

House Bill 4156

Sponsored by Representatives GELSER, BARKER, BREWER; Representatives BERGER, KOMP, SCHAUFLEER, TOMEI, Senators BURDICK, MONNES ANDERSON, MORSE, ROSENBAUM, TELFER (Presession filed.)

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**.

Authorizes issuance of restraining order for certain persons who are subjected to nonconsensual sexual contact.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to protective orders for victims of sexual assault; creating new provisions; amending ORS
3 21.245, 36.185, 40.210, 107.835, 133.310 and 133.381; and declaring an emergency.

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

SECTION 1. As used in sections 1 to 8 of this 2012 Act:

5
6 (1) **"Family or household members," "interfere," "intimidate," "menace" and "molest"**
7 **have the meanings given those terms in ORS 107.705.**

8 (2) **"Nonconsensual sexual contact" includes sexual contact with a person who is consid-**
9 **ered incapable of consenting to a sexual act under ORS 163.315.**

10 (3) **"Sexual contact" has the meaning given that term in ORS 163.305.**

11 **SECTION 2. (1) A person who has been subjected to nonconsensual sexual contact within**
12 **the preceding 180 days may petition the circuit court for a restraining order if:**

13 (a) **The person and the respondent are not family or household members;**

14 (b) **The respondent is at least 18 years of age; and**

15 (c) **The respondent is not prohibited from contacting the person pursuant to a foreign**
16 **restraining order as defined in ORS 24.190, an order issued pursuant to ORS 30.866, 124.015,**
17 **124.020, 163.738 or 419B.845 or an order entered in a criminal action.**

18 (2)(a) **A petition seeking relief under sections 1 to 8 of this 2012 Act must be filed in the**
19 **circuit court in a county in which the petitioner or the respondent resides.**

20 (b) **The petition must allege that the respondent subjected the petitioner to**
21 **nonconsensual sexual contact within the 180 days preceding the filing of the petition.**

22 (c) **Statements in the petition must be made under oath or affirmation.**

23 (d) **The petitioner has the burden of proving a claim under sections 1 to 8 of this 2012**
24 **Act by a preponderance of the evidence.**

25 (3) **The following periods of time may not be counted for the purpose of computing the**
26 **180-day period described in this section and section 3 of this 2012 Act:**

27 (a) **Any time during which the respondent is incarcerated.**

28 (b) **Any time during which the respondent has a principal residence more than 100 miles**
29 **from the principal residence of the petitioner.**

30 (c) **Any time during which the respondent is subject to an order described in subsection**

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 (1)(c) of this section.

2 **SECTION 3.** (1) When a petition is filed in accordance with section 2 of this 2012 Act, the
 3 circuit court shall hold an ex parte hearing in person or by telephone on the day the petition
 4 is filed or on the following judicial day. Upon a showing that the respondent has subjected
 5 the petitioner to nonconsensual sexual contact within the 180 days preceding the filing of the
 6 petition, the court shall, if requested by the petitioner, order:

7 (a) That the respondent be restrained from entering, or attempting to enter, a reasonable
 8 area surrounding the petitioner’s residence;

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

12 (c) That the respondent be restrained from intimidating, molesting, interfering with or
 13 menacing any children or family or household members of the petitioner, or attempting to
 14 intimidate, molest, interfere with or menace any children or family or household members
 15 of the petitioner;

16 (d) That the respondent be restrained from entering, or attempting to enter, any prem-
 17 ises and a reasonable area surrounding the premises when it appears to the court that the
 18 restraint is necessary to prevent the respondent from intimidating, molesting, interfering
 19 with or menacing the petitioner or the petitioner’s children or family or household members;

20 (e) That the respondent have no contact with the petitioner or the petitioner’s children
 21 or family or household members; and

22 (f) Other relief that the court considers necessary to provide for the safety and welfare
 23 of the petitioner or the petitioner’s children or family or household members.

24 (2) If the respondent is restrained from entering or attempting to enter an area sur-
 25 rounding the petitioner’s residence or any other premises, the order must specifically de-
 26 scribe the area.

27 (3) When the court enters an order under sections 1 to 8 of this 2012 Act, the court shall
 28 set a security amount for the violation of the order.

