

OKLAHOMA VICTIM PROTECTION ORDER

BENCH BOOK

(Revised 2026)

Prepared by  
Special Judge Sara Murphy Bondurant  
Oklahoma County District Court

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## Protection from Domestic Abuse Act

### 22 O.S. § 60 et seq

1. **Abuse of Discretion** The trial court's decision to enter a protective order will not be reversed absent an abuse of discretion. [\*Triplett, 179 P.3d 1285.\*](#)
2. **Address Confidentiality** [22 O.S. § 60.14](#) VPOs are a part of the Attorney General's address confidentiality program. To become a part of this program the Petitioner should use a certified advocate.  
  
[Best Practice – Addresses or phone numbers should not be said aloud in Court. For discovery purposes ensure Counsel utilizes “address of record” instead of inputting Petitioner’s address on pleadings. On occasion upon agreement of both parties’ email addresses should be exchanged in lieu of providing an address.]
3. **Adult Victim of a Crime** An adult victim of a crime is eligible for a VPO regardless of prosecution. [22 O.S. § 60.2\(A\)](#). Only requirement is a police report was filed.<sup>1</sup> A person can be guilty of a crime regardless of prosecution. [\*Kite v. Culbertson, 25 OK 3.\*](#)
4. **Advocate/Victim support person** – a person affiliated with a domestic violence, sexual assault, or adult human sex trafficking program, certified by the Attorney General

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<sup>1</sup> [119,033](#) (Companion with Case No. 119,032) – Taylor Edwards, Petitioner/Appellee, v. Michael Laub, Defendant/Appellant. Appeal from the District Court of Canadian County, Hon. Charles Gass, Trial Judge. Defendant Michael Laub appeals from an order of protection granted to Petitioner Taylor Edwards. Mr. Laub argues the trial court erred because no pre-petition filing of an enforcement complaint for “stalking” was filed as required by 22 O.S. 2011 § 60.2. He also argues the filed complaint for “harassing/intimidation” is not a police report complaint for “stalking” and is “only a ‘harassment’ complaint based on an alleged racial slur and a sign-in-yard incident[.]” Mr. Laub also argues a lack of some evidence and erroneous acceptance of other evidence presented at the hearing were errors requiring reversal. No transcript of the hearing or narrative statement is in the appellate record; thus, no error is ascertainable or reviewable by this Court on appeal regarding the evidence presented at the hearing. Further, Mr. Laub’s argument that the court erred as a matter of law because Petitioner only filed a harassing/intimidation complaint, not a stalking complaint, is without merit. Not only has Mr. Laub failed to provide any authority for the proposition that only a complaint denominated stalking will satisfy the requirement of § 60.2, but his argument overlooks the Protection from Domestic Abuse Act’s definition of stalking that includes “the willful, malicious, and repeated . . . harassment of a person by an adult . . . in a manner that would cause a reasonable person to feel . . . intimidated [or] harassed and actually causes the person being . . . harassed to feel . . . intimidated [or] harassed[.]” 22 O.S. 2011 & Supp. 2019 § 60.1(9). From our review of the record on appeal, we conclude Mr. Laub has failed to show that the trial court’s order of protection was an abuse of discretion. AFFIRMED. Opinion from Court of Civil Appeals, Division II, by BARNES, J.; WISEMAN, P.J., and BLACKWELL, J., concur – Nov. 18, 2021

[119,032](#) (Companion with Case No. 119,033) – Candace Marie Johnson, Petitioner/Appellee, v. Michael Laub, Defendant/Appellant. Appeal from the District Court of Canadian County, Hon. Charles Gass, Trial Judge. Defendant Michael Laub appeals from an order of protection granted to Petitioner Candace Marie Johnson. Mr. Laub argues the trial court erred because no pre-petition filing of an enforcement complaint for “stalking” was filed as required by 22 O.S. 2011 § 60.2. He also argues the filed complaint for “harassing/intimidation” is not a police report complaint for “stalking” and is “only a ‘harassment’ complaint based on an alleged racial slur and a sign-in-yard incident[.]” Mr. Laub also argues a lack of some evidence and erroneous acceptance of other evidence presented at the hearing were errors requiring reversal. No transcript of the hearing or narrative statement is in the appellate record; thus, no error is ascertainable or reviewable by this Court on appeal regarding the evidence presented at the hearing. Further, Mr. Laub’s argument that the court erred as a matter of law because Petitioner only filed a harassing/intimidation complaint, not a stalking complaint, is without merit. Not only has Mr. Laub failed to provide any authority for the proposition that only a complaint denominated stalking will satisfy the requirement of § 60.2, but his argument overlooks the Protection from Domestic Abuse Act’s definition of stalking that includes “the willful, malicious, and repeated . . . harassment of a person by an adult . . . in a manner that would cause a reasonable person to feel . . . intimidated [or] harassed and actually causes the person being . . . harassed to feel . . . intimidated [or] harassed[.]” 22 O.S. 2011 & Supp. 2019 § 60.1(9). From our review of the record on appeal, we conclude Mr. Laub has failed to show that the trial court’s order of protection was an abuse of discretion. AFFIRMED. Opinion from Court of Civil Appeals, Division II, by BARNES, J.; WISEMAN, P.J., and BLACKWELL, J., concur. – Nov. 18, 2021

