

SENATE AMENDMENTS TO SENATE BILL 1547

By COMMITTEE ON JUDICIARY

February 11

1 On page 1 of the printed bill, delete lines 5 through 24 and insert:

2 “**SECTION 1.** ORS 3.014 is amended to read:

3 “3.014. (1) One of the judges of the fourth judicial district shall hold court in the City of
4 Gresham, Multnomah County, as directed by the Chief Justice of the Supreme Court but in no event
5 less than one day a week. All proceedings resulting from alleged state **misdemeanor** traffic offenses
6 or **other** misdemeanors occurring east of 122nd Avenue extended to the north and south boundaries
7 of Multnomah County shall be conducted in the court in Gresham unless the accused at first ap-
8 pearance in each action requests trial in Portland.

9 “(2) A proceeding to be conducted in Gresham as provided in subsection (1) of this section
10 shall, **unless good cause is shown**, be transferred without further order of the court to a court
11 facility in Portland for all purposes if:

12 “(a) The accused person is in the custody of a county sheriff or the Department of Corrections
13 at the time set for any [*scheduled*] proceeding; [*or*]

14 “(b) **The accused person is, during the pendency of the case, charged in Multnomah**
15 **County with any felony; or**

16 “[*(b)*] (c) A circuit court in the fourth judicial district issues a bench warrant or a warrant of
17 arrest against the accused for any criminal action pending before the court.

18 “(3) **Notwithstanding subsection (2) of this section, upon motion of any party, the pro-**
19 **ceeding shall, unless good cause is shown, be returned to the court in Gresham if the accused**
20 **person is not in custody and all warrants issued by a circuit court in the fourth judicial**
21 **district for the accused have been vacated or executed.**

22 “[*(3)*] (4) Multnomah County shall provide facilities in the City of Gresham for a court judge to
23 hold court as described under subsection (1) of this section.”.

24 On page 3, delete lines 9 through 45 and delete pages 4 through 6 and insert:

25 “**SECTION 4.** ORS 163.765 is amended to read:

26 “163.765. (1) When a petition is filed in accordance with ORS 163.763, the circuit court shall hold
27 an ex parte hearing in person or by telephone on the day the petition is filed or on the following
28 judicial day. Upon a finding that it is objectively reasonable for a person in the petitioner’s situation
29 to fear for the person’s physical safety if an order granting relief under ORS 163.760 to 163.777 is
30 not entered and that the respondent has subjected the petitioner to sexual abuse, the circuit court:

31 “(a) Shall enter an order restraining the respondent from contacting the petitioner and from
32 intimidating, molesting, interfering with or menacing the petitioner, or attempting to intimidate,
33 molest, interfere with or menace the petitioner.

34 “(b) If the petitioner requests, may order:

35 “(A) That the respondent be restrained from contacting the petitioner’s children or family or

1 household members;

2 “(B) That the respondent be restrained from entering, or attempting to enter, a reasonable area
3 surrounding the petitioner’s residence;

4 “(C) That the respondent be restrained from intimidating, molesting, interfering with or menac-
5 ing any children or family or household members of the petitioner, or attempting to intimidate, mo-
6 lest, interfere with or menace any children or family or household members of the petitioner;

7 “(D) That the respondent be restrained from entering, or attempting to enter, any premises and
8 a reasonable area surrounding the premises when necessary to prevent the respondent from intim-
9 idating, molesting, interfering with or menacing the petitioner or the petitioner’s children or family
10 or household members; and

11 “(E) Other relief necessary to provide for the safety and welfare of the petitioner or the
12 petitioner’s children or family or household members.

13 “(2) If the respondent is restrained from entering or attempting to enter an area surrounding the
14 petitioner’s residence or any other premises, the restraining order must specifically describe the
15 area or premises.

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

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

19 “(a) The clerk of the court shall provide, without charge, the number of certified true copies of
20 the petition and the restraining order necessary to provide the petitioner with one copy and to effect
21 service and shall have a true copy of the petition and the restraining order delivered to the county
22 sheriff for service upon the respondent, unless the circuit court finds that further service is unrec-
23 essary because the respondent appeared in person before the court. In addition and upon request
24 by the petitioner, the clerk of the court shall provide the petitioner, without charge, two exemplified
25 copies of the petition and the restraining order.

