

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3286

 By: Rosecrants, **Humphrey**, and
 Pae

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9 COMMITTEE SUBSTITUTE

10 An Act relating to stalking and protective orders;
11 creating the Homicide Prevention Act; amending 21
12 O.S. 2021, Section 1173, which relates to penalties
13 for stalking; increasing and adding penalties;
14 modifying scope of certain definition; directing law
15 enforcement to provide copy of warning letter to
16 person accused of stalking; requiring service of
17 letter; providing form letter; amending 21 O.S. 2021,
18 Section 1176, which relates to using electronic
19 communication devices to publish identifying
20 information of certain persons; expanding scope of
21 crime to include crime victims; defining term;
22 amending 22 O.S. 2021, Sections 60.1, 60.2, 60.4 and
23 60.11, which relate to the Protection from Domestic
24 Abuse Act; modifying scope of certain definition;
 modifying list of persons who may file a petition for
 an order of protection; allowing for a continuous
 protective order under certain circumstances; adding
 provisions to printed protective order statement;
 providing for noncodification; providing for
 codification; and providing an effective date.

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

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

3 This act shall be known and may be cited as the "Homicide
4 Prevention Act".

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

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

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

12 2. Actually causes the person being followed or harassed to
13 feel terrorized, frightened, intimidated, threatened, harassed, or
14 molested,

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

1 both such fine and imprisonment. Any person convicted of a third or
2 subsequent violation of the provisions of this subsection shall be
3 punished by imprisonment in the custody of the Department of
4 Corrections for a term not to exceed twelve (12) years, or by a fine
5 not to exceed Fifteen Thousand Dollars (\$15,000.00), or by both such
6 fine and imprisonment.

7 B. Any person who violates the provisions of subsection A of
8 this section when:

9 1. There is a permanent or temporary restraining order, a
10 protective order, an emergency ex parte protective order, or an
11 injunction in effect prohibiting the behavior described in
12 subsection A of this section against the same party, when the person
13 violating the provisions of subsection A of this section has actual
14 notice of the issuance of such order or injunction;

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

19 3. Said person, within ten (10) years preceding the violation
20 of subsection A of this section, completed the execution of sentence
21 for a conviction of a crime involving the use or threat of violence
22 against the same party, or against any member of the immediate
23 family of such party,

1 shall, upon conviction, be guilty of a felony punishable by
2 imprisonment in the custody of the Department of Corrections for a
3 term not ~~exceeding five (5)~~ to exceed fifteen (15) years, or by a
4 fine ~~of not more than Two Thousand Five Hundred Dollars (\$2,500.00)~~
5 to exceed Twenty Thousand Dollars (\$20,000.00), or by both such fine
6 and imprisonment.

7 C. Any person who:

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

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

19 D. Any person who commits an act of stalking within ten (10)
20 years of the completion of execution of sentence for a prior
21 conviction under subsection B or C of this section shall, upon
22 conviction, be guilty of a felony punishable by imprisonment in the
23 custody of the Department of Corrections for a term not ~~exceeding~~
24 ~~ten (10) years~~ to exceed twenty-five (25) years, or by a fine ~~of not~~

1 ~~less than Five Thousand Dollars (\$5,000.00)~~ to exceed Thirty
2 Thousand Dollars (\$30,000.00), or by both such fine and
3 imprisonment.

4 E. Evidence that the defendant continued to engage in a course
5 of conduct involving repeated unconsented contact, as defined in
6 subsection F of this section, with the victim after having been
7 requested by the victim to discontinue the same or any other form of
8 unconsented contact, and to refrain from any further unconsented
9 contact with the victim, shall give rise to a rebuttable presumption
10 that the continuation of the course of conduct caused the victim to
11 feel terrorized, frightened, intimidated, threatened, harassed, or
12 molested.

