

A-Engrossed House Bill 2613

Ordered by the House April 1
Including House Amendments dated April 1

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Representative Kim Wallan)

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 tells the court what factors to look at when deciding whether a child is in immediate danger. (Flesch Readability Score: 67.3).

[Digest: The Act directs DHS to study how to improve services provided to victims of child abuse in this state. (Flesch Readability Score: 67.3).]

[Requires the Department of Human Services to study how to improve services provided to victims of child abuse in this state. Directs the department to submit findings to the interim committees of the Legislative Assembly related to human services not later than September 15, 2026.]

[Sunsets on January 2, 2027.]

Prescribes the factors that the court must consider when determining whether a child is in immediate danger for the purpose of granting a request for a temporary order providing for the custody of, or parenting time with, the child.

A BILL FOR AN ACT

Relating to minor victims; amending ORS 107.097 and 107.139.

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

SECTION 1. ORS 107.097 is amended to read:

107.097. (1) Except as otherwise provided in subsection (3) of this section, a court may not enter ex parte a temporary order under ORS 107.095, 109.103 or 109.119 providing for the custody of, or parenting time with, a child.

(2)(a) A party may apply to a court for a temporary protective order of restraint by filing with the court an affidavit or a declaration under penalty of perjury in the form required by ORCP 1 E, conforming to the requirements of ORS 109.767.

(b) Upon receipt of an application under this subsection, the court may issue a temporary protective order of restraint restraining and enjoining each party from:

(A) Changing the child's usual place of residence;

(B) Interfering with the present placement and daily schedule of the child;

(C) Hiding or secreting the child from the other party;

(D) Interfering with the other party's usual contact and parenting time with the child;

(E) Leaving the state with the child without the written permission of the other party or the permission of the court; or

(F) In any manner disturbing the current schedule and daily routine of the child until custody or parenting time has been determined.

(c) A copy of the order and the supporting affidavit or declaration under penalty of perjury must be served on the other party in the manner of service of a summons under ORCP 7. The order must

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 include the following statement:
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4 Notice: You may request a hearing on this order as long as it remains in effect by filing with
5 the court a request for a hearing. In the request you must tell the court and the other party that
6 you object to the order and specifically why you disagree with the representation of the status quo
7 described in the order. In the request you must also inform the court of your telephone number or
8 contact number and your current residence, mailing or contact address.
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11 (3)(a) A court may enter ex parte a temporary order providing for the custody of, or parenting
12 time with, a child if:

13 (A) The party requesting an order is present in court and presents an affidavit or a declaration
14 under penalty of perjury, alleging that the child is in immediate danger; and

15 (B) The court finds, based on the facts presented in the party's testimony, the party's affidavit
16 or declaration under penalty of perjury and the testimony of the other party, if the other party is
17 present, that the child is in immediate danger.

18 **(b) When determining whether a child is in immediate danger for purposes of this sec-**
19 **tion, the court shall consider whether, absent the temporary order, the child is at present**
20 **risk of physical harm, severe psychological damage, sex abuse, severe neglect significantly**
21 **affecting the child's daily life or other similar harms. The court may not find that a child is**
22 **in immediate danger for purposes of this section based solely on a parent's homelessness,**
23 **illness, poverty or other similar circumstances.**

24 [(b)] (c) The party requesting an order under this subsection shall provide the court with tele-
25 phone numbers where the party can be reached at any time during the day and a contact address.

26 [(c)] (d) A copy of the order and the supporting affidavit or declaration under penalty of perjury
27 must be served on the other party in the manner of service of a summons under ORCP 7. The order
28 must include the following statement:
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31 Notice: You may request a hearing on this order as long as it remains in effect by filing with
32 the court a request for a hearing. In the request you must tell the court and the other party that
33 you object to the order on the ground that the child was not in immediate danger at the time the
34 order was issued. In the request you must also inform the court of your telephone number or contact
35 number and your current residence, mailing or contact address.
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38 (4)(a) A party against whom an order is entered under subsection (2) or (3) of this section may
39 request a hearing by filing with the court a hearing request described in subsection (2) or (3) of this
40 section at any time while the order is in effect.

