

1 **SENATE FLOOR VERSION**

2 April 2, 2019

3 ENGROSSED HOUSE
4 BILL NO. 2260

By: Kerbs of the House

5 and

Weaver of the Senate

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8
9 An Act relating to criminal procedure; amending 22
10 O.S. 2011, Sections 60.2, as amended by Section 1,
11 Chapter 198, O.S.L. 2013, 60.3, as amended by Section
12 5, Chapter 183, O.S.L. 2016, 60.4, as last amended by
13 Section 1, Chapter 173, O.S.L. 2017, 60.5, 60.6 and
14 60.17 (22 O.S. Supp. 2018, Sections 60.2, 60.3 and
15 60.4), which relate to the Protection from Domestic
16 Abuse Act; authorizing victims of certain crimes to
17 petition for emergency temporary and emergency ex
18 parte orders; directing the Administrative Office of
19 the Courts to modify petition forms; increasing time
20 limitation that emergency ex parte orders remain in
21 effect; requiring hearings for emergency ex parte
22 orders be heard within certain number of days;
23 requiring emergency temporary orders be served upon
24 defendants; allowing for the facsimile or electronic
transmission of return of service documents;
prioritizing emergency temporary orders and hearing
notices; authorizing electronic transmission of
protective order documents to law enforcement
agencies; directing court clerks to send certified
copies of emergency temporary orders within certain
time frame to law enforcement agencies; directing
entry of emergency temporary orders into the National
Crime Information Center database; expanding scope of
certain crime; directing courts to not consider
certain order when determining eligibility for
relief; and providing an effective date.

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

2 SECTION 1. AMENDATORY 22 O.S. 2011, Section 60.2, as
3 amended by Section 1, Chapter 198, O.S.L. 2013 (22 O.S. Supp. 2018,
4 Section 60.2), is amended to read as follows:

5 Section 60.2 A. A victim of domestic abuse, a victim of
6 stalking, a victim of harassment, a victim of rape, any adult or
7 emancipated minor household member on behalf of any other family or
8 household member who is a minor or incompetent, or any minor age
9 sixteen (16) or seventeen (17) years may seek relief under the
10 provisions of the Protection from Domestic Abuse Act.

11 1. The person seeking relief may file a petition for a
12 protective order with the district court in the county in which the
13 victim resides, the county in which the defendant resides, or the
14 county in which the domestic violence occurred. If the person
15 seeking relief is a victim of stalking but is not a family or
16 household member or an individual who is or has been in a dating
17 relationship with the defendant, the person seeking relief must file
18 a complaint against the defendant with the proper law enforcement
19 agency before filing a petition for a protective order with the
20 district court. The person seeking relief shall provide a copy of
21 the complaint that was filed with the law enforcement agency at the
22 full hearing if the complaint is not available from the law
23 enforcement agency. Failure to provide a copy of the complaint
24 filed with the law enforcement agency shall constitute a frivolous

1 filing and the court may assess attorney fees and court costs
2 against the plaintiff pursuant to paragraph 2 of subsection C of
3 this section. The filing of a petition for a protective order shall
4 not require jurisdiction or venue of the criminal offense if either
5 the plaintiff or defendant resides in the county. If a petition has
6 been filed in an action for divorce or separate maintenance and
7 either party to the action files a petition for a protective order
8 in the same county where the action for divorce or separate
9 maintenance is filed, the petition for the protective order may be
10 heard by the court hearing the divorce or separate maintenance
11 action if:

- 12 a. there is no established protective order docket in
13 such court, or
- 14 b. the court finds that, in the interest of judicial
15 economy, both actions may be heard together; provided,
16 however, the petition for a protective order,
17 including, but not limited to, a petition in which
18 children are named as petitioners, shall remain a
19 separate action and a separate order shall be entered
20 in the protective order action. Protective orders may
21 be dismissed in favor of restraining orders in the
22 divorce or separate maintenance action if the court
23 specifically finds, upon hearing, that such dismissal

24

1 is in the best interests of the parties and does not
2 compromise the safety of any petitioner.

