

1 ENGROSSED HOUSE
2 BILL NO. 3286

By: Rosecrants, Humphrey, Pae,
Dollens and Boles of the
House

3
4 and

Bergstrom of the Senate

5
6
7
8 [stalking and protective orders - creating the
9 Homicide Prevention Act - directing law enforcement
10 to provide copy of warning letter to person accused
11 of stalking - modifying list of persons who may
12 file a petition for an order of protection -
13 effective date]
14
15

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

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

19 This act shall be known and may be cited as the "Homicide
20 Prevention Act".

21 SECTION 2. AMENDATORY 21 O.S. 2021, Section 1173, is
22 amended to read as follows:

23 Section 1173. A. Any person who willfully, maliciously, and
24 repeatedly follows or harasses another person in a manner that:

1 1. Would cause a reasonable person or a member of the immediate
2 family of that person as defined in subsection F of this section to
3 feel frightened, intimidated, threatened, harassed, or molested; and

4 2. Actually causes the person being followed or harassed to
5 feel terrorized, frightened, intimidated, threatened, harassed, or
6 molested,

7 shall, upon conviction, be guilty of the crime of stalking, which is
8 a ~~misdemeanor~~ felony punishable by imprisonment in a ~~county jail~~ the
9 custody of the Department of Corrections for a term not more than
10 one (1) year to exceed three (3) years, or by a fine ~~of~~ not ~~more~~
11 ~~than One Thousand Dollars (\$1,000.00)~~ to exceed Five Thousand
12 Dollars (\$5,000.00), or by both such fine and imprisonment. Any
13 person convicted of a second violation of the provisions of this
14 subsection shall be punished by imprisonment in the custody of the
15 Department of Corrections for a term not to exceed six (6) years, or
16 by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or by
17 both such fine and imprisonment. Any person convicted of a third or
18 subsequent violation of the provisions of this subsection shall be
19 punished by imprisonment in the custody of the Department of
20 Corrections for a term not to exceed twelve (12) years, or by a fine
21 not to exceed Fifteen Thousand Dollars (\$15,000.00), or by both such
22 fine and imprisonment.

23 B. Any person who violates the provisions of subsection A of
24 this section when:

1 1. There is a permanent or temporary restraining order, a
2 protective order, an emergency ex parte protective order, or an
3 injunction in effect prohibiting the behavior described in
4 subsection A of this section against the same party, when the person
5 violating the provisions of subsection A of this section has actual
6 notice of the issuance of such order or injunction;

7 2. Said person is on probation or parole, a condition of which
8 prohibits the behavior described in subsection A of this section
9 against the same party or under the conditions of a community or
10 alternative punishment; or

11 3. Said person, within ten (10) years preceding the violation
12 of subsection A of this section, completed the execution of sentence
13 for a conviction of a crime involving the use or threat of violence
14 against the same party, or against any member of the immediate
15 family of such party,
16 shall, upon conviction, be guilty of a felony punishable by
17 imprisonment in the custody of the Department of Corrections for a
18 term not ~~exceeding five (5)~~ to exceed fifteen (15) years, or by a
19 fine ~~of not more than Two Thousand Five Hundred Dollars (\$2,500.00)~~
20 to exceed Twenty Thousand Dollars (\$20,000.00), or by both such fine
21 and imprisonment.

22 C. Any person who:

23 1. Commits a second act of stalking within ten (10) years of
24 the completion of sentence for a prior conviction of stalking; or

1 2. Has a prior conviction of stalking and, after being served
2 with a protective order that prohibits contact with an individual,
3 knowingly makes unconsented contact with the same individual,
4 shall, upon conviction, be guilty of a felony punishable by
5 imprisonment in the custody of the Department of Corrections for a
6 term not ~~exceeding five (5)~~ to exceed twenty (20) years, or by a
7 fine ~~of not less than Two Thousand Five Hundred Dollars (\$2,500.00)~~
8 to exceed Twenty-five Thousand Dollars (\$25,000.00), or by both such
9 fine and imprisonment.

10 D. Any person who commits an act of stalking within ten (10)
11 years of the completion of execution of sentence for a prior
12 conviction under subsection B or C of this section shall, upon
13 conviction, be guilty of a felony punishable by imprisonment in the
14 custody of the Department of Corrections for a term not ~~exceeding~~
15 ~~ten (10) years~~ to exceed twenty-five (25) years, or by a fine ~~of not~~
16 ~~less than Five Thousand Dollars (\$5,000.00)~~ to exceed Thirty
17 Thousand Dollars (\$30,000.00), or by both such fine and
18 imprisonment.

