

Enrolled
Senate Bill 269

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon Judicial Department)

CHAPTER

AN ACT

Relating to forms used in domestic relations actions; amending ORS 107.097, 107.139, 107.485, 107.490, 107.500, 107.716, 107.718 and 107.835.

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 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 must be served on the other party in the manner of service of a summons under ORCP 7. The order must include the following statement:

Notice: You may request a hearing on this order as long as it remains in effect by filing with the court a *[hearing request in the form described in ORS 107.097 (5).]* **request for a hearing. In the request you must tell the court and the other party that you object to the order and specifically why you disagree with the representation of the status quo described in the order. In the request you must also inform the court of your telephone number or contact number and your current residence, mailing or contact address.**

(3)(a) A court may enter ex parte a temporary order providing for the custody of, or parenting time with, a child if:

(A) The party requesting an order is present in court and presents an affidavit alleging that the child is in immediate danger; and

(B) The court finds, based on the facts presented in the party's testimony and affidavit and in the testimony of the other party, if the other party is present, that the child is in immediate danger.

(b) The party requesting an order under this subsection shall provide the court with telephone numbers where the party can be reached at any time during the day and a contact address.

(c) A copy of the order and the supporting affidavit must be served on the other party in the manner of service of a summons under ORCP 7. The order must include the following statement:

Notice: You may request a hearing on this order as long as it remains in effect by filing with the court a *[hearing request in the form described in ORS 107.097 (5).]* **request for a hearing. In the request you must tell the court and the other party that you object to the order on the ground that the child was not in immediate danger at the time the order was issued. In the request you must also inform the court of your telephone number or contact number and your current residence, mailing or contact address.**

(4)(a) A party against whom an order is entered under subsection (2) or (3) of this section may request a hearing by filing with the court a hearing request *[form described in subsection (5)]* **described in subsection (2) or (3)** of this section at any time while the order is in effect.

(b) The court shall make reasonable efforts to hold a hearing within 14 days and shall hold a hearing no later than 21 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 (2) or (3) 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) A temporary protective order of restraint is limited to a determination of the status quo at the time the order was issued. If the child's usual place of residence cannot be determined, the court may make any further order the court finds appropriate in the best interests of the child.

(B) 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.

[(5) The hearing request form must be in substantially the following form:]

[_____]

*IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____*

_____))
PETITIONER,) NO. _____
))
) *REQUEST FOR*
and) *HEARING*
))
_____))
Respondent.)
I request a hearing.

_____ I object to the Protective Order of Restraint because I disagree with the representation of the status quo in the following particulars:

_____ I object to the Temporary Custody and Parenting Time Order on the ground that the child was not in immediate danger at the time the order was issued.

Signature
DATE: _____
ADDRESS: _____
TELEPHONE: _____

[_____]

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

(6) As used in this section:

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

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

SECTION 2. ORS 107.139 is amended to read:

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

(A) A parent of the child is present in court and presents an affidavit alleging that the child is in immediate danger;

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

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

(b) The party requesting an order under this subsection shall provide the court with telephone numbers where the party can be reached at any time during the day and a contact address.

(c) A copy of the order and the supporting affidavit must be served on the other party in the manner of service of a summons under ORCP 7. The order must include the following statement:

Notice: You may request a hearing on this order as long as it remains in effect by filing with the court a [hearing request in the form described in ORS 107.139 (3).] **request for a hearing. In the request you must tell the court and the other party that you object to the order on the ground that the child was not in immediate danger at the time the order was issued. In the request you must also inform the court of your telephone number or contact number and your current residence, mailing or contact address.**

(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 [form described in subsection (3) of this section] **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 hearing request form must be in substantially the following form:]

[_____]

*IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____*

_____))
Petitioner,) NO. _____
))
) *REQUEST FOR HEARING*
and) *ON TEMPORARY*
) *CUSTODY AND*
) *PARENTING TIME*
) *ORDER*
))
_____))
Respondent.)

_____ *I request a hearing. I object to the Temporary Custody and Parenting Time Order on the ground that the child was not in immediate danger at the time the order was issued.*

Signature
Date: _____
Address: _____

Telephone: _____

[_____]

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

SECTION 3. ORS 107.485 is amended to read:

107.485. A marriage may be dissolved by the summary dissolution procedure specified in this section and ORS 107.490 [and 107.500] when all of the following conditions exist at the time the proceeding is commenced:

(1) The jurisdictional requirements of ORS 107.025 and 107.075 are met.

(2) There are no minor children born to the parties or adopted by the parties during the marriage. There are no children over age 18 attending school, as described in ORS 107.108, either born to the parties or adopted by the parties during the marriage. There are no minor children born to or adopted by the parties prior to the marriage. The wife is not now pregnant.

- (3) The marriage is not more than 10 years in duration.
- (4) Neither party has any interest in real property wherever situated.
- (5) There are no unpaid obligations in excess of \$15,000 incurred by either or both of the parties from the date of the marriage.
- (6) The total aggregate fair market value of personal property assets in which either of the parties has any interest, excluding all encumbrances, is less than \$30,000.
- (7) The petitioner waives any right to spousal support.
- (8) The petitioner waives any rights to pendente lite orders except those pursuant to ORS 107.700 to 107.735 or 124.005 to 124.040.
- (9) The petitioner knows of no other pending domestic relations suits involving the marriage in this or any other state.

SECTION 4. ORS 107.490 is amended to read:

107.490. (1) A proceeding for summary dissolution of the marriage shall be commenced by filing in the circuit court a petition in the form prescribed by **the State Court Administrator under ORS 107.500**. The petition shall be signed by the petitioner and shall state that as of the date of the filing of the petition each and every condition set forth in ORS 107.485 has been met. The court, upon its own motion, may require a showing by appearance or affidavit of the petitioner.

(2) The petitioner shall serve the respondent with a summons and a true copy of the petition in the manner provided in ORCP 7 D and E. Service must be proved as required in ORCP 7 F.

(3) Within 30 days after the date on which the respondent is served with the summons or, if service is made by publication or posting under ORCP 7 D(6), within 30 days from the date of last publication or posting, the respondent shall file with the court a written answer to the petition or a motion, along with the required filing fee, and proof of service of the answer or motion on the petitioner.

