

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1786

By: Kerbs

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5
6 AS INTRODUCED

7 An Act relating to victim protective orders; amending
8 22 O.S. 2021, Section 40.3, which relates to
9 emergency temporary orders of protection for certain
10 victims; directing peace officers to serve order and
11 complete return of service when filing petition;
12 directing court clerk to receive petition; providing
13 for the filing and issuance of petition despite
14 absence of service; amending 22 O.S. 2021, Sections
15 60.3 and 60.16, which relate to the Protection from
16 Domestic Abuse Act; directing peace officers to serve
17 order and complete return of service when filing
18 petition; directing court clerk to receive petition;
19 providing for the filing and issuance of petition
20 despite absence of service; increasing time
21 limitation for effectiveness of emergency temporary
22 orders; providing for notification of hearing date,
23 time and location; directing peace officer to provide
24 copies of order to victim and defendant; and
providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 40.3, is
amended to read as follows:

Section 40.3. A. When the court is not open for business, the
victim of domestic violence, stalking, harassment, rape, forcible
sodomy, a sex offense, kidnapping or assault and battery with a

1 deadly weapon or member of the immediate family of a victim of
2 first-degree murder may request a petition for an emergency
3 temporary order of protection. The peace officer making the
4 preliminary investigation shall:

5 1. Provide the victim or member of the immediate family of a
6 victim of first-degree murder with a petition for an emergency
7 temporary order of protection and, if necessary, assist the victim
8 or member of the immediate family of a victim of first-degree murder
9 in completing the petition form. The petition shall be in
10 substantially the same form as provided by Section 60.2 of this
11 title for a petition for protective order in domestic abuse cases;

12 2. Immediately notify, by telephone or otherwise, a judge of
13 the district court of the request for an emergency temporary order
14 of protection and describe the circumstances. The judge shall
15 inform the peace officer of the decision to approve or disapprove
16 the emergency temporary order;

17 3. Inform the victim or member of the immediate family of a
18 victim of first-degree murder whether the judge has approved or
19 disapproved the emergency temporary order. If an emergency
20 temporary order has been approved, the peace officer shall provide
21 the victim, or a responsible adult if the victim is a minor child or
22 an incompetent person or member of the immediate family of a victim
23 of first-degree murder, with a copy of the petition and a written
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1 statement signed by the peace officer attesting that the judge has
2 approved the emergency temporary order of protection; ~~and~~

3 4. Notify the person subject to the emergency temporary
4 protection order of the issuance and conditions of the order, if
5 known. Notification pursuant to this paragraph may be made
6 personally by the peace officer upon arrest or, upon identification
7 of the assailant, notice shall be given by any ~~law enforcement~~ peace
8 officer. A copy of the petition and the statement of the peace
9 officer attesting to the order of the judge shall be made available
10 to the person; and

11 5. Make every attempt to serve the subject of the order and
12 complete a return of service when filing the petition with the
13 district court. If the peace officer is unable to obtain service,
14 the petition shall be filed with the district court the next
15 business day. The court clerk shall receive the petition upon
16 delivery by the peace officer and document the hearing date and time
17 assigned to the case as documented by the peace officer. If the
18 court clerk observes that service has not been obtained, the
19 petition shall still be filed by the court clerk and issued to the
20 appropriate office of the county sheriff to obtain service with
21 priority.

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

1 SECTION 2. AMENDATORY 22 O.S. 2021, Section 60.3, is
2 amended to read as follows:

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

21 B. An emergency ex parte protective order authorized by this
22 section shall include the name, sex, race, date of birth of the
23 defendant, and the dates of issue and expiration of the protective
24 order.

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

14 The peace officer shall make every attempt to serve the subject
15 of the order and complete a return of service when filing the
16 petition with the district court. If the peace officer is unable to
17 obtain service, the petition shall be filed with the district court
18 the next business day. The court clerk shall receive the petition
19 upon delivery by the peace officer and document the hearing date and
20 time assigned to the case as documented by the peace officer. If
21 the court clerk observes that service has not been obtained, the
22 petition shall still be filed by the court clerk and issued to the
23 appropriate office of the county sheriff to obtain service with
24 priority.

