

1 Section 60.1 As used in the Protection from Domestic Abuse Act
2 and in the Domestic Abuse Reporting Act, Sections 40.5 through 40.7
3 of this title and Section 150.12B of Title 74 of the Oklahoma
4 Statutes:

5 1. "Domestic abuse" means any act of physical harm, or the
6 threat of imminent physical harm which is committed by an adult,
7 emancipated minor, or minor child thirteen (13) years of age or
8 older against another adult, emancipated minor or minor child who
9 are family or household members or who are or were in a dating
10 relationship;

11 2. "Stalking" means the willful, malicious, and repeated
12 following or harassment of a person by an adult, emancipated minor,
13 or minor thirteen (13) years of age or older, in a manner that would
14 cause a reasonable person to feel frightened, intimidated,
15 threatened, harassed, or molested and actually causes the person
16 being followed or harassed to feel terrorized, frightened,
17 intimidated, threatened, harassed or molested. Stalking also means
18 a course of conduct composed of a series of two or more separate
19 acts over a period of time, however short, evidencing a continuity
20 of purpose or unconsented contact with a person that is initiated or
21 continued without the consent of the individual or in disregard of
22 the expressed desire of the individual that the contact be avoided

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1 or discontinued. Unconsented contact or course of conduct includes,
2 but is not limited to:

- 3 a. following or appearing within the sight of that
4 individual,
- 5 b. approaching or confronting that individual in a public
6 place or on private property,
- 7 c. appearing at the workplace or residence of that
8 individual,
- 9 d. entering onto or remaining on property owned, leased,
10 or occupied by that individual,
- 11 e. contacting that individual by telephone,
- 12 f. sending mail or electronic communications to that
13 individual, or
- 14 g. placing an object on, or delivering an object to,
15 property owned, leased or occupied by that individual;

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

4 4. "Family or household members" means:

- 5 a. spouses,
- 6 b. ex-spouses,
- 7 c. present spouses of ex-spouses,
- 8 d. parents, including grandparents, stepparents, adoptive
9 parents and foster parents,
- 10 e. children, including grandchildren, stepchildren,
11 adopted children and foster children,
- 12 f. persons otherwise related by blood or marriage,
- 13 g. persons living in the same household or who formerly
14 lived in the same household, and
- 15 h. persons who are the biological parents of the same
16 child, regardless of their marital status, or whether
17 they have lived together at any time. This shall
18 include the elderly and handicapped;

19 5. "Dating relationship" means a courtship ~~or~~, engagement or
20 sexual relationship, regardless of duration or frequency of contact.

21 For purposes of this act, a casual acquaintance or ordinary
22 fraternization between persons in a business or social context shall
23 not constitute a dating relationship;

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

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

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

11 9. "Mutual protective order" means a final protective order or
12 orders issued to both a plaintiff who has filed a petition for a
13 protective order and a defendant included as the defendant in the
14 plaintiff's petition restraining the parties from committing
15 domestic violence, stalking, harassment or rape against each other.
16 If both parties allege domestic abuse, violence, stalking,
17 harassment or rape against each other, the parties shall do so by
18 separate petition pursuant to Section 60.4 of this title.

19 SECTION 2. AMENDATORY 22 O.S. 2011, Section 60.2, is
20 amended to read as follows:

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

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

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1 either party to the action files a petition for a protective order
2 in the same county where the action for divorce or separate
3 maintenance is filed, the petition for the protective order may be
4 heard by the court hearing the divorce or separate maintenance
5 action if:

- 6 a. there is no established protective order docket in
7 such court, or
- 8 b. the court finds that, in the interest of judicial
9 economy, both actions may be heard together; provided,
10 however, the petition for a protective order, ~~7~~
11 including, but not limited to, a petition in which
12 children are named as petitioners, ~~7~~ shall remain a
13 separate action and a separate order shall be entered
14 in the protective order action no later than sixty
15 (60) days from the date of service on the defendant.
16 ~~Protective orders may be dismissed in favor of~~
17 ~~restraining orders in the divorce or separate~~
18 ~~maintenance action if the court specifically finds,~~
19 ~~upon hearing, that such dismissal is in the best~~
20 ~~interests of the parties and does not compromise the~~
21 ~~safety of any petitioner.~~

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

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

4 B. The petition forms shall be provided by the clerk of the
5 court. The Administrative Office of the Courts shall develop a
6 standard form for the petition.

