

Senate Bill 269

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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**.

Requires State Court Administrator to prescribe contents and form of specific documents used in domestic relations actions. Removes statutory forms.

A BILL FOR AN ACT

1
2 Relating to forms used in domestic relations actions; amending ORS 107.097, 107.139, 107.485,
3 107.490, 107.500, 107.716, 107.718 and 107.835.

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

5 **SECTION 1.** ORS 107.097 is amended to read:

6 107.097. (1) Except as otherwise provided in subsection (3) of this section, a court may not enter
7 ex parte a temporary order under ORS 107.095, 109.103 or 109.119 providing for the custody of, or
8 parenting time with, a child.

9 (2)(a) A party may apply to a court for a temporary protective order of restraint by filing with
10 the court an affidavit conforming to the requirements of ORS 109.767.

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

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

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

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

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

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

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

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

23
24
25 Notice: You may request a hearing on this order as long as it remains in effect by filing with
26 the court a [*hearing request in the form described in ORS 107.097 (5).*] **request for a hearing. In**
27 **the request you must tell the court and the other party that you object to the order and**
28 **specifically why you disagree with the representation of the status quo described in the or-**
29 **der. In the request you must also inform the court of your telephone number or contact**
30 **number and your current residence, mailing or contact address.**

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.

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(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 _____

_____,)

1 PETITIONER,) NO. _____
2)
3) REQUEST FOR
4 and) HEARING
5)
6 _____)
7 Respondent.)

8 I request a hearing.

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

11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

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

22 _____
23 _____
24 _____
25 _____
26 _____
27 _____
28 TELEPHONE: _____

29 [_____]

30
31 (5) The State Court Administrator shall prescribe the content and form of a request for
32 a hearing described in subsections (2) and (3) of this section.

- 33 (6) As used in this section:
34 (a) "Child's usual place of residence" has the meaning given that term in ORS 107.138.
35 (b) "Party's usual contact and parenting time," "present placement and daily schedule of the
36 child" and "current schedule and daily routine of the child" have the meanings given "parent's usual
37 contact and parenting time," "present placement and daily schedule of the child" and "current
38 schedule and daily routine of the child" in ORS 107.138.

39 **SECTION 2.** ORS 107.139 is amended to read:
40 107.139. (1)(a) Following entry of a judgment, a court may enter ex parte a temporary order
41 providing for the custody of, or parenting time with, a child if:
42 (A) A parent of the child is present in court and presents an affidavit alleging that the child is
43 in immediate danger;
44 (B) The parent has made a good faith effort to confer with the other party regarding the purpose
45 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
) ON TEMPORARY
and) CUSTODY AND
) PARENTING TIME
) ORDER
)
_____,)

1 Respondent.)

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

4 _____
5 Signature

6 Date: _____

7 Address: _____

8 _____
9 Telephone: _____

10 [_____]

11
12 (3) The State Court Administrator shall prescribe the content and form of a request for
13 a hearing described in this section.

14 SECTION 3. ORS 107.485 is amended to read:

15 107.485. A marriage may be dissolved by the summary dissolution procedure specified in this
16 section and ORS 107.490 [and 107.500] when all of the following conditions exist at the time the
17 proceeding is commenced:

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

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

23 (3) The marriage is not more than 10 years in duration.

24 (4) Neither party has any interest in real property wherever situated.

25 (5) There are no unpaid obligations in excess of \$15,000 incurred by either or both of the parties
26 from the date of the marriage.

27 (6) The total aggregate fair market value of personal property assets in which either of the
28 parties has any interest, excluding all encumbrances, is less than \$30,000.

29 (7) The petitioner waives any right to spousal support.

30 (8) The petitioner waives any rights to pendente lite orders except those pursuant to ORS
31 107.700 to 107.735 or 124.005 to 124.040.

32 (9) The petitioner knows of no other pending domestic relations suits involving the marriage in
33 this or any other state.

34 SECTION 4. ORS 107.490 is amended to read:

35 107.490. (1) A proceeding for summary dissolution of the marriage shall be commenced by filing
36 in the circuit court a petition in the form prescribed by the State Court Administrator under
37 ORS 107.500. The petition shall be signed by the petitioner and shall state that as of the date of the
38 filing of the petition each and every condition set forth in ORS 107.485 has been met. The court,
39 upon its own motion, may require a showing by appearance or affidavit of the petitioner.

