

HOUSE AMENDMENTS TO HOUSE BILL 2776

By COMMITTEE ON JUDICIARY

April 27

1 On page 1 of the printed bill, delete lines 4 through 30.

2 On page 2, delete lines 1 through 42 and insert:

3 **“SECTION 1. (1) A peace officer may inform a person in danger of abuse of the officer’s**
4 **ability to apply for an ex parte emergency protective order and, with the person’s consent**
5 **or permission, may apply to a circuit court for the order when the peace officer has probable**
6 **cause to believe:**

7 **“(a)(A) The peace officer has responded to an incident of domestic disturbance and the**
8 **circumstances for mandatory arrest as described in ORS 133.055 (2)(a) exist; or**

9 **“(B) The person is in immediate danger of abuse by a family or household member; and**

10 **“(b) An emergency protective order is necessary to prevent the person from suffering the**
11 **occurrence or recurrence of abuse.**

12 **“(2)(a) An application for an emergency protective order described in subsection (1) of**
13 **this section shall consist of the proposed emergency protective order and the peace officer’s**
14 **declaration under penalty of perjury setting forth the facts and circumstances underlying**
15 **entry of the order.**

16 **“(b) The proposed emergency protective order and the declaration may be sent to the**
17 **court by electronic transmission that delivers a complete printable image of the order and**
18 **signed declaration.**

19 **“(3) Upon examination of the application, a circuit court may enter an emergency pro-**
20 **TECTIVE order if the court finds there is probable cause that:**

21 **“(a)(A) The peace officer has responded to an incident of domestic disturbance and the**
22 **circumstances for mandatory arrest as described in ORS 133.055 (2)(a) exist; or**

23 **“(B) A person is in immediate danger of abuse by a family or household member; and**

24 **“(b) An emergency protective order is necessary to prevent a person from suffering the**
25 **occurrence or recurrence of abuse.**

26 **“(4) An emergency protective order entered under subsection (3) of this section shall:**

27 **“(a) Restrain the respondent from contacting the person protected by the order and from**
28 **intimidating, molesting, interfering with or menacing the person, or attempting to intim-**
29 **idate, molest, interfere with or menace the protected person;**

30 **“(b) Include the findings of probable cause authorizing issuance of the order;**

31 **“(c) State the date that the order expires; and**

32 **“(d) State a security amount for a violation of the order.**

33 **“(5) If the circuit court enters an emergency protective order under subsection (3) of this**
34 **section:**

35 **“(a) The peace officer shall provide, without charge, a certified true copy of the emer-**

1 agency protective order to the protected person and shall ensure that certified true copies of
2 the order and the declaration are filed with the court.

3 “(b) A peace officer shall serve the respondent personally. Upon completion of service,
4 the peace officer shall prepare a declaration under penalty of perjury of proof of service
5 verifying that the emergency protective order was served personally on the respondent, file
6 a copy of the declaration with the court and enter the order into the Law Enforcement Data
7 System maintained by the Department of State Police.

8 “(c) If the peace officer cannot complete service within one day of the emergency pro-
9 tective order’s entry, the peace officer shall notify the court that the documents have not
10 been served.

11 “(6) Entry into the Law Enforcement Data System constitutes notice to all law enforce-
12 ment agencies of the existence of the emergency protective order. Law enforcement agencies
13 shall establish procedures adequate to ensure that an officer at the scene of an alleged vio-
14 lation of the emergency protective order may be informed of the existence and terms of the
15 order. The emergency protective order is fully enforceable in any county or tribal land in this
16 state.

17 “(7)(a) An emergency protective order expires seven calendar days from the date the
18 court signs the order.

19 “(b) An emergency protective order shall remain in effect until the order expires or is
20 terminated by court order. If the order is terminated by court order, the clerk of the court
21 shall immediately cause to be delivered a copy of the termination order to the peace officer
22 who originally applied for the order. Upon receipt of the termination order, the peace officer
23 shall promptly remove the emergency protective order from the Law Enforcement Data
24 System.

25 “(8)(a) A contempt proceeding for an alleged violation of an emergency protective order
26 must be conducted by the circuit court that issued the order or by the circuit court for the
27 county in which the alleged violation of the order occurs.

28 “(b) Pending a contempt hearing for an alleged violation of an emergency protective or-
29 der, a person arrested and taken into custody pursuant to ORS 133.310 may be released as
30 provided in ORS 135.230 to 135.290.

31 “(9) The presiding judge of the circuit court in each county shall designate at least one
32 judge to be reasonably available to enter, in person or by electronic transmission, ex parte
33 emergency protective orders at all times whether or not the court is in session.

34 “(10) A peace officer acting in good faith shall not be liable in any civil action for applying
35 to or not applying to a circuit court for an ex parte emergency protective order under this
36 section.

37 “(11) A filing fee, service fee or hearing fee may not be charged for proceedings for ex
38 parte emergency protective orders under this section.

39 “(12) The Department of State Police shall develop forms for emergency protective orders
40 and declarations and shall submit the forms for approval by the State Court Administrator,
41 the Oregon State Sheriffs’ Association and the Oregon Association Chiefs of Police. After
42 obtaining approval, the department shall ensure that the forms are appropriately distributed
43 and available for use.

44 “(13) As used in this section, ‘peace officer’ has the meaning given that term in ORS
45 161.015.”.