(4) If the respondent fails to file a written answer or motion as required by this section or fails to appear for a hearing in the proceeding, the court may find the respondent in default, enter a judgment of summary dissolution and award costs to the petitioner or the state if fees and costs were waived or deferred.

SECTION 5. ORS 107.500 is amended to read:

107.500. (1) **The State Court Administrator shall prescribe the content of forms for use under ORS 107.485 and 107.490, including forms related to the waiver or deferral of fees and costs under ORS 21.605, and an instructional brochure describing the procedures set forth in ORS 107.485 and 107.490.**

(2) Each circuit court shall make available [*with*] **the** appropriate forms [*an*] **and the** instructional brochure [*prescribed by the State Court Administrator and describing the procedures set forth in this section and ORS 107.485 and 107.490. The content of the forms used pursuant to this section and ORS 107.485 and 107.490 shall be substantially as follows:*] **described in subsection (1) of this section.**

[_____]

*IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____*

In the Matter of)
the Marriage of)
 _____) No. _____
 _____)
Petitioner,) **PETITION FOR**
 _____) **SUMMARY**
 _____) **DISSOLUTION**
and) **OF MARRIAGE**

_____))
Respondent.)
)

1. (_____, Petitioner,) (_____, Respondent,) has been a resident of Oregon continuously for the past six months before filing this petition.

2. Statistical Facts:

a. Date of marriage:

b. Place of marriage:

c. Wife's address:

d. Wife's maiden name:

e. Wife's former legal names:

f. Wife's age:

g. Husband's address:

h. Husband's former legal names:

i. Husband's age:

3. *My spouse and I have not been married more than 10 years.*

4. *Petitioner does not know of any pending (not yet decided by a judge) domestic relations suits involving this marriage in this or any other state.*

5. *There are no minor children born to the parties or born during the marriage. There are no adopted minor children. The wife is not now pregnant.*

6. *Petitioner requests a dissolution because irreconcilable differences between the parties have caused the irremediable breakdown of the marriage.*

7. *The personal property of the parties is not worth more than \$30,000. Petitioner requests that the Court divide the property as follows:*

(a) *The wife should be awarded the following personal property:*

Additional pages have been attached and labeled "7a. continued."

(b) *The husband should be awarded the following personal property:*

Additional pages have been attached and labeled "7b. continued."

(c) The husband and wife should each sign any documents necessary to remove his or her name as owner of personal property awarded to the other party.

8. Neither the husband nor the wife own any real property.

9. The debts incurred by the husband and wife together or separately from the date of the marriage are not greater than \$15,000.

Petitioner requests the following division of debts:

(a) The wife be required to pay the debts listed below. The husband is awarded a judgment against the wife in the sum of \$_____. The wife can satisfy this judgment by paying off the following debts:

<u>Name of Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____
_____	_____

(b) The husband be required to pay the debts listed below. The wife is awarded a judgment against the husband in the sum of \$_____. The husband can satisfy the judgment by paying off the following debts:

<u>Name of Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____
_____	_____

10. I relinquish all rights I may have to spousal support and waive any right to pendente lite orders (temporary orders) except those pursuant to ORS 107.700 to 107.735 (the Family Abuse Prevention Act) or 124.005 to 124.040 (the Elderly Persons and Persons With Disabilities Abuse Prevention Act).

(Complete only if petitioner is paying fees and wants reimbursement from spouse or if fees are being deferred for the petitioner.)

11. (a) If petitioner has paid court costs and service fees, petitioner requests that costs and fees paid by petitioner be repaid by respondent spouse, _____, and that a judgment in the amount of such costs and fees be entered in favor of petitioner, _____, in the amount of \$_____.

(b) If fees are being deferred for petitioner:

Petitioner requests that judgment be entered against

(_____, Petitioner)

(_____, Respondent) in favor of the state in the amount of \$_____.

12. Petitioner requests that:

wife's legal name be restored to

husband's legal name be restored to

(Petitioner's signature)

Address:

[_____]

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
) No. _____
)
_____,)
Petitioner,) AFFIDAVIT OF PROOF
) OF SERVICE
)
and)
)
_____,)
Respondent.)
)
STATE OF OREGON)
) ss.
County of)

I, _____, swear/affirm under oath that:
I am a resident of the State of Oregon. I am a competent person over 18 years of age. I am not an attorney for or a party to this case, or an officer, director or employee of any party to this case. On the _____ day of _____, 2____, I served the Summons and Petition in this case personally upon the above named respondent in _____ County by delivering to the respondent a copy of those papers, each of which was certified to be a true copy of each original.

Signature of _____
SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2____.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

[_____]

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
) No. _____
)
_____,)
Petitioner,) MOTION AND ORDER FOR
) WAIVER OF FEES
)
and)
)
_____,)
Respondent.)
)

Petitioner moves the Court for an order waiving payment of filing fees, service fees, and other costs.

Petitioner

POINTS AND AUTHORITIES

ORS 21.605; the Court shall waive all fees and costs if the Court finds that the party is unable to pay such fees and costs.

ORDER

IT IS SO ORDERED.

DATED: This ____ day of _____, 2__.

COURT

[_____]

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF _____

In the Matter of) the Marriage of) No. _____

Petitioner,) AFFIDAVIT FOR) WAIVER OF) FEES AND COSTS

Respondent.

STATE OF OREGON)) ss. County of)

I, _____, being first duly sworn upon oath, depose and declare that I am the petitioner for a Judgment of Summary Dissolution and am unable to pay necessary filing fees, service fees and court costs. My total monthly income from all sources is \$_____. I have \$_____ as assets and \$_____ as savings. I support _____ people. My monthly expenses are \$_____ housing, \$_____ food, \$_____ utilities, \$_____ transportation, \$_____ laundry, cleaning and personal requirements, \$_____ medical expenses, \$_____ clothing, \$_____ telephone, \$_____ total installment payments, \$_____ other expenses, for total monthly expenses of \$_____.

Signature of _____

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 2__.

NOTARY PUBLIC FOR OREGON My Commission Expires _____

[_____]

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF _____

In the Matter of) the Marriage of) No. _____

Petitioner,) PETITIONER'S

and) AFFIDAVIT, MOTION
) AND ORDER FOR
) DEFAULT JUDGMENT
) OF DISSOLUTION

)
_____))
Respondent.)

