

House Bill 3117

Sponsored by Representative NOSSE, Senator TAYLOR; Representatives HERNANDEZ, PILUSO, PRUSAK, SALINAS, WILDE, WILLIAMS, Senators MANNING JR, WAGNER

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**.

Extends period for filing restraining order under Family Abuse Prevention Act to two years from 180 days after date of abuse.

Extends period for elderly persons and persons with disabilities to file restraining order to two years from 180 days after date of abuse.

Extends period for filing sexual abuse restraining order to two years from 180 days after date of abuse.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to obtaining court orders to prohibit contact; creating new provisions; amending ORS
3 107.710, 107.718, 124.010, 124.020, 163.763 and 163.765; and declaring an emergency.

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

5 **SECTION 1.** ORS 107.710 is amended to read:

6 107.710. (1) Any person who has been the victim of abuse within the preceding [*180 days*] **two**
7 **years** may petition the circuit court for relief under ORS 107.700 to 107.735, if the person is in im-
8 minent danger of further abuse from the abuser. The person may seek relief by filing a petition with
9 the circuit court alleging that the person is in imminent danger of abuse from the respondent, that
10 the person has been the victim of abuse committed by the respondent within the [*180 days*] **two**
11 **years** preceding the filing of the petition and particularly describing the nature of the abuse and
12 the dates thereof. The abuse must have occurred not more than [*180 days*] **two years** before the
13 filing of the petition. The petition must include allegations made under oath or affirmation or a
14 declaration under penalty of perjury. The circuit court shall have jurisdiction over all proceedings
15 under ORS 107.700 to 107.735.

16 (2) The petitioner has the burden of proving a claim under ORS 107.700 to 107.735 by a pre-
17 ponderance of the evidence.

18 (3) A person's right to relief under ORS 107.700 to 107.735 shall not be affected by the fact that
19 the person left the residence or household to avoid abuse.

20 (4) A petition filed under ORS 107.700 to 107.735 shall disclose the existence of any custody,
21 Family Abuse Prevention Act or Elderly Persons and Persons With Disabilities Abuse Prevention
22 Act proceedings, or any marital annulment, dissolution or separation proceedings, or any filiation
23 proceeding, pending between the parties, and the existence of any other custody order affecting the
24 children of the parties.

25 (5) When the petitioner requests custody of any child, the petition shall comply with ORS
26 109.767 and disclose:

27 (a) The child's present residence and the length of time the child has resided at the residence;

28 (b) The county and state where the child resided for the five years immediately prior to the

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 filing of the petition;

2 (c) The name and address of the party or other responsible person with whom the child is
3 presently residing;

4 (d) The name and current address of any party or other responsible person with whom the child
5 resided for the five years immediately prior to the filing of the petition;

6 (e) Whether the party participated as a party, witness or in any other capacity, in any other
7 litigation concerning the custody of the child in this or any other state;

8 (f) Whether the party has information of any custody proceeding concerning the child pending
9 in a court of this or any other state; and

10 (g) Whether the party knows of any person not a party to the proceedings who has physical
11 custody of the child or claims to have custody, parenting time or visitation rights with respect to
12 the child.

13 (6) For purposes of computing the *[180-day]* **two-year** period in this section and ORS 107.718,
14 any time during which the respondent is incarcerated or has a principal residence more than 100
15 miles from the principal residence of the petitioner shall not be counted as part of the *[180-day]*
16 **two-year** period.

17 **SECTION 2.** ORS 107.718 is amended to read:

18 107.718. (1) When a person files a petition under ORS 107.710, the circuit court shall hold an
19 ex parte hearing in person or by telephone on the day the petition is filed or on the following judi-
20 cial day. Upon a showing that the petitioner has been the victim of abuse committed by the re-
21 spondent within *[180 days]* **two years** preceding the filing of the petition, that there is an imminent
22 danger of further abuse to the petitioner and that the respondent represents a credible threat to the
23 physical safety of the petitioner or the petitioner’s child, the court shall, if requested by the
24 petitioner, order:

25 (a) Except as provided in subsection (2) of this section, that temporary custody of the children
26 of the parties be awarded to the petitioner or, at the request of the petitioner, to the respondent,
27 subject to reasonable parenting time rights of the noncustodial parent, which the court shall order,
28 unless such parenting time is not in the best interest of the child;

29 (b) That the respondent be required to move from the petitioner’s residence, if in the sole name
30 of the petitioner or if it is jointly owned or rented by the petitioner and the respondent, or if the
31 parties are married to each other;

32 (c) That the respondent be restrained from entering, or attempting to enter, a reasonable area
33 surrounding the petitioner’s current or subsequent residence if the respondent is required to move
34 from petitioner’s residence;

35 (d) That a peace officer accompany the party who is leaving or has left the parties’ residence
36 to remove essential personal effects of the party or the party’s children, or both, including but not
37 limited to clothing, toiletries, diapers, medications, Social Security cards, certified copies of records
38 of live birth, identification and tools of the trade;

39 (e) That the respondent be restrained from intimidating, molesting, interfering with or menacing
40 the petitioner, or attempting to intimidate, molest, interfere with or menace the petitioner;

41 (f) That the respondent be restrained from intimidating, molesting, interfering with or menacing
42 any children in the custody of the petitioner, or attempting to intimidate, molest, interfere with or
43 menace any children in the custody of the petitioner;

44 (g) That the respondent be restrained from entering, or attempting to enter, on any premises and
45 a reasonable area surrounding the premises when it appears to the court that such restraint is

1 necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the
 2 petitioner or children whose custody is awarded to the petitioner;

3 (h) Other relief that the court considers necessary to:

4 (A) Provide for the safety and welfare of the petitioner and the children in the custody of the
 5 petitioner, including but not limited to emergency monetary assistance from the respondent; and

6 (B) Prevent the neglect and protect the safety of any service or therapy animal or any animal
 7 kept for personal protection or companionship, but not an animal kept for any business, commercial,
 8 agricultural or economic purpose; or

9 (i) Except as described in subsection (12) of this section or parenting time ordered under this
 10 section, that the respondent have no contact with the petitioner in person, by telephone or by mail.

11 (2) If the court determines that exceptional circumstances exist that affect the custody of a
 12 child, the court shall order the parties to appear and provide additional evidence at a hearing to
 13 determine temporary custody and resolve other contested issues. Pending the hearing, the court
 14 may make any orders regarding the child's residence and the parties' contact with the child that the
 15 court finds appropriate to provide for the child's welfare and the safety of the parties. The court
 16 shall set a hearing time and date as provided in ORS 107.716 (2) and issue a notice of the hearing
 17 at the same time the court issues the restraining order.

18 (3) The court's order under subsection (1) of this section is effective for a period of one year or
 19 until the order is withdrawn or amended, or until the order is superseded as provided in ORS
 20 107.722, whichever is sooner.

21 (4) If respondent is restrained from entering, or attempting to enter, an area surrounding
 22 petitioner's residence or any other premises, the order restraining respondent shall specifically de-
 23 scribe the area.

24 (5) Imminent danger under this section includes but is not limited to situations in which the
 25 respondent has recently threatened petitioner with additional bodily harm.

26 (6) If the court awards parenting time to a parent who committed abuse, the court shall make
 27 adequate provision for the safety of the child and of the petitioner. The order of the court may in-
 28 clude, but is not limited to, the following:

29 (a) That exchange of a child between parents shall occur at a protected location.

30 (b) That parenting time be supervised by another person or agency.

31 (c) That the perpetrator of the abuse be required to attend and complete, to the satisfaction of
 32 the court, a program of intervention for perpetrators or any other counseling program designated
 33 by the court as a condition of the parenting time.

34 (d) That the perpetrator of the abuse not possess or consume alcohol or controlled substances
 35 during the parenting time and for 24 hours preceding the parenting time.

36 (e) That the perpetrator of the abuse pay all or a portion of the cost of supervised parenting
 37 time, and any program designated by the court as a condition of parenting time.

38 (f) That no overnight parenting time occur.