19 E. Evidence that the defendant continued to engage in a course
20 of conduct involving repeated unconsented contact, as defined in
21 subsection F of this section, with the victim after having been
22 requested by the victim to discontinue the same or any other form of
23 unconsented contact, and to refrain from any further unconsented
24 contact with the victim, shall give rise to a rebuttable presumption

1 that the continuation of the course of conduct caused the victim to
2 feel terrorized, frightened, intimidated, threatened, harassed, or
3 molested.

4 F. For purposes of determining the crime of stalking, the
5 following definitions shall apply:

6 1. "Harasses" means a pattern or course of conduct directed
7 toward another individual that includes, but is not limited to,
8 repeated or continuing unconsented contact, that would cause a
9 reasonable person to suffer emotional distress, and that actually
10 causes emotional distress to the victim. Harassment shall include
11 harassing or obscene phone calls as prohibited by Section 1172 of
12 this title and conduct prohibited by Section 850 of this title.
13 Harassment does not include constitutionally protected activity or
14 conduct that serves a legitimate purpose;

15 2. "Course of conduct" means a ~~pattern of conduct composed of a~~
16 series of two or more separate acts over a period of time, however
17 short or long, evidencing a continuity of purpose, including any of
18 the following:

19 a. maintaining a visual or physical proximity to the
20 victim,

21 b. approaching or confronting the victim in a public
22 place or on private property,

23 c. appearing at the workplace of the victim or contacting
24 the employer or coworkers of the victim,

- 1 d. appearing at the home of the victim or contacting the
2 neighbors of the victim,
- 3 e. entering onto or remaining on property owned, leased,
4 or occupied by the victim,
- 5 f. contacting the victim by telephone, text message,
6 electronic message, electronic mail, or other means of
7 electronic communication or causing the telephone or
8 electronic device of the victim or the telephone or
9 electronic device of any other person to ring or
10 generate notifications repeatedly or continuously,
11 regardless of whether a conversation ensues,
- 12 g. photographing, videotaping, audiotaping, or, through
13 any other electronic means, monitoring or recording
14 the activities of the victim. This subparagraph
15 applies regardless of where the act occurs,
- 16 h. sending to the victim any physical or electronic
17 material or contacting the victim by any means,
18 including any message, comment, or other content
19 posted on any Internet site or web application,
- 20 i. sending to a family member or member of the household
21 of the victim, or any current or former employer of
22 the victim, or any current or former coworker of the
23 victim, or any friend of the victim, any physical or
24 electronic material or contacting such person by any

1 means, including any message, comment, or other
2 content posted on any Internet site or web
3 application, for the purpose of obtaining information
4 about, disseminating information about, or
5 communicating with the victim,

6 j. placing an object on or delivering an object to
7 property owned, leased, or occupied by the victim,

8 k. delivering an object to a family member or member of
9 the household of the victim, or an employer, coworker,
10 or friend of the victim, or placing an object on, or
11 delivering an object to, property owned, leased, or
12 occupied by such a person with the intent that the
13 object be delivered to the victim, or

14 l. causing a person to engage in any of the acts
15 described in subparagraphs a through k of this
16 paragraph.

17 Constitutionally protected activity is not included within the
18 meaning of "course of conduct";

19 3. "Emotional distress" means significant mental suffering or
20 distress that may, but does not necessarily require, medical or
21 other professional treatment or counseling;

22 4. "Unconsented contact" means any contact with another
23 individual that is initiated or continued without the consent of the
24 individual, or in disregard of that individual's expressed desire

1 that the contact be avoided or discontinued. Constitutionally
2 protected activity is not included within the meaning of unconsented
3 contact. Unconsented contact includes but is not limited to any of
4 the following:

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

19 5. "Member of the immediate family", for the purposes of this
20 section, means any spouse, parent, child, person related within the
21 third degree of consanguinity or affinity or any other person who
22 regularly resides in the household or who regularly resided in the
23 household within the prior six (6) months; and
24

