is in violation of the protective order and may proceed with sentencing under Section 60.6 of this title for violation of a protective order. During the first review hearing a second review hearing shall be scheduled within two (2) months after the expected date of the completion of the counseling or treatment of the defendant. If the defendant has completed counseling or treatment, a letter from the treatment program that the defendant has completed counseling or treatment may suffice to waive the second hearing. If the defendant has not satisfactorily completed counseling or treatment by the date

of the second hearing, the court may determine that the defendant is in violation of the protective order and may proceed with sentencing under Section 60.6 of this title for violation of a protective order or may order the defendant to further counseling or treatment per the recommendations of the treatment program, or both.

G. 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 or by a licensed private process server hired at the expense of the victim upon request of the victim.

H. Any protective order issued on or after November 1, 1999, pursuant to subsection C of this section 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, or vacate a protective order, 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 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.

I. It shall be unlawful for any person to knowingly and willfully seek a 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 imprisonment in the county jail for a period not exceeding one (1) year or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. A second or subsequent conviction under this subsection shall be a felony punishable by imprisonment in the custody of the Department of Corrections for a period not to exceed two (2) years, or by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

J. A protective order issued under the Protection from Domestic Abuse 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 or visitation schedules, child support or permanent 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 from threats of abuse or physical violence by the defendant or a threat to violate a custody order and child support and temporary custody of a minor child may be granted in a Protective Order Against Domestic Abuse concerning custody of a minor child or support of any minor child which the defendant has a duty to support after notice to the defendant and in accordance with Title 43 of the Oklahoma Statutes. 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 and that provide adequate protection for the victim while maintaining the integrity of a divorce decree or temporary order.

Child support or temporary custody may be granted no matter whether the child in question is listed as plaintiff on the petition for a protective order or not, so long as the plaintiff is granted a final protective order. In all instances where domestic abuse is found and a final protective order protecting a family or household member from abuse by the defendant or prohibiting a defendant from contacting a family or household member is granted, a strong preference shall exist for the granting of child support to support all minor children who are family or household members of the protected person or who are the protected persons. When granting any protective order for the protection of a minor child from violence or threats of abuse, prior determinations of visitation or custody in a divorce, custody or other similar proceeding shall not apply during the term of the order of protection. The safety of the child shall be the paramount factor in determining visitation and temporary custody and the court shall determine the specifics of any allowed visitation at the final hearing on the protective order petition, including who will supervise the visitation, when the visitation will occur, where and when exchanges will take place and who will transport the child to the exchange site. Child support shall not be granted in any protective order where a prior court of competent jurisdiction in a divorce, support, custody or similar action has already determined child support. Child support, visitation and temporary custody granted in a protective order against domestic abuse shall be subject to revision or reconsideration in a subsequent divorce, custody, or similar proceeding. Where temporary custody is granted and the child involved is in the custody or control of the defendant, the court shall order the defendant to return the child to the custody of the plaintiff and make arrangements with a peace officer from local law enforcement to return the child to the physical custody of the plaintiff as soon as possible.

K. A court shall not issue any mutual protective orders unless the defendant has filed a petition for a protective order at least three (3) days, not including weekends or holidays, prior to the first scheduled full hearing on the matter of which the defendant had notice no less than forty-eight (48) hours prior to the hearing, and has alleged facts sufficient to establish domestic violence, stalking, harassment or rape. A court shall not issue any mutual protective orders unless the court specifically finds sufficient evidence of domestic abuse, stalking, harassment or rape on the part of each party to grant each petition separately and determines that each party acted primarily as aggressors.

L. A plaintiff who has filed a petition for a protective order is entitled to a hearing within fifteen (15) days of filing the petition, subject only to the service provisions in subsection B of this section. A full hearing will not be continued or postponed, except in the case of an emergency or for the purpose of allowing a defendant or plaintiff one opportunity to secure counsel, until a divorce, visitation, custody, support, paternity or other civil matter is heard or combined with a divorce, visitation, custody, support, paternity or other civil matter without the express consent of the plaintiff. A full hearing will not be continued or postponed, except in the case of an emergency or for the purpose of allowing a defendant or plaintiff one opportunity to secure counsel, to await the determination of any related or unrelated criminal matter without the express consent of the victim.

M. After a notice and a hearing, a protective order may grant possession of a residence or household to the plaintiff or other family or household member to the exclusion of the defendant, by evicting the defendant immediately, when the residence or household is owned or leased solely by the plaintiff or other family or household member, or by ordering the defendant to leave or vacate the premises, when the residence or household is jointly owned or

leased by the defendant and the plaintiff or family or household member. The court may also require the defendant, after notice and a hearing on the matter, to pay the costs associated with emergency shelter services for the plaintiff and any minor child, whether included specifically in the protective order or not, from the date that the plaintiff filed the petition for a protective order and for a reasonable time after the issuance of a final protective order against the defendant. If the residence or household is jointly owned or leased by the defendant and the plaintiff or family or household member and the defendant customarily provides for or contributes to the support of or has a duty to support the plaintiff or family or household member, the defendant may be required to maintain utilities, including electrical service, gas or other heating service and water service, in the residence or household during the term of the protective order or until the plaintiff or family or household member no longer lives in the residence or household. During the course of any protective order proceedings, the defendant may not terminate or request that any utility company terminate utilities to a residence possession of which has been granted to the plaintiff. After a final order is issued against the defendant, the defendant will not terminate or request that any utility company terminate utilities to a residence possession of which has been granted to the plaintiff for a reasonable time thereafter as determined by the court and shall cooperate as needed to allow the plaintiff to change any or all utility services to the name of the plaintiff.

