

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3489

By: Jordan

AS INTRODUCED

An Act relating to marriage; amending 43 O.S. 2011, Section 110, which relates to orders concerning property, children, support and expenses; requiring delivery of inventory of marital property for division; setting time for delivery; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 2011, Section 110, is amended to read as follows:

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

- a. restraining the parties from transferring, encumbering, concealing, or in any way disposing of,

1 without the written consent of the other party or an
2 order of the court, any marital property, except in
3 the usual course of business, for the purpose of
4 retaining an attorney for the case or for the
5 necessities of life and requiring each party to notify
6 the other party of any proposed extraordinary
7 expenditures and to account to the court for all
8 extraordinary expenditures made after the injunction
9 is in effect,

10 b. restraining the parties from:

- 11 (1) intentionally or knowingly damaging or destroying
12 the tangible property of the parties, or of
13 either of them, specifically including, but not
14 limited to, any electronically stored materials,
15 electronic communications, social network data,
16 financial records, and any document that
17 represents or embodies anything of value,
18 (2) making any withdrawal for any purpose from any
19 retirement, profit-sharing, pension, death, or
20 other employee benefit plan or employee savings
21 plan or from any individual retirement account or
22 Keogh account,
23 (3) withdrawing or borrowing in any manner all or any
24 part of the cash surrender value of any life

1 insurance policies on either party or their
2 children,

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

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

11 (6) opening or diverting mail addressed to the other
12 party, and

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

20 c. requiring the parties to maintain all presently
21 existing health, property, life and other insurance
22 which the individual is presently carrying on any
23 member of this family unit, and to cooperate as
24 necessary in the filing and processing of claims. Any

1 employer-provided health insurance currently in
2 existence shall remain in full force and effect for
3 all family members,

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

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

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

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

20 h. requiring, unless otherwise agreed upon by the parties
21 in writing, the delivery by each party to the other
22 within thirty (30) days from the earlier of either the
23 date of service of the summons or the filing of an
24

1 initial pleading by the respondent, the following
2 documents:

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

1 (4) documentation regarding the cost and nature of
2 available health insurance coverage for the
3 benefit of either party or the minor child or
4 children of the parties,

5 (5) documentation regarding the cost and nature of
6 employment or educationally related child care
7 expenses incurred for the benefit of the minor
8 child or children of the parties, and

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

12 i. requiring, unless otherwise agreed upon by the parties
13 in writing, the delivery by each party to the other and
14 to the court, within forty-five (45) days from the
15 earlier of either the date of service of the summons or
16 the filing of an initial pleading by the respondent, a
17 full and complete inventory of marital property to be
18 divided by the court.

19 2. If either party is not in possession of a document required
20 pursuant to subparagraph h of paragraph 1 of this subsection or has
21 not been able to obtain the document in a timely fashion, the party
22 shall state in verified writing, under the penalty of perjury, the
23 specific document which is not available, the reasons the document
24 is not available, and what efforts have been made to obtain the

1 document. As more information becomes available, there is a
2 continuing duty to supplement the disclosures.

3 3. Nothing in this subsection shall prohibit a party from
4 conducting further discovery pursuant to the Oklahoma Discovery
5 Code.

6 4. a. The provisions of the automatic temporary injunction
7 shall be printed as an attachment to the summons and
8 the petition and entitled "Automatic Temporary
9 Injunction Notice".

10 b. The automatic temporary injunction notice shall
11 contain a provision which will allow the parties to
12 waive the automatic temporary injunction. In
13 addition, the provision must state that unless both
14 parties have agreed and have signed their names in the
15 space provided, that the automatic temporary
16 injunction will be effective. Along with the waiver
17 provision, the notice shall contain a check box and
18 space available for the signatures of the parties.

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

22 a. the automatic temporary injunction is waived by the
23 parties. Both parties must indicate on the automatic
24 temporary injunction notice in the space provided that

1 the parties have both agreed to waive the automatic
2 temporary injunction. Each party must sign his or her
3 own name on the notice in the space provided, or
4 b. a party, no later than three (3) days after service on
5 the party, files an objection to the injunction and
6 requests a hearing. Provided, the automatic temporary
7 injunction shall remain in effect until the hearing
8 and a judge orders the injunction removed.