or operating under a tribal government, who provides support and assistance for a person who files a petition under the Protection from Domestic Abuse Act. [22 O.S. § 60.1\(11\)](#).

*[Best Practice – For the safety of advocates use only first names and do not identify agency; they may stand next to Petitioner or sit in the courtroom (Judge’s discretion); they may not give legal advice or speak on Petitioner’s behalf.]*

5. **After Hours VPOs** When the courthouse is closed, law enforcement may contact Judge for *verbal* approval of a (after hours) [Petition for Emergency Temporary Protective Order](#). Upon approval the EPO is valid until the initial court date. Law Enforcement must file the original [Petition for Emergency Temporary Protective Order](#) on the next regular business day. [22 O.S. § 60.3](#) and [22 O.S. § 60.16\(C\)](#).
6. **Age 16 and up** can file Petition themselves; Respondent can be 13 and up.
7. **Altered VPO (See False/Altered VPO) -**
8. **Animals** – [22 O.S. § 60.2](#) and [22 O.S. § 60.4\(I\)\(1\)](#) – Petitioner can request control over animals.
9. **Appeal** – Statutory construction presents a question of law which the Supreme Court reviews de novo. [Kite v. Culbertson, 25 OK 3](#). The Supreme Court reviews proceedings for an abuse of discretion because a protection order under it is analogous to an injunction, the grant or denial of which is also reviewed for an abuse of discretion. [22 O.S. § 60, et seq.](#) Under an abuse of discretion standard, the Supreme Court examines the evidence in the record and reverses only if the trial court's decision is clearly against reason and evidence or contrary to the governing principle of law.
10. **Arrest (also see Violation of VPO)** Law enforcement (without warrant) *may* arrest without warrant within 72 hours of probable cause of an act of domestic violence. [22 OS. § 60.16\(B\)](#)
11. **Burden of Proof** – [Marquette, 1984 OK CIV APP 25](#). The burden of proof is a preponderance of the evidence.
12. **Civil Procedure** – [Marquette, 1984 OK CIV APP 25](#). A VPO hearing is civil. Violations of the order are criminal.
13. **Continuance:**
  - a. **Abuse of Discretion** The question of whether to grant a continuance is within the sound discretion of the trial court, and the refusal to grant one is not reversible error unless an abuse of discretion is shown. [Triplett, 179 P.3d 1285](#).
  - b. **6 Month Rule** – The district court did not abuse its discretion in denying a continuance in mother's action for a victim's protection order (VPO) on behalf of herself and two of her children, seeking to prohibit father's live-in girlfriend from

contacting mother or children for five years, to allow girlfriend's new substitute counsel to depose all parties, including children, where statute required court grant or deny a permanent VPO within six months of request, nearly six months had passed since mother sought permanent VPO, new counsel could have conducted discovery in the month preceding the hearing, and new counsel had opportunity at hearing to cross-examine the witnesses, watch video of incident giving rise to request for VPO, look at the pictures, and sit in chambers for testimony received. [22 O.S. § 60.4](#). [Kite v. Culbertson, 25 OK 3](#).

14. **Continuous Final Order**. [22 O.S. § 60.4\(G\)](#) – requires a specific finding of at least 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 [21 O.S. § 1173](#) of the Oklahoma Statutes;
- (4) a court order for a final Victim Protection Order has previously been issued against the person in this state or another state; or
- (5) the victim provides proof that a continuous protective order is necessary for his or her protection.