N. When the defendant has a duty to support the plaintiff or other family or household member living in the residence or household, and the defendant is the sole owner or lessee of the residence or household, the court may grant possession of the residence or household, subject to the terms of any lease in the case of a lessee, to the plaintiff or other family or household

member, to the exclusion of the defendant, by ordering the defendant to leave or vacate the premises, or, in the case of a consent agreement, allow and require the defendant to provide suitable, alternative housing. The court may also require the defendant, after notice and a hearing on the matter, to pay the costs associated with emergency shelter services for the plaintiff and any minor child, whether included specifically in the protective order or not, from the date that the petitioner filed the petition for a protective order and for a reasonable time after the issuance of a final protective order against the defendant. If the defendant is the sole owner or lessee of a residence or household and the defendant customarily provides for or contributes to the support of or has a duty to support the plaintiff or family or household member, the defendant shall be required to maintain utilities, including electrical service, gas or other heating service and water service, in the residence or household during the term of the protective order or until the plaintiff or family or household member no longer lives in the residence or household. That the defendant is the sole owner or lessee of a residence or household shall not be sufficient evidence to deny a plaintiff or other family or household member possession of the residence or household when the plaintiff has requested that the defendant leave the residence and sufficient evidence to show domestic abuse, stalking, harassment or rape against the plaintiff or family or household member exists or a final protective order is to be issued. During the course of any protective order proceedings, the defendant may not terminate or request that any utility company terminate utilities to a residence possession of which has been granted to the plaintiff. After a final order is issued against the defendant, the defendant will not terminate or request that any utility company terminate utilities to a residence possession of which has been granted to the plaintiff for a reasonable time thereafter as determined by the court and

shall cooperate as needed to allow the plaintiff any or all utility services to the name of the plaintiff.

O. The court shall allow a plaintiff or victim to be accompanied by a victim or court advocate at all stages of any proceeding, shall allow the victim advocate or court advocate to stand or sit with the plaintiff at all stages of any proceeding, and shall allow the victim advocate or court advocate to offer comfort, support, or the benefit of the experience of the victim advocate or court advocate with the court or with the protective order process to the plaintiff or victim. A victim advocate or court advocate offering the plaintiff or victim comfort, support, or benefit of the experience of the victim advocate or court advocate with the court or with the protective order process who is not an attorney shall not constitute the practice of law without a license.

P. At no time during any proceeding shall the plaintiff or victim or family or household member be required to confer outside the direct presence of the court with the defendant for any reason and no order shall require any plaintiff or victim or family or household member to confer, negotiate, or have any relations with the defendant outside the presence of the court at any time except for the limited purposes of visitation with a minor child. Safety of the plaintiff or victim or family or household member shall be a paramount concern of the court at any time and the court shall make all reasonable efforts to ensure the safety of the plaintiff or victim or family or household member.

Q. A court shall not continue a hearing for an emergency or temporary order of protection for a victim of domestic abuse or a family or household member who is a victim of domestic abuse after notice to the defendant has been accomplished and the defendant has had opportunity for a hearing. After the hearing, a final protective order shall issue or the court shall find that insufficient evidence exists to grant a protective order.

R. A court may order the defendant not to go to the place of employment of the victim. If a victim changes place of employment, the defendant shall not go to the new place of employment during the term for which any protective order was issued.

S. In all instances of court-ordered mediation in any court or court division in which any part to the mediation is protected by or subject to a protective order or has been protected by or subject to a protective order within the last ten (10) years or in which any party has been found guilty of a domestic abuse-related misdemeanor or felony within the last ten (10) years, caucusing shall be used to assure the safety of any victim or other party and to prevent imbalances of power inherent in domestic abuse situations. For purposes of this subsection, "caucusing" means putting the parties in separate rooms for individual sessions with the mediator while specifics of an agreement are being negotiated or discussed.

T. A court may not refuse to hear a petition for a protective order or to grant either an emergency or a final protective order to a plaintiff due only to any outstanding fees, costs, or charges related to a past protective order, petition for a protective order, or any other court action or matter which the plaintiff has outstanding with that or any other court where the plaintiff has made sufficient allegations of domestic abuse, stalking, rape or sexual assault to otherwise grant an emergency order of protection, or has provided sufficient evidence at a final hearing of domestic abuse, stalking, rape or sexual assault to otherwise grant a final protective order.

U. All protective order forms shall include, within the appropriate section, specific sections which allow the court to select any and every type of relief available on the appropriate petition or petition section for that protective order.

SECTION 11. AMENDATORY 22 O.S. 2001, Section 60.6, is amended to read as follows:

Section 60.6 A. Except as otherwise provided by this section, any person who:

1. 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 both such fine and imprisonment; and

2. After a previous conviction of a violation of a protective order, is convicted of a second ~~or subsequent~~ offense pursuant to the provisions of this section shall, upon conviction, 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)~~ thirty (30) 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 One Thousand Dollars (\$1,000.00) and not more than Five Thousand Dollars (\$5,000.00).