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

43 (3) Within 30 days after the date on which the respondent is served with the summons
44 or, if service is made by publication or posting under ORCP 7 D(6), within 30 days from the
45 date of last publication or posting, the respondent shall file with the court a written answer

1 to the petition or a motion, along with the required filing fee, and proof of service of the
2 answer or motion on the petitioner.

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

7 **SECTION 5.** ORS 107.500 is amended to read:

8 107.500. (1) The State Court Administrator shall prescribe the content of forms for use
9 under ORS 107.485 and 107.490, including forms related to the waiver or deferral of fees and
10 costs under ORS 21.605, and an instructional brochure describing the procedures set forth
11 in ORS 107.485 and 107.490.

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

17 [_____]

18
19 *IN THE CIRCUIT COURT OF*
20 *THE STATE OF OREGON FOR*
21 *THE COUNTY OF _____*

22 *In the Matter of*)
23 *the Marriage of*)
24) No. _____
25 _____,)
26 *Petitioner,*) *PETITION FOR*
27) *SUMMARY*
28) *DISSOLUTION*
29 *and*) *OF MARRIAGE*
30)
31 _____,)
32 *Respondent.*)
33)

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

36 2. Statistical Facts:

37 a. *Date of marriage:*

38 _____

39 b. *Place of marriage:*

40 _____

41 c. *Wife's address:*

42 _____

43 d. *Wife's maiden name:*

44 _____

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

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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

1 the wife in the sum of \$_____. The wife can satisfy this judgment by paying off the following
2 debts:

<u>Name of Creditor</u>	<u>Amount Owed</u>
4 _____	_____
5 _____	_____
6 _____	_____
7 _____	_____

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

<u>Name of Creditor</u>	<u>Amount Owed</u>
12 _____	_____
13 _____	_____
14 _____	_____
15 _____	_____

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

19 (Complete only if petitioner is paying fees and wants reimbursement from spouse or if fees are be-
20 ing deferred for the petitioner.)

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

24 (b) If fees are being deferred for petitioner:
25 Petitioner requests that judgment be entered against

26
27 (_____, Petitioner)
28
29 (_____, Respondent) in favor of the state in the amount of \$_____.

30 12. Petitioner requests that:

31
32 wife's legal name be restored to
33
34 _____

35
36 husband's legal name be restored to
37
38 _____

39 _____
40 (Petitioner's signature)

41 Address:
42 _____
43 _____
44 _____

45 Telephone: _____

1 [_____]

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

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

_____,)
Petitioner,) **SUMMONS FOR SUMMARY**
) **DISSOLUTION**
) *Marriage Dissolution Suit*

and)
)
_____,)
Respondent.)
)

TO: Name of Respondent

Address of Respondent

_____, Oregon

YOU HAVE BEEN SUED. The court may decide against you without your being heard unless you respond within 30 days of the day you received these papers. Read the information below.

NOTICE TO RESPONDENT:
READ THESE PAPERS CAREFULLY

Your spouse has filed a petition with the court to end your marriage and asking to divide your property and debts, if any. You must “appear” in this case or the court will grant your spouse’s requests. To “appear,” you must file with the court a legal paper called a “motion” or “answer.” The “motion” or “answer” must be given to the Court Clerk or Administrator at: (location) _____ within 30 days of the day you received these papers, along with the required filing fee. The “motion” or “answer” must be in proper form and you must show that your spouse has been served with a copy of it.

Name of Petitioner

Address of Petitioner

City/State/Zip Code

Important Information about Respondent (A recent photo may be attached in addition to the requested information.)

Height: _____
Weight: _____
Race: _____
Date of Birth: _____

1 Automobile license number and description:

2 _____

3 Other identifying information:

4 _____

5 Best time and place to locate:

6 _____

7 [_____]

8
9 IN THE CIRCUIT COURT OF
10 THE STATE OF OREGON FOR
11 THE COUNTY OF _____

12 In the Matter of)

13 the Marriage of)

14) No. _____

15 _____,)

16 Petitioner,) AFFIDAVIT OF PROOF

17) OF SERVICE

18)

19 and)

20)

21 _____,)

22 Respondent.)

23)

24 STATE OF OREGON)

25) ss.

26 County of)

27 I, _____, swear/affirm under oath that:

28 I am a resident of the State of Oregon. I am a competent person over 18 years of age. I am not
29 an attorney for or a party to this case, or an officer, director or employee of any party to this case.