13 F. For purposes of determining the crime of stalking, the
14 following definitions shall apply:

15 1. "Harasses" means a pattern or course of conduct directed
16 toward another individual that includes, but is not limited to,
17 repeated or continuing unconsented contact, that would cause a
18 reasonable person to suffer emotional distress, and that actually
19 causes emotional distress to the victim. Harassment shall include
20 harassing or obscene phone calls as prohibited by Section 1172 of
21 this title and conduct prohibited by Section 850 of this title.
22 Harassment does not include constitutionally protected activity or
23 conduct that serves a legitimate purpose;

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

5 a. maintaining a visual or physical proximity to the
6 victim,

7 b. approaching or confronting the victim in a public
8 place or on private property,

9 c. appearing at the workplace of the victim or contacting
10 the employer or coworkers of the victim,

11 d. appearing at the home of the victim or contacting the
12 neighbors of the victim,

13 e. entering onto or remaining on property owned, leased,
14 or occupied by the victim,

15 f. contacting the victim by telephone, text message,
16 electronic message, electronic mail, or other means of
17 electronic communication or causing the telephone or
18 electronic device of the victim or the telephone or
19 electronic device of any other person to ring or
20 generate notifications repeatedly or continuously,
21 regardless of whether a conversation ensues,

22 g. photographing, videotaping, audiotaping, or, through
23 any other electronic means, monitoring or recording
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1 the activities of the victim. This subparagraph
2 applies regardless of where the act occurs,

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

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

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

19 k. delivering an object to a family member or member of
20 the household of the victim, or an employer, coworker,
21 or friend of the victim, or placing an object on, or
22 delivering an object to, property owned, leased, or
23 occupied by such a person with the intent that the
24 object be delivered to the victim, or

1 1. causing a person to engage in any of the acts
2 described in subparagraphs a through k of this
3 paragraph.

4 Constitutionally protected activity is not included within the
5 meaning of "course of conduct";

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

9 4. "Unconsented contact" means any contact with another
10 individual that is initiated or continued without the consent of the
11 individual, or in disregard of that individual's expressed desire
12 that the contact be avoided or discontinued. Constitutionally
13 protected activity is not included within the meaning of unconsented
14 contact. Unconsented contact includes but is not limited to any of
15 the following:

16 a. following or appearing within the sight of that
17 individual,

18 b. approaching or confronting that individual in a public
19 place or on private property,

20 c. appearing at the workplace or residence of that
21 individual,

22 d. entering onto or remaining on property owned, leased,
23 or occupied by that individual,

24 e. contacting that individual by telephone,

- 1 f. sending mail or electronic communications to that
2 individual, and
- 3 g. placing an object on, or delivering an object to,
4 property owned, leased, or occupied by that
5 individual;

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

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

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

4 A. Whenever a law enforcement agency receives a complaint of
5 stalking and finds that such conduct has occurred, the law
6 enforcement agency shall be required to provide a copy of a Stalking
7 Warning Letter to the accused. The Stalking Warning Letter shall be
8 served upon the accused in the same manner as a bench warrant. If
9 the service is to be in another county, the court clerk may issue
10 service to the sheriff by facsimile or other electronic transmission
11 for service by the sheriff and may receive the return of service
12 from the sheriff in the same manner.

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

16
17 _____ COUNTY, STATE OF OKLAHOMA
18 CITY OF _____
19
20 RE: _____
21 (COMPLAINANT)
22
23 Stalking Warning Letter served to: _____
24 _____

(HOME ADDRESS)

(DATE OF BIRTH)

The _____ has recently investigated a complaint

(LAW ENFORCEMENT AGENCY)

about your behavior towards the above-named individual.

The behavior you have engaged in could be interpreted as "stalking"

as provided for in Section 1173 of Title 21 of the Oklahoma

Statutes. Stalking can be described as intentionally engaging in a

course of conduct directed at a specific person that would cause a

reasonable person under the same circumstances to suffer serious

emotional distress, or place the specific person in reasonable fear

of bodily injury. Your behavior has induced such fear or distress

in the above-named individual.

