

Senate Bill 375

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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**.

Allows declaration under penalty of perjury as alternative to affidavit in certain circumstances.
Becomes operative September 1, 2015.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to declarations under penalty of perjury; creating new provisions; amending ORS 46.425,
3 107.095, 107.097, 107.138, 107.139, 107.434, 107.437, 107.705, 107.710, 107.720, 107.725, 107.730,
4 107.840, 109.767, 124.005, 124.010, 124.020, 124.030, 153.080, 163.741, 163.760, 163.763, 163.773,
5 163.775 and 419B.367; and declaring an emergency.

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

7 **SECTION 1.** ORS 46.425 is amended to read:

8 46.425. (1) An action in the small claims department shall be commenced by the plaintiff's filing
9 with the clerk of the court a [*verified*] claim in the form prescribed by the court.

10 (2) The claim shall:

11 (a) Contain the name and address of the plaintiff and of the defendant, followed by a plain and
12 simple statement of the claim, including the amount and the date the claim allegedly accrued[. *The*
13 *claim shall include an affidavit signed by the plaintiff and stating*];

14 (b) **State** that the plaintiff made a [*bona fide*] **good faith** effort to collect the claim from the
15 defendant before filing the claim with the clerk; **and**

16 (c) **Include an affidavit attesting to the accuracy of the statements described in para-**
17 **graphs (a) and (b) of this subsection or a declaration under penalty of perjury in the form**
18 **required by ORCP 1 E.**

19 (3) Except in actions arising under ORS chapter 90, the plaintiff must include in a claim all
20 amounts claimed from the defendant arising out of a single transaction or occurrence. Any plaintiff
21 alleging damages on a transaction requiring installment payments need only claim the installment
22 payments due and owing as of the date of filing of the claim, and need not accelerate the remaining
23 payments. The plaintiff may include in a claim all amounts claimed from a defendant on more than
24 one transaction or occurrence if the total amount of the claim does not exceed \$10,000.

25 (4) Notwithstanding subsection (3) of this section, a plaintiff bringing an action on assigned
26 claims:

27 (a) Need bring an action only on those claims that have been assigned as of the date the action
28 is filed; and

29 (b) May bring separate actions for each person assigning claims to the plaintiff.

30 **SECTION 2.** ORS 153.080 is amended to read:

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.

1 153.080. (1) Notwithstanding any other provision of law, the court may admit as evidence in any
 2 trial in a violation proceeding the affidavit **or declaration** of a witness in lieu of taking the testi-
 3 mony of the witness orally and in court. The authority granted under this section is subject to all
 4 of the following:

5 [(1)] (a) Testimony may not be presented by affidavit **or declaration** under the provisions of this
 6 section unless the court has adopted rules [*authorizing the use of affidavits and*] providing proce-
 7 dures for the introduction and use of [*the*] testimony **by affidavit or declaration**.

8 [(2)] (b) The court shall allow testimony by affidavit **or declaration** under this section only upon
 9 receiving a signed statement from the defendant waiving the right to have the testimony presented
 10 orally in court.

11 [(3)] (c) Testimony by affidavit **or declaration** under this section is not subject to objection as
 12 hearsay.

13 [(4)] (d) A statement signed by the defendant under [*subsection (2) of this section*] **paragraph (b)**
 14 **of this subsection** does not constitute a waiver of trial unless the affidavit **or declaration** specif-
 15 ically so provides.

16 [(5)] (e) Nothing in this section requires that the defendant or any other witness waive the right
 17 to appear if other testimony is introduced by affidavit **or declaration** as provided in this section.

18 (2) **As used in this section, “declaration” means a declaration under penalty of perjury**
 19 **in the form required by ORCP 1 E.**

20 **SECTION 3.** ORS 107.095 is amended to read:

21 107.095. (1) After the commencement of a suit for marital annulment, dissolution or separation
 22 and until a general judgment therein, the court may provide as follows:

23 (a) That a party pay to the other party such amount of money as may be necessary to enable
 24 the other party to prosecute or defend the suit, including costs of expert witnesses, and also such
 25 amount of money to the other party as may be necessary to support and maintain the other party.

26 (b) For the care, custody, support and maintenance, by one party or jointly, of the minor chil-
 27 dren as described in ORS 107.105 (1)(a) and for the parenting time rights as described in ORS 107.105
 28 (1)(b) of the parent not having custody of such children.

29 (c) For the restraint of a party from molesting or interfering in any manner with the other party
 30 or the minor children.

31 (d) That if minor children reside in the family home and the court considers it necessary for
 32 their best interest to do so, the court may require either party to move out of the home for such
 33 period of time and under such conditions as the court may determine, whether the home is rented,
 34 owned or being purchased by one party or both parties.

35 (e) Restraining and enjoining either party or both from encumbering or disposing of any of the
 36 real or personal property of either or both of the parties, except as ordered by the court.

37 (f) For the temporary use, possession and control of the real or personal property of the parties
 38 or either of them and the payment of installment liens and encumbrances thereon.

39 (g) That even if no minor children reside in the family home, the court may require one party
 40 to move out of the home for such period of time and under such conditions as the court determines,
 41 whether the home is rented, owned or being purchased by one party or both parties if that party
 42 assaults or threatens to assault the other.

43 (2) A limited judgment under ORS chapter 18 may be entered in an action for dissolution or
 44 annulment of a marriage providing for a support award, as defined by ORS 18.005, or other money
 45 award, as defined by ORS 18.005. Notwithstanding ORS 19.255, a limited judgment entered under this

1 subsection may not be appealed. Any decision of the court in a limited judgment subject to this
 2 subsection may be appealed as otherwise provided by law upon entry of a general judgment.

3 (3) The court shall not require an undertaking in case of the issuance of an order under sub-
 4 section (1)(c), (d), (e), (f) or (g) of this section.

5 (4) In a suit for annulment or dissolution of marriage or for separation, wherein the parties are
 6 copetitioners or the respondent is found by the court to be in default or the respondent having ap-
 7 peared has waived further appearance or the parties stipulate to the entry of a judgment, the court
 8 may, when the cause is otherwise ready for hearing on the merits, in lieu of such hearing, enter a
 9 judgment of annulment or dissolution or for separation based upon a current affidavit **or declara-**
 10 **tion under penalty of perjury in the form required by ORCP 1 E, executed by [of]** the petitioner
 11 or copetitioners, setting forth a prima facie case, and covering such additional matters as the court
 12 may require. If custody of minor children is involved, then the affidavit **or declaration under**
 13 **penalty of perjury** must also include the name of the party with whom the children currently reside
 14 and the length of time they have so resided.

15 (5) When a court orders relief under subsection (1)(c) or (d) of this section, the court may in-
 16 clude in its order an expiration date for the order to allow entry of the order into the Law
 17 Enforcement Data System and the databases of the National Crime Information Center of the United
 18 States Department of Justice as provided in ORS 107.720. If the person being restrained was pro-
 19 vided notice and an opportunity to be heard, the court shall also include in the order, when appro-
 20 priate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) or (g)(8) to affect the person's ability
 21 to possess firearms and ammunition or engage in activities involving firearms.

22 **SECTION 4.** ORS 107.097 is amended to read:

23 107.097. (1) Except as otherwise provided in subsection (3) of this section, a court may not enter
 24 ex parte a temporary order under ORS 107.095, 109.103 or 109.119 providing for the custody of, or
 25 parenting time with, a child.

26 (2)(a) A party may apply to a court for a temporary protective order of restraint by filing with
 27 the court an affidavit **or a declaration under penalty of perjury in the form required by ORCP**
 28 **1 E**, conforming to the requirements of ORS 109.767.

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

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

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

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

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

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

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

39 (c) A copy of the order and the supporting affidavit **or declaration under penalty of perjury**
 40 must be served on the other party in the manner of service of a summons under ORCP 7. The order
 41 must include the following statement:

42
 43
 44 Notice: You may request a hearing on this order as long as it remains in effect by filing with
 45 the court a request for a hearing. In the request you must tell the court and the other party that

1 you object to the order and specifically why you disagree with the representation of the status quo
 2 described in the order. In the request you must also inform the court of your telephone number or
 3 contact number and your current residence, mailing or contact address.

5
 6 (3)(a) A court may enter ex parte a temporary order providing for the custody of, or parenting
 7 time with, a child if:

8 (A) The party requesting an order is present in court and presents an affidavit **or a declaration**
 9 **under penalty of perjury**, alleging that the child is in immediate danger; and

10 (B) The court finds, based on the facts presented in the party's testimony, [*and*] **the party's**
 11 **affidavit or declaration under penalty of perjury** and [*in*] the testimony of the other party, if the
 12 other party is present, that the child is in immediate danger.

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

15 (c) A copy of the order and the supporting affidavit **or declaration under penalty of perjury**
 16 must be served on the other party in the manner of service of a summons under ORCP 7. The order
 17 must include the following statement:

19
 20 Notice: You may request a hearing on this order as long as it remains in effect by filing with
 21 the court a request for a hearing. In the request you must tell the court and the other party that
 22 you object to the order on the ground that the child was not in immediate danger at the time the
 23 order was issued. In the request you must also inform the court of your telephone number or contact
 24 number and your current residence, mailing or contact address.

26
 27 (4)(a) A party against whom an order is entered under subsection (2) or (3) of this section may
 28 request a hearing by filing with the court a hearing request described in subsection (2) or (3) of this
 29 section at any time while the order is in effect.

