

# Senate Bill 865

Sponsored by Senator BONAMICI (at the request of Michelle Arnold)

## 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**.

Expands types of relationships covered by Family Abuse Prevention Act to include dating relationships. Allows person under 18 years of age to petition court for restraining order to prevent abuse by person 15 years of age or older.

Requires that proceedings involving minor arrested, detained or charged with contempt for violation of restraining order be held in juvenile court.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to parties covered by the Family Abuse Prevention Act; creating new provisions; amending  
3 ORS 33.055, 33.065, 90.100, 107.705, 107.720, 107.726, 107.728, 133.055, 133.310, 419A.180 and  
4 419C.005; and declaring an emergency.

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

6 **SECTION 1.** ORS 107.705 is amended to read:

7 107.705. As used in ORS 107.700 to 107.735:

8 (1) "Abuse" means the occurrence of one or more of the following acts between family or  
9 household members:

10 (a) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury.

11 (b) Intentionally, knowingly or recklessly placing another in fear of imminent bodily injury.

12 (c) Causing another to engage in involuntary sexual relations by force or threat of force.

13 (2) "Child" means an unmarried person who is under 18 years of age.

14 (3) **"Dating relationship" means a social relationship of a romantic or intimate nature,**  
15 **the existence of which is determined based on consideration of the following factors:**

16 (a) **The length of the relationship;**

17 (b) **The type of relationship; and**

18 (c) **The frequency of interaction between the persons involved in the relationship.**

19 [(3)] (4) "Family or household members" means any of the following:

20 (a) Spouses.

21 (b) Former spouses.

22 (c) Adult persons related by blood, marriage or adoption.

23 (d) Persons who are cohabiting or who have cohabited with each other.

24 (e) Persons who, **within two years immediately preceding the filing of a petition under ORS**  
25 **107.710 by one of the persons,** have been involved in **a dating relationship with each other or**  
26 **a sexually intimate relationship with each other** [*within two years immediately preceding the filing*  
27 *by one of them of a petition under ORS 107.710*].

28 (f) Unmarried parents of a child.

29 [(4)] (5) "Interfere" means to interpose in a manner that would reasonably be expected to hinder

**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 or impede a person in the petitioner's situation.

2 [(5)] (6) "Intimidate" means to act in a manner that would reasonably be expected to threaten  
3 a person in the petitioner's situation, thereby compelling or deterring conduct on the part of the  
4 person.

5 [(6)] (7) "Menace" means to act in a manner that would reasonably be expected to threaten a  
6 person in the petitioner's situation.

7 [(7)] (8) "Molest" means to act, with hostile intent or injurious effect, in a manner that would  
8 reasonably be expected to annoy, disturb or persecute a person in the petitioner's position.

9 **SECTION 2.** ORS 107.726 is amended to read:

10 107.726. A person who is under 18 years of age may petition the circuit court for relief under  
11 ORS 107.710 if:

12 (1) The person is:

13 (a) The spouse of the respondent;

14 (b) The former spouse of the respondent; or

15 (c) A person who, **within two years immediately preceding the filing of the petition**, has  
16 been **in a dating relationship with the respondent** or in a sexually intimate relationship with the  
17 respondent; and

18 (2) The respondent is [18] **15** years of age or older.

19 **SECTION 3.** ORS 107.720 is amended to read:

20 107.720. (1)(a) Whenever a restraining order, as authorized by ORS 107.095 (1)(c) or (d), 107.716  
21 or 107.718 [which] **that** includes a security amount and an expiration date pursuant to ORS 107.095,  
22 107.716 or 107.718 and this section, is issued and the person to be restrained has actual notice  
23 [thereof] **of the order**, the clerk of the court or any other person serving the petition and order shall  
24 deliver [forthwith] to a county sheriff a true copy of the affidavit of proof of service on which it is  
25 stated that personal service of the petition and order was served on the respondent, a copy of the  
26 petition and a true copy of the order. If an order entered by the court recites that the respondent  
27 appeared in person before the court, the necessity for further service of the order is waived and an  
28 accompanying proof of service is not necessary. Upon receipt of a true copy of the order and com-  
29 pletion of any required service, the county sheriff shall [forthwith] enter the order into the Law  
30 Enforcement Data System maintained by the Department of State Police and into the databases of  
31 the National Crime Information Center of the United States Department of Justice. The sheriff shall  
32 also provide the petitioner with a true copy of the proof of service. Entry into the Law Enforcement  
33 Data System constitutes notice to all law enforcement agencies of the existence of [such] **the** order.  
34 Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene  
35 of an alleged violation of [such] **the** order [may be] **is** informed of the existence and terms of  
36 [such] **the** order. [Such] **The** order [shall be] **is** fully enforceable in any county or tribal land in the  
37 state. The petitioner may elect to deliver documents personally to a county sheriff or to have them  
38 delivered by a private person for entry into the Law Enforcement Data System and the databases  
39 of the National Crime Information Center of the United States Department of Justice.