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

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

8 B. The petition forms shall be provided by the clerk of the
9 court. The Administrative Office of the Courts shall develop a
10 standard form for the petition.

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

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

3 D. The person seeking relief shall prepare the petition or, at
4 the request of the plaintiff, the court clerk or the victim-witness
5 coordinator, victim support person, and court case manager shall
6 prepare or assist the plaintiff in preparing the petition.

7 E. The person seeking a protective order may further request
8 the exclusive care, possession, or control of any animal owned,
9 possessed, leased, kept, or held by either the petitioner, defendant
10 or minor child residing in the residence of the petitioner or
11 defendant. The court may order the defendant to make no contact
12 with the animal and forbid the defendant from taking, transferring,
13 encumbering, concealing, molesting, attacking, striking,
14 threatening, harming, or otherwise disposing of the animal.

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

19 G. A victim of rape, forcible sodomy, a sex offense,
20 kidnapping, assault and battery with a deadly weapon or member of
21 the immediate family of a victim of first-degree murder, as such
22 terms are defined in Section 40 of this title, may petition for an
23 emergency temporary order or emergency ex parte order regardless of
24 any relationship or scenario pursuant to the provisions of this

1 section. The Administrative Office of the Courts shall modify the
2 petition forms as necessary to effectuate the provisions of this
3 subsection.

4 SECTION 2. AMENDATORY 22 O.S. 2011, Section 60.3, as
5 amended by Section 5, Chapter 183, O.S.L. 2016 (22 O.S. Supp. 2018,
6 Section 60.3), is amended to read as follows:

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

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

5 C. If a plaintiff requests an emergency temporary ex parte
6 order of protection as provided by Section 40.3 of this title, the
7 judge who is notified of the request by a peace officer may issue
8 such order verbally to the officer or in writing when there is
9 reasonable cause to believe that the order is necessary to protect
10 the victim from immediate and present danger of domestic abuse.
11 When the order is issued verbally the judge shall direct the officer
12 to complete and sign a statement attesting to the order. The
13 emergency temporary ex parte order shall be in effect until the
14 ~~close of business on the next day the court is open for business~~
15 after court date that was assigned by the court during the approval
16 of the order is issued. Emergency temporary ex parte orders shall
17 be heard within fourteen (14) days after issuance. The court shall
18 provide a list of available court dates for hearings.

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

1 divorce, separate maintenance, guardianship, adoption or any other
2 proceeding involving custody or visitation is pending.

3 SECTION 3. AMENDATORY 22 O.S. 2011, Section 60.4, as
4 last amended by Section 1, Chapter 173, O.S.L. 2017 (22 O.S. Supp.
5 2018, Section 60.4), is amended to read as follows:

6 Section 60.4 A. 1. A copy of a petition for a protective
7 order, any notice of hearing and a copy of any emergency temporary
8 order or emergency ex parte order issued by the court shall be
9 served upon the defendant in the same manner as a bench warrant. In
10 addition, if the service is to be in another county, the court clerk
11 may issue service to the sheriff by facsimile or other electronic
12 transmission for service by the sheriff and receive the return of
13 service from the sheriff in the same manner. Any fee for service of
14 a petition for protective order, notice of hearing, and emergency ex
15 parte order shall only be charged pursuant to subsection C of
16 Section 60.2 of this title and, if charged, shall be the same as the
17 sheriff's service fee plus mileage expenses.

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

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

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

9 5. When the defendant is a minor child who is ordered removed
10 from the residence of the victim, in addition to those documents
11 served upon the defendant, a copy of the petition, notice of hearing
12 and a copy of any temporary order or ex parte order issued by the
13 court shall be delivered with the child to the caretaker of the
14 place where such child is taken pursuant to Section 2-2-101 of Title
15 10A of the Oklahoma Statutes.