29 (4) If the court enters an order under subsection (1) of this section:

30 (a) The clerk of the court shall provide, without charge, the number of certified true
 31 copies of the petition and order necessary to provide the petitioner with one copy and to ef-
 32 fect service and shall have a true copy of the petition and order delivered to the county
 33 sheriff for service upon the respondent, unless the court finds that further service is un-
 34 necessary because the respondent appeared in person before the court. In addition and upon
 35 request by the petitioner, the clerk of the court shall provide the petitioner, without charge,
 36 two exemplified copies of the petition and order.

37 (b) The county sheriff shall serve the respondent personally unless the petitioner elects
 38 to have the respondent served personally by another party. Proof of service shall be made
 39 in accordance with section 6 of this 2012 Act. When the order does not contain the
 40 respondent’s date of birth and service is effected by the sheriff, the sheriff shall verify the
 41 respondent’s date of birth with the respondent and shall record that date on the order or
 42 proof of service entered into the Law Enforcement Data System under section 6 of this 2012
 43 Act.

44 (5) If the county sheriff:

45 (a) Determines that the order and petition are incomplete, the sheriff shall return the

1 order and petition to the clerk of the court. The clerk of the court shall notify the petitioner,
2 at the address provided by the petitioner, of the error or omission.

3 (b) Cannot complete service within 10 days after accepting the order and petition, the
4 sheriff shall notify the petitioner, at the address provided by the petitioner, that the docu-
5 ments have not been served. If the petitioner does not respond within 10 days, the sheriff
6 shall hold the order and petition for future service and file a return to the clerk of the court
7 showing that service was not completed.

8 (6)(a) Within 30 days after a restraining order is served under this section, the respond-
9 ent may request a court hearing upon any relief granted.

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

14 (7) If the respondent fails to request a hearing within 30 days after a restraining order
15 is served, the restraining order is confirmed by operation of law.

16 (8) An order entered under subsection (1) of this section is effective for a period of one
17 year, unless renewed, modified or terminated in accordance with sections 1 to 8 of this 2012
18 Act.

19 **SECTION 4.** (1) If the respondent requests a hearing under section 3 (6) of this 2012 Act,
20 the court shall hold the hearing within 21 days after the request. At the hearing, the court
21 may cancel or change the order issued under section 3 of this 2012 Act.

22 (2)(a) If service of a notice of hearing is inadequate to provide a party with sufficient
23 notice of the hearing, the court may extend the date of the hearing for up to five days so
24 that the party may seek representation.

25 (b) If one party is represented by an attorney at the hearing, the court may extend the
26 date of the hearing for up to five days at the other party’s request so that the other party
27 may seek representation.

28 (3) If the court continues the order issued under section 3 of this 2012 Act, with or
29 without changes, at a hearing about which the respondent received actual notice and the
30 opportunity to be heard, the court shall include in the order a certificate in substantially the
31 following form in a separate section immediately above the signature of the judge:
32

33 **CERTIFICATE OF COMPLIANCE**
34 **WITH THE**
35 **VIOLENCE AGAINST WOMEN ACT**
36

37
38 **This protective order meets all full faith and credit requirements of the Violence Against**
39 **Women Act, 18 U.S.C. 2265 (1994). This court has jurisdiction over the parties and the subject**
40 **matter. The respondent was afforded notice and timely opportunity to be heard as provided**
41 **by the law of this jurisdiction. This order is valid and entitled to enforcement in this and all**
42 **other jurisdictions.**
43

44
45 (4) The court may approve a consent agreement if the court determines that the agree-

1 ment provides sufficient protections to the petitioner. The court may not approve a term in
2 a consent agreement that provides for restraint of a party to the agreement unless the other
3 party petitioned for and was granted an order issued under sections 1 to 8 of this 2012 Act.

4 (5) An order entered under this section, or a consent agreement entered into under this
5 section, shall continue for a period of one year from the date of the order issued under sec-
6 tion 3 of this 2012 Act, unless the order is renewed, modified or terminated in accordance
7 with sections 1 to 8 of this 2012 Act.

