

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 1547**

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
4 in the City of Gresham, Multnomah County, as directed by the Chief Justice
5 of the Supreme Court but in no event less than one day a week. All pro-
6 ceedings resulting from alleged state **misdemeanor** traffic offenses or **other**
7 misdemeanors occurring east of 122nd Avenue extended to the north and
8 south boundaries of Multnomah County shall be conducted in the court in
9 Gresham unless the accused at first appearance in each action requests trial
10 in Portland.

11 “(2) A proceeding to be conducted in Gresham as provided in subsection
12 (1) of this section shall, **unless good cause is shown**, be transferred with-
13 out further order of the court to a court facility in Portland for all purposes
14 if:

15 “(a) The accused person is in the custody of a county sheriff or the De-
16 partment of Corrections at the time set for any [*scheduled*] proceeding; [*or*]

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

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

1 **“(3) Notwithstanding subsection (2) of this section, upon motion of**
2 **any party, the proceeding shall, unless good cause is shown, be re-**
3 **turned to the court in Gresham if the accused person is not in custody**
4 **and all warrants issued by a circuit court in the fourth judicial district**
5 **for the accused have been vacated or executed.**

6 “[(3)] (4) Multnomah County shall provide facilities in the City of
7 Gresham for a court judge to hold court as described under subsection (1)
8 of this section.”.

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

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

12 “163.765. (1) When a petition is filed in accordance with ORS 163.763, the
13 circuit court shall hold an ex parte hearing in person or by telephone on the
14 day the petition is filed or on the following judicial day. Upon a finding that
15 it is objectively reasonable for a person in the petitioner’s situation to fear
16 for the person’s physical safety if an order granting relief under ORS 163.760
17 to 163.777 is not entered and that the respondent has subjected the petitioner
18 to sexual abuse, the circuit court:

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

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

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

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

28 “(C) That the respondent be restrained from intimidating, molesting, in-
29 terfering with or menacing any children or family or household members of
30 the petitioner, or attempting to intimidate, molest, interfere with or menace

1 any children or family or household members of the petitioner;

2 “(D) That the respondent be restrained from entering, or attempting to
3 enter, any premises and a reasonable area surrounding the premises when
4 necessary to prevent the respondent from intimidating, molesting, interfering
5 with or menacing the petitioner or the petitioner’s children or family or
6 household members; and

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

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

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

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

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

25 “(b) The county sheriff shall serve the respondent personally unless the
26 petitioner elects to have the respondent served personally by another party.
27 Proof of service shall be made in accordance with ORS 163.773. When the
28 restraining order does not contain the respondent’s date of birth and service
29 is effected by the sheriff, the sheriff shall verify the respondent’s date of
30 birth with the respondent and shall record that date on the restraining order

1 or proof of service entered into the Law Enforcement Data System under
2 ORS 163.773.

3 “(5)(a) If the county sheriff:

4 “(A) Determines that the restraining order and petition are incomplete,
5 the sheriff shall return the restraining order and petition to the clerk of the
6 court. The clerk of the court shall notify the petitioner, at the address pro-
7 vided by the petitioner, of the error or omission.

8 “(B) Cannot complete service within 10 days after accepting the re-
9 straining order and petition, the sheriff shall notify the petitioner, at the
10 address provided by the petitioner, that the documents have not been served.
11 If the petitioner does not respond within 10 days, the sheriff shall hold the
12 restraining order and petition for future service and file a return to the clerk
13 of the court showing that service was not completed.

14 “(b) If a petitioner receives notice of incomplete service under paragraph
15 (a)(B) of this subsection and cannot effect service on the respondent within
16 30 days after the granting or renewal of the restraining order, the circuit
17 court may order service by an alternative method in accordance with ORCP
18 7 D(6) on proof of the petitioner’s due diligence in attempting to effect ser-
19 vice.

20 “(6)(a) Within 30 days after a restraining order is served under this sec-
21 tion, the respondent may request a circuit court hearing upon any relief
22 granted.