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

1 hearing on the petition within seventy-two (72) hours, regardless of
2 whether an emergency temporary order or ex parte order has been
3 previously issued, requested or denied.

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

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

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

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

22 6. A final protective order shall be granted or denied within
23 six (6) months of service on the defendant unless all parties agree
24 that a temporary protective order remain in effect; provided, a

1 victim shall have the right to request a final protective order
2 hearing at any time after the passage of six (6) months.

3 C. 1. At the hearing, the court may impose any terms and
4 conditions in the protective order that the court reasonably
5 believes are necessary to bring about the cessation of domestic
6 abuse against the victim or stalking or harassment of the victim or
7 the immediate family of the victim but shall not impose any term and
8 condition that may compromise the safety of the victim including,
9 but not limited to, mediation, couples counseling, family
10 counseling, parenting classes or joint victim-offender counseling
11 sessions. The court may order the defendant to obtain domestic
12 abuse counseling or treatment in a program certified by the Attorney
13 General at the expense of the defendant pursuant to Section 644 of
14 Title 21 of the Oklahoma Statutes.

15 2. If the court grants a protective order and the defendant is
16 a minor child, the court shall order a preliminary inquiry in a
17 juvenile proceeding to determine whether further court action
18 pursuant to the Oklahoma Juvenile Code should be taken against a
19 juvenile defendant.

20 D. Final protective orders authorized by this section shall be
21 on a standard form developed by the Administrative Office of the
22 Courts.

23 E. 1. After notice and hearing, protective orders authorized
24 by this section may require the defendant to undergo treatment or

1 participate in the court-approved counseling services necessary to
2 bring about cessation of domestic abuse against the victim pursuant
3 to Section 644 of Title 21 of the Oklahoma Statutes but shall not
4 order any treatment or counseling that may compromise the safety of
5 the victim including, but not limited to, mediation, couples
6 counseling, family counseling, parenting classes or joint victim-
7 offender counseling sessions.

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

11 3. Should the plaintiff choose to undergo treatment or
12 participate in court-approved counseling services for victims of
13 domestic abuse, the court may order the defendant to pay all or any
14 part of the cost of such treatment or counseling services if the
15 court determines that payment by the defendant is appropriate.

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

22 G. 1. Any protective order issued on or after November 1,
23 2012, pursuant to subsection C of this section shall be:

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- 1 a. for a fixed period not to exceed a period of five (5)
2 years unless extended, modified, vacated or rescinded
3 upon motion by either party or if the court approves
4 any consent agreement entered into by the plaintiff
5 and defendant; provided, if the defendant is
6 incarcerated, the protective order shall remain in
7 full force and effect during the period of
8 incarceration. The period of incarceration, in any
9 jurisdiction, shall not be included in the calculation
10 of the five-year time limitation, or
11 b. continuous upon a specific finding by the court of one
12 of the following:
13 (1) the person has a history of violating the orders
14 of any court or governmental entity,
15 (2) the person has previously been convicted of a
16 violent felony offense,
17 (3) the person has a previous felony conviction for
18 stalking as provided in Section 1173 of Title 21
19 of the Oklahoma Statutes, or
20 (4) a court order for a final Victim Protection Order
21 has previously been issued against the person in
22 this state or another state.

23 Further, the court may take into consideration whether the person
24 has a history of domestic violence or a history of other violent

1 acts. The protective order shall remain in effect until modified,
2 vacated or rescinded upon motion by either party or if the court
3 approves any consent agreement entered into by the plaintiff and
4 defendant. If the defendant is incarcerated, the protective order
5 shall remain in full force and effect during the period of
6 incarceration.

7 2. The court shall notify the parties at the time of the
8 issuance of the protective order of the duration of the protective
9 order.