1 6. "Following" shall include the tracking of the movement or
2 location of an individual through the use of a Global Positioning
3 System (GPS) device or other monitoring device by a person, or
4 person who acts on behalf of another, without the consent of the
5 individual whose movement or location is being tracked; provided,
6 this shall not apply to the lawful use of a GPS device or other
7 monitoring device or to the use by a new or used motor vehicle
8 dealer or other motor vehicle creditor of a GPS device or other
9 monitoring device, including a device containing technology used to
10 remotely disable the ignition of a motor vehicle, in connection with
11 lawful action after default of the terms of a motor vehicle credit
12 sale, loan or lease, and with the express written consent of the
13 owner or lessee of the motor vehicle.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1173.1 of Title 21, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Whenever a law enforcement agency receives a complaint of
18 stalking and finds that such conduct has occurred, the law
19 enforcement agency shall be required to provide a copy of a Stalking
20 Warning Letter to the accused. The Stalking Warning Letter shall be
21 served upon the accused in the same manner as a bench warrant. If
22 the service is to be in another county, the court clerk may issue
23 service to the sheriff by facsimile or other electronic transmission
24

1 for service by the sheriff and may receive the return of service
2 from the sheriff in the same manner.

3 B. The following statutory form of the Stalking Warning Letter,
4 as required by the provisions of subsection A of this section, shall
5 be utilized by law enforcement agencies throughout the state:

6
7 _____ COUNTY, STATE OF OKLAHOMA
8 CITY OF _____
9

10 RE: _____
11 (COMPLAINANT)
12

13 Stalking Warning Letter served to: _____
14 _____
15 (HOME ADDRESS)
16 _____
17 (DATE OF BIRTH)

18 The _____ has recently investigated a complaint
19 (LAW ENFORCEMENT AGENCY)

20 about your behavior towards the above-named individual.

21 The behavior you have engaged in could be interpreted as "stalking"
22 as provided for in Section 1173 of Title 21 of the Oklahoma
23 Statutes. Stalking can be described as intentionally engaging in a
24 course of conduct directed at a specific person that would cause a

1 reasonable person under the same circumstances to suffer serious
2 emotional distress, or place the specific person in reasonable fear
3 of bodily injury. Your behavior has induced such fear or distress
4 in the above-named individual.

5 Oklahoma law makes stalking a crime. The _____
6 (LAW ENFORCEMENT AGENCY)
7 takes this law very seriously.

8 Please consider this a formal warning that any future conduct by you
9 towards the above-named individual could result in arrest by law
10 enforcement and prosecution by the _____ County
11 District Attorney's Office.

12
13 _____

14 Print name of Chief of Law Enforcement Agency

15
16 _____

17 Signature of Chief of Law Enforcement Agency

18 Served in hand _____ by _____
19 (DATE) (NAME OF OFFICER)

20
21 On behalf of the _____
22 (LAW ENFORCEMENT AGENCY)

23
24 at _____

(LOCATION)

SECTION 4. AMENDATORY 21 O.S. 2021, Section 1176, is amended to read as follows:

Section 1176. A. Whoever, with the intent to threaten, intimidate or harass, or facilitate another to threaten, intimidate or harass, uses an electronic communication device to knowingly publish, post or otherwise make publicly available personally identifiable information of a peace officer ~~or~~, public official, or crime victim, and as a result places that peace officer ~~or~~, public official, or crime victim in reasonable fear of death or serious bodily injury shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail for a term not to exceed six (6) months, or by a fine not to exceed One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment. Upon conviction for a second or subsequent violation, the person shall be punished by imprisonment in the county jail for a term not to exceed one (1) year, or by a fine not to exceed Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

B. As used in this section:

1. "Crime victim" shall have the same meaning as that term is defined in Section 142A-1 of this title;

1 2. "Electronic communication" shall have the same meaning as
2 that term is defined in Section 1172 of ~~Title 21 of the Oklahoma~~
3 ~~Statutes~~ this title. Electronic communication does not include
4 broadcast transmissions or similar communications that are not
5 targeted at any specific individual;

6 ~~2.~~ 3. "Electronic communication device" means any cellular
7 telephone, facsimile, pager, computer or any device capable of
8 electronic communication;

9 ~~3.~~ 4. "Peace officer" shall have the same meaning as that term
10 is defined in Section 99 of ~~Title 21 of the Oklahoma Statutes~~ this
11 title;

12 ~~4.~~ 5. "Personally identifiable information" means information
13 which can identify an individual including, but not limited to,
14 name, birth date, place of birth, mother's maiden name, biometric
15 records, Social Security number, official state- or government-
16 issued driver license or identification number, government passport
17 number, employer or taxpayer identification number or any other
18 information that is linked or linkable to an individual, such as
19 medical, educational, financial or employment information;

20 ~~5.~~ 6. "Public official" means any person elected or appointed
21 to a state office in the executive, legislative or judicial branch
22 of state government or other political subdivision of the state; and

23 ~~6.~~ 7. "Publish" means to circulate, deliver, distribute,
24 disseminate, transmit or otherwise make available to another person.