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

32 “(5)(a) If the county sheriff:

33 “(A) Determines that the restraining order and petition are incomplete, the sheriff shall return
34 the restraining order and petition to the clerk of the court. The clerk of the court shall notify the
35 petitioner, at the address provided by the petitioner, of the error or omission.

36 “(B) Cannot complete service within 10 days after accepting the restraining order and petition,
37 the sheriff shall notify the petitioner, at the address provided by the petitioner, that the documents
38 have not been served. If the petitioner does not respond within 10 days, the sheriff shall hold the
39 restraining order and petition for future service and file a return to the clerk of the court showing
40 that service was not completed.

41 “(b) If a petitioner receives notice of incomplete service under paragraph (a)(B) of this sub-
42 section and cannot effect service on the respondent within 30 days after the granting or renewal
43 of the restraining order, the circuit court may order service by an alternative method in accordance
44 with ORCP 7 D(6) on proof of the petitioner’s due diligence in attempting to effect service.

45 “(6)(a) Within 30 days after a restraining order is served under this section, the respondent may

1 request a circuit court hearing upon any relief granted.

2 “(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the
3 court shall notify the petitioner of the date and time of the hearing and shall supply the petitioner
4 with a copy of the respondent’s request for a hearing. The petitioner shall give the clerk of the court
5 information sufficient to allow such notification.

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

8 “(8)(a) A restraining order entered under this section is effective for a period of five years or,
9 if the petitioner is under 18 years of age at the time of entry, until [*the person attains 19 years of*
10 *age*] **January 1 of the year following the petitioner’s 18th birthday**, whichever occurs later, ex-
11 cept as otherwise provided in paragraph (b) or (c) of this subsection or unless the restraining order
12 is renewed, modified or terminated in accordance with ORS 163.760 to 163.777.

13 “(b) The circuit court shall enter a permanent restraining order if, at the time of the petition
14 or renewal of the order, the respondent has been convicted of a crime described in ORS 163.355 to
15 163.445 committed against the petitioner.

16 “(c) The circuit court may enter a permanent restraining order if the court finds that it is ob-
17 jectively reasonable for a person in the petitioner’s situation to fear for the person’s physical safety
18 and that the passage of time or a change in circumstances would not dissipate that fear. In making
19 the finding, the court shall consider any information offered by the petitioner to support the request
20 for a permanent restraining order, including but not limited to:

21 “(A) Information that the respondent has a history of engaging in sexual abuse or domestic vi-
22 olence as defined in ORS 135.230;

23 “(B) If the petitioner is a minor, the fact that the respondent is related to the petitioner by blood
24 or marriage; or

25 “(C) Any vulnerability of the petitioner that is not likely to change over time.

26 “**SECTION 5.** ORS 163.765, as amended by section 4 of this 2020 Act, is amended to read:

27 “163.765. (1) When a petition is filed in accordance with ORS 163.763, the circuit court shall hold
28 an ex parte hearing in person or by telephone on the day the petition is filed or on the following
29 judicial day. Upon a finding that it is objectively reasonable for a person in the petitioner’s situation
30 to fear for the person’s physical safety if an order granting relief under ORS 163.760 to 163.777 is
31 not entered and that the respondent has subjected the petitioner to sexual abuse, the circuit court:

32 “(a) Shall enter an order restraining the respondent from contacting the petitioner and from
33 intimidating, molesting, interfering with or menacing the petitioner, or attempting to intimidate,
34 molest, interfere with or menace the petitioner.

35 “(b) If the petitioner requests, may order:

36 “(A) That the respondent be restrained from contacting the petitioner’s children or family or
37 household members;

38 “(B) That the respondent be restrained from entering, or attempting to enter, a reasonable area
39 surrounding the petitioner’s residence;

40 “(C) That the respondent be restrained from intimidating, molesting, interfering with or menac-
41 ing any children or family or household members of the petitioner, or attempting to intimidate, mo-
42 lest, interfere with or menace any children or family or household members of the petitioner;

43 “(D) That the respondent be restrained from entering, or attempting to enter, any premises and
44 a reasonable area surrounding the premises when necessary to prevent the respondent from intim-
45 idating, molesting, interfering with or menacing the petitioner or the petitioner’s children or family

1 or household members; and

2 “(E) Other relief necessary to provide for the safety and welfare of the petitioner or the
3 petitioner’s children or family or household members.