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

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

20 H. 1. It shall be unlawful for any person to knowingly and
21 willfully seek a protective order against a spouse or ex-spouse
22 pursuant to the Protection from Domestic Abuse Act for purposes of
23 harassment, undue advantage, intimidation, or limitation of child
24

1 visitation rights in any divorce proceeding or separation action
2 without justifiable cause.

3 2. The violator shall, upon conviction thereof, be guilty of a
4 misdemeanor punishable by imprisonment in the county jail for a
5 period not exceeding one (1) year or by a fine not to exceed Five
6 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

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

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

24

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

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

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

1 3. Upon issuance, a copy of the final order of protection shall
2 be transmitted, either electronically or by certified mail, to the
3 registered agent of the wireless service provider or public utility
4 provider listed with the Secretary of State or Corporation
5 Commission of Oklahoma or electronically to the email address
6 provided by the wireless service provider or public utility
7 provider. Such transmittal shall constitute adequate notice for the
8 wireless service provider or public utility provider.

9 4. If the wireless service provider or public utility provider
10 cannot operationally or technically effectuate the order due to
11 certain circumstances, the wireless service provider or public
12 utility provider shall notify the petitioner. Such circumstances
13 shall include, but not be limited to, the following:

- 14 a. the account holder has already terminated the account,
- 15 b. the differences in network technology prevent the
16 functionality of a mobile device on the network, or
- 17 c. there are geographic or other limitations on network
18 or service availability.

19 5. Upon transfer of billing responsibility for and rights to a
20 wireless telephone number or numbers or household utility account to
21 the petitioner under the provisions of this subsection by a wireless
22 service provider or public utility provider, the petitioner shall
23 assume all financial responsibility for the transferred wireless
24 telephone number or numbers or household utility account, monthly

1 service and utility billing costs and costs for any mobile device
2 associated with the wireless telephone number or numbers. The
3 wireless service provider or public utility provider shall have the
4 right to pursue the original account holder for purposes of
5 collecting any past due amounts owed to the wireless service
6 provider or public utility provider.

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

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

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

23 9. As used in this subsection:
24

1 a. "wireless service provider" means a provider of
2 commercial mobile service under Section 332(d) of the
3 federal Telecommunications Act of 1996,

4 b. "public utility provider" means every corporation
5 organized or doing business in this state that owns,
6 operates or manages any plant or equipment for the
7 manufacture, production, transmission, transportation,
8 delivery or furnishing of water, heat or light with
9 gas or electric current for heat, light or power, for
10 public use in this state, and

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

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

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

22 3. The court may only consolidate a hearing if:

23 a. the court makes specific findings that:
24

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

4 (2) each party acted primarily as aggressors,

5 b. the defendant filed a petition with the court for a
6 protective order no less than three (3) days, not
7 including weekends or holidays, prior to the first
8 scheduled full hearing on the petition filed by the
9 plaintiff, and

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

13 L. The court may allow a plaintiff or victim to be accompanied
14 by a victim support person at court proceedings. A victim support
15 person shall not make legal arguments; however, a victim support
16 person who is not a licensed attorney may offer the plaintiff or
17 victim comfort or support and may remain in close proximity to the
18 plaintiff or victim.

19 SECTION 4. AMENDATORY 22 O.S. 2011, Section 60.5, is
20 amended to read as follows:

21 Section 60.5 A. Within twenty-four (24) hours of the return of
22 service of any emergency temporary, ex parte or final protective
23 order, the clerk of the issuing court shall send certified copies
24 thereof to all appropriate law enforcement agencies designated by

1 the plaintiff. A certified copy of any extension, modification,
2 vacation, cancellation or consent agreement concerning a final
3 protective order shall be sent within twenty-four (24) hours by the
4 clerk of the issuing court to those law enforcement agencies
5 receiving the original orders pursuant to this section and to any
6 law enforcement agencies designated by the court.

