

EHB 2454

THE STATE SENATE
Thursday, March 23, 2006

ENGROSSED

House Bill No. 2454

As Amended

ENGROSSED HOUSE BILL NO. 2454 - By: McDANIEL, DUNCAN and NANCE of the House and CRAIN of the Senate.

[criminal procedure - protective orders - 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

1 relationship with the defendant, the person seeking relief must file
2 a complaint against the defendant with the proper law enforcement
3 agency before filing a petition for a protective order with the
4 district court. The person seeking relief shall provide a copy of
5 the complaint that was filed with the law enforcement agency ~~when~~
6 ~~filing the petition for the protective order~~ at the full hearing on
7 the petition but need not do so at the emergency ex parte hearing to
8 determine whether an emergency protective order shall be granted if
9 the complaint is not available from the law enforcement agency. The
10 filing of a petition for a protective order shall not require
11 jurisdiction or venue of the criminal offense if either the
12 plaintiff or defendant resides in the county. If a petition has
13 been filed in an action for divorce or separate maintenance and
14 either party to the action files a petition for a protective order
15 in the same county where the action for divorce or separate
16 maintenance is filed, the petition for the protective order shall be
17 heard by the court hearing the divorce or separate maintenance
18 action. If the defendant is a minor child, the petition shall be
19 filed with the court having jurisdiction over juvenile matters.

20 2. When the abuse occurs when the court is not open for
21 business, such person may request an emergency temporary order of
22 protection as authorized by Section 40.3 of this title.

1 B. The petition forms shall be provided by the clerk of the
2 court. The Administrative Office of the Courts shall develop a
3 standard form for the petition.

4 C. 1. Except as otherwise provided by this section, no filing
5 fee, service of process fee, attorney fees or any other fee or
6 costs shall be charged the plaintiff or victim at any time for
7 filing a petition for a protective order whether a protective order
8 is granted or not granted. The court may assess court costs,
9 service of process fees, attorney fees, other fees and filing fees
10 against the defendant at the hearing on the petition, if a
11 protective order is granted against the defendant; provided, the
12 court shall have authority to waive the costs and fees if the court
13 finds that the party does not have the ability to pay the costs and
14 fees.

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

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

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

1 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-21-06 - DO
2 PASS, As Amended.