

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 59th Legislature (2023)

4   HOUSE BILL 2789

                                  By: Stinson

7                                   AS INTRODUCED

8                   An Act relating to protective orders and stalking;  
9                   amending 22 O.S. 2021, Section 60.2, as amended by  
10                  Section 6, Chapter 318, O.S.L. 2022 (22 O.S. Supp.  
11                  2022, Section 60.2), which relates to the Protection  
12                  from Domestic Abuse Act; clarifying who is authorized  
13                  to seek relief under the Protection from Domestic  
14                  Abuse Act; amending 28 O.S. 2021, Section 153, as  
15                  amended by Section 2, Chapter 237, O.S.L. 2022 (28  
16                  O.S. Supp. 2022, Section 153), which relates to fees  
17                  in criminal cases; providing sheriff's fee for  
18                  serving stalking warning letter; and providing an  
19                  effective date.

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

19           SECTION 1.        AMENDATORY        22 O.S. 2021, Section 60.2, as  
20           amended by Section 6, Chapter 318, O.S.L. 2022 (22 O.S. Supp. 2022,  
21           Section 60.2), is 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, any minor age  
2 sixteen (16) or seventeen (17) years, or any adult victim of a crime  
3 with a need to prevent further victimization, may seek relief under  
4 the provisions of the Protection from Domestic 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 not a family or household member or an individual  
10 who is or has been in a dating relationship with the defendant, the  
11 person seeking relief must file a complaint against the defendant  
12 with the proper law enforcement agency before filing a petition for  
13 a protective order with the district court. The person seeking  
14 relief shall provide a copy of the complaint that was filed with the  
15 law enforcement agency at the full hearing if the complaint is not  
16 available from the law enforcement agency. Failure to provide a  
17 copy of the complaint filed with the law enforcement agency shall  
18 constitute a frivolous filing and the court may assess attorney fees  
19 and court costs against the plaintiff pursuant to paragraph 2 of  
20 subsection C of this section. The filing of a petition for a  
21 protective order shall not require jurisdiction or venue of the  
22 criminal offense if either the plaintiff or defendant resides in the  
23 county. If a petition has been filed in an action for divorce or  
24 separate maintenance and either party to the action files a petition

1 for a protective order in the same county where the action for  
2 divorce or separate maintenance is filed, the petition for the  
3 protective order may be heard by the court hearing the divorce or  
4 separate maintenance action if:

5 a. there is no established protective order docket in  
6 such court, or

7 b. the court finds that, in the interest of judicial  
8 economy, both actions may be heard together; provided,  
9 however, the petition for a protective order,  
10 including, but not limited to, a petition in which  
11 children are named as petitioners, shall remain a  
12 separate action and a separate order shall be entered  
13 in the protective order action. Protective orders may  
14 be dismissed in favor of restraining orders in the  
15 divorce or separate maintenance action if the court  
16 specifically finds, upon hearing, that such dismissal  
17 is in the best interests of the parties and does not  
18 compromise the safety of any petitioner.

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

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

24

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 2. AMENDATORY 28 O.S. 2021, Section 153, as  
20 amended by Section 2, Chapter 237, O.S.L. 2022 (28 O.S. Supp. 2022,  
21 Section 153), is amended to read as follows:

22 Section 153. A. The clerks of the courts shall collect as  
23 costs in every criminal case for each offense of which the defendant  
24 is convicted, irrespective of whether or not the sentence is

1 deferred, the following flat charges and no more, except for  
2 standing and parking violations and for charges otherwise provided  
3 for by law, which fee shall cover docketing of the case, filing of  
4 all papers, issuance of process, warrants, orders, and other  
5 services to the date of judgment:

6 1. For each defendant convicted of  
7 exceeding the speed limit by at least  
8 one (1) mile per hour but not more than  
9 ten (10) miles per hour, whether charged  
10 individually or conjointly with others.....\$77.00

11 2. For each defendant convicted of a  
12 misdemeanor traffic violation other than  
13 an offense provided for in paragraph 1  
14 or 5 of this subsection, whether charged  
15 individually or conjointly with others.....\$98.00

