

SB 816-2  
(LC 3737)  
3/8/23 (LAS/ps)

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
SENATE BILL 816**

1 On page 1 of the printed bill, line 2, after the second semicolon delete the  
2 rest of the line and delete line 3 and insert “and amending ORS 107.716,  
3 107.718 and 107.725.”.

4 Delete lines 5 through 31 and delete pages 2 through 10 and insert:

5 **“SECTION 1.** ORS 107.718 is amended to read:

6 “107.718. (1) When a person files a petition under ORS 107.710, the circuit  
7 court shall hold an ex parte hearing in person or by telephone on the day  
8 the petition is filed or on the following judicial day. Upon a showing that  
9 the petitioner has been the victim of abuse committed by the respondent  
10 within 180 days preceding the filing of the petition, that there is an imminent  
11 danger of further abuse to the petitioner and that the respondent represents  
12 a credible threat to the physical safety of the petitioner or the petitioner’s  
13 child, the court shall, if requested by the petitioner, order:

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

19 “(b) That the respondent be required to move from the petitioner’s resi-  
20 dence, if in the sole name of the petitioner or if it is jointly owned or rented  
21 by the petitioner and the respondent, or if the parties are married to each

1 other;

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

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

10 “(e) That the respondent be restrained from intimidating, molesting, in-  
11 terfering with or menacing the petitioner, or attempting to intimidate, mo-  
12 lest, interfere with or menace the petitioner;

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

17 “(g) That the respondent be restrained from entering, or attempting to  
18 enter, on any premises and a reasonable area surrounding the premises when  
19 it appears to the court that such restraint is necessary to prevent the re-  
20 spondent from intimidating, molesting, interfering with or menacing the  
21 petitioner or children whose custody is awarded to the petitioner;

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

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

26 “(B) Prevent the neglect and protect the safety of any service or therapy  
27 animal or any animal kept for personal protection or companionship, but not  
28 an animal kept for any business, commercial, agricultural or economic pur-  
29 pose; or

30 “(i) Except as described in subsection (12) of this section or parenting

1 time ordered under this section, that the respondent have no contact with  
2 the petitioner in person, by telephone or by mail.

3 “(2) If the court determines that exceptional circumstances exist that af-  
4 fect the custody of a child, the court shall order the parties to appear and  
5 provide additional evidence at a hearing to determine temporary custody and  
6 resolve other contested issues. Pending the hearing, the court may make any  
7 orders regarding the child’s residence and the parties’ contact with the child  
8 that the court finds appropriate to provide for the child’s welfare and the  
9 safety of the parties. The court shall set a hearing time and date as provided  
10 in ORS 107.716 (2) and issue a notice of the hearing at the same time the  
11 court issues the restraining order.

12 “(3) The court’s order under subsection (1) of this section is effective for  
13 a period of [*one year*] **two years** or until the order is withdrawn or amended,  
14 or until the order is superseded as provided in ORS 107.722, whichever is  
15 sooner.

16 “(4) If respondent is restrained from entering, or attempting to enter, an  
17 area surrounding petitioner’s residence or any other premises, the order re-  
18 straining respondent shall specifically describe the area.

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

22 “(6) If the court awards parenting time to a parent who committed abuse,  
23 the court shall make adequate provision for the safety of the child and of the  
24 petitioner. The order of the court may include, but is not limited to, the  
25 following:

26 “(a) That exchange of a child between parents shall occur at a protected  
27 location.

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

29 “(c) That the perpetrator of the abuse be required to attend and complete,  
30 to the satisfaction of the court, a program of intervention for perpetrators

1 or any other counseling program designated by the court as a condition of  
2 the parenting time.

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

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

9 “(f) That no overnight parenting time occur.

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

14 “(8) If the court orders relief:

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

23 “(b) The county sheriff shall serve the respondent personally unless the  
24 petitioner elects to have the respondent served personally by a private party  
25 or by a peace officer who is called to the scene of a domestic disturbance  
26 at which the respondent is present, and who is able to obtain a copy of the  
27 order within a reasonable amount of time. Proof of service shall be made in  
28 accordance with ORS 107.720. When the order does not contain the  
29 respondent’s date of birth and service is effected by the sheriff or other peace  
30 officer, the sheriff or officer shall verify the respondent’s date of birth with

1 the respondent and shall record that date on the order or proof of service  
2 entered into the Law Enforcement Data System under ORS 107.720.

3 “(c) No filing fee, service fee or hearing fee shall be charged for pro-  
4 ceedings seeking only the relief provided under ORS 107.700 to 107.735.