8 **SECTION 5.** (1) A party may file a motion under ORS 45.400 requesting that the court
9 allow the appearance of the party or a witness by telephone or by other two-way electronic
10 communication device in a proceeding under sections 1 to 8 of this 2012 Act.

11 (2) In determining whether to allow written notice less than 30 days before the proceed-
12 ing under ORS 45.400 (2), the court shall consider the expedited nature of a proceeding under
13 sections 1 to 8 of this 2012 Act.

14 (3) In addition to the factors listed in ORS 45.400 (7) that would support a finding of good
15 cause, the court shall consider whether the safety or welfare of the party or witness would
16 be threatened if testimony were required to be provided in person at a proceeding under
17 sections 1 to 8 of this 2012 Act.

18 (4) A motion or good cause determination is not required for ex parte hearings held by
19 telephone under section 3 of this 2012 Act.

20 **SECTION 6.** (1)(a) When a restraining order is issued in accordance with sections 1 to 8
21 of this 2012 Act and the person to be restrained has actual notice of the order, the clerk of
22 the court or any other person serving the petition and order shall immediately deliver to a
23 county sheriff copies of the petition and order and a true copy of the affidavit of proof of
24 service on which it is stated that personal service of the petition and order was served on
25 the respondent. If an order entered by the court recites that the respondent appeared in
26 person before the court, the necessity for service of the order and an affidavit of proof of
27 service is waived.

28 (b) Upon receipt of a copy of the order and notice of completion of any required service
29 by a member of a law enforcement agency, the county sheriff shall immediately enter the
30 order into the Law Enforcement Data System maintained by the Department of State Police
31 and the databases of the National Crime Information Center of the United States Depart-
32 ment of Justice. If the petition and order were served on the respondent by a person other
33 than a member of a law enforcement agency, the county sheriff shall enter the order into
34 the Law Enforcement Data System and the databases of the National Crime Information
35 Center upon receipt of a true copy of the affidavit of proof of service. The sheriff shall
36 provide the petitioner with a true copy of any required proof of service.

37 (c) Entry into the Law Enforcement Data System constitutes notice to all law enforce-
38 ment agencies of the existence of the order. Law enforcement agencies shall establish pro-
39 cedures adequate to ensure that an officer at the scene of an alleged violation of the order
40 may be informed of the existence and terms of the order. The order is fully enforceable in
41 any county or tribal land in this state.

42 (d) When a restraining order has been entered into the Law Enforcement Data System
43 and the databases of the National Crime Information Center of the United States Depart-
44 ment of Justice under this subsection, a county sheriff shall cooperate with a request from
45 a law enforcement agency from any other jurisdiction to verify the existence of the re-

1 **straining order or to transmit a copy of the order to the requesting jurisdiction.**

2 **(2) A sheriff may serve a restraining order issued under sections 1 to 8 of this 2012 Act**
 3 **in the county in which the sheriff was elected and in any county that is adjacent to the**
 4 **county in which the sheriff was elected.**

5 **(3) A sheriff may serve and enter into the Law Enforcement Data System a copy of a**
 6 **restraining order issued under sections 1 to 8 of this 2012 Act that was transmitted to the**
 7 **sheriff by a court or law enforcement agency using an electronic communication device.**
 8 **Before transmitting a copy of a restraining order to a sheriff under this subsection by tele-**
 9 **phonic facsimile or electronic mail, the person sending the copy must receive confirmation**
 10 **from the sheriff's office that an electronic communication device is available and operating.**
 11 **For purposes of this subsection, "electronic communication device" means a device by which**
 12 **any kind of electronic communication can be made, including but not limited to communi-**
 13 **cation by telephonic facsimile and electronic mail.**

14 **(4) When a court enters an order terminating a restraining order issued under sections**
 15 **1 to 8 of this 2012 Act before the expiration date, the clerk of the court shall immediately**
 16 **deliver a copy of the termination order to the county sheriff with whom the original order**
 17 **was filed. Upon receipt of the termination order, the county sheriff shall promptly remove**
 18 **the original order from the Law Enforcement Data System and the databases of the National**
 19 **Crime Information Center of the United States Department of Justice.**