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

15. **Criminal Charges** The DA decides whether criminal charges will be filed, not the Petitioner. [22 O.S. § 60.11\(1\)](#)
16. **CLEET Certification** [70 O.S. § 3311\(J\)\(1\)\(h\)](#) A police or peace officer shall be subject to disciplinary action to include a denial, suspension, revocation or acceptance of voluntary surrender of peace officer certification upon a showing of clear and convincing evidence for the following: entry of a final order of protection against applicant or officer.
17. **Custody**. [22 O.S. § 60.4\(I\)\(1\)](#). VPOs are not used to determine custody or visitation. However, they can suspend visitation. The Court MAY conduct a hearing within 72 hours when visitation is suspended under [22 O.S. § 60.4\(B\)\(2\)](#).
18. **Dating relationship**. [22 O.S. § 60.1\(1\)](#). Dating relationship means intimate association, primarily characterized by affectionate or sexual involvement. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall *not* constitute a dating relationship.
19. **Discouraging VPOs** Law enforcement shall not discourage the filing of a VPO. [22 O.S. § 60.16\(A\)](#).

20. **Discovery.** Discovery is allowed on VPO docket. [Sunderland, 2019 OK CIV App 27](#). However, it may not extend past 6 months unless agreed to by both parties. **Note:** Use scheduling order if the matter is special set for discovery purposes.
21. **Dismissal.** [22 O.S. § 60.4\(B\)\(4\)](#). Petitioner may move to dismiss petition and EPO or Final Order at any time but can only be dismissed by Court Order.
22. **Divorce/Paternity/Guardianship** *Out of County* – [22 O.S. § 60.3\(D\)](#) Under administrative order matter **must** be transferred to out-of-county FD/FP if the matter is set for hearing.
23. **Domestic abuse.** [22 O.S. § 60.1\(2\)](#). Domestic abuse means any act of physical harm or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who is currently or was previously an intimate partner or family or household member.
24. **Eligibility:**
- a. Victim of Domestic Abuse
- Domestic Abuse** is any act of physical harm, or the threat of imminent physical harm committed by person thirteen (13) years old or older *against current or previous intimate partner or family or household member.*
- Intimate partner** is a current or former spouse, persons currently or previously in a dating relationship, biological parents of the same child and/or persons who currently or previously lived together in an intimate way, primarily characterized by affectionate or sexual involvement. *Sexual involvement is an indicator but not a necessary condition.*
- Family or household member** is a parent (including stepparent, adoptive parent and foster parent), grandparent, child (including stepchild, adoptive child or foster child), grandchild and/or a person related by blood or marriage. Any person residing in the same residence.
25. **Emails.** Emails alone do not constitute harassment when the Petitioner has done nothing to stop the emails. The act is designed to prevent violence and is serious. Emails alone are not enough. [Holeman, 292 P.3d. 65](#).
26. **Emergency Protective Order** *ex parte* [22 O.S. § 60.3](#) shall be heard within 10-14 days; if EPO has children then MAY hear within 72 hours ([22 O.S. § 60.4](#)); may continue matter up to 6 months [22 O.S. § 60.4](#) (afterwards must have both parties agree); [22 O.S. § 60.4\(A\)\(2\)](#) service of EPOs must be given priority and can be served 24 hours a day.

Note: Courthouse closure i.e. weather

In Oklahoma, if a full hearing for a protective order is postponed due to unforeseen circumstances, such as a courthouse closure from severe weather, the emergency ex parte order remains in effect until the rescheduled hearing. This ensures continuous protection for the petitioner. According to [22 O.S. § 60.3](#), an emergency ex parte order is effective until after the full hearing is conducted. If the respondent has been served but does not appear at the hearing, the emergency ex parte order remains in effect until the respondent is served with the permanent order.

Additionally, [22 O.S. § 60.4](#) outlines procedures for scheduling and rescheduling hearings. If service has not been made on the respondent 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. 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 respondent 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.

Given these provisions, if your hearing is delayed due to a courthouse closure, the emergency order should continue to protect you until the court can reschedule the hearing.

27. **Expungement Requirements** [22 O.S. § 60.18\(A\)](#)

a. *One of the Following:*

- i. *Ex parte* – Failure to Prosecute or Denied after full hearing and 90 days passed; or
- ii. *Final Order Was Vacated (not lapsed)* – 3 years have passed; or

*Note: [12 O.S. § 1031](#) applies to order to vacate. The court may vacate on its own discretion 30 days or less. If more than 30 days have passed since the order, an order may be vacated for one of the following: (1) mistake, (2) neglect, (3) omission of the clerk, (4) irregularity in obtaining the order, or (5) fraud.*

iii. *Plaintiff/Respondent deceased*

- b. Notice and Response: Must serve by certified mail within 10 days after filing petition. Petitioner has 30 days to respond [22 O.S. § 60.18\(C\)](#); 30 days' notice must be given to all parties to VPO/DA/any other person court designates [22 O.S. § 60.18\(C\)\(2\)](#) Only notice is required, not approval.
- c. *Objection* – Court must find “the harm to the privacy of the person in interest or dangers of unwarranted adverse consequences outweigh the public and safety interests of the parties to the protective order in retaining the records”. [22 O.S. § 60.18\(C\)\(3\)](#)