40 (b) When a restraining order has been entered into the Law Enforcement Data System and the  
41 databases of the National Crime Information Center of the United States Department of Justice  
42 under paragraph (a) of this subsection, a county sheriff shall cooperate with a request from a law  
43 enforcement agency from any other jurisdiction to verify the existence of the restraining order or  
44 to transmit a copy of the order to the requesting jurisdiction.

45 (2)(a) A restraining order [shall remain] **issued under ORS 107.718 remains** in effect until the

1 order expires or is terminated by court order.

2 (b) When a restraining order has been *[entered]* **issued** under ORS 107.718, the restraining order  
3 *[shall]* **may** not be terminated upon a motion for dismissal by the petitioner unless the motion is  
4 notarized.

5 (3) In any situation where a restraining order described in subsection (1) of this section is ter-  
6 minated before the expiration date, the clerk of the court shall deliver *[forthwith]* a true copy of the  
7 termination order to the county sheriff with whom the original order was filed. Upon receipt of such  
8 termination order the county sheriff shall promptly remove the original order from the Law  
9 Enforcement Data System and the databases of the National Crime Information Center of the United  
10 States Department of Justice.

11 (4) Pending a contempt hearing for alleged violation of a restraining order issued pursuant to  
12 ORS 107.095 (1)(c) or (d), 107.716 or 107.718, a person arrested and taken into custody *[pursuant to]*  
13 **under** ORS 133.310 may be released as provided in ORS 135.230 to 135.290.

14 (5) **Pending a contempt hearing for alleged violation of a restraining order issued under**  
15 **107.716 or 107.718 where the person arrested and taken into custody is under 18 years of age**  
16 **and is detained:**

17 (a) **The person shall be detained as provided in ORS 419C.136, 419C.139, 419C.142, 419C.145,**  
18 **419C.150 and 419C.153;**

19 (b) **The person may be released as provided under ORS 419C.145, 419C.150 and 419C.153;**  
20 **and**

21 (c) **A security amount may not be required.**

22 (6) **Except as provided in subsection (5) of this section,** whenever *[such]* a restraining order  
23 is issued **under ORS 107.095 (1)(c) or (d), 107.716 or 107.718,** the issuing court shall set a security  
24 amount for the violation of *[such]* **the** order.

25 **SECTION 4.** ORS 107.728 is amended to read:

26 107.728. (1) A petition under ORS 107.710 may be filed only in a county in which the petitioner  
27 or respondent resides. Any contempt proceedings for violation of a restraining order issued under  
28 ORS 107.700 to 107.735 must be conducted by the court that issued the order, or by the circuit court  
29 for a county in which a violation of the restraining order occurs. If contempt proceedings are initi-  
30 ated in the circuit court for a county in which a violation of the restraining order occurs, the person  
31 initiating the contempt proceedings shall file with the court a copy of the restraining order, certified  
32 by the clerk of the court that issued the order. Upon filing of the certified copy of the restraining  
33 order, the court shall enforce the order as though that court had issued the order.

34 (2) **Notwithstanding subsection (1) of this section, contempt proceedings for violation of**  
35 **a restraining order issued under ORS 107.700 to 107.735 where the person alleged to have vi-**  
36 **olated the order is under 18 years of age are subject to the provisions of ORS chapter 419C.**

37 **SECTION 5.** ORS 33.055 is amended to read:

38 33.055. (1) Except as otherwise provided in ORS 161.685, proceedings to impose remedial sanc-  
39 tions for contempt shall be conducted as provided in this section, **except that proceedings for vi-**  
40 **olation of a restraining order issued under ORS 107.700 to 107.735 where the person alleged**  
41 **to have violated the order is under 18 years of age are subject to the provisions of ORS**  
42 **chapter 419C.**

43 (2) The following persons may initiate the proceeding or, with leave of the court, participate in  
44 the proceeding, by filing a motion requesting that defendant be ordered to appear:

45 (a) A party aggrieved by an alleged contempt of court.