Oklahoma law makes stalking a crime. The _____

(LAW ENFORCEMENT AGENCY)

takes this law very seriously.

Please consider this a formal warning that any future conduct by you

towards the above-named individual could result in arrest by law

enforcement and prosecution by the _____ County

District Attorney's Office.

Print name of Chief of Law Enforcement Agency

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Signature of Chief of Law Enforcement Agency
Served in hand _____ by _____
(DATE) (NAME OF OFFICER)

On behalf of the _____
(LAW ENFORCEMENT AGENCY)

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

1 exceed six (6) months, or by a fine not to exceed One Thousand
2 Dollars (\$1,000.00), or by both such fine and imprisonment. Upon
3 conviction for a second or subsequent violation, the person shall be
4 punished by imprisonment in the county jail for a term not to exceed
5 one (1) year, or by a fine not to exceed Two Thousand Dollars
6 (\$2,000.00), or by both such fine and imprisonment.

7 B. As used in this section:

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

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

15 ~~2.~~ 3. "Electronic communication device" means any cellular
16 telephone, facsimile, pager, computer or any device capable of
17 electronic communication;

18 ~~3.~~ 4. "Peace officer" shall have the same meaning as that term
19 is defined in Section 99 of ~~Title 21 of the Oklahoma Statutes~~ this
20 title;

21 ~~4.~~ 5. "Personally identifiable information" means information
22 which can identify an individual including, but not limited to,
23 name, birth date, place of birth, mother's maiden name, biometric
24 records, Social Security number, official state- or government-

1 issued driver license or identification number, government passport
2 number, employer or taxpayer identification number or any other
3 information that is linked or linkable to an individual, such as
4 medical, educational, financial or employment information;

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

8 ~~6.~~ 7. "Publish" means to circulate, deliver, distribute,
9 disseminate, transmit or otherwise make available to another person.

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

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

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

21 2. "Domestic abuse" means any act of physical harm or the
22 threat of imminent physical harm which is committed by an adult,
23 emancipated minor, or minor child thirteen (13) years of age or
24 older against another adult, emancipated minor or minor child who is

1 currently or was previously an intimate partner or family or
2 household member;

3 3. "Family or household members" means:

- 4 a. parents, including grandparents, stepparents, adoptive
5 parents and foster parents,
- 6 b. children, including grandchildren, stepchildren,
7 adopted children and foster children,
- 8 c. persons otherwise related by blood or marriage living
9 in the same household, and
- 10 d. persons otherwise related by blood or marriage;

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

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

24 6. "Intimate partner" means:

- a. current or former spouses,
- b. persons who are or were in a dating relationship,
- c. persons who are the biological parents of the same child, regardless of their marital status or whether they have lived together at any time, and
- d. persons who currently or formerly lived together in an intimate way, primarily characterized by affectionate or sexual involvement. A sexual relationship may be an indicator that a person is an intimate partner, but is never a necessary condition;

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

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

9. "Stalking" means the willful, malicious, and repeated following or harassment of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, in a manner that would cause a reasonable person to feel frightened, intimidated,

1 threatened, harassed, or molested and actually causes the person
2 being followed or harassed to feel terrorized, frightened,
3 intimidated, threatened, harassed or molested. Stalking also means
4 a course of conduct composed of a series of two or more separate
5 acts over a period of time, however short, evidencing a continuity
6 of purpose or unconsented contact with a person that is initiated or
7 continued without the consent of the individual or in disregard of
8 the expressed desire of the individual that the contact be avoided
9 or discontinued. Unconsented contact or course of conduct includes,
10 but is not limited to:

11 a. ~~following or appearing within the sight of that~~
12 maintaining a visual or physical proximity to the
13 individual,

14 b. approaching or confronting that individual in a public
15 place or on private property,

16 c. appearing at the workplace ~~or~~ of the individual or
17 contacting the employer or coworkers of the
18 individual,

19 d. appearing at the residence of ~~that~~ the individual or
20 contacting the neighbors of the individual,