28. **False/Altered VPO** [22 O.S. § 60.9\(E\)](#) Any person knowingly and willfully presenting an altered VPO shall be guilty of felony-punishment not to exceed 2 years and/or \$5,000 plus any civil damages.
29. **Family or household members**. [22 O.S. § 60.1\(3\)](#) includes:
- a. parents, including grandparents, stepparents, adoptive parents and foster parents
  - b. children, including grandchildren, stepchildren, adopted children and foster children,
  - c. persons otherwise related by blood or marriage living in the same household, and
  - d. persons otherwise related by blood or marriage.
30. **Fees paid by Respondent**. [22 O.S. § 60.2\(C\)\(1\)](#). Fees and costs may be assessed when a final protective order has been granted. The court has authority to waive them if it finds the respondent does not have the ability to pay.
- a. Petitioner must present competent evidence of reasonableness of fees and costs. [Phillips v. Williams, 241 P.3d 696.](#)
31. **Fees paid by Petitioner** [22 O.S. § 60.2\(C\)\(2\)](#) Fees and costs may **NOT** be assessed against the Petitioner UNLESS the court makes a specific finding the (1) filing was frivolous AND (2) no victim exists.
- NOTE: [Alford v. Garzone, 964 P.2d 944 \(Okla. 1988\)](#). Law authorizing attorney fees only to prevailing plaintiffs securing protective orders under Protection from Domestic Abuse Act, and not to defendants who are successful in avoiding entry of orders, does not violate equal protection or ready access to courts clause of state constitution. [Phillips v. Williams, 241 P.3d 696](#) the Court is not authorized to award attorney fees and costs to a successful Respondent without compliance with [22 O.S. § 60.2\(C\)\(2\)](#).
32. **Fiduciary Relationship**. [Allen v. Castillo, 449 P.3d 1287 \(Okla. 2019\)](#). Threats made once directly to Person A and then to other Person B of which Person A is a fiduciary of (i.e. guardian/principal/parent) are not considered threats to Person A unless specifically directed towards Person A.
33. **Firearms**. [18 U.S.C. § 922\(g \(8\)\)](#). Federal Firearms prohibition applies if a VPO order was issued after actual notice and opportunity to participate and restrains such person from act to intimidated partner or child and makes a finding that such person represents a credible threat to the physical safety of the intimate partner or child. [United States v. Rahimi, 602 U.S. 680](#). The [Rahimi](#) decision clarified the scope of Second Amendment protections. It affirmed the government's ability to enact certain gun control measures, particularly those aimed at protecting victims of domestic violence. The ruling also provided guidance for evaluating the constitutionality of gun regulations.

Prohibits:

- (a) Shipping/transporting firearms or ammunition in interstate or foreign commerce; and
- (b) Possessing firearms or ammunition in or affecting commerce; and
- (c) Receiving firearms or ammunition that have been shipped or transported in interstate or foreign commerce.

Even if VPO does not prohibit firearms and ammunition, Defendant may still be in violation of federal law. [22 O.S. § 60.11\(6\)](#)

In Oklahoma the power to require a respondent to surrender-and stay away from-firearms when you issue a Victim Protective Order comes straight out of the **Protection from Domestic Abuse Act**:

After the full 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, stalking or harassment ....*” That catch-all phrase is the legal hook Court may rely on to add a firearms-relinquishment clause and to direct where the guns must be turned in. [22 O.S. § 60.4\(C\)\(1\)](#)

Separately authorizes law-enforcement seizure and eventual forfeiture of any weapon the officer has probable cause to believe *was used* in the domestic-abuse incident, once an arrest is (or can be) made. This statute often comes into play the moment the defendant is picked up on the PO. [22 O.S. § 60.8](#)

Requires every *ex parte* or final PO to carry a bold-type warning that *possession of a firearm or ammunition while the order is in effect may trigger federal prosecution* even if firearms are not specifically prohibited in the PO, reinforcing the court’s authority to prohibit possession. [22 O.S. § 60.11\(6\)](#)

### How it works in practice

1. At the ex-parte stage you can check the “surrender all firearms/CCL” box on the AOC form or write the condition in your own language, citing [§ 60.4\(C\)\(1\)](#).
2. In the final order you repeat (or add) the condition and specify the agency that will accept the weapons i.e. “transfer all firearms to local law enforcement”. Courts may schedule a short compliance review hearing to confirm the transfer has been done.
3. If an officer later discovers the respondent still armed, [§ 60.8](#) allows immediate seizure, reporting a VPO violation to the district attorney, and federal [18 U.S.C. § 922\(g\)\(8\)](#) supplies more criminal teeth.