39 (7) The State Court Administrator shall prescribe the content and form of the petition, order and
 40 related forms for use under ORS 107.700 to 107.735. The clerk of the court shall make available the
 41 forms and an instructional brochure explaining the rights set forth under ORS 107.700 to 107.735.

42 (8) If the court orders relief:

43 (a) The clerk of the court shall provide without charge the number of certified true copies of
 44 the petition and order necessary to provide the petitioner with one copy and to effect service and
 45 shall have a true copy of the petition and order delivered to the county sheriff for service upon the

1 respondent, unless the court finds that further service is unnecessary because the respondent ap-
 2 peared in person before the court. In addition and upon request by the petitioner, the clerk shall
 3 provide the petitioner, without charge, two exemplified copies of the petition and order.

4 (b) The county sheriff shall serve the respondent personally unless the petitioner elects to have
 5 the respondent served personally by a private party or by a peace officer who is called to the scene
 6 of a domestic disturbance at which the respondent is present, and who is able to obtain a copy of
 7 the order within a reasonable amount of time. Proof of service shall be made in accordance with
 8 ORS 107.720. When the order does not contain the respondent's date of birth and service is effected
 9 by the sheriff or other peace officer, the sheriff or officer shall verify the respondent's date of birth
 10 with the respondent and shall record that date on the order or proof of service entered into the Law
 11 Enforcement Data System under ORS 107.720.

12 (c) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the
 13 relief provided under ORS 107.700 to 107.735.

14 (9) If the county sheriff:

15 (a) Determines that the order and petition are incomplete, the sheriff shall return the order and
 16 petition to the clerk of the court. The clerk of the court shall notify the petitioner, at the address
 17 provided by the petitioner, of the error or omission.

18 (b) After accepting the order and petition, cannot complete service within 10 days, the sheriff
 19 shall notify the petitioner, at the address provided by the petitioner, that the documents have not
 20 been served. If the petitioner does not respond within 10 days, the sheriff shall hold the order and
 21 petition for future service and file a return to the clerk of the court showing that service was not
 22 completed.

23 (10)(a) Within 30 days after a restraining order is served under this section, the respondent
 24 therein may request a court hearing upon any relief granted. The hearing request form shall be
 25 available from the clerk of the court in the form prescribed by the State Court Administrator.

26 (b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the
 27 court shall notify the petitioner of the date and time of the hearing, and shall supply the petitioner
 28 with a copy of the respondent's request for a hearing. The petitioner shall give to the clerk of the
 29 court information sufficient to allow such notification.

30 (c) The hearing shall not be limited to the issues raised in the respondent's request for hearing
 31 form. If the respondent seeks to raise an issue at the hearing not previously raised in the request
 32 for hearing form, or if the petitioner seeks relief at the hearing not granted in the original order,
 33 the other party shall be entitled to a reasonable continuance for the purpose of preparing a response
 34 to the issue.

35 (11) If the respondent fails to request a hearing within 30 days after a restraining order is
 36 served, the restraining order is confirmed by operation of law. The provisions of this section are
 37 sufficient to meet the due process requirements of 18 U.S.C. 922(g) in that the respondent received
 38 actual notice of the right to request a hearing and the opportunity to participate at the hearing but
 39 the respondent failed to exercise those rights.

40 (12) Service of process or other legal documents upon the petitioner is not a violation of this
 41 section if the petitioner is served as provided in ORCP 7 or 9.

42 **SECTION 3.** ORS 124.010 is amended to read:

43 124.010. (1)(a) Except as provided in subsection (8) of this section, an elderly person or a person
 44 with a disability who has been the victim of abuse within the preceding [180 days] **two years** or a
 45 guardian or guardian ad litem of an elderly person or a person with a disability who has been the

1 victim of abuse within the preceding [180 days] **two years** may petition the circuit court for relief
 2 under ORS 124.005 to 124.040, if the person is in immediate and present danger of further abuse from
 3 the abuser.