1 (b) A district attorney.

2 (c) A city attorney.

3 (d) The Attorney General.

4 (e) Any other person specifically authorized by statute to seek imposition of sanctions for con-  
5 tempt.

6 (3) A motion to initiate a proceeding under this section shall be filed in the proceeding to which  
7 the contempt is related, if there is a related proceeding.

8 (4) The person initiating a proceeding under this section shall file supporting documentation or  
9 affidavits sufficient to give defendant notice of the specific acts alleged to constitute contempt.

10 (5)(a) The court may issue an order directing the defendant to appear. Except as otherwise  
11 provided in paragraph (b) of this subsection, the defendant shall be personally served with the order  
12 to appear in the manner provided in ORCP 7 and 9. The court may order service by a method other  
13 than personal service or issue an arrest warrant if, based upon motion and supporting affidavit, the  
14 court finds that the defendant cannot be personally served.

15 (b) The defendant shall be served by substituted service if personal service is waived under ORS  
16 107.835. If personal service is waived under ORS 107.835, the defendant shall be served by the  
17 method specified in the waiver.

18 (6) The court may impose a remedial sanction only after affording the defendant opportunity for  
19 a hearing tried to the court. The defendant may waive the opportunity for a hearing by stipulated  
20 order filed with the court.

21 (7) A defendant has no right to a jury trial and, except as provided in this section, has only  
22 those rights accorded to a defendant in a civil action.

23 (8) A defendant is entitled to be represented by counsel. A court shall not impose on a defendant  
24 a remedial sanction of confinement unless, before the hearing is held, the defendant is:

25 (a) Informed that such sanction may be imposed; and

26 (b) Afforded the same right to appointed counsel required in proceedings for the imposition of  
27 an equivalent punitive sanction of confinement.

28 (9) If the defendant is not represented by counsel when coming before the court, the court shall  
29 inform the defendant of the right to counsel, and of the right to appointed counsel if the defendant  
30 is entitled to, and financially eligible for, appointed counsel under subsection (8) of this section.

31 (10) Inability to comply with an order of the court is an affirmative defense.

32 (11) In any proceeding for imposition of a remedial sanction other than confinement, proof of  
33 contempt shall be by clear and convincing evidence. In any proceeding for imposition of a remedial  
34 sanction of confinement, proof of contempt shall be beyond a reasonable doubt.

35 (12) Proceedings under this section are subject to rules adopted under ORS 33.145. Proceedings  
36 under this section are not subject to the Oregon Rules of Civil Procedure except as provided in  
37 subsection (5) of this section or as may be provided in rules adopted under ORS 33.145.

38 **SECTION 6.** ORS 33.065 is amended to read:

39 33.065. (1) Except as otherwise provided in ORS 161.685, proceedings to impose punitive sanc-  
40 tions for contempt shall be conducted as provided in this section, **except that proceedings against**  
41 **a person under 18 years of age for violation of a restraining order issued under ORS 107.700**  
42 **to 107.735 are subject to the provisions of ORS chapter 419C.**

43 (2) The following persons may initiate the proceeding by an accusatory instrument charging a  
44 person with contempt of court and seeking a punitive sanction:

45 (a) A city attorney.

1 (b) A district attorney.

2 (c) The Attorney General.

3 (3) If a city attorney, district attorney or Attorney General who regularly appears before the  
 4 court declines to prosecute a contempt, and the court determines that remedial sanctions would not  
 5 provide an effective alternative remedy, the court may appoint an attorney who is authorized to  
 6 practice law in this state, and who is not counsel for an interested party, to prosecute the contempt.  
 7 The court shall allow reasonable compensation for the appointed attorney's attendance, to be paid  
 8 by:

9 (a) The Oregon Department of Administrative Services, if the attorney is appointed by the Su-  
 10 preme Court, the Court of Appeals or the Oregon Tax Court;

11 (b) The city where the court is located, if the attorney is appointed by a municipal court; and

12 (c) The county where the prosecution is initiated, in all other cases.

13 (4) The prosecutor may initiate proceedings on the prosecutor's own initiative, on the request  
 14 of a party to an action or proceeding or on the request of the court. After the prosecutor files an  
 15 accusatory instrument, the court may issue any order or warrant necessary to compel the appear-  
 16 ance of the defendant.