30 On the _____ day of _____, 2____, I served the Summons and Petition in this case personally
31 upon the above named respondent in _____ County by delivering to the respondent a copy of
32 those papers, each of which was certified to be a true copy of each original.

33 _____
34 Signature of _____

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

36 _____
37 NOTARY PUBLIC FOR OREGON

38 My Commission Expires: _____

39 [_____]

40
41 IN THE CIRCUIT COURT OF
42 THE STATE OF OREGON FOR
43 THE COUNTY OF _____

44 In the Matter of)

45 the Marriage of)

1) No. _____
 2 _____)
 3 *Petitioner,*) *MOTION AND ORDER FOR*
 4) *WAIVER OF FEES*
 5)
 6 *and*)
 7)
 8 _____)
 9 *Respondent.*)
 10)

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

12 _____
13 *Petitioner*

14 *POINTS AND AUTHORITIES*

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

17 *ORDER*

18 *IT IS SO ORDERED.*

19 *DATED: This _____ day of _____, 2____.*

20 _____
21 *COURT*

22 [_____]

23
24 *IN THE CIRCUIT COURT OF*
25 *THE STATE OF OREGON FOR*
26 *THE COUNTY OF _____*

27 *In the Matter of*)
 28 *the Marriage of*)
 29) No. _____
 30 _____)
 31 *Petitioner,*) *AFFIDAVIT FOR*
 32) *WAIVER OF*
 33 *and*) *FEES AND COSTS*
 34)
 35 _____)
 36 *Respondent.*)
 37)

38 *STATE OF OREGON*)
 39) *ss.*
 40 *County of*)

41 *I, _____, being first duly sworn upon oath, depose and declare*
 42 *that I am the petitioner for a Judgment of Summary Dissolution and am unable to pay necessary filing*
 43 *fees, service fees and court costs. My total monthly income from all sources is \$_____. I have*
 44 *\$_____ as assets and \$_____ as savings. I support _____ people. My monthly ex-*
 45 *penses are \$_____ housing, \$_____ food, \$_____ utilities, \$_____ transportation,*

1 \$_____ laundry, cleaning and personal requirements, \$_____ medical expenses, \$_____ cloth-
2 ing, \$_____ telephone, \$_____ total installment payments, \$_____ other expenses, for total
3 monthly expenses of \$_____

4 _____
5 Signature of _____

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

7 _____
8 NOTARY PUBLIC FOR OREGON

9 My Commission Expires _____

10 [_____]

11
12 IN THE CIRCUIT COURT OF
13 THE STATE OF OREGON FOR
14 THE COUNTY OF _____

15 In the Matter of)
16 the Marriage of)
17) No. _____

18 _____)
19 Petitioner,) PETITIONER'S
20) AFFIDAVIT, MOTION
21) AND ORDER FOR
22 and) DEFAULT JUDGMENT
23) OF DISSOLUTION

24)
25 _____)
26 Respondent.)
27)

28 STATE OF OREGON)
29) ss.
30 County of)

31 I, _____, swear/affirm under oath that:

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

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

37 _____
38 Petitioner

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

40 _____
41 NOTARY PUBLIC FOR OREGON

42 My Commission Expires _____

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

44 _____
45 Petitioner

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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>
_____	_____

1 _____
2 _____
3 _____

4 *Additional pages have been added as D-2.*

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

6 _____

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

8 _____

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

11 *DATED: This _____ day of _____, 2____.*

12 _____
13 *CIRCUIT COURT JUDGE*

14 [_____]

15
16 **SECTION 6.** ORS 107.716 is amended to read:

17 107.716. (1) If the respondent requests a hearing pursuant to ORS 107.718 (10), the court shall
18 hold the hearing within 21 days after the request. However, if the respondent contests the order
19 granting temporary child custody to the petitioner, the court shall hold the hearing within five days
20 after the request.

