

Senate Bill 611

Sponsored by Senator BROWN (at the request of Mark Kramer)

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**.

Permits court to enter temporary protective order of restraint in certain proceedings involving custody of child.

A BILL FOR AN ACT

Relating to temporary protective orders of restraint; amending ORS 107.097.

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) **In a proceeding involving the custody of a child under this chapter or ORS chapter 109, a court may enter a temporary protective order of restraint.** 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).

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

7 (c) A copy of the order and the supporting affidavit must be served on the other party in the
8 manner of service of a summons under ORCP 7. The order must include the following statement:
9

10
11 Notice: You may request a hearing on this order as long as it remains in effect by filing with
12 the court a hearing request in the form described in ORS 107.097 (5).
13

14
15 (4)(a) A party against whom an order is entered under subsection (2) or (3) of this section may
16 request a hearing by filing with the court a hearing request form described in subsection (5) of this
17 section at any time while the order is in effect.

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

21 (c) An order issued under subsection (2) or (3) of this section remains in effect through the date
22 of the hearing. If the party against whom the order was entered fails to appear at the hearing
23 without good cause, the court shall continue the order in effect. If the party who obtained the order
24 fails to appear at the hearing without good cause, the court shall vacate the order.

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

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

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

31 (5) The hearing request form must be in substantially the following form:
32

33
34 IN THE CIRCUIT COURT OF
35 THE STATE OF OREGON
36 FOR THE COUNTY OF _____

37 _____,)
38 PETITIONER,) NO. _____
39)
40) REQUEST FOR
41 and) HEARING
42)
43 _____,)
44 Respondent.)

45 I request a hearing.

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

3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____.

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

14 _____
15 _____
16 _____ Signature
17 DATE: _____
18 ADDRESS: _____
19 _____
20 TELEPHONE: _____
21 _____

- 22
23 (6) As used in this section:
24 (a) "Child's usual place of residence" has the meaning given that term in ORS 107.138.
25 (b) "Party's usual contact and parenting time," "present placement and daily schedule of the
26 child" and "current schedule and daily routine of the child" have the meanings given "parent's usual
27 contact and parenting time," "present placement and daily schedule of the child" and "current
28 schedule and daily routine of the child" in ORS 107.138.

29 _____