

# 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, GAMBA, HELM, 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 **as introduced**. 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 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; amending ORS 107.728, 124.012, 163.472, 163.700 and 163.763; and declaring an  
3 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.

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

19 124.012. (1) A petition under ORS 124.010 may be filed [*only in a county in which the petitioner*  
20 *or respondent resides*] **in a county in which:**

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

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

**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       **(c) The abuse occurred.**

2       **(2)** Any contempt proceedings for violation of a restraining order issued under ORS 124.005 to  
 3 124.040 must be conducted by the court that issued the order, or by the circuit court for a county  
 4 in which a violation of the restraining order occurs. If contempt proceedings are initiated in the  
 5 circuit court for a county in which a violation of the restraining order occurs, the person initiating  
 6 the contempt proceedings shall file with the court a copy of the restraining order, certified by the  
 7 clerk of the court that issued the order. Upon filing of the certified copy of the restraining order,  
 8 the court shall enforce the order as though that court had issued the order.

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

10       163.763. (1) A person who has been subjected to sexual abuse and who reasonably fears for the  
 11 person’s physical safety may petition the circuit court for a restraining order if:

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

14       (c) The respondent is not prohibited from contacting the person pursuant to a foreign restraining  
 15 order as defined in ORS 24.190, an order issued under ORS 30.866, 124.015, 124.020, 163.738 or  
 16 419B.845 or an order entered in a criminal action.

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

21       (b) The petition must allege that:

- 22       (A) The petitioner reasonably fears for the petitioner’s physical safety with respect to the re-  
 23 spondent; and
- 24       (B) The respondent subjected the petitioner to sexual abuse.

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

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

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

30       163.472. (1) A person commits the crime of unlawful dissemination of an intimate image if:

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

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

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

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

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

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

42       (3) As used in this section:

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

45       [*(b) “Identifiable” means that a reasonable person would be able to recognize the individual de-*

1 *picted in the image as the other person.]*

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

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

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

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

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

9 (4) This section does not apply to:

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

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

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

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

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

16 (f) Disclosures of images:

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

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

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

22 **SECTION 5.** ORS 163.700 is amended to read:

23 163.700. (1) Except as provided in ORS 163.702, a person commits the crime of invasion of per-  
24 sonal privacy in the second degree if:

25 (a)(A) For the purpose of arousing or gratifying the sexual desire of the person, the person is  
26 in a location to observe another person in a state of nudity without the consent of the other person;  
27 and

28 (B) The other person is in a place and circumstances where the person has a reasonable ex-  
29 pectation of personal privacy; *[or]*

30 (b)(A) The person knowingly makes or records a photograph, motion picture, videotape or other  
31 visual recording of another person’s intimate area without the consent of the other person; and

32 (B) The person being recorded has a reasonable expectation of privacy concerning the intimate  
33 area[.]; **or**

34 **(c)(A) The person, for the purpose of arousing or gratifying the sexual desire of the**  
35 **person, or with the intent to humiliate, harass or injure another person, knowingly makes**  
36 **or records a photograph, motion picture, videotape or other visual recording of another**  
37 **person who is dressing, undressing, bathing or toileting; and**

38 **(B) The other person is in a place and circumstances where the person has a reasonable**  
39 **expectation of personal privacy.**

40 (2) As used in this section and ORS 163.701:

41 (a) “Intimate area” means nudity, or undergarments that are being worn by a person and are  
42 covered by clothing.

43 (b) “Makes or records a photograph, motion picture, videotape or other visual recording” in-  
44 cludes, but is not limited to:

45 (A) Making or recording or employing, authorizing, permitting, compelling or inducing another

1 person to make or record a photograph, motion picture, videotape or other visual recording.

2 (B) Making or recording a photograph, motion picture, videotape or other visual recording  
3 through the use of an unmanned aircraft system as defined in ORS 837.300, even if the unmanned  
4 aircraft system is operated for commercial purposes in compliance with authorization granted by the  
5 Federal Aviation Administration.

6 (c) "Nudity" means any part of the uncovered or less than opaquely covered:

7 (A) Genitals;

8 (B) Pubic area; or

9 (C) Female breast below a point immediately above the top of the areola.

10 (d) "Places and circumstances where the person has a reasonable expectation of personal pri-  
11 vacy" includes, but is not limited to, a bathroom, dressing room, locker room that includes an en-  
12 closed area for dressing or showering, tanning booth and any area where a person undresses in an  
13 enclosed space that is not open to public view.

14 (e) "Public view" means that an area can be readily seen and that a person within the area can  
15 be distinguished by normal unaided vision when viewed from a public place as defined in ORS  
16 161.015.

17 (f) "Reasonable expectation of privacy concerning the intimate area" means that the person in-  
18 tended to protect the intimate area from being seen and has not exposed the intimate area to public  
19 view.

20 (3) Invasion of personal privacy in the second degree is a Class A misdemeanor.

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