)
STATE OF OREGON)
) ss.
County of)

I, _____, swear/affirm under oath that:

I am the Petitioner. The Respondent is not now nor was at the time of the commencement of this suit in the military service of the United States; nor is the Respondent a legally mentally incapacitated person; nor is the Respondent under 18 years of age.

The Respondent was served with Summons and Petition for Dissolution on the _____ day of _____, 2____, in _____ County, Oregon, and has failed to answer or appear.

Petitioner
SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2____

NOTARY PUBLIC FOR OREGON
My Commission Expires _____

Petitioner moves the Court for an Order entering the default of Respondent.

Petitioner

Address of Petitioner

City, State Zip

ORDER

IT IS SO ORDERED.
DATED: This _____ day of _____, 2____

CIRCUIT COURT JUDGE

[_____]

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
) No. _____
_____))
Petitioner,) JUDGMENT OF
) SUMMARY DISSOLUTION
)
and)
)
_____))
Respondent.)
)

-)
- Statistical Facts:
- a. *Date of marriage:*

 - b. *Place of marriage:*

 - c. *Wife's address:*

 - d. *Wife's maiden name:*

 - e. *Wife's former legal names:*

 - f. *Wife's age:*

 - g. *Husband's address:*

 - h. *Husband's former legal names:*

 - i. *Husband's age:*

This matter came before the Court for default. Petitioner appeared (in person) (by affidavit), and Respondent did not appear. THE COURT HAS BEEN FULLY ADVISED, AND JUDGMENT IS RENDERED AS FOLLOWS:

1. Dissolution: *This marriage is dissolved and shall terminate on _____*
2. Prior Wills: *Any will previously executed by either spouse with provisions in favor of the other spouse is revoked with respect to those provisions, unless the will expresses a different intent.*
3. Division of Property: *(a) The wife is awarded and shall own by herself the following personal property:*

Additional pages have been attached as C-1.

- (b) The husband is awarded and shall own by himself the following personal property:*
- _____
- _____
- _____

Additional pages have been attached as C-2.

(c) Husband and wife each shall sign any documents necessary to remove his or her name as owner of personal property awarded to the other. If either fails to sign the necessary documents, a certified copy of the Judgment shall serve as a conveyance of the property.

4. Payment of Debts: (a) The wife shall pay the debts listed below. The husband is awarded a judgment against the wife in the sum of \$_____. The wife can satisfy this judgment by paying the following debts:

<u>Name of Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____

Additional pages have been added as D-1.

(b) The husband shall pay the debts listed below. The wife is awarded a judgment against the husband in the sum of \$_____. The husband can satisfy the judgment by paying the following debts:

<u>Name of Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____

Additional pages have been added as D-2.

5. The wife shall have her former legal name restored. The restored name is:

The husband shall have his former legal name restored. The restored name is:

6. A judgment against (the husband) (the wife) for court costs and service fees in the amount of \$_____ is awarded to (the husband) (the wife) (this state if fees were waived or deferred).

DATED: This ____ day of _____, 2____

CIRCUIT COURT JUDGE

[_____]

SECTION 6. ORS 107.716 is amended to read:

107.716. (1) If the respondent requests a hearing pursuant to ORS 107.718 (10), the court shall hold the hearing within 21 days after the request. However, if the respondent contests the order granting temporary child custody to the petitioner, the court shall hold the hearing within five days after the request.

(2)(a) If the court determines under ORS 107.718 (2) that exceptional circumstances exist that affect the custody of a child, the court shall hold a hearing within 14 days after issuance of the restraining order. The clerk of the court shall provide a notice of the hearing along with the petition and order to the petitioner and, in accordance with ORS 107.718 (8), to the county sheriff for service on the respondent.

(b) The respondent may request an earlier hearing, to be held within five days after the request. The hearing request form shall be available from the clerk of the court [*and shall be substantially*] in the form [*provided in*] **prescribed by the State Court Administrator under ORS 107.718 (7)**. If the respondent requests an earlier hearing, the clerk of the court shall notify the parties of the scheduled hearing date by mailing a notice of the time and place of hearing to the addresses provided in the petition or, for the respondent, to the address provided in the request for hearing, or as otherwise designated by a party.

(c) When the court schedules a hearing under this subsection, the respondent may not request a hearing under ORS 107.718 (10).

(3) In a hearing held pursuant to subsection (1) or (2) of this section, the court may cancel or change any order issued under ORS 107.718 and may assess against either party a reasonable attorney fee and such costs as may be incurred in the proceeding.

(4)(a) If service of a notice of hearing is inadequate to provide a party with sufficient notice of the hearing held pursuant to ORS 107.718 (2) or (10), the court may extend the date of the hearing for up to five days so that the party may seek representation.

(b) If one party is represented by an attorney at a hearing held pursuant to ORS 107.718 (2) or (10), the court may extend the date of the hearing for up to five days at the other party's request so that the other party may seek representation.

(5) If the court continues the order, with or without changes, at a hearing about which the respondent received actual notice and the opportunity to participate, the court shall include in the order a certificate in substantially the following form in a separate section immediately above the signature of the judge:

CERTIFICATE OF COMPLIANCE
WITH THE VIOLENCE
AGAINST WOMEN ACT

This protective order meets all full faith and credit requirements of the Violence Against Women Act, 18 U.S.C. 2265 (1994). This court has jurisdiction over the parties and the subject matter. The respondent was afforded notice and timely opportunity to be heard as provided by the law of this jurisdiction. This order is valid and entitled to enforcement in this and all other jurisdictions.

(6) The court may approve any consent agreement to bring about a cessation of abuse of the parties. However, the court may not approve a term in a consent agreement that provides for restraint of a party to the agreement unless the other party petitioned for and was granted an order under ORS 107.710. An order or consent agreement made under this section may be amended at any time and shall continue in effect for a period of one year from the date of the order issued under ORS 107.718, or until superseded as provided in ORS 107.722.

(7) No order or agreement made under ORS 107.705 to 107.720, 133.310 and 133.381 shall in any manner affect title to any real property.

(8) No undertaking shall be required in any proceeding under ORS 107.700 to 107.735.

