

**PROPOSED AMENDMENTS TO  
SENATE BILL 525**

1 On page 1 of the printed bill, line 2, after “ORS” insert “107.718,”.

2 On page 2, line 9, delete “2” and insert “3”.

3 On page 3, line 16, delete “3” and insert “4”.

4 On page 4, line 25, delete “4” and insert “5”.

5 On page 5, line 29, delete “5” and insert “6”.

6 On page 6, after line 30, insert:

7 **“SECTION 7.** ORS 107.718 is amended to read:

8 “107.718. (1) When a person files a petition under ORS 107.710, the circuit  
9 court shall hold an ex parte hearing in person or by telephone on the day  
10 the petition is filed or on the following judicial day. Upon a showing that  
11 the petitioner has been the victim of abuse committed by the respondent  
12 within 180 days preceding the filing of the petition, that there is an imminent  
13 danger of further abuse to the petitioner and that the respondent represents  
14 a credible threat to the physical safety of the petitioner or the petitioner’s  
15 child, the court shall, if requested by the petitioner, order:

16 “(a) Except as provided in subsection (2) of this section, that temporary  
17 custody of the children of the parties be awarded to the petitioner or, at the  
18 request of the petitioner, to the respondent, subject to reasonable parenting  
19 time rights of the noncustodial parent, which the court shall order, unless  
20 such parenting time is not in the best interest of the child;

21 “(b) That the respondent be required to move from the petitioner’s resi-  
22 dence, if in the sole name of the petitioner or if it is jointly owned or rented

1 by the petitioner and the respondent, or if the parties are married to each  
2 other;

3 “(c) That the respondent be restrained from entering, or attempting to  
4 enter, a reasonable area surrounding the petitioner’s current or subsequent  
5 residence if the respondent is required to move from petitioner’s residence;

6 “(d) That a peace officer accompany the party who is leaving or has left  
7 the parties’ residence to remove essential personal effects of the party or the  
8 party’s children, or both, including but not limited to clothing, toiletries,  
9 diapers, medications, Social Security cards, certified copies of records of live  
10 birth, identification and tools of the trade;

11 “(e) That the respondent be restrained from intimidating, molesting, in-  
12 terfering with or menacing the petitioner, or attempting to intimidate, mo-  
13 lest, interfere with or menace the petitioner;

14 “(f) That the respondent be restrained from intimidating, molesting, in-  
15 terfering with or menacing any children in the custody of the petitioner, or  
16 attempting to intimidate, molest, interfere with or menace any children in  
17 the custody of the petitioner;

18 “(g) That the respondent be restrained from entering, or attempting to  
19 enter, on any premises and a reasonable area surrounding the premises when  
20 it appears to the court that such restraint is necessary to prevent the re-  
21 spondent from intimidating, molesting, interfering with or menacing the  
22 petitioner or children whose custody is awarded to the petitioner;

23 “(h) **Except as provided in subsection (13) of this section**, other relief  
24 that the court considers necessary to:

25 “(A) Provide for the safety and welfare of the petitioner and the children  
26 in the custody of the petitioner, including but not limited to emergency  
27 monetary assistance from the respondent; and

28 “(B) Prevent the neglect and protect the safety of any service or therapy  
29 animal or any animal kept for personal protection or companionship, but not  
30 an animal kept for any business, commercial, agricultural or economic pur-

1 pose; or

2 “(i) Except as described in subsection (12) of this section or parenting  
3 time ordered under this section, that the respondent have no contact with  
4 the petitioner in person, by telephone or by mail.

5 “(2) If the court determines that exceptional circumstances exist that af-  
6 fect the custody of a child, the court shall order the parties to appear and  
7 provide additional evidence at a hearing to determine temporary custody and  
8 resolve other contested issues. Pending the hearing, the court may make any  
9 orders regarding the child’s residence and the parties’ contact with the child  
10 that the court finds appropriate to provide for the child’s welfare and the  
11 safety of the parties. The court shall set a hearing time and date as provided  
12 in ORS 107.716 (2) and issue a notice of the hearing at the same time the  
13 court issues the restraining order.

14 “(3) The court’s order under subsection (1) of this section is effective for  
15 a period of one year or until the order is withdrawn or amended, or until the  
16 order is superseded as provided in ORS 107.722, whichever is sooner.

17 “(4) If respondent is restrained from entering, or attempting to enter, an  
18 area surrounding petitioner’s residence or any other premises, the order re-  
19 straining respondent shall specifically describe the area.

20 “(5) Imminent danger under this section includes but is not limited to  
21 situations in which the respondent has recently threatened petitioner with  
22 additional bodily harm.

