ENGROSSED HOUSE
BILL NO. 2260 By: Kerbs of the House

and

Weaver of the Senate

An Act relating to criminal procedure; amending 22 O.S. 2011, Sections 60.2, as amended by Section 1, Chapter 198, O.S.L. 2013, 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 60.2, 60.3 and 60.4), which relate to the Protection from Domestic Abuse Act; authorizing victims of certain crimes to petition for emergency temporary and emergency ex parte orders; directing the Administrative Office of the Courts to modify petition forms; 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 agencies; directing court clerks to send certified copies of emergency temporary orders within certain time frame to law enforcement agencies; 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 60.2, as amended by Section 1, Chapter 198, O.S.L. 2013 (22 O.S. Supp. 2018, Section 60.2), is amended to read as follows:

Section 60.2 A. A victim of domestic abuse, a victim of stalking, a victim of harassment, a victim of rape, any adult or emancipated minor household member on behalf of any other family or household member who is a minor or incompetent, or any minor age sixteen (16) or seventeen (17) years may seek relief under the provisions of the Protection from Domestic Abuse Act.

1. The person seeking relief may file a petition for a protective order with the district court in the county in which the victim resides, the county in which the defendant resides, or the county in which the domestic violence occurred. If the person seeking relief is a victim of stalking but is not a family or household member or an individual who is or has been in a dating relationship with the defendant, the person seeking relief must file a complaint against the defendant with the proper law enforcement agency before filing a petition for a protective order with the district court. The person seeking relief shall provide a copy of the complaint that was filed with the law enforcement agency at the full hearing if the complaint is not available from the law enforcement agency. Failure to provide a copy of the complaint filed with the law enforcement agency shall constitute a frivolous filing and the court may assess attorney fees and court costs

against the plaintiff pursuant to paragraph 2 of subsection C of this section. The filing of a petition for a protective order shall not require jurisdiction or venue of the criminal offense if either the plaintiff or defendant resides in the county. If a petition has been filed in an action for divorce or separate maintenance and either party to the action files a petition for a protective order in the same county where the action for divorce or separate maintenance is filed, the petition for the protective order may be heard by the court hearing the divorce or separate maintenance action if:

a. there is no established protective order docket in such court, or

b. the court finds that, in the interest of judicial economy, both actions may be heard together; provided, however, the petition for a protective order, including, but not limited to, a petition in which children are named as petitioners, shall remain a separate action and a separate order shall be entered in the protective order action. Protective orders may be dismissed in favor of restraining orders in the divorce or separate maintenance action if the court specifically finds, upon hearing, that such dismissal is in the best interests of the parties and does not compromise the safety of any petitioner.

If the defendant is a minor child, the petition shall be filed with the court having jurisdiction over juvenile matters.

2. When the abuse occurs when the court is not open for business, such person may request an emergency temporary order of protection as authorized by Section 40.3 of this title.

B. The petition forms shall be provided by the clerk of the court. The Administrative Office of the Courts shall develop a standard form for the petition.

C. 1. Except as otherwise provided by this section, no filing fee, service of process fee, attorney fees or any other fee or costs shall be charged the plaintiff or victim at any time for filing a petition for a protective order whether a protective order is granted or not granted. The court may assess court costs, service of process fees, attorney fees, other fees and filing fees against the defendant at the hearing on the petition, if a protective order is granted against the defendant; provided, the court shall have authority to waive the costs and fees if the court finds that the party does not have the ability to pay the costs and fees.

2. If the court makes specific findings that a petition for a protective order has been filed frivolously and no victim exists, the court may assess attorney fees and court costs against the plaintiff.

D. The person seeking relief shall prepare the petition or, at the request of the plaintiff, the court clerk or the victim-witness coordinator, victim support person, and court case manager shall prepare or assist the plaintiff in preparing the petition.

E. The person seeking a protective order may further request the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner, defendant or minor child residing in the residence of the petitioner or defendant. The court may order the defendant to make no contact with the animal and forbid the defendant from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

F. A court may not require the victim to seek legal sanctions against the defendant including, but not limited to, divorce, separation, paternity or criminal proceedings prior to hearing a petition for protective order.

G. A victim of rape, forcible sodomy, a sex offense, kidnapping, assault and battery with a deadly weapon or member of the immediate family of a victim of first-degree murder, as such terms are defined in Section 40 of this title, may petition for an emergency temporary order or emergency ex parte order regardless of any relationship or scenario pursuant to the provisions of this section. The Administrative Office of the Courts shall modify the

petition forms as necessary to effectuate the provisions of this subsection.

SECTION 2. 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:

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

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

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

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

divorce, separate maintenance, guardianship, adoption or any other proceeding involving custody or visitation is pending.

