

House Bill 2399

Sponsored by Representative NERON (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**.

Permits employers to seek issuance of restraining order or stalking protective order on behalf of employee when certain conditions are met.

A BILL FOR AN ACT

1
2 Relating to protective orders; creating new provisions; and amending ORS 107.705, 107.710, 107.716,
3 107.718, 107.720, 107.725, 107.728, 107.730, 163.730, 163.735, 163.738, 163.744 and 163.755.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) "Abuse" has the meaning given that term in ORS 107.705.

7 (b) "Credible threat of unlawful violence" is a knowing and willful statement or a series
8 of two or more acts over a period of time that would cause a reasonable person to experience
9 severe emotional distress or place a reasonable person in fear for the safety of the person
10 or a member of the person's immediate family.

11 (c) "Employer petitioner" means an employer that is authorized under this section to
12 petition the court for issuance of a restraining order on behalf of an employee.

13 (2) An employer petitioner may, on behalf of an employee who is authorized under ORS
14 107.710 (1), petition the court under ORS 107.700 to 107.735 for a restraining order under ORS
15 107.718 (1)(b)(C), (E) and (G) whenever:

16 (a)(A) The employer has knowledge that an employee or a family or household member
17 of the employee has been a victim of abuse at the employer's workplace, at the employee's
18 home or while traveling to the employer's workplace;

19 (B) The employer has knowledge that an employee has received a credible threat of un-
20 lawful violence that would cause the employer or the employee to reasonably believe that the
21 unlawful violence will be carried out at the employee's workplace; or

22 (C) The employer reasonably fears for the physical safety of the employee or the safety
23 of other employees in the workplace, with respect to the respondent; and

24 (b) The employer has received written consent from the employee to seek such relief.

25 (3) An employer petitioner shall petition the court in the same manner as provided under
26 ORS 107.710 and shall be subject to the same procedures under ORS 107.700 to 107.735 con-
27 cerning notice, hearings other than hearings relating to the custody of children under ORS
28 107.716 (2) or 107.718 (2), and proof of service of the restraining order, including the entry
29 of the order into a law enforcement data system.

30 **SECTION 2. (1) As used in this section:**

31 (a) "Employer petitioner" means an employer that is authorized under this section to

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 seek a stalking protective order authorized by ORS 163.730 to 163.750 on behalf of an em-
2 ployee.

3 (b) “Immediate family” has the meaning given that term in ORS 163.730.

4 (c) “Victim of stalking” means an individual against whom stalking has been committed,
5 as described in ORS 163.732.

6 (2)(a) An employer petitioner may seek the issuance of a stalking protective order au-
7 thorized by ORS 163.730 to 163.750 on behalf of an employee, whenever the employer:

8 (A) Has knowledge that an employee or a member of the employee’s immediate family
9 has been a victim of stalking at the employer’s workplace, at the employee’s home or while
10 traveling to the employee’s workplace; and

11 (B) The employer has received written consent from the employee to seek such an order.

12 (b) An employer petitioner may seek a stalking protective order authorized by ORS
13 163.735 or 163.738 by presenting a complaint in the manner provided under ORS 163.744.

14 (3) An employer petitioner that is authorized under this section to seek a stalking pro-
15 tective order shall seek the order in the same manner as provided in ORS 163.735 or 163.738
16 and shall be subject to the same procedures concerning notice, hearing and service of a
17 stalking protective order, including the entry of the order into a law enforcement data sys-
18 tem, as required under ORS 163.735 or 163.738.

19 **SECTION 3.** ORS 163.730 is amended to read:

20 163.730. As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

21 (1) “Alarm” means to cause apprehension or fear resulting from the perception of danger.

22 (2) “Coerce” means to restrain, compel or dominate by force or threat.

23 (3) “Contact” includes but is not limited to:

24 (a) Coming into the visual or physical presence of the other person;

25 (b) Following the other person;

26 (c) Waiting outside the home, property, place of work or school of the other person or of a
27 member of that person’s family or household;

28 (d) Sending or making written or electronic communications in any form to the other person;

29 (e) Speaking with the other person by any means;

30 (f) Communicating with the other person through a third person;

31 (g) Committing a crime against the other person;

32 (h) Communicating with a third person who has some relationship to the other person with the
33 intent of affecting the third person’s relationship with the other person;

34 (i) Communicating with business entities with the intent of affecting some right or interest of
35 the other person;

36 (j) Damaging the other person’s home, property, place of work or school;

37 (k) Delivering directly or through a third person any object to the home, property, place of work
38 or school of the other person; or

39 (L) Service of process or other legal documents unless the other person is served as provided
40 in ORCP 7 or 9.