So, while Oklahoma does not have an automatic state-level gun ban for every PO, [22 O.S. § 60.4\(C\)\(1\)](#) gives the court all the discretion it needs to order the guns transferred to law enforcement, and [§§ 60.8](#) and [60.11](#) back that up on the enforcement and notice side.

34. **Foreign protective order.** [22 O.S. § 60.1\(4\)](#). Foreign protective order means any valid order of protection issued by a court of another state or a tribal court
35. **Forms.** [22 O.S. § 60.4\(D\)](#). Final Protective Orders shall be on standard forms developed by AOC.
36. **Free Speech.** [Gilbert v. State, 765 P.2d 1208 \(Okla. 1988\)](#). Right of free speech did not apply to threatening or abusive communications to persons who have demonstrated a need for protection from immediate and present danger of domestic abuse, and thus state Protection from Domestic Abuse Act which authorized protective order enjoining husband from visiting, assaulting, molesting, harassing or otherwise interfering with his wife did not deny husband his freedom of speech.
37. **Frivolous Filing.** [22 O.S. § 60.2](#). Court may assess attorney fees/costs against Petitioner if it finds filing is (1) frivolous and (2) no victim exists. [Murlin, 371 P.3d. 094](#). VPOs are not to be used for harassment, retaliation, or reasons other than an intended purpose.
38. **GPS.** [22 O.S. § 60.17](#) and [60.6\(I\)](#). In conjunction with any protective order or restraining order authorized by the Protection from Domestic Abuse Act, the court may order the respondent to use an active, real-time, 24-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 respondent, the monitoring of which will be limited to the ability of the victim to make computer or cellular inquiries to determine if the respondent is within a specific distance of certain locations. The Court can order Defendant to pay the cost of the GPS monitor.
39. **Harassment.** [22 O.S. § 60.1\(5\)](#). Harassment means a *knowing* and *willful* course or pattern of conduct by a family or household member or an individual who is or has been involved in a dating relationship with the person, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of [21 O.S. § 1172](#) of the Oklahoma Statutes and fear of death or bodily injury;
40. **Incarceration.** [22 O.S. § 60.1\(4\)](#). If the respondent is incarcerated, the protective order shall remain in full force and effect during the period of incarceration and the timeline shall commence upon release.
41. **INPD.** Acronym that means "If No Problems Dismiss". Commonly used on continuances from a full hearing to a final hearing (within six months of filing petition) denoting that if there are no "problems/contact/issues" between the parties during the continuance, the petition would be denied.

*Best Practice* – Suitable for relationships where there is a “messy” breakup, but extended preventative measures are unnecessary.

42. **Interlocutory Appeals.** [Rule 1.60 of the Oklahoma Supreme Court Rules](#) defines “interlocutory orders appealable by right.” Interlocutory orders appealable by right are those orders that, although not final, are statutorily defined as orders that may be appealed before the final order is entered in the case. [Rule 1.60](#) was amended Oct. 8, 2019, to add a new Subsection (j) so “[t]emporary orders of protection made in proceedings pursuant to the Protection From Domestic Abuse Act, [22 O.S. § 60 et seq](#)” are now interlocutory orders immediately appealable by right. No other changes were made to [Rule 1.60](#), and the expedited timeframe for completing the record and the shortened briefing cycle remain in place.
43. **Intimate partner.** [22 O.S. § 60.1\(6\)](#). Intimate partner means:
- a. current or former spouses;
  - b. persons who are or were in a dating relationship;
  - c. persons who are the biological parents of the same child, regardless of their marital status or whether they have lived together at any time; and,
  - d. persons who currently or formerly lived together in an intimate way, primarily characterized by affectionate or sexual involvement. A sexual relationship may be an indicator that a person is an intimate partner but is never a necessary condition.
44. **Juvenile** See *Minor*
45. **Lease** A victim of domestic violence may terminate their lease without penalty within 30 days (unless Landlord waives timeframe). [41 O.S § 111\(F\)](#).
- A Landlord may not deny, refuse to renew, or terminate a lease of a victim of domestic violence or sexual assault whether a VPO exists or not. [41 O.S. § 113.3](#).
46. **Malicious Filing.** [60 O.S. § 60.4](#). If found to be malicious filing for harassment, undue advantage i.e. custody proceedings, intimidation, etc. knowingly and willfully it’s a misdemeanor (the second time is a felony).
47. **Minors.**
- a. **Caretaker Rights.** [22 O.S. § 60.4\(G\)\(b\)\(4\)](#). Parent may refuse the return of a child to residence unless the court determines the minor is no longer a threat and should be allowed to return.
  - b. **Consent of Co-Parent.** Mother who was assaulted by father's live-in girlfriend in front of her children, one of whom girlfriend threatened to assault and battery, was not required to obtain father's consent before seeking a victim's protection order

