

1 ENGROSSED SENATE
2 BILL NO. 813

By: Seifried of the Senate

3 and

4 May and Pae of the House

5
6 An Act relating to victim protective orders; amending
7 22 O.S. 2021, Sections 40.3, 60.3, and 60.16, which
8 relate to emergency orders; adding duty for peace
9 officer to attempt certain service; requiring filing
10 of petition under certain circumstances; establishing
11 duties of court clerk to receive and document certain
12 petition; requiring filing of petition; modifying
13 required notice to victim; requiring peace officer to
14 provide certain order to victim and return to court;
15 clarifying language; repealing Section 3, Chapter
16 318, O.S.L. 2022 (21 O.S. Supp. 2024, Section
17 1173.1), which relates to Stalking Warning Letter;
18 providing an effective date; and declaring an
19 emergency.

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

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

23 Section 40.3. A. When the court is not open for business, the
24 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 1. Provide the victim or member of the immediate family of a
2 victim of first-degree murder with a petition for an emergency
3 temporary order of protection and, if necessary, assist the victim
4 or member of the immediate family of a victim of first-degree murder
5 in completing the petition form. The petition shall be in
6 substantially the same form as provided by Section 60.2 of this
7 title for a petition for protective order in domestic abuse cases;

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

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

22 4. Notify the person subject to the emergency temporary
23 protection order of the issuance and conditions of the order, if
24 known. Notification pursuant to this paragraph may be made

1 personally by the peace officer upon arrest or, upon identification
2 of the assailant, notice shall be given by any law enforcement
3 officer. A copy of the petition and the statement of the peace
4 officer attesting to the order of the judge shall be made available
5 to the person; and

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

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

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

22 Section 60.3. A. If a plaintiff requests an emergency ex parte
23 order pursuant to Section 60.2 of this title, the court shall hold
24 an ex parte hearing on the same day the petition is filed, if the

1 court finds sufficient grounds within the scope of the Protection
2 from Domestic Abuse Act stated in the petition to hold such a
3 hearing. The court may, for good cause shown at the hearing, issue
4 any emergency ex parte order that it finds necessary to protect the
5 victim from immediate and present danger of domestic abuse,
6 stalking, or harassment. The emergency ex parte order shall be in
7 effect until after the full hearing is conducted. Provided, if the
8 defendant, after having been served, does not appear at the hearing,
9 the emergency ex parte order shall remain in effect until the
10 defendant is served with the permanent order. If the terms of the
11 permanent order are the same as those in the emergency order, or are
12 less restrictive, then it is not necessary to serve the defendant
13 with the permanent order. The Administrative Office of the Courts
14 shall develop a standard form for emergency ex parte protective
15 orders.

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

20 C. 1. If a plaintiff requests an emergency temporary ex parte
21 order of protection as provided by Section 40.3 of this title, the
22 judge who is notified of the request by a peace officer may issue
23 such order verbally to the officer or in writing when there is
24 reasonable cause to believe that the order is necessary to protect

1 the victim from immediate and present danger of domestic abuse.
2 When the order is issued verbally the judge shall direct the officer
3 to complete and sign a statement attesting to the order. The
4 emergency temporary ex parte order shall be in effect until the
5 court date that was assigned by the court during the approval of the
6 order. Emergency temporary ex parte orders shall be heard within
7 fourteen (14) days after issuance. The court shall provide a list
8 of available court dates for hearings.

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

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

1 transferred and held in the same county in which the action for
2 divorce, separate maintenance, guardianship, adoption or any other
3 proceeding involving custody or visitation is pending.

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

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

9 B. 1. A peace officer may arrest without a warrant a person
10 anywhere, including a place of residence, if the peace officer has
11 probable cause to believe the person within the preceding seventy-
12 two (72) hours has committed an act of domestic abuse as defined by
13 Section 60.1 of this title, although the assault did not take place
14 in the presence of the peace officer. A peace officer may not
15 arrest a person pursuant to this section without first observing a
16 recent physical injury to, or an impairment of the physical
17 condition of, the alleged victim.

18 2. An arrest, when made pursuant to this section, shall be
19 based on an investigation by the peace officer of the circumstances
20 surrounding the incident, past history of violence between the
21 parties, statements of any children present in the residence, and
22 any other relevant factors. A determination by the peace officer
23 shall be made pursuant to the investigation as to which party is the
24

1 dominant aggressor in the situation. A peace officer may arrest the
2 dominant aggressor.

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

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

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

17 3. Inform the victim whether the judge has approved or
18 disapproved the emergency temporary order. If an emergency
19 temporary order has been approved, the officer shall provide the
20 victim, or a responsible adult if the victim is a minor child or an
21 incompetent person, with a copy of the petition and a written
22 statement signed by the officer attesting that the judge has
23 approved the emergency temporary order of protection and notify the
24 victim that the emergency temporary order shall be effective ~~only~~

1 ~~until the close of business on the next day that the court is open~~
2 ~~for business~~ the date of the hearing set by the judge. The peace
3 officer requesting the order shall be notified by the judge of the
4 date, time, and courtroom location in which the hearing will be
5 held. The peace officer shall provide the victim and subject of the
6 order with a copy of the completed order and return the original
7 order to the district court;

8 4. Notify the person subject to the emergency temporary
9 protection order of the issuance and conditions of the order.

10 Notification pursuant to this paragraph may be made personally by
11 the officer or in writing. A copy of the petition and the statement
12 of the officer attesting to the order of the judge shall be made
13 available to such person; and

14 5. File a copy of the petition and the statement of the peace
15 officer with the district court of the county immediately upon the
16 opening of the court on the next day the court is open for business.
17 The peace officer shall make every attempt to serve the subject of
18 the order and complete a return of service when filing the petition
19 with the district court. If the peace officer is unable to obtain
20 service, the petition shall be filed by a peace officer with the
21 district court on the next business day. The court clerk shall
22 receive the petition upon delivery by the peace officer and document
23 the hearing date and time assigned to the case as documented by the
24 peace officer. If the court clerk observes that service has not

1 been obtained, the petition shall still be filed by the court clerk
2 and issued to the appropriate office of the county sheriff to obtain
3 service with priority.

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

7 SECTION 4. REPEALER Section 3, Chapter 318, O.S.L. 2022
8 (21 O.S. Supp. 2024, Section 1173.1), is hereby repealed.

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

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

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

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16 _____
17 Presiding Officer of the Senate

18 Passed the House of Representatives the ____ day of _____,
19 2025.

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22 Presiding Officer of the House
23 of Representatives
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