4 (b) The elderly person or person with a disability or the guardian or guardian ad litem of the
 5 person may seek relief by filing a petition with the circuit court alleging that the person is in im-
 6 mediate and present danger of further abuse from the respondent, alleging that the person has been
 7 the victim of abuse committed by the respondent within the [180 days] **two years** preceding the fil-
 8 ing of the petition and describing the nature of the abuse and the approximate dates thereof. The
 9 abuse must have occurred not more than [180 days] **two years** before the filing of the petition.

10 (c) A petitioner or guardian petitioner is not required to provide in the petition information re-
 11 garding the relationship between the elderly person or person with a disability and the respondent.

12 (d) The petition must include allegations made under oath or affirmation or a declaration under
 13 penalty of perjury. The circuit court has jurisdiction over all proceedings under ORS 124.005 to
 14 124.040.

15 (2) The petitioner or guardian petitioner has the burden of proving a claim under ORS 124.005
 16 to 124.040 by a preponderance of the evidence.

17 (3) The right to petition for relief under ORS 124.005 to 124.040 is not affected by the fact that
 18 the elderly person or person with a disability has left the residence or household to avoid abuse.

19 (4) A petition filed under ORS 124.005 to 124.040 must disclose the existence of any Elderly
 20 Persons and Persons With Disabilities Abuse Prevention Act proceedings, any Abuse Prevention Act
 21 proceedings, any marital annulment, dissolution or separation proceedings pending between the
 22 parties or any protective proceedings under ORS chapter 125.

23 (5) Upon the filing of a petition under ORS 124.005 to 124.040, the clerk of the court shall give
 24 the petitioner or guardian petitioner information provided by the Department of Human Services
 25 about local adult protective services, domestic violence shelters and local legal services available.

26 (6) For purposes of computing the [180-day] **two-year** period in this section and ORS 124.020,
 27 any time during which the respondent is incarcerated or has a principal residence more than 100
 28 miles from the principal residence of the elderly person or person with a disability is not counted
 29 as part of the [180-day] **two-year** period.

30 (7) If a guardian or guardian ad litem files a petition under this section on behalf of an elderly
 31 person or a person with a disability, the elderly person or person with a disability retains the right
 32 to:

- 33 (a) Contact and retain counsel;
- 34 (b) Have access to personal records;
- 35 (c) File objections to the restraining order;
- 36 (d) Request a hearing; and
- 37 (e) Present evidence and cross-examine witnesses at any hearing.

38 (8) An elderly person or a person with a disability may not file a petition under ORS 124.005 to
 39 124.040 against a guardian or conservator for the person.

40 **SECTION 4.** ORS 124.020 is amended to read:

41 124.020. (1) When a petitioner or guardian petitioner files a petition under ORS 124.010, the
 42 circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed
 43 or on the following judicial day. Upon a showing that the elderly person or person with a disability
 44 named in the petition has been the victim of abuse committed by the respondent within [180 days]
 45 **two years** preceding the filing of the petition and that there is an immediate and present danger

1 of further abuse to the person, the court shall, if requested by the petitioner or guardian petitioner,
 2 order, for a period of one year or until the order is withdrawn or amended, whichever is sooner:

3 (a) That the respondent be required to move from the residence of the elderly person or person
 4 with a disability, if in the sole name of the person or if jointly owned or rented by the person and
 5 the respondent, or if the parties are married to each other;

6 (b) That a peace officer accompany the party who is leaving or has left the parties' residence
 7 to remove essential personal effects of the party;

8 (c) That the respondent be restrained from abusing, intimidating, molesting, interfering with or
 9 menacing the elderly person or person with a disability, or attempting to abuse, intimidate, molest,
 10 interfere with or menace the person;

11 (d) That the respondent be restrained from entering, or attempting to enter, on any premises
 12 when it appears to the court that such restraint is necessary to prevent the respondent from abus-
 13 ing, intimidating, molesting, interfering with or menacing the elderly person or person with a disa-
 14 bility;

15 (e) That the respondent be:

16 (A) Restrained, effective on a date not less than 150 days from the date of the order, from
 17 mailing the elderly person or person with a disability any sweepstakes promotion;

18 (B) Required to remove the elderly person or person with a disability from the respondent's
 19 sweepstakes promotion mailing list or place the person on a list of persons to whom sweepstakes
 20 promotions may not be mailed; and

21 (C) Required to promptly refund any payment received in any form from the elderly person or
 22 person with a disability after the date the order is entered by the court; or

23 (f) Except as provided in subsection (2) of this section, other relief that the court considers
 24 necessary to provide for the safety and welfare of the elderly person or person with a disability.