16 3. For each defendant convicted of a  
17 misdemeanor, other than for driving  
18 under the influence of alcohol or other  
19 intoxicating substance or an offense  
20 provided for in paragraph 1 or 2 of this  
21 subsection, whether charged individually  
22 or conjointly with others.....\$93.00

23 4. For each defendant convicted of a  
24 felony, other than for driving under the

- 1 influence of alcohol or other  
2 intoxicating substance, whether charged  
3 individually or conjointly with others.....\$103.00
- 4 5. For each defendant convicted of the  
5 misdemeanor of driving under the  
6 influence of alcohol or other  
7 intoxicating substance, whether charged  
8 individually or conjointly with others.....\$433.00
- 9 6. For each defendant convicted of the  
10 felony of driving under the influence of  
11 alcohol or other intoxicating substance,  
12 whether charged individually or  
13 conjointly with others.....\$433.00
- 14 7. For the services of a court reporter at  
15 each preliminary hearing and trial held  
16 in the case.....\$20.00
- 17 8. For each time a jury is requested.....\$30.00
- 18 9. A sheriff's fee for serving or  
19 endeavoring to serve each writ, warrant,  
20 order, process, command, ~~or~~ notice, or  
21 stalking warning letter or pursuing any  
22 fugitive from justice  
23 a. within the county..... \$50.00, or  
24

1 mileage as  
2 established by the  
3 Oklahoma Statutes,  
4 whichever is  
5 greater, or

6 b. outside of the county..... \$50.00, or  
7 actual, necessary  
8 expenses, whichever  
9 is greater

10 B. In addition to the amount collected pursuant to paragraphs 2  
11 through 6 of subsection A of this section, the sum of Six Dollars  
12 (\$6.00) shall be assessed and credited to the Law Library Fund  
13 pursuant to Section 1201 et seq. of Title 20 of the Oklahoma  
14 Statutes.

15 C. In addition to the amount collected pursuant to subsection A  
16 of this section, the sum of Twenty Dollars (\$20.00) shall be  
17 assessed and collected in every traffic case for each offense other  
18 than for driving under the influence of alcohol or other  
19 intoxicating substance; the sum of Thirty Dollars (\$30.00) shall be  
20 assessed and collected in every misdemeanor case for each offense;  
21 the sum of Thirty Dollars (\$30.00) shall be assessed and collected  
22 in every misdemeanor case for each offense for driving under the  
23 influence of alcohol or other intoxicating substance; the sum of  
24 Fifty Dollars (\$50.00) shall be assessed and collected in every



1 felony case for each offense; and the sum of Fifty Dollars (\$50.00)  
2 shall be assessed and collected in every felony case for each  
3 offense for driving under the influence of alcohol or other  
4 intoxicating substance.

5 D. In addition to the amounts collected pursuant to subsections  
6 A and B of this section, the sum of Twenty-five Dollars (\$25.00)  
7 shall be assessed and credited to the Oklahoma Court Information  
8 System Revolving Fund created pursuant to Section 1315 of Title 20  
9 of the Oklahoma Statutes.

10 E. In addition to the amount collected pursuant to paragraphs 1  
11 through 6 of subsection A of this section, the sum of Ten Dollars  
12 (\$10.00) shall be assessed and credited to the Sheriff's Service Fee  
13 Account in the county in which the conviction occurred for the  
14 purpose of enhancing existing or providing additional courthouse  
15 security.

16 F. In addition to the amounts collected pursuant to paragraphs  
17 1 through 6 of subsection A of this section, the sum of Three  
18 Dollars (\$3.00) shall be assessed and credited to the Office of the  
19 Attorney General Victim Services Unit.

20 G. In addition to the amounts collected pursuant to paragraphs  
21 1 through 6 of subsection A of this section, the sum of Three  
22 Dollars (\$3.00) shall be assessed and credited to the Child Abuse  
23 Multidisciplinary Account. This fee shall not be used for purposes  
24 of hiring or employing any law enforcement officers.

1 H. In addition to the amount collected pursuant to paragraphs 5  
2 and 6 of subsection A of this section, the sum of Fifteen Dollars  
3 (\$15.00) shall be assessed in every misdemeanor or felony case for  
4 each offense of driving under the influence of alcohol or other  
5 intoxicating substance and credited to the Oklahoma Impaired Driver  
6 Database Revolving Fund created pursuant to Section 11-902d of Title  
7 47 of the Oklahoma Statutes.