4 “(2) If the respondent is restrained from entering or attempting to enter an area surrounding the
5 petitioner’s residence or any other premises, the restraining order must specifically describe the
6 area or premises.

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

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

10 “(a) The clerk of the court shall provide, without charge, the number of certified true copies of
11 the petition and the restraining order necessary to provide the petitioner with one copy and to effect
12 service and shall have a true copy of the petition and the restraining order delivered to the county
13 sheriff for service upon the respondent, unless the circuit court finds that further service is unnec-
14 essary because the respondent appeared in person before the court. In addition and upon request
15 by the petitioner, the clerk of the court shall provide the petitioner, without charge, two exemplified
16 copies of the petition and the restraining order.

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

23 “(5)(a) If the county sheriff:

24 “(A) Determines that the restraining order and petition are incomplete, the sheriff shall return
25 the restraining order and petition to the clerk of the court. The clerk of the court shall notify the
26 petitioner, at the address provided by the petitioner, of the error or omission.

27 “(B) Cannot complete service within 10 days after accepting the restraining order and petition,
28 the sheriff shall notify the petitioner, at the address provided by the petitioner, that the documents
29 have not been served. If the petitioner does not respond within 10 days, the sheriff shall hold the
30 restraining order and petition for future service and file a return to the clerk of the court showing
31 that service was not completed.

32 “(b) If a petitioner receives notice of incomplete service under paragraph (a)(B) of this sub-
33 section and cannot effect service on the respondent within 30 days after the granting or renewal
34 of the restraining order, the circuit court may order service by an alternative method in accordance
35 with ORCP 7 D(6) on proof of the petitioner’s due diligence in attempting to effect service. **If ap-
36 propriate, the court may order the use of a summons to effect service. The summons must
37 include notice of where the respondent may obtain a complete copy of the order.**

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

40 “(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the
41 court shall notify the petitioner of the date and time of the hearing and shall supply the petitioner
42 with a copy of the respondent’s request for a hearing. The petitioner shall give the clerk of the court
43 information sufficient to allow such notification.

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

1 “(8)(a) A restraining order entered under this section is effective for a period of five years or,
2 if the petitioner is under 18 years of age at the time of entry, until January 1 of the year following
3 the petitioner’s 18th birthday, whichever occurs later, except as otherwise provided in paragraph (b)
4 or (c) of this subsection or unless the restraining order is renewed, modified or terminated in ac-
5 cordance with ORS 163.760 to 163.777.

6 “(b) The circuit court shall enter a permanent restraining order if, at the time of the petition
7 or renewal of the order, the respondent has been convicted of a crime described in ORS 163.355 to
8 163.445 committed against the petitioner.

9 “(c) The circuit court may enter a permanent restraining order if the court finds that it is ob-
10 jectively reasonable for a person in the petitioner’s situation to fear for the person’s physical safety
11 and that the passage of time or a change in circumstances would not dissipate that fear. In making
12 the finding, the court shall consider any information offered by the petitioner to support the request
13 for a permanent restraining order, including but not limited to:

14 “(A) Information that the respondent has a history of engaging in sexual abuse or domestic vi-
15 olence as defined in ORS 135.230;

16 “(B) If the petitioner is a minor, the fact that the respondent is related to the petitioner by blood
17 or marriage; or

18 “(C) Any vulnerability of the petitioner that is not likely to change over time.

19 “**SECTION 6.** ORS 163.773 is amended to read:

20 “163.773. (1)(a) When a restraining order is issued in accordance with ORS 163.760 to 163.777
21 and the person to be restrained has actual notice of the restraining order, the clerk of the court or
22 any other person serving the petition and the restraining order shall immediately deliver to a county
23 sheriff copies of the petition and the restraining order and a true copy of proof of service on which
24 it is stated that the petition and the restraining order were served personally on the respondent.
25 **If alternative service is ordered by the court, the person performing service shall instead**
26 **immediately deliver to the county sheriff copies of the petition, the restraining order and, if**
27 **applicable, the summons, and a true copy of proof of service on which it is stated that al-**
28 **ternative service was completed in accordance with ORCP 7 D(6).** Proof of service may be made
29 by affidavit or by declaration under penalty of perjury. If a restraining order entered by the circuit
30 court recites that the respondent appeared in person before the court, the necessity for service of
31 the restraining order and proof of service is waived.