25 (2)(a) If the court finds that the elderly person or person with a disability has been the victim
 26 of abuse as defined in ORS 124.005 (1)(g), the court may order only relief that the court considers
 27 necessary to prevent or remedy the wrongful taking or appropriation of the money or property of
 28 the person, including but not limited to:

29 (A) Directing the respondent to refrain from exercising control over the money or property of
 30 the person;

31 (B) Requiring the respondent to return custody or control of the money or property of the per-
 32 son to the person;

33 (C) Requiring the respondent to follow the instructions of the guardian or conservator of the
 34 person; or

35 (D) Prohibiting the respondent from transferring the money or property of the elderly person
 36 or person with a disability to any person other than the elderly person or person with a disability.

37 (b) The court may not use a restraining order issued under ORS 124.005 to 124.040:

38 (A) To allow any person other than the elderly person or person with a disability to assume
 39 responsibility for managing any of the money or property of the elderly person or person with a
 40 disability; or

41 (B) For relief that is more appropriately obtained in a protective proceeding filed under ORS
 42 chapter 125 including, but not limited to, giving control and management of the financial accounts
 43 or property of the elderly person or person with a disability for any purpose other than the relief
 44 granted under paragraph (a) of this subsection.

45 (3) The showing required under subsection (1) of this section may be made by testimony of:

- 1 (a) The elderly person or person with a disability;
- 2 (b) The guardian or guardian ad litem of the elderly person or person with a disability;
- 3 (c) Witnesses to the abuse; or
- 4 (d) Adult protective services workers who have conducted an investigation.

5 (4) Immediate and present danger under this section includes but is not limited to situations in
6 which the respondent has recently threatened the elderly person or person with a disability with
7 additional abuse.

8 (5) When a guardian petitioner files a petition on behalf of an elderly person or a person with
9 a disability, the guardian petitioner shall provide information about the person and not about the
10 guardian petitioner where the petition, order or related forms prescribed under subsection (6) of this
11 section require information about the petitioner.

12 (6) The State Court Administrator shall prescribe the content and form of the petition, order and
13 related forms for use under ORS 124.005 to 124.040. The clerk of the court shall make available the
14 forms and an instruction brochure.

15 (7) If the court orders relief:

16 (a) The clerk of the court shall provide without charge the number of certified true copies of
17 the petition and order necessary to effect service and shall have a true copy of the petition and
18 order delivered to the county sheriff for service upon the respondent, unless the court finds that
19 further service is unnecessary because the respondent appeared in person before the court.

20 (b) The county sheriff shall serve the respondent personally unless the petitioner or guardian
21 petitioner elects to have the respondent served personally by a private party or by a peace officer
22 who is called to the scene of a domestic disturbance at which the respondent is present, and who
23 is able to obtain a copy of the order within a reasonable amount of time. Proof of service shall be
24 made in accordance with ORS 124.030.

25 (c) A respondent accused of committing abuse by means of a sweepstakes promotion may be
26 served:

27 (A) Personally;

28 (B) By mailing certified true copies of the petition and order by certified mail to the address to
29 which the elderly person or person with a disability would have sent the payment for goods or ser-
30 vices promoted in the sweepstakes promotion had the elderly person or person with a disability been
31 ordering the goods or services; or

32 (C) In the manner directed by the court.

33 (d) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the
34 relief provided under ORS 124.005 to 124.040.

35 (8) If the county sheriff:

36 (a) Determines that the order and petition are incomplete, the order and petition shall be re-
37 turned to the clerk of the court. The clerk of the court shall notify the petitioner or guardian
38 petitioner, at the address provided by the petitioner or guardian petitioner, of the error or omission.

