

1 ENGROSSED HOUSE
2 BILL NO. 2827

By: Peters and Kern of the
House

3 and

4 Anderson of the Senate

5
6
7 An Act relating to criminal procedure; amending 22
8 O.S. 2001, Section 40.3, as amended by Section 4,
9 Chapter 466, O.S.L. 2002 (22 O.S. Supp. 2009, Section
10 40.3), which relates to emergency temporary orders of
11 protection; authorizing victim of certain crimes to
12 request emergency temporary order of protection;
13 deleting certain filing requirement; amending 22 O.S.
14 2001, Sections 60.1, as last amended by Section 14,
15 Chapter 348, O.S.L. 2005, 60.2, as last amended by
16 Section 1, Chapter 189, O.S.L. 2008, 60.4, as last
17 amended by Section 128, Chapter 234, O.S.L. 2009 and
18 Section 5, Chapter 466, O.S.L. 2002 (22 O.S. Supp.
19 2009, Sections 60.1, 60.2, 60.4 and 60.15), which
20 relate to the Protection from Domestic Abuse Act;
21 modifying definition of stalking; authorizing
22 petitioner of protective order to request custody and
23 control of animal; authorizing court to enter certain
24 order; modifying certain notice requirement; updating
statutory reference; amending 22 O.S. 2001, Section
1105, as last amended by Section 1, Chapter 128,
O.S.L. 2005 (22 O.S. Supp. 2009, Section 1105), which
relates to discharging defendants on bail; directing
courts to consider specified circumstances prior to
determining bond and conditions of release; and
providing an effective date.

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

1 SECTION 1. AMENDATORY 22 O.S. 2001, Section 40.3, as
2 amended by Section 4, Chapter 466, O.S.L. 2002 (22 O.S. Supp. 2009,
3 Section 40.3), is amended to read as follows:

4 Section 40.3 A. When the court is not open for business, the
5 victim of domestic violence, stalking, harassment, rape or forcible
6 sodomy may request a petition for an emergency temporary order of
7 protection. The peace officer making the preliminary investigation
8 shall:

9 1. Provide the victim with a petition for an emergency
10 temporary order of protection and, if necessary, assist the victim
11 in completing the petition form. The petition shall be in
12 substantially the same form as provided by Section 60.2 of this
13 title for a petition for protective order in domestic abuse cases;

14 2. Immediately notify, by telephone or otherwise, a judge of
15 the district court of the request for an emergency temporary order
16 of protection and describe the circumstances. The judge shall
17 inform the peace officer of the decision to approve or disapprove
18 the emergency temporary order;

19 3. Inform the victim whether the judge has approved or
20 disapproved the emergency temporary order. If an emergency
21 temporary order has been approved, the officer shall provide the
22 victim, or a responsible adult if the victim is a minor child or an
23 incompetent person, with a copy of the petition and a written
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1 statement signed by the officer attesting that the judge has
2 approved the emergency temporary order of protection; and

3 4. Notify the person subject to the emergency temporary
4 protection order of the issuance and conditions of the order if
5 known. Notification pursuant to this paragraph may be made
6 personally by the officer upon arrest, or upon identification of the
7 assailant notice shall be given by any law enforcement officer. A
8 copy of the petition and the statement of the officer attesting to
9 the order of the judge shall be made available to the person; ~~and~~

10 ~~5. File a copy of the petition and the statement of the officer~~
11 ~~with the district court of the county immediately upon the opening~~
12 ~~of the court on the next day the court is open for business.~~

13 B. The forms utilized by law enforcement agencies in carrying
14 out the provisions of this section may be substantially similar to
15 those used under Section 60.2 of this title.