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

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

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

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

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

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

44 (5) If the court continues the order, with or without changes, at a hearing about which the re-
45 spondent received actual notice and the opportunity to participate, the court shall include in the

1 order a certificate in substantially the following form in a separate section immediately above the
 2 signature of the judge:

4
 5 CERTIFICATE OF COMPLIANCE
 6 WITH THE VIOLENCE
 7 AGAINST WOMEN ACT
 8

9 This protective order meets all full faith and credit requirements of the Violence Against Women
 10 Act, 18 U.S.C. 2265 (1994). This court has jurisdiction over the parties and the subject matter. The
 11 respondent was afforded notice and timely opportunity to be heard as provided by the law of this
 12 jurisdiction. This order is valid and entitled to enforcement in this and all other jurisdictions.
 13

14
 15 (6) The court may approve any consent agreement to bring about a cessation of abuse of the
 16 parties. However, the court may not approve a term in a consent agreement that provides for re-
 17 straint of a party to the agreement unless the other party petitioned for and was granted an order
 18 under ORS 107.710. An order or consent agreement made under this section may be amended at any
 19 time and shall continue in effect for a period of one year from the date of the order issued under
 20 ORS 107.718, or until superseded as provided in ORS 107.722.

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

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

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

26 **SECTION 7.** ORS 107.718 is amended to read:

27 107.718. (1) When a person files a petition under ORS 107.710, the circuit court shall hold an
 28 ex parte hearing in person or by telephone on the day the petition is filed or on the following judi-
 29 cial day. Upon a showing that the petitioner has been the victim of abuse committed by the re-
 30 spondent within 180 days preceding the filing of the petition, that there is an imminent danger of
 31 further abuse to the petitioner and that the respondent represents a credible threat to the physical
 32 safety of the petitioner or the petitioner’s child, the court shall, if requested by the petitioner, order:

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

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

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

43 (d) That a peace officer accompany the party who is leaving or has left the parties’ residence
 44 to remove essential personal effects of the party or the party’s children, or both, including but not
 45 limited to clothing, toiletries, diapers, medications, Social Security cards, birth certificates, identifi-

1 cation and tools of the trade;

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

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

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

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

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

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

23 (3) The court’s order under subsection (1) of this section is effective for a period of one year or
24 until the order is withdrawn or amended, or until the order is superseded as provided in ORS
25 107.722, whichever is sooner.

26 (4) If respondent is restrained from entering, or attempting to enter, an area surrounding
27 petitioner’s residence or any other premises, the order restraining respondent shall specifically de-
28 scribe the area.

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

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

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

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

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

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

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

43 (f) That no overnight parenting time occur.

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

1 from the clerk of the court and shall be in substantially the following form:]

2 [_____]

3
4 IN THE CIRCUIT COURT OF
5 THE STATE OF OREGON FOR
6 THE COUNTY OF _____

7 _____,)
8 Petitioner) PETITION FOR
9 (your name)) RESTRAINING ORDER
10) TO PREVENT ABUSE

11 vs.)
12) No. _____

13)
14 _____,)
15 Respondent)
16 (person to be)
17 restrained))

18
19 YOU MUST PROVIDE COMPLETE AND TRUTHFUL INFORMATION. IF YOU DO NOT, THE
20 COURT MAY DISMISS ANY RESTRAINING ORDER AND MAY ALSO HOLD YOU IN CON-
21 TEMPT OF COURT.

22 If you wish to have your residential address or telephone number withheld from re-
23 spondent, use a contact address and telephone number so the Court and the Sheriff
24 can reach you if necessary.

25 ATTACH ADDITIONAL PAGES
26 IF NECESSARY.

27
28 I am the Petitioner and I state that the following information is true:

29
30 I am a resident of _____ County, Oregon.

31
32 Respondent is a resident of _____ County, Oregon.

33
34 I am _____ years of age and Respondent is _____ years of age.

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

36 — A. Respondent is my _____ spouse _____ former spouse. We were married on
37 _____, 2____. We were divorced on
38 _____, 2____.

39 — B. Respondent and I are adults related by blood, marriage or adoption. Respondent is my
40 _____ (type of relationship).

41 — C. Respondent and I have been living together since _____, 2____.

42 — D. Respondent and I lived together from _____, 2____, to _____,
43 2____.

44 — E. Respondent and I have been involved in a sexually intimate relationship within the last
45 two years.

- 1 — F. Respondent and I are the unmarried parents of a child.
- 2 — G. I am a minor and have been involved in a sexually intimate relationship with respondent
- 3 who is 18 years of age or older.

4 2. To qualify for a restraining order, respondent must have done one or more of the following:

5 Within the last 180 days, respondent has:

- 6 — A. Caused me bodily injury.
- 7 — B. Attempted to cause me bodily injury.
- 8 — C. Placed me in fear of imminent bodily injury.
- 9 — D. Caused me to engage in involuntary sexual relations by force or threat of force.

