

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 2260

By: Kerbs

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Sections 60.3, as amended by Section 5, Chapter 183, O.S.L. 2016, 60.4, as last amended by Section 1, Chapter 173, O.S.L. 2017, 60.5, 60.6 and 60.17 (22 O.S. Supp. 2018, Sections 60.3 and 60.4), which relate to the Protection from Domestic Abuse Act; increasing time limitation that emergency ex parte orders remain in effect; requiring hearings for emergency ex parte orders be heard within certain number of days; requiring emergency temporary orders be served upon defendants; allowing for the facsimile or electronic transmission of return of service documents; prioritizing emergency temporary orders and hearing notices; authorizing electronic transmission of protective order documents to law enforcement; directing court clerks to send certified copies of emergency temporary orders within certain time frame to law enforcement; directing entry of emergency temporary orders into the National Crime Information Center database; expanding scope of certain crime; directing courts to not consider certain order when determining eligibility for relief; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 60.3, as amended by Section 5, Chapter 183, O.S.L. 2016 (22 O.S. Supp. 2018, Section 60.3), is 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. If a plaintiff requests an emergency temporary ex parte
24 order of protection as provided by Section 40.3 of this title, the

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 ~~close of business on the next day the court is open for business~~
9 after court date that was assigned by the court during the approval
10 of the order is issued. Emergency temporary ex parte orders shall
11 be heard within fourteen (14) days after issuance. The court shall
12 provide a list of available court dates for hearings.

13 D. If an action for divorce, separate maintenance,
14 guardianship, adoption or any other proceeding involving custody or
15 visitation has been filed and is pending in a county different than
16 the county in which the emergency ex parte order was issued, the
17 hearing on the petition for a final protective order shall be
18 transferred and held in the same county in which the action for
19 divorce, separate maintenance, guardianship, adoption or any other
20 proceeding involving custody or visitation is pending.

21 SECTION 2. AMENDATORY 22 O.S. 2011, Section 60.4, as
22 last amended by Section 1, Chapter 173, O.S.L. 2017 (22 O.S. Supp.
23 2018, Section 60.4), is amended to read as follows:
24

1 Section 60.4 A. 1. A copy of a petition for a protective
2 order, any notice of hearing and a copy of any emergency temporary
3 order or emergency ex parte order issued by the court shall be
4 served upon the defendant in the same manner as a bench warrant. In
5 addition, if the service is to be in another county, the court clerk
6 may issue service to the sheriff by facsimile or other electronic
7 transmission for service by the sheriff and receive the return of
8 service from the sheriff in the same manner. Any fee for service of
9 a petition for protective order, notice of hearing, and emergency ex
10 parte order shall only be charged pursuant to subsection C of
11 Section 60.2 of this title and, if charged, shall be the same as the
12 sheriff's service fee plus mileage expenses.

13 2. Emergency temporary orders, emergency ex parte orders and
14 notice of hearings shall be given priority for service and can be
15 served twenty-four (24) hours a day when the location of the
16 defendant is known. When service cannot be made upon the defendant
17 by the sheriff, the sheriff may contact another law enforcement
18 officer or a private investigator or private process server to serve
19 the defendant.

20 3. An emergency temporary order, emergency ex parte order, a
21 petition for protective order, and a notice of hearing shall have
22 statewide validity and may be transferred to any law enforcement
23 jurisdiction to effect service upon the defendant. The sheriff may
24 transmit the document by electronic means.

1 4. The return of service shall be submitted to the sheriff's
2 office or court clerk in the court where the petition, notice of
3 hearing or order was issued.

4 5. When the defendant is a minor child who is ordered removed
5 from the residence of the victim, in addition to those documents
6 served upon the defendant, a copy of the petition, notice of hearing
7 and a copy of any temporary order or ex parte order issued by the
8 court shall be delivered with the child to the caretaker of the
9 place where such child is taken pursuant to Section 2-2-101 of Title
10 10A of the Oklahoma Statutes.

11 B. 1. Within fourteen (14) days of the filing of the petition
12 for a protective order, the court shall schedule a full hearing on
13 the petition, if the court finds sufficient grounds within the scope
14 of the Protection from Domestic Abuse Act stated in the petition to
15 hold such a hearing, regardless of whether an emergency temporary
16 order or ex parte order has been previously issued, requested or
17 denied. Provided, however, when the defendant is a minor child who
18 has been removed from the residence pursuant to Section 2-2-101 of
19 Title 10A of the Oklahoma Statutes, the court shall schedule a full
20 hearing on the petition within seventy-two (72) hours, regardless of
21 whether an emergency temporary order or ex parte order has been
22 previously issued, requested or denied.

