

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2478

By: Harris

7 COMMITTEE SUBSTITUTE

8 An Act relating to custody; amending 10 O.S. 2021,
9 Section 7700-624, which relates to temporary order
10 for support, custody, and visitation; providing for
11 when domestic abuse has been established; providing
12 temporary order time frames for the court; amending
13 43 O.S. 2021, Section 110, which relates to orders
14 concerning property, children, support, and expenses;
15 providing for when domestic abuse has been
16 established; providing temporary order time frames
17 for the court; and providing an effective date.

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

17 SECTION 1. AMENDATORY 10 O.S. 2021, Section 7700-624, is
18 amended to read as follows:

19 Section 7700-624. A. In a proceeding under this Article, the
20 court shall issue a temporary order for support of a child if the
21 order is appropriate and the individual ordered to pay support is:

- 22 1. A presumed father of the child;
- 23 2. Petitioning to have his paternity adjudicated;

1 3. Identified as the father through genetic testing under
2 Section 27 of this act;

3 4. An alleged father who has declined to submit to genetic
4 testing;

5 5. Shown by clear and convincing evidence to be the father of
6 the child; or

7 6. The mother of the child.

8 B. A temporary order may include provisions for custody and
9 visitation as provided by other law of this state.

10 C. A party requesting temporary orders, whose application
11 contains allegations of domestic abuse, and has obtained an
12 emergency temporary protective order against the other party for
13 domestic abuse or the other party has been criminally charged with a
14 crime involving domestic abuse or another crime wherein the factual
15 allegations show domestic violence against the requesting party or
16 their minor child or children, shall be heard by the court within
17 fourteen (14) days of service to the non-moving party unless waived
18 by both parties, memorialized by an order of the court. At the
19 hearing, the Court shall issue orders concerning the parties'
20 requested relief. The requesting party shall attach a copy of the
21 emergency protective order, probable cause affidavit, or charging
22 information to the temporary orders application.

23 D. When setting a hearing to determine temporary orders, the
24 court shall, absent an agreement of the parties memorialized by a

1 court order, conduct a substantive hearing and issue a ruling on
2 custody, visitation, child support, and other ancillary matters,
3 including property, within thirty (30) days from the date the
4 hearing is scheduled.

5 SECTION 2. AMENDATORY 43 O.S. 2021, Section 110, is
6 amended to read as follows:

7 Section 110. A. 1. Except as otherwise provided by this
8 subsection, upon the filing of a petition for dissolution of
9 marriage, annulment of a marriage or legal separation by the
10 petitioner and upon personal service of the petition and summons on
11 the respondent, or upon waiver and acceptance of service by the
12 respondent, an automatic temporary injunction shall be in effect
13 against both parties pursuant to the provisions of this section:

14 a. restraining the parties from transferring,
15 encumbering, concealing, or in any way disposing of,
16 without the written consent of the other party or an
17 order of the court, any marital property, except in
18 the usual course of business, for the purpose of
19 retaining an attorney for the case or for the
20 necessities of life and requiring each party to notify
21 the other party of any proposed extraordinary
22 expenditures and to account to the court for all
23 extraordinary expenditures made after the injunction
24 is in effect,

1 b. restraining the parties from:

2 (1) intentionally or knowingly damaging or destroying
3 the tangible property of the parties, or of
4 either of them, specifically including, but not
5 limited to, any electronically stored materials,
6 electronic communications, social network data,
7 financial records, and any document that
8 represents or embodies anything of value,

9 (2) making any withdrawal for any purpose from any
10 retirement, profit-sharing, pension, death, or
11 other employee benefit plan or employee savings
12 plan or from any individual retirement account or
13 Keogh account,

14 (3) withdrawing or borrowing in any manner all or any
15 part of the cash surrender value of any life
16 insurance policies on either party or their
17 children,

18 (4) changing or in any manner altering the
19 beneficiary designation on any life insurance
20 policies on the life of either party or any of
21 their children,

22 (5) canceling, altering, or in any manner affecting
23 any casualty, automobile, or health insurance
24

1 policies insuring the parties' property or
2 persons,

3 (6) opening or diverting mail addressed to the other
4 party, and

5 (7) signing or endorsing the other party's name on
6 any negotiable instrument, check, or draft, such
7 as tax refunds, insurance payments, and
8 dividends, or attempting to negotiate any
9 negotiable instruments payable to either party
10 without the personal signature of the other
11 party,

