

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2395:

Harrison

AS INTRODUCED

An Act relating to civil procedure; authorizing employers to petition for injunctions prohibiting workplace harassment; requiring that petitions for injunctions against certain juveniles be filed with the court having jurisdiction over juvenile matters; providing requirements for petitions; providing for filing fee; providing procedure for issuance of injunctions; authorizing the court to take certain actions; requiring ex parte injunctions to include notice of the right to the defendant to a hearing; providing procedure for requesting a hearing; providing time for hearing; providing court authority after hearing; requiring injunctions to contain warning statement; providing for service of injunctions; providing for expiration of injunctions; requiring and providing procedure for filing with the court clerk; limiting scope of law; requiring certain notice; authorizing arrest by peace officer in certain circumstances; providing that remedies are in addition to other remedies available; providing for immunity; defining terms; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1398 of Title 12, unless there is created a duplication in numbering, reads as follows:

A. An employer or an authorized agent of an employer may file a written verified petition with the district court of the county in which the employer is located for an injunction prohibiting workplace harassment.

B. The court shall not grant an injunction against workplace harassment against a person who is under twelve (12) years of age unless the petition is filed with the court having jurisdiction over juvenile matters.

C. The petition shall state all of the following:

1. The name of the employer;

2. The name and address, if known, of the defendant; and

3. A specific statement showing the events and dates of the acts that constitute harassment toward the employer or any person who enters the property of the employer or who is performing official work duties.

D. The filing fee for a petition that is filed pursuant to this section is established pursuant to Section 152 of Title 28 of the Oklahoma Statutes.

E. The court shall review the petition and any evidence offered by the employer to determine whether to issue the injunction without further hearing. If the court finds reasonable evidence of workplace harassment by the defendant or that good cause exists to believe that great or irreparable harm would result to the employer or other person who enters the property of the employer or who is performing official work duties, or if the injunction is not granted before the defendant or the attorney for the defendant can be heard in opposition and the court finds specific facts that attest to efforts of the employer to give notice to the defendant or reasons supporting the claim of the employer that notice should not be given, the court shall issue an injunction pursuant to subsection F of this section. If the court denies the requested relief, the court may schedule a further hearing within ten (10) days with reasonable notice to the defendant.

F. If the court grants an injunction against workplace harassment, the court may do any of the following:

1. Restrain the defendant from coming near the property of the employer or place of business and restrain the defendant from contacting the employer, or other person while that person is on or at the property of the employer or place of business or is performing official work duties; and

2. Grant any other relief necessary for the protection of the employer, the workplace, employees of the employer or any other person who is on or at the property of the employer or place of business or who is performing official work duties.

G. If the court issues an ex parte injunction pursuant to this section, the injunction shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office in which the request may be filed. At any time during the period that the injunction is in effect, the defendant may request a hearing. The court shall hold the hearing within ten (10) days after the date of the written request unless the court finds compelling reasons to continue the hearing. The hearing shall be held at the earliest possible time. After the hearing, the court may modify, quash or continue the injunction.

H. An injunction against workplace harassment that is issued pursuant to this section shall include the following statement:

"WARNING

This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order."

I. A copy of the petition and the injunction shall be served on the defendant within one (1) year from the date the injunction is signed. An injunction that is not served on the defendant within one (1) year expires. The injunction is effective on the defendant on service of a copy of the injunction and petition and expires one (1) year after service on the defendant. A modified injunction is effective on service and expires one (1) year after service of the initial injunction and petition.

J. Each affidavit, acceptance or return of service shall be filed promptly with the clerk of the issuing court. The filing

shall be completed in person, made by fax or postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by fax, the original affidavit, acceptance or return of service shall be filed promptly with the court. Within twenty-four (24) hours after the affidavit, acceptance or return of service has been filed, excluding weekends and holidays, the court that issued the injunction shall register a copy of the injunction and a copy of the affidavit of service of process or acceptance of service with the office of the sheriff of the county in which the employer is located. A copy of an injunction is presumed to be a valid existing order of the court for one (1) year after the date on which the defendant was served. Any changes or modifications to the injunction are effective on entry by the court and shall be registered with the sheriff within twenty-four (24) hours after the entry, excluding weekends and holidays.

K. This section shall not:

1. Expand, diminish, alter or modify the duty of an employer to provide a safe workplace for employees and other persons;

2. Permit a court to issue a temporary restraining order or injunction that prohibits speech or other activities that are constitutionally protected or otherwise protected by law, including actions involving organized labor disputes; and

3. Preclude either party from being represented by private counsel or appearing on the party's own behalf.

L. When the employer has knowledge that a specific person or persons is the target of workplace harassment, as defined by this section, the employer shall make a good faith effort to provide notice to the person or persons that the employer intends to petition the court for an injunction against workplace harassment.

M. Disobedience of an injunction issued pursuant to this section may be punished as a contempt, pursuant to Section 1390 of Title 12 of the Oklahoma Statutes. Whether or not a violation

occurs in the presence of a peace officer, a peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has disobeyed an injunction that was issued pursuant to this section.

N. The remedies under this section for the enforcement of protection orders are in addition to any other civil and criminal remedies that are available.

O. A peace officer who makes an arrest pursuant to this section is immune from civil or criminal liability if the officer acts on probable cause.

P. An employer is immune from civil liability for seeking or failing to seek an injunction under this section unless the employer is seeking an injunction primarily to accomplish a purpose for which the injunction was not designed. Any action or statement by an employer under this section shall not be deemed an admission by the employer of any fact. An action or statement by an employer under this section may be used for impeachment purposes.

Q. For the purposes of this section:

1. "Employer" means an individual, partnership, association or corporation or a person or group of persons who act, directly or indirectly, on behalf of or in the interest of an employer and with the consent of the employer. Employer includes this state, and any political subdivision of this state; and

2. "Workplace harassment" means a single threat or act of physical harm or damage or a series of acts over any period of time that would cause a reasonable person to be seriously alarmed or annoyed.

SECTION 2. This act shall become effective November 1, 2004.

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