17 (5) Except as otherwise provided by this section, the accusatory instrument is subject to the  
 18 same requirements and laws applicable to an accusatory instrument in a criminal proceeding, and  
 19 all proceedings on the accusatory instrument shall be in the manner prescribed for criminal pro-  
 20 ceedings.

21 (6) Except for the right to a jury trial, the defendant is entitled to the constitutional and stat-  
 22 utory protections, including the right to appointed counsel, that a defendant would be entitled to in  
 23 a criminal proceeding in which the fine or term of imprisonment that could be imposed is equivalent  
 24 to the punitive sanctions sought in the contempt proceeding. This subsection does not affect any  
 25 right to a jury that may otherwise be created by statute.

26 (7) Inability to comply with an order of the court is an affirmative defense. If the defendant  
 27 proposes to rely in any way on evidence of inability to comply with an order of the court, the de-  
 28 fendant shall, not less than five days before the trial of the cause, file and serve upon the city at-  
 29 torney, district attorney or Attorney General prosecuting the contempt a written notice of intent  
 30 to offer that evidence. If the defendant fails to file and serve the notice, the defendant shall not be  
 31 permitted to introduce evidence of inability to comply with an order of the court at the trial of the  
 32 cause unless the court, in its discretion, permits such evidence to be introduced where just cause  
 33 for failure to file the notice, or to file the notice within the time allowed, is made to appear.

34 (8) The court may impose a remedial sanction in addition to or in lieu of a punitive sanction.

35 (9) In any proceeding for imposition of a punitive sanction, proof of contempt shall be beyond  
 36 a reasonable doubt.

37 **SECTION 7.** ORS 419A.180 is amended to read:

38 419A.180. *[In case of failure to comply with any order of the juvenile court, The court may proceed*  
 39 *for contempt of court against the person failing to comply.]* **The juvenile court may proceed for**  
 40 **contempt of court:**

41 **(1) Against a person for failure to comply with any order of the court; and**

42 **(2) Against a person under 18 years of age for violation of a restraining order issued**  
 43 **under ORS 107.700 to 107.735.**

44 **SECTION 8.** ORS 419C.005 is amended to read:

45 419C.005. (1) Except as otherwise provided in ORS 137.707, the juvenile court has exclusive or-

1 original jurisdiction in any case involving a person who is under 18 years of age and who has com-  
 2 mitted an act that is a violation, or that if done by an adult would constitute a violation, of a law  
 3 or ordinance of the United States or a state, county or city **or that would constitute a violation**  
 4 **of a restraining order issued under ORS 107.700 to 107.735.**

5 (2) The provisions of subsection (1) of this section do not prevent a court of competent juris-  
 6 diction from entertaining a civil action or suit involving a youth.

7 (3) The court does not have jurisdiction as provided in subsection (1) of this section after a mi-  
 8 nor has been emancipated pursuant to ORS 419B.550 to 419B.558.

9 (4) The court's jurisdiction over a person under this section or ORS 419C.067 continues until  
 10 one of the following occurs:

11 (a) The court dismisses a petition filed under this chapter or waives the case under ORS  
 12 419C.340. If jurisdiction is based on a previous adjudication, then dismissal or waiver of a later case  
 13 does not terminate jurisdiction under the previous case unless the court so orders.

14 (b) The court transfers jurisdiction of the case as provided in ORS 419C.053, 419C.056 and  
 15 419C.059.

16 (c) The court enters an order terminating jurisdiction.

17 (d) The person becomes 25 years of age.

18 (e) The court places the person under the jurisdiction of the Psychiatric Security Review Board  
 19 as provided in ORS 419C.529. If the court also has jurisdiction over the person based on a previous  
 20 adjudication under this chapter or ORS chapter 419B, placing a person under the jurisdiction of the  
 21 board in a later case does not terminate wardship under the previous case unless the court so or-  
 22 ders.

23 **SECTION 9.** ORS 133.055 is amended to read:

24 133.055. (1) A peace officer may issue a criminal citation to a person if the peace officer has  
 25 probable cause to believe that the person has committed a misdemeanor or has committed any felony  
 26 that is subject to misdemeanor treatment under ORS 161.705. The peace officer shall deliver a copy  
 27 of the criminal citation to the person. The criminal citation shall require the person to appear at  
 28 the court of the magistrate before whom the person would be taken pursuant to ORS 133.450 if the  
 29 person were arrested for the offense.

