

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 312

By: Boren

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5
6 AS INTRODUCED

7 An Act relating to the Protection from Domestic Abuse
8 Act; amending 22 O.S. 2011, Section 60.2, as amended
9 by Section 1, Chapter 198, O.S.L. 2013 (22 O.S. Supp.
10 2018, Section 60.2), which relates to protective
11 orders; authorizing inclusion of certain information
12 in petition for protective order; and providing an
13 effective date.

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

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

18 Section 60.2. A. A victim of domestic abuse, a victim of
19 stalking, a victim of harassment, a victim of rape, any adult or
20 emancipated minor household member on behalf of any other family or
21 household member who is a minor or incompetent, or any minor age
22 sixteen (16) or seventeen (17) years may seek relief under the
23 provisions of the Protection from Domestic Abuse Act.

24 1. The person seeking relief may file a petition for a
25 protective order with the district court in the county in which the

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

- 1 a. there is no established protective order docket in
2 such court, or
3 b. the court finds that, in the interest of judicial
4 economy, both actions may be heard together; provided,
5 however, the petition for a protective order,
6 including, but not limited to, a petition in which
7 children are named as petitioners, shall remain a
8 separate action and a separate order shall be entered
9 in the protective order action. Protective orders may
10 be dismissed in favor of restraining orders in the
11 divorce or separate maintenance action if the court
12 specifically finds, upon hearing, that such dismissal
13 is in the best interests of the parties and does not
14 compromise the safety of any petitioner.

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

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

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

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

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

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

18 E. The person seeking a protective order may further request
19 the exclusive care, possession, or control of any animal owned,
20 possessed, leased, kept, or held by either the petitioner, defendant
21 or minor child residing in the residence of the petitioner or
22 defendant. The court may order the defendant to make no contact
23 with the animal and forbid the defendant from taking, transferring,
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1 encumbering, concealing, molesting, attacking, striking,
2 threatening, harming, or otherwise disposing of the animal.

3 F. The person seeking a protective order shall be given the
4 opportunity to disclose in the petition any information, if known,
5 related to the number and location of any firearms located at the
6 residence or other location where the petition is to be served on
7 the defendant by law enforcement pursuant to Section 60.4 of this
8 title.

9 G. A court may not require the victim to seek legal sanctions
10 against the defendant including, but not limited to, divorce,
11 separation, paternity or criminal proceedings prior to hearing a
12 petition for protective order.

13 SECTION 2. This act shall become effective November 1, 2019.

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