23 2. The court may schedule a full hearing on the petition for a
24 protective order within seventy-two (72) hours when the court issues

1 an emergency temporary order or ex parte order suspending child
2 visitation rights due to physical violence or threat of abuse.

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

7 4. A petition for a protective order shall, upon the request of
8 the petitioner, renew every fourteen (14) days with a new hearing
9 date assigned until the defendant is served. A petition for a
10 protective order shall not expire unless the petitioner fails to
11 appear at the hearing or fails to request a new order. A petitioner
12 may move to dismiss the petition and emergency or final order at any
13 time; however, a protective order must be dismissed by court order.

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

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

22 C. 1. At the hearing, the court may impose any terms and
23 conditions in the protective order that the court reasonably
24 believes are necessary to bring about the cessation of domestic

1 abuse against the victim or stalking or harassment of the victim or
2 the immediate family of the victim but shall not impose any term and
3 condition that may compromise the safety of the victim including,
4 but not limited to, mediation, couples counseling, family
5 counseling, parenting classes or joint victim-offender counseling
6 sessions. The court may order the defendant to obtain domestic
7 abuse counseling or treatment in a program certified by the Attorney
8 General at the expense of the defendant pursuant to Section 644 of
9 Title 21 of the Oklahoma Statutes.

10 2. If the court grants a protective order and the defendant is
11 a minor child, the court shall order a preliminary inquiry in a
12 juvenile proceeding to determine whether further court action
13 pursuant to the Oklahoma Juvenile Code should be taken against a
14 juvenile defendant.

15 D. Final protective orders authorized by this section shall be
16 on a standard form developed by the Administrative Office of the
17 Courts.

18 E. 1. After notice and hearing, protective orders authorized
19 by this section may require the defendant to undergo treatment or
20 participate in the court-approved counseling services necessary to
21 bring about cessation of domestic abuse against the victim pursuant
22 to Section 644 of Title 21 of the Oklahoma Statutes but shall not
23 order any treatment or counseling that may compromise the safety of
24 the victim including, but not limited to, mediation, couples

1 counseling, family counseling, parenting classes or joint victim-
2 offender counseling sessions.

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

6 3. Should the plaintiff choose to undergo treatment or
7 participate in court-approved counseling services for victims of
8 domestic abuse, the court may order the defendant to pay all or any
9 part of the cost of such treatment or counseling services if the
10 court determines that payment by the defendant is appropriate.

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

17 G. 1. Any protective order issued on or after November 1,
18 2012, pursuant to subsection C of this section shall be:

19 a. for a fixed period not to exceed a period of five (5)
20 years unless extended, modified, vacated or rescinded
21 upon motion by either party or if the court approves
22 any consent agreement entered into by the plaintiff
23 and defendant; provided, if the defendant is
24 incarcerated, the protective order shall remain in

1 full force and effect during the period of
2 incarceration. The period of incarceration, in any
3 jurisdiction, shall not be included in the calculation
4 of the five-year time limitation, or

5 b. continuous upon a specific finding by the court of one
6 of the following:

7 (1) the person has a history of violating the orders
8 of any court or governmental entity,

9 (2) the person has previously been convicted of a
10 violent felony offense,

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

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

17 Further, the court may take into consideration whether the person
18 has a history of domestic violence or a history of other violent
19 acts. The protective order shall remain in effect until modified,
20 vacated or rescinded upon motion by either party or if the court
21 approves any consent agreement entered into by the plaintiff and
22 defendant. If the defendant is incarcerated, the protective order
23 shall remain in full force and effect during the period of
24 incarceration.

1 2. The court shall notify the parties at the time of the
2 issuance of the protective order of the duration of the protective
3 order.

4 3. Upon the filing of a motion by either party to modify,
5 extend, or vacate a protective order, a hearing shall be scheduled
6 and notice given to the parties. At the hearing, the issuing court
7 may take such action as is necessary under the circumstances.