(9) Any proceeding under ORS 107.700 to 107.735 shall be in addition to any other available civil or criminal remedies.

SECTION 7. ORS 107.718 is amended to read:

107.718. (1) When a person files a petition under ORS 107.710, the circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day. Upon a showing that the petitioner has been the victim of abuse committed by the respondent within 180 days preceding the filing of the petition, that there is an imminent danger of further abuse to the petitioner and that the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's child, the court shall, if requested by the petitioner, order:

(a) Except as provided in subsection (2) of this section, that temporary custody of the children of the parties be awarded to the petitioner or, at the request of the petitioner, to the respondent, subject to reasonable parenting time rights of the noncustodial parent, which the court shall order, unless such parenting time is not in the best interest of the child;

(b) That the respondent be required to move from the petitioner's residence, if in the sole name of the petitioner or if it is jointly owned or rented by the petitioner and the respondent, or if the parties are married to each other;

(c) That the respondent be restrained from entering, or attempting to enter, a reasonable area surrounding the petitioner's current or subsequent residence if the respondent is required to move from petitioner's residence;

(d) That a peace officer accompany the party who is leaving or has left the parties' residence to remove essential personal effects of the party or the party's children, or both, including but not

limited to clothing, toiletries, diapers, medications, Social Security cards, birth certificates, identification and tools of the trade;

(e) That the respondent be restrained from intimidating, molesting, interfering with or menacing the petitioner, or attempting to intimidate, molest, interfere with or menace the petitioner;

(f) That the respondent be restrained from intimidating, molesting, interfering with or menacing any children in the custody of the petitioner, or attempting to intimidate, molest, interfere with or menace any children in the custody of the petitioner;

(g) That the respondent be restrained from entering, or attempting to enter, on any premises and a reasonable area surrounding the premises when it appears to the court that such restraint is necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the petitioner or children whose custody is awarded to the petitioner;

(h) Other relief that the court considers necessary to provide for the safety and welfare of the petitioner and the children in the custody of the petitioner including, but not limited to, emergency monetary assistance from the respondent; or

(i) That the respondent have no contact with the petitioner in person, by telephone or by mail except as described in parenting time ordered under this section.

(2) If the court determines that exceptional circumstances exist that affect the custody of a child, the court shall order the parties to appear and provide additional evidence at a hearing to determine temporary custody and resolve other contested issues. Pending the hearing, the court may make any orders regarding the child's residence and the parties' contact with the child that the court finds appropriate to provide for the child's welfare and the safety of the parties. The court shall set a hearing time and date as provided in ORS 107.716 (2) and issue a notice of the hearing at the same time the court issues the restraining order.

(3) The court's order under subsection (1) of this section is effective for a period of one year or until the order is withdrawn or amended, or until the order is superseded as provided in ORS 107.722, whichever is sooner.

(4) If respondent is restrained from entering, or attempting to enter, an area surrounding petitioner's residence or any other premises, the order restraining respondent shall specifically describe the area.

(5) Imminent danger under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with additional bodily harm.

(6) If the court awards parenting time to a parent who committed abuse, the court shall make adequate provision for the safety of the child and of the petitioner. The order of the court may include, but is not limited to, the following:

(a) That exchange of a child between parents shall occur at a protected location.

(b) That parenting time be supervised by another person or agency.

(c) That the perpetrator of the abuse be required to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or any other counseling program designated by the court as a condition of the parenting time.

(d) That the perpetrator of the abuse not possess or consume alcohol or controlled substances during the parenting time and for 24 hours preceding the parenting time.

(e) That the perpetrator of the abuse pay all or a portion of the cost of supervised parenting time, and any program designated by the court as a condition of parenting time.

(f) That no overnight parenting time occur.

[(7) An instruction brochure shall be available from the clerk of the circuit court explaining the rights set forth under ORS 107.700 to 107.735. The petition, order and related forms shall be available from the clerk of the court and shall be in substantially the following form:]

[_____]

*IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____*

_____))
 Petitioner) PETITION FOR
 (your name)) RESTRAINING ORDER
) TO PREVENT ABUSE
 vs.)
) No. _____
)
 _____))
 Respondent)
 (person to be)
 restrained))

YOU MUST PROVIDE COMPLETE AND TRUTHFUL INFORMATION. IF YOU DO NOT, THE COURT MAY DISMISS ANY RESTRAINING ORDER AND MAY ALSO HOLD YOU IN CONTEMPT OF COURT.

If you wish to have your residential address or telephone number withheld from respondent, use a contact address and telephone number so the Court and the Sheriff can reach you if necessary.

**ATTACH ADDITIONAL PAGES
IF NECESSARY.**

I am the Petitioner and I state that the following information is true:

I am a resident of _____ County, Oregon.

Respondent is a resident of _____ County, Oregon.

I am _____ years of age and Respondent is _____ years of age.

1. CHECK AND FILL OUT THE SECTION(S) that apply to you and respondent:

- A. Respondent is my _____ spouse _____ former spouse. We were married on _____, 2_____. We were divorced on _____, 2_____.
- B. Respondent and I are adults related by blood, marriage or adoption. Respondent is my _____ (type of relationship).
- C. Respondent and I have been living together since _____, 2_____.
- D. Respondent and I lived together from _____, 2_____, to _____, 2_____.
- E. Respondent and I have been involved in a sexually intimate relationship within the last two years.
- F. Respondent and I are the unmarried parents of a child.
- G. I am a minor and have been involved in a sexually intimate relationship with respondent who is 18 years of age or older.

**2. To qualify for a restraining order, respondent must have done one or more of the following:
Within the last 180 days, respondent has:**

- A. Caused me bodily injury.
 - B. Attempted to cause me bodily injury.
 - C. Placed me in fear of imminent bodily injury.
 - D. Caused me to engage in involuntary sexual relations by force or threat of force.
- 3. Any period of time after the abuse occurred during which respondent was incarcerated (in jail or prison) or lived more than 100 miles from your home is not counted as part of the 180-day period, and you may still be eligible for a restraining order.**

Respondent was incarcerated from _____, 2_____, to _____, 2_____.

Respondent lived more than 100 miles from my home from _____, 2_____, to _____, 2_____.