SECTION 5. AMENDATORY 22 O.S. 2021, Section 60.1, is amended to read as follows:

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

1. "Dating relationship" means intimate association, primarily characterized by affectionate or sexual involvement. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship;

2. "Domestic abuse" means any act of physical harm or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who is currently or was previously an intimate partner or family or household member;

3. "Family or household members" means:

- a. parents, including grandparents, stepparents, adoptive parents and foster parents,
- b. children, including grandchildren, stepchildren, adopted children and foster children,
- c. persons otherwise related by blood or marriage living in the same household, and

1 d. persons otherwise related by blood or marriage;

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

4 5. "Harassment" means a knowing and willful course or pattern
5 of conduct by a family or household member or an individual who is
6 or has been involved in a dating relationship with the person,
7 directed at a specific person which seriously alarms or annoys the
8 person, and which serves no legitimate purpose. The course of
9 conduct must be such as would cause a reasonable person to suffer
10 substantial emotional distress and must actually cause substantial
11 distress to the person. "Harassment" shall include, but not be
12 limited to, harassing or obscene telephone calls in violation of
13 Section 1172 of Title 21 of the Oklahoma Statutes and fear of death
14 or bodily injury;

15 6. "Intimate partner" means:

16 a. current or former spouses,

17 b. persons who are or were in a dating relationship,

18 c. persons who are the biological parents of the same
19 child, regardless of their marital status or whether
20 they have lived together at any time, and

21 d. persons who currently or formerly lived together in an
22 intimate way, primarily characterized by affectionate
23 or sexual involvement. A sexual relationship may be
24

1 an indicator that a person is an intimate partner, but
2 is never a necessary condition;

3 7. "Mutual protective order" means a final protective order or
4 orders issued to both a plaintiff who has filed a petition for a
5 protective order and a defendant included as the defendant in the
6 plaintiff's petition restraining the parties from committing
7 domestic violence, stalking, harassment or rape against each other.
8 If both parties allege domestic abuse, violence, stalking,
9 harassment or rape against each other, the parties shall do so by
10 separate petition pursuant to Section 60.4 of this title;

11 8. "Rape" means rape and rape by instrumentation in violation
12 of Sections 1111 and 1111.1 of Title 21 of the Oklahoma Statutes;

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

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 maintaining a visual or physical proximity to the
5 individual,
- 6 b. approaching or confronting that individual in a public
7 place or on private property,
- 8 c. appearing at the workplace ~~or~~ of the individual or
9 contacting the employer or coworkers of the
10 individual,
- 11 d. appearing at the residence of that the individual or
12 contacting the neighbors of the individual,
- 13 ~~d.~~ e. entering onto or remaining on property owned, leased
14 or occupied by ~~that the~~ individual,
- 15 ~~e.~~ f. contacting ~~that the~~ individual by telephone, text
16 message, electronic message, electronic mail, or other
17 means of electronic communication or causing the
18 telephone or electronic device of the individual or
19 the telephone or electronic device of any other person
20 to ring or generate notifications repeatedly or
21 continuously, regardless of whether a conversation
22 ensues,
- 23 ~~f.~~ g. photographing, videotaping, audiotaping, or, through
24 any other electronic means, monitoring or recording

1 the activities of the individual. This subparagraph
2 applies regardless of where the act occurs,

3 h. sending ~~mail~~ any physical or electronic ~~communications~~
4 ~~to that~~ material or contacting the individual by any
5 means, including any message, comment, or other
6 content posted on any Internet site or web
7 application, or

8 g. i. sending to a family member or member of the household
9 of the individual, or any current or former employer
10 of the individual, or any current or former coworker
11 of the individual, or any friend of the individual,
12 any physical or electronic material or contacting such
13 person by any means, including any message, comment,
14 or other content posted on any Internet site or web
15 application, for the purpose of obtaining information
16 about, disseminating information about, or
17 communicating with the individual,