30 (2)(a) Notwithstanding the provisions of subsection (1) of this section, when a peace officer re-  
 31 sponds to an incident of domestic disturbance and has probable cause to believe that an assault has  
 32 occurred between family or household members[,] as defined in ORS 107.705, or to believe that [*one*  
 33 *such person*] **a family or household member** has placed [*the other*] **another family or household**  
 34 **member** in fear of imminent serious physical injury, the officer shall arrest and take into custody  
 35 the alleged assailant or potential assailant. **If the alleged or potential assailant is a person under**  
 36 **18 years of age, the provisions of ORS chapter 419C apply.**

37 (b) When the peace officer makes an arrest under paragraph (a) of this subsection, the peace  
 38 officer is not required to arrest both persons.

39 (c) When a peace officer makes an arrest under paragraph (a) of this subsection, the peace of-  
 40 ficer shall make every effort to determine who is the assailant or potential assailant by considering,  
 41 among other factors:

42 (A) The comparative extent of the injuries inflicted or the seriousness of threats creating a fear  
 43 of physical injury;

44 (B) If reasonably ascertainable, the history of domestic violence between the persons involved;

45 (C) Whether any alleged crime was committed in self-defense; and

1 (D) The potential for future assaults.

2 (3) Whenever any peace officer has reason to believe that a family or household member, as  
 3 defined in ORS 107.705, has been abused as defined in ORS 107.705 or that an elderly person or a  
 4 person with a disability has been abused as defined in ORS 124.005, that officer shall use all rea-  
 5 sonable means to prevent further abuse, including advising each person of the availability of a  
 6 shelter or other services in the community and giving each person immediate notice of the legal  
 7 rights and remedies available. The notice shall consist of handing each person a copy of the fol-  
 8 lowing statement:

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10  
 11 IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE OR ABUSE, you can ask the district  
 12 attorney to file a criminal complaint. You also have the right to go to the circuit court and file a  
 13 petition requesting any of the following orders for relief: (a) An order restraining your attacker from  
 14 abusing you; (b) an order directing your attacker to leave your household; (c) an order preventing  
 15 your attacker from entering your residence, school, business or place of employment; (d) an order  
 16 awarding you or the other parent custody of or parenting time with a minor child or children; (e)  
 17 an order restraining your attacker from molesting or interfering with minor children in your cus-  
 18 tody; (f) an order awarding you other relief the court considers necessary to provide for your or  
 19 your children’s safety, including emergency monetary assistance. Such orders are enforceable in  
 20 every state.

21 You may also request an order awarding support for minor children in your care or for your  
 22 support if the other party has a legal obligation to support you or your children.

23 You also have the right to sue for losses suffered as a result of the abuse, including medical and  
 24 moving expenses, loss of earnings or support, and other out-of-pocket expenses for injuries sustained  
 25 and damage to your property. This can be done without an attorney in the small claims department  
 26 of a court if the total amount claimed is under \$7,500.

27 Similar relief may also be available in tribal courts.

28 For further information you may contact: \_\_\_\_\_.

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30  
 31 **SECTION 10.** ORS 133.310 is amended to read:

32 133.310. (1) A peace officer may arrest a person without a warrant if the officer has probable  
 33 cause to believe that the person has committed any of the following:

- 34 (a) A felony.
- 35 (b) A misdemeanor.
- 36 (c) An unclassified offense for which the maximum penalty allowed by law is equal to or greater  
 37 than the maximum penalty allowed for a Class C misdemeanor.
- 38 (d) Any other crime committed in the officer’s presence.

39 (2) A peace officer may arrest a person without a warrant when the peace officer is notified by  
 40 telegraph, telephone, radio or other mode of communication by another peace officer of any state  
 41 that there exists a duly issued warrant for the arrest of a person within the other peace officer’s  
 42 jurisdiction.

43 (3)(a) A peace officer shall arrest and take into custody a person without a warrant when the  
 44 peace officer has probable cause to believe that:

- 45 [(a)] (A) There exists an order issued pursuant to ORS 30.866, 107.095 (1)(c) or (d), 107.716,

1 107.718, 124.015, 124.020, 163.738 or 419B.845 restraining the person;

2 [(b)] (B) A true copy of the order and proof of service on the person has been filed as required  
3 in ORS 107.720, 124.030, 163.741 or 419B.845; and

4 [(c)] (C) The person to be arrested has violated the terms of that order.