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

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

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

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

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

43 (5) The State Court Administrator shall prescribe the content and form of a request for a hear-
 44 ing described in subsections (2) and (3) of this section.

45 (6) As used in this section:

1 (a) “Child’s usual place of residence” has the meaning given that term in ORS 107.138.

2 (b) “Party’s usual contact and parenting time,” “present placement and daily schedule of the
3 child” and “current schedule and daily routine of the child” have the meanings given “parent’s usual
4 contact and parenting time,” “present placement and daily schedule of the child” and “current
5 schedule and daily routine of the child” in ORS 107.138.

6 **SECTION 5.** ORS 107.138 is amended to read:

7 107.138. (1)(a) A court, upon the motion of a party, may enter a temporary status quo order to
8 either party in a proceeding to modify a judgment that awards custody of a child after:

9 (A) Notifying the other party; and

10 (B) Giving the other party an opportunity to contest issuance of the order.

11 (b) The motion for a temporary status quo order must be supported by an affidavit **or a decla-**
12 **ration under penalty of perjury in the form required by ORCP 1 E**, setting forth with specificity
13 the information required by ORS 109.767 and the person with whom the child has lived during the
14 preceding year and the child’s current schedule, daily routine and usual place of residence.

15 (c) Notice to the party against whom the motion for the order is sought must be served at least
16 21 days before the date set for the hearing. The issue at the hearing is limited to a determination
17 of the status quo at the time the motion for the order was filed.

18 (2) A temporary status quo order restrains and enjoins each parent from:

19 (a) Changing the child’s usual place of residence;

20 (b) Interfering with the present placement and daily schedule of the child;

21 (c) Hiding or secreting the child from the other parent;

22 (d) Interfering with the other parent’s usual contact and parenting time with the child;

23 (e) Leaving the state with the child without the written permission of the other parent or the
24 permission of the court; or

25 (f) In any manner disturbing the current schedule and daily routine of the child until the motion
26 for modification has been granted or denied.

27 (3) For purposes of this section:

28 (a) “Child’s usual place of residence” means the place where the child is living at the time the
29 motion for the temporary order is filed and has lived continuously for a period of three consecutive
30 months, excluding any periods of time during which the noncustodial parent did exercise, or would
31 otherwise have exercised, parenting time.

32 (b) “Parent’s usual contact and parenting time,” “present placement and daily schedule of the
33 child” and “current schedule and daily routine of the child” mean the contact, parenting time,
34 placement, schedule and routine at the time the motion for the temporary order is filed.

35 **SECTION 6.** ORS 107.139 is amended to read:

36 107.139. (1)(a) Following entry of a judgment, a court may enter ex parte a temporary order
37 providing for the custody of, or parenting time with, a child if:

38 (A) A parent of the child is present in court and presents an affidavit **or a declaration under**
39 **penalty of perjury in the form required by ORCP 1 E**, alleging that the child is in immediate
40 danger;

41 (B) The parent has made a good faith effort to confer with the other party regarding the purpose
42 and time of this court appearance; and

43 (C) The court finds by clear and convincing evidence, based on the facts presented in the
44 parent’s testimony, [*and*] **the parent’s affidavit or declaration under penalty of perjury** and [*in*]
45 the testimony of the other party, if the other party is present, that the child is in immediate danger.

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

3 (c) A copy of the order and the supporting affidavit **or declaration under penalty of perjury**
 4 must be served on the other party in the manner of service of a summons under ORCP 7. The order
 5 must include the following statement:

6
 7
 8 Notice: You may request a hearing on this order as long as it remains in effect by filing with
 9 the court a request for a hearing. In the request you must tell the court and the other party that
 10 you object to the order on the ground that the child was not in immediate danger at the time the
 11 order was issued. In the request you must also inform the court of your telephone number or contact
 12 number and your current residence, mailing or contact address.

13
 14
 15 (2)(a) A party against whom an order is entered under subsection (1) of this section may request
 16 a hearing by filing with the court a hearing request described in subsection (1) of this section at
 17 any time while the order is in effect.

18 (b) The court shall hold a hearing within 14 days after receipt of the request for the hearing.
 19 The court shall notify each party of the time, date and place of the hearing.

20 (c) An order issued under subsection (1) of this section remains in effect through the date of the
 21 hearing. If the party against whom the order was entered fails to appear at the hearing without good
 22 cause, the court shall continue the order in effect. If the party who obtained the order fails to ap-
 23 pear at the hearing without good cause, the court shall vacate the order.

24 (d) The issue at a hearing to contest a temporary order for the custody of, or parenting time
 25 with, a child is limited to whether the child was in immediate danger at the time the order was is-
 26 sued.

27 (3) The State Court Administrator shall prescribe the content and form of a request for a hear-
 28 ing described in this section.

29 (4) A party seeking relief under this section shall concurrently file, or have pending, a motion
 30 under ORS 107.135 to set aside, alter or modify any portion of the judgment that provides for cus-
 31 tody, parenting time or visitation.

32 **SECTION 7.** ORS 107.434 is amended to read:

33 107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting
 34 time enforcement procedure that may or may not include a requirement for mediation. The proce-
 35 dure must be easy to understand and initiate. Unless the parties otherwise agree, the court shall
 36 conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a par-
 37 enting time order. The court shall provide forms for:

38 (a) A motion filed by either party alleging a violation of parenting time or substantial violations
 39 of the parenting plan. When a person files this form, the person must include a copy of the order
 40 establishing the parenting time.

41 (b) An order requiring the parties to appear and show cause why parenting time should not be
 42 enforced in a specified manner. The party filing the motion shall serve a copy of the motion and
 43 the order on the other party. The order must include:

44 (A) A notice of the remedies imposable under subsection (2) of this section and the availability
 45 of a waiver of any mediation requirement; and

1 (B) A notice in substantially the following form:
 2
 3

4 When pleaded and shown in a separate legal action, violation of court orders, including
 5 visitation and parenting time orders, may also result in a finding of contempt, which can lead to
 6 fines, imprisonment or other penalties, including compulsory community service.
 7

8
 9 (c) A motion, **supported by an affidavit or a declaration under penalty of perjury in the**
 10 **form required by ORCP 1 E**, and **an** order that may be filed by either party and providing for
 11 waiver of any mediation requirement on a showing of good cause.

12 (2) In addition to any other remedy the court may impose to enforce the provisions of a judg-
 13 ment relating to the parenting plan, the court may:

14 (a) Modify the provisions relating to the parenting plan by:

15 (A) Specifying a detailed parenting time schedule;

16 (B) Imposing additional terms and conditions on the existing parenting time schedule; or

17 (C) Ordering additional parenting time, in the best interests of the child, to compensate for
 18 wrongful deprivation of parenting time;

19 (b) Order the party who is violating the parenting plan provisions to post bond or security;

20 (c) Order either or both parties to attend counseling or educational sessions that focus on the
 21 impact of violation of the parenting plan on children;

22 (d) Award the prevailing party expenses, including, but not limited to, attorney fees, filing fees
 23 and court costs, incurred in enforcing the party's parenting plan;

24 (e) Terminate, suspend or modify spousal support;

25 (f) Terminate, suspend or modify child support as provided in ORS 107.431; or

26 (g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11).

27 **SECTION 8.** ORS 107.437 is amended to read:

28 107.437. (1) A person entitled to physical custody of a child may make an ex parte application
 29 for an order of assistance to a court of any county:

30 (a) In which a child is located if the person is entitled to the physical custody of the child under
 31 a valid and current order issued in this state; or

32 (b) In which a valid and current foreign custody order has been filed with a petition as provided
 33 in subsection (3) of this section.

34 (2) The application must include a certified copy of the custody order. The order of assistance
 35 may direct a law enforcement agency having jurisdiction where the child is located to use any rea-
 36 sonable means and force to deliver the child as directed by the court, including directing forcible
 37 entry into specified premises. The court may issue an order of assistance upon *[the sworn]* **an** affi-
 38 davit *[of]* **or a declaration under penalty of perjury in the form required by ORCP 1 E, exe-**
 39 **cuted by** the applicant and a finding of the court that:

40 (a) The applicant is entitled to physical custody of the child under a valid and current custody
 41 order; and

42 (b) The child is being held by another person in substantial violation of the custody order.

43 (3) When the application for an order of assistance is made to a court in which the custody or-
 44 der has been entered or registered, the applicant shall make the application in the form of a motion.
 45 In all other cases, the applicant shall make the application in the form of a petition. The court may

1 not charge a filing fee for a motion or petition filed under this section.

2 (4) The law enforcement agency to which an order of assistance is directed shall make a return
 3 to the court specifying whether the order was executed, and if so, a statement reflecting the date
 4 on which the order was executed and any other information required by the court in the order of
 5 assistance.

6 (5) A court may not issue an order of assistance for the purpose of enforcing parenting time or
 7 visitation rights.

8 (6) Except for intentional torts committed outside the scope of the peace officer's duties, a peace
 9 officer is not civilly or criminally liable for any action taken in recovering the custody of a child
 10 pursuant to an order issued under this section.

11 **SECTION 9.** ORS 107.840 is amended to read:

12 107.840. (1) The State Court Administrator shall establish a procedure applicable to every court
 13 in this state that ensures that the Social Security numbers of parties to a proceeding under ORS
 14 107.085 or 107.485 are kept confidential and exempt from public inspection.