7 B. Any law enforcement agency receiving copies of the documents
8 listed in subsection A of this section shall be required to ensure
9 that other law enforcement agencies have access twenty-four (24)
10 hours a day to the information contained in the documents which may
11 include entry of information about the emergency temporary, ex parte
12 or final protective order in the National Crime Information Center
13 database.

14 SECTION 5. AMENDATORY 22 O.S. 2011, Section 60.6, is
15 amended to read as follows:

16 Section 60.6 A. Except as otherwise provided by this section,
17 any person who:

18 1. Has been served with an emergency temporary, ex parte or
19 final protective order or foreign protective order and is in
20 violation of such protective order, upon conviction, shall be guilty
21 of a misdemeanor and shall be punished by a fine of not more than
22 One Thousand Dollars (\$1,000.00) or by a term of imprisonment in the
23 county jail of not more than one (1) year, or by both such fine and
24 imprisonment; and

1 2. After a previous conviction of a violation of a protective
2 order, is convicted of a second or subsequent offense pursuant to
3 the provisions of this section shall, upon conviction, be guilty of
4 a felony and shall be punished by a term of imprisonment in the
5 custody of the Department of Corrections for not less than one (1)
6 year nor more than three (3) years, or by a fine of not less than
7 Two Thousand Dollars (\$2,000.00) nor more than Ten Thousand Dollars
8 (\$10,000.00), or by both such fine and imprisonment.

9 B. 1. Any person who has been served with an emergency
10 temporary, ex parte or final protective order or foreign protective
11 order who violates the protective order and causes physical injury
12 or physical impairment to the plaintiff or to any other person named
13 in said protective order shall, upon conviction, be guilty of a
14 misdemeanor and shall be punished by a term of imprisonment in the
15 county jail for not less than twenty (20) days nor more than one (1)
16 year. In addition to the term of imprisonment, the person may be
17 punished by a fine not to exceed Five Thousand Dollars (\$5,000.00).

18 2. Any person who is convicted of a second or subsequent
19 violation of a protective order which causes physical injury or
20 physical impairment to a plaintiff or to any other person named in
21 the protective order shall be guilty of a felony and shall be
22 punished by a term of imprisonment in the custody of the Department
23 of Corrections of not less than one (1) year nor more than five (5)
24 years, or by a fine of not less than Three Thousand Dollars

1 (\$3,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by
2 both such fine and imprisonment.

3 3. In determining the term of imprisonment required by this
4 section, the jury or sentencing judge shall consider the degree of
5 physical injury or physical impairment to the victim.

6 4. The provisions of this subsection shall not affect the
7 applicability of Sections 644, 645, 647 and 652 of Title 21 of the
8 Oklahoma Statutes.

9 C. The minimum sentence of imprisonment issued pursuant to the
10 provisions of paragraph 2 of subsection A and paragraph 1 2 of
11 subsection B of this section shall not be subject to statutory
12 provisions for suspended sentences, deferred sentences or probation,
13 provided the court may subject any remaining penalty under the
14 jurisdiction of the court to the statutory provisions for suspended
15 sentences, deferred sentences or probation.

16 D. In addition to any other penalty specified by this section,
17 the court shall require a defendant to undergo the treatment or
18 participate in the counseling services necessary to bring about the
19 cessation of domestic abuse against the victim or to bring about the
20 cessation of stalking or harassment of the victim. For every
21 conviction of violation of a protective order:

22 1. The court shall specifically order as a condition of a
23 suspended sentence or probation that a defendant participate in
24

1 counseling or undergo treatment to bring about the cessation of
2 domestic abuse as specified in paragraph 2 of this subsection;

3 2. a. The court shall require the defendant to participate
4 in counseling or undergo treatment for domestic abuse
5 by an individual licensed practitioner or a domestic
6 abuse treatment program certified by the Attorney
7 General. If the defendant is ordered to participate
8 in a domestic abuse counseling or treatment program,
9 the order shall require the defendant to attend the
10 program for a minimum of fifty-two (52) weeks,
11 complete the program, and be evaluated before and
12 after attendance of the program by a program counselor
13 or a private counselor.