21 ~~d.~~ e. entering onto or remaining on property owned, leased
22 or occupied by ~~that~~ the individual,

23 ~~e.~~ f. contacting ~~that~~ the individual by telephone, text
24 message, electronic message, electronic mail, or other

1 means of electronic communication or causing the
2 telephone or electronic device of the individual or
3 the telephone or electronic device of any other person
4 to ring or generate notifications repeatedly or
5 continuously, regardless of whether a conversation
6 ensues,

7 ~~f.~~ g. photographing, videotaping, audiotaping, or, through
8 any other electronic means, monitoring or recording
9 the activities of the individual. This subparagraph
10 applies regardless of where the act occurs,

11 h. sending ~~mail~~ any physical or electronic ~~communications~~
12 ~~to that~~ material or contacting the individual by any
13 means, including any message, comment, or other
14 content posted on any Internet site or web
15 application, ~~or~~

16 ~~g.~~ i. sending to a family member or member of the household
17 of the individual, or any current or former employer
18 of the individual, or any current or former coworker
19 of the individual, or any friend of the individual,
20 any physical or electronic material or contacting such
21 person by any means, including any message, comment,
22 or other content posted on any Internet site or web
23 application, for the purpose of obtaining information
24

1 about, disseminating information about, or
2 communicating with the individual,

3 j. placing an object on, or delivering an object to,
4 property owned, leased or occupied by ~~that~~ the
5 individual,

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

12 l. causing a person to engage in any of the acts
13 described in subparagraphs a through k of this
14 paragraph; and

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

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

22 Section 60.2 A. A victim of domestic abuse, a victim of
23 stalking, a victim of harassment, a victim of rape, any adult or
24 emancipated minor household member on behalf of any other family or

1 household member who is a minor or incompetent, ~~or~~ any minor age
2 sixteen (16) or seventeen (17) years, or any adult victim of a crime
3 may seek relief under the provisions of the Protection from Domestic
4 Abuse Act.

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

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,
11 including, but not limited to, a petition in which
12 children are named as petitioners, shall remain a
13 separate action and a separate order shall be entered
14 in the protective order action. Protective orders may
15 be dismissed in favor of restraining orders in the
16 divorce or separate maintenance action if the court
17 specifically finds, upon hearing, that such dismissal
18 is in the best interests of the parties and does not
19 compromise the safety of any petitioner.

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

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

1 B. The petition forms shall be provided by the clerk of the
2 court. The Administrative Office of the Courts shall develop a
3 standard form for the petition.

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

14 2. If the court makes specific findings that a petition for a
15 protective order has been filed frivolously and no victim exists,
16 the court may assess attorney fees and court costs against the
17 plaintiff.

18 D. The person seeking relief shall prepare the petition or, at
19 the request of the plaintiff, the court clerk or the victim-witness
20 coordinator, victim support person, and court case manager shall
21 prepare or assist the plaintiff in preparing the petition.

22 E. The person seeking a protective order may further request
23 the exclusive care, possession, or control of any animal owned,
24 possessed, leased, kept, or held by either the petitioner, defendant

1 or minor child residing in the residence of the petitioner or
2 defendant. The court may order the defendant to make no contact
3 with the animal and forbid the defendant from taking, transferring,
4 encumbering, concealing, molesting, attacking, striking,
5 threatening, harming, or otherwise disposing of the animal.

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

10 G. A victim of rape, forcible sodomy, a sex offense,
11 kidnapping, assault and battery with a deadly weapon or member of
12 the immediate family of a victim of first-degree murder, as such
13 terms are defined in Section 40 of this title, may petition for an
14 emergency temporary order or emergency ex parte order regardless of
15 any relationship or scenario pursuant to the provisions of this
16 section. The Administrative Office of the Courts shall modify the
17 petition forms as necessary to effectuate the provisions of this
18 subsection.