41 (b) The court shall make reasonable efforts to hold a hearing within 14 days and shall hold a
42 hearing no later than 21 days after receipt of the request for the hearing. The court shall notify
43 each party of the time, date and place of the hearing.

44 (c) An order issued under subsection (2) or (3) of this section remains in effect through the date
45 of the hearing. If the party against whom the order was entered fails to appear at the hearing

1 without good cause, the court shall continue the order in effect. If the party who obtained the order
2 fails to appear at the hearing without good cause, the court shall vacate the order.

3 (d) The issue at a hearing to contest:

4 (A) A temporary protective order of restraint is limited to a determination of the status quo at
5 the time the order was issued. If the child's usual place of residence cannot be determined, the
6 court may make any further order the court finds appropriate in the best interests of the child.

7 (B) A temporary order for the custody of, or parenting time with, a child is limited to whether
8 the child was in immediate danger at the time the order was issued.

9 (5) The State Court Administrator shall prescribe the content and form of a request for a hear-
10 ing described in subsections (2) and (3) of this section.

11 (6) As used in this section:

12 (a) "Child's usual place of residence" has the meaning given that term in ORS 107.138.

13 (b) "Party's usual contact and parenting time," "present placement and daily schedule of the
14 child" and "current schedule and daily routine of the child" have the meanings given "parent's usual
15 contact and parenting time," "present placement and daily schedule of the child" and "current
16 schedule and daily routine of the child" in ORS 107.138.

17 **SECTION 2.** ORS 107.139 is amended to read:

18 107.139. (1)(a) Following entry of a judgment, a court may enter ex parte a temporary order
19 providing for the custody of, or parenting time with, a child if:

20 (A) A parent of the child is present in court and presents an affidavit or a declaration under
21 penalty of perjury in the form required by ORCP 1 E, alleging that the child is in immediate danger;

22 (B) The parent has made a good faith effort to confer with the other party regarding the purpose
23 and time of this court appearance; and

24 (C) The court finds by clear and convincing evidence, based on the facts presented in the
25 parent's testimony, the parent's affidavit or declaration under penalty of perjury and the testimony
26 of the other party, if the other party is present, that the child is in immediate danger.

27 **(b) When determining whether a child is in immediate danger for purposes of this sec-**
28 **tion, the court shall consider whether, absent the temporary order, the child is at present**
29 **risk of physical harm, severe psychological damage, sex abuse, severe neglect significantly**
30 **affecting the child's daily life or other similar harms. The court may not find that a child is**
31 **in immediate danger for purposes of this section based solely on a parent's homelessness,**
32 **illness, poverty or other similar circumstances.**

33 [(b)] (c) The party requesting an order under this subsection shall provide the court with tele-
34 phone numbers where the party can be reached at any time during the day and a contact address.

35 [(c)] (d) A copy of the order and the supporting affidavit or declaration under penalty of perjury
36 must be served on the other party in the manner of service of a summons under ORCP 7. The order
37 must include the following statement:

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40 Notice: You may request a hearing on this order as long as it remains in effect by filing with
41 the court a request for a hearing. In the request you must tell the court and the other party that
42 you object to the order on the ground that the child was not in immediate danger at the time the
43 order was issued. In the request you must also inform the court of your telephone number or contact
44 number and your current residence, mailing or contact address.
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(2)(a) A party against whom an order is entered under subsection (1) of this section may request a hearing by filing with the court a hearing request described in subsection (1) of this section at any time while the order is in effect.

(b) The court shall hold a hearing within 14 days after receipt of the request for the hearing. The court shall notify each party of the time, date and place of the hearing.

(c) An order issued under subsection (1) of this section remains in effect through the date of the hearing. If the party against whom the order was entered fails to appear at the hearing without good cause, the court shall continue the order in effect. If the party who obtained the order fails to appear at the hearing without good cause, the court shall vacate the order.

(d) The issue at a hearing to contest a temporary order for the custody of, or parenting time with, a child is limited to whether the child was in immediate danger at the time the order was issued.

(3) The State Court Administrator shall prescribe the content and form of a request for a hearing described in this section.

(4) A party seeking relief under this section shall concurrently file, or have pending, a motion under ORS 107.135 to set aside, alter or modify any portion of the judgment that provides for custody, parenting time or visitation.