41 (4) “Employer petitioner” means an employer that is authorized to seek the issuance of
42 a stalking protective order under ORS 163.730 to 163.750 as provided in section 2 of this 2021
43 Act.

44 [(4)] (5) “Household member” means any person residing in the same residence as the victim.

45 [(5)] (6) “Immediate family” means father, mother, child, sibling, spouse, grandparent, stepparent

1 and stepchild.

2 [(6)] (7) "Law enforcement officer" means:

3 (a) A person employed in this state as a police officer by:

4 (A) A county sheriff, constable or marshal;

5 (B) A police department established by a university under ORS 352.121 or 353.125; or

6 (C) A municipal or state police agency; or

7 (b) An authorized tribal police officer as defined in ORS 181A.680.

8 [(7)] (8) "Repeated" means two or more times.

9 [(8)] (9) "School" means a public or private institution of learning or a child care facility.

10 **SECTION 4.** ORS 163.735 is amended to read:

11 163.735. (1) Upon a complaint initiated as provided in ORS 163.744, a law enforcement officer
12 shall issue a citation ordering the person to appear in court within three judicial days and show
13 cause why the court should not enter a court's stalking protective order when the officer has
14 probable cause to believe that:

15 (a) The person intentionally, knowingly or recklessly engages in repeated and unwanted contact
16 with the other person or a member of that person's immediate family or household thereby alarming
17 or coercing the other person;

18 (b) It is objectively reasonable for a person in the victim's situation to have been alarmed or
19 coerced by the contact; and

20 (c) The repeated and unwanted contact causes the victim reasonable apprehension regarding the
21 personal safety of the victim or a member of the victim's immediate family or household.

22 (2) The Department of State Police shall develop and distribute a form for the citation. The form
23 shall be uniform throughout the state and shall contain substantially the following in addition to
24 any other material added by the department:

25 _____

26
27
28 OFFICER:_____

29 AGENCY:_____

30 PETITIONER or EMPLOYER PETITIONER:_____

31 PERSON TO BE PROTECTED IF OTHER THAN PETITIONER:_____

32 RESPONDENT:_____

33 On behalf of petitioner **or employer petitioner**, I affirm that I am a law enforcement officer in
34 the State of Oregon.

35 You, the respondent, must appear at _____ (name and location of court at
36 which respondent is to appear) on _____ (date and time respondent is to appear in court).

37 At this hearing, you must be prepared to establish why the court should not enter a court's stalking
38 protective order which shall be for an unlimited duration unless limited by law or court order. If
39 you fail to appear at this hearing, the court shall immediately issue a warrant for your arrest and
40 shall enter a court's stalking protective order.

41 If the court issues a stalking protective order at this hearing, and while the protective order is
42 in effect, federal law may prohibit you from:

43 Traveling across state lines or tribal land lines with the intent to violate this order and then
44 violating this order.

45 Causing the person protected by the order, if the person is your spouse or intimate partner, to

1 cross state lines or tribal land lines for your purpose of violating the order.

2 Possessing, receiving, shipping or transporting any firearm or firearm ammunition.

3 Whether or not a stalking protective order is in effect, federal law may prohibit you from:

4 Traveling across state lines or tribal land lines with the intent to injure or harass another
5 person and during, or because of, that travel placing that person in reasonable fear of death or se-
6 rious bodily injury to that person or to a member of that person's immediate family.

7 Traveling across state lines or tribal land lines with the intent to injure your spouse or intimate
8 partner and then intentionally committing a crime of violence causing bodily injury to that person.

9 Causing your spouse or intimate partner to travel across state lines or tribal land lines if your
10 intent is to cause bodily injury to that person or if the travel results in your causing bodily injury
11 to that person.