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

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

20 2. The violator shall, upon conviction thereof, be guilty of a
21 misdemeanor punishable by imprisonment in the county jail for a
22 period not exceeding one (1) year or by a fine not to exceed Five
23 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.
24

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

6 I. 1. A protective order issued under the Protection from
7 Domestic Abuse Act shall not in any manner affect title to real
8 property, purport to grant to the parties a divorce or otherwise
9 purport to determine the issues between the parties as to child
10 custody, visitation or visitation schedules, child support or
11 division of property or any other like relief obtainable pursuant to
12 Title 43 of the Oklahoma Statutes, except child visitation orders
13 may be temporarily suspended or modified to protect from threats of
14 abuse or physical violence by the defendant or a threat to violate a
15 custody order. Orders not affecting title may be entered for good
16 cause found to protect an animal owned by either of the parties or
17 any child living in the household.

18 2. When granting any protective order for the protection of a
19 minor child from violence or threats of abuse, the court shall allow
20 visitation only under conditions that provide adequate supervision
21 and protection to the child while maintaining the integrity of a
22 divorce decree or temporary order.

23 J. 1. In order to ensure that a petitioner can maintain an
24 existing wireless telephone number or household utility account, the

1 court, after providing notice and a hearing, may issue an order
2 directing a wireless service provider or public utility provider to
3 transfer the billing responsibility for and rights to the wireless
4 telephone number or numbers of any minor children in the care of the
5 petitioning party or household utility account to the petitioner if
6 the petitioner is not the wireless service or public utility account
7 holder.

8 2. The order transferring billing responsibility for and rights
9 to the wireless telephone number or numbers or household utility
10 account to the petitioner shall list the name and billing telephone
11 number of the account holder, the name and contact information of
12 the person to whom the telephone number or numbers or household
13 utility account will be transferred and each telephone number or
14 household utility to be transferred to that person. The court shall
15 ensure that the contact information of the petitioner is not
16 provided to the account holder in proceedings held under this
17 subsection.

18 3. Upon issuance, a copy of the final order of protection shall
19 be transmitted, either electronically or by certified mail, to the
20 registered agent of the wireless service provider or public utility
21 provider listed with the Secretary of State or Corporation
22 Commission of Oklahoma or electronically to the email address
23 provided by the wireless service provider or public utility
24

1 provider. Such transmittal shall constitute adequate notice for the
2 wireless service provider or public utility provider.

3 4. If the wireless service provider or public utility provider
4 cannot operationally or technically effectuate the order due to
5 certain circumstances, the wireless service provider or public
6 utility provider shall notify the petitioner. Such circumstances
7 shall include, but not be limited to, the following:

- 8 a. the account holder has already terminated the account,
- 9 b. the differences in network technology prevent the
10 functionality of a mobile device on the network, or
- 11 c. there are geographic or other limitations on network
12 or service availability.

13 5. Upon transfer of billing responsibility for and rights to a
14 wireless telephone number or numbers or household utility account to
15 the petitioner under the provisions of this subsection by a wireless
16 service provider or public utility provider, the petitioner shall
17 assume all financial responsibility for the transferred wireless
18 telephone number or numbers or household utility account, monthly
19 service and utility billing costs and costs for any mobile device
20 associated with the wireless telephone number or numbers. The
21 wireless service provider or public utility provider shall have the
22 right to pursue the original account holder for purposes of
23 collecting any past due amounts owed to the wireless service
24 provider or public utility provider.

1 6. The provisions of this subsection shall not preclude a
2 wireless service provider or public utility provider from applying
3 any routine and customary requirements for account establishment to
4 the petitioner as part of this transfer of billing responsibility
5 for a household utility account or for a wireless telephone number
6 or numbers and any mobile devices attached to that number including,
7 but not limited to, identification, financial information and
8 customer preferences.

9 7. The provisions of this subsection shall not affect the
10 ability of the court to apportion the assets and debts of the
11 parties as provided for in law or the ability to determine the
12 temporary use, possession and control of personal property.

13 8. No cause of action shall lie against any wireless service
14 provider or public utility provider, its officers, employees or
15 agents for actions taken in accordance with the terms of a court
16 order issued under the provisions of this subsection.

17 9. As used in this subsection:

18 a. "wireless service provider" means a provider of
19 commercial mobile service under Section 332(d) of the
20 federal Telecommunications Act of 1996,

21 b. "public utility provider" means every corporation
22 organized or doing business in this state that owns,
23 operates or manages any plant or equipment for the
24 manufacture, production, transmission, transportation,

1 delivery or furnishing of water, heat or light with
2 gas or electric current for heat, light or power, for
3 public use in this state, and

4 c. "household utility account" shall include utility
5 services for water, heat, light, power or gas that are
6 provided by a public utility provider.

