

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 583

By: Brecheen

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5  
6 AS INTRODUCED

7 An Act relating to extension of protective orders;  
8 amending 22 O.S. 2011, Section 60.4, as last amended  
9 by Section 1, Chapter 281, O.S.L. 2016 (22 O.S. Supp.  
10 2016, Section 60.4), which relates to protective  
11 orders; permitting electronic filing of certain  
12 motions under certain circumstances; 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 60.4, as  
16 last amended by Section 1, Chapter 281, O.S.L. 2016 (22 O.S. Supp.  
17 2016, Section 60.4), is amended to read as follows:

18 Section 60.4. A. 1. A copy of a petition for a protective  
19 order, notice of hearing and a copy of any emergency ex parte order  
20 issued by the court shall be served upon the defendant in the same  
21 manner as a bench warrant. In addition, if the service is to be in  
22 another county, the court clerk may issue service to the sheriff by  
23 facsimile or other electronic transmission for service by the  
24 sheriff. Any fee for service of a petition for protective order,  
notice of hearing, and emergency ex parte order shall only be  
charged pursuant to subsection C of Section 60.2 of this title and,

1 if charged, shall be the same as the sheriff's service fee plus  
2 mileage expenses.

3 2. Emergency ex parte orders shall be given priority for  
4 service and can be served twenty-four (24) hours a day when the  
5 location of the defendant is known. When service cannot be made  
6 upon the defendant by the sheriff, the sheriff may contact another  
7 law enforcement officer or a private investigator or private process  
8 server to serve the defendant.

9 3. An emergency ex parte order, a petition for protective  
10 order, and a notice of hearing shall have statewide validity and may  
11 be transferred to any law enforcement jurisdiction to effect service  
12 upon the defendant.

13 4. The return of service shall be submitted to the sheriff's  
14 office in the court where the petition, notice of hearing or order  
15 was issued.

16 5. When the defendant is a minor child who is ordered removed  
17 from the residence of the victim, in addition to those documents  
18 served upon the defendant, a copy of the petition, notice of hearing  
19 and a copy of any ex parte order issued by the court shall be  
20 delivered with the child to the caretaker of the place where such  
21 child is taken pursuant to Section 2-2-101 of Title 10A of the  
22 Oklahoma Statutes.

23 B. 1. Within fourteen (14) days of the filing of the petition  
24 for a protective order, the court shall schedule a full hearing on

1 the petition, if the court finds sufficient grounds within the scope  
2 of the Protection from Domestic Abuse Act stated in the petition to  
3 hold such a hearing, regardless of whether an emergency ex parte  
4 order has been previously issued, requested or denied. Provided,  
5 however, when the defendant is a minor child who has been removed  
6 from the residence pursuant to Section 2-2-101 of Title 10A of the  
7 Oklahoma Statutes, the court shall schedule a full hearing on the  
8 petition within seventy-two (72) hours, regardless of whether an  
9 emergency ex parte order has been previously issued, requested or  
10 denied.

11 2. The court may schedule a full hearing on the petition for a  
12 protective order within seventy-two (72) hours when the court issues  
13 an emergency ex parte order suspending child visitation rights due  
14 to physical violence or threat of abuse.

15 3. If service has not been made on the defendant at the time of  
16 the hearing, the court shall, at the request of the petitioner,  
17 issue a new emergency order reflecting a new hearing date and direct  
18 service to issue.

19 4. A petition for a protective order shall, upon the request of  
20 the petitioner, renew every fourteen (14) days with a new hearing  
21 date assigned until the defendant is served. A petition for a  
22 protective order shall not expire unless the petitioner fails to  
23 appear at the hearing or fails to request a new order. A petitioner  
24

1 may move to dismiss the petition and emergency or final order at any  
2 time; however, a protective order must be dismissed by court order.

3 5. Failure to serve the defendant shall not be grounds for  
4 dismissal of a petition or an ex parte order unless the victim  
5 requests dismissal or fails to appear for the hearing thereon.