(VPO) or attorney representation on behalf of her children, even though parents had joint custody of children. 22 O.S. § 60.2(A). [Kite v. Culbertson, 25 OK 3.](#)

- c. Other Minors. District court did not abuse its discretion in granting victim's protection order (VPO) prohibiting father's live-in girlfriend from contacting two of his children for five years; evidence reflecting that girlfriend assaulted and battered mother in front of children, threatened to assault and battery one of the children, and caused both children fear and anxiety on scheduled visits and the day of the attack satisfied the plain statutory definition of domestic abuse and harassment under the Protection Against Domestic Violence Act, and although threats or harm may not have been directed at one of the children, court determined that threat of harm was sufficient to include other child. 22 O.S. Ann. § 60.2(A). [Kite v. Culbertson, 25 OK 3.](#)
  - d. Service. [22 O.S. § 60.4\(A\)\(5\)](#). When serving a minor ordered to be removed from the residence of the victim, the caretaker of the place where the child is taken shall be served pleadings too.
  - e. Removed from Residence. [22 O.S. § 60.4\(B\)\(1\)](#). When a minor is removed from their residence, the Court SHALL hold a full hearing within 72 hours regardless of whether an EPO or hearing only was issued.
  - f. Representation. Protection Against Domestic Violence Act does not require that children have independent representation when a family member seeks a civil victim's protective order (VPO) on their behalf. [22 O.S. § 60.2](#). [Kite v. Culbertson, 25 OK 3.](#)
  - g. Respondent is Juvenile. [22 O.S. § 60.4\(C\)\(2\)](#). If a final order is issued against a juvenile, the Court SHALL order a preliminary inquiry to determine whether further court action pursuant to the Oklahoma Juvenile Code should be taken against the juvenile defendant.
  - h. Suspending Visitation. [22 O.S. § 60.4\(B\)\(2\)](#). If EPO suspends parental visitation due to physical violence or threats of abuse, then the Court MAY hear within 72 hours.
48. **Mutual protective order**. [22 O.S. § 60.1\(7\)](#). *CAN'T DO!* Means a final protective order or orders issued to both a plaintiff who has filed a petition for a protective order and a respondent included as the respondent in the plaintiff's petition restraining the parties from committing domestic violence, stalking, harassment or rape against each other. If both parties allege domestic abuse, violence, stalking, harassment or rape against each other, the parties shall do so by separate petition pursuant to Section 60.4 of this title;
49. **Native American**. State court could exercise jurisdiction over application for VPO made by tribal citizen against another tribal citizen. [Milne v. Hudson, 519 P.3d 511.](#)
50. **NCIC** Orders shall be entered into NCIC. [22 O.S. § 60.11\(4\)](#)