7 K. 1. A court shall not issue any mutual protective orders.

8 2. If both parties allege domestic abuse by the other party,
9 the parties shall do so by separate petitions. The court shall
10 review each petition separately in an individual or a consolidated
11 hearing and grant or deny each petition on its individual merits.
12 If the court finds cause to grant both motions, the court shall do
13 so by separate orders and with specific findings justifying the
14 issuance of each order.

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

16 a. the court makes specific findings that:

17 (1) sufficient evidence exists of domestic abuse,
18 stalking, harassment or rape against each party,
19 and

20 (2) each party acted primarily as aggressors,

21 b. the defendant filed a petition with the court for a
22 protective order no less than three (3) days, not
23 including weekends or holidays, prior to the first
24

1 scheduled full hearing on the petition filed by the
2 plaintiff, and

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

6 L. The court may allow a plaintiff or victim to be accompanied
7 by a victim support person at court proceedings. A victim support
8 person shall not make legal arguments; however, a victim support
9 person who is not a licensed attorney may offer the plaintiff or
10 victim comfort or support and may remain in close proximity to the
11 plaintiff or victim.

12 SECTION 3. AMENDATORY 22 O.S. 2011, Section 60.5, is
13 amended to read as follows:

14 Section 60.5 A. Within twenty-four (24) hours of the return of
15 service of any emergency temporary, ex parte or final protective
16 order, the clerk of the issuing court shall send certified copies
17 thereof to all appropriate law enforcement agencies designated by
18 the plaintiff. A certified copy of any extension, modification,
19 vacation, cancellation or consent agreement concerning a final
20 protective order shall be sent within twenty-four (24) hours by the
21 clerk of the issuing court to those law enforcement agencies
22 receiving the original orders pursuant to this section and to any
23 law enforcement agencies designated by the court.

1 B. Any law enforcement agency receiving copies of the documents
2 listed in subsection A of this section shall be required to ensure
3 that other law enforcement agencies have access twenty-four (24)
4 hours a day to the information contained in the documents which may
5 include entry of information about the emergency temporary, ex parte
6 or final protective order in the National Crime Information Center
7 database.

8 SECTION 4. AMENDATORY 22 O.S. 2011, Section 60.6, is
9 amended to read as follows:

10 Section 60.6 A. Except as otherwise provided by this section,
11 any person who:

12 1. Has been served with an emergency temporary, ex parte or
13 final protective order or foreign protective order and is in
14 violation of such protective order, upon conviction, shall be guilty
15 of a misdemeanor and shall be punished by a fine of not more than
16 One Thousand Dollars (\$1,000.00) or by a term of imprisonment in the
17 county jail of not more than one (1) year, or by both such fine and
18 imprisonment; and

19 2. After a previous conviction of a violation of a protective
20 order, is convicted of a second or subsequent offense pursuant to
21 the provisions of this section shall, upon conviction, be guilty of
22 a felony and shall be punished by a term of imprisonment in the
23 custody of the Department of Corrections for not less than one (1)
24 year nor more than three (3) years, or by a fine of not less than

1 Two Thousand Dollars (\$2,000.00) nor more than Ten Thousand Dollars
2 (\$10,000.00), or by both such fine and imprisonment.

3 B. 1. Any person who has been served with an emergency
4 temporary, ex parte or final protective order or foreign protective
5 order who violates the protective order and causes physical injury
6 or physical impairment to the plaintiff or to any other person named
7 in said protective order shall, upon conviction, be guilty of a
8 misdemeanor and shall be punished by a term of imprisonment in the
9 county jail for not less than twenty (20) days nor more than one (1)
10 year. In addition to the term of imprisonment, the person may be
11 punished by a fine not to exceed Five Thousand Dollars (\$5,000.00).

12 2. Any person who is convicted of a second or subsequent
13 violation of a protective order which causes physical injury or
14 physical impairment to a plaintiff or to any other person named in
15 the protective order shall be guilty of a felony and shall be
16 punished by a term of imprisonment in the custody of the Department
17 of Corrections of not less than one (1) year nor more than five (5)
18 years, or by a fine of not less than Three Thousand Dollars
19 (\$3,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by
20 both such fine and imprisonment.

21 3. In determining the term of imprisonment required by this
22 section, the jury or sentencing judge shall consider the degree of
23 physical injury or physical impairment to the victim.

1 4. The provisions of this subsection shall not affect the
2 applicability of Sections 644, 645, 647 and 652 of Title 21 of the
3 Oklahoma Statutes.