20 **(5)(a) A contempt proceeding for an alleged violation of an order issued under sections 1**
 21 **to 8 of this 2012 Act must be conducted by the court that issued the order or by the circuit**
 22 **court for a county in which a violation of the restraining order occurs. If contempt pro-**
 23 **ceedings are initiated in the circuit court for a county in which a violation of the restraining**
 24 **order occurs, the person initiating the contempt proceedings shall file with the court a copy**
 25 **of the restraining order, certified by the clerk of the court that issued the order. Upon filing**
 26 **of the certified copy of the restraining order, the court shall enforce the order as though the**
 27 **court had issued the order.**

28 **(b) Pending a contempt hearing for an alleged violation of a restraining order issued un-**
 29 **der sections 1 to 8 of this 2012 Act, a person arrested and taken into custody pursuant to**
 30 **ORS 133.310 may be released as provided in ORS 135.230 to 135.290.**

31 **(c) Service of process or other legal documents upon the petitioner is not a violation of**
 32 **an order entered under sections 1 to 8 of this 2012 Act if the petitioner is served as provided**
 33 **in ORCP 7 or 9.**

34 **SECTION 7. (1)(a) The court may renew an order entered under sections 1 to 8 of this**
 35 **2012 Act upon a finding that a person in the petitioner's situation would reasonably fear for**
 36 **the person's physical safety if the order is not renewed. A finding that the respondent has**
 37 **subjected the petitioner to additional nonconsensual sexual contact is not required.**

38 **(b) A court may renew an order on the basis of a sworn, ex parte petition alleging facts**
 39 **supporting the required finding. If the renewal order is granted, the provisions of sections 3**
 40 **(4) to (8) and 4 (3) of this 2012 Act apply, except that the court may hear no issue other than**
 41 **the basis for renewal, unless requested in the hearing request form and thereafter agreed**
 42 **to by the petitioner. The court shall hold a hearing required under this paragraph within 21**
 43 **days after the respondent's request.**

44 **(2) At any time after the time period set forth in section 3 (6) of this 2012 Act:**

45 **(a) A party may request that the court modify terms in the order for good cause shown.**

1 (b) A petitioner may request that the court remove terms in the order or make terms
 2 in the order less restrictive. Application to the court under this paragraph may be by ex
 3 parte motion.

4 (3) The clerk of the court shall provide without charge the number of certified true
 5 copies of the request for modification of the order and notice of hearing necessary to effect
 6 service and, at the election of the party requesting the modification, shall have a true copy
 7 of the request and notice delivered to the county sheriff for service upon the other party.

8 (4) The county sheriff shall serve the other party with a request under subsection (2)(a)
 9 of this section by personal service, unless the party requesting the modification elects to
 10 have the other party personally served by a private party or unless otherwise ordered by the
 11 court.

12 (5) The provisions of section 4 (3) of this 2012 Act apply to a modification of an order
 13 under this section.

14 (6) The clerk of the court shall deliver a copy of an order of modification entered under
 15 this section to the county sheriff for service and entry into the Law Enforcement Data
 16 System as provided in section 6 of this 2012 Act.

17 (7)(a) The county sheriff shall serve a copy of an order of modification:

18 (A) Entered under subsection (2)(a) of this section by personal service on the
 19 nonrequesting party.

20 (B) Entered under subsection (2)(b) of this section by mailing a copy of the order to the
 21 respondent by first class mail.

22 (b) If the order of modification recites that the respondent appeared in person before the
 23 court, the necessity for service of the order and an affidavit of proof of service is waived.

24 (8) A restraining order entered under sections 1 to 8 of this 2012 Act may not be termi-
 25 nated on motion of the petitioner, unless the motion is notarized.

26 **SECTION 8.** (1)(a) A filing fee, service fee or hearing fee may not be charged for pro-
 27 ceedings seeking only the relief provided under sections 1 to 8 of this 2012 Act.

28 (b) An undertaking may not be required in any proceeding under sections 1 to 8 of this
 29 2012 Act.

30 (2) A proceeding under sections 1 to 8 of this 2012 Act is in addition to any other available
 31 civil or criminal remedies.