5 **(b) If a person arrested under this subsection is under 18 years of age and is subject to**  
6 **an order under ORS 107.716 or 107.718, the provisions of ORS chapter 419C apply.**

7 (4) A peace officer shall arrest and take into custody a person without a warrant if:

8 (a) The person protected by a foreign restraining order as defined by ORS 24.190 presents a copy  
9 of the foreign restraining order to the officer and represents to the officer that the order supplied  
10 is the most recent order in effect between the parties and that the person restrained by the order  
11 has been personally served with a copy of the order or has actual notice of the order; and

12 (b) The peace officer has probable cause to believe that the person to be arrested has violated  
13 the terms of the foreign restraining order.

14 (5) A peace officer shall arrest and take into custody a person without a warrant if:

15 (a) The person protected by a foreign restraining order as defined by ORS 24.190 has filed a copy  
16 of the foreign restraining order with a court or has been identified by the officer as a party pro-  
17 tected by a foreign restraining order entered in the Law Enforcement Data System or in the data-  
18 bases of the National Crime Information Center of the United States Department of Justice; and

19 (b) The peace officer has probable cause to believe that the person to be arrested has violated  
20 the terms of the foreign restraining order.

21 (6) A peace officer shall arrest and take into custody a person without a warrant if the peace  
22 officer has probable cause to believe:

23 (a) The person has been charged with an offense and is presently released as to that charge  
24 under ORS 135.230 to 135.290; and

25 (b) The person has failed to comply with a no contact condition of the release agreement.

26 **SECTION 11.** ORS 90.100 is amended to read:

27 90.100. As used in this chapter, unless the context otherwise requires:

28 (1) "Accessory building or structure" means any portable, demountable or permanent structure,  
29 including but not limited to cabanas, ramadas, storage sheds, garages, awnings, carports, decks,  
30 steps, ramps, piers and pilings, that is:

31 (a) Owned and used solely by a tenant of a manufactured dwelling or floating home; or

32 (b) Provided pursuant to a written rental agreement for the sole use of and maintenance by a  
33 tenant of a manufactured dwelling or floating home.

34 (2) "Action" includes recoupment, counterclaim, setoff, suit in equity and any other proceeding  
35 in which rights are determined, including an action for possession.

36 (3) "Applicant screening charge" means any payment of money required by a landlord of an  
37 applicant prior to entering into a rental agreement with that applicant for a residential dwelling  
38 unit, the purpose of which is to pay the cost of processing an application for a rental agreement for  
39 a residential dwelling unit.

40 (4) "Building and housing codes" includes any law, ordinance or governmental regulation con-  
41 cerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or ap-  
42 pearance of any premises or dwelling unit.

43 (5) "Conduct" means the commission of an act or the failure to act.

44 (6) "Dealer" means any person in the business of selling, leasing or distributing new or used  
45 manufactured dwellings or floating homes to persons who purchase or lease a manufactured dwelling



1 or floating home for use as a residence.

2 (7) “Domestic violence” means[:]

3 [(a)] abuse between family or household members, as those terms are defined in ORS 107.705.[:  
4 or]

5 [(b) Abuse, as defined in ORS 107.705, between partners in a dating relationship.]

6 (8) “Drug and alcohol free housing” means a dwelling unit described in ORS 90.243.

7 (9) “Dwelling unit” means a structure or the part of a structure that is used as a home, resi-  
8 dence or sleeping place by one person who maintains a household or by two or more persons who  
9 maintain a common household. “Dwelling unit” regarding a person who rents a space for a manu-  
10 factured dwelling or recreational vehicle or regarding a person who rents moorage space for a  
11 floating home as defined in ORS 830.700, but does not rent the home, means the space rented and  
12 not the manufactured dwelling, recreational vehicle or floating home itself.

13 (10) “Essential service” means:

14 (a) For a tenancy not consisting of rental space for a manufactured dwelling, floating home or  
15 recreational vehicle owned by the tenant and not otherwise subject to ORS 90.505 to 90.840:

16 (A) Heat, plumbing, hot and cold running water, gas, electricity, light fixtures, locks for exterior  
17 doors, latches for windows and any cooking appliance or refrigerator supplied or required to be  
18 supplied by the landlord; and

19 (B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.320,  
20 the lack or violation of which creates a serious threat to the tenant’s health, safety or property or  
21 makes the dwelling unit unfit for occupancy.