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

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

1 “(8)(a) A restraining order entered under this section is effective for a
2 period of five years or, if the petitioner is under 18 years of age at the time
3 of entry, until [*the person attains 19 years of age*] **January 1 of the year**
4 **following the petitioner’s 18th birthday**, whichever occurs later, except
5 as otherwise provided in paragraph (b) or (c) of this subsection or unless the
6 restraining order is renewed, modified or terminated in accordance with ORS
7 163.760 to 163.777.

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

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

19 “(A) Information that the respondent has a history of engaging in sexual
20 abuse or domestic violence as defined in ORS 135.230;

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

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

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

27 “163.765. (1) When a petition is filed in accordance with ORS 163.763, the
28 circuit court shall hold an ex parte hearing in person or by telephone on the
29 day the petition is filed or on the following judicial day. Upon a finding that
30 it is objectively reasonable for a person in the petitioner’s situation to fear

1 for the person’s physical safety if an order granting relief under ORS 163.760
2 to 163.777 is not entered and that the respondent has subjected the petitioner
3 to sexual abuse, the circuit court:

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

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

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

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

13 “(C) That the respondent be restrained from intimidating, molesting, in-
14 terfering with or menacing any children or family or household members of
15 the petitioner, or attempting to intimidate, molest, interfere with or menace
16 any children or family or household members of the petitioner;

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

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

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

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

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

1 “(a) The clerk of the court shall provide, without charge, the number of
2 certified true copies of the petition and the restraining order necessary to
3 provide the petitioner with one copy and to effect service and shall have a
4 true copy of the petition and the restraining order delivered to the county
5 sheriff for service upon the respondent, unless the circuit court finds that
6 further service is unnecessary because the respondent appeared in person
7 before the court. In addition and upon request by the petitioner, the clerk
8 of the court shall provide the petitioner, without charge, two exemplified
9 copies of the petition and the restraining order.

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

18 “(5)(a) If the county sheriff:

19 “(A) Determines that the restraining order and petition are incomplete,
20 the sheriff shall return the restraining order and petition to the clerk of the
21 court. The clerk of the court shall notify the petitioner, at the address pro-
22 vided by the petitioner, of the error or omission.

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

29 “(b) If a petitioner receives notice of incomplete service under paragraph
30 (a)(B) of this subsection and cannot effect service on the respondent within

1 30 days after the granting or renewal of the restraining order, the circuit
2 court may order service by an alternative method in accordance with ORCP
3 7 D(6) on proof of the petitioner’s due diligence in attempting to effect ser-
4 vice. **If appropriate, the court may order the use of a summons to ef-**
5 **fect service. The summons must include notice of where the**
6 **respondent may obtain a complete copy of the order.**

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

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

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

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

24 “(b) The circuit court shall enter a permanent restraining order if, at the
25 time of the petition or renewal of the order, the respondent has been con-
26 victed of a crime described in ORS 163.355 to 163.445 committed against the
27 petitioner.

28 “(c) The circuit court may enter a permanent restraining order if the
29 court finds that it is objectively reasonable for a person in the petitioner’s
30 situation to fear for the person’s physical safety and that the passage of time

1 or a change in circumstances would not dissipate that fear. In making the
2 finding, the court shall consider any information offered by the petitioner to
3 support the request for a permanent restraining order, including but not
4 limited to:

5 “(A) Information that the respondent has a history of engaging in sexual
6 abuse or domestic violence as defined in ORS 135.230;

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

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

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

12 “163.773. (1)(a) When a restraining order is issued in accordance with ORS
13 163.760 to 163.777 and the person to be restrained has actual notice of the
14 restraining order, the clerk of the court or any other person serving the pe-
15 tition and the restraining order shall immediately deliver to a county sheriff
16 copies of the petition and the restraining order and a true copy of proof of
17 service on which it is stated that the petition and the restraining order were
18 served personally on the respondent. **If alternative service is ordered by**
19 **the court, the person performing service shall instead immediately**
20 **deliver to the county sheriff copies of the petition, the restraining or-**
21 **der and, if applicable, the summons, and a true copy of proof of service**
22 **on which it is stated that alternative service was completed in ac-**
23 **cordance with ORCP 7 D(6).** Proof of service may be made by affidavit or
24 by declaration under penalty of perjury. If a restraining order entered by the
25 circuit court recites that the respondent appeared in person before the court,
26 the necessity for service of the restraining order and proof of service is
27 waived.

