

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3869

By: Brewer

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5
6 AS INTRODUCED

7 An Act relating to domestic violence; amending 21
8 O.S. 2011, Section 1272, as last amended by Section
9 1, Chapter 1, O.S.L. 2019 (21 O.S. Supp. 2019,
10 Section 1272), which relates to the unlawful carry of
11 firearms; prohibiting certain persons from carrying
12 firearms; amending 21 O.S. 2011, Section 1283, as
13 last amended by Section 3, Chapter 1, O.S.L. 2019 (21
14 O.S. Supp. 2019, Section 1283), which relates to the
15 carrying of firearms by convicted felons and
16 delinquents; making certain acts unlawful; providing
17 penalty; amending 22 O.S. 2011, Sections 60.4, as
18 last amended by Section 3, Chapter 113, O.S.L. 2019
19 and 60.8 (22 O.S. Supp. 2019, Section 60.4), which
20 relates to the Protection from Domestic Abuse Act;
21 providing for the relinquishment of firearms under
22 certain circumstances; prohibiting the purchase,
23 receipt or possession of firearms by order of the
24 court; directing certain persons to relinquish
firearms to law enforcement agencies or law
enforcement officers; establishing procedures for
relinquishing firearms; providing for the return of
firearms; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1272, as
last amended by Section 1, Chapter 1, O.S.L. 2019 (21 O.S. Supp.
2019, Section 1272), is amended to read as follows:

Section 1272.

1 UNLAWFUL CARRY

2 A. Notwithstanding any other provision of law, it shall be
3 unlawful for any person to carry upon or about his or her person, or
4 in a purse or other container belonging to the person, any pistol,
5 revolver, shotgun or rifle whether loaded or unloaded or any
6 blackjack, loaded cane, hand chain, metal knuckles, or any other
7 offensive weapon, whether such weapon be concealed or unconcealed,
8 except this section shall not prohibit:

9 1. The proper use of guns and knives for self-defense, hunting,
10 fishing, educational or recreational purposes;

11 2. The carrying or use of weapons in a manner otherwise
12 permitted by statute or authorized by the Oklahoma Self-Defense Act;

13 3. The carrying, possession and use of any weapon by a peace
14 officer or other person authorized by law to carry a weapon in the
15 performance of official duties and in compliance with the rules of
16 the employing agency;

17 4. The carrying or use of weapons in a courthouse by a district
18 judge, associate district judge or special district judge within
19 this state, who is in possession of a valid handgun license issued
20 pursuant to the provisions of the Oklahoma Self-Defense Act and
21 whose name appears on a list maintained by the Administrative
22 Director of the Courts;

23 5. The carrying and use of firearms and other weapons provided
24 in this subsection when used for the purpose of living history

1 reenactment. For purposes of this paragraph, "living history
2 reenactment" means depiction of historical characters, scenes,
3 historical life or events for entertainment, education, or
4 historical documentation through the wearing or use of period,
5 historical, antique or vintage clothing, accessories, firearms,
6 weapons, and other implements of the historical period; or

7 6. The carrying of a firearm, concealed or unconcealed, loaded
8 or unloaded, by a person who is twenty-one (21) years of age or
9 older or by a person who is eighteen (18) years of age but not yet
10 twenty-one (21) years of age and the person is a member or veteran
11 of the United States Armed Forces, Reserves or National Guard or was
12 discharged under honorable conditions from the United States Armed
13 Forces, Reserves or National Guard, and the person is otherwise not
14 disqualified from the possession or purchase of a firearm under
15 state or federal law and is not carrying the firearm in furtherance
16 of a crime.