3. After two previous convictions of a violation of a protective order a person who is convicted of a subsequent offense pursuant to the provisions of this section shall, upon conviction, be deemed guilty of a felony and shall be punished by a term of imprisonment of not less than six (6) months and not more than five (5) years. In addition to the term of imprisonment, the person may be punished by a fine of not less than Two Thousand Dollars (\$2,000.00) and not more than Ten Thousand Dollars (\$10,000.00).

B. 1. Any person who has been served with an ex parte or 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 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)~~ thirty

(30) 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. A person who has been served with an ex parte or final protective order or foreign protective order and who, after a previous conviction of a violation of a protective order, violates a protective order and 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 felony and shall be punished by a term of imprisonment for not less than one (1) year nor more than ten (10) years in the State Penitentiary. In addition to the term of imprisonment, the person may be punished by a fine not to exceed Ten Thousand Dollars (\$10,000.00).

3. 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.~~ 4. The provisions of this subsection shall not affect the applicability of Sections 644, 645, 647 and 652 of Title 21 of the Oklahoma Statutes.

C. The minimum sentence of imprisonment issued 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, and are mandatory sentences of imprisonment unless the court makes specific findings as to why the term of imprisonment is to be reduced below the mandatory term of imprisonment, 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. The minimum sentence of imprisonment pursuant to the provisions of paragraph 3 of subsection A and paragraph 2 of subsection B of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probations

and are mandatory sentences of imprisonment, 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, the court ~~may~~ shall require a defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim or to bring about the cessation of stalking or harassment of the victim. The court shall require the defendant to attend a treatment program and any order that the defendant attend counseling or a treatment program ordered as a part of any suspended or deferred sentence or probation shall require the defendant to attend, finish and be evaluated before and after attendance by a treatment program. Counseling or treatment for anger management shall not qualify as a treatment program for purposes of this subsection.

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

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

G. Any district court of the State of Oklahoma and any judge thereof who shall require a defendant to attend a treatment program for batterers, certified by the Department of Mental Health and Substance Abuse Services and makes any order that a defendant attend counseling or treatment services ordered as part of any final protective order or for any violation of a protective order and who requires the defendant to attend, finish and be evaluated before and

after attendance by a certified treatment program for batterers, certified by the Department of Mental Health and Substance Abuse Services shall be immune from any liability or prosecution for requiring or ordering the same.

H. Any treatment program for batterers, certified by the Department of Mental Health and Substance Abuse Services and operating within the established standards and criteria of a certified treatment program for batterers as established by the Department of Mental Health and Substance Abuse Services shall be immune from any liability or prosecution for providing treatment or counseling services to any court-ordered or court-referred defendant or any self-referred individual who voluntarily attends such a certified treatment program for batterers.

I. If the court orders the defendant to undergo treatment or participate in the counseling services necessary to bring about cessation of domestic abuse against the victim, as part of a sentence for violation of a protective order, the court shall immediately schedule a review hearing of the progress of the defendant in counseling within three (3) months of the sentencing for the violation. There shall generally be no requirement for the victim to attend review hearings. The court shall retain continuing jurisdiction over the defendant during the course of ordered counseling through the final review hearing. At the first review hearing, if the defendant is not in compliance with the attendance policies of the treatment program, the court may determine that the defendant is in violation of the protective order or the order of the court and may proceed with sentencing under this section for a second violation of a protective order. During the first review hearing, a second review hearing shall be scheduled within two (2) months after the expected date of the completion by the defendant of counseling or treatment. If the defendant has completed counseling or treatment, a letter from the treatment program that the defendant

has completed counseling or treatment may suffice to waive the second hearing. If the defendant has not satisfactorily completed counseling or treatment by the date of the second hearing, the court may determine that the defendant has committed a second or third violation of the protective order or order of the court and may proceed with sentencing under this section for violation of a protective order or may order the victim to further counseling or treatment per the recommendations of the treatment program or both.

J. At no time under any proceeding may a person protected by a protective order be held to be in violation of their own protective order. Only a defendant against whom a protective order has been issued may be held to have violated that order.

SECTION 12. AMENDATORY 22 O.S. 2001, Section 60.9, is amended to read as follows:

Section 60.9 A. A peace officer, without a warrant, 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 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 D 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 peace officer, without a warrant, may arrest and take into custody a person if the following conditions have been met:

1. The peace officer has reasonable cause to believe that a foreign protective order has been issued, pursuant to the law of the state or tribal court where the foreign protective order was issued;

2. A certified copy of the foreign protective order has been presented to the peace officer that appears valid on its face; and

3. The peace officer has reasonable cause to believe the person named in the order has violated the order or is then acting in violation of the order.

C. 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.

D. A copy of a protective order 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 that the evidence was false.

E. 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 felony punishable by imprisonment in the custody of the Department of Corrections for a period not to exceed two (2) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00) and shall, in addition, be liable for any civil damages to the defendant.