12 c. requiring the parties to maintain all presently
13 existing health, property, life and other insurance
14 which the individual is presently carrying on any
15 member of this family unit, and to cooperate as
16 necessary in the filing and processing of claims. Any
17 employer-provided health insurance currently in
18 existence shall remain in full force and effect for
19 all family members,

20 d. enjoining both parties from molesting or disturbing
21 the peace of the other party or of the children to the
22 marriage,

23 e. restraining both parties from disrupting or
24 withdrawing their children from an educational

1 facility and programs where the children historically
2 have been enrolled, or day care,

3 f. restraining both parties from hiding or secreting
4 their children from the other party,

5 g. restraining both parties from removing the minor
6 children of the parties, if any, beyond the
7 jurisdiction of the State of Oklahoma, acting directly
8 or in concert with others, except for vacations of two
9 (2) weeks or less duration, without the prior written
10 consent of the other party, which shall not be
11 unreasonably withheld, and

12 h. requiring, unless otherwise agreed upon by the parties
13 in writing, the delivery by each party to the other
14 within thirty (30) days from the earlier of either the
15 date of service of the summons or the filing of an
16 initial pleading by the respondent, the following
17 documents:

18 (1) the federal and state income tax returns of each
19 party for the past two (2) years and any
20 nonpublic, limited partnership and privately held
21 corporate returns for any entity in which either
22 party has an interest, together with all
23 supporting documentation for the tax returns,
24 including but not limited to W-2 forms, 1099

1 forms, K-1 forms, Schedule C and Schedule E. If
2 a return is not completed at the time of
3 disclosure, the parties shall provide the
4 documents necessary to prepare the tax return of
5 the party, to include W-2 forms, 1099 forms, K-1
6 forms, copies of extension requests and estimated
7 tax payments,

8 (2) two (2) months of the most recent pay stubs from
9 each employer for whom the party worked,

10 (3) statements for the past six (6) months for all
11 bank accounts held in the name of either party
12 individually or jointly, or in the name of
13 another person for the benefit of either party,
14 or held by either party for the benefit of the
15 minor child or children of the parties,

16 (4) documentation regarding the cost and nature of
17 available health insurance coverage for the
18 benefit of either party or the minor child or
19 children of the parties,

20 (5) documentation regarding the cost and nature of
21 employment or educationally related child care
22 expenses incurred for the benefit of the minor
23 child or children of the parties, and
24

1 (6) documentation regarding all debts in the name of
2 either party individually or jointly, showing the
3 most recent balance due and payment terms.

4 2. If either party is not in possession of a document required
5 pursuant to subparagraph h of paragraph 1 of this subsection or has
6 not been able to obtain the document in a timely fashion, the party
7 shall state in verified writing, under the penalty of perjury, the
8 specific document which is not available, the reasons the document
9 is not available, and what efforts have been made to obtain the
10 document. As more information becomes available, there is a
11 continuing duty to supplement the disclosures.

12 3. Nothing in this subsection shall prohibit a party from
13 conducting further discovery pursuant to the Oklahoma Discovery
14 Code.

15 4. a. The provisions of the automatic temporary injunction
16 shall be printed as an attachment to the summons and
17 the petition and entitled "Automatic Temporary
18 Injunction Notice".

19 b. The automatic temporary injunction notice shall
20 contain a provision which will allow the parties to
21 waive the automatic temporary injunction. In
22 addition, the provision must state that unless both
23 parties have agreed and have signed their names in the
24 space provided, that the automatic temporary

1 injunction will be effective. Along with the waiver
2 provision, the notice shall contain a check box and
3 space available for the signatures of the parties.

4 5. The automatic temporary injunction shall become an order of
5 the court upon fulfillment of the requirements of paragraph 1 of
6 this subsection unless and until:

7 a. the automatic temporary injunction is waived by the
8 parties. Both parties must indicate on the automatic
9 temporary injunction notice in the space provided that
10 the parties have both agreed to waive the automatic
11 temporary injunction. Each party must sign his or her
12 own name on the notice in the space provided, or

13 b. a party, no later than three (3) days after service on
14 the party, files an objection to the injunction and
15 requests a hearing. Provided, the automatic temporary
16 injunction shall remain in effect until the hearing
17 and a judge orders the injunction removed.

18 6. The automatic temporary injunction shall be dissolved upon
19 the granting of the dissolution of marriage, final order of legal
20 separation or other final order.

21 7. Nothing in this subsection shall preclude either party from
22 applying to the court for further temporary orders, pursuant to this
23 section, an expanded automatic temporary injunction, or modification
24 or revocation thereto.