17 Except as provided in subsection B of Section 1283 of this
18 title, a person subject to an order of protection pursuant to the
19 Protection from Domestic Abuse Act or who has been convicted of any
20 one of the following offenses in this state or a violation of the
21 equivalent law of another state:

22 a. assault and battery pursuant to the provisions of
23 Section 644 of this title which caused serious
24 physical injury to the victim,

- b. aggravated assault and battery pursuant to the provisions of Section 646 of this title,
- c. assault and battery that qualifies as domestic abuse as defined in Section 644 of this title,
- d. stalking pursuant to the provisions of Section 1173 of this title,
- e. a violation of an order issued under the Protection from Domestic Abuse Act or a domestic abuse protection order issued by another state, or
- f. a violation relating to illegal drug use or possession under the provisions of the Uniform Controlled Dangerous Substances Act,

shall be prohibited from carrying a firearm under the provisions of this paragraph. Any person who carries a firearm in the manner provided for in this paragraph shall be prohibited from carrying the firearm into any of the places prohibited in subsection A of Section 1277 of this title or any other place currently prohibited by law. Nothing in this section shall modify or otherwise change where a person may legally carry a firearm.

B. Any person convicted of violating the foregoing provision shall be guilty of a misdemeanor punishable as provided in Section 1276 of this title.

1 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1283, as
2 last amended by Section 3, Chapter 1, O.S.L. 2019 (21 O.S. Supp.
3 2019, Section 1283), is amended to read as follows:

4 Section 1283.

5 CONVICTED FELONS AND DELINQUENTS

6 A. Except as provided in subsection B of this section, it shall
7 be unlawful for any person convicted of any felony in any court of
8 this state or of another state or of the United States to have in
9 his or her possession or under his or her immediate control, or in
10 any vehicle which the person is operating, or in which the person is
11 riding as a passenger, or at the residence where the convicted
12 person resides, any pistol, imitation or homemade pistol, altered
13 air or toy pistol, machine gun, sawed-off shotgun or rifle, or any
14 other dangerous or deadly firearm.

15 B. Any person who has previously been convicted of a nonviolent
16 felony in any court of this state or of another state or of the
17 United States, and who has received a full and complete pardon from
18 the proper authority and has not been convicted of any other felony
19 offense which has not been pardoned, shall have restored the right
20 to possess any firearm or other weapon prohibited by subsection A of
21 this section, the right to apply for and carry a handgun, concealed
22 or unconcealed, pursuant to the Oklahoma Self-Defense Act or as
23 otherwise permitted by law, and the right to perform the duties of a
24 peace officer, gunsmith, and for firearms repair.

1 C. It shall be unlawful for any person serving a term of
2 probation for any felony in any court of this state or of another
3 state or of the United States or under the jurisdiction of any
4 alternative court program to have in his or her possession or under
5 his or her immediate control, or at his or her residence, or in any
6 passenger vehicle which the person is operating or is riding as a
7 passenger, any pistol, shotgun or rifle, including any imitation or
8 homemade pistol, altered air or toy pistol, shotgun or rifle, while
9 such person is subject to supervision, probation, parole or inmate
10 status.

11 D. It shall be unlawful for any person previously adjudicated
12 as a delinquent child or a youthful offender for the commission of
13 an offense, which would have constituted a felony offense if
14 committed by an adult, to have in the possession of the person or
15 under the immediate control of the person, or have in any vehicle
16 which he or she is driving or in which the person is riding as a
17 passenger, or at the residence of the person, any pistol, imitation
18 or homemade pistol, altered air or toy pistol, machine gun, sawed-
19 off shotgun or rifle, or any other dangerous or deadly firearm
20 within ten (10) years after such adjudication; provided, that
21 nothing in this subsection shall be construed to prohibit the
22 placement of the person in a home with a full-time duly appointed
23 peace officer who is certified by the Council on Law Enforcement
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1 Education and Training (CLEET) pursuant to the provisions of Section
2 3311 of Title 70 of the Oklahoma Statutes.

3 E. It shall be unlawful for any person who is an alien
4 illegally or unlawfully in the United States to have in the
5 possession of the person or under the immediate control of the
6 person, or in any vehicle the person is operating, or at the
7 residence where the person resides, any pistol, imitation or
8 homemade pistol, altered air or toy pistol, shotgun, rifle or any
9 other dangerous or deadly firearm; provided, that nothing in this
10 subsection applies to prohibit the transport or detention of the
11 person by law enforcement officers or federal immigration
12 authorities. Any person who violates the provisions of this
13 subsection shall, upon conviction, be guilty of a misdemeanor
14 punishable by a fine of Two Hundred Fifty Dollars (\$250.00).