12 *[It has been alleged that you have alarmed or coerced the petitioner, or person to be protected if*
13 *other than the petitioner.]* **It has been alleged that you have alarmed the petitioner, employer**
14 **petitioner or person to be protected if other than petitioner or have coerced the petitioner**
15 **or person to be protected if other than the petitioner.** If you engage in contact that alarms or
16 coerces the petitioner, or person to be protected if other than the petitioner, in violation of ORS
17 163.732, you may be arrested for the crime of stalking.

18
19 Date: _____ Time: _____

20 Signed: _____

21 (Respondent)

22 Signed: _____

23 (Law enforcement officer).
24
25

26 **SECTION 5.** ORS 163.738 is amended to read:

27 163.738. (1)(a) A citation shall notify the respondent of a circuit court hearing where the re-
28 spondent shall appear at the place and time set forth in the citation. The citation shall contain:

29 (A) The name of the court at which the respondent is to appear;

30 (B) The name of the respondent;

31 (C) A copy of the stalking complaint;

32 (D) The date, time and place at which the citation was issued;

33 (E) The name of the law enforcement officer who issued the citation;

34 (F) The time, date and place at which the respondent is to appear in court;

35 (G) Notice to the respondent that failure to appear at the time, date and place set forth in the
36 citation shall result in the respondent's arrest and entry of a court's stalking protective order; and

37 (H) Notice to the respondent of potential liability under federal law for the possession or pur-
38 chase of firearms or firearm ammunition and for other acts prohibited by 18 U.S.C. 2261 to 2262.

39 (b) The officer shall notify the petitioner **or employer petitioner** in writing of the place and
40 time set for the hearing.

41 (2)(a) The hearing shall be held as indicated in the citation. At the hearing, the petitioner **or**
42 **employer petitioner** may appear in person or by telephonic appearance. The respondent shall be
43 given the opportunity to show cause why a court's stalking protective order should not be entered.
44 The hearing may be continued for up to 30 days. The court may enter:

45 (A) A temporary stalking protective order pending further proceedings; or

1 (B) A court's stalking protective order if the court finds by a preponderance of the evidence
2 that:

3 (i) The person intentionally, knowingly or recklessly engages in repeated and unwanted contact
4 with the other person or a member of that person's immediate family or household thereby alarming
5 or coercing the other person;

6 (ii) It is objectively reasonable for a person in the victim's situation to have been alarmed or
7 coerced by the contact; and

8 (iii) The repeated and unwanted contact causes the victim reasonable apprehension regarding
9 the personal safety of the victim or a member of the victim's immediate family or household.

10 (b) In the order, the court shall specify the conduct from which the respondent is to refrain,
11 which may include all contact listed in ORS 163.730 and any attempt to make contact listed in ORS
12 163.730. The order is of unlimited duration unless limited by law. If the respondent was provided
13 notice and an opportunity to be heard, the court shall also include in the order, when appropriate,
14 terms and findings sufficient under 18 U.S.C. 922 (d)(8) and (g)(8) to affect the respondent's ability
15 to possess firearms and ammunition or engage in activities involving firearms.

16 (3) The circuit court may enter an order under this section against a minor respondent without
17 appointment of a guardian ad litem.

18 (4) If the respondent fails to appear at the time, date and place specified in the citation, the
19 circuit court shall issue a warrant of arrest as provided in ORS 133.110 in order to ensure the ap-
20 pearance of the respondent at court and shall enter a court's stalking protective order.

21 (5) The circuit court may also order the respondent to undergo mental health evaluation and,
22 if indicated by the evaluation, treatment. If the respondent is without sufficient resources to obtain
23 the evaluation or treatment, or both, the court shall refer the respondent to the mental health
24 agency designated by the community mental health director for evaluation or treatment, or both.

25 (6) If the circuit court, the mental health evaluator or any other persons have probable cause
26 to believe that the respondent is dangerous to self or others or is unable to provide for basic per-
27 sonal needs, the court shall initiate commitment procedures as provided in ORS 426.070 or 426.180.

28 (7) A law enforcement officer shall report the results of any investigation arising from a com-
29 plaint under ORS 163.744 to the district attorney within three days after presentation of the com-
30 plaint.

31 (8) Except for purposes of impeachment, a statement made by the respondent at a hearing under
32 this section may not be used as evidence in a prosecution for stalking as defined in ORS 163.732 or
33 for violating a court's stalking protective order as defined in ORS 163.750.