SECTION 3. AMENDATORY 22 O.S. 2011, Section 60.4, as last amended by Section 1, Chapter 173, O.S.L. 2017 (22 O.S. Supp. 2018, Section 60.4), is amended to read as follows:

Section 60.4 A. 1. A copy of a petition for a protective order, <u>any</u> notice of hearing and a copy of any <u>emergency temporary order or</u> 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 may issue service to the sheriff by facsimile or other electronic transmission for service by the sheriff <u>and receive the return of service from the sheriff in the same manner</u>. 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, if charged, shall be the same as the sheriff's service fee plus mileage expenses.

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

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

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

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

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

hearing on the petition within seventy-two (72) hours, regardless of whether an emergency temporary order or ex parte order has been previously issued, requested or denied.

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

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

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

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

6. A final protective order shall be granted or denied within six (6) months of service on the defendant unless all parties agree that a temporary protective order remain in effect; provided, a

victim shall have the right to request a final protective order hearing at any time after the passage of six (6) months.

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

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

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

E. 1. After notice and hearing, protective orders authorized by this section may require the defendant to undergo treatment or

participate in the court-approved counseling services necessary to bring about cessation of domestic abuse against the victim pursuant to Section 644 of Title 21 of the Oklahoma Statutes but shall not order any treatment or counseling that may compromise the safety of the victim including, but not limited to, mediation, couples counseling, family counseling, parenting classes or joint victim-offender counseling sessions.

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

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

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

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

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

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

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

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

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

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

Further, the court may take into consideration whether the person has a history of domestic violence or a history of other violent

acts. The protective order shall remain in effect until modified, vacated or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant. If the defendant is incarcerated, the protective order shall remain in full force and effect during the period of incarceration.

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

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

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

H. 1. It shall be unlawful for any person to knowingly and willfully seek a protective order against a spouse or ex-spouse pursuant to the Protection from Domestic Abuse Act for purposes of harassment, undue advantage, intimidation, or limitation of child

visitation rights in any divorce proceeding or separation action without justifiable cause.

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

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

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

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

J. 1. In order to ensure that a petitioner can maintain an existing wireless telephone number or household utility account, the court, after providing notice and a hearing, may issue an order directing a wireless service provider or public utility provider to transfer the billing responsibility for and rights to the wireless telephone number or numbers of any minor children in the care of the petitioning party or household utility account to the petitioner if the petitioner is not the wireless service or public utility account holder.

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

3. Upon issuance, a copy of the final order of protection shall be transmitted, either electronically or by certified mail, to the registered agent of the wireless service provider or public utility provider listed with the Secretary of State or Corporation Commission of Oklahoma or electronically to the email address provided by the wireless service provider or public utility provider. Such transmittal shall constitute adequate notice for the wireless service provider or public utility provider.

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

a. the account holder has already terminated the account,

b. the differences in network technology prevent the functionality of a mobile device on the network, or

c. there are geographic or other limitations on network or service availability.

5. Upon transfer of billing responsibility for and rights to a wireless telephone number or numbers or household utility account to the petitioner under the provisions of this subsection by a wireless service provider or public utility provider, the petitioner shall assume all financial responsibility for the transferred wireless telephone number or numbers or household utility account, monthly

service and utility billing costs and costs for any mobile device associated with the wireless telephone number or numbers. The wireless service provider or public utility provider shall have the right to pursue the original account holder for purposes of collecting any past due amounts owed to the wireless service provider or public utility provider.

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

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

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

9. As used in this subsection:

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

b. "public utility provider" means every corporation organized or doing business in this state that owns, operates or manages any plant or equipment for the manufacture, production, transmission, transportation, delivery or furnishing of water, heat or light with gas or electric current for heat, light or power, for public use in this state, and

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

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

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

3. The court may only consolidate a hearing if:

a. the court makes specific findings that:

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

(2) each party acted primarily as aggressors,

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

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

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

SECTION 4. AMENDATORY 22 O.S. 2011, Section 60.5, is amended to read as follows:

Section 60.5 A. Within twenty-four (24) hours of the return of service of any <u>emergency temporary,</u> ex parte or final protective order, the clerk of the issuing court shall send certified copies thereof to all appropriate law enforcement agencies designated by

the plaintiff. A certified copy of any extension, modification, vacation, cancellation or consent agreement concerning a final protective order shall be sent within twenty-four (24) hours by the clerk of the issuing court to those law enforcement agencies receiving the original orders pursuant to this section and to any law enforcement agencies designated by the court.

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

SECTION 5. AMENDATORY 22 O.S. 2011, Section 60.6, is amended to read as follows:

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

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

2. After a previous conviction of a violation of a protective order, is convicted of a second or subsequent offense pursuant to the provisions of this section shall, upon conviction, be guilty of a felony and shall be punished by a term of imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than three (3) years, or by a fine of not less than Two Thousand Dollars ($2,000.00) nor more than Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment.

