

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2789

By: Stinson

4  
5  
6 AS INTRODUCED

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

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 60.2, as  
amended by Section 6, Chapter 318, O.S.L. 2022 (22 O.S. Supp. 2022,  
Section 60.2), is amended to read as follows:

Section 60.2. A. A victim of domestic abuse, a victim of  
stalking, a victim of harassment, a victim of rape, any adult or  
emancipated minor household member on behalf of any other family or  
household member who is a minor or incompetent, any minor age  
sixteen (16) or seventeen (17) years, or any adult victim of a crime

1 with a need to prevent further victimization, may seek relief under  
2 the provisions of the Protection from Domestic Abuse Act.

3 1. The person seeking relief may file a petition for a  
4 protective order with the district court in the county in which the  
5 victim resides, the county in which the defendant resides, or the  
6 county in which the domestic violence occurred. If the person  
7 seeking relief is not a family or household member or an individual  
8 who is or has been in a dating relationship with the defendant, the  
9 person seeking relief must file a complaint against the defendant  
10 with the proper law enforcement agency before filing a petition for  
11 a protective order with the district court. The person seeking  
12 relief shall provide a copy of the complaint that was filed with the  
13 law enforcement agency at the full hearing if the complaint is not  
14 available from the law enforcement agency. Failure to provide a  
15 copy of the complaint filed with the law enforcement agency shall  
16 constitute a frivolous filing and the court may assess attorney fees  
17 and court costs against the plaintiff pursuant to paragraph 2 of  
18 subsection C of this section. The filing of a petition for a  
19 protective order shall not require jurisdiction or venue of the  
20 criminal offense if either the plaintiff or defendant resides in the  
21 county. If a petition has been filed in an action for divorce or  
22 separate maintenance and either party to the action files a petition  
23 for a protective order in the same county where the action for  
24 divorce or separate maintenance is filed, the petition for the

1 protective order may be heard by the court hearing the divorce or  
2 separate maintenance action if:

3 a. there is no established protective order docket in  
4 such court, or

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

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

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

22 B. The petition forms shall be provided by the clerk of the  
23 court. The Administrative Office of the Courts shall develop a  
24 standard form for the petition.

1 C. 1. Except as otherwise provided by this section, no filing  
2 fee, service of process fee, attorney fees or any other fee or costs  
3 shall be charged the plaintiff or victim at any time for filing a  
4 petition for a protective order whether a protective order is  
5 granted or not granted. The court may assess court costs, service  
6 of process fees, attorney fees, other fees and filing fees against  
7 the defendant at the hearing on the petition, if a protective order  
8 is granted against the defendant; provided, the court shall have  
9 authority to waive the costs and fees if the court finds that the  
10 party does not have the ability to pay the costs and fees.

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

15 D. The person seeking relief shall prepare the petition or, at  
16 the request of the plaintiff, the court clerk or the victim-witness  
17 coordinator, victim support person, and court case manager shall  
18 prepare or assist the plaintiff in preparing the petition.

19 E. The person seeking a protective order may further request  
20 the exclusive care, possession, or control of any animal owned,  
21 possessed, leased, kept, or held by either the petitioner, defendant  
22 or minor child residing in the residence of the petitioner or  
23 defendant. The court may order the defendant to make no contact  
24 with the animal and forbid the defendant from taking, transferring,

1 encumbering, concealing, molesting, attacking, striking,  
2 threatening, harming, or otherwise disposing of the animal.

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

7 G. A victim of rape, forcible sodomy, a sex offense,  
8 kidnapping, assault and battery with a deadly weapon or member of  
9 the immediate family of a victim of first-degree murder, as such  
10 terms are defined in Section 40 of this title, may petition for an  
11 emergency temporary order or emergency ex parte order regardless of  
12 any relationship or scenario pursuant to the provisions of this  
13 section. The Administrative Office of the Courts shall modify the  
14 petition forms as necessary to effectuate the provisions of this  
15 subsection.

