

1 STATE OF OKLAHOMA

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

3 SENATE BILL 2171

By: Leftwich

4
5
6 AS INTRODUCED

7 An Act relating to domestic violence; amending 22
8 O.S. 2001, Section 60.6, as last amended by Section
9 5, Chapter 156, O.S.L. 2007 (22 O.S. Supp. 2007,
10 Section 60.6), which relate to violation of domestic
11 protection orders; authorizing the court to use
12 Global Positioning Monitoring System (GPS) monitoring
13 upon sentencing for violations; providing for payment
14 of certain costs and expenses; amending Section 4,
15 Chapter 516, O.S.L. 2006 (22 O.S. Supp. 2007, Section
16 60.17), which relates to restraining orders;
17 authorizing use of GPS device; providing contempt for
18 noncompliance of certain order; providing an
19 effective date; and declaring an emergency.

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

21 SECTION 1. AMENDATORY 22 O.S. 2001, Section 60.6, as
22 last amended by Section 5, Chapter 156, O.S.L. 2007 (22 O.S. Supp.
23 2007, Section 60.6), is amended to read as follows:

24 Section 60.6 A. Except as otherwise provided by this section,
any person who:

1. Has been served with an ex parte or final protective order
or foreign protective order and is in violation of such protective
order, upon conviction, shall be guilty of a misdemeanor and shall

1 be punished by a fine of not more than One Thousand Dollars
2 (\$1,000.00) or by a term of imprisonment in the county jail of not
3 more than one (1) year, or both such fine and imprisonment; and

4 2. After a previous conviction of a violation of a protective
5 order, is convicted of a second or subsequent offense pursuant to
6 the provisions of this section shall, upon conviction, be guilty of
7 a felony and shall be punished by a term of imprisonment in the
8 custody of the Department of Corrections for not less than one (1)
9 year nor more than three (3) years, or by a fine of not less than
10 Two Thousand Dollars (\$2,000.00) nor more than Ten Thousand Dollars
11 (\$10,000.00), or by both such fine and imprisonment.

12 B. 1. Any person who has been served with an ex parte or final
13 protective order or foreign protective order who violates the
14 protective order and causes physical injury or physical impairment
15 to the plaintiff or to any other person named in said protective
16 order shall, upon conviction, be guilty of a misdemeanor and shall
17 be punished by a term of imprisonment in the county jail for not
18 less than twenty (20) days nor more than one (1) year. In addition
19 to the term of imprisonment, the person may be punished by a fine
20 not to exceed Five Thousand Dollars (\$5,000.00).

21 2. Any person who is convicted of a second or subsequent
22 violation of a protective order which causes physical injury or
23 physical impairment to a plaintiff or to any other person named in
24 the protective order shall be guilty of a felony and shall be

1 punished by a term of imprisonment in the custody of the Department
2 of Corrections of not less than one (1) year nor more than five (5)
3 years, or by a fine of not less than Three Thousand Dollars
4 (\$3,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by
5 both such fine and imprisonment.

6 3. In determining the term of imprisonment required by this
7 section, the jury or sentencing judge shall consider the degree of
8 physical injury or physical impairment to the victim.

9 4. The provisions of this subsection shall not affect the
10 applicability of Sections 644, 645, 647 and 652 of Title 21 of the
11 Oklahoma Statutes.

12 C. The minimum sentence of imprisonment issued pursuant to the
13 provisions of paragraph 2 of subsection A and paragraph 1 of
14 subsection B of this section shall not be subject to statutory
15 provisions for suspended sentences, deferred sentences or probation,
16 provided the court may subject any remaining penalty under the
17 jurisdiction of the court to the statutory provisions for suspended
18 sentences, deferred sentences or probation.

19 D. In addition to any other penalty specified by this section,
20 the court shall require a defendant to undergo the treatment or
21 participate in the counseling services necessary to bring about the
22 cessation of domestic abuse against the victim or to bring about the
23 cessation of stalking or harassment of the victim. For every
24 conviction of violation of a protective order:

1 1. The court shall specifically order as a condition of a
2 suspended sentence or probation that a defendant participate in
3 counseling or undergo treatment to bring about the cessation of
4 domestic abuse as specified in paragraph 2 of this subsection;

5 2. a. The court shall require the defendant to participate
6 in counseling or undergo treatment for domestic abuse
7 by an individual licensed practitioner or a domestic
8 abuse treatment program certified by the Attorney
9 General. If the defendant is ordered to participate
10 in a domestic abuse counseling or treatment program,
11 the order shall require the defendant to attend the
12 program for a minimum of fifty-two (52) weeks,
13 complete the program, and be evaluated before and
14 after attendance of the program by a program counselor
15 or a private counselor.

16 b. A program for anger management, couples counseling, or
17 family and marital counseling shall not solely qualify
18 for the counseling or treatment requirement for
19 domestic abuse pursuant to this subsection. The
20 counseling may be ordered in addition to counseling
21 specifically for the treatment of domestic abuse or
22 per evaluation as set forth below. If, after
23 sufficient evaluation and attendance at required
24 counseling sessions, the domestic violence treatment

1 program or licensed professional determines that the
2 defendant does not evaluate as a perpetrator of
3 domestic violence or does evaluate as a perpetrator of
4 domestic violence and should complete other programs
5 of treatment simultaneously or prior to domestic
6 violence treatment, including but not limited to
7 programs related to the mental health, apparent
8 substance or alcohol abuse or inability or refusal to
9 manage anger, the defendant shall be ordered to
10 complete the counseling as per the recommendations of
11 the domestic violence treatment program or licensed
12 professional;

13 3. a. The court shall set a review hearing no more than one
14 hundred twenty (120) days after the defendant is
15 ordered to participate in a domestic abuse counseling
16 program or undergo treatment for domestic abuse to
17 assure the attendance and compliance of the defendant
18 with the provisions of this subsection and the
19 domestic abuse counseling or treatment requirements.