7 C. 1. Except as otherwise provided by this section, no filing
8 fee, service of process fee, attorney fees or any other fee or
9 costs shall be charged the plaintiff or victim at any time for
10 filing a petition for a protective order, for requesting dismissal
11 of a protective order, or when a plaintiff or victim fails to
12 appear for a protective order hearing, whether a protective order
13 is granted or not granted. The court may assess court costs,
14 service of process fees, attorney fees, other fees and filing fees
15 against the defendant at the hearing on the petition, if a
16 protective order is granted against the defendant; provided, the
17 court shall have authority to waive the costs and fees if the court
18 finds that the party does not have the ability to pay the costs and
19 fees.

20 2. If the court makes specific findings that a petition for a
21 protective order has been filed frivolously and no victim exists,
22 the court, after providing notice of hearing to the plaintiff
23 regarding the assessment of fees and costs, may assess attorney

1 fees and court costs against the plaintiff. Failure to appear at a
2 protective order hearing shall not constitute grounds for assessing
3 costs and fees to a plaintiff.

4 D. The person seeking relief shall prepare the petition or, at
5 the request of the plaintiff, the court clerk or the victim-witness
6 coordinator, victim support person, and court case manager shall
7 prepare or assist the plaintiff in preparing the petition.

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

16 F. A court may not require the filing of any other action
17 including, but not limited to, divorce, separation, paternity or
18 criminal proceedings prior to hearing a petition for a protective
19 order.

20 SECTION 3. AMENDATORY 22 O.S. 2011, Section 60.3, is
21 amended to read as follows:

22 Section 60.3 A. If a plaintiff requests an emergency ex parte
23 order pursuant to Section 60.2 of this title, the court shall hold
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1 an ex parte hearing on the same day the petition is filed, if the
2 court finds sufficient grounds within the scope of the Protection
3 from Domestic Abuse Act stated in the petition to hold such a
4 hearing. The court may, for good cause shown at the hearing, issue
5 any emergency ex parte order that it finds necessary to protect the
6 victim from immediate and present danger of domestic abuse,
7 stalking, or harassment. The emergency ex parte order shall be in
8 effect until after the full hearing is conducted. Provided, if the
9 defendant, after having been served, does not appear at the hearing,
10 the emergency ex parte order shall remain in effect until the
11 defendant is served with the permanent order. If the terms of the
12 permanent order are the same as those in the emergency order, or are
13 less restrictive, then it is not necessary to serve the defendant
14 with the permanent order. The Administrative Office of the Courts
15 shall develop a standard form for emergency ex parte protective
16 orders. A permanent order shall be entered in the protective order
17 action no later than one hundred eighty (180) days from the service
18 of process on the defendant.

19 B. An emergency ex parte protective order authorized by this
20 section shall include the name, sex, race, date of birth of the
21 defendant, and the dates of issue and expiration of the protective
22 order.

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1 C. If a plaintiff requests an emergency temporary ex parte
2 order of protection as provided by Section 40.3 of this title, the
3 judge who is notified of the request by a peace officer may issue
4 such order verbally to the officer or in writing when there is
5 reasonable cause to believe that the order is necessary to protect
6 the victim from immediate and present danger of domestic abuse.
7 When the order is issued verbally the judge shall direct the officer
8 to complete and sign a statement attesting to the order. The
9 emergency temporary ex parte order shall be in effect until the
10 close of business on the next day the court is open for business
11 after the order is issued.

12 SECTION 4. AMENDATORY 22 O.S. 2011, Section 60.4, is
13 amended to read as follows:

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

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

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

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

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

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1 B. 1. Within twenty (20) days of the filing of the petition
2 for a protective order, the court shall schedule a full hearing on
3 the petition, if the court finds sufficient grounds within the scope
4 of the Protection from Domestic Abuse Act stated in the petition to
5 hold such a hearing, regardless of whether an emergency ex parte
6 order has been previously issued, requested or denied. Provided,
7 however, when the defendant is a minor child who has been removed
8 from the residence pursuant to Section 2-2-101 of Title 10A of the
9 Oklahoma Statutes, the court shall schedule a full hearing on the
10 petition within seventy-two (72) hours, regardless of whether an
11 emergency ex parte order has been previously issued, requested or
12 denied and without regard as to whether any other civil or criminal
13 action has been filed.