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

21 Section 60.4 A. 1. A copy of a petition for a protective
22 order, any notice of hearing and a copy of any emergency temporary
23 order or emergency ex parte order issued by the court shall be
24 served upon the defendant in the same manner as a bench warrant. In

1 addition, if the service is to be in another county, the court clerk
2 may issue service to the sheriff by facsimile or other electronic
3 transmission for service by the sheriff and receive the return of
4 service from the sheriff in the same manner. Any fee for service of
5 a petition for protective order, notice of hearing, and emergency ex
6 parte order shall only be charged pursuant to subsection C of
7 Section 60.2 of this title and, if charged, shall be the same as the
8 sheriff's service fee plus mileage expenses.

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

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

21 4. The return of service shall be submitted to the sheriff's
22 office or court clerk in the court where the petition, notice of
23 hearing or order was issued.

24

1 5. When the defendant is a minor child who is ordered removed
2 from the residence of the victim, in addition to those documents
3 served upon the defendant, a copy of the petition, notice of hearing
4 and a copy of any temporary order or ex parte order issued by the
5 court shall be delivered with the child to the caretaker of the
6 place where such child is taken pursuant to Section 2-2-101 of Title
7 10A of the Oklahoma Statutes.

8 B. 1. Within fourteen (14) days of the filing of the petition
9 for a protective order, the court shall schedule a full hearing on
10 the petition, if the court finds sufficient grounds within the scope
11 of the Protection from Domestic Abuse Act stated in the petition to
12 hold such a hearing, regardless of whether an emergency temporary
13 order or ex parte order has been previously issued, requested or
14 denied. Provided, however, when the defendant is a minor child who
15 has been removed from the residence pursuant to Section 2-2-101 of
16 Title 10A of the Oklahoma Statutes, the court shall schedule a full
17 hearing on the petition within seventy-two (72) hours, regardless of
18 whether an emergency temporary order or ex parte order has been
19 previously issued, requested or denied.

20 2. The court may schedule a full hearing on the petition for a
21 protective order within seventy-two (72) hours when the court issues
22 an emergency temporary order or ex parte order suspending child
23 visitation rights due to physical violence or threat of abuse.
24

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

5 4. A petition for a protective order shall, upon the request of
6 the petitioner, renew every fourteen (14) days with a new hearing
7 date assigned until the defendant is served. A petition for a
8 protective order shall not expire unless the petitioner fails to
9 appear at the hearing or fails to request a new order. A petitioner
10 may move to dismiss the petition and emergency or final order at any
11 time; however, a protective order must be dismissed by court order.

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

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

20 C. 1. At the hearing, the court may impose any terms and
21 conditions in the protective order that the court reasonably
22 believes are necessary to bring about the cessation of domestic
23 abuse against the victim or stalking or harassment of the victim or
24 the immediate family of the victim but shall not impose any term and

1 condition that may compromise the safety of the victim including,
2 but not limited to, mediation, couples counseling, family
3 counseling, parenting classes or joint victim-offender counseling
4 sessions. The court may order the defendant to obtain domestic
5 abuse counseling or treatment in a program certified by the Attorney
6 General at the expense of the defendant pursuant to Section 644 of
7 Title 21 of the Oklahoma Statutes.

8 2. If the court grants a protective order and the defendant is
9 a minor child, the court shall order a preliminary inquiry in a
10 juvenile proceeding to determine whether further court action
11 pursuant to the Oklahoma Juvenile Code should be taken against a
12 juvenile defendant.

13 D. Final protective orders authorized by this section shall be
14 on a standard form developed by the Administrative Office of the
15 Courts.

16 E. 1. After notice and hearing, protective orders authorized
17 by this section may require the defendant to undergo treatment or
18 participate in the court-approved counseling services necessary to
19 bring about cessation of domestic abuse against the victim pursuant
20 to Section 644 of Title 21 of the Oklahoma Statutes but shall not
21 order any treatment or counseling that may compromise the safety of
22 the victim including, but not limited to, mediation, couples
23 counseling, family counseling, parenting classes or joint victim-
24 offender counseling sessions.