16 SECTION 2. AMENDATORY 22 O.S. 2001, Section 60.1, as
17 last amended by Section 14, Chapter 348, O.S.L. 2005 (22 O.S. Supp.
18 2009, Section 60.1), is amended to read as follows:

19 Section 60.1 As used in the Protection from Domestic Abuse Act
20 and in the Domestic Abuse Reporting Act, Sections 40.5 through 40.7
21 of this title and Section 150.12B of Title 74 of the Oklahoma
22 Statutes:

23 1. "Domestic abuse" means any act of physical harm, or the
24 threat of imminent physical harm which is committed by an adult,

1 emancipated minor, or minor child thirteen (13) years of age or
2 older against another adult, emancipated minor or minor child who
3 are family or household members or who are or were in a dating
4 relationship;

5 2. "Stalking" means the willful, malicious, and repeated
6 following or harassment of a person by an adult, emancipated minor,
7 or minor thirteen (13) years of age or older, ~~with the intent of~~
8 ~~placing the person in reasonable fear of death or great bodily~~
9 ~~injury~~ in a manner that would cause a reasonable person to feel
10 frightened, intimidated, threatened, harassed, or molested and
11 actually causes the person being followed or harassed to feel
12 terrorized, frightened, intimidated, threatened, harassed or
13 molested. Stalking also means a course of conduct composed of a
14 series of two or more separate acts over a period of time, however
15 short, evidencing a continuity of purpose or unconsented contact
16 with a person that is initiated or continued without the consent of
17 the individual or in disregard of the expressed desire of the
18 individual that the contact be avoided or discontinued. Unconsented
19 contact or course of conduct includes, but is not limited to:

- 20 a. following or appearing within the sight of that
21 individual,
22 b. approaching or confronting that individual in a public
23 place or on private property,
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- c. appearing at the workplace or residence of that individual,
- d. entering onto or remaining on property owned, leased, or occupied by that individual,
- e. contacting that individual by telephone,
- f. sending mail or electronic communications to that individual, or
- g. placing an object on, or delivering an object to, property owned, leased or occupied by that individual;

3. "Harassment" means a knowing and willful course or pattern of conduct by a family or household member or an individual who is or has been involved in a dating relationship with the person, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of Section 1172 of Title 21 of the Oklahoma Statutes and fear of death or bodily injury;

4. "Family or household members" means:

- a. spouses,
- b. ex-spouses,
- c. present spouses of ex-spouses,

- 1 d. parents, including grandparents, stepparents, adoptive
2 parents and foster parents,
3 e. children, including grandchildren, stepchildren,
4 adopted children and foster children,
5 f. persons otherwise related by blood or marriage,
6 g. persons living in the same household or who formerly
7 lived in the same household, and
8 h. persons who are the biological parents of the same
9 child, regardless of their marital status, or whether
10 they have lived together at any time. This shall
11 include the elderly and handicapped;

12 5. "Dating relationship" means a courtship or engagement
13 relationship. For purposes of this act, a casual acquaintance or
14 ordinary fraternization between persons in a business or social
15 context shall not constitute a dating relationship;

16 6. "Foreign protective order" means any valid order of
17 protection issued by a court of another state or a tribal court;

18 7. "Rape" means rape and rape by instrumentation in violation
19 of Sections 1111 and 1111.1 of Title 21 of the Oklahoma Statutes;

20 8. "Victim support person" means a person affiliated with a
21 certified domestic violence or sexual assault program, certified by
22 the Attorney General or certified by a recognized Native American
23 Tribe if operating mainly within tribal lands, who provides support
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1 and assistance for a person who files a petition under the
2 Protection from Domestic Violence Act; and

3 9. "Mutual protective order" means a final protective order or
4 orders issued to both a plaintiff who has filed a petition for a
5 protective order and a defendant included as the defendant in the
6 plaintiff's petition restraining the parties from committing
7 domestic violence, stalking, harassment or rape against each other.
8 If both parties allege domestic abuse, violence, stalking,
9 harassment or rape against each other, the parties shall do so by
10 separate petition pursuant to Section 60.4 of this title.

