

1 **SENATE FLOOR VERSION**

2 April 4, 2023

3 ENGROSSED HOUSE  
4 BILL NO. 1845

By: Pittman and Kerbs of the  
House

5 and

6 Coleman of the Senate

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

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

22 SECTION 1. AMENDATORY 22 O.S. 2021, Section 40.3, is  
23 amended to read as follows:  
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1 Section 40.3 A. When the court is not open for business, the  
2 victim of domestic violence, stalking, harassment, rape, forcible  
3 sodomy, a sex offense, kidnapping or assault and battery with a  
4 deadly weapon or member of the immediate family of a victim of  
5 first-degree murder may request a petition for an emergency  
6 temporary order of protection. The peace officer making the  
7 preliminary investigation shall:

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

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

20 3. Inform the victim or member of the immediate family of a  
21 victim of first-degree murder 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 or member of the immediate family of a victim  
2 of first-degree murder, with a copy of the petition and a written  
3 statement signed by the peace officer attesting that the judge has  
4 approved the emergency temporary order of protection; ~~and~~

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

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

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

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

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

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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 peace 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 peace  
12 officer to complete and sign a statement attesting to the order.  
13 The emergency temporary ex parte order shall be in effect until the  
14 court date that was assigned by the court during the approval of the  
15 order. Emergency temporary ex parte orders shall be heard within  
16 fourteen (14) days after issuance. The court shall provide a list  
17 of available court dates for hearings.

18 The peace officer shall make every attempt to serve the subject  
19 of the order and complete a return of service when filing the  
20 petition with the district court. If the peace officer is unable to  
21 obtain service, the petition shall be filed with the district court  
22 the next business day. The court clerk shall receive the petition  
23 upon delivery by the peace officer and document the hearing date and  
24 time assigned to the case as documented by the peace officer. If

1 the court clerk observes that service has not been obtained, the  
2 petition shall still be filed by the court clerk and issued to the  
3 appropriate office of the county sheriff to obtain service with  
4 priority.

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

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

15 Section 60.16 A. A peace officer shall not discourage a victim  
16 of domestic abuse from pressing charges against the assailant of the  
17 victim.

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

1 recent physical injury to, or an impairment of the physical  
2 condition of, the alleged victim.

3       2. An arrest, when made pursuant to this section, shall be  
4 based on an investigation by the peace officer of the circumstances  
5 surrounding the incident, past history of violence between the  
6 parties, statements of any children present in the residence, and  
7 any other relevant factors. A determination by the peace officer  
8 shall be made pursuant to the investigation as to which party is the  
9 dominant aggressor in the situation. A peace officer may arrest the  
10 dominant aggressor.

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

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

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

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

18           4. Notify the person subject to the emergency temporary  
19 protection order of the issuance and conditions of the order.  
20 Notification pursuant to this paragraph may be made personally by  
21 the peace officer or in writing. A copy of the petition and the  
22 statement of the peace officer attesting to the order of the judge  
23 shall be made available to such person; and  
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1           5. File a copy of the petition and the statement of the peace  
2 officer with the district court of the county immediately upon the  
3 opening of the court on the next day the court is open for business.  
4 The peace officer shall make every attempt to serve the subject of  
5 the order and complete a return of service when filing the petition  
6 with the district court. If the peace officer is unable to obtain  
7 service, the petition shall be filed with the district court the  
8 next business day. The court clerk shall receive the petition upon  
9 delivery by the peace officer and document the hearing date and time  
10 assigned to the case as documented by the peace officer. If the  
11 court clerk observes that service has not been obtained, the  
12 petition shall still be filed by the court clerk and issued to the  
13 appropriate office of the county sheriff to obtain service with  
14 priority.

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

18           SECTION 4. This act shall become effective November 1, 2023.

19           COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
20           April 4, 2023 - DO PASS

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