4. Did the abuse happen within the last 180 days not including the times respondent was incarcerated (in jail or prison) or lived more than 100 miles from your home? Yes No

Date and location of abuse:

How did respondent hurt or threaten you?

5. Are there incidents other than those described in question 4 above, in which respondent has hurt or threatened to hurt you? If Yes, Explain:

6. I am in imminent danger of further abuse by respondent because:

7. In any of the above incidents:

Were drugs, alcohol or weapons involved? Yes No

Did you need medical help? Yes No

Were the police or the courts involved? Yes No

If you have circled yes to any of the above questions, explain:

8. A. There (is) (is not) another restraining order pending between respondent and me. It is filed in _____ (County), _____ (State), and I am (Petitioner) or (Respondent) in that case. The case number of the case is: _____

B. There (is) (is not) another lawsuit pending between respondent and me for divorce, annulment, legal separation, filiation (paternity), custody, parenting time or visitation.

If yes, type of lawsuit: _____

It is filed in _____ (County), _____ (State).

C. If you and respondent are unmarried, has legal paternity of your children been established? Yes No

In what way? Birth certificate
 Child support
 proceeding
 Paternity lawsuit
 Other

Explain: _____

9. A. The children of respondent and me who are under 18 years of age are:
 Name _____ Age _____
 Name _____ Age _____
 Name _____ Age _____
 Name _____ Age _____
- B. The children are now living with _____, at _____
 (address).
 For how long? _____
- C. I believe that I will need the assistance of a peace officer to regain custody of my children from respondent. Yes No
- D. Is there a custody or any other order now in effect concerning any of these children? Yes No
 Type of order: _____
 The case number is: _____ and it is filed in _____ (County), _____ (State).
- E. Where have the children listed in A. above lived for the last five years and with whom?
- | <u>Dates</u> | <u>County/ Lived Present</u> | | |
|-----------------|------------------------------|-------------|----------------|
| | <u>State</u> | <u>With</u> | <u>Address</u> |
| From ___ to ___ | _____ | _____ | _____ |
| From ___ to ___ | _____ | _____ | _____ |
| From ___ to ___ | _____ | _____ | _____ |
| From ___ to ___ | _____ | _____ | _____ |
- F. I have not been involved as a party, witness or in any other capacity in any other custody, parenting time or visitation lawsuits concerning the children in this or any other state except:

- G. I know of no other custody, parenting time or visitation lawsuits concerning the children in this or any other state except:

- H. I know of no one, other than respondent, who has physical custody of the children or who claims custody, parenting time or visitation rights with the children, except:

- I. My children have not lived in Oregon for the last six months but my children and I are now present in Oregon and I want the court to award me custody because (describe the emergency that makes this necessary or information that is in Oregon that relates to the children):

10. Respondent may be required to move from your residence if it is in your sole name, or if it is jointly owned or rented by you and respondent, or if you and respondent are married.
 I (do) (do not) want respondent to move from my residence.
 My residence is:
 Owned Leased Rented
 By: _____

PETITIONER ASKS THE COURT TO GRANT THE RELIEF INDICATED IN THE "PETITIONER'S REQUEST" COLUMN OF THE PROPOSED RESTRAINING ORDER, WHICH IS ATTACHED.

THE RESTRAINING ORDER

Where is respondent most likely to be located?

Residence Hours _____

Employment Hours _____

Address: _____

Employment Hours _____

Address: _____

Description of vehicle _____

Does respondent have any weapons or access to weapons? Explain:

Has respondent ever been arrested for or convicted of a violent crime? Explain:

Is there anything about respondent's character, past behavior or the present situation that indicates that respondent may be a danger to self or other? Explain:

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____)
Petitioner) RESTRAINING ORDER
(your name)) TO PREVENT ABUSE

vs.)
) No. _____

_____)
Respondent)
(person to be)
restrained))

TO THE RESPONDENT: VIOLATION OF THIS RESTRAINING ORDER MAY RESULT IN YOUR ARREST AND IN CIVIL AND/OR CRIMINAL PENALTIES. THIS ORDER IS EN-

FORCEABLE IN EVERY STATE. REVIEW THIS ORDER CAREFULLY. EACH PROVISION MUST BE OBEYED. SEE YOUR RIGHTS TO A HEARING.

The Court, having reviewed the petition, makes the following findings:

Judge's Initials

1. *Petitioner and respondent are related as follows (check all that apply):*
 - A. *Petitioner and respondent are spouses.* _____
 - B. *Petitioner and respondent are former spouses.* _____
 - C. *Petitioner and respondent are adult persons related by blood, marriage or adoption.* _____
 - D. *Petitioner and respondent are cohabiting or have cohabited with each other.* _____
 - E. *Petitioner and respondent have been involved in a sexually intimate relationship with each other within the last two years.* _____
 - F. *Petitioner and respondent are unmarried parents of a child.* _____
 - G. *Petitioner is a minor and has been involved in a sexually intimate relationship with respondent who is 18 years of age or older.* _____
2. *Additional findings:*
 - A. *Petitioner has been abused by respondent as defined by ORS 107.705.* _____
 - B. *The abuse of petitioner by respondent occurred within the last 180 days as provided in ORS 107.710.* _____
 - C. *Respondent represents a credible threat to the physical safety of petitioner or petitioner's child and there is an imminent danger of further abuse to petitioner.* _____
 - D. *If there are children, Oregon has jurisdiction over the issue of the custody of the children under ORS 109.701 to 109.834 on the following grounds:*
 - a. *Oregon is the home state of the child on the date this proceeding was commenced; or Oregon was the home state within six months before this proceeding was commenced and the child is absent from the state, but a parent or person acting as a parent continues to live in Oregon under ORS 109.741 (1)(a).* _____
 - b. *No other state has home state jurisdiction under ORS 109.741 (1)(a); or The home state of the child _____ (name) has declined jurisdiction and the child's parents have, or one of the child's parents or a person acting as a parent has, a significant connection with Oregon and substantial evidence is available here concerning the child's care, protection, training and personal relationships under ORS 109.741 (1)(b).* _____
 - c. *All courts having jurisdiction under home state grounds under ORS 109.741 (1)(a), or significant connections grounds under ORS 109.741 (1)(b), have declined to exercise jurisdiction under ORS 109.741 (1)(c).* _____
 - d. *No court of any other state has jurisdiction under ORS 109.741 (1)(a), (b) or (c).* _____
 - e. *Emergency grounds exist for the exercise of temporary emergency jurisdiction because the child is present in this state and has been abandoned; or Emergency grounds exist for the exercise of temporary emergency* _____

jurisdiction because it is necessary to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse under ORS 109.751.