18 j. placing an object on, or delivering an object to,
19 property owned, leased or occupied by ~~that~~ the
20 individual,

21 k. delivering an object to a family member or member of
22 the household of the individual, or an employer,
23 coworker, or friend of the individual, or placing an
24 object on, or delivering an object to, property owned,

1 leased, or occupied by such a person with the intent
2 that the object be delivered to the individual, or
3 1. causing a person to engage in any of the acts
4 described in subparagraphs a through k of this
5 paragraph; and

6 10. "Victim support person" means a person affiliated with a
7 domestic violence, sexual assault or adult human sex trafficking
8 program, certified by the Attorney General or operating under a
9 tribal government, who provides support and assistance for a person
10 who files a petition under the Protection from Domestic Abuse Act.

11 SECTION 6. AMENDATORY 22 O.S. 2021, Section 60.2, is
12 amended to read as follows:

13 Section 60.2 A. A victim of domestic abuse, a victim of
14 stalking, a victim of harassment, a victim of rape, any adult or
15 emancipated minor household member on behalf of any other family or
16 household member who is a minor or incompetent, ~~or~~ any minor age
17 sixteen (16) or seventeen (17) years, or any adult victim of a crime
18 may seek relief under the provisions of the Protection from Domestic
19 Abuse Act.

20 1. The person seeking relief may file a petition for a
21 protective order with the district court in the county in which the
22 victim resides, the county in which the defendant resides, or the
23 county in which the domestic violence occurred. If the person
24 seeking relief is ~~a victim of stalking but is~~ not a family or

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

- 21 a. there is no established protective order docket in
- 22 such court, or
- 23 b. the court finds that, in the interest of judicial
- 24 economy, both actions may be heard together; provided,

1 however, the petition for a protective order,
2 including, but not limited to, a petition in which
3 children are named as petitioners, shall remain a
4 separate action and a separate order shall be entered
5 in the protective order action. Protective orders may
6 be dismissed in favor of restraining orders in the
7 divorce or separate maintenance action if the court
8 specifically finds, upon hearing, that such dismissal
9 is in the best interests of the parties and does not
10 compromise the safety of any petitioner.

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

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

16 B. The petition forms shall be provided by the clerk of the
17 court. The Administrative Office of the Courts shall develop a
18 standard form for the petition.

19 C. 1. Except as otherwise provided by this section, no filing
20 fee, service of process fee, attorney fees or any other fee or costs
21 shall be charged the plaintiff or victim at any time for filing a
22 petition for a protective order whether a protective order is
23 granted or not granted. The court may assess court costs, service
24 of process fees, attorney fees, other fees and filing fees against

1 the defendant at the hearing on the petition, if a protective order
2 is granted against the defendant; provided, the court shall have
3 authority to waive the costs and fees if the court finds that the
4 party does not have the ability to pay the costs and fees.

5 2. If the court makes specific findings that a petition for a
6 protective order has been filed frivolously and no victim exists,
7 the court may assess attorney fees and court costs against the
8 plaintiff.

9 D. The person seeking relief shall prepare the petition or, at
10 the request of the plaintiff, the court clerk or the victim-witness
11 coordinator, victim support person, and court case manager shall
12 prepare or assist the plaintiff in preparing the petition.

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

21 F. A court may not require the victim to seek legal sanctions
22 against the defendant including, but not limited to, divorce,
23 separation, paternity or criminal proceedings prior to hearing a
24 petition for protective order.

1 G. A victim of rape, forcible sodomy, a sex offense,
2 kidnapping, assault and battery with a deadly weapon or member of
3 the immediate family of a victim of first-degree murder, as such
4 terms are defined in Section 40 of this title, may petition for an
5 emergency temporary order or emergency ex parte order regardless of
6 any relationship or scenario pursuant to the provisions of this
7 section. The Administrative Office of the Courts shall modify the
8 petition forms as necessary to effectuate the provisions of this
9 subsection.

10 SECTION 7. AMENDATORY 22 O.S. 2021, Section 60.4, is
11 amended to read as follows:

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

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

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

13 4. The return of service shall be submitted to the sheriff's
14 office or court clerk in the court where the petition, notice of
15 hearing or order 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 temporary order or ex parte order issued by the
20 court shall be delivered with the child to the caretaker of the
21 place where such child is taken pursuant to Section 2-2-101 of Title
22 10A of the Oklahoma Statutes.