34 **SECTION 6.** ORS 163.744 is amended to read:

35 163.744. (1) A person may initiate an action seeking a citation under ORS 163.735 by presenting
36 a complaint to a law enforcement officer or to any law enforcement agency. The complaint shall be
37 a statement setting forth with particularity the conduct that is the basis for the complaint. The
38 petitioner must affirm the truth of the facts in the complaint.

39 (2) The Department of State Police shall develop and distribute the form of the complaint. The
40 form shall include the standards for reviewing the complaint and for action. The form shall be uni-
41 form throughout the state and shall include substantially the following material:

42
43
44 STALKING COMPLAINT
45

1 Name of petitioner (person presenting complaint): _____

2 Name of person being stalked if other than the petitioner: _____

3 _____

4 Name of respondent (alleged stalker):

5 _____

6 Description of respondent:

7 _____

8 _____

9 _____

10 Length of period of conduct:

11 _____

12 _____

13 Description of relationship (if any) between petitioner or person being stalked, if other than the
14 petitioner, and respondent:

15 _____

16 _____

17 Description of contact:

18 _____

19 _____

20 _____

21 _____

22 _____

23 Subscribed to and affirmed by:

24 _____

(signature of petitioner)

(printed name of petitioner)

27 _____

28 Dated: _____

29 _____

30

31 (3) A parent may present a complaint to protect a minor child. A guardian may present a com-
32 plaint to protect a dependent person.

33 (4) **An employer petitioner may present a complaint to protect an employee as authorized**
34 **under section 2 of this 2021 Act.**

35 [(4)] (5) By signing the complaint, a person is making a sworn statement for purposes of ORS
36 162.055 to 162.425.

37 **SECTION 7.** ORS 163.755 is amended to read:

38 163.755. (1) Nothing in ORS 30.866 or 163.730 to 163.750 **or section 2 of this 2021 Act** shall be
39 construed to permit the issuance of a court’s stalking protective order under ORS 30.866 or 163.738,
40 the issuance of a citation under ORS 163.735, a criminal prosecution under ORS 163.732 or a civil
41 action under ORS 30.866:

42 (a) For conduct that is authorized or protected by the labor laws of this state or of the United
43 States.

44 (b) By or on behalf of a person who is in the legal or physical custody of a law enforcement unit
45 or is in custody under ORS chapter 419C.

1 (c) By or on behalf of a person not described in paragraph (b) of this subsection to or against
2 another person who:

3 (A) Is a parole and probation officer or an officer, employee or agent of a law enforcement unit,
4 a county juvenile department or the Oregon Youth Authority; and

5 (B) Is acting within the scope of the other person's official duties.

6 (2) As used in this section, "law enforcement unit" and "parole and probation officer" have the
7 meanings given those terms in ORS 181A.355.

8 **SECTION 8.** ORS 107.705 is amended to read:

9 107.705. As used in ORS 107.700 to 107.735:

10 (1) "Abuse" means the occurrence of one or more of the following acts between family or
11 household members:

12 (a) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury.

13 (b) Intentionally, knowingly or recklessly placing another in fear of imminent bodily injury.

14 (c) Causing another to engage in involuntary sexual relations by force or threat of force.

15 (2) "Child" means an unmarried person who is under 18 years of age.

16 (3) "Declaration under penalty of perjury" means a declaration under penalty of perjury in the
17 form required by ORCP 1 E.

18 (4) **"Employer petitioner" means an employer that is authorized under section 1 of this**
19 **2021 Act to petition the court for issuance of a restraining order authorized by ORS 107.700**
20 **to 107.735 on behalf of an employee.**

21 [(4)] (5) "Family or household members" means any of the following:

22 (a) Spouses.

23 (b) Former spouses.

24 (c) Adult persons related by blood, marriage or adoption.

25 (d) Persons who are cohabiting or who have cohabited with each other.

26 (e) Persons who have been involved in a sexually intimate relationship with each other within
27 two years immediately preceding the filing by one of them of a petition under ORS 107.710.

28 (f) Unmarried parents of a child.

29 [(5)] (6) "Interfere" means to interpose in a manner that would reasonably be expected to hinder
30 or impede a person in the petitioner's situation.

31 [(6)] (7) "Intimidate" means to act in a manner that would reasonably be expected to threaten
32 a person in the petitioner's situation, thereby compelling or deterring conduct on the part of the
33 person.