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

2. Any person who is convicted of a second or subsequent violation of a protective order which causes physical injury or physical impairment to a plaintiff or to any other person named in the protective order shall be guilty of a felony and shall be punished by a term of imprisonment in the custody of the Department of Corrections of not less than one (1) year nor more than five (5) years, or by a fine of not less than Three Thousand Dollars

($3,000.00) nor more than Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment.

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

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

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

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

1. The court shall specifically order as a condition of a suspended sentence or probation that a defendant participate in

counseling or undergo treatment to bring about the cessation of domestic abuse as specified in paragraph 2 of this subsection;

2. a. The court shall require the defendant to participate in counseling or undergo treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program certified by the Attorney General. If the defendant is ordered to participate in a domestic abuse counseling or treatment program, the order shall require the defendant to attend the program for a minimum of fifty-two (52) weeks, complete the program, and be evaluated before and after attendance of the program by a program counselor or a private counselor.

b. A program for anger management, couples counseling, or family and marital counseling shall not solely qualify for the counseling or treatment requirement for domestic abuse pursuant to this subsection. The counseling may be ordered in addition to counseling specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of

domestic violence or does evaluate as a perpetrator of domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

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

b. The court shall set a second review hearing after the completion of the counseling or treatment to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court may suspend sentencing of the defendant until the defendant has presented proof to the court of

enrollment in a program of treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program certified by the Attorney General and attendance at weekly sessions of such program. Such proof shall be presented to the court by the defendant no later than one hundred twenty (120) days after the defendant is ordered to such counseling or treatment. At such time, the court may complete sentencing, beginning the period of the sentence from the date that proof of enrollment is presented to the court, and schedule reviews as required by subparagraphs a and b of this paragraph and paragraphs 4 and 5 of this subsection. The court shall retain continuing jurisdiction over the defendant during the course of ordered counseling through the final review hearing;

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

5. At any review hearing, if the defendant is not satisfactorily attending individual counseling or a domestic abuse counseling or treatment program or is not in compliance with any domestic abuse counseling or treatment requirements, the court may

order the defendant to further or continue counseling, treatment, or other necessary services. The court may revoke all or any part of a suspended sentence, deferred sentence, or probation pursuant to Section 991b of this title and subject the defendant to any or all remaining portions of the original sentence;

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

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

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

F. When a minor child violates the provisions of any protective order, the violation shall be heard in a juvenile proceeding and the court may order the child and the parent or parents of the child to

participate in family counseling services necessary to bring about the cessation of domestic abuse against the victim and may order community service hours to be performed in lieu of any fine or imprisonment authorized by this section.

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

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

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

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

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

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

SECTION 6. AMENDATORY 22 O.S. 2011, Section 60.17, is amended to read as follows:

Section 60.17 The court shall consider the safety of any and all alleged victims of domestic violence, stalking, harassment, sexual assault, or forcible sodomy where the defendant is alleged to have violated a protective order, committed domestic assault and battery, stalked, sexually assaulted, or forcibly sodomized the alleged victim or victims prior to the release of the alleged defendant from custody on bond. The court, after consideration and to ensure the safety of the alleged victim or victims, may issue an emergency protective order pursuant to the Protection from Domestic Abuse Act. The court may also issue to the alleged victim or victims~~,~~ an order restraining the alleged defendant from any activity or action from which they may be restrained under the Protection from Domestic Abuse Act. The court shall not consider a "no contact order as condition of bond" as a factor when determining whether the petitioner is eligible for relief. The protective order shall remain in effect until either a plea has been accepted, sentencing has occurred in the case, the case has been dismissed, or until further order of the court dismissing the protective order. In conjunction with any protective order or restraining order authorized by this section, the court may order the defendant to use an active, real-time, twenty-four-hour Global Positioning System (GPS) monitoring device for such term as the court deems

appropriate. Upon application of the victim, the court may authorize the victim to monitor the location of the defendant. Such monitoring by the victim shall be limited to the ability of the victim to make computer or cellular inquiries to determine if the defendant is within a specified distance of locations, excluding the residence or workplace of the defendant, or to receive a computer- or a cellular-generated signal if the defendant comes within a specified distance of the victim. The court shall conduct an annual review of the monitoring order to determine if such order to monitor the location of the defendant is still necessary. Before the court orders the use of a GPS device, the court shall find that the defendant has a history that demonstrates an intent to commit violence against the victim, including, but not limited to, prior conviction for an offense under the Protection from Domestic Abuse Act or any other violent offense, or any other evidence that shows by a preponderance of the evidence that the defendant is likely to commit violence against the victim. The court may further order the defendant to pay costs and expenses related to the GPS device and monitoring.

SECTION 7. This act shall become effective November 1, 2019.

Passed the House of Representatives the 13th day of March, 2019.

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Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2019.

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Presiding Officer of the Senate