23 “(6) If the court awards parenting time to a parent who committed abuse,  
24 the court shall make adequate provision for the safety of the child and of the  
25 petitioner. The order of the court may include, but is not limited to, the  
26 following:

27 “(a) That exchange of a child between parents shall occur at a protected  
28 location.

29 “(b) That parenting time be supervised by another person or agency.

30 “(c) That the perpetrator of the abuse be required to attend and complete,

1 to the satisfaction of the court, a program of intervention for perpetrators  
2 or any other counseling program designated by the court as a condition of  
3 the parenting time.

4 “(d) That the perpetrator of the abuse not possess or consume alcohol or  
5 controlled substances during the parenting time and for 24 hours preceding  
6 the parenting time.

7 “(e) That the perpetrator of the abuse pay all or a portion of the cost of  
8 supervised parenting time, and any program designated by the court as a  
9 condition of parenting time.

10 “(f) That no overnight parenting time occur.

11 “(7) The State Court Administrator shall prescribe the content and form  
12 of the petition, order and related forms for use under ORS 107.700 to 107.735.  
13 The clerk of the court shall make available the forms and an instructional  
14 brochure explaining the rights set forth under ORS 107.700 to 107.735.

15 “(8) If the court orders relief:

16 “(a) The clerk of the court shall provide without charge the number of  
17 certified true copies of the petition and order necessary to provide the  
18 petitioner with one copy and to effect service and shall have a true copy of  
19 the petition and order delivered to the county sheriff for service upon the  
20 respondent, unless the court finds that further service is unnecessary because  
21 the respondent appeared in person before the court. In addition and upon  
22 request by the petitioner, the clerk shall provide the petitioner, without  
23 charge, two exemplified copies of the petition and order.

24 “(b) The county sheriff shall serve the respondent personally unless the  
25 petitioner elects to have the respondent served personally by a private party  
26 or by a peace officer who is called to the scene of a domestic disturbance  
27 at which the respondent is present, and who is able to obtain a copy of the  
28 order within a reasonable amount of time. Proof of service shall be made in  
29 accordance with ORS 107.720. When the order does not contain the  
30 respondent’s date of birth and service is effected by the sheriff or other peace

1 officer, the sheriff or officer shall verify the respondent's date of birth with  
2 the respondent and shall record that date on the order or proof of service  
3 entered into the Law Enforcement Data System under ORS 107.720.

4 “(c) No filing fee, service fee or hearing fee shall be charged for pro-  
5 ceedings seeking only the relief provided under ORS 107.700 to 107.735.

6 “(9) If the county sheriff:

7 “(a) Determines that the order and petition are incomplete, the sheriff  
8 shall return the order and petition to the clerk of the court. The clerk of the  
9 court shall notify the petitioner, at the address provided by the petitioner,  
10 of the error or omission.

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

17 “(10)(a) Within 30 days after a restraining order is served under this  
18 section, the respondent therein may request a court hearing upon any relief  
19 granted. The hearing request form shall be available from the clerk of the  
20 court in the form prescribed by the State Court Administrator.

21 “(b) If the respondent requests a hearing under paragraph (a) of this  
22 subsection, the clerk of the court shall notify the petitioner of the date and  
23 time of the hearing, and shall supply the petitioner with a copy of the  
24 respondent's request for a hearing. The petitioner shall give to the clerk of  
25 the court information sufficient to allow such notification.

26 “(c) The hearing shall not be limited to the issues raised in the  
27 respondent's request for hearing form. If the respondent seeks to raise an  
28 issue at the hearing not previously raised in the request for hearing form,  
29 or if the petitioner seeks relief at the hearing not granted in the original  
30 order, the other party shall be entitled to a reasonable continuance for the

1 purpose of preparing a response to the issue.

2 “(11) If the respondent fails to request a hearing within 30 days after a  
3 restraining order is served, the restraining order is confirmed by operation  
4 of law. The provisions of this section are sufficient to meet the due process  
5 requirements of 18 U.S.C. 922(g) in that the respondent received actual no-  
6 tice of the right to request a hearing and the opportunity to participate at  
7 the hearing but the respondent failed to exercise those rights.

8 “(12) Service of process or other legal documents upon the petitioner is  
9 not a violation of this section if the petitioner is served as provided in ORCP  
10 7 or 9.

11 **“(13) As used in subsection (1)(h) of this section, ‘other relief’ does**  
12 **not include a prohibition on the possession of firearms by the re-**  
13 **spondent unless the respondent is prohibited from possessing a firearm**  
14 **under section 2 of this 2015 Act.”.**

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