11 SECTION 3. AMENDATORY 22 O.S. 2001, Section 60.2, as
12 last amended by Section 1, Chapter 189, O.S.L. 2008 (22 O.S. Supp.
13 2009, Section 60.2), is amended to read as follows:

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

20 1. The person seeking relief may file a petition for a
21 protective order with the district court in the county in which the
22 victim resides, the county in which the defendant resides, or the
23 county in which the domestic violence occurred. If the person
24 seeking relief is a victim of stalking but is not a family or

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

- 21 a. there is no established protective order docket in
- 22 such court, or
- 23 b. the court finds that, in the interest of judicial
- 24 economy, both actions may be heard together; provided,

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

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

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

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

19 C. 1. Except as otherwise provided by this section, no filing
20 fee, service of process fee, attorney fees or any other fee or
21 costs shall be charged the plaintiff or victim at any time for
22 filing a petition for a protective order whether a protective order
23 is granted or not granted. The court may assess court costs,
24 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 E. The person seeking a protective order may further request
15 the exclusive care, possession, or control of any animal owned,
16 possessed, leased, kept, or held by either the petitioner, defendant
17 or minor child residing in the residence of the petitioner or
18 defendant. The court may order the defendant to make no contact
19 with the animal and forbid the defendant from taking, transferring,
20 encumbering, concealing, molesting, attacking, striking,
21 threatening, harming, or otherwise disposing of the animal.

22 SECTION 4. AMENDATORY 22 O.S. 2001, Section 60.4, as
23 last amended by Section 128, Chapter 234, O.S.L. 2009 (22 O.S. Supp.
24 2009, Section 60.4), is amended to read as follows:

1 Section 60.4 A. 1. A copy of a petition for a protective
2 order, notice of hearing and a copy of any emergency ex parte order
3 issued by the court shall be served upon the defendant in the same
4 manner as a bench warrant. In addition, if the service is to be in
5 another county, the court clerk may issue service to the sheriff by
6 facsimile or other electronic transmission for service by the
7 sheriff. Any fee for service of a petition for protective order,
8 notice of hearing, and emergency ex parte order shall only be
9 charged pursuant to subsection C of Section 60.2 of this title and,
10 if charged, shall be the same as the sheriff's service fee plus
11 mileage expenses.

12 2. Emergency ex parte orders shall be given priority for
13 service and can be served twenty-four (24) hours a day when the
14 location of the defendant is known. When service cannot be made
15 upon the defendant by the sheriff, the sheriff may contact another
16 law enforcement officer or a private investigator or private process
17 server to serve the defendant.

18 3. An emergency ex parte order, a petition for protective
19 order, and a notice of hearing shall have statewide validity and may
20 be transferred to any law enforcement jurisdiction to effect service
21 upon the defendant.

22 4. The return of service shall be submitted to the sheriff's
23 office in the court where the petition, notice of hearing or order
24 was issued.

1 5. When the defendant is a minor child who is ordered removed
2 from the residence of the victim, in addition to those documents
3 served upon the defendant, a copy of the petition, notice of hearing
4 and a copy of any ex parte order issued by the court shall be
5 delivered with the child to the caretaker of the place where such
6 child is taken pursuant to Section 2-2-101 of Title 10A of the
7 Oklahoma Statutes.

8 B. 1. Within twenty (20) days of the filing of the petition
9 for a protective order, the court shall schedule a full hearing on
10 the petition, if the court finds sufficient grounds within the scope
11 of the Protection from Domestic Abuse Act stated in the petition to
12 hold such a hearing, regardless of whether an emergency ex parte
13 order has been previously issued, requested or denied. Provided,
14 however, when the defendant is a minor child who has been removed
15 from the residence pursuant to Section 2-2-101 of Title 10A of the
16 Oklahoma Statutes, the court shall schedule a full hearing on the
17 petition within seventy-two (72) hours, regardless of whether an
18 emergency ex parte order has been previously issued, requested or
19 denied.

20 2. The court may schedule a full hearing on the petition for a
21 protective order within seventy-two (72) hours when the court issues
22 an emergency ex parte order suspending child visitation rights due
23 to physical violence or threat of abuse.

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1 3. If service has not been made on the defendant at the time of
2 the hearing, the court shall, at the request of the petitioner,
3 issue a new emergency order reflecting a new hearing date and direct
4 service to issue.