32 “(b) Upon receipt of a copy of the restraining order and notice of completion of any required
33 service by a member of a law enforcement agency, the county sheriff shall immediately enter the
34 restraining order into the Law Enforcement Data System maintained by the Department of State
35 Police and the databases of the National Crime Information Center of the United States Department
36 of Justice. If the petition and the restraining order were served on the respondent by a person other
37 than a member of a law enforcement agency, **or if alternative service was ordered by the court**
38 **and completed in accordance with ORCP 7 D(6),** the county sheriff shall enter the restraining
39 order into the Law Enforcement Data System and the databases of the National Crime Information
40 Center upon receipt of a true copy of proof of service. The sheriff shall provide the petitioner with
41 a true copy of any required proof of service.

42 “(c) Entry into the Law Enforcement Data System constitutes notice to all law enforcement
43 agencies of the existence of the restraining order. Law enforcement agencies shall establish proce-
44 dures adequate to ensure that an officer at the scene of an alleged violation of the restraining order
45 may be informed of the existence and terms of the restraining order. The restraining order is fully

1 enforceable in any county or tribal land in this state.

2 “(d) When a restraining order has been entered into the Law Enforcement Data System and the
3 databases of the National Crime Information Center of the United States Department of Justice
4 under this subsection, a county sheriff shall cooperate with a request from a law enforcement
5 agency from any other jurisdiction to verify the existence of the restraining order or to transmit a
6 copy of the restraining order to the requesting jurisdiction.

7 “(2) A sheriff may serve a restraining order issued under ORS 163.760 to 163.777 in the county
8 in which the sheriff was elected and in any county that is adjacent to the county in which the sheriff
9 was elected.

10 “(3)(a) A sheriff may serve and enter into the Law Enforcement Data System a copy of a re-
11 straining order issued under ORS 163.760 to 163.777 that was transmitted to the sheriff by a circuit
12 court or law enforcement agency through an electronic communication device. Before transmitting
13 a copy of a restraining order to a sheriff under this subsection through an electronic communication
14 device, the person transmitting the copy must receive confirmation from the sheriff’s office that an
15 electronic communication device is available and operating.

16 “(b) For purposes of this subsection, ‘electronic communication device’ means a device by which
17 any kind of electronic communication can be made, including but not limited to communication by
18 telephonic facsimile and electronic mail.

19 “(4) When a circuit court enters an order terminating a restraining order issued under ORS
20 163.760 to 163.777 before the expiration date, the clerk of the court shall immediately deliver a copy
21 of the termination order to the county sheriff with whom the original restraining order was filed.
22 Upon receipt of the termination order, the county sheriff shall promptly remove the original re-
23 straining order from the Law Enforcement Data System and the databases of the National Crime
24 Information Center of the United States Department of Justice.

25 “(5)(a) A contempt proceeding for an alleged violation of a restraining order issued under ORS
26 163.760 to 163.777 must be conducted by the circuit court that issued the restraining order or by the
27 circuit court for the county in which the alleged violation of the restraining order occurs. If con-
28 tempt proceedings are initiated in the circuit court for the county in which the alleged violation of
29 the restraining order occurs, the person initiating the contempt proceedings shall file with the court
30 a copy of the restraining order that is certified by the clerk of the court that originally issued the
31 restraining order. Upon filing of the certified copy of the restraining order, the circuit court shall
32 enforce the restraining order as though that court had originally issued the restraining order.

33 “(b) Pending a contempt hearing for an alleged violation of a restraining order issued under ORS
34 163.760 to 163.777, a person arrested and taken into custody pursuant to ORS 133.310 may be re-
35 leased as provided in ORS 135.230 to 135.290.

36 “(c) Service of process or other legal documents upon the petitioner is not a violation of a re-
37 straining order entered under ORS 163.760 to 163.777 if the petitioner is served as provided in ORCP
38 7 or 9.

39 “**SECTION 7. (1) The amendments to ORS 3.014 and 125.082 by sections 1 and 3 of this**
40 **2020 Act become operative on January 1, 2021.**

41 “**(2) The amendments to ORS 163.765 and 163.773 by sections 5 and 6 of this 2020 Act be-**
42 **come operative on the 91st day after the date on which the 2020 regular session of the**
43 **Eightieth Legislative Assembly adjourns sine die.**

44 “**SECTION 8. This 2020 Act being necessary for the immediate preservation of the public**
45 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**

1 **on its passage.”**

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