23 B. 1. Within fourteen (14) days of the filing of the petition
24 for a protective order, the court shall schedule a full hearing on

1 the petition, if the court finds sufficient grounds within the scope
2 of the Protection from Domestic Abuse Act stated in the petition to
3 hold such a hearing, regardless of whether an emergency temporary
4 order or ex parte order has been previously issued, requested or
5 denied. Provided, however, when the defendant is a minor child who
6 has been removed from the residence pursuant to Section 2-2-101 of
7 Title 10A of the Oklahoma Statutes, the court shall schedule a full
8 hearing on the petition within seventy-two (72) hours, regardless of
9 whether an emergency temporary order or ex parte order has been
10 previously issued, requested or denied.

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

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

19 4. A petition for a protective order shall, upon the request of
20 the petitioner, renew every fourteen (14) days with a new hearing
21 date assigned until the defendant is served. A petition for a
22 protective order shall not expire unless the petitioner fails to
23 appear at the hearing or fails to request a new order. A petitioner
24

1 may move to dismiss the petition and emergency or final order at any
2 time; however, a protective order must be dismissed by court order.

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

6 6. A final protective order shall be granted or denied within
7 six (6) months of service on the defendant unless all parties agree
8 that a temporary protective order remain in effect; provided, a
9 victim shall have the right to request a final protective order
10 hearing at any time after the passage of six (6) months.

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

23 2. If the court grants a protective order and the defendant is
24 a minor child, the court shall order a preliminary inquiry in a

1 juvenile proceeding to determine whether further court action
2 pursuant to the Oklahoma Juvenile Code should be taken against a
3 juvenile defendant.

4 D. Final protective orders authorized by this section shall be
5 on a standard form developed by the Administrative Office of the
6 Courts.

7 E. 1. After notice and hearing, protective orders authorized
8 by this section may require the defendant to undergo treatment or
9 participate in the court-approved counseling services necessary to
10 bring about cessation of domestic abuse against the victim pursuant
11 to Section 644 of Title 21 of the Oklahoma Statutes but shall not
12 order any treatment or counseling that may compromise the safety of
13 the victim including, but not limited to, mediation, couples
14 counseling, family counseling, parenting classes or joint victim-
15 offender counseling sessions.

16 2. The defendant may be required to pay all or any part of the
17 cost of such treatment or counseling services. The court shall not
18 be responsible for such cost.

19 3. Should the plaintiff choose to undergo treatment or
20 participate in court-approved counseling services for victims of
21 domestic abuse, the court may order the defendant to pay all or any
22 part of the cost of such treatment or counseling services if the
23 court determines that payment by the defendant is appropriate.
24

1 F. When necessary to protect the victim and when authorized by
2 the court, protective orders granted pursuant to the provisions of
3 this section may be served upon the defendant by a peace officer,
4 sheriff, constable, or policeman or other officer whose duty it is
5 to preserve the peace, as defined by Section 99 of Title 21 of the
6 Oklahoma Statutes.

7 G. 1. Any protective order issued on or after November 1,
8 2012, pursuant to subsection C of this section shall be:

- 9 a. for a fixed period not to exceed a period of five (5)
10 years unless extended, modified, vacated or rescinded
11 upon motion by either party or if the court approves
12 any consent agreement entered into by the plaintiff
13 and defendant; provided, if the defendant is
14 incarcerated, the protective order shall remain in
15 full force and effect during the period of
16 incarceration. The period of incarceration, in any
17 jurisdiction, shall not be included in the calculation
18 of the five-year time limitation, or
19 b. continuous upon a specific finding by the court of one
20 of the following:
21 (1) the person has a history of violating the orders
22 of any court or governmental entity,
23 (2) the person has previously been convicted of a
24 violent felony offense,

- 1 (3) the person has a previous felony conviction for
2 stalking as provided in Section 1173 of Title 21
3 of the Oklahoma Statutes, ~~or~~
4 (4) a court order for a final Victim Protection Order
5 has previously been issued against the person in
6 this state or another state, or
7 (5) the victim provides proof that a continuous
8 protective order is necessary for his or her
9 protection.

10 Further, the court may take into consideration whether the person
11 has a history of domestic violence or a history of other violent
12 acts. The protective order shall remain in effect until modified,
13 vacated or rescinded upon motion by either party or if the court
14 approves any consent agreement entered into by the plaintiff and
15 defendant. If the defendant is incarcerated, the protective order
16 shall remain in full force and effect during the period of
17 incarceration.