5 4. A petition for a protective order shall, upon the
6 petitioner's request, renew every twenty (20) days with a new
7 hearing date assigned until the defendant is served. A petition for
8 a protective order shall not expire unless the petitioner fails to
9 appear at the hearing or fails to request a new order. A petitioner
10 may move to dismiss the petition and emergency or final order at any
11 time, however, a protective order must be dismissed by court order.

12 5. Failure to serve the defendant shall not be grounds for
13 dismissal of a petition or an ex parte order unless the victim
14 requests dismissal or fails to appear for the hearing thereon.

15 C. 1. At the hearing, the court may impose any terms and
16 conditions in the protective order that the court reasonably
17 believes are necessary to bring about the cessation of domestic
18 abuse against the victim or stalking or harassment of the victim or
19 the victim's immediate family and may order the defendant to obtain
20 domestic abuse counseling or treatment in a program certified by the
21 Attorney General at the defendant's expense pursuant to Section 644
22 of Title 21 of the Oklahoma Statutes.

23 2. If the court grants a protective order and the defendant is
24 a minor child, the court shall order a preliminary inquiry in a

1 juvenile proceeding to determine whether further court action
2 pursuant to the Oklahoma Juvenile Code should be taken against a
3 juvenile defendant.

4 D. Final protective orders authorized by this section shall be
5 on a standard form developed by the Administrative Office of the
6 Courts.

7 E. 1. After notice and hearing, protective orders authorized
8 by this section may require the plaintiff or the defendant or both
9 to undergo treatment or participate in the court-approved counseling
10 services necessary to bring about cessation of domestic abuse
11 against the victim pursuant to Section 644 of Title 21 of the
12 Oklahoma Statutes.

13 2. Either party or both may be required to pay all or any part
14 of the cost of such treatment or counseling services. The court
15 shall not be responsible for such cost.

16 F. When necessary to protect the victim and when authorized by
17 the court, protective orders granted pursuant to the provisions of
18 this section may be served upon the defendant by a peace officer,
19 sheriff, constable, or policeman or other officer whose duty it is
20 to preserve the peace, as defined by Section 99 of Title 21 of the
21 Oklahoma Statutes.

22 G. 1. Any protective order issued on or after November 1,
23 1999, pursuant to subsection C of this section shall be for a fixed
24 period not to exceed a period of three (3) years unless extended,

1 modified, vacated or rescinded upon motion by either party or if the
2 court approves any consent agreement entered into by the plaintiff
3 and defendant.

4 2. The court shall notify the parties at the time of the
5 issuance of the protective order of the duration of the protective
6 order.

7 3. Upon the filing of a motion by either party to modify,
8 extend, or vacate a protective order, a hearing shall be scheduled
9 and notice given to the parties. At the hearing, the issuing court
10 may take such action as is necessary under the circumstances.

11 4. If a child has been removed from the residence of a parent
12 or custodial adult because of domestic abuse committed by the child,
13 the parent or custodial adult may refuse the return of such child to
14 the residence, unless upon further consideration by the court in a
15 juvenile proceeding, it is determined that the child is no longer a
16 threat and should be allowed to return to the residence.

17 H. 1. It shall be unlawful for any person to knowingly and
18 willfully seek a protective order against a spouse or ex-spouse
19 pursuant to the Protection from Domestic Abuse Act for purposes of
20 harassment, undue advantage, intimidation, or limitation of child
21 visitation rights in any divorce proceeding or separation action
22 without justifiable cause.

23 2. The violator shall, upon conviction thereof, be guilty of a
24 misdemeanor punishable by imprisonment in the county jail for a

1 period not exceeding one (1) year or by a fine not to exceed Five
2 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

3 3. A second or subsequent conviction under this subsection
4 shall be a felony punishable by imprisonment in the custody of the
5 Department of Corrections for a period not to exceed two (2) years,
6 or by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or by
7 both such fine and imprisonment.

