

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 3588

By: Strom

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5  
6 AS INTRODUCED

7 An Act relating to protective orders; amending 22  
8 O.S. 2021, Section 60.4, as amended by Section 7,  
9 Chapter 318, O.S.L. 2022 (22 O.S. Supp. 2023, Section  
10 60.4), which relates to service; permitting service  
11 by publication if certain conditions are met;  
12 directing that service by publication shall not be  
13 made without court approval; directing that service  
14 by publication be made for certain time period;  
15 providing information summons must include; providing  
16 form; directing that new hearing date be scheduled  
17 after service by publication; authorizing court to  
18 accept alternative forms of service if certain  
19 conditions are met; and providing an effective date.

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

21 SECTION 1. AMENDATORY 22 O.S. 2021, Section 60.4, as  
22 amended by Section 7, Chapter 318, O.S.L. 2022 (22 O.S. Supp. 2023,  
23 Section 60.4), is amended to read as follows:

24 Section 60.4 A. 1. A copy of a petition for a protective  
order, any notice of hearing and a copy of any emergency temporary  
order or emergency ex parte order issued by the court shall be  
served upon the defendant in the same manner as a bench warrant. In  
addition, if the service is to be in another county, the court clerk

1 may issue service to the sheriff by facsimile or other electronic  
2 transmission for service by the sheriff and receive the return of  
3 service from the sheriff in the same manner. Any fee for service of  
4 a petition for protective order, notice of hearing, and emergency ex  
5 parte order shall only be charged pursuant to subsection C of  
6 Section 60.2 of this title and, if charged, shall be the same as the  
7 sheriff's service fee plus mileage expenses.

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

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

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

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

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

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

22 3. If service has not been made on the defendant at the time of  
23 the hearing, the court shall, at the request of the petitioner,  
24 issue a new emergency order reflecting a new hearing date and direct  
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1 service to issue. If after two attempts service has not been made,  
2 service by publication is permitted. Service by publication is only  
3 permitted in those cases where all other means of service have been  
4 unsuccessful or are not possible due to lack of any known physical  
5 or electronic address of the respondent. Publication must be made  
6 in a newspaper of general circulation in the county where the  
7 petition was brought and in the county of the last-known address of  
8 the respondent once a week for three consecutive weeks. The  
9 newspaper selected must be one of the three most widely circulated  
10 papers in the county. The publication of summons must not be made  
11 until the court orders service by publication pursuant to this  
12 section. Service of the summons is considered complete on the date  
13 of the third publication when publication has been made for three  
14 consecutive weeks. The summons must be signed by the petitioner.  
15 The summons must contain the date of the first publication and shall  
16 require the respondent upon whom service by publication is desired  
17 to appear and answer the petition on the date set for the hearing.  
18 The summons must also contain a brief statement of the reason for  
19 the petition and a summary of the provisions under the temporary  
20 protection order. The summons must be essentially in the following  
21 form:

22 SUMMONS

23 IN THE DISTRICT COURT OF COUNTY,  
24 STATE OF OKLAHOMA  
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1 Petitioner )  
2 v. ) No.  
3 Respondent )

4 Summons

5 The State of Oklahoma to the above-named Respondent:

6 You are hereby summoned to appear on the \_\_\_\_\_ day of the month of  
7 \_\_\_\_\_ of the year \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. and to respond to the  
8 petition. If you fail to respond, a protection order will be issued  
9 against you, pursuant to Section 60.4 of Title 22 of the Oklahoma  
10 Statutes for a minimum of one (1) year from the date you are  
11 required to appear. A temporary protection order with the following  
12 provisions has been issued against you:

13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_

16 A copy of the petition, notice of hearing, and temporary protection  
17 order has been filed with the clerk of this court.

18 4. A petition for a protective order shall, upon the request of  
19 the petitioner, renew every fourteen (14) days with a new hearing  
20 date assigned until the defendant is served. A petition for a  
21 protective order shall not expire unless the petitioner fails to  
22 appear at the hearing or fails to request a new order. A petitioner  
23 may move to dismiss the petition and emergency or final order at any  
24 time; however, a protective order must be dismissed by court order.

1 If a petitioner begins the process of service by publication, a new  
2 hearing date will be scheduled after service by publication has been  
3 perfected.

4 5. If traditional methods of service have failed, the court is  
5 authorized to accept alternative forms of service at the court's  
6 discretion, provided the petitioner can show by clear and convincing  
7 evidence that the respondent has been notified of the proceedings  
8 and has been given the opportunity to appear.

9 6. Failure to serve the defendant shall not be grounds for  
10 dismissal of a petition or an ex parte order unless the victim  
11 requests dismissal or fails to appear for the hearing thereon.

12 ~~6.~~ 7. A final protective order shall be granted or denied  
13 within six (6) months of service on the defendant unless all parties  
14 agree that a temporary protective order remain in effect; provided,  
15 a victim shall have the right to request a final protective order  
16 hearing at any time after the passage of six (6) months.

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

5 2. If the court grants a protective order and the defendant is  
6 a minor child, the court shall order a preliminary inquiry in a  
7 juvenile proceeding to determine whether further court action  
8 pursuant to the Oklahoma Juvenile Code should be taken against a  
9 juvenile defendant.

10 D. Final protective orders authorized by this section shall be  
11 on a standard form developed by the Administrative Office of the  
12 Courts.

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

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

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

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

12           G. 1. Any protective order issued on or after November 1,  
13 2012, pursuant to subsection C of this section shall be:

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



1           b.    continuous upon a specific finding by the court of one  
2                   of the following:

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

5                   (2)   the person has previously been convicted of a  
6                           violent felony offense,

7                   (3)   the person has a previous felony conviction for  
8                           stalking as provided in Section 1173 of Title 21  
9                           of the Oklahoma Statutes,

10                  (4)   a court order for a final Victim Protection Order  
11                           has previously been issued against the person in  
12                           this state or another state, or

13                  (5)   the victim provides proof that a continuous  
14                           protective order is necessary for his or her  
15                           protection.

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

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  
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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,  
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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 2. This act shall become effective November 1, 2024.

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14 59-2-8963 CMA 01/05/24  
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