20 b. The court shall set a second review hearing after the
21 completion of the counseling or treatment to assure
22 the attendance and compliance of the defendant with
23 the provisions of this subsection and the domestic
24 abuse counseling or treatment requirements. The court

1 shall retain continuing jurisdiction over the
2 defendant during the course of ordered counseling
3 through the final review hearing;

4 4. The court may set subsequent or other review hearings as the
5 court determines necessary to assure the defendant attends and fully
6 complies with the provisions of this subsection and the domestic
7 abuse counseling or treatment requirements;

8 5. At any review hearing, if the defendant is not
9 satisfactorily attending individual counseling or a domestic abuse
10 counseling or treatment program or is not in compliance with any
11 domestic abuse counseling or treatment requirements, the court may
12 order the defendant to further or continue counseling, treatment, or
13 other necessary services. The court may revoke all or any part of a
14 suspended sentence, deferred sentence, or probation pursuant to
15 Section 991b of Title 22 of the Oklahoma Statutes and subject the
16 defendant to any or all remaining portions of the original sentence;

17 6. At the first review hearing, the court shall require the
18 defendant to appear in court. Thereafter, for any subsequent review
19 hearings, the court may accept a report on the progress of the
20 defendant from individual counseling, domestic abuse counseling, or
21 the treatment program. There shall be no requirement for the victim
22 to attend review hearings; and

23 7. If funding is available, a referee may be appointed and
24 assigned by the presiding judge of the district court to hear

1 designated cases set for review under this subsection. Reasonable
2 compensation for the referees shall be fixed by the presiding judge.
3 The referee shall meet the requirements and perform all duties in
4 the same manner and procedure as set forth in Sections 7003-8.6 and
5 7303-7.5 of Title 10 of the Oklahoma Statutes pertaining to referees
6 appointed in juvenile proceedings.

7 E. Ex parte and final protective orders shall include notice of
8 these penalties.

9 F. When a minor child violates the provisions of any protective
10 order, the violation shall be heard in a juvenile proceeding and the
11 court may order the child and the parent or parents of the child to
12 participate in family counseling services necessary to bring about
13 the cessation of domestic abuse against the victim and may order
14 community service hours to be performed in lieu of any fine or
15 imprisonment authorized by this section.

16 G. Any district court of this state and any judge thereof shall
17 be immune from any liability or prosecution for issuing an order
18 that requires a defendant to:

19 1. Attend a treatment program for domestic abusers certified by
20 the Attorney General;

21 2. Attend counseling or treatment services ordered as part of
22 any final protective order or for any violation of a protective
23 order; and
24

1 3. Attend, complete, and be evaluated before and after
2 attendance by a treatment program for domestic abusers certified by
3 the Attorney General.

4 H. At no time, under any proceeding, may a person protected by
5 a protective order be held to be in violation of that protective
6 order. Only a defendant against whom a protective order has been
7 issued may be held to have violated the order.

8 I. In addition to any other penalty specified in this section
9 for any violation, the court is authorized to order the person to
10 use a Global Positioning Monitoring System (GPS) device as a
11 condition of any sentence. When the court orders GPS monitoring as
12 a condition of any sentence, the person shall pay any costs and
13 expenses relating to the GPS device and monitoring.

14 SECTION 2. AMENDATORY Section 4, Chapter 516, O.S.L.
15 2004 (22 O.S. Supp. 2007, Section 60.17), is amended to read as
16 follows:

17 Section 60.17 The court shall consider the safety of any and
18 all alleged victims of domestic violence, stalking, harassment,
19 sexual assault, or forcible sodomy where the defendant is alleged to
20 have violated a protective order, committed domestic assault and
21 battery, stalked, sexually assaulted, or forcibly sodomized the
22 alleged victim or victims prior to the release of the alleged
23 defendant from custody on bond. The court, after consideration and
24 to ensure the safety of the alleged victim or victims, may issue an

1 emergency protective order pursuant to the Protection from Domestic
2 Abuse Act. The court may also issue to the alleged victim or
3 victims, an order restraining the alleged defendant from any
4 activity or action from which they may be restrained under the
5 Protection from Domestic Abuse Act. The protective order shall
6 remain in effect until either a plea has been accepted, sentencing
7 has occurred in the case, the case has been dismissed, or until
8 further order of the court dismissing the protective order. The
9 court is authorized to order in conjunction with any protective
10 order or restraining order authorized by this section, the person to
11 use a Global Positioning Monitoring System (GPS) device for such
12 term as the court deems appropriate, and the court shall further
13 order the person to pay any costs and expenses relating the GPS
14 device and monitoring or the person shall be deemed to be in
15 contempt of the court.

16 SECTION 3. This act shall become effective July 1, 2008.

17 SECTION 4. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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