

**PROPOSED AMENDMENTS TO
HOUSE BILL 2776**

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

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

3 **“SECTION 1. (1) A peace officer may apply to a circuit court for**
4 **an ex parte emergency protective order when the peace officer has**
5 **probable cause to believe:**

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

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

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

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

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

21 **“(3) Upon examination of the application, a circuit court may enter**
22 **an emergency protective order if the court finds there is probable**

1 **cause that:**

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

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

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

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

11 **“(a) Restrain the respondent from contacting the person protected**
12 **by the order and from intimidating, molesting, interfering with or**
13 **menacing the person, or attempting to intimidate, molest, interfere**
14 **with or menace the protected person;**

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

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

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

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

21 **“(a) The peace officer shall provide, without charge, a certified true**
22 **copy of the emergency protective order to the protected person and**
23 **shall ensure that certified true copies of the order and the declaration**
24 **are filed with the court.**

25 **“(b) A peace officer shall serve the respondent personally. Upon**
26 **completion of service, the peace officer shall prepare a declaration**
27 **under penalty of perjury of proof of service verifying that the emer-**
28 **gency protective order was served personally on the respondent, file a**
29 **copy of the declaration with the court and enter the order into the**
30 **Law Enforcement Data System maintained by the Department of State**

1 **Police.**

2 **“(c) If the peace officer cannot complete service within one day of**
3 **the emergency protective order’s entry, the peace officer shall notify**
4 **the court that the documents have not been served.**

5 **“(6) Entry into the Law Enforcement Data System constitutes no-**
6 **tice to all law enforcement agencies of the existence of the emergency**
7 **protective order. Law enforcement agencies shall establish procedures**
8 **adequate to ensure that an officer at the scene of an alleged violation**
9 **of the emergency protective order may be informed of the existence**
10 **and terms of the order. The emergency protective order is fully en-**
11 **forceable in any county or tribal land in this state.**

12 **“(7)(a) An emergency protective order expires seven calendar days**
13 **from the date the court signs the order.**

14 **“(b) An emergency protective order shall remain in effect until the**
15 **order expires or is terminated by court order. If the order is termi-**
16 **nated by court order, the clerk of the court shall immediately cause**
17 **to be delivered a copy of the termination order to the peace officer**
18 **who originally applied for the order. Upon receipt of the termination**
19 **order, the peace officer shall promptly remove the emergency protec-**
20 **tive order from the Law Enforcement Data System.**

21 **“(8)(a) A contempt proceeding for an alleged violation of an emer-**
22 **gency protective order must be conducted by the circuit court that**
23 **issued the order or by the circuit court for the county in which the**
24 **alleged violation of the order occurs.**

25 **“(b) Pending a contempt hearing for an alleged violation of an**
26 **emergency protective order, a person arrested and taken into custody**
27 **pursuant to ORS 133.310 may be released as provided in ORS 135.230 to**
28 **135.290.**

29 **“(9) The presiding judge of the circuit court in each county shall**
30 **designate at least one judge to be reasonably available to enter, in**

1 person or by electronic transmission, ex parte emergency protective
2 orders at all times whether or not the court is in session.

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

6 “(11) A filing fee, service fee or hearing fee may not be charged for
7 proceedings for ex parte emergency protective orders under this sec-
8 tion.

9 “(12) The Department of State Police shall develop forms for emer-
10 gency protective orders and declarations and shall submit the forms
11 for approval by the State Court Administrator, the Oregon State
12 Sheriffs’ Association and the Oregon Association Chiefs of Police. Af-
13 ter obtaining approval, the department shall ensure that the forms are
14 appropriately distributed and available for use.

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

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