14 b. A program for anger management, couples counseling, or
15 family and marital counseling shall not solely qualify
16 for the counseling or treatment requirement for
17 domestic abuse pursuant to this subsection. The
18 counseling may be ordered in addition to counseling
19 specifically for the treatment of domestic abuse or
20 per evaluation as set forth below. If, after
21 sufficient evaluation and attendance at required
22 counseling sessions, the domestic violence treatment
23 program or licensed professional determines that the
24 defendant does not evaluate as a perpetrator of

1 domestic violence or does evaluate as a perpetrator of
2 domestic violence and should complete other programs
3 of treatment simultaneously or prior to domestic
4 violence treatment, including but not limited to
5 programs related to the mental health, apparent
6 substance or alcohol abuse or inability or refusal to
7 manage anger, the defendant shall be ordered to
8 complete the counseling as per the recommendations of
9 the domestic violence treatment program or licensed
10 professional;

11 3. a. The court shall set a review hearing no more than one
12 hundred twenty (120) days after the defendant is
13 ordered to participate in a domestic abuse counseling
14 program or undergo treatment for domestic abuse to
15 assure the attendance and compliance of the defendant
16 with the provisions of this subsection and the
17 domestic abuse counseling or treatment requirements.

18 b. The court shall set a second review hearing after the
19 completion of the counseling or treatment to assure
20 the attendance and compliance of the defendant with
21 the provisions of this subsection and the domestic
22 abuse counseling or treatment requirements. The court
23 may suspend sentencing of the defendant until the
24 defendant has presented proof to the court of

1 enrollment in a program of treatment for domestic
2 abuse by an individual licensed practitioner or a
3 domestic abuse treatment program certified by the
4 Attorney General and attendance at weekly sessions of
5 such program. Such proof shall be presented to the
6 court by the defendant no later than one hundred
7 twenty (120) days after the defendant is ordered to
8 such counseling or treatment. At such time, the court
9 may complete sentencing, beginning the period of the
10 sentence from the date that proof of enrollment is
11 presented to the court, and schedule reviews as
12 required by subparagraphs a and b of this paragraph
13 and paragraphs 4 and 5 of this subsection. The court
14 shall retain continuing jurisdiction over the
15 defendant during the course of ordered counseling
16 through the final review hearing;

17 4. The court may set subsequent or other review hearings as the
18 court determines necessary to assure the defendant attends and fully
19 complies with the provisions of this subsection and the domestic
20 abuse counseling or treatment requirements;

21 5. At any review hearing, if the defendant is not
22 satisfactorily attending individual counseling or a domestic abuse
23 counseling or treatment program or is not in compliance with any
24 domestic abuse counseling or treatment requirements, the court may

1 order the defendant to further or continue counseling, treatment, or
2 other necessary services. The court may revoke all or any part of a
3 suspended sentence, deferred sentence, or probation pursuant to
4 Section 991b of this title and subject the defendant to any or all
5 remaining portions of the original sentence;

6 6. At the first review hearing, the court shall require the
7 defendant to appear in court. Thereafter, for any subsequent review
8 hearings, the court may accept a report on the progress of the
9 defendant from individual counseling, domestic abuse counseling, or
10 the treatment program. There shall be no requirement for the victim
11 to attend review hearings; and

12 7. If funding is available, a referee may be appointed and
13 assigned by the presiding judge of the district court to hear
14 designated cases set for review under this subsection. Reasonable
15 compensation for the referees shall be fixed by the presiding judge.
16 The referee shall meet the requirements and perform all duties in
17 the same manner and procedure as set forth in Sections 1-8-103 and
18 2-2-702 of Title 10A of the Oklahoma Statutes pertaining to referees
19 appointed in juvenile proceedings.