32 (3)(a) After obtaining the approval of the Chief Justice of the Supreme Court, the At-
 33 torney General's Sexual Assault Task Force shall produce:

34 (A) A form petition and order, a hearing request form and any related forms for use
 35 under sections 1 to 8 of this 2012 Act; and

36 (B) An instructional brochure explaining the rights set forth in sections 1 to 8 of this
 37 2012 Act.

38 (b) The Attorney General's Sexual Assault Task Force shall provide the forms and the
 39 instructional brochure to the clerks of the circuit court who shall make the forms and bro-
 40 chure available to the public.

41 **SECTION 9.** The amendments to section 8 of this 2012 Act by section 10 of this 2012 Act
 42 become operative on July 1, 2019.

43 **SECTION 10.** Section 8 of this 2012 Act is amended to read:

44 **Sec. 8.** (1)(a) A filing fee, service fee or hearing fee may not be charged for proceedings seeking
 45 only the relief provided under sections 1 to 8 of this 2012 Act.

1 (b) An undertaking may not be required in any proceeding under sections 1 to 8 of this 2012
2 Act.

3 (2) A proceeding under sections 1 to 8 of this 2012 Act is in addition to any other available civil
4 or criminal remedies.

5 [(3)(a) After obtaining the approval of the Chief Justice of the Supreme Court, the Attorney
6 General's Sexual Assault Task Force shall produce:]

7 [(A) A form petition and order, a hearing request form and any related forms for use under
8 sections 1 to 8 of this 2012 Act; and]

9 [(B) An instructional brochure explaining the rights set forth in sections 1 to 8 of this 2012 Act.]

10 [(b) The Attorney General's Sexual Assault Task Force shall provide the forms and the instruc-
11 tional brochure to the clerks of the circuit court who shall make the forms and brochure available to
12 the public.]

13 **(3) The State Court Administrator shall prescribe the content and form of the petition,
14 order, hearing request form and related forms for use under sections 1 to 8 of this 2012 Act.
15 The clerk of the court shall make available the forms and an instructional brochure ex-
16 plaining the rights set forth under sections 1 to 8 of this 2012 Act.**

17 **SECTION 11.** ORS 21.245 is amended to read:

18 21.245. (1) The State Court Administrator may prescribe and charge a reasonable price, covering
19 the costs of labor and material, for any forms provided by the courts of this state. The sums so
20 collected shall be paid over to the State Treasurer and credited to the Court Forms Revolving Fund.

21 (2) Notwithstanding subsection (1) of this section, no charge shall be made for forms made
22 available under the provisions of ORS 107.700 to 107.735 or 124.005 to 124.040 **or sections 1 to 8
23 of this 2012 Act.**

24 **SECTION 12.** ORS 36.185 is amended to read:

25 36.185. After the appearance by all parties in any civil action, except proceedings under ORS
26 107.700 to 107.735 or 124.005 to 124.040 **or sections 1 to 8 of this 2012 Act**, a judge of any circuit
27 court may refer a civil dispute to mediation under the terms and conditions set forth in ORS 36.185
28 to 36.210. When a party to a case files a written objection to mediation with the court, the action
29 shall be removed from mediation and proceed in a normal fashion. All civil disputants shall be pro-
30 vided with written information describing the mediation process, as provided or approved by the
31 State Court Administrator, along with information on established court mediation opportunities.
32 Filing parties shall be provided with this information at the time of filing a civil action. Responding
33 parties shall be provided with this information by the filing party along with the initial service of
34 filing documents upon the responding party.

35 **SECTION 13.** ORS 40.210 is amended to read:

36 40.210. (1) Notwithstanding any other provision of law, in a prosecution for a crime described
37 in ORS 163.355 to 163.427, [or] in a prosecution for an attempt to commit one of these crimes **or in
38 a proceeding conducted under sections 1 to 8 of this 2012 Act**, the following evidence is not
39 admissible:

40 (a) Reputation or opinion evidence of the past sexual behavior of an alleged victim [*of the
41 crime*] or a corroborating witness; or

42 (b) Reputation or opinion evidence presented for the purpose of showing that the manner of
43 dress of an alleged victim [*of the crime*] incited the crime **or the nonconsensual sexual contact**
44 or indicated consent to the sexual acts alleged [*in the charge*].