51. **Order Requirements** Every final order shall have standard language as stated in [22 O.S. § 60.11](#) in addition to any other requirements ordered by the Court.
52. **Petitions VPO**. *WHO CAN FILE?* [22 O.S. § 60.2](#). 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, any minor age sixteen (16) or seventeen (17) years, or any adult victim of a crime may seek relief under the provisions of the Protection from Domestic Abuse Act.
53. **Police Report**. [22 O.S. § 60.2\(A\)\(1\)](#). Filing of complaint with law enforcement was a statutory prerequisite to an order for protection based on stalking against a defendant who was not a member of the petitioner's family or household and who was not dating the petitioner.
  - a. Mother assaulted by father's live-in girlfriend was not required to seek legal sanctions before district court could grant victim's protective order (VPO) prohibiting girlfriend from contacting mother; as a person unrelated to girlfriend, mother was required only to file a complaint against girlfriend with proper law enforcement agency before seeking VPO, which she did. [22 O.S. § §60.2\(A\)\(1\), 60.2\(F\)](#). *Kite v. Culbertson, 25 OK 3*.
  - b. District court did not abuse its discretion in granting a victim's protection order (VPO) prohibiting father's live-in girlfriend from contacting mother for five years, where evidence reflected that girlfriend assaulted and battered mother, that mother was the victim of the attack and sustained marks on her neck from girlfriend's attempt to choke her, and that mother filed a complaint with police before filing petition for VPO. *Kite v. Culbertson, 25 OK 3*.
  - c. One can be guilty of assault and battery, for the purpose of warranting a civil victim's protective order, without a conviction for it ever having occurred. [21 O.S. §§ 641, 642](#), *Kite v. Culbertson, 25 OK 3*.
54. **Purpose of Protection Against Domestic Abuse Act**. [22 O.S. § 60.2](#). In passing Protection from Domestic Abuse Act, the legislature attempted to remedy the problem of domestic violence by providing immediate, as well as long-range, protection for the victims of domestic abuse.
55. **Rape**. [22 O.S. § 60.1\(8\)](#). Rape means rape and rape by instrumentation in violation of Sections 1111 and 1111.1 of Title 21 of the Oklahoma Statutes.
56. **Real Property**. [22 O.S. § 60.4\(I\)\(1\)](#). VPOs do not affect title to real property, grant divorces or determine child custody.
57. **Repository** Within 24 hours of issuing an order, the clerk shall send a copy to law enforcement agencies designated by the plaintiff in the Petition (and the sheriff's office).

Any law enforcement agency receiving the order shall make it available to other law enforcement agencies 24 hours a day. [22 O.S. § 60.5](#).

[Practice Note – the sheriff’s office inputs the order into NCIC]

58. **Return of Service.** [22 O.S. § 60.4\(A\)\(4\)](#). A return of service shall be filed with the Sheriff’s Office or Court Clerk where the petition was issued.
59. **Self-Incrimination (5th Amendment Rights).** Failure of party who was present at trial to answer questions based on privilege against self-incrimination raises strong inference that answers would have been unfavorable to him, and comment to that effect is proper. [Matter of CC 907 P.2d 241](#).
60. **Service.** [22 O.S. § 60.4](#). If no service, an Alias Order is issued at the request of the Petitioner. The Respondent must be personally (same service as a bench warrant) served before a final order may be entered. Must also continue the EPO if necessary.
  - a. [22 O.S. § 60.4\(A\)\(3\)](#). Service can be in any county or state. The Sheriff may transmit by electronic means for service.
  - b. [22 O.S. § 60.4\(B\)\(4\)](#). Alias order shall renew every 14 days at the request of Petitioner and shall not expire unless the petitioner (a) fails to appear (b) or fails to request a new order.
  - c. [22 O.S. § 60.4\(F\)](#). Can be served by any law enforcement officer
  - d. If a Respondent was not served officially but appears in Court, they are submitting to the jurisdiction of the Court and cannot later claim no service. [Harmon v Alexander 526 P.3d 1176](#).
61. **Specific Person.** An EPO/VPO is specific to ONE Petitioner (unless including minors) and ONE Respondent. [Baker v Mason, 958 P.2d 808](#).
62. **Stalking.** [22 O.S. § 60.1\(10\)](#). Stalking is willful, malicious, and repeated following or harassment of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested and actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed or molested. Stalking also means a course of conduct composed of a series of two or more separate acts over a period, however short, evidencing a continuity of purpose or unconsented contact with a person that is initiated or continued without the consent of the individual or in disregard of the expressed desire of the individual that the contact be avoided or discontinued. Unconsented contact or course of conduct includes, but is not limited to:
  - a. maintaining a visual or physical proximity to the individual,
  - b. approaching or confronting that individual in a public place or on private property,

- c. appearing at the workplace of the individual or contacting the employer or coworkers of the individual,
  - d. appearing at the residence of the individual or contacting the neighbors of the individual,
  - e. entering onto or remaining on property owned, leased or occupied by the individual,
  - f. contacting the individual by telephone, text message, electronic message, electronic mail, or other means of electronic communication or causing the telephone or electronic device of the individual or the telephone or electronic device of any other person to ring or generate notifications repeatedly or continuously, regardless of whether a conversation ensues,
  - g. photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the individual. This subparagraph applies regardless of where the act occurs,
  - h. sending any physical or electronic material or contacting the individual by any means, including any message, comment, or other content posted on any Internet site or web application,
  - i. sending to a family member or member of the household of the individual, or any current or former employer of the individual, or any current or former coworker of the individual, or any friend of the individual, any physical or electronic material or contacting such person by any means, including any message, comment, or other content posted on any Internet site or web application, for the purpose of obtaining information about, disseminating information about, or communicating with the individual,
  - j. placing an object on, or delivering an object to, property owned, leased or occupied by the individual,
  - k. delivering an object to a family member or member of the household of the individual, or an employer, coworker, or friend of the individual, or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the individual, or
  - l. causing a person to engage in any of the acts described in subparagraphs a through k of this paragraph; and
63. **Standard of Review.** The standard of review is an abuse of discretion. [Kite v. Culbertson, 25 OK 3](#)
64. **Timeline for Final Hearing on Merits.** The court may continue the matter for up to 6 months. After 6 months, both parties must agree to a continuance. [22 O.S. § 60.4\(B\)\(6\)](#).
65. **Timeframe for Final Order.** [22 O.S. § 60.4\(G\)\(1\)](#).

