

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3092

By: Dorman

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2001, Section 60.2, as last amended by Section
9 1, Chapter 302, O.S.L. 2006 (22 O.S. Supp. 2007,
10 Section 60.2), which relates to the Protection from
Domestic Abuse Act; requiring assessment of attorney
fees and costs against a plaintiff under certain
circumstances; and providing an effective date.

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

14 SECTION 1. AMENDATORY 22 O.S. 2001, Section 60.2, as
15 last amended by Section 1, Chapter 302, O.S.L. 2006 (22 O.S. Supp.
16 2007, Section 60.2), is amended to read as follows:

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

23 1. The person seeking relief may file a petition for a
24 protective order with the district court in the county in which the

1 victim resides, the county in which the defendant resides, or the
2 county in which the domestic violence occurred. If the person
3 seeking relief is a victim of stalking but is not a family or
4 household member or an individual who is or has been in a dating
5 relationship with the defendant, the person seeking relief must file
6 a complaint against the defendant with the proper law enforcement
7 agency before filing a petition for a protective order with the
8 district court. The person seeking relief shall provide a copy of
9 the complaint that was filed with the law enforcement agency at the
10 full hearing if the complaint is not available from the law
11 enforcement agency. Failure to provide a copy of the complaint
12 filed with the law enforcement agency shall constitute a frivolous
13 filing and the court ~~may~~ shall assess attorney fees and court costs
14 against the plaintiff pursuant to paragraph 2 of subsection C of
15 ~~Section 60.2 of this title~~ section. The filing of a petition for a
16 protective order shall not require jurisdiction or venue of the
17 criminal offense if either the plaintiff or defendant resides in the
18 county. If a petition has been filed in an action for divorce or
19 separate maintenance and either party to the action files a petition
20 for a protective order in the same county where the action for
21 divorce or separate maintenance is filed, the petition for the
22 protective order shall be heard by the court hearing the divorce or
23 separate maintenance action. If the defendant is a minor child, the

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1 petition shall be filed with the court having jurisdiction over
2 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~~ shall assess attorney fees and court costs against
23 the plaintiff.

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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.

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7 51-2-8207 GRS 01/02/08

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