

EHB 2827

1 THE STATE SENATE
2 Monday, April 5, 2010

3 ENGROSSED

4 House Bill No. 2827

5 ENGROSSED HOUSE BILL NO. 2827 - By: Peters and Kern of the House and
6 Anderson of the Senate.

7 An Act relating to criminal procedure; amending 22 O.S.
8 2001, Section 40.3, as amended by Section 4, Chapter 466,
9 O.S.L. 2002 (22 O.S. Supp. 2009, Section 40.3), which
10 relates to emergency temporary orders of protection;
11 authorizing victim of certain crimes to request emergency
12 temporary order of protection; deleting certain filing
13 requirement; amending 22 O.S. 2001, Sections 60.1, as last
14 amended by Section 14, Chapter 348, O.S.L. 2005, 60.2, as
15 last amended by Section 1, Chapter 189, O.S.L. 2008, 60.4,
16 as last amended by Section 128, Chapter 234, O.S.L. 2009 and
17 Section 5, Chapter 466, O.S.L. 2002 (22 O.S. Supp. 2009,
18 Sections 60.1, 60.2, 60.4 and 60.15), which relate to the
19 Protection from Domestic Abuse Act; modifying definition of
20 stalking; authorizing petitioner of protective order to
21 request custody and control of animal; authorizing court to
22 enter certain order; modifying certain notice requirement;
23 updating statutory reference; amending 22 O.S. 2001, Section
24 1105, as last amended by Section 1, Chapter 128, O.S.L. 2005
25 (22 O.S. Supp. 2009, Section 1105), which relates to
26 discharging defendants on bail; directing courts to consider
27 specified circumstances prior to determining bond and
28 conditions of release; and providing an effective date.

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

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

33 Section 40.3 A. When the court is not open for business, the
34 victim of domestic violence, stalking, harassment, rape or forcible

1 sodomy may request a petition for an emergency temporary order of
2 protection. The peace officer making the preliminary investigation
3 shall:

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

9 2. Immediately notify, by telephone or otherwise, a judge of
10 the district court of the request for an emergency temporary order
11 of protection and describe the circumstances. The judge shall
12 inform the peace officer of the decision to approve or disapprove
13 the emergency temporary order;

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

21 4. Notify the person subject to the emergency temporary
22 protection order of the issuance and conditions of the order if
23 known. Notification pursuant to this paragraph may be made

1 personally by the officer upon arrest, or upon identification of the
2 assailant notice shall be given by any law enforcement officer. A
3 copy of the petition and the statement of the officer attesting to
4 the order of the judge shall be made available to the person, and

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

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

11 SECTION 2. AMENDATORY 22 O.S. 2001, Section 60.1, as
12 last amended by Section 14, Chapter 348, O.S.L. 2005 (22 O.S. Supp.
13 2009, Section 60.1), is amended to read as follows:

14 Section 60.1 As used in the Protection from Domestic Abuse Act
15 and in the Domestic Abuse Reporting Act, Sections 40.5 through 40.7
16 of this title and Section 150.12B of Title 74 of the Oklahoma
17 Statutes:

18 1. "Domestic abuse" means any act of physical harm, or the
19 threat of imminent physical harm which is committed by an adult,
20 emancipated minor, or minor child thirteen (13) years of age or
21 older against another adult, emancipated minor or minor child who
22 are family or household members or who are or were in a dating
23 relationship;

1 2. "Stalking" means the willful, malicious, and repeated
2 following or harassment of a person by an adult, emancipated minor,
3 or minor thirteen (13) years of age or older, ~~with the intent of~~
4 ~~placing the person in reasonable fear of death or great bodily~~
5 ~~injury~~ in a manner that would cause a reasonable person to feel
6 frightened, intimidated, threatened, harassed, or molested and
7 actually causes the person being followed or harassed to feel
8 terrorized, frightened, intimidated, threatened, harassed or
9 molested. Stalking also means a course of conduct composed of a
10 series of two or more separate acts over a period of time, however
11 short, evidencing a continuity of purpose or unconsented contact
12 with a person that is initiated or continued without the consent of
13 the individual or in disregard of the expressed desire of the
14 individual that the contact be avoided or discontinued. Unconsented
15 contact or course of conduct includes, but is not limited to:
16 a. following or appearing within the sight of that
17 individual,
18 b. approaching or confronting that individual in a public
19 place or on private property,
20 c. appearing at the workplace or residence of that
21 individual,
22 d. entering onto or remaining on property owned, leased,
23 or occupied by that individual,

- 1 e. contacting that individual by telephone,
- 2 f. sending mail or electronic communications to that
- 3 individual, or
- 4 g. placing an object on, or delivering an object to,
- 5 property owned, leased or occupied by that individual;

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

17 4. "Family or household members" means:

- 18 a. spouses,
- 19 b. ex-spouses,
- 20 c. present spouses of ex-spouses,
- 21 d. parents, including grandparents, stepparents, adoptive
- 22 parents and foster parents,