15 (2) The procedure established under this section must:

16 (a) Require that Social Security numbers be listed on a separate paper attached to an affidavit
 17 [of] **or a declaration under penalty of perjury in the form required by ORCP 1 E, executed**
 18 **by** the person providing the Social Security number, certifying that the Social Security number is
 19 correct;

20 (b) Ensure that the Social Security numbers are provided to or made accessible to the entities
 21 primarily responsible for providing support enforcement services under ORS 25.080; and

22 (c) Comply with the requirements of 42 U.S.C. 666 relating to provision of Social Security num-
 23 bers.

24 **SECTION 10.** ORS 109.767 is amended to read:

25 109.767. (1) In a child custody proceeding, each party, in its first pleading or in an attached af-
 26 fidavit **or declaration under penalty of perjury in the form required by ORCP 1 E**, shall give
 27 information, if reasonably ascertainable, [*under oath*] as to the child's present address or where-
 28 abouts, the places where the child has lived during the last five years and the names and present
 29 addresses of the persons with whom the child has lived during that period. **If the information is**
 30 **given in the party's first pleading, the pleading must include an affidavit or a declaration**
 31 **under penalty of perjury.** The pleading, or **attached affidavit or declaration under penalty of**
 32 **perjury**, must state whether the party:

33 (a) Has participated, as a party or witness or in any other capacity, in any other proceeding
 34 concerning the custody of or parenting time or visitation with the child and, if so, identify the court,
 35 the case number and the date of the child custody determination, if any;

36 (b) Knows of any proceeding that could affect the current proceeding, including proceedings for
 37 enforcement and proceedings relating to domestic violence, protective orders, termination of par-
 38 ental rights and adoptions and, if so, identify the court, the case number and the nature of the
 39 proceeding; and

40 (c) Knows the names and addresses of any person not a party to the proceeding who has phys-
 41 ical custody of the child or claims rights of legal custody or physical custody of, or parenting time
 42 or visitation with, the child and, if so, the names and addresses of those persons.

43 (2) If the information required by subsection (1) of this section is not furnished, the court, upon
 44 motion of a party or its own motion, may stay the proceeding until the information is furnished.

45 (3) If the [*declaration*] **information** as to any of the items described in subsection (1) of this

1 section is in the affirmative, the declarant shall give additional information under oath as required
2 by the court. The court may examine the parties under oath as to details of the information fur-
3 nished and other matters pertinent to the court's jurisdiction and the disposition of the case.

4 (4) Each party has a continuing duty to inform the court of any proceeding in this or any other
5 state that could affect the current proceeding.

6 (5) If a party alleges in **the first pleading, or in an attached** affidavit [*or a pleading under*
7 *oath*] **or declaration under penalty of perjury**, that the health, safety or liberty of a party or child
8 would be jeopardized by disclosure of identifying information, the information must be sealed and
9 may not be disclosed to the other party or the public unless the court orders the disclosure to be
10 made after a hearing in which the court takes into consideration the health, safety or liberty of the
11 party or child and determines that the disclosure is in the interest of justice. Costs incurred by the
12 court when special notice procedures are made necessary by the nondisclosure of identifying infor-
13 mation shall be paid by the parties as deemed appropriate by the court.

14 **SECTION 11.** ORS 419B.367 is amended to read:

15 419B.367. (1) Upon granting a motion for guardianship under ORS 419B.366 or upon granting a
16 petition for guardianship under ORS 419B.365, the court shall issue letters of guardianship to the
17 guardian. As provided in ORS 419A.255, a guardian may disclose letters of guardianship when nec-
18 cessary to fulfill the duties of a guardian. Letters of guardianship must be in substantially the fol-
19 lowing form:

20 _____
21
22 State of Oregon,)
23) LETTERS OF
24 County of _____) GUARDIANSHIP

25
26 BY THESE LETTERS OF GUARDIANSHIP be informed:

27 That on _____ (month) _____ (day), 2____, the _____ Court, _____ County, State
28 of Oregon, appointed _____ (name of guardian) guardian for _____ (name of ward)
29 and that the named guardian has qualified and has the authority and duties of guardian for the
30 named ward including legal custody of the ward, except as provided below.

31
32 IN TESTIMONY WHEREOF, I have subscribed my name and affixed the seal of the court at
33 my office on _____ (month) _____ (day), 2____.

34 (Seal)
35 _____, Clerk of the Court
36 By _____, Deputy
37 _____

38
39 (2) In the order appointing the guardian, the court shall require the guardian to file with the
40 court a [*verified*] written report within 30 days after each anniversary of appointment and may:

41 (a) Specify the frequency and nature of visitation or contact between relatives, including sib-
42 lings, and the ward, if the court determines that visitation or contact is in the ward's best interests;

43 (b) Enter an order for child support pursuant to ORS 419B.400 that complies with ORS 25.275;
44 and

45 (c) Make any other order to provide for the ward's continuing safety and well-being.

(3) The report required under subsection (2) of this section must:

(a) Contain a summary sheet that:

(A) Identifies the written report and includes the date of submission and the name of the submitting person; and

(B) Is maintained as part of the record of the case under ORS 419A.255 (1); *[and]*

(b) Be maintained in the supplemental confidential file under ORS 419A.255 (2)*[.]; and*

(c) Contain an affidavit attesting to the accuracy of the report or a declaration under penalty of perjury immediately above the signature line of the guardian as follows: “I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.”

(4)(a) Upon timely receipt of a report under subsection (2) of this section, the court shall review the report and maintain the report as described in subsection (3) of this section. The court may:

(A) Direct the local citizen review board to conduct a review;

(B) Subject to the availability of funds, appoint a court visitor and require the visitor to file a report with the court; or

(C) Conduct a court review.

(b) If the court does not receive a report under subsection (2) of this section in a timely manner, the court shall:

(A) Direct the local citizen review board to conduct a review;

(B) Subject to the availability of funds, appoint a court visitor and require the visitor to file a report with the court; or

(C) Conduct a court review.

(5) Except as otherwise limited by the court, a person appointed guardian has legal custody of the ward and the duties and authority of legal custodian and guardian under ORS 419B.373 and 419B.376. A guardian is not liable to third persons for acts of the ward solely by reason of being appointed guardian.

SECTION 12. ORS 107.705 is amended to read:

107.705. As used in ORS 107.700 to 107.735:

(1) “Abuse” means the occurrence of one or more of the following acts between family or household members:

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

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

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

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

(3) “Declaration under penalty of perjury” means a declaration under penalty of perjury in the form required by ORCP 1 E.

~~[(3)]~~ (4) “Family or household members” means any of the following:

(a) Spouses.

(b) Former spouses.

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

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

(e) Persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them of a petition under ORS 107.710.

(f) Unmarried parents of a child.

~~[(4)]~~ (5) “Interfere” means to interpose in a manner that would reasonably be expected to hinder

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 13.** ORS 107.710 is amended to read:

10 107.710. (1) Any person who has been the victim of abuse within the preceding 180 days may
 11 petition the circuit court for relief under ORS 107.700 to 107.735, if the person is in imminent danger
 12 of further abuse from the abuser. The person may seek relief by filing a petition with the circuit
 13 court alleging that the person is in imminent danger of abuse from the respondent, that the person
 14 has been the victim of abuse committed by the respondent within the 180 days preceding the filing
 15 of the petition and particularly describing the nature of the abuse and the dates thereof. The abuse
 16 must have occurred not more than 180 days before the filing of the petition. [*Allegations in the pe-*
 17 *tion shall be made under oath or affirmation.*] **The petition must include allegations made under**
 18 **oath or affirmation or a declaration under penalty of perjury.** The circuit court shall have ju-
 19 risdiction over all proceedings under ORS 107.700 to 107.735.

20 (2) The petitioner has the burden of proving a claim under ORS 107.700 to 107.735 by a pre-
 21 ponderance of the evidence.

22 (3) A person’s right to relief under ORS 107.700 to 107.735 shall not be affected by the fact that
 23 the person left the residence or household to avoid abuse.

24 (4) A petition filed under ORS 107.700 to 107.735 shall disclose the existence of any custody,
 25 Family Abuse Prevention Act or Elderly Persons and Persons With Disabilities Abuse Prevention
 26 Act proceedings, or any marital annulment, dissolution or separation proceedings, or any filiation
 27 proceeding, pending between the parties, and the existence of any other custody order affecting the
 28 children of the parties.

29 (5) When the petitioner requests custody of any child, the petition shall comply with ORS
 30 109.767 and disclose:

31 (a) The child’s present residence and the length of time the child has resided at the residence;

32 (b) The county and state where the child resided for the five years immediately prior to the
 33 filing of the petition;

34 (c) The name and address of the party or other responsible person with whom the child is
 35 presently residing;

36 (d) The name and current address of any party or other responsible person with whom the child
 37 resided for the five years immediately prior to the filing of the petition;

38 (e) Whether the party participated as a party, witness or in any other capacity, in any other
 39 litigation concerning the custody of the child in this or any other state;

40 (f) Whether the party has information of any custody proceeding concerning the child pending
 41 in a court of this or any other state; and

42 (g) Whether the party knows of any person not a party to the proceedings who has physical
 43 custody of the child or claims to have custody, parenting time or visitation rights with respect to
 44 the child.

45 (6) For purposes of computing the 180-day period in this section and ORS 107.718, any time

1 during which the respondent is incarcerated or has a principal residence more than 100 miles from
2 the principal residence of the petitioner shall not be counted as part of the 180-day period.