18 2. The court shall notify the parties at the time of the
19 issuance of the protective order of the duration of the protective
20 order.

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

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

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

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

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

22 I. 1. A protective order issued under the Protection from
23 Domestic Abuse Act shall not in any manner affect title to real
24 property, purport to grant to the parties a divorce or otherwise

1 purport to determine the issues between the parties as to child
2 custody, visitation or visitation schedules, child support or
3 division of property or any other like relief obtainable pursuant to
4 Title 43 of the Oklahoma Statutes, except child visitation orders
5 may be temporarily suspended or modified to protect from threats of
6 abuse or physical violence by the defendant or a threat to violate a
7 custody order. Orders not affecting title may be entered for good
8 cause found to protect an animal owned by either of the parties or
9 any child living in the household.

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

15 J. 1. In order to ensure that a petitioner can maintain an
16 existing wireless telephone number or household utility account, the
17 court, after providing notice and a hearing, may issue an order
18 directing a wireless service provider or public utility provider to
19 transfer the billing responsibility for and rights to the wireless
20 telephone number or numbers of any minor children in the care of the
21 petitioning party or household utility account to the petitioner if
22 the petitioner is not the wireless service or public utility account
23 holder.

1 2. The order transferring billing responsibility for and rights
2 to the wireless telephone number or numbers or household utility
3 account to the petitioner shall list the name and billing telephone
4 number of the account holder, the name and contact information of
5 the person to whom the telephone number or numbers or household
6 utility account will be transferred and each telephone number or
7 household utility to be transferred to that person. The court shall
8 ensure that the contact information of the petitioner is not
9 provided to the account holder in proceedings held under this
10 subsection.

11 3. Upon issuance, a copy of the final order of protection shall
12 be transmitted, either electronically or by certified mail, to the
13 registered agent of the wireless service provider or public utility
14 provider listed with the Secretary of State or Corporation
15 Commission of Oklahoma or electronically to the email address
16 provided by the wireless service provider or public utility
17 provider. Such transmittal shall constitute adequate notice for the
18 wireless service provider or public utility provider.

19 4. If the wireless service provider or public utility provider
20 cannot operationally or technically effectuate the order due to
21 certain circumstances, the wireless service provider or public
22 utility provider shall notify the petitioner. Such circumstances
23 shall include, but not be limited to, the following:

24 a. the account holder has already terminated the account,

- b. the differences in network technology prevent the functionality of a mobile device on the network, or
- c. there are geographic or other limitations on network or service availability.

5. Upon transfer of billing responsibility for and rights to a wireless telephone number or numbers or household utility account to the petitioner under the provisions of this subsection by a wireless service provider or public utility provider, the petitioner shall assume all financial responsibility for the transferred wireless telephone number or numbers or household utility account, monthly service and utility billing costs and costs for any mobile device associated with the wireless telephone number or numbers. The wireless service provider or public utility provider shall have the right to pursue the original account holder for purposes of collecting any past due amounts owed to the wireless service provider or public utility provider.

6. The provisions of this subsection shall not preclude a wireless service provider or public utility provider from applying any routine and customary requirements for account establishment to the petitioner as part of this transfer of billing responsibility for a household utility account or for a wireless telephone number or numbers and any mobile devices attached to that number including, but not limited to, identification, financial information and customer preferences.

1 7. The provisions of this subsection shall not affect the
2 ability of the court to apportion the assets and debts of the
3 parties as provided for in law or the ability to determine the
4 temporary use, possession and control of personal property.

5 8. No cause of action shall lie against any wireless service
6 provider or public utility provider, its officers, employees or
7 agents for actions taken in accordance with the terms of a court
8 order issued under the provisions of this subsection.

9 9. As used in this subsection:

10 a. "wireless service provider" means a provider of
11 commercial mobile service under Section 332(d) of the
12 federal Telecommunications Act of 1996,

13 b. "public utility provider" means every corporation
14 organized or doing business in this state that owns,
15 operates or manages any plant or equipment for the
16 manufacture, production, transmission, transportation,
17 delivery or furnishing of water, heat or light with
18 gas or electric current for heat, light or power, for
19 public use in this state, and

20 c. "household utility account" shall include utility
21 services for water, heat, light, power or gas that are
22 provided by a public utility provider.