22 (b) For a tenancy consisting of rental space for a manufactured dwelling, floating home or rec-  
23 reational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 to 90.840:

24 (A) Sewage disposal, water supply, electrical supply and, if required by applicable law, any  
25 drainage system; and

26 (B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.730,  
27 the lack or violation of which creates a serious threat to the tenant’s health, safety or property or  
28 makes the rented space unfit for occupancy.

29 (11) “Facility” means a manufactured dwelling park or a marina.

30 (12) “Facility purchase association” means a group of three or more tenants who reside in a  
31 facility and have organized for the purpose of eventual purchase of the facility.

32 (13) “Fee” means a nonrefundable payment of money.

33 (14) “First class mail” does not include certified or registered mail, or any other form of mail  
34 that may delay or hinder actual delivery of mail to the recipient.

35 (15) “Fixed term tenancy” means a tenancy that has a fixed term of existence, continuing to a  
36 specific ending date and terminating on that date without requiring further notice to effect the ter-  
37 mination.

38 (16) “Floating home” has the meaning given that term in ORS 830.700. “Floating home” includes  
39 an accessory building or structure.

40 (17) “Good faith” means honesty in fact in the conduct of the transaction concerned.

41 (18) “Hotel or motel” means “hotel” as that term is defined in ORS 699.005.

42 (19) “Informal dispute resolution” means, but is not limited to, consultation between the landlord  
43 or landlord’s agent and one or more tenants, or mediation utilizing the services of a third party.

44 (20) “Landlord” means the owner, lessor or sublessor of the dwelling unit or the building or  
45 premises of which it is a part. “Landlord” includes a person who is authorized by the owner, lessor

1 or sublessor to manage the premises or to enter into a rental agreement.

2 (21) "Landlord's agent" means a person who has oral or written authority, either express or  
3 implied, to act for or on behalf of a landlord.

4 (22) "Last month's rent deposit" means a type of security deposit, however designated, the pri-  
5 mary function of which is to secure the payment of rent for the last month of the tenancy.

6 (23) "Manufactured dwelling" means a residential trailer, a mobile home or a manufactured  
7 home as those terms are defined in ORS 446.003. "Manufactured dwelling" includes an accessory  
8 building or structure. "Manufactured dwelling" does not include a recreational vehicle.

9 (24) "Manufactured dwelling park" means a place where four or more manufactured dwellings  
10 are located, the primary purpose of which is to rent space or keep space for rent to any person for  
11 a charge or fee.

12 (25) "Marina" means a moorage of contiguous dwelling units that may be legally transferred as  
13 a single unit and are owned by one person where four or more floating homes are secured, the pri-  
14 mary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

15 (26) "Month-to-month tenancy" means a tenancy that automatically renews and continues for  
16 successive monthly periods on the same terms and conditions originally agreed to, or as revised by  
17 the parties, until terminated by one or both of the parties.

18 (27) "Organization" includes a corporation, government, governmental subdivision or agency,  
19 business trust, estate, trust, partnership or association, two or more persons having a joint or com-  
20 mon interest, and any other legal or commercial entity.

21 (28) "Owner" includes a mortgagee in possession and means one or more persons, jointly or se-  
22 verally, in whom is vested:

23 (a) All or part of the legal title to property; or

24 (b) All or part of the beneficial ownership and a right to present use and enjoyment of the  
25 premises.

26 (29) "Person" includes an individual or organization.

27 (30) "Premises" means:

28 (a) A dwelling unit and the structure of which it is a part and facilities and appurtenances  
29 therein;

30 (b) Grounds, areas and facilities held out for the use of tenants generally or the use of which  
31 is promised to the tenant; and

32 (c) A facility for manufactured dwellings or floating homes.

33 (31) "Prepaid rent" means any payment of money to the landlord for a rent obligation not yet  
34 due. In addition, "prepaid rent" means rent paid for a period extending beyond a termination date.

35 (32) "Recreational vehicle" has the meaning given that term in ORS 446.003.

36 (33) "Rent" means any payment to be made to the landlord under the rental agreement, periodic  
37 or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a dwelling unit  
38 to the exclusion of others. "Rent" does not include security deposits, fees or utility or service  
39 charges as described in ORS 90.315 (4) and 90.532.

40 (34) "Rental agreement" means all agreements, written or oral, and valid rules and regulations  
41 adopted under ORS 90.262 or 90.510 (6) embodying the terms and conditions concerning the use and  
42 occupancy of a dwelling unit and premises. "Rental agreement" includes a lease. A rental agreement  
43 shall be either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.