3 **SECTION 14.** ORS 107.720 is amended to read:

4 107.720. (1)(a) Whenever a restraining order, as authorized by ORS 107.095 (1)(c) or (d), 107.716
5 or 107.718, that includes a security amount and an expiration date pursuant to ORS 107.095, 107.716
6 or 107.718 and this section, is issued and the person to be restrained has actual notice of the order,
7 the clerk of the court or any other person serving the petition and order shall immediately deliver
8 to a county sheriff a true copy of [*the affidavit of*] proof of service, on which it is stated that per-
9 sonal service of the petition and order was served on the respondent, and copies of the petition and
10 order. **Proof of service may be made by affidavit or by declaration under penalty of perjury.**
11 If an order entered by the court recites that the respondent appeared in person before the court, the
12 necessity for service of the order and [*an affidavit of*] proof of service is waived. Upon receipt of a
13 copy of the order and notice of completion of any required service by a member of a law enforce-
14 ment agency, the county sheriff shall immediately enter the order into the Law Enforcement Data
15 System maintained by the Department of State Police and into the databases of the National Crime
16 Information Center of the United States Department of Justice. If the petition and order were served
17 on the respondent by a person other than a member of a law enforcement agency, the county sheriff
18 shall enter the order into the Law Enforcement Data System and databases of the National Crime
19 Information Center upon receipt of a true copy of [*the affidavit of*] proof of service. The sheriff shall
20 provide the petitioner with a true copy of any required proof of service. Entry into the Law
21 Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the
22 order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the
23 scene of an alleged violation of the order may be informed of the existence and terms of the order.
24 The order is fully enforceable in any county or tribal land in this state.

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

30 (2)(a) A restraining order shall remain in effect until the order expires or is terminated by court
31 order.

32 (b) When a restraining order has been entered under ORS 107.718, the restraining order shall
33 not be terminated upon a motion for dismissal by the petitioner unless the motion is notarized.

34 (3) In any situation where a restraining order described in subsection (1) of this section is ter-
35 minated before the expiration date, the clerk of the court shall immediately deliver a copy of the
36 termination order to the county sheriff with whom the original order was filed. Upon receipt of the
37 termination order, the county sheriff shall promptly remove the original order from the Law
38 Enforcement Data System and the databases of the National Crime Information Center of the United
39 States Department of Justice.

40 (4) Pending a contempt hearing for alleged violation of a restraining order issued under ORS
41 107.095 (1)(c) or (d), 107.716 or 107.718, a person arrested and taken into custody pursuant to ORS
42 133.310 may be released as provided in ORS 135.230 to 135.290. Whenever a restraining order is
43 issued under ORS 107.095 (1)(c) or (d), 107.716 or 107.718, the issuing court shall set a security
44 amount for the violation of the order.

45 **SECTION 15.** ORS 107.725 is amended to read:

1 107.725. (1) The court may renew an order entered under ORS 107.716 or 107.718 upon a finding
2 that:

3 (a) A person in the petitioner's situation would reasonably fear further acts of abuse by the re-
4 spondent if the order is not renewed; or

5 (b) A person in the situation of a child who was in the petitioner's custody during the time the
6 order existed, who was also included as a protected person in the order and who has reached 18
7 years of age since the date the order was entered would reasonably fear further acts of abuse by
8 the respondent if the order is not renewed.

9 (2) A finding that there has been a further act of abuse is not required to renew an order under
10 subsection (1) of this section.

11 (3) The court may renew an order under subsection (1)(b) of this section regardless of whether
12 the original petitioner agrees to or seeks renewal of the order. If the petitioner does not agree to
13 or seek renewal of the order concurrently with the request of the child who has reached 18 years
14 of age, the court may modify the order upon renewal to exclude the petitioner as a protected person
15 in the order. A child who has reached 18 years of age may seek renewal under this section without
16 having to file a petition under ORS 107.710.

17 (4) A court may renew an order on the basis of [*a sworn,*] **an** ex parte petition alleging facts
18 supporting the required finding. **The petition must include allegations made under oath or af-**
19 **firmation or a declaration under penalty of perjury.** If the renewal order is granted, the pro-
20 visions of ORS 107.716 (5) and 107.718 (8) to (10) apply except that the court may hear no issue other
21 than the basis for renewal unless requested in the hearing request form and thereafter agreed to
22 by the petitioner or the child who has reached 18 years of age. The court shall hold a hearing re-
23 quired under this section within 21 days after the respondent's request.

24 **SECTION 16.** ORS 107.730 is amended to read:

25 107.730. (1) At any time after an order has been issued under ORS 107.700 to 107.735 and after
26 the time period set forth in ORS 107.718 (10)(a):

27 (a) A party may request that the court modify terms in the order that were entered under ORS
28 107.718 (1)(a), (b), (g) or (i) for good cause shown.

29 (b) A petitioner may request that the court modify by removing or making less restrictive terms
30 in the order that were entered under ORS 107.718 (1)(b), (g) or (i) for good cause shown. Application
31 to the court under this paragraph may be by ex parte motion.

32 (2) The clerk of the court shall provide without charge the number of certified true copies of
33 the request for modification of the order and notice of hearing necessary to effect service and, at
34 the election of the party requesting the modification, shall have a true copy of the request and no-
35 tice delivered to the county sheriff for service upon the other party.

36 (3) The county sheriff shall personally serve the other party with a request under subsection
37 (1)(a) of this section, unless the party requesting the modification under subsection (1)(a) of this
38 section elects to have the other party personally served by a private party or unless otherwise or-
39 dered by the court.

40 (4) The provisions of ORS 107.716 (5) apply to a modification of an order under this section.

41 (5) The clerk of the court shall deliver a copy of an order of modification entered under sub-
42 section (1) of this section to the county sheriff for service and entry into the Law Enforcement Data
43 System as provided in ORS 107.723.

44 (6)(a) The county sheriff shall serve a copy of an order of modification:

45 (A) Entered under subsection (1)(a) of this section by personal service on the nonrequesting

1 party.

2 (B) Entered under subsection (1)(b) of this section by mailing a copy of the order to the
3 nonrequesting party by first class mail.

4 (b) If the order of modification recites that the respondent appeared in person before the court,
5 the necessity for service of the order and [*an affidavit of*] proof of service is waived.

6 (7) The court may assess against either party a reasonable attorney fee and costs that may be
7 incurred in the proceeding.

8 **SECTION 17.** ORS 124.005 is amended to read:

9 124.005. As used in ORS 124.005 to 124.040:

10 (1) “Abuse” means one or more of the following:

11 (a) Any physical injury caused by other than accidental means, or that appears to be at variance
12 with the explanation given of the injury.

13 (b) Neglect that leads to physical harm through withholding of services necessary to maintain
14 health and well-being.

15 (c) Abandonment, including desertion or willful forsaking of an elderly person or a person with
16 a disability or the withdrawal or neglect of duties and obligations owed an elderly person or a
17 person with a disability by a caregiver or other person.

18 (d) Willful infliction of physical pain or injury.

19 (e) Use of derogatory or inappropriate names, phrases or profanity, ridicule, harassment,
20 coercion, threats, cursing, intimidation or inappropriate sexual comments or conduct of such a na-
21 ture as to threaten significant physical or emotional harm to the elderly person or person with a
22 disability.

23 (f) Causing any sweepstakes promotion to be mailed to an elderly person or a person with a
24 disability who had received sweepstakes promotional material in the United States mail, spent more
25 than \$500 in the preceding year on any sweepstakes promotions, or any combination of sweepstakes
26 promotions from the same service, regardless of the identities of the originators of the sweepstakes
27 promotion and who represented to the court that the person felt the need for the court’s assistance
28 to prevent the person from incurring further expense.

29 (g) Wrongfully taking or appropriating money or property, or knowingly subjecting an elderly
30 person or person with a disability to alarm by conveying a threat to wrongfully take or appropriate
31 money or property, which threat reasonably would be expected to cause the elderly person or person
32 with a disability to believe that the threat will be carried out.

33 (h) Sexual contact with a nonconsenting elderly person or person with a disability or with an
34 elderly person or person with a disability considered incapable of consenting to a sexual act as de-
35 scribed in ORS 163.315. As used in this paragraph, “sexual contact” has the meaning given that term
36 in ORS 163.305.

37 **(2) “Declaration under penalty of perjury” means a declaration under penalty of perjury**
38 **in the form required by ORCP 1 E.**

39 [(2)] **(3)** “Elderly person” means any person 65 years of age or older who is not subject to the
40 provisions of ORS 441.640 to 441.665.

41 [(3)] **(4)** “Guardian petitioner” means a guardian or guardian ad litem for an elderly person or
42 a person with a disability who files a petition under ORS 124.005 to 124.040 on behalf of the elderly
43 person or person with a disability.

44 [(4)] **(5)** “Interfere” means to interpose in a way that hinders or impedes.

45 [(5)] **(6)** “Intimidate” means to compel or deter conduct by a threat.

1 [(6)] (7) “Menace” means to act in a threatening manner.

2 [(7)] (8) “Molest” means to annoy, disturb or persecute with hostile intent or injurious effect.

3 [(8)] (9) “Person with a disability” means a person described in:

4 (a) ORS 410.040 (7); or

5 (b) ORS 410.715.

6 [(9)] (10) “Petitioner” means an elderly person or a person with a disability who files a petition
7 under ORS 124.005 to 124.040.