10 3. Any period of time after the abuse occurred during which respondent was incarcerated (in jail

11 or prison) or lived more than 100 miles from your home is not counted as part of the 180-day

12 period, and you may still be eligible for a restraining order.

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

14 2_____.

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

16 _____, 2_____.

17 4. Did the abuse happen within the last 180 days not including the times respondent was

18 incarcerated (in jail or prison) or lived more than 100 miles from your home? Yes No

19

20 *Date and location of abuse:*

21 _____

22 _____

23

24 *How did respondent hurt or threaten you?*

25 _____

26 _____

27 _____

28

29 5. Are there incidents other than those described in question 4 above, in which respondent has hurt

30 or threatened to hurt you? If Yes, Explain:

31 _____

32 _____

33 _____

34

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

36 _____

37 _____

38 _____

39

40 7. In any of the above incidents:

41

42 *Were drugs, alcohol or weapons involved? Yes No*

43 *Did you need medical help? Yes No*

44 *Were the police or the courts involved? Yes No*

45

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?

County/ Lived Present

Dates State With Address

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:

1
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45

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.

[_____]

PETITIONER MUST NOTIFY THE COURT OF ANY CHANGE OF ADDRESS.

ALL NOTICES OF HEARING WILL BE SENT TO THIS ADDRESS AND DISMISSALS MAY BE ENTERED IF YOU DO NOT APPEAR AT A SCHEDULED HEARING.

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.

PETITIONER

STATE OF OREGON)

) ss.

County of _____)

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

NOTARY PUBLIC FOR OREGON

My Commission Expires: _____

RELEVANT DATA

RESPONDENT _____

Sex _____ Telephone # _____

Residence Address _____

City/State/Zip _____

County _____

Birthdate _____ Age _____

Race _____

Height _____ Weight _____

Eye Color _____

PETITIONER (you) _____

Sex _____ *Telephone # _____

*Residence Address _____

City/State/Zip _____

County _____

Birthdate _____ Age _____

Race _____

Height _____ Weight _____

Eye Color _____

*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.

PLEASE FILL OUT THIS INFORMATION TO AID IN SERVICE OF THE RESTRAINING ORDER

Where is respondent most likely to be located?

Residence Hours _____

Employment Hours _____

Address: _____

Employment Hours _____

Address: _____

Description of vehicle _____

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

2 _____
3
4 _____

5
6
7 Has respondent ever been arrested for or convicted of a violent crime? Explain:

8 _____
9
10 _____

11
12
13 Is there anything about respondent's character, past behavior or the present situation that indicates that
14 respondent may be a danger to self or other? Explain:

15 _____
16
17 _____
18
19 _____

20
21
22 *IN THE CIRCUIT COURT OF*
23 *THE STATE OF OREGON*
24 *FOR THE COUNTY OF _____*

25
26 _____)
27 *Petitioner*) *RESTRAINING ORDER*
28 *(your name)*) *TO PREVENT ABUSE*
29)
30 *vs.*)
31) *No.* _____
32)
33 _____)
34 *Respondent*)
35 *(person to be*)
36 *restrained)*)

37 *TO THE RESPONDENT: VIOLATION OF THIS RESTRAINING ORDER MAY RESULT IN*
38 *YOUR ARREST AND IN CIVIL AND/OR CRIMINAL PENALTIES. THIS ORDER IS EN-*
39 *FORCEABLE IN EVERY STATE. REVIEW THIS ORDER CAREFULLY. EACH PROVISION*
40 *MUST BE OBEYED. SEE YOUR RIGHTS TO A HEARING.*

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

42
43 *Judge's Initials*

- 44 1. *Petitioner and respondent are related as follows (check all that apply):*
45 A. *Petitioner and respondent are spouses.* _____