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

4 3. Should the plaintiff choose to undergo treatment or
5 participate in court-approved counseling services for victims of
6 domestic abuse, the court may order the defendant to pay all or any
7 part of the cost of such treatment or counseling services if the
8 court determines that payment by the defendant is appropriate.

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

15 G. 1. Any protective order issued on or after November 1,
16 2012, pursuant to subsection C of this section shall be:

- 17 a. for a fixed period not to exceed a period of five (5)
18 years unless extended, modified, vacated or rescinded
19 upon motion by either party or if the court approves
20 any consent agreement entered into by the plaintiff
21 and defendant; provided, if the defendant is
22 incarcerated, the protective order shall remain in
23 full force and effect during the period of
24 incarceration. The period of incarceration, in any

- jurisdiction, shall not be included in the calculation of the five-year time limitation, or
- b. continuous upon a specific finding by the court of one of the following:
- (1) the person has a history of violating the orders of any court or governmental entity,
 - (2) the person has previously been convicted of a violent felony offense,
 - (3) the person has a previous felony conviction for stalking as provided in Section 1173 of Title 21 of the Oklahoma Statutes, ~~or~~
 - (4) a court order for a final Victim Protection Order has previously been issued against the person in this state or another state, or
 - (5) the victim provides proof that a continuous protective order is necessary for his or her protection.

Further, the court may take into consideration whether the person has a history of domestic violence or a history of other violent acts. The protective order shall remain in effect until modified, vacated or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant. If the defendant is incarcerated, the protective order

1 shall remain in full force and effect during the period of
2 incarceration.

3 2. The court shall notify the parties at the time of the
4 issuance of the protective order of the duration of the protective
5 order.

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

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

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

22 2. The violator shall, upon conviction thereof, be guilty of a
23 misdemeanor punishable by imprisonment in the county jail for a
24

1 period not exceeding one (1) year or by a fine not to exceed Five
2 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

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

8 I. 1. A protective order issued under the Protection from
9 Domestic Abuse Act shall not in any manner affect title to real
10 property, purport to grant to the parties a divorce or otherwise
11 purport to determine the issues between the parties as to child
12 custody, visitation or visitation schedules, child support or
13 division of property or any other like relief obtainable pursuant to
14 Title 43 of the Oklahoma Statutes, except child visitation orders
15 may be temporarily suspended or modified to protect from threats of
16 abuse or physical violence by the defendant or a threat to violate a
17 custody order. Orders not affecting title may be entered for good
18 cause found to protect an animal owned by either of the parties or
19 any child living in the household.

20 2. When granting any protective order for the protection of a
21 minor child from violence or threats of abuse, the court shall allow
22 visitation only under conditions that provide adequate supervision
23 and protection to the child while maintaining the integrity of a
24 divorce decree or temporary order.

1 J. 1. In order to ensure that a petitioner can maintain an
2 existing wireless telephone number or household utility account, the
3 court, after providing notice and a hearing, may issue an order
4 directing a wireless service provider or public utility provider to
5 transfer the billing responsibility for and rights to the wireless
6 telephone number or numbers of any minor children in the care of the
7 petitioning party or household utility account to the petitioner if
8 the petitioner is not the wireless service or public utility account
9 holder.

10 2. The order transferring billing responsibility for and rights
11 to the wireless telephone number or numbers or household utility
12 account to the petitioner shall list the name and billing telephone
13 number of the account holder, the name and contact information of
14 the person to whom the telephone number or numbers or household
15 utility account will be transferred and each telephone number or
16 household utility to be transferred to that person. The court shall
17 ensure that the contact information of the petitioner is not
18 provided to the account holder in proceedings held under this
19 subsection.

20 3. Upon issuance, a copy of the final order of protection shall
21 be transmitted, either electronically or by certified mail, to the
22 registered agent of the wireless service provider or public utility
23 provider listed with the Secretary of State or Corporation
24 Commission of Oklahoma or electronically to the email address

1 provided by the wireless service provider or public utility
2 provider. Such transmittal shall constitute adequate notice for the
3 wireless service provider or public utility provider.