45 (2) Notwithstanding any other provision of law, in a prosecution for a crime described in ORS

1 163.355 to 163.427, [or] in a prosecution for an attempt to commit one of these crimes **or in a pro-**
 2 **ceeding conducted under sections 1 to 8 of this 2012 Act**, evidence of [a] **alleged** victim's past
 3 sexual behavior other than reputation or opinion evidence is also not admissible, unless the evidence
 4 other than reputation or opinion evidence:

5 (a) Is admitted in accordance with subsection (4) of this section; and

6 (b) Is evidence that:

7 (A) Relates to the motive or bias of the alleged victim;

8 (B) Is necessary to rebut or explain scientific or medical evidence offered by the state; or

9 (C) Is otherwise constitutionally required to be admitted.

10 (3) Notwithstanding any other provision of law, in a prosecution for a crime described in ORS
 11 163.355 to 163.427, [or] in a prosecution for an attempt to commit one of these crimes **or in a pro-**
 12 **ceeding conducted under sections 1 to 8 of this 2012 Act**, evidence, other than reputation or
 13 opinion evidence, of the manner of dress of the alleged victim or a corroborating witness, presented
 14 by a person accused of committing the crime, **or the respondent in a proceeding conducted under**
 15 **sections 1 to 8 of this 2012 Act**, is also not admissible, unless the evidence is:

16 (a) Admitted in accordance with subsection (4) of this section; and

17 (b) Is evidence that:

18 (A) Relates to the motive or bias of the alleged victim;

19 (B) Is necessary to rebut or explain scientific, medical or testimonial evidence offered by the
 20 state;

21 (C) Is necessary to establish the identity of the **alleged** victim; or

22 (D) Is otherwise constitutionally required to be admitted.

23 (4)(a) If the person accused of committing rape, sodomy or sexual abuse or attempted rape,
 24 sodomy or sexual abuse, **or the respondent in a proceeding conducted under sections 1 to 8 of**
 25 **this 2012 Act**, intends to offer evidence under subsection (2) or (3) of this section, the accused **or**
 26 **respondent** shall make a written motion to offer the evidence not later than 15 days before the date
 27 on which the trial in which the evidence is to be offered is scheduled to begin, except that the court
 28 may allow the motion to be made at a later date, including during trial, if the court determines ei-
 29 ther that the evidence is newly discovered and could not have been obtained earlier through the
 30 exercise of due diligence or that the issue to which the evidence relates has newly arisen in the
 31 case. Any motion made under this paragraph shall be served on all other parties[,] and, **in a crim-**
 32 **inal prosecution**, on the alleged victim through the office of the prosecutor.

33 (b) The motion described in paragraph (a) of this subsection shall be accompanied by a written
 34 offer of proof. If the court determines that the offer of proof contains evidence described in sub-
 35 section (2) or (3) of this section, the court shall order a hearing in camera to determine if the evi-
 36 dence is admissible. At the hearing the parties may call witnesses, including the alleged victim, and
 37 offer relevant evidence. Notwithstanding ORS 40.030 (2), if the relevancy of the evidence that the
 38 accused **or respondent** seeks to offer in the trial depends upon the fulfillment of a condition of fact,
 39 the court, at the hearing in camera or at a subsequent hearing in camera scheduled for the same
 40 purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall
 41 determine the issue.

42 (c) If the court determines on the basis of the hearing described in paragraph (b) of this sub-
 43 section that the evidence the accused **or respondent** seeks to offer is relevant and that the
 44 probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be ad-
 45 missible in the trial to the extent an order made by the court specifies evidence that may be offered

1 and areas with respect to which a witness may be examined or cross-examined.

2 (d) An order admitting evidence under this subsection **in a criminal prosecution** may be ap-
 3 pealed by the government before trial.