9 6. The automatic temporary injunction shall be dissolved upon
10 the granting of the dissolution of marriage, final order of legal
11 separation or other final order.

12 7. Nothing in this subsection shall preclude either party from
13 applying to the court for further temporary orders, pursuant to this
14 section, an expanded automatic temporary injunction, or modification
15 or revocation thereto.

16 8. a. With regard to an automatic temporary injunction, when
17 a petition for dissolution of marriage, annulment of a
18 marriage, or a legal separation is filed and served, a
19 peace officer shall use every reasonable means to
20 enforce the injunction which enjoins both parties from
21 molesting or disturbing the peace of the other party
22 or the children of the marriage against a petitioner
23 or respondent, whenever:
24

1 (1) there is exhibited by a respondent or by the
2 petitioner to the peace officer a copy of the
3 petition or summons, with an attached Temporary
4 Injunction Notice, duly filed and issued pursuant
5 to this section, together with a certified copy
6 of the affidavit of service of process or a
7 certified copy of the waiver and acceptance of
8 service, and

9 (2) the peace officer has cause to believe that a
10 violation of the automatic temporary injunction
11 has occurred.

12 b. A peace officer shall not be held civilly or
13 criminally liable for his or her action pursuant to
14 this paragraph if his or her action is in good faith
15 and without malice.

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

19 1. A temporary order:

- 20 a. regarding child custody, support or visitation,
- 21 b. regarding spousal maintenance,
- 22 c. regarding payment of debt,
- 23 d. regarding possession of property,
- 24 e. regarding attorney fees, and

1 f. providing other injunctive relief proper in the
2 circumstances.

3 All applications for temporary orders shall set forth the
4 factual basis for the application and shall be verified by the party
5 seeking relief. The application and a notice of hearing shall be
6 served on the other party in any manner provided for in the Rules of
7 Civil Procedure.

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

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

12 2. A temporary restraining order. If the court finds on the
13 basis of a verified application and testimony of witnesses that
14 irreparable harm will result to the moving party, or a child of a
15 party if no order is issued before the adverse party or attorney for
16 the adverse party can be heard in opposition, the court may issue a
17 temporary restraining order which shall become immediately effective
18 and enforceable without requiring notice and opportunity to be heard
19 to the other party. Provided, for the purposes of this section, no
20 minor child or children temporarily residing in a licensed,
21 certified domestic violence shelter in the state shall be removed by
22 an ex parte order. If a temporary restraining order is issued
23 pursuant to this paragraph, the motion for a temporary order shall
24 be set within ten (10) days.

1 C. Any temporary orders and the automatic temporary injunction,
2 or specific terms thereof, may be vacated or modified prior to or in
3 conjunction with a final decree on a showing by either party of
4 facts necessary for vacation or modification. Temporary orders and
5 the automatic temporary injunction terminate when the final judgment
6 on all issues, except attorney fees and costs, is rendered or when
7 the action is dismissed. The court may reserve jurisdiction to rule
8 on an application for a contempt citation for a violation of a
9 temporary order or the automatic temporary injunction which is filed
10 any time prior to the time the temporary order or injunction
11 terminates.

12 D. Upon granting a decree of dissolution of marriage, annulment
13 of a marriage, or legal separation, the court may require either
14 party to pay such reasonable expenses of the other as may be just
15 and proper under the circumstances.

16 E. The court may in its discretion make additional orders
17 relative to the expenses of any such subsequent actions, including
18 but not limited to writs of habeas corpus, brought by the parties or
19 their attorneys, for the enforcement or modification of any
20 interlocutory or final orders in the dissolution of marriage action
21 made for the benefit of either party or their respective attorneys.

22 SECTION 2. This act shall become effective November 1, 2018.
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24 56-2-9374 EK 01/08/18