8 [(10)] (11) “Sweepstakes” means:

9 (a) A procedure for awarding a prize that is based on chance;

10 (b) A procedure in which a person is required to purchase anything, pay anything of value or
11 make a donation as a condition of winning a prize or of receiving or obtaining information about a
12 prize; or

13 (c) A procedure that is advertised in a way that creates a reasonable impression that a payment
14 of anything of value, purchase of anything or making a donation is a condition of winning a prize
15 or receiving or obtaining information about a prize.

16 [(11)] (12) “Sweepstakes promotion” means an offer to participate in a sweepstakes.

17 **SECTION 18.** ORS 124.010 is amended to read:

18 124.010. (1)(a) Except as provided in subsection (8) of this section, an elderly person or a person
19 with a disability who has been the victim of abuse within the preceding 180 days or a guardian or
20 guardian ad litem of an elderly person or a person with a disability who has been the victim of
21 abuse within the preceding 180 days may petition the circuit court for relief under ORS 124.005 to
22 124.040, if the person is in immediate and present danger of further abuse from the abuser.

23 (b) The elderly person or person with a disability or the guardian or guardian ad litem of the
24 person may seek relief by filing a petition with the circuit court alleging that the person is in im-
25 mediate and present danger of further abuse from the respondent, alleging that the person has been
26 the victim of abuse committed by the respondent within the 180 days preceding the filing of the
27 petition and describing the nature of the abuse and the approximate dates thereof. The abuse must
28 have occurred not more than 180 days before the filing of the petition.

29 (c) A petitioner or guardian petitioner is not required to provide in the petition information re-
30 garding the relationship between the elderly person or person with a disability and the respondent.

31 (d) [*Allegations in the petition must be made under oath or affirmation.*] **The petition must in-**
32 **clude allegations made under oath or affirmation or a declaration under penalty of perjury.**
33 The circuit court has jurisdiction over all proceedings under ORS 124.005 to 124.040.

34 (2) The petitioner or guardian petitioner has the burden of proving a claim under ORS 124.005
35 to 124.040 by a preponderance of the evidence.

36 (3) The right to petition for relief under ORS 124.005 to 124.040 is not affected by the fact that
37 the elderly person or person with a disability has left the residence or household to avoid abuse.

38 (4) A petition filed under ORS 124.005 to 124.040 must disclose the existence of any Elderly
39 Persons and Persons With Disabilities Abuse Prevention Act proceedings, any Abuse Prevention Act
40 proceedings, any marital annulment, dissolution or separation proceedings pending between the
41 parties or any protective proceedings under ORS chapter 125.

42 (5) Upon the filing of a petition under ORS 124.005 to 124.040, the clerk of the court shall give
43 the petitioner or guardian petitioner information provided by the Department of Human Services
44 about local adult protective services, domestic violence shelters and local legal services available.

45 (6) For purposes of computing the 180-day period in this section and ORS 124.020, any time

1 during which the respondent is incarcerated or has a principal residence more than 100 miles from
2 the principal residence of the elderly person or person with a disability is not counted as part of the
3 180-day period.

4 (7) If a guardian or guardian ad litem files a petition under this section on behalf of an elderly
5 person or a person with a disability, the elderly person or person with a disability retains the right
6 to:

7 (a) Contact and retain counsel;

8 (b) Have access to personal records;

9 (c) File objections to the restraining order;

10 (d) Request a hearing; and

11 (e) Present evidence and cross-examine witnesses at any hearing.

12 (8) An elderly person or a person with a disability may not file a petition under ORS 124.005 to
13 124.040 against a guardian or conservator for the person.

14 **SECTION 19.** ORS 124.020 is amended to read:

15 124.020. (1) When a petitioner or guardian petitioner files a petition under ORS 124.010, the
16 circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed
17 or on the following judicial day. Upon a showing that the elderly person or person with a disability
18 named in the petition has been the victim of abuse committed by the respondent within 180 days
19 preceding the filing of the petition and that there is an immediate and present danger of further
20 abuse to the person, the court shall, if requested by the petitioner or guardian petitioner, order, for
21 a period of one year or until the order is withdrawn or amended, whichever is sooner:

22 (a) That the respondent be required to move from the residence of the elderly person or person
23 with a disability, if in the sole name of the person or if jointly owned or rented by the person and
24 the respondent, or if the parties are married to each other;

25 (b) That a peace officer accompany the party who is leaving or has left the parties' residence
26 to remove essential personal effects of the party;

27 (c) That the respondent be restrained from abusing, intimidating, molesting, interfering with or
28 menacing the elderly person or person with a disability, or attempting to abuse, intimidate, molest,
29 interfere with or menace the person;

30 (d) That the respondent be restrained from entering, or attempting to enter, on any premises
31 when it appears to the court that such restraint is necessary to prevent the respondent from abus-
32 ing, intimidating, molesting, interfering with or menacing the elderly person or person with a disa-
33 bility;

34 (e) That the respondent be:

35 (A) Restrained, effective on a date not less than 150 days from the date of the order, from
36 mailing the elderly person or person with a disability any sweepstakes promotion;

37 (B) Required to remove the elderly person or person with a disability from the respondent's
38 sweepstakes promotion mailing list or place the person on a list of persons to whom sweepstakes
39 promotions may not be mailed; and

40 (C) Required to promptly refund any payment received in any form from the elderly person or
41 person with a disability after the date the order is entered by the court; or

42 (f) Except as provided in subsection (2) of this section, other relief that the court considers
43 necessary to provide for the safety and welfare of the elderly person or person with a disability.

44 (2)(a) If the court finds that the elderly person or person with a disability has been the victim
45 of abuse as defined in ORS 124.005 (1)(g), the court may order only relief that the court considers

1 necessary to prevent or remedy the wrongful taking or appropriation of the money or property of
2 the person, including but not limited to:

3 (A) Directing the respondent to refrain from exercising control over the money or property of
4 the person;

5 (B) Requiring the respondent to return custody or control of the money or property of the per-
6 son to the person;

7 (C) Requiring the respondent to follow the instructions of the guardian or conservator of the
8 person; or

9 (D) Prohibiting the respondent from transferring the money or property of the elderly person
10 or person with a disability to any person other than the elderly person or person with a disability.

11 (b) The court may not use a restraining order issued under ORS 124.005 to 124.040:

12 (A) To allow any person other than the elderly person or person with a disability to assume
13 responsibility for managing any of the money or property of the elderly person or person with a
14 disability; or

15 (B) For relief that is more appropriately obtained in a protective proceeding filed under ORS
16 chapter 125 including, but not limited to, giving control and management of the financial accounts
17 or property of the elderly person or person with a disability for any purpose other than the relief
18 granted under paragraph (a) of this subsection.

19 (3) The showing required under subsection (1) of this section may be made by testimony of:

20 (a) The elderly person or person with a disability;

21 (b) The guardian or guardian ad litem of the elderly person or person with a disability;

22 (c) Witnesses to the abuse; or

23 (d) Adult protective services workers who have conducted an investigation.

24 (4) Immediate and present danger under this section includes but is not limited to situations in
25 which the respondent has recently threatened the elderly person or person with a disability with
26 additional abuse.

27 (5) When a guardian petitioner files a petition on behalf of an elderly person or a person with
28 a disability, the guardian petitioner shall provide information about the person and not about the
29 guardian petitioner where the petition, order or related forms described in subsection (6) of this
30 section require information about the petitioner.

31 (6) An instruction brochure shall be available from the clerk of the court explaining the rights
32 set forth under ORS 124.005 to 124.040. The petition, order and related forms shall be available from
33 the clerk of the court and shall be in substantially the following form:

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

39
40 _____,) PETITION FOR
41 Petitioner) RESTRAINING ORDER
42 (your name)) TO PREVENT ABUSE
43) OF ELDERLY
44) PERSONS OR
45) PERSONS WITH

1 vs.) DISABILITIES
 2)
 3) NO. _____
 4 _____,)
 5 Respondent)
 6 (person to be)
 7 restrained))

8
 9 YOU MUST PROVIDE COMPLETE AND TRUTHFUL INFORMATION. IF YOU DO NOT, THE
 10 COURT MAY DISMISS ANY RESTRAINING ORDER AND MAY ALSO HOLD YOU IN CON-
 11 TEMPT OF COURT.

12 If you wish to have your residential address or telephone number withheld from
 13 respondent, use a contact address and telephone number so the Court and the
 14 Sheriff can reach you if necessary.

15 ATTACH ADDITIONAL PAGES
 16 IF NECESSARY.

17
 18 I am the Petitioner and I state that the following information is true:

19
 20 I am a resident of _____ County, Oregon.

21
 22 Respondent is a resident of _____ County, Oregon.

23
 24 I am either 65 years of age or older (I am _____ years of age) or I am a person with a disability
 25 (CIRCLE THE ONE THAT DESCRIBES YOU).