1 D. If an action for divorce, separate maintenance,
2 guardianship, adoption or any other proceeding involving custody or
3 visitation has been filed and is pending in a county different than
4 the county in which the emergency ex parte order was issued, the
5 hearing on the petition for a final protective order shall be
6 transferred and held in the same county in which the action for
7 divorce, separate maintenance, guardianship, adoption or any other
8 proceeding involving custody or visitation is pending.

9 SECTION 3. AMENDATORY 22 O.S. 2021, Section 60.16, is
10 amended to read as follows:

11 Section 60.16. A. A peace officer shall not discourage a
12 victim of domestic abuse from pressing charges against the assailant
13 of the victim.

14 B. 1. A peace officer may arrest without a warrant a person
15 anywhere, including a place of residence, if the peace officer has
16 probable cause to believe the person within the preceding seventy-
17 two (72) hours has committed an act of domestic abuse as defined by
18 Section 60.1 of this title, although the assault did not take place
19 in the presence of the peace officer. A peace officer may not
20 arrest a person pursuant to this section without first observing a
21 recent physical injury to, or an impairment of the physical
22 condition of, the alleged victim.

23 2. An arrest, when made pursuant to this section, shall be
24 based on an investigation by the peace officer of the circumstances

1 surrounding the incident, past history of violence between the
2 parties, statements of any children present in the residence, and
3 any other relevant factors. A determination by the peace officer
4 shall be made pursuant to the investigation as to which party is the
5 dominant aggressor in the situation. A peace officer may arrest the
6 dominant aggressor.

7 C. When the court is not open for business, the victim of
8 domestic abuse may request a petition for an emergency temporary
9 order of protection. The peace officer making the preliminary
10 investigation shall:

11 1. Provide the victim with a petition for an emergency
12 temporary order of protection and, if necessary, assist the victim
13 in completing the petition form. The petition shall be in
14 substantially the same form as provided by Section 60.2 of this
15 title for a petition for protective order;

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

21 3. Inform the victim whether the judge has approved or
22 disapproved the emergency temporary order. If an emergency
23 temporary order has been approved, the peace officer shall provide
24 the victim, or a responsible adult if the victim is a minor child or

1 an incompetent person, with a copy of the petition and a written
2 statement signed by the peace officer attesting that the judge has
3 approved the emergency temporary order of protection and notify the
4 victim that the emergency temporary order shall be effective ~~only~~
5 ~~until the close of business on the next day that the court is open~~
6 ~~for business~~ until the date of the hearing set by the judge. The
7 peace officer requesting the order shall be notified by the judge of
8 the date, time, and courtroom location in which the hearing will be
9 held or shall be notified of the date, time, and location of the
10 hearing from a list of available court dates provided by the judge.
11 The peace officer shall provide the victim and subject of the order
12 with a copy of the completed order and return the original order to
13 the district court;

14 4. Notify the person subject to the emergency temporary
15 protection order of the issuance and conditions of the order.
16 Notification pursuant to this paragraph may be made personally by
17 the peace officer or in writing. A copy of the petition and the
18 statement of the peace officer attesting to the order of the judge
19 shall be made available to such person; and

20 5. File a copy of the petition and the statement of the peace
21 officer with the district court of the county immediately upon the
22 opening of the court on the next day the court is open for business.
23 The peace officer shall make every attempt to serve the subject of
24 the order and complete a return of service when filing the petition

1 with the district court. If the peace officer is unable to obtain
2 service, the petition shall be filed with the district court the
3 next business day. The court clerk shall receive the petition upon
4 delivery by the peace officer and document the hearing date and time
5 assigned to the case as documented by the peace officer. If the
6 court clerk observes that service has not been obtained, the
7 petition shall still be filed by the court clerk and issued to the
8 appropriate office of the county sheriff to obtain service with
9 priority.

10 D. The forms utilized by law enforcement agencies in carrying
11 out the provisions of this section may be substantially similar to
12 those used under Section 60.2 of this title.

13 SECTION 4. This act shall become effective November 1, 2025.

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15 60-1-10113 GRS 12/17/2024

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