6 6. A final protective order shall be granted or denied within  
7 six (6) months of service on the defendant unless all parties agree  
8 that a temporary protective order remain in effect; provided, a  
9 victim shall have the right to request a final protective order  
10 hearing at any time after the passage of six (6) months.

11 C. 1. At the hearing, the court may impose any terms and  
12 conditions in the protective order that the court reasonably  
13 believes are necessary to bring about the cessation of domestic  
14 abuse against the victim or stalking or harassment of the victim or  
15 the immediate family of the victim but shall not impose any term and  
16 condition that may compromise the safety of the victim including,  
17 but not limited to, mediation, couples counseling, family  
18 counseling, parenting classes or joint victim-offender counseling  
19 sessions. The court may order the defendant to obtain domestic  
20 abuse counseling or treatment in a program certified by the Attorney  
21 General at the expense of the defendant pursuant to Section 644 of  
22 Title 21 of the Oklahoma Statutes.

23 2. If the court grants a protective order and the defendant is  
24 a minor child, the court shall order a preliminary inquiry in a

1 juvenile proceeding to determine whether further court action  
2 pursuant to the Oklahoma Juvenile Code should be taken against a  
3 juvenile defendant.

4 D. Final protective orders authorized by this section shall be  
5 on a standard form developed by the Administrative Office of the  
6 Courts.

7 E. 1. After notice and hearing, protective orders authorized  
8 by this section may require the defendant to undergo treatment or  
9 participate in the court-approved counseling services necessary to  
10 bring about cessation of domestic abuse against the victim pursuant  
11 to Section 644 of Title 21 of the Oklahoma Statutes but shall not  
12 order any treatment or counseling that may compromise the safety of  
13 the victim including, but not limited to, mediation, couples  
14 counseling, family counseling, parenting classes or joint victim-  
15 offender counseling sessions.

16 2. The defendant may be required to pay all or any part of the  
17 cost of such treatment or counseling services. The court shall not  
18 be responsible for such cost.

19 3. Should the plaintiff choose to undergo treatment or  
20 participate in court-approved counseling services for victims of  
21 domestic abuse, the court may order the defendant to pay all or any  
22 part of the cost of such treatment or counseling services if the  
23 court determines that payment by the defendant is appropriate.

24

1 F. When necessary to protect the victim and when authorized by  
2 the court, protective orders granted pursuant to the provisions of  
3 this section may be served upon the defendant by a peace officer,  
4 sheriff, constable, or policeman or other officer whose duty it is  
5 to preserve the peace, as defined by Section 99 of Title 21 of the  
6 Oklahoma Statutes.

7 G. 1. Any protective order issued on or after November 1,  
8 2012, pursuant to subsection C of this section shall be:

9 a. for a fixed period not to exceed a period of five (5)  
10 years unless extended, modified, vacated or rescinded  
11 upon motion by either party or if the court approves  
12 any consent agreement entered into by the plaintiff  
13 and defendant; provided, if the defendant is  
14 incarcerated, the protective order shall remain in  
15 full force and effect during the period of  
16 incarceration. The period of incarceration, in any  
17 jurisdiction, shall not be included in the calculation  
18 of the five-year time limitation, or

19 b. continuous upon a specific finding by the court of one  
20 of the following:

- 21 (1) the person has a history of violating the orders  
22 of any court or governmental entity,
- 23 (2) the person has previously been convicted of a  
24 violent felony offense,

1 (3) the person has a previous felony conviction for  
2 stalking as provided in Section 1173 of Title 21  
3 of the Oklahoma Statutes, or

4 (4) a court order for a final Victim Protection Order  
5 has previously been issued against the person in  
6 this state or another state.

7 Further, the court may take into consideration whether the person  
8 has a history of domestic violence or a history of other violent  
9 acts. The protective order shall remain in effect until modified,  
10 vacated or rescinded upon motion by either party or if the court  
11 approves any consent agreement entered into by the plaintiff and  
12 defendant. If the defendant is incarcerated, the protective order  
13 shall remain in full force and effect during the period of  
14 incarceration.