- 26 1. CHECK AND FILL OUT ANY SECTION(S) that apply to you and respondent:
- 27 ___ A. Respondent and I have been living together since _____, ____ (year).
 - 28 ___ B. Respondent and I lived together from _____, ____ (year), to _____,
 29 ____ (year).
 - 30 ___ C. I have been under the care of respondent since _____, ____ (year).
 - 31 ___ D. I was under the care of respondent from _____, ____ (year), to _____,
 32 ____ (year).
 - 33 ___ E. Respondent has sent me sweepstakes promotions.
 - 34 ___ F. None of the above.
- 35 2. To qualify for a restraining order, respondent must have done one or more of the following:
 36 Within the last 180 days, respondent has:
- 37 ___ A. Caused me physical injury by other than accidental means.
 - 38 ___ B. Attempted to cause me physical injury by other than accidental means.
 - 39 ___ C. Placed me in fear of immediate serious physical injury.
 - 40 ___ D. Caused me physical harm by withholding services necessary to maintain my health and
 41 well-being.
 - 42 ___ E. Abandoned or deserted me by withdrawing or neglecting to perform duties and obli-
 43 gations.
 - 44 ___ F. Used derogatory or inappropriate names, phrases or profanity, ridicule, harassment,
 45 coercion, threats, cursing, intimidation or inappropriate sexual comments or conduct

- 1 of such a nature as to place me in fear of significant physical or emotional harm.
- 2 — G. Sent me sweepstakes promotions, and I feel the need for the court’s assistance to
- 3 protect me from further expense. I am an elderly person or a person with a disability.
- 4 In the past year, I spent more than \$500 on sweepstakes promotions that I received in
- 5 the United States mail.
- 6 — H. Wrongfully taken or appropriated my money or property, or alarmed me by conveying
- 7 a threat to me that my money or property would be wrongfully taken or appropriated,
- 8 which I reasonably believed would be carried out.
- 9 — I. Had nonconsensual sexual contact with me or sexual contact to which I was incapable
- 10 of consenting.

11 NOTICE TO PETITIONER: Sweepstakes companies are allowed up to 150 days to stop sending
 12 you sweepstakes entry materials. For a time after the court issues a restraining order, you may re-
 13 ceive additional solicitations from respondent. However, beginning on the date the restraining order
 14 is issued, the respondent must immediately reject any further orders from you and must return any
 15 money you send to the company after the date the restraining order is issued.

16
 17 3. Any period of time after the abuse occurred during which respondent was incarcerated (in
 18 jail or prison) or lived more than 100 miles from your home is not counted as part of the
 19 180-day period, and you may still be eligible for a restraining order.

20 Respondent was incarcerated from _____, ____ (year),
 21 to _____, ____ (year).

22 Respondent lived more than 100 miles from my home from _____, ____ (year), to
 23 _____, ____ (year).

24
 25 4. Did the abuse happen within the last 180 days not including the times respondent was
 26 incarcerated (in jail or prison) or lived more than 100 miles from your home? Yes No

27
 28 Date and location of abuse:
 29 _____
 30 _____

31 How did respondent injure or threaten to injure you?
 32 _____
 33 _____
 34 _____

35
 36 5. Are there incidents other than those described in question 4 above, in which respondent in-
 37 jured or threatened to injure you? If yes, explain:

38 _____
 39 _____
 40 _____

41
 42 6. The abuse I am complaining about was witnessed by _____ (affidavit attached).
 43 Other persons with knowledge of the abuse are _____ (affidavit attached).

44
 45 7. I am in immediate and present danger of further abuse by respondent because:

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- 8. In any of the above incidents:
 Were drugs, alcohol or weapons involved? Yes No
 Did you need medical help? Yes No
 Were the police or the courts involved? Yes No

If you have circled yes to any of the above questions, explain:

- 9. A. There (is) (is not) another Elderly Persons and Persons With Disabilities Abuse Prevention Act or Abuse Prevention Act proceeding 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 or legal separation.
 If yes, type of lawsuit: _____
 It is filed in _____ (County), _____ (State).
 - C. There (is) (is not) a protective proceeding filed in _____ (County), _____ (State).
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.

1 If you wish to have your residential address or telephone number withheld from
2 respondent, use a contact address and telephone number so the Court and the
3 Sheriff can reach you if necessary.

4

5

6

_____)
PETITIONER

7

8

[STATE OF OREGON)

9

) ss.

10

County of _____)

11

12

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

13

14

NOTARY PUBLIC FOR OREGON

15

My commission expires: _____]

16

17

RELEVANT DATA

18

19

RESPONDENT _____

20

Sex _____ Telephone # _____

21

Residence Address _____

22

City/State/Zip _____

23

County _____

24

Birthdate _____ Age _____

25

Race _____

26

Height _____ Weight _____

27

Eye Color _____

28

Hair Color _____

29

30

PETITIONER (you) _____

GUARDIAN PETITIONER

31

Sex _____ *Telephone # _____

Name _____

32

*Residence Address _____

Address _____

33

City/State/Zip _____

34

County _____

Telephone # _____

35

Birthdate _____ Age _____

36

Race _____

37

Height _____ Weight _____

38

Eye Color _____

39

Hair Color _____

40

41

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

42

43

44

PLEASE FILL OUT THIS INFORMATION

45

TO AID IN SERVICE OF

THE RESTRAINING ORDER

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Where is respondent most likely to be located?

Residence Hours _____

Employment Hours _____

Address: _____

Employment Hours _____

Address: _____

Description of vehicle _____

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

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

Is there anything about respondent's character, past behavior or the present situation that indicates

that respondent may be a danger to self or others? Explain:

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

_____,)

Petitioner)

(your name)) RESTRAINING ORDER

) TO PREVENT ABUSE

) OF ELDERLY PERSONS

vs.) OR PERSONS WITH

) DISABILITIES

1)
 2) NO. _____
 3 _____,
 4 Respondent)
 5 (person to be restrained))
 6)

7 TO THE RESPONDENT:
 8 VIOLATION OF THIS RESTRAINING ORDER
 9 MAY RESULT IN YOUR ARREST AND IN
 10 CIVIL AND/OR CRIMINAL PENALTIES.
 11 REVIEW THIS ORDER CAREFULLY.
 12 EACH PROVISION MUST BE OBEYED.
 13 SEE YOUR RIGHTS TO A HEARING.

14 The Court, having reviewed the petition, makes the following findings:
 15

16 Judge's Initials

- 17 — Petitioner has been abused by respondent as defined by ORS 124.005;
- 18 — The abuse of petitioner by respondent occurred within the last 180 days as provided in ORS
- 19 124.010;
- 20 — There is an immediate and present danger of further abuse to petitioner.

21
 22 IT IS HEREBY ORDERED that:

<u>Petitioner's Request</u>	<u>Judge's Initials</u>
24 [] 1. Respondent is restrained (prohibited) from intimidating, 25 molesting, interfering with or menacing petitioner, or 26 attempting to intimidate, molest, interfere with or menace 27 petitioner.	_____
28 [] 2. Respondent is restrained (prohibited) from entering, or 29 attempting to enter: 30 (Include names and address unless withheld for safety reasons.)	_____
31 [] Petitioner's residence.	_____
32 [] Petitioner's business or place of employment.	_____
33 [] Petitioner's school.	_____
34 [] Other locations.	_____
35 [] 3. Respondent is restrained (prohibited) from:	
36 [] Contacting, or attempting to contact, petitioner by telephone.	_____
37 [] Contacting, or attempting to contact, petitioner by mail.	_____
38 [] 4. Respondent shall move from and not return to the re- 39 sidence located at _____ except with a 40 peace officer in order to remove essential personal effects 41 of the respondent, including, but not limited to: 42 clothing, toiletries, medications, Social Security cards, 43 birth certificates, identification and tools of the trade.	_____
44 [] 5. A peace officer shall accompany the petitioner to the 45 parties' residence in order to remove essential personal	_____

- 1 effects of petitioner, including, but not limited to:
- 2 clothing, toiletries, medications, Social Security cards,
- 3 birth certificates, identification and tools of the trade.
- 4 [] 6. Beginning on a date not less than 150 _____
- 5 days from the date of this order, the respondent shall
- 6 not mail the petitioner any further sweepstakes promotions.
- 7 [] 7. Respondent shall remove the petitioner from _____
- 8 the respondent's sweepstakes promotion mailing list or
- 9 shall place the petitioner on the respondent's list of
- 10 persons to whom sweepstakes promotions may not be mailed.
- 11 [] 8. Respondent shall refund any payment received _____
- 12 in any form from the petitioner after the date
- 13 this order is entered by the court.
- 14 [] 9. Other relief: _____
- 15 _____
- 16 _____
- 17 [] 10. No further service is necessary because respondent _____
- 18 appeared in person before the Court.

19

20 IT IS FURTHER ORDERED that:

21 SECURITY AMOUNT FOR VIOLATION OF ANY PROVISION OF THIS ORDER IS \$5,000

22 unless otherwise specified.

23 Other Amount (\$)

24

25 THE ABOVE PROVISIONS OF THIS RESTRAINING ORDER ARE IN EFFECT FOR

26 A PERIOD OF ONE YEAR OR UNTIL THE ORDER IS VACATED, MODIFIED OR

27 SUPERSEDED, WHICHEVER OCCURS FIRST.

28

29 DATED this _____ day of _____, 2_____.

30

31 _____

32 CIRCUIT COURT JUDGE (signature)

33 _____

34 CIRCUIT COURT JUDGE (printed)

35 _____

36

37

38 IN THE CIRCUIT COURT OF

39 THE STATE OF OREGON

40 FOR THE COUNTY OF _____

41

42)

43 _____,) NO. _____

44 Petitioner,)

45 vs.) [AFFIDAVIT OF] PROOF

1 _____,) OF SERVICE
 2 Respondent.)
 3)
 4)
 5 [STATE OF)
 6 OREGON)
 7) ss.
 8 County of _____)]

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

12 On the _____ day of _____, 2_____, I served the Restraining Order to Prevent Abuse of
 13 Elderly Persons or Persons With Disabilities and the Petition for Restraining Order to Prevent
 14 Abuse of Elderly Persons or Persons With Disabilities in this case personally upon the above-named
 15 respondent in _____ County by delivering to the respondent a copy of those papers, each
 16 of which was certified to be a true copy of each original.