- f. A previous child custody, parenting time, guardianship or juvenile dependency determination has been made in _____ (State/Tribe/Country);
 A child custody, parenting time, guardianship or juvenile dependency proceeding has been commenced in _____ (State/Tribe/Country); or
 No child custody, parenting time, guardianship or juvenile dependency determination has been issued or proceeding commenced in another state, tribe or country having jurisdiction under ORS 109.701 to 109.834. The custody and parenting time provisions in this order shall become a final determination for purposes of ORS 109.701 to 109.834 if Oregon becomes the home state of the child.

IT IS HEREBY ORDERED that:

Petitioner's Request

Judge's Initials

1. Respondent is restrained (prohibited) from intimidating, molesting, interfering with or menacing petitioner, or attempting to intimidate, molest, interfere with or menace petitioner. _____

2. Respondent is restrained (prohibited) from intimidating, molesting, interfering with or menacing any minor children in petitioner's custody, or attempting to intimidate, molest, interfere with or menace any minor children in petitioner's custody:

3. Respondent is restrained (prohibited) from entering, or attempting to enter:
 (Include names and address unless withheld for safety reasons.)
 Petitioner's current or subsequent residence. _____
 Petitioner's business or place of employment. _____
 Petitioner's school. _____
 Other locations. _____
 The area surrounding petitioner's current or subsequent residence or petitioner's school, business, place of employment or other named premises described as follows (specifically describe area):

4. Respondent is restrained (prohibited) from:
 Contacting, or attempting to contact, petitioner by telephone. _____
 Contacting, or attempting to contact, petitioner by mail. _____

5. Respondent is restrained (prohibited) from entering, or attempting to enter:
 The premises of the children's day care provider. _____

- [] *The children's school.* _____
- [] 6. *Respondent shall move from and not return to the residence located at _____ except with a peace officer in order to remove essential personal effects of the respondent, and if the respondent is the legal custodian, essential personal effects of respondent's children, including, but not limited to: clothing, toiletries, diapers, medications, Social Security cards, birth certificates, identification and tools of the trade.* _____
- [] 7. *A peace officer shall accompany the petitioner to the parties' residence in order to remove essential personal effects of petitioner, and if the petitioner is the legal custodian, essential personal effects of the petitioner's children, including, but not limited to: clothing, toiletries, diapers, medications, Social Security cards, birth certificates, identification and tools of the trade.* _____
- [] 8. *Petitioner is awarded custody of the following children of the parties, subject to the parenting time terms set forth below.* _____
 Name: _____
 Age: _____
 Name: _____
 Age: _____
- [] 9. *Respondent is awarded custody of the following children of the parties, subject to the parenting time terms set forth below.* _____
 Name: _____
 Age: _____
 Name: _____
 Age: _____
- [] 10. *A peace officer of the county or city in which the children are located shall assist in recovering the custody of the children of the above parties whose custody has been awarded to petitioner. The peace officer is authorized to use any reasonable force necessary to that end.* _____
- [] 11. *Other relief:* _____

- [] 12. *Petitioner and respondent shall appear at a hearing to be held at a time and place shown in the attached Notice of Hearing. The purpose of the hearing is to consider the temporary custody of the parties' children and other relief that may be contested.* _____
- [] 13. *Pending the hearing to be held pursuant to paragraph 12 above, if temporary custody of the children is not awarded to the petitioner under ORS 107.718 (1)(a), the residence of the children and parental access to the* _____

children is as follows with respect to the following children (include the children's names and dates of birth):

The order contained in this paragraph expires at the hearing.

- [] 14. The child custody provisions of this order conflict with the child custody provisions of a preexisting order or judgment issued pursuant to ORS 107.095 (1)(b), 107.105, 107.135, 109.103 or 109.155. The child custody provisions of this order remain in effect until _____, or until another order is issued in the preexisting case, whichever occurs first. _____
- [] 15. The child custody provisions of this order conflict with the child custody provisions of a preexisting order or judgment issued by another jurisdiction. The child custody provisions of this order remain in effect for one year or until another order is issued in the preexisting case, whichever occurs first. _____

IT IS FURTHER ORDERED that the party not awarded custody shall be allowed parenting time as set forth below:

Petitioner's Request

Judge's Initials

- [] 16. NO PARENTING TIME due to _____

- [] 17. SUPERVISED PARENTING TIME: Three hours per week, Supervised by: _____
As follows:
(day of week, location, times)
- [] 18. Once per week on _____ (day) from _____
a.m./p.m. to _____ a.m./p.m. _____
- [] 19. On the FIRST and THIRD weekends of each month from 7:00 p.m. Saturday to 7:00 p.m. Sunday. The first weekend is the one in which both Saturday and Sunday are in the new month. _____
- [] 20. On the FIRST and THIRD weekends of each month from 7:00 p.m. Friday to 7:00 p.m. Sunday. The first weekend is the one in which both Saturday and Sunday are in the new month. _____
- [] 21. OTHER PARENTING TIME AS FOLLOWS: _____

- [] 22. Parenting time details not provided for in this ORDER, including the days or hours of parenting time, shall be arranged through _____
- [] 23. The parent not awarded custody will pick up and return the children at the curb, or driveway if no curb, of the residence of the custodial parent or at _____

(name and address of different location) no more than 15 minutes early nor 15 minutes late.
IF RESPONDENT IS NOT AWARDED CUSTODY AND IF RESPONDENT IS OTHERWISE PROHIBITED FROM BEING AT PETITIONER'S RESIDENCE, RESPONDENT MAY BE AT THE CURB, OR DRIVE-WAY IF NO CURB, OF PETITIONER'S RESIDENCE FOR A MAXIMUM OF FIVE MINUTES AT THE PARENTING TIME HOUR SPECIFIED IN THE ORDER TO PICK UP OR RETURN THE CHILDREN OR AT ANY OTHER TIME THE PARTIES AGREE TO.