15 F. Any person having been issued a handgun license pursuant to
16 the provisions of the Oklahoma Self-Defense Act and who thereafter
17 knowingly or intentionally allows a convicted felon or adjudicated
18 delinquent or a youthful offender as prohibited by the provisions of
19 subsection A, C, or D of this section to possess or have control of
20 any pistol authorized by the Oklahoma Self-Defense Act shall, upon
21 conviction, be guilty of a felony punishable by a fine not to exceed
22 Five Thousand Dollars (\$5,000.00). In addition, the person shall
23 have the handgun license revoked by the Oklahoma State Bureau of
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1 Investigation after a hearing and determination that the person has
2 violated the provisions of this section.

3 G. It shall be unlawful for any person subject to an order of
4 protection pursuant to the Protection from Domestic Abuse Act to
5 have in his or her possession or under his or her immediate control,
6 or in any vehicle which the person is operating, or in which the
7 person is riding as a passenger, or at the residence where the
8 convicted person resides, any pistol, imitation or homemade pistol,
9 altered air or toy pistol, machine gun, sawed-off shotgun or rifle,
10 or any other dangerous or deadly firearm. Any person who violates
11 the provisions of this subsection shall, upon conviction, be guilty
12 of a misdemeanor.

13 H. Any convicted or adjudicated person violating the provisions
14 of this section shall, upon conviction, be guilty of a felony
15 punishable as provided in Section 1284 of this title.

16 ~~H. I. For purposes of this section, "sawed-off:~~

17 1. "Sawed-off shotgun or rifle" shall mean any shotgun or rifle
18 which has been shortened to any length.

19 ~~I. For purposes of this section, "altered;~~

20 2. "Altered toy pistol" shall mean any toy weapon which has
21 been altered from its original manufactured state to resemble a real
22 weapon.

23 ~~J. For purposes of this section, "altered;~~

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1 3. "Altered air pistol" shall mean any air pistol manufactured
2 to propel projectiles by air pressure which has been altered from
3 its original manufactured state.

4 ~~K. For purposes of this section, "alternative; and~~

5 4. "Alternative court program" shall mean any drug court, Anna
6 McBride or mental health court, DUI court or veterans court.

7 SECTION 3. AMENDATORY 22 O.S. 2011, Section 60.4, as
8 last amended by Section 3, Chapter 113, O.S.L. 2019 (22 O.S. Supp.
9 2019, Section 60.4), is amended to read as follows:

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

22 2. Emergency temporary orders, emergency ex parte orders and
23 notice of hearings shall be given priority for service and can be
24 served twenty-four (24) hours a day when the location of the

1 defendant is known. When service cannot be made upon the defendant
2 by the sheriff, the sheriff may contact another law enforcement
3 officer or a private investigator or private process server to serve
4 the defendant.

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

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

13 5. When the defendant is a minor child who is ordered removed
14 from the residence of the victim, in addition to those documents
15 served upon the defendant, a copy of the petition, notice of hearing
16 and a copy of any temporary order or ex parte order issued by the
17 court shall be delivered with the child to the caretaker of the
18 place where such child is taken pursuant to Section 2-2-101 of Title
19 10A of the Oklahoma Statutes.

20 B. 1. Within fourteen (14) days of the filing of the petition
21 for a protective order, the court shall schedule a full hearing on
22 the petition, if the court finds sufficient grounds within the scope
23 of the Protection from Domestic Abuse Act stated in the petition to
24 hold such a hearing, regardless of whether an emergency temporary

1 order or ex parte order has been previously issued, requested or
2 denied. Provided, however, when the defendant is a minor child who
3 has been removed from the residence pursuant to Section 2-2-101 of
4 Title 10A of the Oklahoma Statutes, the court shall schedule a full
5 hearing on the petition within seventy-two (72) hours, regardless of
6 whether an emergency temporary order or ex parte order has been
7 previously issued, requested or denied.