4 4. If the wireless service provider or public utility provider
5 cannot operationally or technically effectuate the order due to
6 certain circumstances, the wireless service provider or public
7 utility provider shall notify the petitioner. Such circumstances
8 shall include, but not be limited to, the following:

- 9 a. the account holder has already terminated the account,
- 10 b. the differences in network technology prevent the
- 11 functionality of a mobile device on the network, or
- 12 c. there are geographic or other limitations on network
- 13 or service availability.

14 5. Upon transfer of billing responsibility for and rights to a
15 wireless telephone number or numbers or household utility account to
16 the petitioner under the provisions of this subsection by a wireless
17 service provider or public utility provider, the petitioner shall
18 assume all financial responsibility for the transferred wireless
19 telephone number or numbers or household utility account, monthly
20 service and utility billing costs and costs for any mobile device
21 associated with the wireless telephone number or numbers. The
22 wireless service provider or public utility provider shall have the
23 right to pursue the original account holder for purposes of

1 collecting any past due amounts owed to the wireless service
2 provider or public utility provider.

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

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

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

19 9. As used in this subsection:

- 20 a. "wireless service provider" means a provider of
21 commercial mobile service under Section 332(d) of the
22 federal Telecommunications Act of 1996,
23 b. "public utility provider" means every corporation
24 organized or doing business in this state that owns,

operates or manages any plant or equipment for the manufacture, production, transmission, transportation, delivery or furnishing of water, heat or light with gas or electric current for heat, light or power, for public use in this state, and

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

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

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

3. The court may only consolidate a hearing if:

a. the court makes specific findings that:

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

(2) each party acted primarily as aggressors,

b. the defendant filed a petition with the court for a protective order no less than three (3) days, not

1 including weekends or holidays, prior to the first
2 scheduled full hearing on the petition filed by the
3 plaintiff, and

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

7 L. The court may allow a plaintiff or victim to be accompanied
8 by a victim support person at court proceedings. A victim support
9 person shall not make legal arguments; however, a victim support
10 person who is not a licensed attorney may offer the plaintiff or
11 victim comfort or support and may remain in close proximity to the
12 plaintiff or victim.

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

15 Section 60.11 In addition to any other provisions required by
16 the Protection from Domestic Abuse Act, or otherwise required by
17 law, each ex parte or final protective order issued pursuant to the
18 Protection from Domestic Abuse Act shall have a statement printed in
19 bold-faced type or in capital letters containing the following
20 information:

21 1. The filing or nonfiling of criminal charges and the
22 prosecution of the case shall not be determined by a person who is
23 protected by the protective order, but shall be determined by the
24 prosecutor;

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

6 3. The order shall be in effect for a fixed period of five (5)
7 years unless extended, modified, vacated or rescinded by the court
8 or shall be continuous upon a specific finding by the court as
9 provided in subparagraph b of paragraph 1 of subsection G of Section
10 60.4 of this title unless modified, vacated or rescinded by the
11 court;

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

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

21 ~~5.~~ 6. Possession of a firearm or ammunition by a defendant
22 while an order is in effect may subject the defendant to prosecution
23 for a violation of federal law even if the order does not
24

1 specifically prohibit the defendant from possession of a firearm or
2 ammunition;

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

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

10 9. The defendant shall not impersonate or adopt the
11 personification of the petitioner by pretending to be the
12 petitioner, ordering items, posting information or making inquiries,
13 or publishing photographs of the petitioner, by use of social media,
14 or by use of computer, telephone, texting, emailing, or by use of
15 any electronic means;

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

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

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

1 13. The sheriff will accompany the petitioner and assist in
2 placing the petitioner in physical possession of his or her
3 residence, if requested.

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

5
6 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,
7 dated 03/03/2022 - DO PASS, As Amended and Coauthored.
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