

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 447

By: Barrington of the Senate

3 and

4 Armes of the House

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An Act relating to criminal procedure; amending 22 O.S. 2001, Sections 60.4, as last amended by Section 4, Chapter 116, O.S.L. 2010, and 60.9, as amended by Section 5, Chapter 284, O.S.L. 2006 (22 O.S. Supp. 2010, Sections 60.4 and 60.9), which relate to protective orders; modifying time for certain filing; requiring peace officers to make certain arrests; modifying procedure for setting certain bond; and providing an effective date.

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AUTHORS: Add the following House Coauthors: Peterson and Peters

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AUTHOR: Add the following Senate Coauthor: Anderson

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AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

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"An Act relating to criminal procedure; amending 22 O.S. 2011, Sections 60.4, 60.9 and 60.17, which relate to protective orders; modifying time for certain filing; requiring peace officers to make certain arrests; modifying procedure for setting certain bond; providing for the relinquishment of firearms and ammunition pursuant to court order; authorizing county sheriff to inventory and retrieve firearms and ammunition; directing courts to conduct annual review of certain order; authorizing courts to enter certain order upon specific findings;

1 allowing municipal law enforcement agencies to  
2 assist county sheriffs when retrieving firearms and  
3 ammunition; amending 22 O.S. 2011, Section 1105,  
4 which relates to bailable offenses; clarifying  
5 guidelines for determining bond for certain persons;  
6 and providing an effective date.

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

8 SECTION 1. AMENDATORY 22 O.S. 2011, Section 60.4, is  
9 amended to read as follows:

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

21 2. Emergency ex parte orders shall be given priority for  
22 service and can be served twenty-four (24) hours a day when the  
23 location of the defendant is known. When service cannot be made  
24 upon the defendant by the sheriff, the sheriff may contact another

1 law enforcement officer or a private investigator or private process  
2 server to serve the defendant.

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

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

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

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

1 Title 10A of the Oklahoma Statutes, the court shall schedule a full  
2 hearing on the petition within seventy-two (72) hours, regardless of  
3 whether an emergency ex parte order has been previously issued,  
4 requested or denied.

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

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

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

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

23 C. 1. At the hearing, the court may impose any terms and  
24 conditions in the protective order that the court reasonably

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

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

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

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

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

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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; provided, if the defendant is incarcerated, the  
13 protective order shall remain in full force and effect during the  
14 period of incarceration. The period of incarceration, in any  
15 jurisdiction, shall not be included in the calculation of the three-  
16 year time limitation.

17 2. The court shall notify the parties at the time of the  
18 issuance of the protective order of the duration of the protective  
19 order.

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

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

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

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

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

22 I. 1. A protective order issued under the Protection from  
23 Domestic Abuse Act shall not in any manner affect title to real  
24 property, purport to grant to the parties a divorce or otherwise

1 purport to determine the issues between the parties as to child  
2 custody, visitation or visitation schedules, child support or  
3 division of property or any other like relief obtainable pursuant to  
4 Title 43 of the Oklahoma Statutes, except child visitation orders  
5 may be temporarily suspended or modified to protect from threats of  
6 abuse or physical violence by the defendant or a threat to violate a  
7 custody order. Orders not affecting title may be entered for good  
8 cause found to protect an animal owned by either of the parties or  
9 any child living in the household.

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

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

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

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

24 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 2. AMENDATORY 22 O.S. 2011, Section 60.9, is  
20 amended to read as follows:

21 Section 60.9 A. A peace officer, without a warrant, ~~may~~ shall  
22 arrest and take into custody a person if the peace officer has  
23 reasonable cause to believe that:

1           1. An emergency ex parte or final protective order has been  
2 issued and served upon the person, pursuant to the Protection from  
3 Domestic Abuse Act;

4           2. A true copy and proof of service of the order has been filed  
5 with the law enforcement agency having jurisdiction of the area in  
6 which the plaintiff or any family or household member named in the  
7 order resides or a certified copy of the order and proof of service  
8 is presented to the peace officer as provided in subsection D of  
9 this section;

10          3. The person named in the order has received notice of the  
11 order and has had a reasonable time to comply with such order; and

12          4. The person named in the order has violated the order or is  
13 then acting in violation of the order.

