

# House Bill 4156

Sponsored by Representatives MANNIX, MCLAIN, EVANS, LEWIS; Representatives ANDERSEN, BOICE, CRAMER, DIEHL, GOODWIN, HARTMAN, HELFRICH, HELM, HIEB, HUDSON, JAVADI, LEVY B, LEVY E, LIVELY, NATHANSON, NELSON, NERON, NGUYEN D, OSBORNE, OWENS, RESCHKE, RUIZ, SCHARF, WALLAN, WRIGHT, Senators FINDLEY, FREDERICK, GELSER BLOUIN, HANSELL, KNOPP, LIEBER, MEEK, STEINER, WEBER, WOODS (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 makes changes to crimes related to stalking. The Act also changes the definitions for stalking laws. The Act takes effect on July 1, 2024. (Flesch Readability Score: 61.3).

Modifies definitions pertaining to stalking orders and stalking offenses. Increases penalties for the crimes of stalking and violating a court's stalking protective order in certain circumstances. Punishes by a maximum of 10 years' imprisonment, \$250,000 fine, or both.

Takes effect July 1, 2024.

## A BILL FOR AN ACT

1  
2 Relating to stalking; creating new provisions; amending ORS 163.730, 163.732, 163.741 and 163.750;  
3 and prescribing an effective date.

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

5 **SECTION 1.** ORS 163.730 is amended to read:

6 163.730. As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

7 (1) "Alarm" means to cause apprehension or fear resulting from the perception of danger.

8 (2) "Coerce" means to restrain, compel or dominate by force or threat.

9 (3) "Contact" includes but is not limited to:

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

11 (b) Following the other person;

12 (c) Waiting outside the home, property, place of work or school of the other person or of a  
13 member of that person's family or household;

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

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

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

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

18 (h) Communicating with a third person who has some relationship to the other person with the  
19 intent of affecting the third person's relationship with the other person;

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

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

23 (k) Delivering directly or through a third person any object to the home, property, place of work  
24 or school of the other person; [*or*]

25 (L) Service of process or other legal documents unless the other person is served as provided  
26 in ORCP 7 or 9[.];

**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 (m) Obtaining, possessing, transferring, creating, uttering or converting to the person's  
2 own use the personal identification of the other person;

3 (n) Disclosing an image of the other person, whose intimate parts are visible or who is  
4 engaged in sexual conduct, without the consent of the other person;

5 (o) The use of an electronic service, application, device or other electronic means to ob-  
6 tain, monitor or interfere with the location, communication or activities of the other person,  
7 without the consent of the other person; or

8 (p) Causing or attempting to cause a third person to harass, humiliate or injure the other  
9 person by disclosing the other person's name, image or personal information, as that term  
10 is defined in ORS 30.835, without the consent of the other person.

11 (4) "Disclose" has the meaning given that term in ORS 163.472.

12 [(4)] (5) "Household member" means any person residing in the same residence as the victim.

13 [(5)] (6) "Immediate family" means father, mother, child, sibling, spouse, grandparent, stepparent  
14 and stepchild.

15 [(6)] (7) "Law enforcement officer" means:

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

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

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

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

20 (b) An authorized tribal police officer as defined in ORS 181A.940.

21 (8) "Personal identification" has the meaning given that term in ORS 165.800.

22 [(7)] (9) "Repeated" means two or more times.

23 [(8)] (10) "School" means a public or private institution of learning or a child care facility.

24 **SECTION 2.** ORS 163.732 is amended to read:

25 163.732. (1) A person commits the crime of stalking if:

26 (a) The person knowingly alarms or coerces another person or a member of that person's im-  
27 mediate family or household by engaging in repeated and unwanted contact with the other person;

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

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

32 (2)(a) Stalking is a Class A misdemeanor.

33 (b) Notwithstanding paragraph (a) of this subsection, stalking is a Class [C] B felony if:

34 (A) The person has a prior conviction for:

35 [(A)] (i) Stalking, or an equivalent crime in another jurisdiction; or

36 [(B)] (ii) Violating a court's stalking protective order[.], or an equivalent crime in another  
37 jurisdiction;

38 (B) The person is the respondent for an active protection order in any jurisdiction that  
39 restrains the person from stalking, intimidating, molesting or menacing another person, and  
40 the person protected by the order is not the victim of the current offense; or

41 (C) At least one instance of unwanted contact is the commission of the following against  
42 the victim:

43 (i) A felony;

44 (ii) Unlawful dissemination of an intimate image under ORS 163.472; or

45 (iii) Unlawful use of a global positioning system device under ORS 163.715.

1 (c) When stalking is a Class [C] **B** felony pursuant to paragraph (b) of this subsection, stalking  
 2 shall be classified as a person felony and as crime category 8 of the sentencing guidelines grid of  
 3 the Oregon Criminal Justice Commission.