F. When investigating a domestic abuse incident prior to making an arrest under this section and Section 196 of this title, a peace officer shall make a determination as to which party is the dominant aggressor. The determination shall require the consideration of past history of violence of the parties, prior records for domestic abuse or violence, nature of any visible injuries whether primarily defensive or offensive, consideration of which party is reasonably in fear for their physical safety and consideration of past history of mental, emotional and other forms of abuse. Where an arrest is made under this criteria, only the dominant aggressor shall be arrested. The peace officer shall make a detailed report including standard information taken on any call and at any scene and further shall include statements by all parties especially concerning any harm by one party to any other party, shall inquire and note whether children are present in the house, shall make a detailed summary of the conditions of the area in which the incident took place, shall record any admission by any party that a party cause harm to any other party at any time prior to or during the incident as well as the harm caused and any stated reasons for that harm, shall inquire with any children present as to what occurred, and shall record any other information and, if an arrest is made, collect any other evidence necessary to further the investigation and prosecution of the case.

SECTION 13. AMENDATORY 22 O.S. 2001, Section 60.11, is amended to read as follows:

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

"THE FILING OR NONFILING OF CRIMINAL CHARGES AND THE PROSECUTION OF THE CASE SHALL NOT BE DETERMINED BY A PERSON WHO IS PROTECTED BY THIS ORDER, BUT SHALL BE DETERMINED BY THE PROSECUTOR. NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER. THIS ORDER SHALL BE IN EFFECT FOR THREE (3) YEARS UNLESS EXTENDED, 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 FINE AND IMPRISONMENT. A SECOND VIOLATION OF THIS ORDER IS PUNISHABLE BY IMPRISONMENT IN THE COUNTY JAIL FOR A MINIMUM OF THIRTY (30) DAYS AND UP TO ONE (1) YEAR AND A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS (\$1,000.00) AND UP TO FIVE THOUSAND DOLLARS (\$5,000.00), OR BY BOTH SUCH FINE AND IMPRISONMENT. A THIRD VIOLATION OF THIS ORDER SHALL BE A FELONY AND SHALL BE PUNISHED BY A TERM OF IMPRISONMENT OF NOT LESS THAN SIX (6) MONTHS AND NOT MORE THAN FIVE (5) YEARS. IN ADDITION TO THE TERM OF IMPRISONMENT, THE PERSON MAY BE PUNISHED BY A FINE OF NOT LESS THAN TWO THOUSAND DOLLARS (\$2,000.00) AND NOT MORE THAN TEN THOUSAND DOLLARS (\$10,000.00). A VIOLATION OF THIS ORDER WHICH CAUSES INJURY SHALL BE PUNISHABLE BY ~~TWENTY (20)~~ NO LESS THAN THIRTY (30) 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. A SECOND

VIOLATION OF THIS ORDER WHICH CAUSES INJURY SHALL BE A FELONY AND SHALL BE PUNISHED BY A TERM OF IMPRISONMENT OF NOT LESS THAN ONE (1) YEAR NOR MORE THAN TEN (10) YEARS IN THE STATE PENITENTIARY. IN ADDITION TO THE TERM OF IMPRISONMENT, A FINE NOT TO EXCEED TEN THOUSAND DOLLARS (\$10,000.00) MAY BE IMPOSED. 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 14. AMENDATORY 22 O.S. 2001, Section 196, is amended to read as follows:

Section 196. A peace officer may, without a warrant, arrest a person:

1. For a public offense, committed or attempted in the officer's presence;
2. When the person arrested has committed a felony, although not in the officer's presence;
3. When a felony has in fact been committed, and the officer has reasonable cause 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 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 a place of residence of the person, 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, 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, if the officer has reasonable cause to believe that an act of domestic abuse has occurred;

7. When a peace officer, in accordance with the provisions of Section 60.9 of this title, is acting on a violation of a protective order offense; or

8. When the officer has probable cause to believe that the person has threatened another person as defined in subsection B of Section ~~14~~ 1378 of ~~this act~~ Title 21 of the Oklahoma Statutes.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472 of Title 22, unless there is created a duplication in numbering, reads as follows:

Any proceeding under Section 60.6 of Title 22 of the Oklahoma Statutes, or Section 644, 1111, 1111.1 or 1173 of Title 21 of the Oklahoma Statutes, shall be tried within ninety (90) days of the date of the arrest for the crime committed under those sections.

SECTION 16. AMENDATORY 22 O.S. 2001, Section 991a (Section 17, Chapter 437, O.S.L. 2001), is amended to read as follows:

Section 991a. A. Except as otherwise provided in the Elderly and Incapacitated Victims Protection Program, when a defendant is convicted of a crime and no death sentence is imposed, the court shall either:

1. Suspend the execution of sentence in whole or in part, with or without probation. The court, in addition, may order the convicted defendant at the time of sentencing or at any time during the suspended sentence to do one or more of the following:

- a. to provide restitution to the victim as provided by Section 991f et seq. of this title or according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum at the rate of twelve percent (12%) per annum, if the defendant agrees to pay such restitution or, in the opinion of the court, if the defendant is able to pay such restitution without imposing manifest hardship on the defendant or the immediate family and if the extent of the damage to the victim is determinable with reasonable certainty,
- b. to reimburse any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims, as a result of the criminal act for which such person was convicted, which reimbursement shall be made directly to the state agency, with interest accruing thereon at the rate of twelve percent (12%) per annum,
- c. to engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the person convicted,
- d. to pay a reasonable sum into any trust fund, established pursuant to the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes, and which provides restitution payments by convicted defendants to victims of crimes committed within this state wherein such victim has incurred a financial loss,
- e. to confinement in the county jail for a period not to exceed six (6) months,