34 [(7)] (8) "Menace" means to act in a manner that would reasonably be expected to threaten a
35 person in the petitioner's situation.

36 [(8)] (9) "Molest" means to act, with hostile intent or injurious effect, in a manner that would
37 reasonably be expected to annoy, disturb or persecute a person in the petitioner's position.

38 (10) **"Petitioner" means the person filing a petition for relief under ORS 107.700 to 107.735**
39 **who has been the victim of abuse from the respondent.**

40 **SECTION 9.** ORS 107.710 is amended to read:

41 107.710. (1)(a) **An employer petitioner or** any person who has been the victim of abuse within
42 the preceding 180 days **and who is in imminent danger of further abuse from the abuser** may
43 petition the circuit court for relief under ORS 107.700 to 107.735[, *if the person is in imminent danger*
44 *of further abuse from the abuser*].

45 (b) The person may seek relief by filing a petition with the circuit court alleging that the person

1 is in imminent danger of abuse from the respondent, that the person has been the victim of abuse
 2 committed by the respondent within the 180 days preceding the filing of the petition and particularly
 3 describing the nature of the abuse and the dates thereof. The abuse must have occurred not more
 4 than 180 days before the filing of the petition. *[The petition must include allegations made under oath*
 5 *or affirmation or a declaration under penalty of perjury. The circuit court shall have jurisdiction over*
 6 *all proceedings under ORS 107.700 to 107.735.]*

7 **(c) Notwithstanding paragraph (b) of this subsection, an employer petitioner may seek**
 8 **relief by filing a petition with the circuit court alleging the facts described in section 1 of this**
 9 **2021 Act.**

10 **(d) The petition must include allegations made under oath or affirmation or a declaration**
 11 **under penalty of perjury. The circuit court shall have jurisdiction over all proceedings under**
 12 **ORS 107.700 to 107.735.**

13 (2) The petitioner **or the employer petitioner** has the burden of proving a claim under ORS
 14 107.700 to 107.735 by a preponderance of the evidence.

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

17 (4) A petition filed under ORS 107.700 to 107.735, **other than a petition filed by an employer**
 18 **petitioner under section 1 of this 2021 Act**, shall disclose the existence of any custody, Family
 19 Abuse Prevention Act or Elderly Persons and Persons With Disabilities Abuse Prevention Act pro-
 20 ceedings, or any marital annulment, dissolution or separation proceedings, or any filiation proceed-
 21 ing, pending between the parties, and the existence of any other custody order affecting the children
 22 of the parties.

23 (5) When the petitioner requests custody of any child, the petition shall comply with ORS
 24 109.767 and disclose:

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

26 (b) The county and state where the child resided for the five years immediately prior to the
 27 filing of the petition;

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

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

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

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

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

39 (6) For purposes of computing the 180-day period in this section and ORS 107.718, any time
 40 during which the respondent is incarcerated or has a principal residence more than 100 miles from
 41 the principal residence of the petitioner shall not be counted as part of the 180-day period.

42 **SECTION 10.** ORS 107.716 is amended to read:

43 107.716. (1) If the respondent requests a hearing pursuant to ORS 107.718 (10), the court shall
 44 hold the hearing within 21 days after the request. However, if the respondent contests the order
 45 granting temporary child custody to the petitioner, the court shall hold the hearing within five days

1 after the request.

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

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

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

15 (3) In a hearing held pursuant to subsection (1) or (2) of this section:

16 (a) The court may continue any order issued under ORS 107.718:

17 (A) If the court finds that:

18 [(A)] (i) Abuse has occurred within the period specified in ORS 107.710 (1);

19 [(B)] (ii) The petitioner reasonably fears for the petitioner’s physical safety; and

20 [(C)] (iii) The respondent represents a credible threat to the physical safety of the petitioner or
21 the petitioner’s child[.]; or

22 (B) If the court finds that:

23 (i) **An employee of the employer petitioner has experienced abuse at the employer’s**
24 **workplace within the period specified in ORS 107.710 (1);**

25 (ii) **The employer petitioner reasonably fears for the physical safety of the employee or**
26 **the family or household member of the employee; and**

27 (iii) **The employer petitioner reasonably fears for the physical safety of other employees**
28 **who work in the same workplace as the employee.**

29 (b) The court may cancel or change any order issued under ORS 107.718 and may assess against
30 either party a reasonable attorney fee and such costs as may be incurred in the proceeding.

