

1 ENGROSSED SENATE
2 BILL NO. 815

By: Anderson of the Senate
and
Stiles of the House

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5
6 [dissolution of marriage - temporary injunctions -
7 effective date]
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9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. AMENDATORY 43 O.S. 2001, Section 110, as last
11 amended by Section 1, Chapter 234, O.S.L. 2010 (43 O.S. Supp. 2010,
12 Section 110), is amended to read as follows:

13 Section 110. A. 1. Except as otherwise provided by this
14 subsection, upon the filing of a petition for dissolution of
15 marriage, annulment of a marriage or legal separation by the
16 petitioner and upon personal service of the petition and summons on
17 the respondent, or upon waiver and acceptance of service by the
18 respondent, an automatic temporary injunction shall be in effect
19 against both parties pursuant to the provisions of this section:

20 a. restraining the parties from transferring,
21 encumbering, concealing, or in any way disposing of,
22 without the written consent of the other party or an
23 order of the court, any marital property, except in
24 the usual course of business, for the purpose of

1 retaining an attorney for the case or for the
2 necessities of life and requiring each party to notify
3 the other party of any proposed extraordinary
4 expenditures and to account to the court for all
5 extraordinary expenditures made after the injunction
6 is in effect,

7 b. restraining the parties from:

- 8 (1) intentionally or knowingly damaging or destroying
9 the tangible property of the parties, or of
10 either of them, including, but not limited to,
11 any document that represents or embodies anything
12 of value, including, but not limited to, any
13 electronically stored documents whether
14 representative of debts, assets or communications
15 between the parties and any minor children,
16 (2) making any withdrawal for any purpose from any
17 retirement, profit-sharing, pension, death, or
18 other employee benefit plan or employee savings
19 plan or from any individual retirement account or
20 Keogh account,
21 (3) withdrawing or borrowing in any manner all or any
22 part of the cash surrender value of any life
23 insurance policies on either party or their
24 children,

1 (4) changing or in any manner altering the
2 beneficiary designation on any life insurance
3 policies on the life of either party or any of
4 their children,

5 (5) canceling, altering, or in any manner affecting
6 any casualty, automobile, or health insurance
7 policies insuring the parties' property or
8 persons,

9 (6) opening or diverting mail addressed to the other
10 party, and

11 (7) signing or endorsing the other party's name on
12 any negotiable instrument, check, or draft, such
13 as tax refunds, insurance payments, and
14 dividends, or attempting to negotiate any
15 negotiable instruments payable to either party
16 without the personal signature of the other
17 party,

18 c. requiring the parties to maintain all presently
19 existing health, property, life and other insurance
20 which the individual is presently carrying on any
21 member of this family unit, and to cooperate as
22 necessary in the filing and processing of claims. Any
23 employer-provided health insurance currently in
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1 existence shall remain in full force and effect for
2 all family members,

3 d. enjoining both parties from molesting or disturbing
4 the peace of the other party or of the children to the
5 marriage,

6 e. restraining both parties from disrupting or
7 withdrawing their children from an educational
8 facility and programs where the children historically
9 have been enrolled, or day care,

10 f. restraining both parties from hiding or secreting
11 their children from the other party, ~~and~~

12 g. restraining both parties from removing the minor
13 children of the parties, if any, beyond the
14 jurisdiction of the State of Oklahoma, acting directly
15 or in concert with others, except for vacations of two
16 (2) weeks or less duration, without the prior written
17 consent of the other party, which shall not be
18 unreasonably withheld, and

19 h. requiring both parties, unless otherwise agreed upon
20 in writing, to deliver to the other party within
21 thirty (30) days from either the date of service of
22 the summons or the filing of an initial pleading by
23 respondent, whichever occurs first, the following
24 documents:

- 1 (1) the parties' federal and state income tax returns
2 and schedules for the past three (3) years and
3 any non-public, limited partnership and privately
4 held corporate returns for any entity in which
5 either party has an interest together with all
6 supporting documentation for the tax returns,
7 including but not limited to W-2s, 1099s, K-1s,
8 Schedules C and Schedules E. If a return is not
9 completed at the time of disclosure, provide the
10 documents necessary to prepare the return
11 including W-2s, 1099s, K-1s, copies of extension
12 requests and estimated tax payments,
13 (2) six (6) months of the most recent pay stubs from
14 each employer for whom the party was employed,
15 (3) statements for the past twelve (12) months for
16 all bank accounts held in the name of either
17 party individually or jointly, or in the name of
18 another person for the benefit of either party,
19 or held by either party for the benefit of the
20 parties' minor child or children,
21 (4) documentation regarding the cost and nature of
22 available health insurance coverage for the
23 benefit of either party or the parties' minor
24 child or children,

1 (5) documentation regarding the cost and nature of
2 employment or educationally related child care
3 expenses incurred for the benefit of the parties'
4 minor child or children,

5 (6) documentation regarding all debts in the name of
6 either party individually or jointly, showing the
7 most recent balance due and payment terms.

8 In the event that either party does not have any of the
9 documents required pursuant to this section or is unable to obtain
10 them in a timely fashion, he or she shall state in verified writing,
11 under the penalty of perjury, the specific documents which are not
12 available, the reasons the documents are not available, and what
13 efforts have been made to obtain the documents. As more information
14 becomes available, there is a continuing duty to supplement these
15 disclosures.

