

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2723

By: Inman

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 60.9, which relates to the
9 Protection from Domestic Abuse Act; modifying bail
10 conditions for protection order violations; and
11 providing an effective date.

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

13 SECTION 1. AMENDATORY 22 O.S. 2011, Section 60.9, is
14 amended to read as follows:

15 Section 60.9 A. A peace officer, without a warrant, may arrest
16 and take into custody a person if the peace officer has reasonable
17 cause to believe that:

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

21 2. A true copy and proof of service of the order has been filed
22 with the law enforcement agency having jurisdiction of the area in
23 which the plaintiff or any family or household member named in the
24 order resides or a certified copy of the order and proof of service

1 is presented to the peace officer as provided in subsection D of
2 this section;

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

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

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

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

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

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

17 C. A person arrested pursuant to this section shall be brought
18 before the court within twenty-four (24) hours after arrest to
19 answer to a charge for violation of the order pursuant to Section
20 ~~60.8~~ 60.6 of this title, at which time the court shall do each of
21 the following:

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

1 2. ~~Set a reasonable~~ Require the arrested person to post the
2 entire amount of the bond or a real property bond equal to the
3 amount of the bail pending a hearing of the alleged violation of the
4 order. Bail on personal recognizance shall not be admitted; and

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

7 D. A copy of a protective order shall be prima facie evidence
8 that such order is valid in this state when such documentation is
9 presented to a law enforcement officer by the plaintiff, defendant,
10 or another person on behalf of a person named in the order. Any law
11 enforcement officer may rely on such evidence to make an arrest for
12 a violation of such order, if there is reason to believe the
13 defendant has violated or is then acting in violation of the order
14 without justifiable excuse. When a law enforcement officer relies
15 upon the evidence specified in this subsection, such officer and the
16 employing agency shall be immune from liability for the arrest of
17 the defendant if it is later proved that the evidence was false.

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

3 SECTION 2. This act shall become effective November 1, 2012.

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5 53-2-8550 GRS 01/08/12

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