5 “(9) If the county sheriff:

6 “(a) Determines that the order and petition are incomplete, the sheriff  
7 shall return the order and petition to the clerk of the court. The clerk of the  
8 court shall notify the petitioner, at the address provided by the petitioner,  
9 of the error or omission.

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

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

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

25 “(c) The hearing shall not be limited to the issues raised in the  
26 respondent’s request for hearing form. If the respondent seeks to raise an  
27 issue at the hearing not previously raised in the request for hearing form,  
28 or if the petitioner seeks relief at the hearing not granted in the original  
29 order, the other party shall be entitled to a reasonable continuance for the  
30 purpose of preparing a response to the issue.

1 “(11) If the respondent fails to request a hearing within 30 days after a  
2 restraining order is served, the restraining order is confirmed by operation  
3 of law. The provisions of this section are sufficient to meet the due process  
4 requirements of 18 U.S.C. 922(g) in that the respondent received actual no-  
5 tice of the right to request a hearing and the opportunity to participate at  
6 the hearing but the respondent failed to exercise those rights.

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

10 **“SECTION 2.** ORS 107.725 is amended to read:

11 “107.725. (1) The court may renew **for a period of two years** an order  
12 entered under ORS 107.716 or 107.718 **or renewed under this section** upon  
13 a finding that:

14 “(a) A person in the petitioner’s situation would reasonably fear further  
15 acts of abuse by the respondent if the order is not renewed; or

16 “(b) A person in the situation of a child who was in the petitioner’s cus-  
17 tody during the time the order existed, who was also included as a protected  
18 person in the order and who has reached 18 years of age since the date the  
19 order was entered would reasonably fear further acts of abuse by the re-  
20 spondent if the order is not renewed.

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

23 “(3) The court may renew an order under subsection (1)(b) of this section  
24 regardless of whether the original petitioner agrees to or seeks renewal of  
25 the order. If the petitioner does not agree to or seek renewal of the order  
26 concurrently with the request of the child who has reached 18 years of age,  
27 the court may modify the order upon renewal to exclude the petitioner as a  
28 protected person in the order. A child who has reached 18 years of age may  
29 seek renewal under this section without having to file a petition under ORS  
30 107.710.

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

10 **“SECTION 3.** ORS 107.716 is amended to read:

11 “107.716. (1) If the respondent requests a hearing pursuant to ORS 107.718  
12 (10), the court shall hold the hearing within 21 days after the request.  
13 However, if the respondent contests the order granting temporary child cus-  
14 tody to the petitioner, the court shall hold the hearing within five days after  
15 the request.

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

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

30 “(c) When the court schedules a hearing under this subsection, the re-

1 spondent may not request a hearing under ORS 107.718 (10).

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

3 “(a) The court may continue any order issued under ORS 107.718 if the  
4 court finds that:

5 “(A) Abuse has occurred within the period specified in ORS 107.710 (1);

6 “(B) The petitioner reasonably fears for the petitioner’s physical safety;  
7 and

8 “(C) The respondent represents a credible threat to the physical safety  
9 of the petitioner or the petitioner’s child.

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

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

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

21 “(5) If the court continues the order, with or without changes, at a hear-  
22 ing about which the respondent received actual notice and the opportunity  
23 to participate, the court shall include in the order a certificate in substan-  
24 tially the following form in a separate section immediately above the signa-  
25 ture of the judge:

26 “ \_\_\_\_\_

27 CERTIFICATE OF COMPLIANCE  
28 WITH THE VIOLENCE  
29 AGAINST WOMEN ACT  
30



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

7 “ \_\_\_\_\_  
8 “(6) The court may approve any consent agreement to bring about a ces-  
9 sation of abuse of the parties. However, the court may not approve a term  
10 in a consent agreement that provides for restraint of a party to the agree-  
11 ment unless the other party petitioned for and was granted an order under  
12 ORS 107.710. An order or consent agreement made under this section may  
13 be amended at any time and shall continue in effect for a period of [*one*  
14 *year*] **two years** from the date of the order issued under ORS 107.718, or until  
15 superseded as provided in ORS 107.722.

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

18 “(8) No undertaking shall be required in any proceeding under ORS  
19 107.700 to 107.735.

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

22 **“SECTION 4. The amendments to ORS 107.716, 107.718 and 107.725**  
23 **by sections 1 to 3 of this 2023 Act apply to restraining orders entered**  
24 **or renewed on or after the effective date of this 2023 Act.”.**

25 \_\_\_\_\_