1 8. a. With regard to an automatic temporary injunction, when
2 a petition for dissolution of marriage, annulment of a
3 marriage, or a legal separation is filed and served, a
4 peace officer shall use every reasonable means to
5 enforce the injunction which enjoins both parties from
6 molesting or disturbing the peace of the other party
7 or the children of the marriage against a petitioner
8 or respondent, whenever:

9 (1) there is exhibited by a respondent or by the
10 petitioner to the peace officer a copy of the
11 petition or summons, with an attached Temporary
12 Injunction Notice, duly filed and issued pursuant
13 to this section, together with a certified copy
14 of the affidavit of service of process or a
15 certified copy of the waiver and acceptance of
16 service, and

17 (2) the peace officer has cause to believe that a
18 violation of the automatic temporary injunction
19 has occurred.

20 b. A peace officer shall not be held civilly or
21 criminally liable for his or her action pursuant to
22 this paragraph if his or her action is in good faith
23 and without malice.
24

1 B. After a petition has been filed in an action for dissolution
2 of marriage or legal separation either party may request the court
3 to issue:

4 1. A temporary order:

- 5 a. regarding child custody, support or visitation,
- 6 b. regarding spousal maintenance,
- 7 c. regarding payment of debt,
- 8 d. regarding possession of property,
- 9 e. regarding attorney fees, and
- 10 f. providing other injunctive relief proper in the
11 circumstances.

12 All applications for temporary orders shall set forth the
13 factual basis for the application and shall be verified by the party
14 seeking relief. The application and a notice of hearing shall be
15 served on the other party in any manner provided for in the Rules of
16 Civil Procedure. A party requesting temporary orders, whose
17 application contains allegations of domestic abuse, and has obtained
18 an emergency temporary protective order against the other party for
19 domestic abuse or the other party has been criminally charged with a
20 crime involving domestic abuse or another crime wherein the factual
21 allegations show domestic violence against the requesting party or
22 their minor child or children, shall be heard by the court within
23 fourteen (14) days of service to the non-moving party unless waived
24 by both parties, memorialized by an order of the court. At the

1 hearing, the court shall issue orders concerning the parties'
2 requested relief. The requesting party shall attach a copy of the
3 emergency protective order, probable cause affidavit, or charging
4 information to the temporary orders application. When setting a
5 hearing to determine temporary orders, the court shall, absent an
6 agreement of the parties memorialized by a court order, conduct a
7 substantive hearing and issue a ruling on custody, visitation, child
8 support, and other ancillary matters, including property, within
9 thirty (30) days from the date the hearing is scheduled.

10 The court shall not issue a temporary order until at least five
11 (5) days' notice of hearing is given to the other party.

12 After notice and hearing, a court may issue a temporary order
13 granting the relief as provided by this paragraph; and/or

14 2. A temporary restraining order. If the court finds on the
15 basis of a verified application and testimony of witnesses that
16 irreparable harm will result to the moving party, or a child of a
17 party if no order is issued before the adverse party or attorney for
18 the adverse party can be heard in opposition, the court may issue a
19 temporary restraining order which shall become immediately effective
20 and enforceable without requiring notice and opportunity to be heard
21 to the other party. Provided, for the purposes of this section, no
22 minor child or children temporarily residing in a licensed,
23 certified domestic violence shelter in the state shall be removed by
24 an ex parte order. If a temporary restraining order is issued

1 pursuant to this paragraph, the motion for a temporary order shall
2 be set within ten (10) days.

3 C. Any temporary orders and the automatic temporary injunction,
4 or specific terms thereof, may be vacated or modified prior to or in
5 conjunction with a final decree on a showing by either party of
6 facts necessary for vacation or modification. Temporary orders and
7 the automatic temporary injunction terminate when the final judgment
8 on all issues, except attorney fees and costs, is rendered or when
9 the action is dismissed. The court may reserve jurisdiction to rule
10 on an application for a contempt citation for a violation of a
11 temporary order or the automatic temporary injunction which is filed
12 any time prior to the time the temporary order or injunction
13 terminates.

14 D. Upon granting a decree of dissolution of marriage, annulment
15 of a marriage, or legal separation, the court may require either
16 party to pay such reasonable expenses of the other as may be just
17 and proper under the circumstances.

18 E. The court may in its discretion make additional orders
19 relative to the expenses of any such subsequent actions, including
20 but not limited to writs of habeas corpus, brought by the parties or
21 their attorneys, for the enforcement or modification of any
22 interlocutory or final orders in the dissolution of marriage action
23 made for the benefit of either party or their respective attorneys.

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SECTION 3. This act shall become effective November 1, 2024.

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