20 E. ~~Ex~~ Emergency temporary, ex parte and final protective orders
21 shall include notice of these penalties.

22 F. When a minor child violates the provisions of any protective
23 order, the violation shall be heard in a juvenile proceeding and the
24 court may order the child and the parent or parents of the child to

1 participate in family counseling services necessary to bring about
2 the cessation of domestic abuse against the victim and may order
3 community service hours to be performed in lieu of any fine or
4 imprisonment authorized by this section.

5 G. Any district court of this state and any judge thereof shall
6 be immune from any liability or prosecution for issuing an order
7 that requires a defendant to:

8 1. Attend a treatment program for domestic abusers certified by
9 the Attorney General;

10 2. Attend counseling or treatment services ordered as part of
11 any final protective order or for any violation of a protective
12 order; and

13 3. Attend, complete, and be evaluated before and after
14 attendance by a treatment program for domestic abusers certified by
15 the Attorney General.

16 H. At no time, under any proceeding, may a person protected by
17 a protective order be held to be in violation of that protective
18 order. Only a defendant against whom a protective order has been
19 issued may be held to have violated the order.

20 I. In addition to any other penalty specified by this section,
21 the court may order a defendant to use an active, real-time, twenty-
22 four-hour Global Positioning System (GPS) monitoring device as a
23 condition of a sentence. The court may further order the defendant
24 to pay costs and expenses related to the GPS device and monitoring.

1 SECTION 6. AMENDATORY 22 O.S. 2011, Section 60.17, is
2 amended to read as follows:

3 Section 60.17 The court shall consider the safety of any and
4 all alleged victims of domestic violence, stalking, harassment,
5 sexual assault, or forcible sodomy where the defendant is alleged to
6 have violated a protective order, committed domestic assault and
7 battery, stalked, sexually assaulted, or forcibly sodomized the
8 alleged victim or victims prior to the release of the alleged
9 defendant from custody on bond. The court, after consideration and
10 to ensure the safety of the alleged victim or victims, may issue an
11 emergency protective order pursuant to the Protection from Domestic
12 Abuse Act. The court may also issue to the alleged victim or
13 victims, an order restraining the alleged defendant from any
14 activity or action from which they may be restrained under the
15 Protection from Domestic Abuse Act. The court shall not consider a
16 "no contact order as condition of bond" as a factor when determining
17 whether the petitioner is eligible for relief. The protective order
18 shall remain in effect until either a plea has been accepted,
19 sentencing has occurred in the case, the case has been dismissed, or
20 until further order of the court dismissing the protective order.
21 In conjunction with any protective order or restraining order
22 authorized by this section, the court may order the defendant to use
23 an active, real-time, twenty-four-hour Global Positioning System
24 (GPS) monitoring device for such term as the court deems

1 appropriate. Upon application of the victim, the court may
2 authorize the victim to monitor the location of the defendant. Such
3 monitoring by the victim shall be limited to the ability of the
4 victim to make computer or cellular inquiries to determine if the
5 defendant is within a specified distance of locations, excluding the
6 residence or workplace of the defendant, or to receive a computer-
7 or a cellular-generated signal if the defendant comes within a
8 specified distance of the victim. The court shall conduct an annual
9 review of the monitoring order to determine if such order to monitor
10 the location of the defendant is still necessary. Before the court
11 orders the use of a GPS device, the court shall find that the
12 defendant has a history that demonstrates an intent to commit
13 violence against the victim, including, but not limited to, prior
14 conviction for an offense under the Protection from Domestic Abuse
15 Act or any other violent offense, or any other evidence that shows
16 by a preponderance of the evidence that the defendant is likely to
17 commit violence against the victim. The court may further order the
18 defendant to pay costs and expenses related to the GPS device and
19 monitoring.

20 SECTION 7. This act shall become effective November 1, 2019.

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
22 April 2, 2019 - DO PASS
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