

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 60th Legislature (2025)

4 ENGROSSED SENATE
5 BILL NO. 813

6 By: Seifried of the Senate

7 and

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10 May, Pae, and Rosecrants of
11 the House

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An Act relating to victim protective orders; amending 22 O.S. 2021, Sections 40.3, 60.3, and 60.16, which relate to emergency orders; adding duty for peace officer to attempt certain service; requiring filing of petition under certain circumstances; establishing duties of court clerk to receive and document certain petition; requiring filing of petition; modifying required notice to victim; requiring peace officer to provide certain order to victim and return to court; clarifying language; repealing Section 3, Chapter 318, O.S.L. 2022 (21 O.S. Supp. 2024, Section 1173.1), which relates to Stalking Warning Letter; providing an effective date; and declaring an emergency.

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

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
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 by a peace officer with the district
15 court the next business day. The court clerk shall receive the
16 petition upon delivery by the peace officer and document the hearing
17 date and time assigned to the case as documented by the peace
18 officer. If the court clerk observes that service has not been
19 obtained, the petition shall still be filed by the court clerk and
20 issued to the appropriate office of the county sheriff to obtain
21 service with 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. 1. 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 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 officer
8 to complete and sign a statement attesting to the order. The
9 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 2. The peace officer shall make every attempt to serve the
15 subject of the order and complete a return of service when filing
16 the petition with the district court. If the peace officer is
17 unable to obtain service, the petition shall be filed by a peace
18 officer with the district court the next business day. The court
19 clerk shall receive the petition upon delivery by the peace officer
20 and document the hearing date and time assigned to the case as
21 documented by the peace officer. If the court clerk observes that
22 service has not been obtained, the petition shall still be filed by
23 the court clerk and issued to the appropriate office of the county
24 sheriff to obtain service with 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 officer shall provide the
24 victim, or a responsible adult if the victim is a minor child or an

1 incompetent person, with a copy of the petition and a written
2 statement signed by the 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~~ the date of the hearing set by the judge. The peace
7 officer requesting the order shall be notified by the judge of the
8 date, time, and courtroom location in which the hearing will be
9 held. The peace officer shall provide the victim and subject of the
10 order with a copy of the completed order and return the original
11 order to the district court;

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

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

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

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

11 SECTION 4. REPEALER Section 3, Chapter 318, O.S.L. 2022

12 (21 O.S. Supp. 2024, Section 1173.1), is hereby repealed.

13 SECTION 5. This act shall become effective July 1, 2025.

14 SECTION 6. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY
OVERSIGHT, dated 04/17/2025 - DO PASS.
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