4 C. The minimum sentence of imprisonment issued pursuant to the
5 provisions of paragraph 2 of subsection A and paragraph ~~1~~ 2 of
6 subsection B of this section shall not be subject to statutory
7 provisions for suspended sentences, deferred sentences or probation,
8 provided the court may subject any remaining penalty under the
9 jurisdiction of the court to the statutory provisions for suspended
10 sentences, deferred sentences or probation.

11 D. In addition to any other penalty specified by this section,
12 the court shall require a defendant to undergo the treatment or
13 participate in the counseling services necessary to bring about the
14 cessation of domestic abuse against the victim or to bring about the
15 cessation of stalking or harassment of the victim. For every
16 conviction of violation of a protective order:

17 1. The court shall specifically order as a condition of a
18 suspended sentence or probation that a defendant participate in
19 counseling or undergo treatment to bring about the cessation of
20 domestic abuse as specified in paragraph 2 of this subsection;

21 2. a. The court shall require the defendant to participate
22 in counseling or undergo treatment for domestic abuse
23 by an individual licensed practitioner or a domestic
24 abuse treatment program certified by the Attorney

1 General. If the defendant is ordered to participate
2 in a domestic abuse counseling or treatment program,
3 the order shall require the defendant to attend the
4 program for a minimum of fifty-two (52) weeks,
5 complete the program, and be evaluated before and
6 after attendance of the program by a program counselor
7 or a private counselor.

8 b. A program for anger management, couples counseling, or
9 family and marital counseling shall not solely qualify
10 for the counseling or treatment requirement for
11 domestic abuse pursuant to this subsection. The
12 counseling may be ordered in addition to counseling
13 specifically for the treatment of domestic abuse or
14 per evaluation as set forth below. If, after
15 sufficient evaluation and attendance at required
16 counseling sessions, the domestic violence treatment
17 program or licensed professional determines that the
18 defendant does not evaluate as a perpetrator of
19 domestic violence or does evaluate as a perpetrator of
20 domestic violence and should complete other programs
21 of treatment simultaneously or prior to domestic
22 violence treatment, including but not limited to
23 programs related to the mental health, apparent
24 substance or alcohol abuse or inability or refusal to

1 manage anger, the defendant shall be ordered to
2 complete the counseling as per the recommendations of
3 the domestic violence treatment program or licensed
4 professional;

5 3. a. The court shall set a review hearing no more than one
6 hundred twenty (120) days after the defendant is
7 ordered to participate in a domestic abuse counseling
8 program or undergo treatment for domestic abuse to
9 assure the attendance and compliance of the defendant
10 with the provisions of this subsection and the
11 domestic abuse counseling or treatment requirements.

12 b. The court shall set a second review hearing after the
13 completion of the counseling or treatment to assure
14 the attendance and compliance of the defendant with
15 the provisions of this subsection and the domestic
16 abuse counseling or treatment requirements. The court
17 may suspend sentencing of the defendant until the
18 defendant has presented proof to the court of
19 enrollment in a program of treatment for domestic
20 abuse by an individual licensed practitioner or a
21 domestic abuse treatment program certified by the
22 Attorney General and attendance at weekly sessions of
23 such program. Such proof shall be presented to the
24 court by the defendant no later than one hundred

1 twenty (120) days after the defendant is ordered to
2 such counseling or treatment. At such time, the court
3 may complete sentencing, beginning the period of the
4 sentence from the date that proof of enrollment is
5 presented to the court, and schedule reviews as
6 required by subparagraphs a and b of this paragraph
7 and paragraphs 4 and 5 of this subsection. The court
8 shall retain continuing jurisdiction over the
9 defendant during the course of ordered counseling
10 through the final review hearing;

11 4. The court may set subsequent or other review hearings as the
12 court determines necessary to assure the defendant attends and fully
13 complies with the provisions of this subsection and the domestic
14 abuse counseling or treatment requirements;

15 5. At any review hearing, if the defendant is not
16 satisfactorily attending individual counseling or a domestic abuse
17 counseling or treatment program or is not in compliance with any
18 domestic abuse counseling or treatment requirements, the court may
19 order the defendant to further or continue counseling, treatment, or
20 other necessary services. The court may revoke all or any part of a
21 suspended sentence, deferred sentence, or probation pursuant to
22 Section 991b of this title and subject the defendant to any or all
23 remaining portions of the original sentence;

1 6. At the first review hearing, the court shall require the
2 defendant to appear in court. Thereafter, for any subsequent review
3 hearings, the court may accept a report on the progress of the
4 defendant from individual counseling, domestic abuse counseling, or
5 the treatment program. There shall be no requirement for the victim
6 to attend review hearings; and

7 7. If funding is available, a referee may be appointed and
8 assigned by the presiding judge of the district court to hear
9 designated cases set for review under this subsection. Reasonable
10 compensation for the referees shall be fixed by the presiding judge.
11 The referee shall meet the requirements and perform all duties in
12 the same manner and procedure as set forth in Sections 1-8-103 and
13 2-2-702 of Title 10A of the Oklahoma Statutes pertaining to referees
14 appointed in juvenile proceedings.