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

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

37 (5) If the court continues the order, with or without changes, at a hearing about which the re-
38 spondent received actual notice and the opportunity to participate, the court shall include in the
39 order a certificate in substantially the following form in a separate section immediately above the
40 signature of the judge:

41 _____
42
43 CERTIFICATE OF COMPLIANCE
44 WITH THE VIOLENCE
45 AGAINST WOMEN ACT

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

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

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

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

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

18 **SECTION 11.** ORS 107.718 is amended to read:

19 107.718. (1)(a) When a person **or an employer petitioner** files a petition under ORS 107.710, the
 20 circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed
 21 or on the following judicial day.

22 (b) Upon a showing that the petitioner has been the victim of abuse committed by the re-
 23 spondent within 180 days preceding the filing of the petition, that there is an imminent danger of
 24 further abuse to the petitioner and that the respondent represents a credible threat to the physical
 25 safety of the petitioner or the petitioner’s child, the court shall, if requested by the petitioner, order:

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

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

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

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

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

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

45 [(g)] (G) That the respondent be restrained from entering, or attempting to enter, on any prem-

1 ises and a reasonable area surrounding the premises when it appears to the court that such restraint
 2 is necessary to prevent the respondent from intimidating, molesting, interfering with or menacing
 3 the petitioner or children whose custody is awarded to the petitioner;

4 [(h)] (H) Other relief that the court considers necessary to:

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

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

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

13 (c) **Upon a showing that the employer petitioner has proved the allegations of fact de-**
 14 **scribed under section 1 of this 2021 Act, the court shall order relief provided in paragraph**
 15 **(b)(C), (E) or (G) of this subsection.**

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

23 (3) The court's order under subsection (1) of this section is effective for a period of one year or
 24 until the order is withdrawn or amended, or until the order is superseded as provided in ORS
 25 107.722, whichever is sooner.

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

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

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

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

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

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

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

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

43 (f) That no overnight parenting time occur.

44 (7) The State Court Administrator shall prescribe the content and form of the petition, order and
 45 related forms for use under ORS 107.700 to 107.735. The clerk of the court shall make available the

1 forms and an instructional brochure explaining the rights set forth under ORS 107.700 to 107.735.

2 (8) If the court orders relief:

3 (a) The clerk of the court shall provide without charge the number of certified true copies of
 4 the petition and order necessary to provide the petitioner **and the employer petitioner, if appli-**
 5 **cable**, with one copy and to effect service and shall have a true copy of the petition and order de-
 6 livered to the county sheriff for service upon the respondent, unless the court finds that further
 7 service is unnecessary because the respondent appeared in person before the court. In addition and
 8 upon request by the petitioner **or the employer petitioner**, the clerk shall provide the petitioner
 9 **or employer petitioner**, without charge, two exemplified copies of the petition and order.

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

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

20 (9) If the county sheriff:

21 (a) Determines that the order and petition are incomplete, the sheriff shall return the order and
 22 petition to the clerk of the court. The clerk of the court shall notify the petitioner **or the employer**
 23 **petitioner**, at the address provided by the petitioner **or the employer petitioner**, of the error or
 24 omission.

25 (b) After accepting the order and petition, cannot complete service within 10 days, the sheriff
 26 shall notify the petitioner **or the employer petitioner**, at the address provided by the petitioner
 27 **or the employer petitioner**, that the documents have not been served. If the petitioner **or em-**
 28 **ployer petitioner** does not respond within 10 days, the sheriff shall hold the order and petition for
 29 future service and file a return to the clerk of the court showing that service was not completed.

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

33 (b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the
 34 court shall notify the petitioner of the date and time of the hearing, and shall supply the petitioner
 35 **or the employer petitioner** with a copy of the respondent's request for a hearing. The petitioner
 36 **or employer petitioner** shall give to the clerk of the court information sufficient to allow such
 37 notification.

38 (c) The hearing shall not be limited to the issues raised in the respondent's request for hearing
 39 form. If the respondent seeks to raise an issue at the hearing not previously raised in the request
 40 for hearing form, or if the petitioner **or employer petitioner** seeks relief at the hearing not granted
 41 in the original order, the other party shall be entitled to a reasonable continuance for the purpose
 42 of preparing a response to the issue.

