

SB 1921

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

THE STATE SENATE
Thursday, February 21, 2008

Senate Bill No. 1921
As Amended

SENATE BILL NO. 1921 - By: LASTER of the Senate and PETERSON (Pam) of the House.

[Protection from Domestic Abuse Act - protective order - effective date]

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 60.2, as last amended by Section 1, Chapter 302, O.S.L. 2006 (22 O.S. Supp. 2007, 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 at the
6 full hearing if the complaint is not available from the law
7 enforcement agency. Failure to provide a copy of the complaint
8 filed with the law enforcement agency shall constitute a frivolous
9 filing and the court may assess attorney fees and court costs
10 against the plaintiff pursuant to paragraph 2 of subsection C of
11 Section 60.2 of this title. The filing of a petition for a
12 protective order shall not require jurisdiction or venue of the
13 criminal offense if either the plaintiff or defendant resides in the
14 county. If a petition has been filed in an action for divorce or
15 separate maintenance and either party to the action files a petition
16 for a protective order in the same county where the action for
17 divorce or separate maintenance is filed, the petition for the
18 protective order ~~shall~~ may be heard by the court hearing the divorce
19 or separate maintenance action if:

- 20 a. there is no established protective order docket in
21 such court, or
- 22 b. the court deems it necessary to do so; provided,
23 however, the petition for a protective order,

1 including, but not limited to, a petition in which
2 children are named as petitioners, shall remain a
3 separate action and a separate order shall be entered
4 in the protective order action. Protective orders
5 shall not be dismissed in favor of restraining orders
6 in the divorce or separate maintenance action except
7 after hearing and written findings by the court that
8 such dismissal is in the best interests of the parties
9 and does not compromise the safety of any petitioner.

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

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

15 B. The petition forms shall be provided by the clerk of the
16 court. The Administrative Office of the Courts shall develop a
17 standard form for the petition.

18 C. 1. Except as otherwise provided by this section, no filing
19 fee, service of process fee, attorney fees or any other fee or
20 costs shall be charged the plaintiff or victim at any time for
21 filing a petition for a protective order whether a protective order
22 is granted or not granted. The court may assess court costs,
23 service of process fees, attorney fees, other fees and filing fees

1 against the defendant at the hearing on the petition, if a
2 protective order is granted against the defendant; provided, the
3 court shall have authority to waive the costs and fees if the court
4 finds that the party does not have the ability to pay the costs and
5 fees.

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-19-08 - DO
16 PASS, As Amended and Coauthored.