23 K. 1. A court shall not issue any mutual protective orders.
24

1 2. If both parties allege domestic abuse by the other party,
2 the parties shall do so by separate petitions. The court shall
3 review each petition separately in an individual or a consolidated
4 hearing and grant or deny each petition on its individual merits.
5 If the court finds cause to grant both motions, the court shall do
6 so by separate orders and with specific findings justifying the
7 issuance of each order.

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

9 a. the court makes specific findings that:

10 (1) sufficient evidence exists of domestic abuse,
11 stalking, harassment or rape against each party,
12 and

13 (2) each party acted primarily as aggressors,

14 b. the defendant filed a petition with the court for a
15 protective order no less than three (3) days, not
16 including weekends or holidays, prior to the first
17 scheduled full hearing on the petition filed by the
18 plaintiff, and

19 c. the defendant had no less than forty-eight (48) hours
20 of notice prior to the full hearing on the petition
21 filed by the plaintiff.

22 L. The court may allow a plaintiff or victim to be accompanied
23 by a victim support person at court proceedings. A victim support
24 person shall not make legal arguments; however, a victim support

1 person who is not a licensed attorney may offer the plaintiff or
2 victim comfort or support and may remain in close proximity to the
3 plaintiff or victim.

4 SECTION 8. AMENDATORY 22 O.S. 2021, Section 60.11, is
5 amended to read as follows:

6 Section 60.11 In addition to any other provisions required by
7 the Protection from Domestic Abuse Act, or otherwise required by
8 law, each ex parte or final protective order issued pursuant to the
9 Protection from Domestic Abuse Act shall have a statement printed in
10 bold-faced type or in capital letters containing the following
11 information:

12 1. The filing or nonfiling of criminal charges and the
13 prosecution of the case shall not be determined by a person who is
14 protected by the protective order, but shall be determined by the
15 prosecutor;

16 2. No person, including a person who is protected by the order,
17 may give permission to anyone to ignore or violate any provision of
18 the order. During the time in which the order is valid, every
19 provision of the order shall be in full force and effect unless a
20 court changes the order;

21 3. The order shall be in effect for a fixed period of five (5)
22 years unless extended, modified, vacated or rescinded by the court
23 or shall be continuous upon a specific finding by the court as
24 provided in subparagraph b of paragraph 1 of subsection G of Section

60.4 of this title unless modified, vacated or rescinded by the court;

4. The order shall be entered into the National Crime Information Center (NCIC) database;

5. A violation of the order is punishable by a fine of up to One Thousand Dollars (\$1,000.00) or imprisonment for up to one (1) year in the county jail, or by both such fine and imprisonment. A violation of the order which causes injury is punishable by imprisonment for twenty (20) days to one (1) year in the county jail or a fine of up to Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment; ~~and~~

~~5.~~ 6. Possession of a firearm or ammunition by a defendant while an order is in effect may subject the defendant to prosecution for a violation of federal law even if the order does not specifically prohibit the defendant from possession of a firearm or ammunition;

7. The defendant must avoid the residence of the petitioner or any premises temporarily occupied by the petitioner;

8. The defendant must avoid contact that harasses or intimidates the petitioner. Contact includes, but is not limited to, contact at the home, work, or school of the petitioner, public places, in person, by phone, in writing, by electronic communication or device, or in any other manner;

1 9. The defendant shall not impersonate or adopt the
2 personification of the petitioner by pretending to be the
3 petitioner, ordering items, posting information or making inquiries,
4 or publishing photographs of the petitioner, by use of social media,
5 or by use of computer, telephone, texting, emailing, or by use of
6 any electronic means;

7 10. The defendant must refrain from removing, hiding, damaging,
8 harming, mistreating, or disposing of a household pet;

9 11. The defendant must allow the petitioner or a family member
10 or household member of the petitioner acting on his or her behalf to
11 retrieve a household pet;

12 12. The defendant must avoid contacting the petitioner or
13 causing any person other than an attorney for the petitioner or law
14 enforcement officer to contact the petitioner unless the petitioner
15 consents in writing; and

16 13. The sheriff will accompany the petitioner and assist in
17 placing the petitioner in physical possession of his or her
18 residence, if requested.

19 SECTION 9. This act shall become effective November 1, 2022.

1 Passed the House of Representatives the 23rd day of March, 2022.

2
3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2022.

6
7 _____
8 Presiding Officer of the Senate