

Enrolled Senate Bill 376

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CHAPTER

AN ACT

Relating to circuit court documents; amending ORS 3.235, 124.020, 124.024, 138.560, 138.580 and 419B.367; and declaring an emergency.

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

SECTION 1. ORS 138.560 is amended to read:

138.560. (1) A proceeding for post-conviction relief pursuant to ORS 138.510 to 138.680 shall be commenced by filing a petition [*and two copies thereof*] with the clerk of the circuit court for the county in which the petitioner is imprisoned or, if the petitioner is not imprisoned, with the clerk of the circuit court for the county in which the petitioner's conviction and sentence was rendered. Except as otherwise provided in ORS 138.590, the petitioner must pay the filing fee established under ORS 21.135 at the time of filing a petition under this section. If the petitioner prevails, the petitioner shall recover the fee pursuant to the Oregon Rules of Civil Procedure. The clerk of the court in which the petition is filed shall enter and file the petition and bring it promptly to the attention of such court. A copy of the petition need not be served by petitioner on the defendant, but, in lieu thereof, the clerk of the court in which the petition is filed shall immediately forward a copy of the petition to the Attorney General or other attorney for the defendant named in ORS 138.570.

(2) For the purposes of ORS 138.510 to 138.680, a person released on parole or conditional pardon shall be deemed to be imprisoned in the institution from which the person is so released.

(3) Except when petitioner's conviction was for a misdemeanor, the release of the petitioner from imprisonment during the pendency of proceedings instituted pursuant to ORS 138.510 to 138.680 shall not cause the proceedings to become moot. Such release of petitioner shall not change the venue of the proceedings out of the circuit court in which [*they*] **the proceedings** were commenced and shall not affect the power of such court to transfer the proceedings as provided in subsection (4) of this section.

(4) Whenever the petitioner is imprisoned in a Department of Corrections institution and the circuit court for the county in which the petitioner is imprisoned finds that the hearing upon the petition can be more expeditiously conducted in the county in which the petitioner was convicted and sentenced, the circuit court upon its own motion or the motion of a party may order the petitioner's case to be transferred to the circuit court for the county in which petitioner's conviction and sentence were rendered. The court's order is not reviewable by any court of this state.

(5) When a petitioner who is imprisoned in a Department of Corrections institution is transferred to another Department of Corrections institution, the circuit court in which a post-conviction

relief proceeding is pending may deny a motion for a change of venue to the county where the petitioner is transferred. The court's order is not reviewable by any court of this state.

SECTION 2. ORS 138.580 is amended to read:

138.580. The petition shall be certified by the petitioner. Facts within the personal knowledge of the petitioner and the authenticity of all documents and exhibits included in or attached to the petition must be sworn to affirmatively as true and correct. The Supreme Court, by rule, may prescribe the form of the certification. The petition shall identify the proceedings in which petitioner was convicted and any appellate proceedings thereon, give the date of entry of judgment and sentence complained of and identify any previous post-conviction proceedings that the petitioner has undertaken to secure a post-conviction remedy, whether under ORS 138.510 to 138.680 or otherwise, and the disposition thereof. The petition shall set forth specifically the grounds upon which relief is claimed[,] and shall state clearly the relief desired. All facts within the personal knowledge of the petitioner shall be set forth separately from the other allegations of fact and shall be certified as [heretofore] provided in this section. **Except as provided in rules adopted under ORS 1.002**, affidavits, records or other documentary evidence supporting the allegations of the petition shall be attached to the petition. Argument, citations and discussion of authorities shall be omitted from the petition but may be submitted in a separate memorandum of law.

SECTION 3. ORS 3.235 is amended to read:

3.235. (1) The regular terms of the circuit court in the several districts of the state shall be **January 1 through December 31 of each year.** [held at times designated by order of the presiding circuit judge of the court. The order shall be made and entered of record each year, and may be amended by making and entering of record further orders.]

