

1 ENGROSSED HOUSE  
2 BILL NO. 2399

By: Biggs and Jordan of the  
House

3 and

4 Sykes of the Senate  
5  
6

7 An Act relating to criminal procedure; creating the  
8 Alyssa D. Wiles Act; amending 22 O.S. 2011, Sections  
9 40, 40.2 and 40.3, as amended by Sections 2, 3 and 4,  
10 Chapter 206, O.S.L. 2015 (22 O.S. Supp. 2015,  
11 Sections 40, 40.2 and 40.3), which relate to victim  
12 protection orders; adding definition; authorizing  
13 immediate family members to seek victim protection  
14 orders against certain persons; authorizing immediate  
15 family members to seek emergency temporary orders of  
16 protection; providing procedure; amending 22 O.S.  
17 2011, Section 60.3, which relates to the Protection  
18 from Domestic Abuse Act; providing jurisdictional  
19 requirement for emergency ex parte orders under  
20 certain circumstances; providing for noncodification;  
21 and providing an effective date.

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

23 SECTION 1. NEW LAW A new section of law not to be  
24 codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Alyssa D. Wiles  
Act".

SECTION 2. AMENDATORY 22 O.S. 2011, Section 40, as  
amended by Section 2, Chapter 206, O.S.L. 2015 (22 O.S. Supp. 2015,  
Section 40), is amended to read as follows:

1 Section 40. As used in Sections 40 through 40.3 of this title:

2 1. "Assault and battery with a deadly weapon" means assault and  
3 battery with a deadly weapon or other means likely to produce death  
4 or great bodily harm as provided in Section 652 of Title 21 of the  
5 Oklahoma Statutes;

6 2. "Forcible sodomy" means the act of forcing another person to  
7 engage in the detestable and abominable crime against nature  
8 pursuant to Sections 886 and 887 of Title 21 of the Oklahoma  
9 Statutes that is punishable under Section 888 of Title 21 of the  
10 Oklahoma Statutes;

11 3. "Kidnapping" means kidnapping or kidnapping for purposes of  
12 extortion as provided in Sections 741 and 745 of Title 21 of the  
13 Oklahoma Statutes;

14 4. "Member of the immediate family" means the spouse, a child  
15 by birth or adoption, a stepchild, a parent by birth or adoption, a  
16 stepparent, a grandparent, a grandchild, a sibling or a stepsibling  
17 of a victim of first-degree murder;

18 5. "Rape" means an act of sexual intercourse accomplished with  
19 a person pursuant to Sections 1111, 1111.1 and 1114 of Title 21 of  
20 the Oklahoma Statutes; and

21 ~~5.~~ 6. "Sex offense" means the following crimes:

- 22 a. sexual assault as provided in Section 681 of Title 21  
23 of the Oklahoma Statutes,

- b. human trafficking for commercial sex as provided in Section 748 of Title 21 of the Oklahoma Statutes,
- c. sexual abuse or sexual exploitation by a caretaker as provided in Section 843.1 of Title 21 of the Oklahoma Statutes,
- d. child sexual abuse or child sexual exploitation as provided in Section 843.5 of Title 21 of the Oklahoma Statutes,
- e. permitting sexual abuse of a child as provided in Section 852.1 of Title 21 of the Oklahoma Statutes,
- f. incest as provided in Section 885 of Title 21 of the Oklahoma Statutes,
- g. forcible sodomy as provided in Section 888 of Title 21 of the Oklahoma Statutes,
- h. child stealing for purposes of sexual abuse or sexual exploitation as provided in Section 891 of Title 21 of the Oklahoma Statutes,
- i. indecent exposure or solicitation of minors as provided in Section 1021 of Title 21 of the Oklahoma Statutes,
- j. procuring, producing, distributing or possessing child pornography as provided in Sections 1021.2 and 1024.2 of Title 21 of the Oklahoma Statutes,

- 1 k. parental consent to child pornography as provided in  
2 Section 1021.3 of Title 21 of the Oklahoma Statutes,  
3 l. aggravated possession of child pornography as provided  
4 in Section 1040.12a of Title 21 of the Oklahoma  
5 Statutes,  
6 m. distributing obscene material or child pornography as  
7 provided in Section 1040.13 of Title 21 of the  
8 Oklahoma Statutes,  
9 n. offering or soliciting sexual conduct with a child as  
10 provided in Section 1040.13a of Title 21 of the  
11 Oklahoma Statutes,  
12 o. procuring a child for prostitution or other lewd acts  
13 as provided in Section 1087 of Title 21 of the  
14 Oklahoma Statutes,  
15 p. inducing a child to engage in prostitution as provided  
16 in Section 1088 of Title 21 of the Oklahoma Statutes,  
17 and  
18 q. lewd or indecent proposals or acts to a child or  
19 sexual battery as provided in Section 1123 of Title 21  
20 of the Oklahoma Statutes.