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

19 Section 153. A. The clerks of the courts shall collect as  
20 costs in every criminal case for each offense of which the defendant  
21 is convicted, irrespective of whether or not the sentence is  
22 deferred, the following flat charges and no more, except for  
23 standing and parking violations and for charges otherwise provided  
24 for by law, which fee shall cover docketing of the case, filing of

1 all papers, issuance of process, warrants, orders, and other  
2 services to the date of judgment:

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

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

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

20 4. For each defendant convicted of a  
21 felony, other than for driving under the  
22 influence of alcohol or other  
23 intoxicating substance, whether charged  
24 individually or conjointly with others.....\$103.00

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





1 offense for driving under the influence of alcohol or other  
2 intoxicating substance.

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

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

14 F. In addition to the amounts collected pursuant to paragraphs  
15 1 through 6 of subsection A of this section, the sum of Three  
16 Dollars (\$3.00) shall be assessed and credited to the Office of the  
17 Attorney General Victim Services Unit.

18 G. In addition to the amounts collected pursuant to paragraphs  
19 1 through 6 of subsection A of this section, the sum of Three  
20 Dollars (\$3.00) shall be assessed and credited to the Child Abuse  
21 Multidisciplinary Account. This fee shall not be used for purposes  
22 of hiring or employing any law enforcement officers.

23 H. In addition to the amount collected pursuant to paragraphs 5  
24 and 6 of subsection A of this section, the sum of Fifteen Dollars

1 (\$15.00) shall be assessed in every misdemeanor or felony case for  
2 each offense of driving under the influence of alcohol or other  
3 intoxicating substance and credited to the Oklahoma Impaired Driver  
4 Database Revolving Fund created pursuant to Section 11-902d of Title  
5 47 of the Oklahoma Statutes.

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

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

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

14 1. A court clerk issuing a misdemeanor warrant is entitled to  
15 ten percent (10%) of the sheriff's service fee, provided for in  
16 paragraph 9 of subsection A of this section, collected on a warrant  
17 referred to the contractor for the misdemeanor warrant notification  
18 program governed by Sections 514.4 and 514.5 of Title 19 of the  
19 Oklahoma Statutes. This ten-percent sum shall be deposited into the  
20 issuing Court Clerk's Revolving Fund, created pursuant to Section  
21 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing  
22 the warrant with the balance of the sheriff's service fee to be  
23 deposited into the Sheriff's Service Fee Account, created pursuant  
24 to the provisions of Section 514.1 of Title 19 of the Oklahoma

1 Statutes, of the sheriff in the county in which service is made or  
2 attempted. Otherwise, the sheriff's service fee, when collected,  
3 shall be deposited in its entirety into the Sheriff's Service Fee  
4 Account of the sheriff in the county in which service is made or  
5 attempted;

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

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

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

17 5. The following amounts of the fees provided for in paragraphs  
18 2, 3, 5 and 6 of subsection A of this section, when collected, shall  
19 be deposited in the Trauma Care Assistance Revolving Fund, created  
20 pursuant to the provisions of Section 1-2530.9 of Title 63 of the  
21 Oklahoma Statutes:

22 a. Ten Dollars (\$10.00) of the Ninety-eight-Dollar fee  
23 provided for in paragraph 2 of subsection A of this  
24 section,

1           b.    Ten Dollars (\$10.00) of the Ninety-three-Dollar fee  
2                    provided for in paragraph 3 of subsection A of this  
3                    section,

4           c.    One Hundred Dollars (\$100.00) of the Four-Hundred-  
5                    Thirty-three-Dollar fee provided for in paragraph 5 of  
6                    subsection A of this section, and

7           d.    One Hundred Dollars (\$100.00) of the Four-Hundred-  
8                    Thirty-three-Dollar fee provided for in paragraph 6 of  
9                    subsection A of this section.

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

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

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

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SECTION 3. This act shall become effective November 1, 2023.

59-1-5791            GRS            01/05/23