14          B. A peace officer, without a warrant, shall arrest and take  
15 into custody a person if the following conditions have been met:

16           1. The peace officer has reasonable cause to believe that a  
17 foreign protective order has been issued, pursuant to the law of the  
18 state or tribal court where the foreign protective order was issued;

19           2. A certified copy of the foreign protective order has been  
20 presented to the peace officer that appears valid on its face; and

21           3. The peace officer has reasonable cause to believe the person  
22 named in the order has violated the order or is then acting in  
23 violation of the order.

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1 C. A person arrested pursuant to this section shall be brought  
2 before the court within twenty-four (24) hours after arrest to  
3 answer to a charge for violation of the order pursuant to Section  
4 60.8 of this title, at which time the court shall do each of the  
5 following:

6 1. Set a time certain for a hearing on the alleged violation of  
7 the order within seventy-two (72) hours after arrest, unless  
8 extended by the court on the motion of the arrested person;

9 2. Set a reasonable bond pending a hearing of the alleged  
10 violation of the order; and

11 3. Notify the party who has procured the order and direct the  
12 party to appear at the hearing and give evidence on the charge.

13 The court may also consider the safety of any and all alleged  
14 victims that are subject to the protection of the order prior to the  
15 court determining whether to set a reasonable bond pending a hearing  
16 of the alleged violation of the order.

17 D. A copy of a protective order shall be prima facie evidence  
18 that such order is valid in this state when such documentation is  
19 presented to a law enforcement officer by the plaintiff, defendant,  
20 or another person on behalf of a person named in the order. Any law  
21 enforcement officer may rely on such evidence to make an arrest for  
22 a violation of such order, if there is reason to believe the  
23 defendant has violated or is then acting in violation of the order  
24 without justifiable excuse. When a law enforcement officer relies

1 upon the evidence specified in this subsection, such officer and the  
2 employing agency shall be immune from liability for the arrest of  
3 the defendant if it is later proved that the evidence was false.

4 E. Any person who knowingly and willfully presents any false or  
5 materially altered protective order to any law enforcement officer  
6 to effect an arrest of any person shall, upon conviction, be guilty  
7 of a felony punishable by imprisonment in the custody of the  
8 Department of Corrections for a period not to exceed two (2) years,  
9 or by a fine not exceeding Five Thousand Dollars (\$5,000.00) and  
10 shall, in addition, be liable for any civil damages to the  
11 defendant.

12 SECTION 3. AMENDATORY 22 O.S. 2011, Section 60.17, is  
13 amended to read as follows:

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

1 victims, an order restraining the alleged defendant from any  
2 activity or action from which they may be restrained under the  
3 Protection from Domestic Abuse Act. The protective order shall  
4 remain in effect until either a plea has been accepted, sentencing  
5 has occurred in the case, the case has been dismissed, or until  
6 further order of the court dismissing the protective order. In  
7 conjunction with any protective order or restraining order  
8 authorized by this section, the court may order one or both of the  
9 following:

10 1. The defendant to use an active, real-time, twenty-four-hour  
11 Global Positioning System (GPS) monitoring device for such term as  
12 the court deems appropriate. Upon application of the victim, the  
13 court may authorize the victim to monitor the location of the  
14 defendant. Such monitoring by the victim shall be limited to the  
15 ability of the victim to make computer or cellular inquiries to  
16 determine if the defendant is within a specified distance of  
17 locations, excluding the residence or workplace of the defendant, or  
18 to receive a computer- or a cellular-generated signal if the  
19 defendant comes within a specified distance of the victim. The  
20 court shall conduct an annual review of the monitoring order to  
21 determine if such order to monitor the location of the defendant is  
22 still necessary. Before the court orders the use of a GPS device,  
23 the court shall find that the defendant has a history that  
24 demonstrates an intent to commit violence against the victim,

1 including, but not limited to, prior conviction for an offense under  
2 the Protection from Domestic Abuse Act or prior conviction for any  
3 other violent offense, or any other evidence that shows by a  
4 preponderance of the evidence that the defendant is likely to commit  
5 violence against the victim. The court may further order the  
6 defendant to pay costs and expenses related to the GPS device and  
7 monitoring; or

