

An Act

ENROLLED SENATE
BILL NO. 813

By: Seifried of the Senate

and

May, Pae, and Rosecrants of
the House

An Act relating to victim protective orders; amending 22 O.S. 2021, Sections 40.3, 60.3, and 60.16, which relate to emergency orders; adding duty for peace officer to attempt certain service; requiring filing of petition under certain circumstances; establishing duties of court clerk to receive and document certain petition; requiring filing of petition; modifying required notice to victim; requiring peace officer to provide certain order to victim and return to court; clarifying language; repealing Section 3, Chapter 318, O.S.L. 2022 (21 O.S. Supp. 2024, Section 1173.1), which relates to Stalking Warning Letter; providing an effective date; and declaring an emergency.

SUBJECT: Victim protective orders

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 40.3, is amended to read as follows:

Section 40.3. A. When the court is not open for business, the victim of domestic violence, stalking, harassment, rape, forcible sodomy, a sex offense, kidnapping or assault and battery with a deadly weapon or member of the immediate family of a victim of first-degree murder may request a petition for an emergency temporary order of protection. The peace officer making the preliminary investigation shall:

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

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

3. Inform the victim or member of the immediate family of a victim of first-degree murder whether the judge has approved or disapproved the emergency temporary order. If an emergency temporary order has been approved, the peace officer shall provide the victim, or a responsible adult if the victim is a minor child or an incompetent person or member of the immediate family of a victim of first-degree murder, with a copy of the petition and a written statement signed by the peace officer attesting that the judge has approved the emergency temporary order of protection; ~~and~~

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

5. Make every attempt to serve the subject of the order and complete a return of service when filing the petition with the district court. If the peace officer is unable to obtain service, the petition shall be filed by a peace officer with the district court the next business day. The court clerk shall receive the petition upon delivery by the peace officer and document the hearing date and time assigned to the case as documented by the peace officer. If the court clerk observes that service has not been obtained, the petition shall still be filed by the court clerk and

issued to the appropriate office of the county sheriff to obtain service with priority.

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

SECTION 2. AMENDATORY 22 O.S. 2021, Section 60.3, is amended to read as follows:

Section 60.3. A. If a plaintiff requests an emergency ex parte order pursuant to Section 60.2 of this title, the court shall hold an ex parte hearing on the same day the petition is filed, if the court finds sufficient grounds within the scope of the Protection from Domestic Abuse Act stated in the petition to hold such a hearing. The court may, for good cause shown at the hearing, issue any emergency ex parte order that it finds necessary to protect the victim from immediate and present danger of domestic abuse, stalking, or harassment. The emergency ex parte order shall be in effect until after the full hearing is conducted. Provided, if the defendant, after having been served, does not appear at the hearing, the emergency ex parte order shall remain in effect until the defendant is served with the permanent order. If the terms of the permanent order are the same as those in the emergency order, or are less restrictive, then it is not necessary to serve the defendant with the permanent order. The Administrative Office of the Courts shall develop a standard form for emergency ex parte protective orders.

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

C. 1. If a plaintiff requests an emergency temporary ex parte order of protection as provided by Section 40.3 of this title, the judge who is notified of the request by a peace officer may issue such order verbally to the officer or in writing when there is reasonable cause to believe that the order is necessary to protect the victim from immediate and present danger of domestic abuse. When the order is issued verbally the judge shall direct the officer to complete and sign a statement attesting to the order. The

emergency temporary ex parte order shall be in effect until the court date that was assigned by the court during the approval of the order. Emergency temporary ex parte orders shall be heard within fourteen (14) days after issuance. The court shall provide a list of available court dates for hearings.

2. The peace officer shall make every attempt to serve the subject of the order and complete a return of service when filing the petition with the district court. If the peace officer is unable to obtain service, the petition shall be filed by a peace officer with the district court the next business day. The court clerk shall receive the petition upon delivery by the peace officer and document the hearing date and time assigned to the case as documented by the peace officer. If the court clerk observes that service has not been obtained, the petition shall still be filed by the court clerk and issued to the appropriate office of the county sheriff to obtain service with priority.

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

SECTION 3. AMENDATORY 22 O.S. 2021, Section 60.16, is amended to read as follows:

Section 60.16. A. A peace officer shall not discourage a victim of domestic abuse from pressing charges against the assailant of the victim.

B. 1. A peace officer may arrest without a warrant a person anywhere, including a place of residence, if the peace officer has probable cause to believe the person within the preceding seventy-two (72) hours has committed an act of domestic abuse as defined by Section 60.1 of this title, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first observing a

recent physical injury to, or an impairment of the physical condition of, the alleged victim.

2. An arrest, when made pursuant to this section, shall be based on an investigation by the peace officer of the circumstances surrounding the incident, past history of violence between the parties, statements of any children present in the residence, and any other relevant factors. A determination by the peace officer shall be made pursuant to the investigation as to which party is the dominant aggressor in the situation. A peace officer may arrest the dominant aggressor.

C. When the court is not open for business, the victim of domestic abuse may request a petition for an emergency temporary order of protection. The peace officer making the preliminary investigation shall:

1. Provide the victim with a petition for an emergency temporary order of protection and, if necessary, assist the victim in completing the petition form. The petition shall be in substantially the same form as provided by Section 60.2 of this title for a petition for protective order;

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

3. Inform the victim whether the judge has approved or disapproved the emergency temporary order. If an emergency temporary order has been approved, the officer shall provide the victim, or a responsible adult if the victim is a minor child or an incompetent person, with a copy of the petition and a written statement signed by the officer attesting that the judge has approved the emergency temporary order of protection and notify the victim that the emergency temporary order shall be effective ~~only until the close of business on the next day that the court is open for business~~ the date of the hearing set by the judge. The peace officer requesting the order shall be notified by the judge of the date, time, and courtroom location in which the hearing will be held. The peace officer shall provide the victim and subject of the

order with a copy of the completed order and return the original order to the district court;

4. Notify the person subject to the emergency temporary protection order of the issuance and conditions of the order. Notification pursuant to this paragraph may be made personally by the officer or in writing. A copy of the petition and the statement of the officer attesting to the order of the judge shall be made available to such person; and

5. File a copy of the petition and the statement of the peace officer with the district court of the county immediately upon the opening of the court on the next day the court is open for business. The peace officer shall make every attempt to serve the subject of the order and complete a return of service when filing the petition with the district court. If the peace officer is unable to obtain service, the petition shall be filed by a peace officer with the district court on the next business day. The court clerk shall receive the petition upon delivery by the peace officer and document the hearing date and time assigned to the case as documented by the peace officer. If the court clerk observes that service has not been obtained, the petition shall still be filed by the court clerk and issued to the appropriate office of the county sheriff to obtain service with priority.

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

SECTION 4. REPEALER Section 3, Chapter 318, O.S.L. 2022 (21 O.S. Supp. 2024, Section 1173.1), is hereby repealed.

SECTION 5. This act shall become effective July 1, 2025.

SECTION 6. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 11th day of March, 2025.

Presiding Officer of the Senate

Passed the House of Representatives the 1st day of May, 2025.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____