

# Enrolled House Bill 4146

Sponsored by Representative HARTMAN, Senator TAYLOR, Representatives MANNIX, KROPF, NERON, NGUYEN H, TRAN, Senator GELSER BLOUIN; Representatives BOICE, BOWMAN, BYNUM, CONRAD, CRAMER, DEXTER, ELMER, EVANS, GAMBA, GRAYBER, HELM, HIEB, HUDSON, JAVADI, LEVY B, LEVY E, LEWIS, MARSH, MCLAIN, NATHANSON, NELSON, NGUYEN D, NOSSE, PHAM H, RESCHKE, REYNOLDS, RUIZ, SANCHEZ, SCHARF, WALTERS, WRIGHT, Senators CAMPOS, FINDLEY, JAMA, LIEBER, PATTERSON, PROZANSKI, SMITH DB, SOLLMAN, STEINER, THATCHER (Pre-session filed.)

CHAPTER .....

## AN ACT

Relating to victims; creating new provisions; amending ORS 107.728, 124.012, 163.472 and 163.763; and declaring an emergency.

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

**SECTION 1.** ORS 107.728 is amended to read:

107.728. (1) A petition under ORS 107.710 may be filed [*only in a county in which the petitioner or respondent resides*] **in a county in which:**

- (a) **The petitioner resides;**
- (b) **The respondent resides; or**
- (c) **The abuse occurred.**

(2) Any contempt proceedings for violation of a restraining order issued under ORS 107.700 to 107.735 must be conducted by the court that issued the order, or by the circuit court for a county in which a violation of the restraining order occurs. If contempt proceedings are initiated in the circuit court for a county in which a violation of the restraining order occurs, the person initiating the contempt proceedings shall file with the court a copy of the restraining order, certified by the clerk of the court that issued the order. Upon filing of the certified copy of the restraining order, the court shall enforce the order as though that court had issued the order.

**SECTION 2.** ORS 124.012 is amended to read:

124.012. (1) A petition under ORS 124.010 may be filed [*only in a county in which the petitioner or respondent resides*] **in a county in which:**

- (a) **The petitioner resides;**
- (b) **The respondent resides; or**
- (c) **The abuse occurred.**

(2) Any contempt proceedings for violation of a restraining order issued under ORS 124.005 to 124.040 must be conducted by the court that issued the order, or by the circuit court for a county in which a violation of the restraining order occurs. If contempt proceedings are initiated in the circuit court for a county in which a violation of the restraining order occurs, the person initiating the contempt proceedings shall file with the court a copy of the restraining order, certified by the clerk of the court that issued the order. Upon filing of the certified copy of the restraining order, the court shall enforce the order as though that court had issued the order.

**SECTION 3.** ORS 163.763 is amended to read:

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

- (a) The person and the respondent are not family or household members;
- (b) The respondent is at least 18 years of age; and

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

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

(b) The petition must allege that:

(A) The petitioner reasonably fears for the petitioner's physical safety with respect to the respondent; and

(B) The respondent subjected the petitioner to sexual abuse.

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

(d) The petitioner has the burden of proving a claim under ORS 163.760 to 163.777 by a preponderance of the evidence.

**SECTION 4.** ORS 163.472 is amended to read:

163.472. (1) A person commits the crime of unlawful dissemination of an intimate image if:

(a) The person, with the intent to harass, humiliate or injure another person, knowingly causes to be disclosed an [*identifiable*] image of the other person whose intimate parts are visible or who is engaged in sexual conduct;

(b) The person knows or reasonably should have known that the other person does not consent to the disclosure;

(c) The other person is harassed, humiliated or injured by the disclosure; and

(d) A reasonable person would be harassed, humiliated or injured by the disclosure.

(2)(a) Except as provided in paragraph (b) of this subsection, unlawful dissemination of an intimate image is a Class A misdemeanor.

(b) Unlawful dissemination of an intimate image is a Class C felony if the person has a prior conviction under this section at the time of the offense.

(3) As used in this section:

(a) "Disclose" includes, but is not limited to, transfer, publish, distribute, exhibit, advertise and offer.

[(b) "*Identifiable*" means that a reasonable person would be able to recognize the individual depicted in the image as the other person.]

[(c)] (b) "Image" includes, but is not limited to, a photograph, film, videotape, recording, digital picture and other visual reproduction, regardless of the manner in which the image is stored.

[(d)] (c) "Information content provider" has the meaning given that term in 47 U.S.C. 230(f).

[(e)] (d) "Interactive computer service" has the meaning given that term in 47 U.S.C. 230(f).

[(f)] (e) "Intimate parts" means uncovered human genitals, pubic areas or female nipples.

[(g)] (f) "Sexual conduct" means sexual intercourse or oral or anal sexual intercourse, as those terms are defined in ORS 163.305, or masturbation.

(4) This section does not apply to:

(a) Activity by law enforcement agencies investigating and prosecuting criminal offenses;

(b) Legitimate medical, scientific or educational activities;

(c) Legal proceedings, when disclosure is consistent with common practice in civil proceedings or necessary for the proper functioning of the criminal justice system;

(d) The reporting of unlawful conduct to a law enforcement agency;

(e) Disclosures that serve a lawful public interest;

- (f) Disclosures of images:
  - (A) Depicting the other person voluntarily displaying, in a public area, the other person's intimate parts or engaging in sexual conduct; or
  - (B) Originally created for a commercial purpose with the consent of the other person; or
  - (g) The provider of an interactive computer service for an image of intimate parts provided by an information content provider.

**SECTION 5. The amendments to ORS 107.728, 124.012 and 163.763 by sections 1 to 3 of this 2024 Act become operative on July 1, 2024.**

**SECTION 6. This 2024 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect on its passage.**

**Passed by House February 21, 2024**

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 Timothy G. Sekerak, Chief Clerk of House

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 Dan Rayfield, Speaker of House

**Passed by Senate March 5, 2024**

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 Rob Wagner, President of Senate

**Received by Governor:**

.....M,....., 2024

**Approved:**

.....M,....., 2024

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 Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2024

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 LaVonne Griffin-Valade, Secretary of State