8 2. The defendant to relinquish all firearms and ammunition  
9 owned or under his or her control to the county sheriff or designee  
10 for safekeeping during such term as the court deems appropriate. To  
11 ensure compliance with the order of the court, the court shall  
12 authorize the county sheriff or designee to accompany the defendant  
13 to his or her place of residence, business, vehicle and any other  
14 place the court finds appropriate to conduct an inventory and  
15 retrieval of firearms and ammunition owned or under the control of  
16 the defendant located in such places. The court shall conduct an  
17 annual review of the order to relinquish firearms and ammunition to  
18 determine if such order is still necessary. The court may order  
19 relinquishment of the firearms and ammunition of the defendant upon  
20 a finding that the defendant has a history that demonstrates an  
21 intent to commit violence against the victim including, but not  
22 limited to, prior conviction for an offense under the Protection  
23 from Domestic Abuse Act, prior conviction for any other violent  
24 offense, or any other evidence that shows by a preponderance of the

1 evidence that the defendant is likely to commit violence against the  
2 victim. The court may further order the defendant to pay costs and  
3 expenses related to the storage and safekeeping of the firearms and  
4 ammunition of the defendant by the county sheriff or designee.  
5 Municipal law enforcement agencies are authorized to assist the  
6 county sheriff with the inventory and retrieval of firearms and  
7 ammunition, and the storage and safekeeping thereof, within the  
8 jurisdictional limits of the municipality.

9 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1105, is  
10 amended to read as follows:

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

19 B. No police officer or sheriff may release a person arrested  
20 for a violation of an ex parte or final protective order as provided  
21 in Sections 60.2 and 60.3 of this title, or arrested for an act  
22 constituting domestic abuse as specified in Section 644 of Title 21  
23 of the Oklahoma Statutes, or arrested for any act constituting  
24 domestic abuse, stalking or harassment as defined by Section 60.1 of

1 this title, or arrested for an act constituting domestic assault and  
2 battery or domestic assault and battery with a deadly weapon  
3 pursuant to Section 644 of Title 21 of the Oklahoma Statutes,  
4 without the violator appearing before a magistrate, judge or court.  
5 To the extent that any of the following information is available to  
6 the court, the magistrate, judge or court shall consider, in  
7 addition to any other circumstances, before determining whether bond  
8 is appropriate, and other conditions of release as necessary for the  
9 protection of the alleged victim, the following:

- 10 1. Whether the person has a history of domestic violence or a  
11 history of other violent acts;
- 12 2. The mental health of the person;
- 13 3. Whether the person has a history of violating the orders of  
14 any court or governmental entity;
- 15 4. Whether the person is potentially a threat to any other  
16 person;
- 17 5. Whether the person has a history of abusing alcohol or any  
18 controlled substance;
- 19 6. Whether the person has access to deadly weapons or a history  
20 of using deadly weapons;
- 21 7. The severity of the alleged violence that is the basis of  
22 the alleged offense including, but not limited to:
  - 23 a. the duration of the alleged violent incident,

24

- b. whether the alleged violent incident involved serious physical injury,
- c. whether the alleged violent incident involved sexual assault,
- d. whether the alleged violent incident involved strangulation,
- e. whether the alleged violent incident involved abuse during the pregnancy of the alleged victim,
- f. whether the alleged violent incident involved the abuse of pets, or
- g. whether the alleged violent incident involved forcible entry to gain access to the alleged victim;

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

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

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

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

C. No police officer or sheriff may release a person arrested for any violation of subsection G of Section 2-401 of Title 63 of

1 the Oklahoma Statutes, without the violator appearing before a  
2 magistrate, judge, or court. In determining bond and other  
3 conditions of release, the magistrate, judge, or court shall  
4 consider any evidence that the person is in any manner dependent  
5 upon a controlled dangerous substance or has a pattern of regular,  
6 illegal use of any controlled dangerous substance. A rebuttable  
7 presumption that no conditions of release on bond would assure the  
8 safety of the community or any person therein shall arise if the  
9 state shows by clear and convincing evidence:

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

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

22 SECTION 5. This act shall become effective November 1, 2012.”  
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1 Passed the House of Representatives the 26th day of March, 2012.

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4 Presiding Officer of the House of  
Representatives  
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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2012.