- f. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which he or she is being sentenced,
- g. to repay the reward or part of the reward paid by a certified local crimestoppers program and the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the certified local crimestoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crimestoppers program" means a crimestoppers program certified by the Office of the Attorney General pursuant to Section 991g of this title. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes,
- h. to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted, including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the

investigation of the defendant's case may be determined with reasonable certainty,

- i. to pay a reasonable sum to the Crime Victims Compensation Board, created by Section 142.2 et seq. of Title 21 of the Oklahoma Statutes, for the benefit of crime victims,
- j. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which the person is being sentenced,
- k. to participate in substance abuse education or treatment, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes, or as ordered by the court,
- l. to be placed in a victims impact panel program or victim/offender reconciliation program and payment of a fee to the program of not less than Five Dollars (\$5.00) nor more than Twenty-five Dollars (\$25.00) as set by the governing authority of the program to offset the cost of participation by the defendant. Provided, each victim/offender reconciliation program shall be required to obtain a written consent form voluntarily signed by the victim and defendant that specifies the methods to be used to resolve the issues, the obligations and rights of each person, and the confidentiality of the proceedings. Volunteer mediators and employees of a victim/offender reconciliation program shall be immune from liability and have rights of confidentiality as provided in Section 1805 of Title 12 of the Oklahoma Statutes,
- m. to install an ignition interlock device approved by the Department of Public Safety at the defendant's own expense. The device shall be installed upon every

motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater,

- n. to be confined by electronic monitoring administered and supervised by the Department of Corrections or a community sentence provider, and payment of a monitoring fee to the supervising authority, not to exceed Seventy-five Dollars (\$75.00) per month. Any fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by

the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person,

- o. to perform one or more courses of treatment, education or rehabilitation for any conditions, behaviors, deficiencies or disorders which may contribute to criminal conduct, including but not limited to alcohol and substance abuse, mental health, emotional health, physical health, propensity for violence, antisocial behavior, personality or attitudes, deviant sexual behavior, child development, parenting assistance, job skills, vocational-technical skills, domestic relations, literacy, education, or any other identifiable deficiency which may be treated appropriately in the community and for which a certified provider or a program recognized by the court as having significant positive impact exists in the community. Any treatment, education or rehabilitation provider required to be certified pursuant to law or rule shall be certified by the appropriate state agency or a national organization,
- p. to submit to periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory,
- q. to pay a fee, costs for treatment, education, supervision, participation in a program, or any

- combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs,
- r. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,
 - s. to obtain positive behavior modeling by a trained mentor,
 - t. to serve a term of confinement in a restrictive housing facility available in the community,
 - u. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,
 - v. to obtain employment or participate in employment-related activities,
 - w. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,
 - x. to pay day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local community sentencing system as reparation to the community. Day fines shall be used to support the local system,
 - y. to submit to blood testing as required by Section 588 of Title 57 of the Oklahoma Statutes,
 - z. to repair or restore property damaged by the defendant's conduct, if the court determines the defendant possesses sufficient skill to repair or

- restore the property and the victim consents to the repairing or restoring of the property,
- aa. to restore damaged property in kind or payment of out-of-pocket expenses to the victim, if the court is able to determine the actual out-of-pocket expenses suffered by the victim,
 - bb. to attend a victim-offender reconciliation program if the victim agrees to participate and the offender is deemed appropriate for participation,
 - cc. in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems,
 - dd. in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offender Registration Act, require the person to participate in a treatment program, if available. The treatment program may include polygraphs specifically designed for use with sex offenders for purposes of supervision and treatment compliance, provided the examination is administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay,

- ee. in addition to other sentencing powers of the court, the court in the case of a defendant being sentenced for a felony conviction for a violation of Section 2-402 of Title 63 of the Oklahoma Statutes which involves marijuana may require the person to participate in a drug court program, if available. If a drug court program is not available, the defendant may be required to participate in a community sanctions program, if available, and
- ff. any other provision specifically ordered by the court.

However, any such order for restitution, community service, payment to a certified local crimestoppers program, payment to the Oklahoma Reward System, or confinement in the county jail, or a combination thereof, shall be made in conjunction with probation and shall be made a condition of the suspended sentence;

2. Impose a fine prescribed by law for the offense, with or without probation or commitment and with or without restitution or service as provided for in this section, Section 991a-4 of this title or Section 227 of Title 57 of the Oklahoma Statutes;

3. Commit such person for confinement provided for by law with or without restitution as provided for in this section;

4. Order the defendant to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted, including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty;

5. In the case of nonviolent felony offenses, sentence such person to the Community Service Sentencing Program;

6. In addition to the other sentencing powers of the court, in the case of a person convicted of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol or another intoxicating substance, or convicted of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require such person:

- a. to participate in an alcohol and drug substance abuse course or treatment program, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,
- b. to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Fifteen Dollars (\$15.00) nor more than Twenty-five Dollars (\$25.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee,
- c. to both participate in the alcohol and drug substance abuse course or treatment program, pursuant to subparagraph a of this paragraph and attend a victims impact panel program, pursuant to subparagraph b of this paragraph,
- d. to install an ignition interlock device, at the person's own expense, approved by the Department of Public Safety, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license. The restriction shall remain on the driver license for such period as the court shall determine. The

restriction may be modified or removed by order of the court and notice of the order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without such device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court, or