4 (5) For purposes of this section:

5 (a) **“Alleged victim” includes the petitioner in a proceeding conducted under sections 1**
 6 **to 8 of this 2012 Act;**

7 [(a)] (b) “In camera” means out of the presence of the public and the jury; [and]

8 [(b)] (c) “Past sexual behavior” means sexual behavior other than:

9 (A) The sexual behavior with respect to which rape, sodomy or sexual abuse or attempted rape,
 10 sodomy or sexual abuse is alleged[.]; **or**

11 (B) **In a proceeding conducted under sections 1 to 8 of this 2012 Act, the alleged**
 12 **nonconsensual sexual contact; and**

13 (d) **“Trial” includes a hearing conducted under sections 1 to 8 of this 2012 Act.**

14 **SECTION 14.** ORS 107.835 is amended to read:

15 107.835. (1) When a court enters a judgment, order or modification of a judgment or order under
 16 ORS chapter 25, 107, 108, 109, 110 or 416 **or sections 1 to 8 of this 2012 Act**, the court shall allow
 17 any party to the judgment or order to include in the judgment or order a waiver of personal service
 18 in a subsequent contempt proceeding in order to maintain the confidentiality of the party’s resi-
 19 dential address. In the waiver, the party shall give a contact address for service of process and se-
 20 lect one of the following methods of substituted service:

21 (a) Mailing address;

22 (b) Business address; or

23 (c) Specified agent.

24 (2) Any time after a party has waived personal service under subsection (1) of this section, the
 25 party may file an amended waiver designating a different method of substituted service or a different
 26 address for substituted service. The party shall give notice of the amendment to all other parties.

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

29 **SECTION 15.** ORS 133.310 is amended to read:

30 133.310. (1) A peace officer may arrest a person without a warrant if the officer has probable
 31 cause to believe that the person has committed any of the following:

32 (a) A felony.

33 (b) A misdemeanor.

34 (c) An unclassified offense for which the maximum penalty allowed by law is equal to or greater
 35 than the maximum penalty allowed for a Class C misdemeanor.

36 (d) Any other crime committed in the officer’s presence.

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

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

43 (a) There exists an order issued pursuant to ORS 30.866, 107.095 (1)(c) or (d), 107.716, 107.718,
 44 124.015, 124.020, 163.738 or 419B.845 **or section 3 or 4 of this 2012 Act** restraining the person;

45 (b) A true copy of the order and proof of service on the person has been filed as required in

1 ORS 107.720, 124.030, 163.741 or 419B.845 **or section 6 of this 2012 Act**; and

2 (c) The person to be arrested has violated the terms of that order.

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

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

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

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

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

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

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

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

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

22 **SECTION 16.** ORS 133.381 is amended to read:

23 133.381. (1) When a peace officer arrests a person pursuant to ORS 133.310 (3) or pursuant to
24 a warrant issued under ORS 33.075 by a court or judicial officer for the arrest of a person charged
25 with contempt for violating an order issued under ORS 107.095 (1)(c) or (d), 107.716, 107.718, 124.015
26 or 124.020 **or section 3 or 4 of this 2012 Act**, if the person is arrested in a county other than that
27 in which the warrant or order was originally issued, the peace officer shall take the person before
28 a magistrate as provided in ORS 133.450. If it becomes necessary to take the arrested person to the
29 county in which the warrant or order was originally issued, the costs of such transportation shall
30 be paid by that county.

31 (2) If a person arrested for the reasons described in subsection (1) of this section is subsequently
32 found subject to the imposition of sanctions for contempt, the court, in addition to any other sanc-
33 tion it may impose, may order the person to repay a county all costs of transportation incurred by
34 the county pursuant to subsection (1) of this section.

35 **SECTION 17.** (1) **Sections 1 to 8 of this 2012 Act and the amendments to ORS 21.245,**
36 **36.185, 40.210, 107.835, 133.310 and 133.381 by sections 11 to 16 of this 2012 Act become opera-**
37 **tive on July 1, 2012.**

38 (2) **The Attorney General's Sexual Assault Task Force and the Judicial Department may**
39 **take any action before the operative date specified in subsection (1) of this section that is**
40 **necessary to enable the task force or department to exercise, on or after the operative date**
41 **specified in subsection (1) of this section, all the duties, functions and powers conferred on**
42 **the task force or department by sections 1 to 8 of this 2012 Act and the amendments to ORS**
43 **21.245, 36.185, 40.210, 107.835, 133.310 and 133.381 by sections 11 to 16 of this 2012 Act.**

44 **SECTION 18.** **This 2012 Act being necessary for the immediate preservation of the public**
45 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**

1 **on its passage.**

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