

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1320

By: Stone

4
5
6 AS INTRODUCED

7 An Act relating to criminal procedure; creating
8 Sandy's Law; amending 22 O.S. 2011, Sections 40, 40.2
9 and 40.3, as last amended by Sections 2, 3 and 4,
10 Chapter 183, O.S.L. 2016 (22 O.S. Supp. 2016,
11 Sections 40, 40.2 and 40.3), which relate to victim
12 protection orders; defining term; authorizing victim
13 protection orders and emergency temporary orders of
14 protection for witnesses of domestic violence;
15 providing for noncodification; and providing an
16 effective date.

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

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

20 This act shall be known and may be cited as "Sandy's Law".

21 SECTION 2. AMENDATORY 22 O.S. 2011, Section 40, as last
22 amended by Section 2, Chapter 183, O.S.L. 2016 (22 O.S. Supp. 2016,
23 Section 40), is amended to read as follows:

24 Section 40. As used in Sections 40 through 40.3 of this title:

1. "Assault and battery with a deadly weapon" means assault and
battery with a deadly weapon or other means likely to produce death

1 or great bodily harm as provided in Section 652 of Title 21 of the
2 Oklahoma Statutes;

3 2. "Forcible sodomy" means the act of forcing another person to
4 engage in the detestable and abominable crime against nature
5 pursuant to Sections 886 and 887 of Title 21 of the Oklahoma
6 Statutes that is punishable under Section 888 of Title 21 of the
7 Oklahoma Statutes;

8 3. "Kidnapping" means kidnapping or kidnapping for purposes of
9 extortion as provided in Sections 741 and 745 of Title 21 of the
10 Oklahoma Statutes;

11 4. "Member of the immediate family" means the spouse, a child
12 by birth or adoption, a stepchild, a parent by birth or adoption, a
13 stepparent, a grandparent, a grandchild, a sibling or a stepsibling
14 of a victim of first-degree murder;

15 5. "Rape" means an act of sexual intercourse accomplished with
16 a person pursuant to Sections 1111, 1111.1 and 1114 of Title 21 of
17 the Oklahoma Statutes; ~~and~~

18 6. "Sex offense" means the following crimes:

19 a. sexual assault as provided in Section 681 of Title 21
20 of the Oklahoma Statutes,

21 b. human trafficking for commercial sex as provided in
22 Section 748 of Title 21 of the Oklahoma Statutes,
23
24

- c. sexual abuse or sexual exploitation by a caretaker as provided in Section 843.1 of Title 21 of the Oklahoma Statutes,
- d. child sexual abuse or child sexual exploitation as provided in Section 843.5 of Title 21 of the Oklahoma Statutes,
- e. permitting sexual abuse of a child as provided in Section 852.1 of Title 21 of the Oklahoma Statutes,
- f. incest as provided in Section 885 of Title 21 of the Oklahoma Statutes,
- g. forcible sodomy as provided in Section 888 of Title 21 of the Oklahoma Statutes,
- h. child stealing for purposes of sexual abuse or sexual exploitation as provided in Section 891 of Title 21 of the Oklahoma Statutes,
- i. indecent exposure or solicitation of minors as provided in Section 1021 of Title 21 of the Oklahoma Statutes,
- j. procuring, producing, distributing or possessing child pornography as provided in Sections 1021.2 and 1024.2 of Title 21 of the Oklahoma Statutes,
- k. parental consent to child pornography as provided in Section 1021.3 of Title 21 of the Oklahoma Statutes,

- 1 l. aggravated possession of child pornography as provided
2 in Section 1040.12a of Title 21 of the Oklahoma
3 Statutes,
4 m. distributing obscene material or child pornography as
5 provided in Section 1040.13 of Title 21 of the
6 Oklahoma Statutes,
7 n. offering or soliciting sexual conduct with a child as
8 provided in Section 1040.13a of Title 21 of the
9 Oklahoma Statutes,
10 o. procuring a child for prostitution or other lewd acts
11 as provided in Section 1087 of Title 21 of the
12 Oklahoma Statutes,
13 p. inducing a child to engage in prostitution as provided
14 in Section 1088 of Title 21 of the Oklahoma Statutes,
15 and
16 q. lewd or indecent proposals or acts to a child or
17 sexual battery as provided in Section 1123 of Title 21
18 of the Oklahoma Statutes; and

19 7. "Witness of domestic violence" means a person who reported
20 an act of domestic violence or was a witness to domestic violence
21 and who, as a result, has been abused, threatened, harassed or been
22 the subject of other actions intended to intimidate the person.
23
24

1 SECTION 3. AMENDATORY 22 O.S. 2011, Section 40.2, as
2 last amended by Section 3, Chapter 183, O.S.L. 2016 (22 O.S. Supp.
3 2016, Section 40.2), is amended to read as follows:

4 Section 40.2 A. A victim protection order for any:

5 1. Any victim of rape, forcible sodomy, a sex offense,
6 kidnapping or assault and battery with a deadly weapon; or

7 2. Any witness of domestic violence,

8 shall be substantially similar to a protective order in domestic
9 abuse cases pursuant to the Protection from Domestic Abuse Act.

10 B. A member of the immediate family of a victim of first-degree
11 murder may seek a victim protection order against the following
12 persons:

13 1. The person who was charged and subsequently convicted as the
14 principal in the crime of murder in the first degree; or

15 2. The person who was charged and subsequently convicted of
16 being an accessory to the crime of murder in the first degree.

17 A victim protection order for a member of the immediate family of a
18 victim of first-degree murder shall be substantially similar to a
19 protective order in domestic abuse cases pursuant to the Protection
20 from Domestic Abuse Act.

21 C. No peace officer shall discourage a victim of rape, forcible
22 sodomy, a sex offense, kidnapping or assault and battery with a
23 deadly weapon from pressing charges against any assailant of the
24 victim.

1 SECTION 4. AMENDATORY 22 O.S. 2011, Section 40.3, as
2 last amended by Section 4, Chapter 183, O.S.L. 2016 (22 O.S. Supp.
3 2016, Section 40.3), is amended to read as follows:

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

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

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

24

1 3. Inform the victim ~~or~~, member of the immediate family of a
2 victim of first-degree murder or witness of domestic violence
3 whether the judge has approved or disapproved the emergency
4 temporary order. If an emergency temporary order has been approved,
5 the officer shall provide the victim, or a responsible adult if the
6 victim is a minor child or an incompetent person ~~or~~, member of the
7 immediate family of a victim of first-degree murder or witness of
8 domestic violence, with a copy of the petition and a written
9 statement signed by the officer attesting that the judge has
10 approved the emergency temporary order of protection; and

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

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

21 SECTION 5. This act shall become effective November 1, 2017.

22
23 56-1-5006 GRS 10/20/16

24