- e. beginning January 1, 1993, to submit to electronically monitored home detention administered and supervised by the Department of Corrections, and to pay to the Department a monitoring fee, not to exceed Seventy-five Dollars (\$75.00) a month, to the Department of Corrections, if in the opinion of the court the defendant has the ability to pay such fee. Any fees collected pursuant to this subparagraph shall be deposited in the Department of Corrections Revolving Fund. Any order by the court for the payment of the monitoring fee, if willfully disobeyed, may be enforced as an indirect contempt of court;

7. In addition to the other sentencing powers of the court, in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems;

8. In addition to the other sentencing powers of the court, in the case of a person convicted of any crime related to domestic abuse, as defined in Section 60.1 of this title, the court may require the defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim. The court shall require the defendant to attend a treatment program and any counseling or treatment services ordered as part of any suspended or deferred sentence or probation shall require the defendant to attend, finish and be evaluated before and after attendance by a treatment program. The defendant may be required to pay all or part of the cost of the treatment or counseling services;

9. In addition to the other sentencing powers of the court, the court, in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offenders Registration Act, shall require the person to participate in a treatment program designed specifically for the treatment of sex offenders, if available. The treatment program may include polygraphs specifically designed for use with sex offenders for the purpose of supervision and treatment compliance, provided the examination is administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay; or

10. In addition to the other sentencing powers of the court, the court, in the case of a person convicted of child abuse or neglect, as defined in Section 7102 of Title 10 of the Oklahoma Statutes, may require the person to undergo treatment or to participate in counseling services. The defendant may be required to pay all or part of the cost of the treatment or counseling services.

B. Notwithstanding any other provision of law, any person who is found guilty of a violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or any person pleading guilty or nolo contendere for a violation of any provision of such sections shall be ordered to participate in, prior to sentencing, an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. If a person is sentenced to the custody of the Department of Corrections and the court has received a written evaluation report pursuant to this subsection, the report shall be furnished to the

Department of Corrections with the judgment and sentence. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection.

As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met within two (2) years from the effective date of this act.

C. When sentencing a person convicted of a crime, the court shall first consider a program of restitution for the victim, as well as imposition of a fine or incarceration of the offender. The provisions of paragraph 1 of subsection A of this section shall not apply to defendants being sentenced upon their third or subsequent to their third conviction of a felony or, beginning January 1, 1993, to defendants being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, except as otherwise provided in this subsection. In the case of a person being sentenced for their second or

subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the provisions of paragraph 1 of subsection A of this section if the court orders the person to submit to electronically monitored home detention administered and supervised by the Department of Corrections pursuant to subparagraph e of paragraph 6 of subsection A of this section. Provided, the court may waive these prohibitions upon written application of the district attorney. Both the application and the waiver shall be made part of the record of the case.

D. When sentencing a person convicted of a crime, the judge shall consider any victim impact statements if submitted to the jury, or the judge in the event a jury is waived.

E. Probation, for purposes of subsection A of this section, is a procedure by which a defendant found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, is released by the court subject to conditions imposed by the court and subject to the supervision of the Department of Corrections. Such supervision shall be initiated upon an order of probation from the court, and shall not exceed two (2) years, except as otherwise provided by law. In the case of a person convicted of a sex offense, supervision shall not be limited to two (2) years. Provided further, any supervision provided for in this section may be extended for a period not to exceed the expiration of the maximum term or terms of the sentence upon a determination by the Division of Probation and Parole of the Department of Corrections that the best interests of the public and the release will be served by an extended period of supervision.

F. The Department of Corrections, or such other agency as the court may designate, shall be responsible for the monitoring and administration of the restitution and service programs provided for by subparagraphs a, c, and d of paragraph 1 of subsection A of this

section, and shall ensure that restitution payments are forwarded to the victim and that service assignments are properly performed.

G. 1. The Department of Corrections is hereby authorized, subject to funds available through appropriation by the Legislature, to contract with counties for the administration of county Community Service Sentencing Programs.

2. Any offender eligible to participate in the Program pursuant to this act shall be eligible to participate in a county Program; provided, participation in county-funded Programs shall not be limited to offenders who would otherwise be sentenced to confinement with the Department of Corrections.

3. The Department shall establish criteria and specifications for contracts with counties for such Programs. A county may apply to the Department for a contract for a county-funded Program for a specific period of time. The Department shall be responsible for ensuring that any contracting county complies in full with specifications and requirements of the contract. The contract shall set appropriate compensation to the county for services to the Department.

4. The Department is hereby authorized to provide technical assistance to any county in establishing a Program, regardless of whether the county enters into a contract pursuant to this subsection. Technical assistance shall include appropriate staffing, development of community resources, sponsorship, supervision and any other requirements.

5. The Department shall annually make a report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House on the number of such Programs, the number of participating offenders, the success rates of each Program according to criteria established by the Department and the costs of each Program.

H. As used in this section:

1. "Ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater; and

2. "Electronically monitored home detention" means incarceration of the defendant within a specified location or locations with monitoring by means of a device approved by the Department of Corrections that detects if the person leaves the confines of any specified location.

