

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1921

By: Laster and Leftwich of
the Senate

3
4 and

5 Peterson (Pam) of the
House

6
7
8 (Protection from Domestic Abuse Act - protective
9 order -

10 effective date)

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13 AUTHORS: Add the following House Coauthor: Tibbs, Dank, Enns and
14 Faught

15 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
16 entire bill and insert

17 "An Act relating to the Protection from Domestic
18 Abuse Act; amending 22 O.S. 2001, Section 60.2, as
19 last amended by Section 1, Chapter 302, O.S.L. 2006
20 (22 O.S. Supp. 2007, Section 60.2), which relates to
21 protective order; allowing certain action to be
22 heard by specified court under certain
23 circumstances; prohibiting dismissal of certain
24 orders; and providing an effective date.

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

1 SECTION 1. AMENDATORY 22 O.S. 2001, Section 60.2, as
2 last amended by Section 1, Chapter 302, O.S.L. 2006 (22 O.S. Supp.
3 2007, Section 60.2), is amended to read as follows:

4 Section 60.2 A. A victim of domestic abuse, a victim of
5 stalking, a victim of harassment, a victim of rape, any adult or
6 emancipated minor household member on behalf of any other family or
7 household member who is a minor or incompetent, or any minor age
8 sixteen (16) or seventeen (17) years may seek relief under the
9 provisions of the Protection from Domestic Abuse Act.

10 1. The person seeking relief may file a petition for a
11 protective order with the district court in the county in which the
12 victim resides, the county in which the defendant resides, or the
13 county in which the domestic violence occurred. If the person
14 seeking relief is a victim of stalking but is not a family or
15 household member or an individual who is or has been in a dating
16 relationship with the defendant, the person seeking relief must file
17 a complaint against the defendant with the proper law enforcement
18 agency before filing a petition for a protective order with the
19 district court. The person seeking relief shall provide a copy of
20 the complaint that was filed with the law enforcement agency at the
21 full hearing if the complaint is not available from the law
22 enforcement agency. Failure to provide a copy of the complaint
23 filed with the law enforcement agency shall constitute a frivolous
24 filing and the court may assess attorney fees and court costs

1 against the plaintiff pursuant to paragraph 2 of subsection C of
2 ~~Section 60.2 of this title~~ this section. The filing of a petition
3 for a protective order shall not require jurisdiction or venue of
4 the criminal offense if either the plaintiff or defendant resides in
5 the county. If a petition has been filed in an action for divorce
6 or separate maintenance and either party to the action files a
7 petition for a protective order in the same county where the action
8 for divorce or separate maintenance is filed, the petition for the
9 protective order ~~shall~~ may be heard by the court hearing the divorce
10 or separate maintenance action if:

- 11 a. there is no established protective order docket in
12 such court, or
- 13 b. the court finds that, in the interest of judicial
14 economy, both actions may be heard together; provided,
15 however, the petition for a protective order,
16 including, but not limited to, a petition in which
17 children are named as petitioners, shall remain a
18 separate action and a separate order shall be entered
19 in the protective order action. Protective orders may
20 be dismissed in favor of restraining orders in the
21 divorce or separate maintenance action if the court
22 specifically finds, upon hearing, that such dismissal
23 is in the best interests of the parties and does not
24 compromise the safety of any petitioner.

1 If the defendant is a minor child, the petition shall be filed
2 with the court having jurisdiction over juvenile matters.

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

6 B. The petition forms shall be provided by the clerk of the
7 court. The Administrative Office of the Courts shall develop a
8 standard form for the petition.

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

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

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

5 SECTION 2. This act shall become effective November 1, 2008."

6 Passed the House of Representatives the 22nd day of April, 2008.

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Presiding Officer of the House of
10 Representatives

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Passed the Senate the ____ day of _____, 2008.

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Presiding Officer of the Senate

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