17 _____
 18 Signature of _____

19
 20 [SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____.
 21

22 _____
 23 NOTARY PUBLIC FOR OREGON
 24 My Commission Expires: _____]

25
 26
 27 IN THE CIRCUIT COURT OF
 28 THE STATE OF OREGON
 29 FOR THE COUNTY OF _____

30
 31)
 32 _____,) NO. _____
 33 Petitioner,)
 34 vs.) MOTION AND ORDER
 35 _____,) OF DISMISSAL
 36 Respondent.)
 37)

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

40 _____
 41 Petitioner

42 SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2_____.
 43

44 _____
 45 NOTARY PUBLIC FOR OREGON
 My Commission Expires: _____

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

3 The order restraining me from contacting, or attempting to contact, the petitioner.

4 Other _____

5
6 I (will) (will not) be represented by an attorney at the hearing.

7
8 Notice of the time and place of the hearing can be mailed to me at the address below my signature.

9
10 Date: _____

11
12 _____
13 SIGNATURE OF RESPONDENT

14
15 _____
16 _____
17 _____
18 ADDRESS

19
20 _____
21 TELEPHONE NUMBER

22
23
24 (7) If the court orders relief:

25 (a) The clerk of the court shall provide without charge the number of certified true copies of
26 the petition and order necessary to effect service and shall have a true copy of the petition and
27 order delivered to the county sheriff for service upon the respondent, unless the court finds that
28 further service is unnecessary because the respondent appeared in person before the court.

29 (b) The county sheriff shall serve the respondent personally unless the petitioner or guardian
30 petitioner elects to have the respondent served personally by a private party or by a peace officer
31 who is called to the scene of a domestic disturbance at which the respondent is present, and who
32 is able to obtain a copy of the order within a reasonable amount of time. Proof of service shall be
33 made in accordance with ORS 124.030.

34 (c) A respondent accused of committing abuse by means of a sweepstakes promotion may be
35 served:

36 (A) Personally;

37 (B) By mailing certified true copies of the petition and order by certified mail to the address to
38 which the elderly person or person with a disability would have sent the payment for goods or ser-
39 vices promoted in the sweepstakes promotion had the elderly person or person with a disability been
40 ordering the goods or services; or

41 (C) In the manner directed by the court.

42 (d) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the
43 relief provided under ORS 124.005 to 124.040.

44 (8) If the county sheriff:

45 (a) Determines that the order and petition are incomplete, the order and petition shall be re-

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

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

8 (9)(a) Within 30 days after a restraining order is served on the respondent under this section
9 or within 30 days after notice is served on the elderly person or person with a disability under ORS
10 124.024, the respondent, elderly person or person with a disability may request a court hearing upon
11 any relief granted. The hearing request form shall be available from the clerk of the court and shall
12 be in substantially the form provided in subsection (6) of this section.

13 (b) If the respondent, elderly person or person with a disability requests a hearing under para-
14 graph (a) of this subsection, the clerk of the court shall notify the petitioner or guardian petitioner
15 of the date and time of such hearing, and shall supply the petitioner or guardian petitioner with a
16 copy of the request for a hearing. The petitioner or guardian petitioner shall give to the clerk of the
17 court information sufficient to allow such notification.

18 (c) The hearing is not limited to the issues raised in the request for hearing form and may in-
19 clude testimony from witnesses to the abuse and adult protective services workers. The hearing may
20 be held in person or by telephone. If the respondent, elderly person or person with a disability seeks
21 to raise an issue at the hearing not previously raised in the request for hearing form, the petitioner
22 or guardian petitioner is entitled to a reasonable continuance for the purpose of preparing a re-
23 sponse to the issue.

24 (d) The court shall exercise its discretion in a manner that protects the elderly person or person
25 with a disability from traumatic confrontation with the respondent.

26 **SECTION 20.** ORS 124.030 is amended to read:

27 124.030. (1) Whenever a restraining order, as authorized by ORS 124.015 or 124.020, that includes
28 a security amount and an expiration date pursuant to ORS 124.015 and 124.020 and this section, is
29 issued and the person to be restrained has actual notice of the order, the clerk of the court or any
30 other person serving the petition and order shall immediately deliver to a county sheriff a true copy
31 of [*the affidavit of*] proof of service, on which it is stated that personal service of the petition and
32 order was served on the respondent, and copies of the petition and order. **Proof of service may**
33 **be made by affidavit or by declaration under penalty of perjury.** If an order entered by the court
34 recites that the respondent appeared in person before the court, the necessity for service of the
35 order and [*an affidavit of*] proof of service is waived. Upon receipt of a copy of the order and notice
36 of completion of any required service by a member of a law enforcement agency, the county sheriff
37 shall immediately enter the order into the Law Enforcement Data System maintained by the De-
38 partment of State Police. If the petition and order were served on the respondent by a person other
39 than a member of a law enforcement agency, the county sheriff shall enter the order into the Law
40 Enforcement Data System upon receipt of a true copy of [*the affidavit of*] proof of service. Entry into
41 the Law Enforcement Data System constitutes notice to all law enforcement agencies of the exist-
42 ence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an
43 officer at the scene of an alleged violation of the order may be informed of the existence and terms
44 of the order. The order is fully enforceable in any county in this state.

45 (2)(a) A restraining order shall remain in effect until the order expires or is terminated by court

1 order.

2 (b) When a restraining order has been entered under ORS 124.020, the restraining order shall
3 not be terminated upon a motion for dismissal by the petitioner or guardian petitioner unless the
4 motion is 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 immediately deliver a copy of the
7 termination order to the county sheriff with whom the original order was filed. Upon receipt of the
8 termination order, the county sheriff shall promptly remove the original order from the Law
9 Enforcement Data System.

10 (4) Pending a contempt hearing for an alleged violation of a restraining order issued under ORS
11 124.015 or 124.020, a person arrested and taken into custody pursuant to ORS 133.310 may be re-
12 leased as provided in ORS 135.230 to 135.290. Whenever a restraining order is issued under ORS
13 124.015 or 124.020, the issuing court shall set a security amount for the violation of the order.

14 **SECTION 21.** ORS 163.760 is amended to read:

15 163.760. As used in ORS 163.760 to 163.777:

16 (1) **“Declaration under penalty of perjury,”** “family or household members,” “interfere,” “in-
17 timidate,” “menace” and “molest” have the meanings given those terms in ORS 107.705.

18 (2) “Sexual abuse” means sexual contact with:

19 (a) A person who does not consent to the sexual contact; or

20 (b) A person who is considered incapable of consenting to a sexual act under ORS 163.315, un-
21 less the sexual contact would be lawful under ORS 163.325 or 163.345.

22 (3) “Sexual contact” has the meaning given that term in ORS 163.305.

23 **SECTION 22.** ORS 163.763 is amended to read:

24 163.763. (1) A person who has been subjected to sexual abuse and who reasonably fears for the
25 person’s physical safety may petition the circuit court for a restraining order if:

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

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

28 (c) The respondent is not prohibited from contacting the person pursuant to a foreign restraining
29 order as defined in ORS 24.190, an order issued under ORS 30.866, 124.015, 124.020, 163.738 or
30 419B.845 or an order entered in a criminal action.

31 (2)(a) A petition seeking relief under ORS 163.760 to 163.777 must be filed in the circuit court
32 for the county in which the petitioner or the respondent resides. The petition may be filed, without
33 the appointment of a guardian ad litem, by a person who is at least 12 years of age or by a parent
34 or lawful guardian of a person who is under 18 years of age.

35 (b) The petition must allege that:

36 (A) The petitioner reasonably fears for the petitioner’s physical safety with respect to the re-
37 spondent; and

38 (B) The respondent subjected the petitioner to sexual abuse within the 180 days preceding the
39 filing of the petition.

40 (c) [*Statements in the petition must be made under oath or affirmation.*] **The petition must in-
41 clude allegations made under oath or affirmation or a declaration under penalty of perjury.**

42 (d) The petitioner has the burden of proving a claim under ORS 163.760 to 163.777 by a pre-
43 ponderance of the evidence.

44 (3) The following periods of time may not be counted for the purpose of computing the 180-day
45 period described in this section and ORS 163.765:

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

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

4 (c) Any time during which the respondent is subject to an order described in subsection (1)(c)
5 of this section.

6 **SECTION 23.** ORS 163.773 is amended to read:

7 163.773. (1)(a) When a restraining order is issued in accordance with ORS 163.760 to 163.777 and
8 the person to be restrained has actual notice of the restraining order, the clerk of the court or any
9 other person serving the petition and the restraining order shall immediately deliver to a county
10 sheriff copies of the petition and the restraining order and a true copy of [*the affidavit of*] proof of
11 service on which it is stated that the petition and the restraining order were served personally on
12 the respondent. **Proof of service may be made by affidavit or by declaration under penalty of**
13 **perjury.** If a restraining order entered by the circuit court recites that the respondent appeared in
14 person before the court, the necessity for service of the restraining order and [*an affidavit of*] proof
15 of service is waived.