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

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

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

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

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

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

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

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

18 1. The person seeking relief may file a petition for a
19 protective order with the district court in the county in which the
20 victim resides, the county in which the defendant resides, or the
21 county in which the domestic violence occurred. If the person
22 seeking relief is a victim of stalking but is not a family or
23 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 this section. The filing of a petition for a protective order shall
12 not require jurisdiction or venue of the criminal offense if either
13 the plaintiff or defendant resides in the county. If a petition has
14 been filed in an action for divorce or separate maintenance and
15 either party to the action files a petition for a protective order
16 in the same county where the action for divorce or separate
17 maintenance is filed, the petition for the protective order may be
18 heard by the court hearing the divorce or separate maintenance
19 action if:

- 20 a. there is no established protective order docket in
21 such court, or
- 22 b. the court finds that, in the interest of judicial
23 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,

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

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

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

15 E. The person seeking a protective order may further request
16 the exclusive care, possession, or control of any animal owned,
17 possessed, leased, kept, or held by either the petitioner, defendant
18 or minor child residing in the residence of the petitioner or
19 defendant. The court may order the defendant to make no contact
20 with the animal and forbid the defendant from taking, transferring,
21 encumbering, concealing, molesting, attacking, striking,
22 threatening, harming, or otherwise disposing of the animal.

1 SECTION 4. AMENDATORY 22 O.S. 2001, Section 60.4, as
2 last amended by Section 128, Chapter 234, O.S.L. 2009 (22 O.S. Supp.
3 2009, Section 60.4), is amended to read as follows:

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

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

21 3. An emergency ex parte order, a petition for protective
22 order, and a notice of hearing shall have statewide validity and may

1 be transferred to any law enforcement jurisdiction to effect service
2 upon the defendant.

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

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

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

1 emergency ex parte order has been previously issued, requested or
2 denied.

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

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

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

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

21 C. 1. At the hearing, the court may impose any terms and
22 conditions in the protective order that the court reasonably
23 believes are necessary to bring about the cessation of domestic

1 abuse against the victim or stalking or harassment of the victim or
2 the victim's immediate family and may order the defendant to obtain
3 domestic abuse counseling or treatment in a program certified by the
4 Attorney General at the defendant's expense pursuant to Section 644
5 of Title 21 of the Oklahoma Statutes.

6 2. If the court grants a protective order and the defendant is
7 a minor child, the court shall order a preliminary inquiry in a
8 juvenile proceeding to determine whether further court action
9 pursuant to the Oklahoma Juvenile Code should be taken against a
10 juvenile defendant.

11 D. Final protective orders authorized by this section shall be
12 on a standard form developed by the Administrative Office of the
13 Courts.

14 E. 1. After notice and hearing, protective orders authorized
15 by this section may require the plaintiff or the defendant or both
16 to undergo treatment or participate in the court-approved counseling
17 services necessary to bring about cessation of domestic abuse
18 against the victim pursuant to Section 644 of Title 21 of the
19 Oklahoma Statutes.

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

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

7 G. 1. Any protective order issued on or after November 1,
8 1999, pursuant to subsection C of this section shall be for a fixed
9 period not to exceed a period of three (3) years unless extended,
10 modified, vacated or rescinded upon motion by either party or if the
11 court approves any consent agreement entered into by the plaintiff
12 and defendant.

13 2. The court shall notify the parties at the time of the
14 issuance of the protective order of the duration of the protective
15 order.

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

20 4. If a child has been removed from the residence of a parent
21 or custodial adult because of domestic abuse committed by the child,
22 the parent or custodial adult may refuse the return of such child to
23 the residence, unless upon further consideration by the court in a

1 juvenile proceeding, it is determined that the child is no longer a
2 threat and should be allowed to return to the residence.

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

9 2. The violator shall, upon conviction thereof, be guilty of a
10 misdemeanor punishable by imprisonment in the county jail for a
11 period not exceeding one (1) year or by a fine not to exceed Five
12 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

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

18 I. 1. A protective order issued under the Protection from
19 Domestic Abuse Act shall not in any manner affect title to real
20 property, purport to grant to the parties a divorce or otherwise
21 purport to determine the issues between the parties as to child
22 custody, visitation or visitation schedules, child support or
23 division of property or any other like relief obtainable pursuant to

1 Title 43 of the Oklahoma Statutes, except child visitation orders
2 may be temporarily suspended or modified to protect from threats of
3 abuse or physical violence by the defendant or a threat to violate a
4 custody order. Orders not affecting title may be entered for good
5 cause found to protect an animal owned by either of the parties or
6 any child living in the household.

7 2. When granting any protective order for the protection of a
8 minor child from violence or threats of abuse, the court shall allow
9 visitation only under conditions that provide adequate supervision
10 and protection to the child while maintaining the integrity of a
11 divorce decree or temporary order.

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

13 2. If both parties allege domestic abuse by the other party,
14 the parties shall do so by separate petitions. The court shall
15 review each petition separately, in an individual or a consolidated
16 hearing and grant or deny each petition on its individual merits.
17 If the court finds cause to grant both motions, the court shall do
18 so by separate orders and with specific findings justifying the
19 issuance of each order.