15 E. ~~E*~~ Emergency temporary, ex parte and final protective orders
16 shall include notice of these penalties.

17 F. When a minor child violates the provisions of any protective
18 order, the violation shall be heard in a juvenile proceeding and the
19 court may order the child and the parent or parents of the child to
20 participate in family counseling services necessary to bring about
21 the cessation of domestic abuse against the victim and may order
22 community service hours to be performed in lieu of any fine or
23 imprisonment authorized by this section.

1 G. Any district court of this state and any judge thereof shall
2 be immune from any liability or prosecution for issuing an order
3 that requires a defendant to:

4 1. Attend a treatment program for domestic abusers certified by
5 the Attorney General;

6 2. Attend counseling or treatment services ordered as part of
7 any final protective order or for any violation of a protective
8 order; and

9 3. Attend, complete, and be evaluated before and after
10 attendance by a treatment program for domestic abusers certified by
11 the Attorney General.

12 H. At no time, under any proceeding, may a person protected by
13 a protective order be held to be in violation of that protective
14 order. Only a defendant against whom a protective order has been
15 issued may be held to have violated the order.

16 I. In addition to any other penalty specified by this section,
17 the court may order a defendant to use an active, real-time, twenty-
18 four-hour Global Positioning System (GPS) monitoring device as a
19 condition of a sentence. The court may further order the defendant
20 to pay costs and expenses related to the GPS device and monitoring.

21 SECTION 5. AMENDATORY 22 O.S. 2011, Section 60.17, is
22 amended to read as follows:

23 Section 60.17 The court shall consider the safety of any and
24 all alleged victims of domestic violence, stalking, harassment,

1 sexual assault, or forcible sodomy where the defendant is alleged to
2 have violated a protective order, committed domestic assault and
3 battery, stalked, sexually assaulted, or forcibly sodomized the
4 alleged victim or victims prior to the release of the alleged
5 defendant from custody on bond. The court, after consideration and
6 to ensure the safety of the alleged victim or victims, may issue an
7 emergency protective order pursuant to the Protection from Domestic
8 Abuse Act. The court may also issue to the alleged victim or
9 victims, an order restraining the alleged defendant from any
10 activity or action from which they may be restrained under the
11 Protection from Domestic Abuse Act. The court shall not consider a
12 "no contact order as condition of bond" as a factor when determining
13 whether the petitioner is eligible for relief. The protective order
14 shall remain in effect until either a plea has been accepted,
15 sentencing has occurred in the case, the case has been dismissed, or
16 until further order of the court dismissing the protective order.
17 In conjunction with any protective order or restraining order
18 authorized by this section, the court may order the defendant to use
19 an active, real-time, twenty-four-hour Global Positioning System
20 (GPS) monitoring device for such term as the court deems
21 appropriate. Upon application of the victim, the court may
22 authorize the victim to monitor the location of the defendant. Such
23 monitoring by the victim shall be limited to the ability of the
24 victim to make computer or cellular inquiries to determine if the

1 defendant is within a specified distance of locations, excluding the
2 residence or workplace of the defendant, or to receive a computer-
3 or a cellular-generated signal if the defendant comes within a
4 specified distance of the victim. The court shall conduct an annual
5 review of the monitoring order to determine if such order to monitor
6 the location of the defendant is still necessary. Before the court
7 orders the use of a GPS device, the court shall find that the
8 defendant has a history that demonstrates an intent to commit
9 violence against the victim, including, but not limited to, prior
10 conviction for an offense under the Protection from Domestic Abuse
11 Act or any other violent offense, or any other evidence that shows
12 by a preponderance of the evidence that the defendant is likely to
13 commit violence against the victim. The court may further order the
14 defendant to pay costs and expenses related to the GPS device and
15 monitoring.

16 SECTION 6. This act shall become effective November 1, 2019.

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