(2) Notwithstanding subsection (1) of this section, in districts [which are comprised of] **that comprise** more than one county, the court [shall] **may** designate [sufficient] **by order** regular terms in each county within the district to conduct those matters which arise from that county. [In no event shall there be less than two terms per year in each such county.] **Terms designated under this subsection may be different from the term established in subsection (1) of this section.**

SECTION 4. ORS 419B.367 is amended to read:

419B.367. (1) Upon granting a motion for guardianship under ORS 419B.366 or upon granting a petition for guardianship under ORS 419B.365, the court shall issue letters of guardianship to the guardian. As provided in ORS 419A.255, a guardian may disclose letters of guardianship when necessary to fulfill the duties of a guardian. Letters of guardianship must be in substantially the following form:

State of Oregon,)
) LETTERS OF
County of _____) GUARDIANSHIP

BY THESE LETTERS OF GUARDIANSHIP be informed:

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

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

(Seal)
_____, Clerk of the Court
By _____, Deputy

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

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

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

(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 contain 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 5. ORS 124.020 is amended to read:

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

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

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

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

(d) That the respondent be restrained from entering, or attempting to enter, on any premises when it appears to the court that such restraint is necessary to prevent the respondent from abus-

ing, intimidating, molesting, interfering with or menacing the elderly person or person with a disability;

(e) That the respondent be:

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

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

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

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

(2)(a) If the court finds that the elderly person or person with a disability has been the victim of abuse as defined in ORS 124.005 (1)(g), the court may order only relief that the court considers necessary to prevent or remedy the wrongful taking or appropriation of the money or property of the person, including but not limited to:

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

(B) Requiring the respondent to return custody or control of the money or property of the person to the person;

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

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

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

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

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

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

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

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

(c) Witnesses to the abuse; or

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

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

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

(6) **The State Court Administrator shall prescribe the content and form of the petition, order and related forms for use under ORS 124.005 to 124.040. The clerk of the court shall make available the forms and** an instruction brochure. [shall be available from the clerk of the court explaining the rights set forth under ORS 124.005 to 124.040. The petition, order and related forms shall be available from the clerk of the court and shall be in substantially the following form:]

[_____]

IN THE CIRCUIT COURT OF

THE STATE OF OREGON FOR
THE COUNTY OF _____

_____,) PETITION FOR
Petitioner) RESTRAINING ORDER
(your name)) TO PREVENT ABUSE
) OF ELDERLY
) PERSONS OR
) PERSONS WITH
us.) DISABILITIES
)
) NO. _____
_____,)
Respondent)
(person to be)
restrained))

YOU MUST PROVIDE COMPLETE AND TRUTHFUL INFORMATION. IF YOU DO NOT, THE COURT MAY DISMISS ANY RESTRAINING ORDER AND MAY ALSO HOLD YOU IN CONTEMPT OF COURT.

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

ATTACH ADDITIONAL PAGES
IF NECESSARY.

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

I am a resident of _____ County, Oregon.

Respondent is a resident of _____ County, Oregon.

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

1. CHECK AND FILL OUT ANY SECTION(S) that apply to you and respondent:
 - ___ A. Respondent and I have been living together since _____, ____ (year).
 - ___ B. Respondent and I lived together from _____, ____ (year), to _____, ____ (year).
 - ___ C. I have been under the care of respondent since _____, ____ (year).
 - ___ D. I was under the care of respondent from _____, ____ (year), to _____, ____ (year).
 - ___ E. Respondent has sent me sweepstakes promotions.
 - ___ F. None of the above.
2. To qualify for a restraining order, respondent must have done one or more of the following:
Within the last 180 days, respondent has:
 - ___ A. Caused me physical injury by other than accidental means.
 - ___ B. Attempted to cause me physical injury by other than accidental means.
 - ___ C. Placed me in fear of immediate serious physical injury.
 - ___ D. Caused me physical harm by withholding services necessary to maintain my health and well-being.
 - ___ E. Abandoned or deserted me by withdrawing or neglecting to perform duties and obligations.