8 I. 1. A protective order issued under the Protection from
9 Domestic Abuse Act shall not in any manner affect title to real
10 property, purport to grant to the parties a divorce or otherwise
11 purport to determine the issues between the parties as to child
12 custody, visitation or visitation schedules, child support or
13 division of property or any other like relief obtainable pursuant to
14 Title 43 of the Oklahoma Statutes, except child visitation orders
15 may be temporarily suspended or modified to protect from threats of
16 abuse or physical violence by the defendant or a threat to violate a
17 custody order. Orders not affecting title may be entered for good
18 cause found to protect an animal owned by either of the parties or
19 any child living in the household.

20 2. When granting any protective order for the protection of a
21 minor child from violence or threats of abuse, the court shall allow
22 visitation only under conditions that provide adequate supervision
23 and protection to the child while maintaining the integrity of a
24 divorce decree or temporary order.

1 J. 1. A court shall not issue any mutual protective orders.

2 2. If both parties allege domestic abuse by the other party,
3 the parties shall do so by separate petitions. The court shall
4 review each petition separately, in an individual or a consolidated
5 hearing and grant or deny each petition on its individual merits.
6 If the court finds cause to grant both motions, the court shall do
7 so by separate orders and with specific findings justifying the
8 issuance of each order.

9 3. The court may only consolidate a hearing if:

10 a. the court makes specific findings that:

11 (1) sufficient evidence exists of domestic abuse,
12 stalking, harassment or rape against each party,
13 and

14 (2) each party acted primarily as aggressors, and

15 b. the defendant filed a petition with the court for a
16 protective order no less than three (3) days, not
17 including weekends or holidays, prior to the first
18 scheduled full hearing on the petition filed by the
19 plaintiff, and

20 c. the defendant had no less than forty-eight (48) hours'
21 notice prior to the full hearing on the petition filed
22 by the plaintiff.

23 K. The court may allow a plaintiff or victim to be accompanied
24 by a victim support person at court proceedings. A victim support

1 person shall not make legal arguments⁷; however, a victim support
2 person who is not a licensed attorney may offer the plaintiff or
3 victim comfort or support and may remain in close proximity to the
4 plaintiff or victim.

5 SECTION 5. AMENDATORY Section 5, Chapter 466, O.S.L.
6 2002 (22 O.S. Supp. 2009, Section 60.15), is amended to read as
7 follows:

8 Section 60.15 Upon the preliminary investigation of any crime
9 involving domestic abuse, rape, forcible sodomy or stalking, it
10 shall be the duty of the first peace officer who interviews the
11 victim of the domestic abuse, rape, forcible sodomy or stalking to
12 inform the victim of the twenty-four-hour statewide telephone
13 communication service established by Section ~~3-314 of Title 43A~~ 18p-
14 5 of Title 74 of the Oklahoma Statutes and to give notice to the
15 victim of certain rights. The notice shall consist of handing such
16 victim the following statement:

17 "As a victim of domestic abuse, rape, forcible sodomy or
18 stalking you have certain rights. These rights are as follows:

19 1. The right to request that charges be pressed against your
20 assailant;

21 2. The right to request protection from any harm or threat of
22 harm arising out of your cooperation with law enforcement and
23 prosecution efforts as far as facilities are available and to be
24 provided with information on the level of protection available;

1 3. The right to be informed of financial assistance and other
2 social services available as a result of being a victim, including
3 information on how to apply for the assistance and services; and

4 4. The right to file a petition for a protective order or, when
5 the domestic abuse occurs when the court is not open for business,
6 to request an emergency temporary protective order."

7 SECTION 6. AMENDATORY 22 O.S. 2001, Section 1105, as
8 last amended by Section 1, Chapter 128, O.S.L. 2005 (22 O.S. Supp.
9 2009, Section 1105), is amended to read as follows:

10 Section 1105. A. Except as otherwise provided by this section,
11 upon the allowance of bail and the execution of the requisite
12 recognizance, bond, or undertaking to the state, the magistrate,
13 judge, or court, shall, if the defendant is in custody, make and
14 sign an order for discharge. The court, in its discretion, may
15 prescribe by court rule the conditions under which the court clerk
16 or deputy court clerk, or the sheriff or deputy sheriff, may prepare
17 and execute an order of release on behalf of the court.