[] 24. No further service is necessary because respondent _____ appeared in person before the Court.

IT IS FURTHER ORDERED that:

SECURITY AMOUNT FOR VIOLATION OF ANY PROVISION OF THIS ORDER IS \$5,000 unless otherwise specified.
 Other Amount (\$)

THE ABOVE PROVISIONS OF THIS RESTRAINING ORDER ARE IN EFFECT FOR A PERIOD OF ONE YEAR OR UNTIL THE ORDER IS VACATED, MODIFIED OR SUPERSEDED, WHICHEVER OCCURS FIRST.

DATED this _____ day of _____, 2_____.

 CIRCUIT COURT JUDGE (signature)

 CIRCUIT COURT JUDGE (printed)

[_____]

IN THE CIRCUIT COURT OF
 THE STATE OF OREGON
 FOR THE COUNTY OF _____

_____)
 _____) No. _____
 Petitioner,)
 vs.) AFFIDAVIT OF PROOF
 _____) OF SERVICE
 Respondent.)
)
)
 STATE OF)
 OREGON)
) ss.
 County of _____)

I am a resident of the State of Oregon. I am a competent person 18 years of age or older. I am not an attorney for or a party to this case, or an officer, director or employee of any party to this case.
 On the _____ day of _____, 2_____, I served the Restraining Order to Prevent Abuse, the Petition for Restraining Order to Prevent Abuse and, if applicable, the Notice of Hearing in this case

personally upon the above-named respondent in _____ County by delivering to the respondent a copy of those papers, each of which was certified to be a true copy of each original.

Signature of _____
SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

[_____]

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____))
) No. _____
Petitioner,)
vs.) MOTION AND ORDER
) OF DISMISSAL
Respondent.)
)

Comes now petitioner, _____, and moves this Court for an order allowing the voluntary withdrawal and dismissal of the Restraining Order on file herein.

_____))
) Petitioner
SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

IT IS SO ORDERED this _____ day of _____, 2_____

JUDGE

[_____]

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____))
(D.O.B. _____)) NOTICE TO RESPONDENT
) (Family Abuse
Petitioner,) Prevention Act)
)
and) No. _____
) _____,
_____))
(D.O.B. _____))
)
Respondent.)

THIS FORM MUST BE
ATTACHED TO SERVICE COPY
OF RESTRAINING ORDER

TO RESPONDENT: A RESTRAINING ORDER HAS BEEN ISSUED BY THE COURT WHICH AFFECTS YOUR RIGHTS AND IS NOW IN EFFECT. THIS ORDER BECOMES EFFECTIVE IMMEDIATELY.

IF A NOTICE OF HEARING IS ATTACHED TO THE RESTRAINING ORDER, YOU ARE REQUIRED TO APPEAR AT A HEARING AT THE TIME AND PLACE SPECIFIED IN THE NOTICE. THE PURPOSE OF THE HEARING IS TO CONSIDER TEMPORARY CUSTODY OF YOUR CHILD OR CHILDREN AND OTHER MATTERS. IF YOU WANT AN EARLIER HEARING DATE THAN THE DATE SPECIFIED IN THE NOTICE, YOU MUST COMPLETE THE REQUEST FOR HEARING FORM BELOW AND MAIL OR DELIVER IT TO:

IF NO NOTICE OF HEARING IS ATTACHED TO THE RESTRAINING ORDER AND YOU WISH TO CONTEST THE CONTINUATION OF THIS ORDER, YOU MUST COMPLETE THE REQUEST FOR HEARING FORM BELOW AND MAIL OR DELIVER IT TO:

REQUESTS FOR HEARING MUST BE MADE WITHIN 30 DAYS AFTER YOU RECEIVE THE ORDER. YOU MUST INCLUDE YOUR ADDRESS AND TELEPHONE NUMBER WITH YOUR REQUEST FOR A HEARING. THE HEARING WILL BE HELD WITHIN 21 DAYS, OR WITHIN FIVE DAYS IF CHILD CUSTODY (NOT PARENTING TIME) IS AT ISSUE.

AT THE HEARING, A JUDGE WILL DECIDE WHETHER THE ORDER SHOULD BE CANCELED, CHANGED OR EXTENDED. IF YOU DO NOT APPEAR AT THE HEARING, THE RESTRAINING ORDER MAY BE UPHeld AND ALL MATTERS COULD BE DECIDED AGAINST YOU.

IF YOU DO NOT REQUEST A HEARING WITHIN THE TIME ALLOWED BY LAW, THIS RESTRAINING ORDER WILL BE CONFIRMED BY OPERATION OF LAW. THAT MEANS THAT THIS RESTRAINING ORDER WILL CONTINUE IN EFFECT AS ISSUED BECAUSE YOU HAVE BEEN GIVEN BUT HAVE NOT EXERCISED YOUR RIGHTS TO REQUEST AND PARTICIPATE IN A HEARING. OREGON LAW CONSIDERS THIS CONFIRMATION SUFFICIENT TO MEET THE REQUIREMENTS OF FEDERAL LAW THAT MAY PROHIBIT YOU FROM POSSESSING A FIREARM OR FIREARM AMMUNITION WHILE THIS RESTRAINING ORDER IS IN EFFECT.

KEEP IN MIND THAT THE RESTRAINING ORDER YOU HAVE RECEIVED IS IN EFFECT AND REMAINS IN EFFECT UNTIL THE COURT THAT ISSUED THE ORDER MODIFIES IT OR DISMISSES IT OR UNTIL IT EXPIRES. THE ORDER MAY ALSO BE RENEWED UPON A FINDING THAT A PERSON IN THE PETITIONER'S SITUATION WOULD REASONABLY FEAR FURTHER ACTS OF ABUSE BY YOU IF THE ORDER IS NOT RENEWED. IF YOU ARE ARRESTED FOR VIOLATING THIS ORDER, THE SECURITY AMOUNT (BAIL) IS \$5,000, UNLESS A DIFFERENT AMOUNT IS ORDERED BY THE COURT.

This restraining order, or any order continuing or changing this order, is enforceable in every county in Oregon. It is also enforceable in all 50 states, the District of Columbia, tribal lands and territories of the United States.