8 I. Prior to conviction, parties in criminal cases shall not be  
9 required to pay, advance, or post security for the issuance or  
10 service of process to obtain compulsory attendance of witnesses.

11 J. The amounts to be assessed as court costs upon filing of a  
12 case shall be those amounts above-stated in paragraph 3 or 4 of  
13 subsection A and subsections B, C, D and E of this section.

14 K. The fees collected pursuant to this section shall be  
15 deposited into the court fund, except the following:

16 1. A court clerk issuing a misdemeanor warrant is entitled to  
17 ten percent (10%) of the sheriff's service fee, provided for in  
18 paragraph 9 of subsection A of this section, collected on a warrant  
19 referred to the contractor for the misdemeanor warrant notification  
20 program governed by Sections 514.4 and 514.5 of Title 19 of the  
21 Oklahoma Statutes. This ten-percent sum shall be deposited into the  
22 issuing Court Clerk's Revolving Fund, created pursuant to Section  
23 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing  
24 the warrant with the balance of the sheriff's service fee to be

1 deposited into the Sheriff's Service Fee Account, created pursuant  
2 to the provisions of Section 514.1 of Title 19 of the Oklahoma  
3 Statutes, of the sheriff in the county in which service is made or  
4 attempted. Otherwise, the sheriff's service fee, when collected,  
5 shall be deposited in its entirety into the Sheriff's Service Fee  
6 Account of the sheriff in the county in which service is made or  
7 attempted;

8       2. The sheriff's fee provided for in Section 153.2 of this  
9 title;

10       3. The witness fees paid by the district attorney pursuant to  
11 the provisions of Section 82 of this title which, if collected by  
12 the court clerk, shall be transferred to the district attorney's  
13 office in the county where witness attendance was required. Fees  
14 transferred pursuant to this paragraph shall be deposited in the  
15 district attorney's maintenance and operating expense account;

16       4. The fees provided for in subsection C of this section shall  
17 be forwarded to the District Attorneys Council Revolving Fund to  
18 defray the costs of prosecution; and

19       5. The following amounts of the fees provided for in paragraphs  
20 2, 3, 5 and 6 of subsection A of this section, when collected, shall  
21 be deposited in the Trauma Care Assistance Revolving Fund, created  
22 pursuant to the provisions of Section 1-2530.9 of Title 63 of the  
23 Oklahoma Statutes:

24

- 1           a.    Ten Dollars (\$10.00) of the Ninety-eight-Dollar fee  
2                    provided for in paragraph 2 of subsection A of this  
3                    section,  
4           b.    Ten Dollars (\$10.00) of the Ninety-three-Dollar fee  
5                    provided for in paragraph 3 of subsection A of this  
6                    section,  
7           c.    One Hundred Dollars (\$100.00) of the Four-Hundred-  
8                    Thirty-three-Dollar fee provided for in paragraph 5 of  
9                    subsection A of this section, and  
10           d.   One Hundred Dollars (\$100.00) of the Four-Hundred-  
11                   Thirty-three-Dollar fee provided for in paragraph 6 of  
12                   subsection A of this section.

13           L.   As used in this section, "convicted" means any final  
14 adjudication of guilt, whether pursuant to a plea of guilty or nolo  
15 contendere or otherwise, and any deferred judgment or suspended  
16 sentence.

17           M.   A court clerk may accept in payment for any fee, fine,  
18 forfeiture payment, cost, penalty assessment or other charge or  
19 collection to be assessed or collected by a court clerk pursuant to  
20 this section a nationally recognized credit card or debit card or  
21 other electronic payment method as provided in paragraph 1 of  
22 subsection B of Section 151 of this title.

1 N. Upon receipt of payment of fines and costs for offenses  
2 charged prior to July 1, 1992, the court clerk shall apportion and  
3 pay Thirteen Dollars (\$13.00) per conviction to the court fund.

4 SECTION 3. This act shall become effective November 1, 2023.  
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6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated  
7 02/22/2023 - DO PASS.  
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