18 B. No police officer or sheriff may release a person arrested
19 for a violation of an ex parte or final protective order as provided
20 in Sections 60.2 and 60.3 of this title, or arrested for an act
21 constituting domestic abuse as specified in Section 644 of Title 21
22 of the Oklahoma Statutes, or arrested for any act constituting
23 domestic abuse, stalking or harassment as defined by Section 60.1 of
24 this title without the violator appearing before a magistrate, judge

1 or court. ~~The~~ To the extent that any of the following information
2 is available to the court, the magistrate, judge or court shall
3 ~~determine~~ consider, in addition to any other circumstances, before
4 determining bond and other conditions of release as necessary for
5 the protection of the alleged victim, the following:

6 1. Whether the person has a history of domestic violence or a
7 history of other violent acts;

8 2. The mental health of the person;

9 3. Whether the person has a history of violating the orders of
10 any court or governmental entity;

11 4. Whether the person is potentially a threat to any other
12 person;

13 5. Whether the person has a history of abusing alcohol or any
14 controlled substance;

15 6. Whether the person has access to deadly weapons or a history
16 of using deadly weapons;

17 7. The severity of the alleged violence that is the basis of
18 the alleged offense including, but not limited to:

19 a. the duration of the alleged violent incident,

20 b. whether the alleged violent incident involved serious
21 physical injury,

22 c. whether the alleged violent incident involved sexual
23 assault,

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- 1 d. whether the alleged violent incident involved
2 strangulation,
3 e. whether the alleged violent incident involved abuse
4 during the pregnancy of the alleged victim,
5 f. whether the alleged violent incident involved the
6 abuse of pets, or
7 g. whether the alleged violent incident involved forcible
8 entry to gain access to the alleged victim;

9 8. Whether a separation of the person from the alleged victim
10 or a termination of the relationship between the person and the
11 alleged victim has recently occurred or is pending;

12 9. Whether the person has exhibited obsessive or controlling
13 behaviors toward the alleged victim including, but not limited to,
14 stalking, surveillance, or isolation of the alleged victim;

15 10. Whether the person has expressed suicidal or homicidal
16 ideations; and

17 11. Any information contained in the complaint and any police
18 reports, affidavits, or other documents accompanying the complaint.

19 C. No police officer or sheriff may release a person arrested
20 for any violation of subsection G of Section 2-401 of Title 63 of
21 the Oklahoma Statutes, without the violator appearing before a
22 magistrate, judge, or court. In determining bond and other
23 conditions of release, the magistrate, judge, or court shall
24 consider any evidence that the person is in any manner dependent

1 upon a controlled dangerous substance or has a pattern of regular,
2 illegal use of any controlled dangerous substance. A rebuttable
3 presumption that no conditions of release on bond would assure the
4 safety of the community or any person therein shall arise if the
5 state shows by clear and convincing evidence:

6 1. The person was arrested for a violation of subsection G of
7 Section 2-401 of Title 63 of the Oklahoma Statutes, relating to
8 manufacturing or attempting to manufacture a controlled dangerous
9 substance, or possessing any of the substances listed in subsection
10 G of Section 2-401 of Title 63 of the Oklahoma Statutes with the
11 intent to manufacture a controlled dangerous substance; and

12 2. The person is in any manner dependent upon a controlled
13 dangerous substance or has a pattern of regular illegal use of a
14 controlled dangerous substance, and the violation referred to in
15 paragraph 1 of this subsection was committed or attempted in order
16 to maintain or facilitate the dependence or pattern of illegal use
17 in any manner.

18 SECTION 7. This act shall become effective November 1, 2010.

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1 Passed the House of Representatives the 24th day of February,
2 2010.

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5 Presiding Officer of the House of
6 Representatives

7 Passed the Senate the ____ day of _____, 2010.

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10 Presiding Officer of the Senate

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