15 2. The court shall notify the parties at the time of the  
16 issuance of the protective order of the duration of the protective  
17 order.

18 3. Upon the filing of a motion by either party to modify,  
19 extend, or vacate a protective order, a hearing shall be scheduled  
20 and notice given to the parties. When necessary to protect the  
21 victim, the court shall authorize the victim to file a motion to  
22 modify or extend a protective order electronically. At the hearing,  
23 the issuing court may take such action as is necessary under the  
24 circumstances.

1           4. If a child has been removed from the residence of a parent  
2 or custodial adult because of domestic abuse committed by the child,  
3 the parent or custodial adult may refuse the return of such child to  
4 the residence unless, upon further consideration by the court in a  
5 juvenile proceeding, it is determined that the child is no longer a  
6 threat and should be allowed to return to the residence.

7           H. 1. It shall be unlawful for any person to knowingly and  
8 willfully seek a protective order against a spouse or ex-spouse  
9 pursuant to the Protection from Domestic Abuse Act for purposes of  
10 harassment, undue advantage, intimidation, or limitation of child  
11 visitation rights in any divorce proceeding or separation action  
12 without justifiable cause.

13           2. The violator shall, upon conviction thereof, be guilty of a  
14 misdemeanor punishable by imprisonment in the county jail for a  
15 period not exceeding one (1) year or by a fine not to exceed Five  
16 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

17           3. A second or subsequent conviction under this subsection  
18 shall be a felony punishable by imprisonment in the custody of the  
19 Department of Corrections for a period not to exceed two (2) years,  
20 or by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or by  
21 both such fine and imprisonment.

22           I. 1. A protective order issued under the Protection from  
23 Domestic Abuse Act shall not in any manner affect title to real  
24 property, purport to grant to the parties a divorce or otherwise



1 purport to determine the issues between the parties as to child  
2 custody, visitation or visitation schedules, child support or  
3 division of property or any other like relief obtainable pursuant to  
4 Title 43 of the Oklahoma Statutes, except child visitation orders  
5 may be temporarily suspended or modified to protect from threats of  
6 abuse or physical violence by the defendant or a threat to violate a  
7 custody order. Orders not affecting title may be entered for good  
8 cause found to protect an animal owned by either of the parties or  
9 any child living in the household.

10 2. When granting any protective order for the protection of a  
11 minor child from violence or threats of abuse, the court shall allow  
12 visitation only under conditions that provide adequate supervision  
13 and protection to the child while maintaining the integrity of a  
14 divorce decree or temporary order.

15 J. 1. A court shall not issue any mutual protective orders.

16 2. If both parties allege domestic abuse by the other party,  
17 the parties shall do so by separate petitions. The court shall  
18 review each petition separately in an individual or a consolidated  
19 hearing and grant or deny each petition on its individual merits.  
20 If the court finds cause to grant both motions, the court shall do  
21 so by separate orders and with specific findings justifying the  
22 issuance of each order.

23 3. The court may only consolidate a hearing if:

24 a. the court makes specific findings that:

1 (1) sufficient evidence exists of domestic abuse,  
2 stalking, harassment or rape against each party,  
3 and

4 (2) each party acted primarily as aggressors, and

5 b. the defendant filed a petition with the court for a  
6 protective order no less than three (3) days, not  
7 including weekends or holidays, prior to the first  
8 scheduled full hearing on the petition filed by the  
9 plaintiff, and

10 c. the defendant had no less than forty-eight (48) hours  
11 of notice prior to the full hearing on the petition  
12 filed by the plaintiff.

13 K. The court may allow a plaintiff or victim to be accompanied  
14 by a victim support person at court proceedings. A victim support  
15 person shall not make legal arguments; however, a victim support  
16 person who is not a licensed attorney may offer the plaintiff or  
17 victim comfort or support and may remain in close proximity to the  
18 plaintiff or victim.

19 SECTION 2. This act shall become effective November 1, 2017.

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