- 1 B. *Petitioner and respondent are former spouses.* _____
- 2 C. *Petitioner and respondent are adult persons related by blood,* _____
- 3 *marriage or adoption.* _____
- 4 D. *Petitioner and respondent are cohabiting or have cohabited* _____
- 5 *with each other.* _____
- 6 E. *Petitioner and respondent have been involved in a sexually* _____
- 7 *intimate relationship with each other within the last two years.* _____
- 8 F. *Petitioner and respondent are unmarried parents of a child.* _____
- 9 G. *Petitioner is a minor and has been involved in a sexually* _____
- 10 *intimate relationship with respondent who is 18 years of age or older.* _____
- 11 2. *Additional findings:*
- 12 A. *Petitioner has been abused by respondent as defined by ORS 107.705.* _____
- 13 B. *The abuse of petitioner by respondent occurred within the last* _____
- 14 *180 days as provided in ORS 107.710.* _____
- 15 C. *Respondent represents a credible threat to the physical safety* _____
- 16 *of petitioner or petitioner’s child and there is an imminent danger of* _____
- 17 *further abuse to petitioner.* _____
- 18 D. *If there are children, Oregon has jurisdiction over the issue of the* _____
- 19 *custody of the children under ORS 109.701 to 109.834 on the* _____
- 20 *following grounds:*
- 21 a. *Oregon is the home state of the child on the date this proceeding* _____
- 22 *was commenced; or* _____
- 23 *Oregon was the home state within six months before this proceeding* _____
- 24 *was commenced and the child is absent from the state, but a parent* _____
- 25 *or person acting as a parent continues to live in Oregon under* _____
- 26 *ORS 109.741 (1)(a).* _____
- 27 b. *No other state has home state jurisdiction under ORS 109.741* _____
- 28 *(1)(a); or* _____
- 29 *The home state of the child _____ (name)* _____
- 30 *has declined jurisdiction and the child’s parents have, or one of* _____
- 31 *the child’s parents or a person acting as a parent has, a significant* _____
- 32 *connection with Oregon and substantial evidence is available here* _____
- 33 *concerning the child’s care, protection, training and personal* _____
- 34 *relationships under ORS 109.741 (1)(b).* _____
- 35 c. *All courts having jurisdiction under home state grounds under* _____
- 36 *ORS 109.741 (1)(a), or significant connections grounds under ORS 109.741* _____
- 37 *(1)(b), have declined to exercise jurisdiction under ORS 109.741 (1)(c).* _____
- 38 d. *No court of any other state has jurisdiction under ORS 109.741* _____
- 39 *(1)(a), (b) or (c).* _____
- 40 e. *Emergency grounds exist for the exercise of temporary emergency* _____
- 41 *jurisdiction because the child is present in this state and has* _____
- 42 *been abandoned; or* _____
- 43 *Emergency grounds exist for the exercise of temporary emergency* _____
- 44 *jurisdiction because it is necessary to protect the child because the* _____
- 45 *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:

- 1 *Contacting, or attempting to contact, petitioner by telephone.*_____
- 2 *Contacting, or attempting to contact, petitioner by mail.* _____
- 3 5. *Respondent is restrained (prohibited) from entering, or*
- 4 *attempting to enter:*
- 5 *The premises of the children’s day care provider.* _____
- 6 *The children’s school.* _____
- 7 6. *Respondent shall move from and not return to the re-* _____
- 8 *sidence located at _____ except with a*
- 9 *peace officer in order to remove essential personal*
- 10 *effects of the respondent, and if the respondent*
- 11 *is the legal custodian, essential personal effects*
- 12 *of respondent’s children, including, but not*
- 13 *limited to: clothing, toiletries, diapers, medica-*
- 14 *tions, Social Security cards, birth certificates,*
- 15 *identification and tools of the trade.*
- 16 7. *A peace officer shall accompany the petitioner to the* _____
- 17 *parties’ residence in order to remove essential personal*
- 18 *effects of petitioner, and if the petitioner is the legal*
- 19 *custodian, essential personal effects of the petitioner’s*
- 20 *children, including, but not limited to: clothing,*
- 21 *toiletries, diapers, medications, Social Security cards,*
- 22 *birth certificates, identification and tools of the trade.*
- 23 8. *Petitioner is awarded custody of the following children* _____
- 24 *of the parties, subject to the parenting time terms set*
- 25 *forth below.*
- 26
- 27 *Name: _____*
- 28 *Age: _____*
- 29
- 30 *Name: _____*
- 31 *Age: _____*
- 32 9. *Respondent is awarded custody of the following child-* _____
- 33 *ren of the parties, subject to the parenting time terms set*
- 34 *forth below.*
- 35
- 36 *Name: _____*
- 37 *Age: _____*
- 38
- 39 *Name: _____*
- 40 *Age: _____*
- 41 10. *A peace officer of the county or city in which the child-* _____
- 42 *ren are located shall assist in recovering the custody of*
- 43 *the children of the above parties whose custody has been*
- 44 *awarded to petitioner. The peace officer is authorized to*
- 45 *use any reasonable force necessary to that end.*

1 [] 11. Other relief: _____
2 _____
3 _____

4 [] 12. Petitioner and respondent shall appear at a hearing _____
5 to be held at a time and place shown in the attached
6 Notice of Hearing. The purpose of the hearing is to
7 consider the temporary custody of the parties'
8 children and other relief that may be contested.

