

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 813

By: Seifried

AS INTRODUCED

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 deadly weapon or member of the immediate family of a victim of first-degree murder may request a petition for an emergency

1 temporary order of protection. The peace officer making the
2 preliminary investigation shall:

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

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

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

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

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

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

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

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

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

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

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

23 D. If an action for divorce, separate maintenance,
24 guardianship, adoption or any other proceeding involving custody or

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

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

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

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

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

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

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

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

19 3. Inform the victim whether the judge has approved or
20 disapproved the emergency temporary order. If an emergency
21 temporary order has been approved, the officer shall provide the
22 victim, or a responsible adult if the victim is a minor child or an
23 incompetent person, with a copy of the petition and a written
24 statement signed by the officer attesting that the judge has

1 approved the emergency temporary order of protection and notify the
2 victim that the emergency temporary order shall be effective ~~only~~
3 ~~until the close of business on the next day that the court is open~~
4 ~~for business~~ the date of the hearing set by the judge. The peace
5 officer requesting the order shall be notified by the judge of the
6 date, time, and courtroom location in which the hearing will be
7 held. The peace officer shall provide the victim and subject of the
8 order with a copy of the completed order and return the original
9 order to the district court;

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

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

1 the hearing date and time assigned to the case as documented by the
2 peace officer. If the court clerk observes that service has not
3 been obtained, the petition shall still be filed by the court clerk
4 and issued to the appropriate office of the county sheriff to obtain
5 service with priority.

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

9 SECTION 4. REPEALER Section 3, Chapter 318, O.S.L. 2022
10 (21 O.S. Supp. 2024, Section 1173.1), is hereby repealed.

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

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

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