

A-Engrossed
House Bill 4146

Ordered by the House February 16
Including House Amendments dated February 16

Sponsored by Representative HARTMAN, Senator TAYLOR, Representatives MANNIX, KROPF, NERON, NGUYEN H, TRAN, Senator GELSER BLOUIN; Representatives BOICE, BOWMAN, BYNUM, CONRAD, CRAMER, GAMBA, HELM, HIEB, HUDSON, JAVADI, LEVY B, LEWIS, MARSH, MCLAIN, NATHANSON, NELSON, NGUYEN D, NOSSE, PHAM H, REYNOLDS, RUIZ, SANCHEZ, SCHARF, WALTERS, Senators CAMPOS, FINDLEY, JAMA, LIEBER, SMITH DB, STEINER, THATCHER (Presession 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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act allows petitions for certain abuse court orders to be filed in the county in which the abuse occurred. The Act also changes an element of a crime related to violating privacy. The Act goes into effect when the Governor signs it. (Flesch Readability Score: 60.4).

[Digest: The Act allows petitions for certain abuse court orders to be filed in the county in which the abuse occurred. The Act also changes the elements of two crimes related to violating privacy. The Act goes into effect when the Governor signs it. (Flesch Readability Score: 60.4).]

Provides that a petition for a Family Abuse Prevention Act order, Elderly Persons and Persons with Disabilities Abuse Prevention Act order or sexual abuse restraining order may be filed in the county in which the abuse occurred.

Removes the requirement that a disclosed image be identifiable for purposes of the crime of unlawful dissemination of an intimate image.

[Modifies the crime of invasion of privacy in the second degree to include the recording of a person who is dressing, undressing, bathing or toileting in an area in which the person has a reasonable expectation of privacy.]

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to victims; creating new provisions; amending ORS 107.728, 124.012, 163.472 and 163.763;
3 and declaring an emergency.

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

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

6 107.728. (1) A petition under ORS 107.710 may be filed [*only in a county in which the petitioner*
7 *or respondent resides*] **in a county in which:**

8 **(a) The petitioner resides;**

9 **(b) The respondent resides; or**

10 **(c) The abuse occurred.**

11 **(2)** Any contempt proceedings for violation of a restraining order issued under ORS 107.700 to
12 107.735 must be conducted by the court that issued the order, or by the circuit court for a county
13 in which a violation of the restraining order occurs. If contempt proceedings are initiated in the
14 circuit court for a county in which a violation of the restraining order occurs, the person initiating
15 the contempt proceedings shall file with the court a copy of the restraining order, certified by the
16 clerk of the court that issued the order. Upon filing of the certified copy of the restraining order,
17 the court shall enforce the order as though that court had issued the order.

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

2 124.012. (1) A petition under ORS 124.010 may be filed [*only in a county in which the petitioner*
3 *or respondent resides*] **in a county in which:**

4 **(a) The petitioner resides;**

5 **(b) The respondent resides; or**

6 **(c) The abuse occurred.**

7 **(2)** Any contempt proceedings for violation of a restraining order issued under ORS 124.005 to
8 124.040 must be conducted by the court that issued the order, or by the circuit court for a county
9 in which a violation of the restraining order occurs. If contempt proceedings are initiated in the
10 circuit court for a county in which a violation of the restraining order occurs, the person initiating
11 the contempt proceedings shall file with the court a copy of the restraining order, certified by the
12 clerk of the court that issued the order. Upon filing of the certified copy of the restraining order,
13 the court shall enforce the order as though that court had issued the order.

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

15 163.763. (1) A person who has been subjected to sexual abuse and who reasonably fears for the
16 person's physical safety may petition the circuit court for a restraining order if:

17 (a) The person and the respondent are not family or household members;

18 (b) The respondent is at least 18 years of age; and

19 (c) The respondent is not prohibited from contacting the person pursuant to a foreign restraining
20 order as defined in ORS 24.190, an order issued under ORS 30.866, 124.015, 124.020, 163.738 or
21 419B.845 or an order entered in a criminal action.

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

26 (b) The petition must allege that:

27 (A) The petitioner reasonably fears for the petitioner's physical safety with respect to the re-
28 spondent; and

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

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

32 (d) The petitioner has the burden of proving a claim under ORS 163.760 to 163.777 by a pre-
33 ponderance of the evidence.

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

35 163.472. (1) A person commits the crime of unlawful dissemination of an intimate image if:

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

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

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

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

43 (2)(a) Except as provided in paragraph (b) of this subsection, unlawful dissemination of an inti-
44 mate image is a Class A misdemeanor.

45 (b) Unlawful dissemination of an intimate image is a Class C felony if the person has a prior

1 conviction under this section at the time of the offense.

2 (3) As used in this section:

3 (a) “Disclose” includes, but is not limited to, transfer, publish, distribute, exhibit, advertise and
4 offer.

5 [(b) “Identifiable” means that a reasonable person would be able to recognize the individual de-
6 picted in the image as the other person.]

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

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

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

11 [(f) (e) “Intimate parts” means uncovered human genitals, pubic areas or female nipples.

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

14 (4) This section does not apply to:

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

16 (b) Legitimate medical, scientific or educational activities;

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

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

20 (e) Disclosures that serve a lawful public interest;

21 (f) Disclosures of images:

22 (A) Depicting the other person voluntarily displaying, in a public area, the other person’s inti-
23 mate parts or engaging in sexual conduct; or

24 (B) Originally created for a commercial purpose with the consent of the other person; or

25 (g) The provider of an interactive computer service for an image of intimate parts provided by
26 an information content provider.

27 **SECTION 5. The amendments to ORS 107.728, 124.012 and 163.763 by sections 1 to 3 of this**
28 **2024 Act become operative on July 1, 2024.**

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

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