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

21 a. the court makes specific findings that:

- 1 (1) sufficient evidence exists of domestic abuse,
2 stalking, harassment or rape against each party,
3 and
4 (2) each party acted primarily as aggressors, and
5 b. the defendant filed a petition with the court for a
6 protective order no less than three (3) days, not
7 including weekends or holidays, prior to the first
8 scheduled full hearing on the petition filed by the
9 plaintiff, and
10 c. the defendant had no less than forty-eight (48) hours'
11 notice prior to the full hearing on the petition filed
12 by the plaintiff.

13 K. The court may allow a plaintiff or victim to be accompanied
14 by a victim support person at court proceedings. A victim support
15 person shall not make legal arguments~~;~~; however, a victim support
16 person who is not a licensed attorney may offer the plaintiff or
17 victim comfort or support and may remain in close proximity to the
18 plaintiff or victim.

19 SECTION 5. AMENDATORY Section 5, Chapter 466, O.S.L.
20 2002 (22 O.S. Supp. 2009, Section 60.15), is amended to read as
21 follows:

22 Section 60.15 Upon the preliminary investigation of any crime
23 involving domestic abuse, rape, forcible sodomy or stalking, it

1 shall be the duty of the first peace officer who interviews the
2 victim of the domestic abuse, rape, forcible sodomy or stalking to
3 inform the victim of the twenty-four-hour statewide telephone
4 communication service established by Section ~~3-314~~ of Title ~~43A~~ 18p-
5 5 of Title 74 of the Oklahoma Statutes and to give notice to the
6 victim of certain rights. The notice shall consist of handing such
7 victim the following statement:

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

10 1. The right to request that charges be pressed against your
11 assailant;

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

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

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

1 SECTION 6. AMENDATORY 22 O.S. 2001, Section 1105, as
2 last amended by Section 1, Chapter 128, O.S.L. 2005 (22 O.S. Supp.
3 2009, Section 1105), is amended to read as follows:

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

12 B. No police officer or sheriff may release a person arrested
13 for a violation of an ex parte or final protective order as provided
14 in Sections 60.2 and 60.3 of this title, or arrested for an act
15 constituting domestic abuse as specified in Section 644 of Title 21
16 of the Oklahoma Statutes, or arrested for any act constituting
17 domestic abuse, stalking or harassment as defined by Section 60.1 of
18 this title without the violator appearing before a magistrate, judge
19 or court. ~~The~~ To the extent that any of the following information
20 is available to the court, the magistrate, judge or court shall
21 ~~determine~~ consider, in addition to any other circumstances, before
22 determining bond and other conditions of release as necessary for
23 the protection of the alleged victim, the following:

- 1 1. Whether the person has a history of domestic violence or a
2 history of other violent acts;
- 3 2. The mental health of the person;
- 4 3. Whether the person has a history of violating the orders of
5 any court or governmental entity;
- 6 4. Whether the person is potentially a threat to any other
7 person;
- 8 5. Whether the person has a history of abusing alcohol or any
9 controlled substance;
- 10 6. Whether the person has access to deadly weapons or a history
11 of using deadly weapons;
- 12 7. The severity of the alleged violence that is the basis of
13 the alleged offense including, but not limited to:
- 14 a. the duration of the alleged violent incident,
15 b. whether the alleged violent incident involved serious
16 physical injury,
- 17 c. whether the alleged violent incident involved sexual
18 assault,
- 19 d. whether the alleged violent incident involved
20 strangulation,
- 21 e. whether the alleged violent incident involved abuse
22 during the pregnancy of the alleged victim,

- 1 f. whether the alleged violent incident involved the
2 abuse of pets, or
3 g. whether the alleged violent incident involved forcible
4 entry to gain access to the alleged victim;
5 8. Whether a separation of the person from the alleged victim
6 or a termination of the relationship between the person and the
7 alleged victim has recently occurred or is pending;
8 9. Whether the person has exhibited obsessive or controlling
9 behaviors toward the alleged victim including, but not limited to,
10 stalking, surveillance, or isolation of the alleged victim;
11 10. Whether the person has expressed suicidal or homicidal
12 ideations; and
13 11. Any information contained in the complaint and any police
14 reports, affidavits, or other documents accompanying the complaint.

15 C. No police officer or sheriff may release a person arrested
16 for any violation of subsection G of Section 2-401 of Title 63 of
17 the Oklahoma Statutes, without the violator appearing before a
18 magistrate, judge, or court. In determining bond and other
19 conditions of release, the magistrate, judge, or court shall
20 consider any evidence that the person is in any manner dependent
21 upon a controlled dangerous substance or has a pattern of regular,
22 illegal use of any controlled dangerous substance. A rebuttable
23 presumption that no conditions of release on bond would assure the

1 safety of the community or any person therein shall arise if the
2 state shows by clear and convincing evidence:

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

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-30-10 - DO
17 PASS.