- F. *Used derogatory or inappropriate names, phrases or profanity, ridicule, harassment, coercion, threats, cursing, intimidation or inappropriate sexual comments or conduct of such a nature as to place me in fear of significant physical or emotional harm.*
- G. *Sent me sweepstakes promotions, and I feel the need for the court's assistance to protect me from further expense. I am an elderly person or a person with a disability. In the past year, I spent more than \$500 on sweepstakes promotions that I received in the United States mail.*
- H. *Wrongfully taken or appropriated my money or property, or alarmed me by conveying a threat to me that my money or property would be wrongfully taken or appropriated, which I reasonably believed would be carried out.*
- I. *Had nonconsensual sexual contact with me or sexual contact to which I was incapable of consenting.*

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

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

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

Date and location of abuse:

How did respondent injure or threaten to injure you?

5. *Are there incidents other than those described in question 4 above, in which respondent injured or threatened to injure you? If yes, explain:*

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

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

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.**

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

PETITIONER

STATE OF OREGON)
) ss.
County of _____)

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

RELEVANT DATA

RESPONDENT _____
Sex _____ Telephone # _____
Residence Address _____
City/State/Zip _____
County _____
Birthdate _____ Age _____
Race _____
Height _____ Weight _____
Eye Color _____
Hair Color _____

PETITIONER (you) _____
Sex _____ *Telephone # _____
*Residence Address _____
City/State/Zip _____
County _____
Birthdate _____ Age _____
Race _____
Height _____ Weight _____
Eye Color _____
Hair Color _____

GUARDIAN PETITIONER
Name _____
Address _____
Telephone # _____

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

PLEASE FILL OUT THIS INFORMATION
TO AID IN SERVICE OF
THE RESTRAINING ORDER

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**
)
) **NO. _____**
_____)
Respondent))
(person to be restrained))
)

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

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

Judge's Initials

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

IT IS HEREBY ORDERED that:

Petitioner's Request

- [] 1. *Respondent is restrained (prohibited) from intimidating, molesting, interfering with or menacing petitioner, or attempting to intimidate, molest, interfere with or menace petitioner.*

Judge's Initials

- [] 2. Respondent is restrained (prohibited) from entering, or attempting to enter: _____
 (Include names and address unless withheld for safety reasons.)
 - [] Petitioner's residence. _____
 - [] Petitioner's business or place of employment. _____
 - [] Petitioner's school. _____
 - [] Other locations. _____
- [] 3. Respondent is restrained (prohibited) from:
 - [] Contacting, or attempting to contact, petitioner by telephone. _____
 - [] Contacting, or attempting to contact, petitioner by mail. _____
- [] 4. Respondent shall move from and not return to the residence located at _____ except with a peace officer in order to remove essential personal effects of the respondent, including, but not limited to: clothing, toiletries, medications, Social Security cards, birth certificates, identification and tools of the trade.
- [] 5. A peace officer shall accompany the petitioner to the parties' residence in order to remove essential personal effects of petitioner, including, but not limited to: clothing, toiletries, medications, Social Security cards, birth certificates, identification and tools of the trade.
- [] 6. Beginning on a date not less than 150 days from the date of this order, the respondent shall not mail the petitioner any further sweepstakes promotions.
- [] 7. Respondent shall remove the petitioner from the respondent's sweepstakes promotion mailing list or shall place the petitioner on the respondent's list of persons to whom sweepstakes promotions may not be mailed.
- [] 8. Respondent shall refund any payment received in any form from the petitioner after the date this order is entered by the court.
- [] 9. Other relief: _____

- [] 10. No further service is necessary because respondent appeared in person before the Court. _____

IT IS FURTHER ORDERED that:
SECURITY AMOUNT FOR VIOLATION OF ANY PROVISION OF THIS ORDER IS \$5,000 unless otherwise specified.
 Other Amount (\$)

THE ABOVE PROVISIONS OF THIS RESTRAINING ORDER ARE IN EFFECT FOR A PERIOD OF ONE YEAR OR UNTIL THE ORDER IS VACATED, MODIFIED OR SUPERSEDED, WHICHEVER OCCURS FIRST.