I. A person convicted of an offense as provided in Section 650, 650.2, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 832, 885, 888, 1114, subsection B of Section 1021, 1021.2, 1021.3, 1087, 1088, 1123, 1173 or 1192.1 of Title 21 of the Oklahoma Statutes or a person convicted of any felony who has a prior conviction for an offense listed in this subsection shall submit to deoxyribonucleic acid testing for law enforcement identification purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI DNA Offender Database. Submission to testing shall be required within thirty (30) days of sentencing for those defendants who do not become subject to the custody of the Department of Corrections, and submission to testing shall be done in accordance with Section 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who enter the custody of the Department of Corrections as a result of sentencing. Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI DNA Offender Database at the time of their sentencing shall not be required to submit to additional testing.

Any person convicted of an offense as provided in this section who is in custody after July 1, 1996, shall provide a blood sample

prior to release. Every person who is convicted of an offense as provided in this subsection whose sentence does not include a term of confinement shall provide a blood sample as a condition of the sentence.

J. Samples of blood for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood samples. Persons collecting blood for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time the subject appears for testing or within ten (10) days of the date the subject comes into the custody of the Department of Corrections. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center shall be required to pay to the Department of Corrections a fee of Fifteen Dollars (\$15.00). Any fees collected pursuant to this subsection shall be deposited in the Department of Corrections revolving account.

SECTION 17. AMENDATORY 22 O.S. 2001, Section 1105, is amended to read as follows:

Section 1105. A. Except as otherwise provided by this section, upon the allowance of bail and the execution of the requisite recognizance, bond, or undertaking to the state, the magistrate, judge, or court, shall, if the defendant is in custody, make and sign an order for discharge. The court, in its discretion, may prescribe by court rule the conditions under which the court clerk or deputy court clerk, or the sheriff or deputy sheriff, may prepare and execute an order of release on behalf of the court.

B. No police officer or sheriff may release a person arrested for a violation of an ex parte or final protective order as provided in Sections 60.2 and 60.3 of this title, or arrested for an act constituting domestic abuse as specified in Section 644 of Title 21 of the Oklahoma Statutes, or arrested for any act constituting domestic abuse, stalking or harassment as defined by Section 60.1 of this title without the violator appearing before a magistrate, judge or court. The magistrate, judge or court shall determine bond and other conditions of release as necessary for the protection of the alleged victim and the safety of the community and shall require that the person for which bond is to be determined not abuse, injure, threaten, stalk or harass the alleged victim or any family or household member of the victim and may order the following relief as a condition of release:

1. Order the defendant not to telephone, visit, assault, molest, stalk, harass or otherwise interfere with the victim;

2. Order the suspension of child visitation due to physical violence or threat of abuse by the defendant towards the alleged victim or any family or household member of the alleged victim;

3. Order the defendant not to cause or attempt to cause any third party to do anything which the defendant is ordered or required not to do by any part of this order;

4. Order the defendant to leave the residence located at _____ on or before _____ and not to return to this residence or any other residence at which the victim resides until a final hearing or trial is held on the charge or a plea agreement is reached and accepted by the court;

5. Order the defendant to participate in a monitoring program;

6. Order the defendant not to go to the place of employment of the victim; and

7. Enter any other order as necessary to protect the victim and any family or household members of the victim and to secure the safety of the community.

C. At any proceeding under Section 60.6 of this title, Section 644, 1111, 1111.1 or 1173 of Title 21 of the Oklahoma Statutes, at which reduction of bond is considered, the following shall be required as a condition of any reduction of bond granted:

1. An order that the defendant not abuse, injure, threaten, stalk or harass the alleged victim or any family or household member of the victim; and

2. An order that the defendant be placed on a monitoring program which will monitor the whereabouts of the defendant on at least a daily basis and require reporting by the defendant of the whereabouts of the defendant on no less than a daily basis and at any time or interval at which the defendant is requested by the monitoring authority to report.

SECTION 18. AMENDATORY 43 O.S. 2001, Section 120.3, is amended to read as follows:

Section 120.3 A. In any action for divorce, paternity, or guardianship where minor children are involved, the court may, upon its own motion, or by motion or agreement of the parties, appoint a parenting coordinator to hear and decide disputed issues relating to the minor children in the case except as provided in subsection B of this section, and subsection A of Section ~~12~~ 120.5 of this ~~act~~ title.

B. The court shall not appoint a parenting coordinator if any party objects, unless:

1. The court makes specific findings that the case is a high-conflict case; or

2. The court makes specific findings that the appointment of a parenting coordinator is in the best interest of the minor child.

C. The authority of a parenting coordinator shall be specified in the order appointing the parenting coordinator and limited to matters that aid in the communication of the parties and the enforcement of the court's order of custody, visitation, or guardianship. The authority of the parenting coordinator or any other person shall not extend to modifying or abrogating any finding, order or provision of a protective order. Refusal of a party protected by a protective order to modify, abrogate or dismiss a protective order or any portion of a protective order shall not be construed as unwillingness to cooperate with any other party, the parenting coordinator or the court.

D. The parties may limit the decision-making authority of the parenting coordinator to specific issues or areas if the parenting coordinator is being appointed pursuant to agreement of the parties.

E. Meetings between the parenting coordinator and the parties need not follow any specific procedures and the meetings may be informal. All communication between the parties and the parenting coordinator shall not be confidential.