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

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

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

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

9 C. 1. At the hearing, the court may impose any terms and
10 conditions in the protective order that the court reasonably
11 believes are necessary to bring about the cessation of domestic
12 abuse against the victim or stalking or harassment of the victim or
13 the immediate family of the victim ~~and~~ but shall not include any
14 parenting classes or joint counseling sessions. The court may order
15 the defendant to obtain domestic abuse counseling or treatment in a
16 program certified by the Attorney General at the expense of the
17 defendant pursuant to Section 644 of Title 21 of the Oklahoma
18 Statutes.

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

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1 D. Final protective orders authorized by this section shall be
2 on a standard form developed by the Administrative Office of the
3 Courts.

4 E. 1. After notice and hearing, protective orders authorized
5 by this section may require the plaintiff or the defendant or both
6 to undergo treatment or participate in the court-approved counseling
7 services necessary to bring about cessation of domestic abuse
8 against the victim pursuant to Section 644 of Title 21 of the
9 Oklahoma Statutes but shall not include any parenting classes or
10 joint counseling sessions.

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

14 F. When necessary to protect the victim and when authorized by
15 the court, protective orders granted pursuant to the provisions of
16 this section may be served upon the defendant by a peace officer,
17 sheriff, constable, or policeman or other officer whose duty it is
18 to preserve the peace, as defined by Section 99 of Title 21 of the
19 Oklahoma Statutes. For good cause, the court may authorize service
20 of process by a private investigator or private process server;
21 provided, that the cost be borne by the party requesting said
22 service and the private investigator or private process server be
23 directed to:

1 1. Immediately notify the sheriff of the county where the
2 petition was filed that service on the defendant was completed; and

3 2. Immediately cause the return of service to be filed with the
4 clerk of the district court.

5 G. 1. Any protective order issued on or after November 1,
6 1999, pursuant to subsection C of this section shall be for a fixed
7 period not to exceed a period of three (3) years unless extended,
8 modified, vacated or rescinded upon motion by either party or if the
9 court approves any consent agreement entered into by the plaintiff
10 and defendant; provided, if the defendant is incarcerated, the
11 protective order shall remain in full force and effect during the
12 period of incarceration. The period of incarceration, in any
13 jurisdiction, shall not be included in the calculation of the three-
14 year time limitation.

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

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

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

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

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

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

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

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

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

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

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

23 a. the court makes specific findings that:

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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. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 60.20 of Title 22, unless there
21 is created a duplication in numbering, reads as follows:

22 A. 1. All district, associate or special judges having family
23 docket or protective order docket responsibilities shall attend at

1 least six (6) hours of training in courses each calendar year
2 relating to domestic violence, sexual assault and stalking laws, the
3 effects of domestic violence on children and victims, coercive
4 control, stalking and domestic violence dynamics, safety planning
5 and lethality assessment, and best practices for integrated domestic
6 violence courts. The training provided for in this section shall
7 not be in addition to existing training requirements.

8 2. The Administrative Director of the Courts shall be
9 responsible for developing, monitoring and administering procedures
10 and rules for such courses for judicial personnel, including
11 monitoring the attendance of judicial personnel at such training.

12 B. Any public defender, assistant public defender, attorney
13 employed by or under contract with the Oklahoma Indigent Defense
14 System, district attorney, assistant distinct attorney, victim-
15 witness personnel, court-appointed or retained private attorney, or
16 attorney employed by or under contract with a district court whose
17 duties include domestic violence, family or protective order docket
18 responsibilities shall complete at least six (6) hours of education
19 and training annually in courses relating to the topics described in
20 paragraph 1 of subsection A of this section.

21 C. 1. The education and training requirements may be
22 accomplished through a collaborative effort between the judiciary
23 and others with domestic violence expertise including, but not
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1 limited to, certified domestic violence and sexual assault response
2 professionals and programs, the Office of the Attorney General, the
3 Oklahoma District Attorneys Council, the Child Abuse Training and
4 Coordinating Council of the Oklahoma Department of Health, the
5 Domestic Violence Fatality Review Board or as otherwise approved by
6 the Administrative Office of the Courts.

7 2. Each judicial district shall be responsible for developing,
8 monitoring and administering procedures and rules for such courses
9 for attorneys identified in this subsection whose duties routinely
10 include protective order or family court docket responsibilities.
11 The chief judge of each judicial district, or any designee judge
12 with family or protective order docket responsibilities, shall carry
13 out this mandate within one (1) year of the effective date of this
14 act.

15 SECTION 6. This act shall become effective November 1, 2012.

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17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/28/2012 - DO
18 PASS, As Coauthored.

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