

House Bill 2928

Sponsored by Representative HOLVEY (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes hearings under Family Abuse Prevention Act to be held in person or by telephone.

A BILL FOR AN ACT

1
2 Relating to telephonic hearings in Family Abuse Prevention Act proceedings; amending ORS 107.716
3 and 107.725.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 107.716 is amended to read:

6 107.716. (1) If the respondent requests a hearing pursuant to ORS 107.718 (10), the court shall
7 hold the hearing within 21 days after the request. However, if the respondent contests the order
8 granting temporary child custody to the petitioner, the court shall hold the hearing within five days
9 after the request.

10 (2)(a) If the court determines under ORS 107.718 (2) that exceptional circumstances exist that
11 affect the custody of a child, the court shall hold a hearing within 14 days after issuance of the
12 restraining order. The clerk of the court shall provide a notice of the hearing along with the petition
13 and order to the petitioner and, in accordance with ORS 107.718 (8), to the county sheriff for service
14 on the respondent.

15 (b) The respondent may request an earlier hearing, to be held within five days after the request.
16 The hearing request form shall be available from the clerk of the court in the form prescribed by
17 the State Court Administrator under ORS 107.718 (7). If the respondent requests an earlier hearing,
18 the clerk of the court shall notify the parties of the scheduled hearing date by mailing a notice of
19 the time and place of hearing to the addresses provided in the petition or, for the respondent, to the
20 address provided in the request for hearing, or as otherwise designated by a party.

21 (c) When the court schedules a hearing under this subsection, the respondent may not request
22 a hearing under ORS 107.718 (10).

23 (3) In a hearing held pursuant to subsection (1) or (2) of this section, the court may cancel or
24 change any order issued under ORS 107.718 and may assess against either party a reasonable at-
25 torney fee and such costs as may be incurred in the proceeding.

26 (4)(a) If service of a notice of hearing is inadequate to provide a party with sufficient notice of
27 the hearing held pursuant to ORS 107.718 (2) or (10), the court may extend the date of the hearing
28 for up to five days so that the party may seek representation.

29 (b) If one party is represented by an attorney at a hearing held pursuant to ORS 107.718 (2) or
30 (10), the court may extend the date of the hearing for up to five days at the other party's request
31 so that the other party may seek representation.

32 (5) If the court continues the order, with or without changes, at a hearing about which the re-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 spondent received actual notice and the opportunity to participate, the court shall include in the
2 order a certificate in substantially the following form in a separate section immediately above the
3 signature of the judge:

4
5
6 CERTIFICATE OF COMPLIANCE
7 WITH THE VIOLENCE
8 AGAINST WOMEN ACT
9

10 This protective order meets all full faith and credit requirements of the Violence Against Women
11 Act, 18 U.S.C. 2265 (1994). This court has jurisdiction over the parties and the subject matter. The
12 respondent was afforded notice and timely opportunity to be heard as provided by the law of this
13 jurisdiction. This order is valid and entitled to enforcement in this and all other jurisdictions.
14

15
16 (6) The court may approve any consent agreement to bring about a cessation of abuse of the
17 parties. However, the court may not approve a term in a consent agreement that provides for re-
18 straint of a party to the agreement unless the other party petitioned for and was granted an order
19 under ORS 107.710. An order or consent agreement made under this section may be amended at any
20 time and shall continue in effect for a period of one year from the date of the order issued under
21 ORS 107.718, or until superseded as provided in ORS 107.722.

22 (7) No order or agreement made under ORS 107.705 to 107.720, 133.310 and 133.381 shall in any
23 manner affect title to any real property.

24 (8) No undertaking shall be required in any proceeding under ORS 107.700 to 107.735.

25 (9) Any proceeding under ORS 107.700 to 107.735 shall be in addition to any other available civil
26 or criminal remedies.

27 **(10) A hearing under this section may be held in person or by telephone.**

28 **SECTION 2.** ORS 107.725 is amended to read:

29 107.725. The court may renew an order entered under ORS 107.716 or 107.718 upon a finding
30 that a person in the petitioner's situation would reasonably fear further acts of abuse by the re-
31 spondent if the order is not renewed. A finding that there has been a further act of abuse is not
32 required. A court may renew an order on the basis of a sworn, ex parte petition alleging facts sup-
33 porting the required finding. If the renewal order is granted, the provisions of ORS 107.716 (5) and
34 107.718 (8) to (10) apply except that the court may hear no issue other than the basis for renewal
35 unless requested in the hearing request form and thereafter agreed to by the petitioner. The court
36 shall hold a hearing required under this section within 21 days after the respondent's request. **A**
37 **hearing under this section may be held in person or by telephone.**
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