4 **SECTION 3.** ORS 163.750 is amended to read:

5 163.750. (1) A person commits the crime of violating a court’s stalking protective order [*when*]  
 6 **if:**

7 (a) The person has been served with a court’s stalking protective order as provided in ORS  
 8 30.866 or 163.738, or [*if further*] service was waived under ORS 163.741 because the person appeared  
 9 before the court;

10 (b) The person, subsequent to the service of the order **or the waiver of service**, has engaged  
 11 intentionally, knowingly or recklessly in conduct prohibited by the order; and

12 (c) If the conduct is prohibited contact as defined in ORS 163.730 (3)(d), (e), (f), (h) or (i), the  
 13 subsequent conduct has created reasonable apprehension regarding the personal safety of a person  
 14 protected by the order.

15 (2)(a) Violating a court’s stalking protective order is a Class A misdemeanor.

16 (b) Notwithstanding paragraph (a) of this subsection, violating a court’s stalking protective or-  
 17 der is a Class [C] **B** felony if:

18 **(A)** The person has a prior conviction for:

19 [(A)] **(i) Stalking, or an equivalent crime in another jurisdiction; or**

20 [(B)] **(ii) Violating a court’s stalking protective order[.], or an equivalent crime in another**  
 21 **jurisdiction;**

22 **(B) The person is the respondent for an active protection order in any jurisdiction that**  
 23 **restrains the person from stalking, intimidating, molesting or menacing another person, and**  
 24 **the person protected by that order is not the same as the person protected by the order at**  
 25 **issue in the current offense; or**

26 **(C) At least one instance of unwanted contact is the commission of the following against**  
 27 **the person protected by the order:**

28 **(i) A felony;**

29 **(ii) Unlawful dissemination of an intimate image under ORS 163.472; or**

30 **(iii) Unlawful use of a global positioning system device under ORS 163.715.**

31 (c) When violating a court’s stalking protective order is a Class C felony pursuant to paragraph  
 32 (b) of this subsection, violating a court’s stalking protective order shall be classified as a person  
 33 felony and as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice  
 34 Commission.

35 **SECTION 4.** ORS 163.741 is amended to read:

36 163.741. (1) Service of a stalking protective order shall be made by personal delivery of a copy  
 37 of the order to the respondent. The respondent need not be served if an order of the court indicates  
 38 that the respondent appeared in person before the court.

39 (2) Whenever a stalking protective order, as authorized by ORS 163.735 or 163.738, is served on  
 40 a respondent, the person serving the order shall immediately deliver to the county sheriff a true  
 41 copy of proof of service, on which it is stated that personal service of the order was made on the  
 42 respondent, and a copy of the order. Proof of service may be made by affidavit or by declaration  
 43 under penalty of perjury in the form required by ORCP 1 E. If service of the order is not required  
 44 under subsection (1) of this section, a copy of the order must be delivered to the sheriff by the court.  
 45 Upon receipt of a copy of the order and notice of completion of any required service by a member

1 of a law enforcement agency, the county sheriff shall immediately enter the order into the Law  
 2 Enforcement Data System maintained by the Department of State Police and into the databases of  
 3 the National Crime Information Center of the United States Department of Justice. If the order was  
 4 served on the respondent by a person other than a member of a law enforcement agency, the county  
 5 sheriff shall enter the order into the Law Enforcement Data System and databases of the National  
 6 Crime Information Center upon receipt of a true copy of proof of service. The sheriff shall provide  
 7 the complainant with a true copy of any required proof of service. Entry into the Law Enforcement  
 8 Data System constitutes notice to all law enforcement agencies of the existence of the order. Law  
 9 enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of  
 10 an alleged violation of the order may be informed of the existence and terms of the order. The order  
 11 is fully enforceable in any county in this state.

12 **(3) A stalking protective order is not confidential, notwithstanding the transfer of a**  
 13 **stalking protective order proceeding to juvenile court.**

14 [(3)] (4) When a stalking protective order has been entered into the Law Enforcement Data  
 15 System and the databases of the National Crime Information Center of the United States Department  
 16 of Justice under subsection (1) of this section, a county sheriff shall cooperate with a request from  
 17 a law enforcement agency from any other jurisdiction to verify the existence of the stalking pro-  
 18 tective order or to transmit a copy of the order to the requesting jurisdiction.

19 [(4)] (5) When a stalking protective order is terminated by order of the court, the clerk of the  
 20 court shall immediately deliver a copy of the termination order to the county sheriff with whom the  
 21 original order was filed. Upon receipt of the termination order, the county sheriff shall promptly  
 22 remove the original order from the Law Enforcement Data System and the databases of the National  
 23 Crime Information Center of the United States Department of Justice.

24 **SECTION 5. The amendments to ORS 163.730, 163.732 and 163.750 by sections 1 to 3 of this**  
 25 **2024 Act apply to offenses occurring on or after July 1, 2024.**

26 **SECTION 6. This 2024 Act takes effect on July 1, 2024.**

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