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9 Presiding Officer of the Senate  
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1 ENGROSSED SENATE  
2 BILL NO. 447

By: Barrington of the Senate

3 and

4 Armes of the House

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7 An Act relating to criminal procedure; amending 22  
8 O.S. 2001, Sections 60.4, as last amended by Section  
9 4, Chapter 116, O.S.L. 2010, and 60.9, as amended by  
10 Section 5, Chapter 284, O.S.L. 2006 (22 O.S. Supp.  
11 2010, Sections 60.4 and 60.9), which relate to  
protective orders; modifying time for certain filing;  
requiring peace officers to make certain arrests;  
modifying procedure for setting certain bond; and  
providing an effective date.

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

14 SECTION 6. AMENDATORY 22 O.S. 2001, Section 60.4, as  
15 last amended by Section 4, Chapter 116, O.S.L. 2010 (22 O.S. Supp.  
16 2010, Section 60.4), is amended to read as follows:

17 Section 60.4 A. 1. A copy of a petition for a protective  
18 order, notice of hearing and a copy of any emergency ex parte order  
19 issued by the court shall be served upon the defendant in the same  
20 manner as a bench warrant. In addition, if the service is to be in  
21 another county, the court clerk may issue service to the sheriff by  
22 facsimile or other electronic transmission for service by the  
23 sheriff. Any fee for service of a petition for protective order,  
24 notice of hearing, and emergency ex parte order shall only be

1 charged pursuant to subsection C of Section 60.2 of this title and,  
2 if charged, shall be the same as the sheriff's service fee plus  
3 mileage expenses.

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

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

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

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

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

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

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

21        4. A petition for a protective order shall, upon the  
22 petitioner's request, renew every twenty (20) days with a new  
23 hearing date assigned until the defendant is served. A petition for  
24 a protective order shall not expire unless the petitioner fails to

1 appear at the hearing or fails to request a new order. A petitioner  
2 may move to dismiss the petition and emergency or final order at any  
3 time, however, a protective order must be dismissed by court order.

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

7 C. 1. At the hearing, the court may impose any terms and  
8 conditions in the protective order that the court reasonably  
9 believes are necessary to bring about the cessation of domestic  
10 abuse against the victim or stalking or harassment of the victim or  
11 the victim's immediate family and may order the defendant to obtain  
12 domestic abuse counseling or treatment in a program certified by the  
13 Attorney General at the defendant's expense pursuant to Section 644  
14 of Title 21 of the Oklahoma Statutes.

15 2. If the court grants a protective order and the defendant is  
16 a minor child, the court shall order a preliminary inquiry in a  
17 juvenile proceeding to determine whether further court action  
18 pursuant to the Oklahoma Juvenile Code should be taken against a  
19 juvenile defendant.

20 D. Final protective orders authorized by this section shall be  
21 on a standard form developed by the Administrative Office of the  
22 Courts.

23 E. 1. After notice and hearing, protective orders authorized  
24 by this section may require the plaintiff or the defendant or both

1 to undergo treatment or participate in the court-approved counseling  
2 services necessary to bring about cessation of domestic abuse  
3 against the victim pursuant to Section 644 of Title 21 of the  
4 Oklahoma Statutes.

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

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

14 G. 1. Any protective order issued on or after November 1,  
15 1999, pursuant to subsection C of this section shall be for a fixed  
16 period not to exceed a period of three (3) years unless extended,  
17 modified, vacated or rescinded upon motion by either party or if the  
18 court approves any consent agreement entered into by the plaintiff  
19 and defendant.

20 2. The court shall notify the parties at the time of the  
21 issuance of the protective order of the duration of the protective  
22 order.

23 3. Upon the filing of a motion by either party to modify,  
24 extend, or vacate a protective order, a hearing shall be scheduled

1 and notice given to the parties. At the hearing, the issuing court  
2 may take such action as is necessary under the circumstances.

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

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

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

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

24

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

13 2. When granting any protective order for the protection of a  
14 minor child from violence or threats of abuse, the court shall allow  
15 visitation only under conditions that provide adequate supervision  
16 and protection to the child while maintaining the integrity of a  
17 divorce decree or temporary order.