9 [] 13. Pending the hearing to be held pursuant to paragraph _____
10 12 above, if temporary custody of the children is not
11 awarded to the petitioner under ORS 107.718 (1)(a), the
12 residence of the children and parental access to the
13 children is as follows with respect to the following
14 children (include the children's names and dates of birth):
15 _____
16 _____

17 The order contained in this paragraph expires at the
18 hearing.

19 [] 14. The child custody provisions of this order conflict _____
20 with the child custody provisions of a preexisting order
21 or judgment issued pursuant to ORS 107.095 (1)(b),
22 107.105, 107.135, 109.103 or 109.155. The child custody
23 provisions of this order remain in effect until _____,
24 or until another order is issued in the preexisting
25 case, whichever occurs first.

26 [] 15. The child custody provisions of this order conflict _____
27 with the child custody provisions of a preexisting order
28 or judgment issued by another jurisdiction. The child
29 custody provisions of this order remain in effect for
30 one year or until another order is issued in the
31 preexisting case, whichever occurs first.
32

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

35 Petitioner's Request Judge's Initials

37 [] 16. NO PARENTING TIME due to _____
38 _____
39 _____

41 [] 17. SUPERVISED PARENTING TIME: Three hours per week, _____
42 Supervised by:
43 As follows:
44 (day of week, location, times)

45 [] 18. Once per week on _____ (day) from _____

- 1 a.m./p.m. to _____ a.m./p.m.
- 2 [] 19. On the *FIRST* and *THIRD* weekends of each month _____
3 from 7:00 p.m. Saturday to 7:00 p.m. Sunday.
4 The first weekend is the one in which both
5 Saturday and Sunday are in the new month.
- 6 [] 20. On the *FIRST* and *THIRD* weekends of each month _____
7 from 7:00 p.m. Friday to 7:00 p.m. Sunday.
8 The first weekend is the one in which both
9 Saturday and Sunday are in the new month.
- 10 [] 21. *OTHER PARENTING TIME AS FOLLOWS:* _____
11 _____
12 _____
- 13
- 14 [] 22. Parenting time details not provided for in this *ORDER*, _____
15 including the days or hours of parenting time, shall be
16 arranged through _____
- 17 [] 23. The parent not awarded custody will pick up and return _____
18 the children at the curb, or driveway if no curb, of the
19 residence of the custodial parent or at _____
20 (name and address of different location) no more than
21 15 minutes early nor 15 minutes late.
22 *IF RESPONDENT IS NOT AWARDED CUSTODY AND*
23 *IF RESPONDENT IS OTHERWISE PROHIBITED*
24 *FROM BEING AT PETITIONER'S RESIDENCE,*
25 *RESPONDENT MAY BE AT THE CURB, OR DRIVE-*
26 *WAY IF NO CURB, OF PETITIONER'S RESIDENCE*
27 *FOR A MAXIMUM OF FIVE MINUTES AT THE*
28 *PARENTING TIME HOUR SPECIFIED IN THE ORDER*
29 *TO PICK UP OR RETURN THE CHILDREN OR AT ANY*
30 *OTHER TIME THE PARTIES AGREE TO.*
- 31 [] 24. No further service is necessary because respondent _____
32 appeared in person before the Court.

33

34 *IT IS FURTHER ORDERED that:*

35 *SECURITY AMOUNT FOR VIOLATION OF ANY PROVISION OF THIS ORDER IS*
36 *\$5,000 unless otherwise specified.*

37 *Other Amount (\$)*

38

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

42

43 *DATED this _____ day of _____, 2_____*

44 _____

45 _____

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

1 _____,) OF DISMISSAL
2 Respondent.)
3)

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

6 _____
7 Petitioner

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

9 _____
10 NOTARY PUBLIC FOR OREGON
11 My Commission Expires: _____

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

13 _____
14 JUDGE

15 [_____]

16
17 IN THE CIRCUIT COURT OF
18 THE STATE OF OREGON
19 FOR THE COUNTY OF _____

20
21 _____,)
22 (D.O.B. _____)) NOTICE TO RESPONDENT
23) (Family Abuse
24 Petitioner,) Prevention Act)
25)
26 and) No. _____
27) _____,
28 _____,)
29 (D.O.B. _____))
30)
31 Respondent.)