DATED this _____ day of _____, 2_____

 CIRCUIT COURT JUDGE (signature)

 CIRCUIT COURT JUDGE (printed)

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

_____))
Petitioner,) NO. _____
vs.))
_____)) AFFIDAVIT OF PROOF
Respondent.) OF SERVICE
))
))
STATE OF))
OREGON))
) ss.
County of _____)

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

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

Signature of _____

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

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

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

_____))
Petitioner,) NO. _____
vs.))
_____)) MOTION AND ORDER
Respondent.) OF DISMISSAL
))
))

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

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

Petitioner

IT IS SO ORDERED this _____ day of _____, 2_____

JUDGE

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

_____))
(D.O.B. _____)) NOTICE TO RESPONDENT
Petitioner,) (Elderly Persons and
) Persons With Disabilities
) Abuse Prevention Act)
)
and) NO. _____
)
_____))
(D.O.B. _____))
Respondent.)

THIS FORM MUST BE
ATTACHED TO SERVICE COPY
OF RESTRAINING ORDER

TO RESPONDENT: A TEMPORARY RESTRAINING ORDER HAS BEEN ISSUED BY THE COURT WHICH AFFECTS YOUR RIGHTS AND IS NOW IN EFFECT. THIS ORDER BECOMES EFFECTIVE IMMEDIATELY. IF YOU WISH TO CONTEST THE CONTINUATION OF THIS ORDER, YOU MUST COMPLETE THIS FORM AND MAIL OR DELIVER IT TO:

REQUESTS FOR HEARING MUST BE MADE WITHIN 30 DAYS AFTER YOU RECEIVE THE ORDER. YOU MUST INCLUDE YOUR ADDRESS AND TELEPHONE NUMBER WITH YOUR REQUEST FOR A HEARING. THE HEARING WILL BE HELD WITHIN 21 DAYS. AT THE HEARING, A JUDGE WILL DECIDE WHETHER THE ORDER SHOULD BE CANCELED OR CHANGED. THE ONLY PURPOSE OF THIS HEARING WILL BE TO DETERMINE IF THE TERMS OF THE COURT'S TEMPORARY ORDER SHOULD BE CANCELED, CHANGED OR EXTENDED.

Keep in mind that this order remains in effect until the court that issued the order modifies or dismisses it. If you are arrested for violating this order, the security amount (bail) is \$5,000, unless a different amount is ordered by the court. Violation of this order constitutes contempt of court and is punishable by a fine of up to \$500 or one percent of your annual gross income, whichever is greater, a jail term of up to six months, or both. Other sanctions may be imposed.

REQUEST FOR HEARING

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

- The order restraining me from contacting, or attempting to contact, the petitioner.
- Other _____

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

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

Date: _____

SIGNATURE OF RESPONDENT

ADDRESS

TELEPHONE NUMBER

[_____]

(7) If the court orders relief:

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

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

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

(A) Personally;

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

(C) In the manner directed by the court.

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

(8) If the county sheriff:

(a) Determines that the order and petition are incomplete, the order and petition shall be returned to the clerk of the court. The clerk of the court shall notify the petitioner or guardian petitioner, at the address provided by the petitioner or guardian petitioner, of the error or omission.

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

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

shall be in substantially the form provided in subsection (6) of this section] in the form prescribed by the State Court Administrator.

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

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

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

SECTION 6. ORS 124.024 is amended to read:

124.024. (1) A guardian petitioner must give notice of the petition, order and related forms [*described in*] **prescribed under** ORS 124.020 (6) to the elderly person or person with a disability named in the petition.

(2) The guardian petitioner must also serve on the elderly person or person with a disability a notice that contains a statement of the rights of the person as follows:

- (a) The right to contact and retain counsel;
- (b) The right to have access to personal records;
- (c) The right to file objections to the restraining order;
- (d) The right to request a hearing to contest all or part of the restraining order; and
- (e) The right to present evidence and cross-examine witnesses at any hearing.

(3) Notice provided under subsection (1) of this section must be similar to the notice provided to the respondent [*under ORS 124.020 (6)*] and must contain an objection form that the elderly person or person with a disability may complete and mail to the court.

(4) Notice under this section must be personally served on the elderly person or person with a disability. The date of personal service must be not later than 72 hours after the court issues a restraining order under ORS 124.020.

(5) Proof of service under this section must be filed in the proceeding before the court holds a hearing under ORS 124.015.

SECTION 7. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by Senate February 12, 2015

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 12, 2015

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State