43 (11) If the respondent fails to request a hearing within 30 days after a restraining order is
 44 served, the restraining order is confirmed by operation of law. The provisions of this section are
 45 sufficient to meet the due process requirements of 18 U.S.C. 922(g) in that the respondent received

1 actual notice of the right to request a hearing and the opportunity to participate at the hearing but
 2 the respondent failed to exercise those rights.

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

6 **SECTION 12.** ORS 107.720 is amended to read:

7 107.720. (1)(a) Whenever a restraining order, as authorized by ORS 107.095 (1)(c) or (d), 107.716
 8 or 107.718, that includes a security amount and an expiration date pursuant to ORS 107.095, 107.716
 9 or 107.718 and this section, is issued and the person to be restrained has actual notice of the order,
 10 the clerk of the court or any other person serving the petition and order shall immediately deliver
 11 to a county sheriff a true copy of proof of service, on which it is stated that personal service of the
 12 petition and order was served on the respondent, and copies of the petition and order. Proof of
 13 service may be made by affidavit or by declaration under penalty of perjury. If an order entered by
 14 the court recites that the respondent appeared in person before the court, the necessity for service
 15 of the order and proof of service is waived. Upon receipt of a copy of the order and notice of com-
 16 pletion of any required service by a member of a law enforcement agency, the county sheriff shall
 17 immediately enter the order into the Law Enforcement Data System maintained by the Department
 18 of State Police and into the databases of the National Crime Information Center of the United States
 19 Department of Justice. If the petition and order were served on the respondent by a person other
 20 than a member of a law enforcement agency, the county sheriff shall enter the order into the Law
 21 Enforcement Data System and databases of the National Crime Information Center upon receipt of
 22 a true copy of proof of service. The sheriff shall provide the petitioner with a true copy of any re-
 23 quired proof of service. Entry into the Law Enforcement Data System constitutes notice to all law
 24 enforcement agencies of the existence of the order. Law enforcement agencies shall establish pro-
 25 cedures adequate to ensure that an officer at the scene of an alleged violation of the order may be
 26 informed of the existence and terms of the order. The order is fully enforceable in any county or
 27 tribal land in this state.

28 (b) When a restraining order has been entered into the Law Enforcement Data System and the
 29 databases of the National Crime Information Center of the United States Department of Justice
 30 under paragraph (a) of this subsection, a county sheriff shall cooperate with a request from a law
 31 enforcement agency from any other jurisdiction to verify the existence of the restraining order or
 32 to transmit a copy of the order to the requesting jurisdiction.

33 (2)(a) A restraining order shall remain in effect until the order expires or is terminated by court
 34 order.

35 (b) When a restraining order has been entered under ORS 107.718, the restraining order shall
 36 not be terminated upon a motion for dismissal by the petitioner **or employer petitioner** unless the
 37 motion is notarized.

38 (3) In any situation where a restraining order described in subsection (1) of this section is ter-
 39 minated before the expiration date, the clerk of the court shall immediately deliver a copy of the
 40 termination order to the county sheriff with whom the original order was filed. Upon receipt of the
 41 termination order, the county sheriff shall promptly remove the original order from the Law
 42 Enforcement Data System and the databases of the National Crime Information Center of the United
 43 States Department of Justice.

44 (4) Pending a contempt hearing for alleged violation of a restraining order issued under ORS
 45 107.095 (1)(c) or (d), 107.716 or 107.718, a person arrested and taken into custody pursuant to ORS

1 133.310 may be released as provided in ORS 135.230 to 135.290. Whenever a restraining order is
 2 issued under ORS 107.095 (1)(c) or (d), 107.716 or 107.718, the issuing court shall set a security
 3 amount for the violation of the order.

4 **SECTION 13.** ORS 107.725 is amended to read:

5 107.725. (1) The court may renew an order entered under ORS 107.716 or 107.718 upon a finding
 6 that:

7 (a) **An employer petitioner** or a person in the petitioner’s situation would reasonably fear
 8 further acts of abuse by the respondent if the order is not renewed; or

9 (b) A person in the situation of a child who was in the petitioner’s custody during the time the
 10 order existed, who was also included as a protected person in the order and who has reached 18
 11 years of age since the date the order was entered would reasonably fear further acts of abuse by
 12 the respondent if the order is not renewed.