32 THIS FORM MUST BE
33 ATTACHED TO SERVICE COPY
34 OF RESTRAINING ORDER

35
36 TO RESPONDENT: A RESTRAINING ORDER HAS BEEN ISSUED BY THE COURT WHICH
37 AFFECTS YOUR RIGHTS AND IS NOW IN EFFECT. THIS ORDER BECOMES EFFECTIVE
38 IMMEDIATELY.

39
40 IF A NOTICE OF HEARING IS ATTACHED TO THE RESTRAINING ORDER, YOU ARE RE-
41 QUIRED TO APPEAR AT A HEARING AT THE TIME AND PLACE SPECIFIED IN THE NO-
42 TICE. THE PURPOSE OF THE HEARING IS TO CONSIDER TEMPORARY CUSTODY OF
43 YOUR CHILD OR CHILDREN AND OTHER MATTERS. IF YOU WANT AN EARLIER HEAR-
44 ING DATE THAN THE DATE SPECIFIED IN THE NOTICE, YOU MUST COMPLETE THE
45 REQUEST FOR HEARING FORM BELOW AND MAIL OR DELIVER IT TO:

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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,

1 *whichever is greater, or a jail term of up to six months, or both. Other sanctions may also be imposed*
2 *for contempt.*

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

5 *Traveling across state lines or tribal land lines with the intent to violate this order and then vio-*
6 *lating this order.*

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

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

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

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

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

16
17 **REQUEST FOR HEARING**

18
19 *1. I am the Respondent in the above-referenced action and I request a hearing to contest all or part*
20 *of the order as follows (mark one or more):*

21 *— The order restraining me from contacting or attempting to contact the petitioner.*

22 *— The order granting child custody to the petitioner.*

23 *— The terms of the parenting time order.*

24 *— Other _____*

25
26 *2. [] If I have checked this box, a Notice of Hearing is attached to the Restraining Order, setting a*
27 *hearing for (specify date and time) _____. However, I believe exceptional circumstances af-*
28 *fect my child or children and require an earlier hearing. I request an earlier date for a hearing, to be*
29 *held within five days after the date I file this request with the court. I understand that this earlier*
30 *hearing date must be before the date specified in the Notice of Hearing.*

31
32 *I (will) (will not) be represented by an attorney at the hearing.*

33
34 *Notice of the time and place of the hearing can be mailed to me at the address below my signature.*

35
36 *Date: _____*

37
38 _____
39 **SIGNATURE OF RESPONDENT**

40
41 _____
42 _____
43 **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

1 to the issue.

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

7 **SECTION 8.** ORS 107.835 is amended to read:

8 107.835. (1) When [any] a court enters a judgment, order or modification of [any] a judgment or
9 order under ORS chapter 25, 107, 108, 109, 110 or 416, the court shall allow any party to the judg-
10 ment or order to include in the judgment or order a waiver of personal service in a subsequent
11 contempt proceeding[. *The content of the waiver shall be substantially as follows:*] **in order to**
12 **maintain the confidentiality of the party’s residential address. In the waiver, the party shall**
13 **give a contact address for service of process and select one of the following methods of**
14 **substituted service:**

- 15 (a) Mailing address;
- 16 (b) Business address; or
- 17 (c) Specified agent.

18 [_____]

19
20 *In order to maintain the confidentiality of my residential address, I hereby waive my right to per-*
21 *sonal service if I am subsequently charged with contempt. I am giving the following contact address*
22 *for service of process and select the following method of substituted service:*

- 23
- 24 () Mailing address:_____
- 25 () Business address:_____
- 26 () Specified agent:_____
- 27 Signed:_____

28 [_____]

29
30 (2) Any time after a party has waived personal service under subsection (1) of this section, the
31 party may file an amended waiver [*in substantially the same form*] designating a different method of
32 substituted service or a different address for substituted service. The party [*must*] **shall** give notice
33 of the amendment to all other parties.

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

36 _____