28 “(b) Upon receipt of a copy of the restraining order and notice of com-
29 pletion of any required service by a member of a law enforcement agency,
30 the county sheriff shall immediately enter the restraining order into the Law

1 Enforcement Data System maintained by the Department of State Police and
2 the databases of the National Crime Information Center of the United States
3 Department of Justice. If the petition and the restraining order were served
4 on the respondent by a person other than a member of a law enforcement
5 agency, **or if alternative service was ordered by the court and com-**
6 **pleted in accordance with ORCP 7 D(6)**, the county sheriff shall enter the
7 restraining order into the Law Enforcement Data System and the databases
8 of the National Crime Information Center upon receipt of a true copy of
9 proof of service. The sheriff shall provide the petitioner with a true copy of
10 any required proof of service.

11 “(c) Entry into the Law Enforcement Data System constitutes notice to
12 all law enforcement agencies of the existence of the restraining order. Law
13 enforcement agencies shall establish procedures adequate to ensure that an
14 officer at the scene of an alleged violation of the restraining order may be
15 informed of the existence and terms of the restraining order. The restraining
16 order is fully enforceable in any county or tribal land in this state.

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

23 “(2) A sheriff may serve a restraining order issued under ORS 163.760 to
24 163.777 in the county in which the sheriff was elected and in any county that
25 is adjacent to the county in which the sheriff was elected.

26 “(3)(a) A sheriff may serve and enter into the Law Enforcement Data
27 System a copy of a restraining order issued under ORS 163.760 to 163.777 that
28 was transmitted to the sheriff by a circuit court or law enforcement agency
29 through an electronic communication device. Before transmitting a copy of
30 a restraining order to a sheriff under this subsection through an electronic

1 communication device, the person transmitting the copy must receive con-
2 firmation from the sheriff's office that an electronic communication device
3 is available and operating.

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

8 “(4) When a circuit court enters an order terminating a restraining order
9 issued under ORS 163.760 to 163.777 before the expiration date, the clerk of
10 the court shall immediately deliver a copy of the termination order to the
11 county sheriff with whom the original restraining order was filed. Upon re-
12 ceipt of the termination order, the county sheriff shall promptly remove the
13 original restraining order from the Law Enforcement Data System and the
14 databases of the National Crime Information Center of the United States
15 Department of Justice.

16 “(5)(a) A contempt proceeding for an alleged violation of a restraining
17 order issued under ORS 163.760 to 163.777 must be conducted by the circuit
18 court that issued the restraining order or by the circuit court for the county
19 in which the alleged violation of the restraining order occurs. If contempt
20 proceedings are initiated in the circuit court for the county in which the
21 alleged violation of the restraining order occurs, the person initiating the
22 contempt proceedings shall file with the court a copy of the restraining order
23 that is certified by the clerk of the court that originally issued the re-
24 straining order. Upon filing of the certified copy of the restraining order, the
25 circuit court shall enforce the restraining order as though that court had
26 originally issued the restraining order.

27 “(b) Pending a contempt hearing for an alleged violation of a restraining
28 order issued under ORS 163.760 to 163.777, a person arrested and taken into
29 custody pursuant to ORS 133.310 may be released as provided in ORS 135.230
30 to 135.290.

1 “(c) Service of process or other legal documents upon the petitioner is not
2 a violation of a restraining order entered under ORS 163.760 to 163.777 if the
3 petitioner is served as provided in ORCP 7 or 9.

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

6 **“(2) The amendments to ORS 163.765 and 163.773 by sections 5 and
7 6 of this 2020 Act become operative on the 91st day after the date on
8 which the 2020 regular session of the Eightieth Legislative Assembly
9 adjourns sine die.**

10 **“SECTION 8. This 2020 Act being necessary for the immediate
11 preservation of the public peace, health and safety, an emergency is
12 declared to exist, and this 2020 Act takes effect on its passage.”.**

13