- a. Five Years. (G)(1)(a). If no specific date is provided, the default duration is 5 years. The order cannot exceed 5 years unless a proper finding is made. With appropriate findings, the order may be set as either up to 5 years or continuous. (see also [22 O.S. § 60.11\(3\)](#))
- b. Continuous. (G)(1)(b). Specific Finding of one of the following:
  - i. history of violating the orders of any court or governmental entity,
  - ii. previously been convicted of a violent felony offense
  - iii. previous felony conviction for stalking
  - iv. a court order for a final Victim Protection Order has previously been issued against the person in this state or another state
  - v. the victim provides proof that a continuous protective order is necessary for his or her protection.
  - vi. Further, the court may take into consideration whether the person has a history of domestic violence or a history of other violent acts.

(Note: There is an argument that a continuous order is *required* if a finding of one of the above is made)
- c. Incarceration. 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.

66. **Treatment/Counseling**. [22 O.S. § 60.4 C\(1\)](#) and [\(E\)\(1\)](#) and [\(2\)](#). The court can enter an order for Respondent to enter treatment/counseling on Final Order. If compromises safety should NOT order Parenting Classes for both; mediation; couples therapy; family therapy, etc. The court may order the Respondent to undergo treatment in a program certified by the Attorney General at the expense of the Respondent (not the Court). The Court MAY order Respondent to pay for Petitioner’s therapy under [22 O.S. § 60.4 \(E\)\(2\)](#).

[Best Practice – The Court should create a separate review docket. Any violation of a VPO is a criminal violation including failure to attend treatment if ordered.]

67. **UCCJEA** The Uniform Child Custody Jurisdiction and Enforcement Act applies to VPO hearings. [43 O.S. § 551-101 et seq.](#)

68. **Unlawful Purpose**. [22 O.S. § 60.4\(H\)\(1\)](#). It is unlawful for a person to knowingly and willfully seek a protective order against a spouse or ex-spouse to harass, obtain undue advantage, intimidate, or limit visitation in any divorce or separation action without justifiable cause.

- a. (2) misdemeanor for first offense - \$5,000 or up to 1 year in county jail or both
  - b. (3) felony for second offense DOC for 2 years or \$10,000 or both
69. **Vacate/Modify Continuous.** [22 O.S. § 60.4](#). 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 respondent.
70. **Validity** VPOs are valid statewide and nationwide. [22 O.S. § 60.7](#)
71. **Venue.** [22 O.S. § 60.2](#). Filing may be in the county of residence of Petitioner, Respondent, or location of the act.
72. **Violation of VPO** [22 O.S. § 60.9](#) Law enforcement SHALL arrest without a warrant any person in violation of a VPO. A true and correct copy of the VPO is *prima facie* evidence of the validity.
- The first offense is a misdemeanor and the second and subsequent offenses are a felony. [22 O.S. § 60.6](#). Upon finding of guilty the Court *shall* require counseling or treatment necessary for the cessation of abuse. [22 O.S. § 60.6\(D\)](#).
- Petitioners cannot violate their own protective order. Only a defendant can violate the protective order. [22 O.S. § 60.6\(H\)](#).
- No person can give permission to Defendant to violate VPO. [22 O.S. § 60.11\(2\)](#)
73. **Weapons** Any weapon (guns, cars) in which law enforcement has probable cause to believed used in an act of domestic abuse under [22 O.S. § 60.1](#) shall seize said weapon and file for forfeiture. [22 O.S. § 60.8\(A\)](#), The DAs office *shall* file for forfeiture within 10 days. [22 O.S. § 60.8\(B\)](#). Defendant if proves act was justified at forfeiture hearing may obtain weapon. Any forfeiture funds shall be placed in the Crime Victims Compensation Revolving Fund. [22 O.S. § 60.8\(C\)](#).