

ENGROSSED HOUSE
BILL NO. 2454

By: McDaniel, Duncan and Nance
of the House

and

Crain of the Senate

An Act relating to criminal procedure; amending 22 O.S. 2001, Section 60.2, as amended by Section 2, Chapter 407, O.S.L. 2003 (22 O.S. Supp. 2005, Section 60.2), which relates to protective orders; modifying requirement for filing a petition for a protective order; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 60.2, as amended by Section 2, Chapter 407, O.S.L. 2003 (22 O.S. Supp. 2005, 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 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. If the person seeking relief is a victim of stalking but is not a family or household member or an individual who is or has been in a dating relationship with the defendant, the person seeking relief must file a complaint against the defendant with the proper law enforcement agency before filing a petition for a protective order with the

district court. The person seeking relief shall provide a copy of the complaint that was filed with the law enforcement agency ~~when filing the petition for the protective order~~ at the full hearing on the petition but need not do so at the emergency ex parte hearing to determine whether an emergency protective order shall be granted if the complaint is not available from the law enforcement agency. 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. If a petition has been filed in an action for divorce or separate maintenance and either party to the action files a petition for a protective order in the same county where the action for divorce or separate maintenance is filed, the petition for the protective order shall be heard by the court hearing the divorce or separate maintenance action. If the defendant is a minor child, the petition shall be filed with the court having jurisdiction over juvenile matters.

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. The Administrative Office of the Courts shall develop a standard form for the petition.

C. 1. Except as otherwise provided by this section, no filing fee, service of process fee, attorney fees or any other fee or costs shall be charged the plaintiff or victim at any time for filing a petition for a protective order whether a protective order is granted or not granted. The court 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 a protective order is granted against the defendant; provided, the court shall have authority to waive the costs and fees if the court

finds that the party does not have the ability to pay the costs and fees.

2. If the court makes specific findings that a petition for a protective order has been filed frivolously and no victim exists, the court may assess attorney fees and court costs against the plaintiff.

D. The person seeking relief shall prepare the petition or, at the request of the plaintiff, the court clerk or the victim-witness coordinator, victim support person, and court case manager shall prepare or assist the plaintiff in preparing the petition.

SECTION 2. This act shall become effective November 1, 2006.

Passed the House of Representatives the 21st day of February, 2006.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2006.

Presiding Officer of the Senate