13 (2) A finding that there has been a further act of abuse is not required to renew an order under
 14 subsection (1) of this section.

15 (3) The court may renew an order under subsection (1)(b) of this section regardless of whether
 16 the original petitioner agrees to or seeks renewal of the order. If the petitioner does not agree to
 17 or seek renewal of the order concurrently with the request of the child who has reached 18 years
 18 of age, the court may modify the order upon renewal to exclude the petitioner as a protected person
 19 in the order. A child who has reached 18 years of age may seek renewal under this section without
 20 having to file a petition under ORS 107.710.

21 (4) A court may renew an order on the basis of an ex parte petition alleging facts supporting
 22 the required finding. The petition must include allegations made under oath or affirmation or a
 23 declaration under penalty of perjury. If the renewal order is granted, the provisions of ORS 107.716
 24 (5) and 107.718 (8) to (10) apply except that the court may hear no issue other than the basis for
 25 renewal unless requested in the hearing request form and thereafter agreed to by the petitioner,
 26 **employer petitioner** or the child who has reached 18 years of age. The court shall hold a hearing
 27 required under this section within 21 days after the respondent’s request.

28 **SECTION 14.** ORS 107.728 is amended to read:

29 107.728. A petition under ORS 107.710 may be filed only in a county in which the petitioner or
 30 respondent resides, **except that a petition filed by an employer petitioner pursuant to section**
 31 **1 of this 2021 Act may be filed in a county in which the employee’s workplace is located.** Any
 32 contempt proceedings for violation of a restraining order issued under ORS 107.700 to 107.735 must
 33 be conducted by the court that issued the order, or by the circuit court for a county in which a
 34 violation of the restraining order occurs. If contempt proceedings are initiated in the circuit court
 35 for a county in which a violation of the restraining order occurs, the person initiating the contempt
 36 proceedings shall file with the court a copy of the restraining order, certified by the clerk of the
 37 court that issued the order. Upon filing of the certified copy of the restraining order, the court shall
 38 enforce the order as though that court had issued the order.

39 **SECTION 15.** ORS 107.730 is amended to read:

40 107.730. (1) At any time after an order has been issued under ORS 107.700 to 107.735 and after
 41 the time period set forth in ORS 107.718 (10)(a):

42 (a) A party may request that the court modify terms in the order that were entered under ORS
 43 107.718 [(1)(a), (b), (g) or (i)] **(1)(b)(A), (B), (G) or (I)** for good cause shown.

44 (b) A petitioner **or an employer petitioner** may request that the court modify by removing or
 45 making less restrictive terms in the order that were entered under ORS 107.718 [(1)(b), (g) or (i)]

1 (1)(b), (B), (G) or (I) for good cause shown. Application to the court under this paragraph may be
2 by ex parte motion.

3 (2) The clerk of the court shall provide without charge the number of certified true copies of
4 the request for modification of the order and notice of hearing necessary to effect service and, at
5 the election of the party requesting the modification, shall have a true copy of the request and no-
6 tice delivered to the county sheriff for service upon the other party.

7 (3) The county sheriff shall personally serve the other party with a request under subsection
8 (1)(a) of this section, unless the party requesting the modification under subsection (1)(a) of this
9 section elects to have the other party personally served by a private party or unless otherwise or-
10 dered by the court.

11 (4) The provisions of ORS 107.716 (5) apply to a modification of an order under this section.

12 (5) The clerk of the court shall deliver a copy of an order of modification entered under sub-
13 section (1) of this section to the county sheriff for service and entry into the Law Enforcement Data
14 System as provided in ORS 107.723.

15 (6)(a) The county sheriff shall serve a copy of an order of modification:

16 (A) Entered under subsection (1)(a) of this section by personal service on the nonrequesting
17 party.

18 (B) Entered under subsection (1)(b) of this section by mailing a copy of the order to the
19 nonrequesting party by first class mail.

20 (b) If the order of modification recites that the respondent appeared in person before the court,
21 the necessity for service of the order and proof of service is waived.

22 (7) The court may assess against either party a reasonable attorney fee and costs that may be
23 incurred in the proceeding.

24