16 (b) Upon receipt of a copy of the restraining order and notice of completion of any required
17 service by a member of a law enforcement agency, the county sheriff shall immediately enter the
18 restraining order into the Law Enforcement Data System maintained by the Department of State
19 Police and the databases of the National Crime Information Center of the United States Department
20 of Justice. If the petition and the restraining order were served on the respondent by a person other
21 than a member of a law enforcement agency, the county sheriff shall enter the restraining order into
22 the Law Enforcement Data System and the databases of the National Crime Information Center
23 upon receipt of a true copy of [*the affidavit of*] proof of service. The sheriff shall provide the
24 petitioner with a true copy of any required proof of service.

25 (c) Entry into the Law Enforcement Data System constitutes notice to all law enforcement
26 agencies of the existence of the restraining order. Law enforcement agencies shall establish proce-
27 dures adequate to ensure that an officer at the scene of an alleged violation of the restraining order
28 may be informed of the existence and terms of the restraining order. The restraining order is fully
29 enforceable in any county or tribal land in this state.

30 (d) When a restraining order has been entered into the Law Enforcement Data System and the
31 databases of the National Crime Information Center of the United States Department of Justice
32 under this subsection, a county sheriff shall cooperate with a request from a law enforcement
33 agency from any other jurisdiction to verify the existence of the restraining order or to transmit a
34 copy of the restraining order to the requesting jurisdiction.

35 (2) A sheriff may serve a restraining order issued under ORS 163.760 to 163.777 in the county
36 in which the sheriff was elected and in any county that is adjacent to the county in which the sheriff
37 was elected.

38 (3)(a) A sheriff may serve and enter into the Law Enforcement Data System a copy of a re-
39 straining order issued under ORS 163.760 to 163.777 that was transmitted to the sheriff by a circuit
40 court or law enforcement agency through an electronic communication device. Before transmitting
41 a copy of a restraining order to a sheriff under this subsection through an electronic communication
42 device, the person transmitting the copy must receive confirmation from the sheriff's office that an
43 electronic communication device is available and operating.

44 (b) For purposes of this subsection, "electronic communication device" means a device by which
45 any kind of electronic communication can be made, including but not limited to communication by

1 telephonic facsimile and electronic mail.

2 (4) When a circuit court enters an order terminating a restraining order issued under ORS
3 163.760 to 163.777 before the expiration date, the clerk of the court shall immediately deliver a copy
4 of the termination order to the county sheriff with whom the original restraining order was filed.
5 Upon receipt of the termination order, the county sheriff shall promptly remove the original re-
6 straining order from the Law Enforcement Data System and the databases of the National Crime
7 Information Center of the United States Department of Justice.

8 (5)(a) A contempt proceeding for an alleged violation of a restraining order issued under ORS
9 163.760 to 163.777 must be conducted by the circuit court that issued the restraining order or by the
10 circuit court for the county in which the alleged violation of the restraining order occurs. If con-
11 tempt proceedings are initiated in the circuit court for the county in which the alleged violation of
12 the restraining order occurs, the person initiating the contempt proceedings shall file with the court
13 a copy of the restraining order that is certified by the clerk of the court that originally issued the
14 restraining order. Upon filing of the certified copy of the restraining order, the circuit court shall
15 enforce the restraining order as though that court had originally issued the restraining order.

16 (b) Pending a contempt hearing for an alleged violation of a restraining order issued under ORS
17 163.760 to 163.777, a person arrested and taken into custody pursuant to ORS 133.310 may be re-
18 leased as provided in ORS 135.230 to 135.290.

19 (c) Service of process or other legal documents upon the petitioner is not a violation of a re-
20 straining order entered under ORS 163.760 to 163.777 if the petitioner is served as provided in ORCP
21 7 or 9.

22 **SECTION 24.** ORS 163.775 is amended to read:

23 163.775. (1)(a) A circuit court may renew a restraining order entered under ORS 163.760 to
24 163.777 upon a finding that it is objectively reasonable for a person in the petitioner's situation to
25 fear for the person's physical safety if the restraining order is not renewed. A finding that the re-
26 spondent has subjected the petitioner to additional sexual abuse is not required.

27 (b) A circuit court may renew a restraining order on the basis of [*a sworn,*] **an** ex parte petition
28 alleging facts supporting the required finding. **The petition must include allegations made under**
29 **oath or affirmation or a declaration under penalty of perjury.** If the renewal order is granted,
30 the provisions of ORS 163.765 (4) to (8) and 163.767 (3) apply, except that the court may hear no
31 issue other than the basis for renewal, unless requested in the hearing request form and thereafter
32 agreed to by the petitioner. The circuit court shall hold a hearing required under this paragraph
33 within 21 days after the respondent's request.

34 (2) At any time after the time period set forth in ORS 163.765 (6):

35 (a) A party may request that the circuit court modify terms in the restraining order for good
36 cause shown.

37 (b) A petitioner may request that the circuit court remove terms in the restraining order or
38 make terms in the order less restrictive. Application to the circuit court under this paragraph may
39 be by ex parte motion.

40 (3) The clerk of the court shall provide without charge the number of certified true copies of
41 the request for modification of the restraining order and notice of hearing necessary to effect ser-
42 vice and, at the election of the party requesting the modification, shall have a true copy of the re-
43 quest and notice delivered to the county sheriff for service upon the other party.

44 (4) The county sheriff shall serve the other party with a request for modification of a restraining
45 order under subsection (2)(a) of this section by personal service, unless the party requesting the

1 modification elects to have the other party personally served by a private party or unless otherwise
2 ordered by the circuit court.

3 (5) The provisions of ORS 163.767 (3) apply to a modification of a restraining order under this
4 section.

5 (6) The clerk of the court shall deliver a copy of an order of modification entered under this
6 section to the county sheriff for service and entry into the Law Enforcement Data System as pro-
7 vided in ORS 163.773.

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

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

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

13 (b) If the order of modification recites that the respondent appeared in person before the circuit
14 court, the necessity for service of the order and [*an affidavit of*] proof of service is waived.

15 (8) A restraining order entered under ORS 163.760 to 163.777 may not be terminated on motion
16 of the petitioner, unless the motion is notarized.

17 **SECTION 25.** ORS 163.741 is amended to read:

18 163.741. (1) Service of a stalking protective order shall be made by personal delivery of a copy
19 of the order to the respondent. The respondent need not be served if an order of the court indicates
20 that the respondent appeared in person before the court.

21 (2) Whenever a stalking protective order, as authorized by ORS 163.735 or 163.738, is served on
22 a respondent, the person serving the order shall immediately deliver to the county sheriff a true
23 copy of [*the affidavit of*] proof of service, on which it is stated that personal service of the order
24 was made on the respondent, and a copy of the order. **Proof of service may be made by affidavit
25 or by declaration under penalty of perjury in the form required by ORCP 1 E.** If service of the
26 order is not required under subsection (1) of this section, a copy of the order must be delivered to
27 the sheriff by the court. Upon receipt of a copy of the order and notice of completion of any required
28 service by a member of a law enforcement agency, the county sheriff shall immediately enter the
29 order into the Law Enforcement Data System maintained by the Department of State Police and into
30 the databases of the National Crime Information Center of the United States Department of Justice.
31 If the order was served on the respondent by a person other than a member of a law enforcement
32 agency, the county sheriff shall enter the order into the Law Enforcement Data System and data-
33 bases of the National Crime Information Center upon receipt of a true copy of [*the affidavit of*] proof
34 of service. The sheriff shall provide the complainant with a true copy of any required proof of ser-
35 vice. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agen-
36 cies of the existence of the order. Law enforcement agencies shall establish procedures adequate to
37 ensure that an officer at the scene of an alleged violation of the order may be informed of the ex-
38 istence and terms of the order. The order is fully enforceable in any county in this state.

39 (3) When a stalking protective order has been entered into the Law Enforcement Data System
40 and the databases of the National Crime Information Center of the United States Department of
41 Justice under subsection (1) of this section, a county sheriff shall cooperate with a request from a
42 law enforcement agency from any other jurisdiction to verify the existence of the stalking protective
43 order or to transmit a copy of the order to the requesting jurisdiction.

44 (4) When a stalking protective order is terminated by order of the court, the clerk of the court
45 shall immediately deliver a copy of the termination order to the county sheriff with whom the ori-

1 ginal order was filed. Upon receipt of the termination order, the county sheriff shall promptly re-
2 move the original order from the Law Enforcement Data System and the databases of the National
3 Crime Information Center of the United States Department of Justice.

4 **SECTION 26.** (1) **The amendments to ORS 46.425, 107.095, 107.097, 107.138, 107.139, 107.434,**
5 **107.437, 107.705, 107.710, 107.720, 107.725, 107.730, 107.840, 109.767, 124.005, 124.010, 124.020,**
6 **124.030, 153.080, 163.741, 163.760, 163.763, 163.773, 163.775 and 419B.367 by sections 1 to 25 of**
7 **this 2015 Act become operative September 1, 2015.**

8 (2) **The State Court Administrator may take any action before the operative date set**
9 **forth in subsection (1) of this section that is necessary to enable the State Court Adminis-**
10 **trator to exercise, on and after the operative date set forth in subsection (1) of this section,**
11 **all the duties, functions and powers conferred on the State Court Administrator by this 2015**
12 **Act.**

13 **SECTION 27.** **This 2015 Act being necessary for the immediate preservation of the public**
14 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
15 **on its passage.**

16