F. Nothing in the Parenting Coordinator Act shall abrogate the custodial parent's rights except as specifically addressed in the order appointing the parenting coordinator.

SECTION 19. AMENDATORY 43 O.S. 2001, Section 120.4, is amended to read as follows:

Section 120.4 A. A report of the decisions made by the parenting coordinator shall be filed with the court within twenty (20) days, with copies of the report provided to the parties or their counsel. There shall be no ex parte communication with the court.

B. The parenting coordinator's decision shall be binding on the parties until further order of the court. Neither the decision of the parenting coordinator or the court shall modify, abrogate or purport to dismiss any finding, order or provision of a protective

order or a protective order itself without a specific finding by the court that the protective order or any finding, order or provision of the protective order which the court intends to modify, abrogate or dismiss is no longer necessary to secure the safety of the victim or the victim gives express consent for the modification, abrogation or dismissal. If the court modifies a protective order, the court shall modify the protective order only as necessary to aid in the communication of the parties and the enforcement of the order of the court regarding custody, visitation, or guardianship.

C. Any party may file with the court and serve on the parenting coordinator and all other parties an objection to the parenting coordinator's report within ten (10) days after the parenting coordinator provides the report to the parties, or within another time as the court may direct. Responses to the objections shall be filed with the court and served on the parenting coordinator and all other parties within ten (10) days after the objection is served.

D. The court shall review any objections to the report and any responses submitted to those objections to the report and shall thereafter enter appropriate orders.

SECTION 20. AMENDATORY 43A O.S. 2001, Section 3-313, is amended to read as follows:

Section 3-313. A. The Department of Mental Health and Substance Abuse Services is hereby authorized and directed to enter into agreements and to contract for the shelter and other services as are needed for victims of domestic abuse or sexual assault. Any domestic violence or sexual assault program providing services pursuant to a contract or subcontract with and receiving funds from the Department of Mental Health and Substance Abuse Services, the Board of Mental Health and Substance Abuse Services, or any facility of the Department of Mental Health and Substance Abuse Services shall be subject to the provisions of the Unified Community Mental Health Services Act.

B. 1. Except as otherwise provided by paragraph 2 of this subsection, the case records, case files, case notes, client records, or similar records of a domestic violence, batterer or sexual assault program certified by the Department of Mental Health and Substance Abuse Services or of any employee or trained volunteer of a program regarding an individual who is residing or has resided in the program or who has otherwise utilized or is utilizing the services of a domestic violence, batterer or sexual assault program or counselor shall be confidential and shall not be disclosed. For purposes of this paragraph, the term "client records" shall include, but not be limited to, all communications, records, and information regarding clients of domestic violence, batterer and sexual assault programs.

2. The ~~case~~ client records, case files, or case notes of programs specified in paragraph 1 of this subsection shall be confidential and shall not be disclosed except with the written consent of the individual, or in the case of the individual's death or disability, of the individual's personal representative or other person authorized to sue on the individual's behalf or by court order for good cause shown by the judge in camera.

C. The district court shall not order the disclosure of the address of a domestic violence shelter, the location of any person seeking or receiving services from a domestic violence or sexual assault program, or any other information which is required to be kept confidential pursuant to subsection B of this section.

SECTION 21. AMENDATORY 43A O.S. 2001, Section 3-314.1, is amended to read as follows:

Section 3-314.1 A. The Board of Mental Health and Substance Abuse Services shall adopt and promulgate rules and standards for certification of domestic violence programs and for private facilities and organizations which offer domestic and sexual assault services in this state. These facilities shall be known as

"Certified Domestic Violence Shelters" or "Certified Domestic Violence Programs" or "Certified Sexual Assault Programs" or "Certified Treatment Programs for Batterers", as applicable.

B. Applications for certification as a certified domestic violence shelter, certified domestic violence program, certified treatment program for batterers, or certified sexual assault program, pursuant to the provisions of this section, shall be made to the Department of Mental Health and Substance Abuse Services on prescribed forms. The Department may certify the shelter or program for a period of three (3) years subject to renewal as provided in the rules promulgated by the Board. Nothing in this section shall preclude the Department from making inspection visits to a shelter or program to determine contract or program compliance.

C. Excepted from certification regulations are licensed physicians, licensed psychologists, licensed social workers, individual members of the clergy and licensed professional counselors; provided, that these exemptions shall only apply to individual professional persons in their private practice and not to any domestic violence program, treatment program for batterers or sexual assault program operated by such person.

D. Beginning January 1, 1991, any facility providing services for victims or survivors of domestic abuse or sexual assault and any dependent children of such victims or survivors shall comply with standards adopted by the Department; provided, that the certification requirements and standards adopted by the Department shall not apply to programs and services offered by the State Department of Health and the Department of Human Services. The domestic violence or sexual assault programs certified pursuant to the provisions of this section shall cooperate with inspection personnel of the state and shall promptly file all reports required by the Department. Failure to comply with regulations and standards

promulgated by the Department shall be grounds for revocation of certification, after proper notice and hearing.

E. The Department is hereby authorized to collect from each applicant the sum of One Hundred Dollars (\$100.00) annually to help defray the costs incurred in the certification procedure.

SECTION 22. This act shall become effective July 1, 2002.

SECTION 23. 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.

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