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

19 2. If both parties allege domestic abuse by the other party,  
20 the parties shall do so by separate petitions. The court shall  
21 review each petition separately, in an individual or a consolidated  
22 hearing and grant or deny each petition on its individual merits.  
23 If the court finds cause to grant both motions, the court shall do  
24

1 so by separate orders and with specific findings justifying the  
2 issuance of each order.

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

4 a. the court makes specific findings that:

5 (1) sufficient evidence exists of domestic abuse,  
6 stalking, harassment or rape against each party,  
7 and

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

9 b. the defendant filed a petition with the court for a  
10 protective order no less than three (3) days, not  
11 including weekends or holidays, prior to the first  
12 scheduled full hearing on the petition filed by the  
13 plaintiff, and

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

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

1 SECTION 7. AMENDATORY 22 O.S. 2001, Section 60.9, as  
2 amended by Section 5, Chapter 284, O.S.L. 2006 (22 O.S. Supp. 2010,  
3 Section 60.9), is amended to read as follows:

4 Section 60.9 A. A peace officer, without a warrant, ~~may~~ shall  
5 arrest and take into custody a person if the peace officer has  
6 reasonable cause to believe that:

7 1. An emergency ex parte or final protective order has been  
8 issued and served upon the person, pursuant to the Protection from  
9 Domestic Abuse Act;

10 2. A true copy and proof of service of the order has been filed  
11 with the law enforcement agency having jurisdiction of the area in  
12 which the plaintiff or any family or household member named in the  
13 order resides or a certified copy of the order and proof of service  
14 is presented to the peace officer as provided in subsection D of  
15 this section;

16 3. The person named in the order has received notice of the  
17 order and has had a reasonable time to comply with such order; and

18 4. The person named in the order has violated the order or is  
19 then acting in violation of the order.

20 B. A peace officer, without a warrant, shall arrest and take  
21 into custody a person if the following conditions have been met:

22 1. The peace officer has reasonable cause to believe that a  
23 foreign protective order has been issued, pursuant to the law of the  
24 state or tribal court where the foreign protective order was issued;

1           2. A certified copy of the foreign protective order has been  
2 presented to the peace officer that appears valid on its face; and

3           3. The peace officer has reasonable cause to believe the person  
4 named in the order has violated the order or is then acting in  
5 violation of the order.

6           C. A person arrested pursuant to this section shall be brought  
7 before the court within twenty-four (24) hours after arrest to  
8 answer to a charge for violation of the order pursuant to Section  
9 60.8 of this title, at which time the court shall do each of the  
10 following:

11           1. Set a time certain for a hearing on the alleged violation of  
12 the order within seventy-two (72) hours after arrest, unless  
13 extended by the court on the motion of the arrested person;

14           2. Set a reasonable bond pending a hearing of the alleged  
15 violation of the order; and

16           3. Notify the party who has procured the order and direct the  
17 party to appear at the hearing and give evidence on the charge.

18           The court may also consider the safety of any and all alleged  
19 victims that are subject to the protection of the order prior to the  
20 court determining whether to set a reasonable bond pending a hearing  
21 of the alleged violation of the order.

22           D. A copy of a protective order shall be prima facie evidence  
23 that such order is valid in this state when such documentation is  
24 presented to a law enforcement officer by the plaintiff, defendant,

1 or another person on behalf of a person named in the order. Any law  
2 enforcement officer may rely on such evidence to make an arrest for  
3 a violation of such order, if there is reason to believe the  
4 defendant has violated or is then acting in violation of the order  
5 without justifiable excuse. When a law enforcement officer relies  
6 upon the evidence specified in this subsection, such officer and the  
7 employing agency shall be immune from liability for the arrest of  
8 the defendant if it is later proved that the evidence was false.

9 E. Any person who knowingly and willfully presents any false or  
10 materially altered protective order to any law enforcement officer  
11 to effect an arrest of any person shall, upon conviction, be guilty  
12 of a felony punishable by imprisonment in the custody of the  
13 Department of Corrections for a period not to exceed two (2) years,  
14 or by a fine not exceeding Five Thousand Dollars (\$5,000.00) and  
15 shall, in addition, be liable for any civil damages to the  
16 defendant.

17 SECTION 8. This act shall become effective November 1, 2011.  
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