Violation of this restraining order, or any order continuing or changing this order, constitutes contempt of court, punishable by a fine of up to \$500 or one percent of your annual gross income, whichever is greater, or a jail term of up to six months, or both. Other sanctions may also be imposed for contempt.

While this order, or any order continuing or changing this order, is in effect, federal law may prohibit you from:

Traveling across state lines or tribal land lines with the intent to violate this order and then violating this order.

Causing the petitioner to cross state lines or tribal land lines for your purpose of violating the order.

Possessing, receiving, shipping or transporting any firearm or firearm ammunition.

Whether or not a restraining order is in effect, federal law may prohibit you from:

Traveling across state lines or tribal land lines with the intent to injure the petitioner and then intentionally committing a crime of violence causing bodily injury to the petitioner.

Causing the petitioner to travel across state lines or tribal land lines if your intent is to cause bodily injury to the petitioner or if the travel results in your causing bodily injury to the petitioner.

REQUEST FOR HEARING

1. I am the Respondent in the above-referenced action and I request a hearing to contest all or part of the order as follows (mark one or more):

- The order restraining me from contacting or attempting to contact the petitioner.*
- The order granting child custody to the petitioner.*
- The terms of the parenting time order.*
- Other _____*

2. [] If I have checked this box, a Notice of Hearing is attached to the Restraining Order, setting a hearing for (specify date and time) _____. However, I believe exceptional circumstances affect my child or children and require an earlier hearing. I request an earlier date for a hearing, to be held within five days after the date I file this request with the court. I understand that this earlier hearing date must be before the date specified in the Notice of Hearing.

I (will) (will not) be represented by an attorney at the hearing.

Notice of the time and place of the hearing can be mailed to me at the address below my signature.

Date: _____

SIGNATURE OF RESPONDENT

ADDRESS

TELEPHONE NUMBER

[_____]

(7) The State Court Administrator shall prescribe the content and form of the petition, order and related forms for use under ORS 107.700 to 107.735. The clerk of the court shall make available the forms and an instructional brochure explaining the rights set forth under ORS 107.700 to 107.735.

(8) If the court orders relief:

(a) The clerk of the court shall provide without charge the number of certified true copies of the petition and order necessary to provide the petitioner with one copy and to effect service and shall have a true copy of the petition and order delivered to the county sheriff for service upon the respondent, unless the court finds that further service is unnecessary because the respondent appeared in person before the court. In addition and upon request by the petitioner, the clerk shall provide the petitioner, without charge, two exemplified copies of the petition and order.

(b) The county sheriff shall serve the respondent personally unless the petitioner elects to have the respondent served personally by a private party or by a peace officer who is called to the scene of a domestic disturbance at which the respondent is present, and who is able to obtain a copy of the order within a reasonable amount of time. Proof of service shall be made in accordance with ORS 107.720. When the order does not contain the respondent's date of birth and service is effected by the sheriff or other peace officer, the sheriff or officer shall verify the respondent's date of birth with the respondent and shall record that date on the order or proof of service entered into the Law Enforcement Data System under ORS 107.720.

(c) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the relief provided under ORS 107.700 to 107.735.

(9) If the county sheriff:

(a) Determines that the order and petition are incomplete, **the sheriff shall return** the order and petition [*shall be returned*] to the clerk of the court. The clerk of the court shall notify the petitioner, at the address provided by the petitioner, of the error or omission.

(b) After accepting the order and petition, cannot complete service within 10 days, the sheriff shall notify the petitioner, at the address provided by the petitioner, that the documents have not been served. If the petitioner does not respond within 10 days, the [*county*] sheriff shall hold the order and petition for future service and file a return to the clerk of the court showing that service was not completed.

(10)(a) Within 30 days after a restraining order is served under this section, the respondent therein may request a court hearing upon any relief granted. The hearing request form shall be available from the clerk of the court [*and shall be in substantially the form provided in subsection (7) of this section*] **in the form prescribed by the State Court Administrator.**

(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner of the date and time of [*such*] **the** hearing, and shall supply the petitioner with a copy of the respondent's request for a hearing. The petitioner shall give to the clerk of the court information sufficient to allow such notification.

(c) The hearing shall not be limited to the issues raised in the respondent's request for hearing form. If the respondent seeks to raise an issue at the hearing not previously raised in the request for hearing form, or if the petitioner seeks relief at the hearing not granted in the original order, the other party shall be entitled to a reasonable continuance for the purpose of preparing a response to the issue.

(11) If the respondent fails to request a hearing within 30 days after a restraining order is served, the restraining order is confirmed by operation of law. The provisions of this section are sufficient to meet the due process requirements of 18 U.S.C. 922(g) in that the respondent received actual notice of the right to request a hearing and the opportunity to participate at the hearing but the respondent failed to exercise those rights.

SECTION 8. ORS 107.835 is amended to read:

107.835. (1) When [*any*] **a** court enters a judgment, order or modification of [*any*] **a** judgment or order under ORS chapter 25, 107, 108, 109, 110 or 416, the court shall allow any party to the judg-

ment or order to include in the judgment or order a waiver of personal service in a subsequent contempt proceeding[. *The content of the waiver shall be substantially as follows:*] **in order to maintain the confidentiality of the party's residential address. In the waiver, the party shall give a contact address for service of process and select one of the following methods of substituted service:**

- (a) **Mailing address;**
- (b) **Business address; or**
- (c) **Specified agent.**

[_____]

In order to maintain the confidentiality of my residential address, I hereby waive my right to personal service if I am subsequently charged with contempt. I am giving the following contact address for service of process and select the following method of substituted service:

- () *Mailing address:*_____
- () *Business address:*_____
- () *Specified agent:*_____
- Signed:*_____

[_____]

(2) Any time after a party has waived personal service under subsection (1) of this section, the party may file an amended waiver [*in substantially the same form*] designating a different method of substituted service or a different address for substituted service. The party [*must*] **shall** give notice of the amendment to all other parties.

(3) The State Court Administrator shall prescribe the content and form of the waiver and amended waiver described in this section.

Passed by Senate February 19, 2007

.....
Secretary of Senate

.....
President of Senate

Passed by House March 19, 2007

.....
Speaker of House

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

.....
Secretary of State