39 (b) After accepting the order and petition, cannot complete service within 10 days, the sheriff
40 shall notify the petitioner or guardian petitioner, at the address provided by the petitioner or
41 guardian petitioner, that the documents have not been served. If the petitioner or guardian
42 petitioner does not respond within 10 days, the county sheriff shall hold the order and petition for
43 future service and file a return to the clerk of the court showing that service was not completed.

44 (9)(a) Within 30 days after a restraining order is served on the respondent under this section
45 or within 30 days after notice is served on the elderly person or person with a disability under ORS

1 124.024, the respondent, elderly person or person with a disability may request a court hearing upon
 2 any relief granted. The hearing request form shall be available from the clerk of the court in the
 3 form prescribed by the State Court Administrator.

4 (b) If the respondent, elderly person or person with a disability requests a hearing under para-
 5 graph (a) of this subsection, the clerk of the court shall notify the petitioner or guardian petitioner
 6 of the date and time of such hearing, and shall supply the petitioner or guardian petitioner with a
 7 copy of the request for a hearing. The petitioner or guardian petitioner shall give to the clerk of the
 8 court information sufficient to allow such notification.

9 (c) The hearing is not limited to the issues raised in the request for hearing form and may in-
 10 clude testimony from witnesses to the abuse and adult protective services workers. The hearing may
 11 be held in person or by telephone. If the respondent, elderly person or person with a disability seeks
 12 to raise an issue at the hearing not previously raised in the request for hearing form, the petitioner
 13 or guardian petitioner is entitled to a reasonable continuance for the purpose of preparing a re-
 14 sponse to the issue.

15 (d) The court shall exercise its discretion in a manner that protects the elderly person or person
 16 with a disability from traumatic confrontation with the respondent.

17 **SECTION 5.** ORS 163.763 is amended to read:

18 163.763. (1) A person who has been subjected to sexual abuse and who reasonably fears for the
 19 person's physical safety may petition the circuit court for a restraining order if:

20 (a) The person and the respondent are not family or household members;

21 (b) The respondent is at least 18 years of age; and

22 (c) The respondent is not prohibited from contacting the person pursuant to a foreign restraining
 23 order as defined in ORS 24.190, an order issued under ORS 30.866, 124.015, 124.020, 163.738 or
 24 419B.845 or an order entered in a criminal action.

25 (2)(a) A petition seeking relief under ORS 163.760 to 163.777 must be filed in the circuit court
 26 for the county in which the petitioner or the respondent resides. The petition may be filed, without
 27 the appointment of a guardian ad litem, by a person who is at least 12 years of age or by a parent
 28 or lawful guardian of a person who is under 18 years of age.

29 (b) The petition must allege that:

30 (A) The petitioner reasonably fears for the petitioner's physical safety with respect to the re-
 31 spondent; and

32 (B) The respondent subjected the petitioner to sexual abuse within the [180 days] **two years**
 33 preceding the filing of the petition.

34 (c) The petition must include allegations made under oath or affirmation or a declaration under
 35 penalty of perjury.

36 (d) The petitioner has the burden of proving a claim under ORS 163.760 to 163.777 by a pre-
 37 ponderance of the evidence.

38 (3) The following periods of time may not be counted for the purpose of computing the
 39 [180-day] **two-year** period described in this section and ORS 163.765:

40 (a) Any time during which the respondent is incarcerated.

41 (b) Any time during which the respondent has a principal residence more than 100 miles from
 42 the principal residence of the petitioner.

43 (c) Any time during which the respondent is subject to an order described in subsection (1)(c)
 44 of this section.

45 **SECTION 6.** ORS 163.765 is amended to read:

1 163.765. (1) When a petition is filed in accordance with ORS 163.763, the circuit court shall hold
 2 an ex parte hearing in person or by telephone on the day the petition is filed or on the following
 3 judicial day. Upon a finding that it is objectively reasonable for a person in the petitioner's situation
 4 to fear for the person's physical safety if an order granting relief under ORS 163.760 to 163.777 is
 5 not entered and that the respondent has subjected the petitioner to sexual abuse within the [180
 6 days] **two years** preceding the filing of the petition, the circuit court:

7 (a) Shall enter an order restraining the respondent from contacting the petitioner and from in-
 8 timidating, molesting, interfering with or menacing the petitioner, or attempting to intimidate, mole-
 9 lest, interfere with or menace the petitioner.