16 2. a. The provisions of the automatic temporary injunction
17 shall be printed as an attachment to the summons and
18 the petition and entitled "Automatic Temporary
19 Injunction Notice".

20 b. The automatic temporary injunction notice shall
21 contain a provision which will allow the parties to
22 waive the automatic temporary injunction. In
23 addition, the provision must state that unless both
24 parties have agreed and have signed their names in the

1 space provided, that the automatic temporary
2 injunction will be effective. Along with the waiver
3 provision, the notice shall contain a check box and
4 space available for the signatures of the parties.

5 3. The automatic temporary injunction shall become an order of
6 the court upon fulfillment of the requirements of paragraph 1 of
7 this subsection unless and until:

- 8 a. the automatic temporary injunction is waived by the
9 parties. Both parties must indicate on the automatic
10 temporary injunction notice in the space provided that
11 the parties have both agreed to waive the automatic
12 temporary injunction. Each party must sign his or her
13 own name on the notice in the space provided, or
14 b. a party, no later than three (3) days after service on
15 the party, files an objection to the injunction and
16 requests a hearing. Provided, the automatic temporary
17 injunction shall remain in effect until the hearing
18 and a judge orders the injunction removed.

19 4. The automatic temporary injunction shall be dissolved upon
20 the granting of the dissolution of marriage, final order of legal
21 separation or other final order.

22 5. Nothing in this subsection shall preclude either party from
23 applying to the court for further temporary orders, pursuant to this
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1 section, an expanded automatic temporary injunction, or modification
2 or revocation thereto.

3 6. a. With regard to an automatic temporary injunction, when
4 a petition for dissolution of marriage, annulment of a
5 marriage, or a legal separation is filed and served, a
6 peace officer shall use every reasonable means to
7 enforce the injunction which enjoins both parties from
8 molesting or disturbing the peace of the other party
9 or the children of the marriage against a petitioner
10 or respondent, whenever:

11 (1) there is exhibited by a respondent or by the
12 petitioner to the peace officer a copy of the
13 petition or summons, with an attached Temporary
14 Injunction Notice, duly filed and issued pursuant
15 to this section, together with a certified copy
16 of the affidavit of service of process or a
17 certified copy of the waiver and acceptance of
18 service, and

19 (2) the peace officer has cause to believe that a
20 violation of the automatic temporary injunction
21 has occurred.

22 b. A peace officer shall not be held civilly or
23 criminally liable for his or her action pursuant to
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1 this paragraph if his or her action is in good faith
2 and without malice.

3 B. After a petition has been filed in an action for dissolution
4 of marriage or legal separation either party may request the court
5 to issue:

6 1. A temporary order:

- 7 a. regarding child custody, support or visitation,
- 8 b. regarding spousal maintenance,
- 9 c. regarding payment of debt,
- 10 d. regarding possession of property,
- 11 e. regarding attorney fees, and
- 12 f. providing other injunctive relief proper in the
13 circumstances.

14 All applications for temporary orders shall set forth the
15 factual basis for the application and shall be verified by the party
16 seeking relief. The application and a notice of hearing shall be
17 served on the other party in any manner provided for in the Rules of
18 Civil Procedure.

19 The court shall not issue a temporary order until at least five
20 (5) days' notice of hearing is given to the other party.

21 After notice and hearing, a court may issue a temporary order
22 granting the relief as provided by this paragraph; and/or

23 2. A temporary restraining order. If the court finds on the
24 basis of a verified application and testimony of witnesses that

1 irreparable harm will result to the moving party, or a child of a
2 party if no order is issued before the adverse party or attorney for
3 the adverse party can be heard in opposition, the court may issue a
4 temporary restraining order which shall become immediately effective
5 and enforceable without requiring notice and opportunity to be heard
6 to the other party. Provided, for the purposes of this section, no
7 minor child or children temporarily residing in a licensed,
8 certified domestic violence shelter in the state shall be removed by
9 an ex parte order. If a temporary restraining order is issued
10 pursuant to this paragraph, the motion for a temporary order shall
11 be set within ten (10) days.

12 C. Any temporary orders and the automatic temporary injunction,
13 or specific terms thereof, may be vacated or modified prior to or in
14 conjunction with a final decree on a showing by either party of
15 facts necessary for vacation or modification. Temporary orders and
16 the automatic temporary injunction terminate when the final judgment
17 on all issues, except attorney fees and costs, is rendered or when
18 the action is dismissed. The court may reserve jurisdiction to rule
19 on an application for a contempt citation for a violation of a
20 temporary order or the automatic temporary injunction which is filed
21 any time prior to the time the temporary order or injunction
22 terminates.

23 D. Upon granting a decree of dissolution of marriage, annulment
24 of a marriage, or legal separation, the court may require either

1 party to pay such reasonable expenses of the other as may be just
2 and proper under the circumstances.

3 E. The court may in its discretion make additional orders
4 relative to the expenses of any such subsequent actions, including
5 but not limited to writs of habeas corpus, brought by the parties or
6 their attorneys, for the enforcement or modification of any
7 interlocutory or final orders in the dissolution of marriage action
8 made for the benefit of either party or their respective attorneys.

9 SECTION 2. This act shall become effective November 1, 2011.

10 Passed the Senate the 7th day of March, 2011.

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Presiding Officer of the Senate

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14 Passed the House of Representatives the ____ day of _____,

15 2011.

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Presiding Officer of the House
of Representatives

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