44 (35) "Roomer" means a person occupying a dwelling unit that does not include a toilet and ei-  
45 ther a bathtub or a shower and a refrigerator, stove and kitchen, all provided by the landlord, and

1 where one or more of these facilities are used in common by occupants in the structure.

2 (36) "Screening or admission criteria" means a written statement of any factors a landlord  
3 considers in deciding whether to accept or reject an applicant and any qualifications required for  
4 acceptance. "Screening or admission criteria" includes, but is not limited to, the rental history,  
5 character references, public records, criminal records, credit reports, credit references and incomes  
6 or resources of the applicant.

7 (37) "Security deposit" means a refundable payment or deposit of money, however designated,  
8 the primary function of which is to secure the performance of a rental agreement or any part of a  
9 rental agreement. "Security deposit" does not include a fee.

10 (38) "Sexual assault" has the meaning given that term in ORS 147.450.

11 (39) "Squatter" means a person occupying a dwelling unit who is not so entitled under a rental  
12 agreement or who is not authorized by the tenant to occupy that dwelling unit. "Squatter" does  
13 not include a tenant who holds over as described in ORS 90.427 (7).

14 (40) "Stalking" means the behavior described in ORS 163.732.

15 (41) "Statement of policy" means the summary explanation of information and facility policies  
16 to be provided to prospective and existing tenants under ORS 90.510.

17 (42) "Surrender" means an agreement, express or implied, as described in ORS 90.148 between  
18 a landlord and tenant to terminate a rental agreement that gave the tenant the right to occupy a  
19 dwelling unit.

20 (43) "Tenant":

21 (a) Except as provided in paragraph (b) of this subsection:

22 (A) Means a person, including a roomer, entitled under a rental agreement to occupy a dwelling  
23 unit to the exclusion of others, including a dwelling unit owned, operated or controlled by a public  
24 housing authority.

25 (B) Means a minor, as defined and provided for in ORS 109.697.

26 (b) For purposes of ORS 90.505 to 90.840, means only a person who owns and occupies as a  
27 residence a manufactured dwelling or a floating home in a facility and persons residing with that  
28 tenant under the terms of the rental agreement.

29 (c) Does not mean a guest or temporary occupant.

30 (44) "Transient lodging" means a room or a suite of rooms.

31 (45) "Transient occupancy" means occupancy in transient lodging that has all of the following  
32 characteristics:

33 (a) Occupancy is charged on a daily basis and is not collected more than six days in advance;

34 (b) The lodging operator provides maid and linen service daily or every two days as part of the  
35 regularly charged cost of occupancy; and

36 (c) The period of occupancy does not exceed 30 days.

37 (46) "Vacation occupancy" means occupancy in a dwelling unit, not including transient occu-  
38 pancy in a hotel or motel, that has all of the following characteristics:

39 (a) The occupant rents the unit for vacation purposes only, not as a principal residence;

40 (b) The occupant has a principal residence other than at the unit; and

41 (c) The period of authorized occupancy does not exceed 45 days.

42 (47) "Victim" means:

43 (a) The person against whom an incident related to domestic violence, sexual assault or stalking  
44 is perpetrated; or

45 (b) The parent or guardian of a minor household member against whom an incident related to

1 domestic violence, sexual assault or stalking is perpetrated, unless the parent or guardian is the  
2 perpetrator.

3 (48) "Week-to-week tenancy" means a tenancy that has all of the following characteristics:

4 (a) Occupancy is charged on a weekly basis and is payable no less frequently than every seven  
5 days;

6 (b) There is a written rental agreement that defines the landlord's and the tenant's rights and  
7 responsibilities under this chapter; and

8 (c) There are no fees or security deposits, although the landlord may require the payment of an  
9 applicant screening charge, as provided in ORS 90.295.

10 **SECTION 12. The amendments to ORS 33.055, 33.065, 90.100, 107.705, 107.720, 107.726,**  
11 **107.728, 133.055, 133.310, 419A.180 and 419C.005 by sections 1 to 11 of this 2011 Act apply to**  
12 **Family Abuse Prevention Act proceedings commenced on or after the effective date of this**  
13 **2011 Act.**

14 **SECTION 13. This 2011 Act being necessary for the immediate preservation of the public**  
15 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
16 **on its passage.**

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