10 (b) If the petitioner requests, may order:

11 (A) That the respondent be restrained from contacting the petitioner's children or family or
 12 household members;

13 (B) That the respondent be restrained from entering, or attempting to enter, a reasonable area
 14 surrounding the petitioner's residence;

15 (C) That the respondent be restrained from intimidating, molesting, interfering with or menacing
 16 any children or family or household members of the petitioner, or attempting to intimidate, molest,
 17 interfere with or menace any children or family or household members of the petitioner;

18 (D) That the respondent be restrained from entering, or attempting to enter, any premises and
 19 a reasonable area surrounding the premises when necessary to prevent the respondent from intim-
 20 idating, molesting, interfering with or menacing the petitioner or the petitioner's children or family
 21 or household members; and

22 (E) Other relief necessary to provide for the safety and welfare of the petitioner or the
 23 petitioner's children or family or household members.

24 (2) If the respondent is restrained from entering or attempting to enter an area surrounding the
 25 petitioner's residence or any other premises, the restraining order must specifically describe the
 26 area or premises.

27 (3) When the circuit court enters a restraining order under this section, the court shall set a
 28 security amount for the violation of the order.

29 (4) If the circuit court enters a restraining order under subsection (1) of this section:

30 (a) The clerk of the court shall provide, without charge, the number of certified true copies of
 31 the petition and the restraining order necessary to provide the petitioner with one copy and to effect
 32 service and shall have a true copy of the petition and the restraining order delivered to the county
 33 sheriff for service upon the respondent, unless the circuit court finds that further service is unnec-
 34 essary because the respondent appeared in person before the court. In addition and upon request
 35 by the petitioner, the clerk of the court shall provide the petitioner, without charge, two exemplified
 36 copies of the petition and the restraining order.

37 (b) The county sheriff shall serve the respondent personally unless the petitioner elects to have
 38 the respondent served personally by another party. Proof of service shall be made in accordance
 39 with ORS 163.773. When the restraining order does not contain the respondent's date of birth and
 40 service is effected by the sheriff, the sheriff shall verify the respondent's date of birth with the re-
 41 spondent and shall record that date on the restraining order or proof of service entered into the
 42 Law Enforcement Data System under ORS 163.773.

43 (5) If the county sheriff:

44 (a) Determines that the restraining order and petition are incomplete, the sheriff shall return
 45 the restraining order and petition to the clerk of the court. The clerk of the court shall notify the

1 petitioner, at the address provided by the petitioner, of the error or omission.

2 (b) Cannot complete service within 10 days after accepting the restraining order and petition,
3 the sheriff shall notify the petitioner, at the address provided by the petitioner, that the documents
4 have not been served. If the petitioner does not respond within 10 days, the sheriff shall hold the
5 restraining order and petition for future service and file a return to the clerk of the court showing
6 that service was not completed.

7 (6)(a) Within 30 days after a restraining order is served under this section, the respondent may
8 request a circuit court hearing upon any relief granted.

9 (b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the
10 court shall notify the petitioner of the date and time of the hearing and shall supply the petitioner
11 with a copy of the respondent's request for a hearing. The petitioner shall give the clerk of the court
12 information sufficient to allow such notification.

13 (7) If the respondent fails to request a hearing within 30 days after a restraining order is served,
14 the restraining order is confirmed by operation of law.

15 (8) A restraining order entered under this section is effective for a period of one year, unless
16 the restraining order is renewed, modified or terminated in accordance with ORS 163.760 to 163.777.

17 **SECTION 7. The amendments to ORS 107.710, 107.718, 124.010, 124.020, 163.763 and 163.765**
18 **by sections 1 to 6 of this 2019 Act apply to orders issued on or after the effective date of this**
19 **2019 Act that arise from abuse occurring before, on or after the effective date of this 2019**
20 **Act.**

21 **SECTION 8. This 2019 Act being necessary for the immediate preservation of the public**
22 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
23 **on its passage.**

24 _____