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

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

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

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

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

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

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

3 3. After notice and hearing, if the court determines that the
4 defendant presents a credible threat to the physical safety of the
5 victim, the court may order the defendant to deliver any firearm in
6 the possession, care, custody or control of the defendant to a law
7 enforcement agency or law enforcement officer in the county where
8 the defendant resides while the protective order is in effect.

9 4. The court may also order the defendant to refrain from
10 purchasing, receiving or possessing any firearm or attempting to
11 purchase, receive or possess any firearm while the protective order
12 is in effect.

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

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

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

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

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

15 G. 1. Any protective order issued on or after November 1,
16 2012, pursuant to subsection C of this section shall be:

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

1 jurisdiction, shall not be included in the calculation
2 of the five-year time limitation, or

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

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

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

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

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

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

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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
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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
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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 4s. AMENDATORY 22 O.S. 2011, Section 60.8, is
13 amended to read as follows:

14 Section 60.8 A. Each peace officer of this state shall seize
15 any weapon or instrument when such officer has probable cause to
16 believe such weapon or instrument has been used to commit an act of
17 domestic abuse as defined by Section 60.1 of this title, provided an
18 arrest is made, if possible, at the same time.

19 B. After any such seizure, the District Attorney shall file a
20 notice of seizure and forfeiture as provided in this section within
21 ten (10) days of such seizure, or any weapon or instrument seized
22 pursuant to this section shall be returned to the owner.

23 C. The seizure and forfeiture provisions of Section 991a-19 of
24 this title shall be followed for any seizure and forfeiture of

1 property pursuant to this section. No weapon or instrument seized
2 pursuant to this section or monies from the sale of any such seized
3 weapon or instrument shall be turned over to the person from whom
4 such property was seized if a forfeiture action has been filed
5 within the time required by subsection B of this section, unless
6 authorized by this section. Provided further, the owner may prove
7 at the forfeiture hearing that the conduct giving rise to the
8 seizure was justified, and if the owner proves justification, the
9 seized property shall be returned to the owner. Any proceeds gained
10 from this seizure shall be placed in the Crime Victims Compensation
11 Revolving Fund.

12 D. 1. After the court has issued an order that the defendant
13 is subject to the provisions of paragraph 3 of subsection C of
14 Section 60.4 of Title 22 of the Oklahoma Statutes, the defendant
15 shall relinquish all firearms in the immediate possession or control
16 of the defendant or subject to the possession or control of the
17 defendant in a safe manner to a law enforcement agency or law
18 enforcement officer in the county where the defendant resides within
19 forty-eight hours of service of the order.

20 2. A law enforcement agency or law enforcement officer shall
21 take possession of all firearms subject to the order that are
22 relinquished by the defendant.

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1 3. A law enforcement agency or law enforcement officer that
2 takes temporary possession of a firearm pursuant to this subsection
3 shall:

- 4 a. prepare a receipt identifying all firearms that have
5 been relinquished or taken,
- 6 b. provide a copy of the receipt to the defendant,
- 7 c. provide a copy of the receipt to the petitioner within
8 seventy-two hours of taking possession of the firearm,
- 9 d. file the original receipt with the court that issued
10 the protective order within seventy-two hours of
11 taking possession of the firearm, and
- 12 e. ensure that the law enforcement agency retains a copy
13 of the receipt.

14 4. After the defendant has relinquished all firearms, the
15 District Attorney shall file a notice of seizure and forfeiture as
16 provided in subsection B of this section within ten (10) days of
17 such relinquishment, or any firearm relinquished pursuant to this
18 subsection shall be returned to the owner.

19 5. The seizure and forfeiture provisions of Section 991a-19 of
20 this title shall be followed for any relinquishment of firearms
21 pursuant to this subsection.

22 6. Evidence establishing ownership or possession of a firearm
23 pursuant to this section shall not be admissible as evidence in any
24 criminal proceeding.

1 SECTION 5. This act shall become effective November 1, 2020.

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3 57-2-10153 GRS 01/03/20
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