21 SECTION 3. AMENDATORY 22 O.S. 2011, Section 40.2, as  
22 amended by Section 3, Chapter 206, O.S.L. 2015 (22 O.S. Supp. 2015,  
23 Section 40.2), is amended to read as follows:  
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1 Section 40.2 A. A victim protection order for any victim of  
2 rape, forcible sodomy, a sex offense, kidnapping or assault and  
3 battery with a deadly weapon shall be substantially similar to a  
4 protective order in domestic abuse cases pursuant to the Protection  
5 from Domestic Abuse Act.

6 B. A member of the immediate family of a victim of first-degree  
7 murder may seek a victim protection order against the following  
8 persons:

9 1. The person who was charged and subsequently convicted as the  
10 principal in the crime of murder in the first degree; or

11 2. The person who was charged and subsequently convicted of  
12 being an accessory to the crime of murder in the first degree.

13 A victim protection order for a member of the immediate family of a  
14 victim of first-degree murder shall be substantially similar to a  
15 protective order in domestic abuse cases pursuant to the Protection  
16 from Domestic Abuse Act.

17 C. No peace officer shall discourage a victim of rape, forcible  
18 sodomy, a sex offense, kidnapping or assault and battery with a  
19 deadly weapon from pressing charges against any assailant of the  
20 victim.

21 SECTION 4. AMENDATORY 22 O.S. 2011, Section 40.3, as  
22 amended by Section 4, Chapter 206, O.S.L. 2015 (22 O.S. Supp. 2015,  
23 Section 40.3), is amended to read as follows:  
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1 Section 40.3 A. When the court is not open for business, the  
2 victim of domestic violence, stalking, harassment, rape, forcible  
3 sodomy, a sex offense, kidnapping or assault and battery with a  
4 deadly weapon or member of the immediate family of a victim of  
5 first-degree murder may request a petition for an emergency  
6 temporary order of protection. The peace officer making the  
7 preliminary investigation shall:

8 1. Provide the victim or member of the immediate family of a  
9 victim of first-degree murder with a petition for an emergency  
10 temporary order of protection and, if necessary, assist the victim  
11 or member of the immediate family of a victim of first-degree murder  
12 in completing the petition form. The petition shall be in  
13 substantially the same form as provided by Section 60.2 of this  
14 title for a petition for protective order in domestic abuse cases;

15 2. Immediately notify, by telephone or otherwise, a judge of  
16 the district court of the request for an emergency temporary order  
17 of protection and describe the circumstances. The judge shall  
18 inform the peace officer of the decision to approve or disapprove  
19 the emergency temporary order;

20 3. Inform the victim or member of the immediate family of a  
21 victim of first-degree murder whether the judge has approved or  
22 disapproved the emergency temporary order. If an emergency  
23 temporary order has been approved, the officer shall provide the  
24 victim, or a responsible adult if the victim is a minor child or an

1 incompetent person or member of the immediate family of a victim of  
2 first-degree murder, with a copy of the petition and a written  
3 statement signed by the officer attesting that the judge has  
4 approved the emergency temporary order of protection; and

5 4. Notify the person subject to the emergency temporary  
6 protection order of the issuance and conditions of the order, if  
7 known. Notification pursuant to this paragraph may be made  
8 personally by the officer upon arrest or, upon identification of the  
9 assailant, notice shall be given by any law enforcement officer. A  
10 copy of the petition and the statement of the officer attesting to  
11 the order of the judge shall be made available to the person.

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

15 SECTION 5. AMENDATORY 22 O.S. 2011, Section 60.3, is  
16 amended to read as follows:

17 Section 60.3 A. If a plaintiff requests an emergency ex parte  
18 order pursuant to Section 60.2 of this title, the court shall hold  
19 an ex parte hearing on the same day the petition is filed, if the  
20 court finds sufficient grounds within the scope of the Protection  
21 from Domestic Abuse Act stated in the petition to hold such a  
22 hearing. The court may, for good cause shown at the hearing, issue  
23 any emergency ex parte order that it finds necessary to protect the  
24 victim from immediate and present danger of domestic abuse,

1 stalking, or harassment. The emergency ex parte order shall be in  
2 effect until after the full hearing is conducted. Provided, if the  
3 defendant, after having been served, does not appear at the hearing,  
4 the emergency ex parte order shall remain in effect until the  
5 defendant is served with the permanent order. If the terms of the  
6 permanent order are the same as those in the emergency order, or are  
7 less restrictive, then it is not necessary to serve the defendant  
8 with the permanent order. The Administrative Office of the Courts  
9 shall develop a standard form for emergency ex parte protective  
10 orders.

11 B. An emergency ex parte protective order authorized by this  
12 section shall include the name, sex, race, date of birth of the  
13 defendant, and the dates of issue and expiration of the protective  
14 order.

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

3 D. If an action for divorce, separate maintenance,  
4 guardianship, adoption or any other proceeding involving custody or  
5 visitation has been filed and is pending in a county different than  
6 the county in which the emergency ex parte order was issued, the  
7 hearing on the petition for a final protective order shall be  
8 transferred and held in the same county in which the action for  
9 divorce, separate maintenance, guardianship, adoption or any other  
10 proceeding involving custody or visitation is pending.

11 SECTION 6. This act shall become effective November 1, 2016.

12 Passed the House of Representatives the 2nd day of March, 2016.

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Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2016.

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Presiding Officer of the Senate

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