

HOUSE AMENDMENTS TO HOUSE BILL 3117

By COMMITTEE ON JUDICIARY

April 12

1 On page 1 of the printed bill, delete line 3 and insert “107.716; and declaring an emergency.”.

2 Delete lines 5 through 28 and delete pages 2 through 9.

3 On page 10, delete lines 1 through 16 and insert:

4 “**SECTION 1.** ORS 107.716 is amended to read:

5 “107.716. (1) If the respondent requests a hearing pursuant to ORS 107.718 (10), the court shall
6 hold the hearing within 21 days after the request. However, if the respondent contests the order
7 granting temporary child custody to the petitioner, the court shall hold the hearing within five days
8 after the request.

9 “(2)(a) If the court determines under ORS 107.718 (2) that exceptional circumstances exist that
10 affect the custody of a child, the court shall hold a hearing within 14 days after issuance of the
11 restraining order. The clerk of the court shall provide a notice of the hearing along with the petition
12 and order to the petitioner and, in accordance with ORS 107.718 (8), to the county sheriff for service
13 on the respondent.

14 “(b) The respondent may request an earlier hearing, to be held within five days after the re-
15 quest. The hearing request form shall be available from the clerk of the court in the form prescribed
16 by the State Court Administrator under ORS 107.718 (7). If the respondent requests an earlier
17 hearing, the clerk of the court shall notify the parties of the scheduled hearing date by mailing a
18 notice of the time and place of hearing to the addresses provided in the petition or, for the re-
19 spondent, to the address provided in the request for hearing, or as otherwise designated by a party.

20 “(c) When the court schedules a hearing under this subsection, the respondent may not request
21 a hearing under ORS 107.718 (10).

22 “(3) In a hearing held pursuant to subsection (1) or (2) of this section[,]:

23 “(a) **The court may continue any order issued under ORS 107.718 if the court finds that:**

24 “(A) **Abuse has occurred within the period specified in ORS 107.710 (1);**

25 “(B) **The petitioner reasonably fears for the petitioner’s physical safety; and**

26 “(C) **The respondent represents a credible threat to the physical safety of the petitioner
27 or the petitioner’s child.**

28 “(b) The court may cancel or change any order issued under ORS 107.718 and may assess
29 against either party a reasonable attorney fee and such costs as may be incurred in the proceeding.

30 “(4)(a) If service of a notice of hearing is inadequate to provide a party with sufficient notice
31 of the hearing held pursuant to ORS 107.718 (2) or (10), the court may extend the date of the hearing
32 for up to five days so that the party may seek representation.

33 “(b) If one party is represented by an attorney at a hearing held pursuant to ORS 107.718 (2)
34 or (10), the court may extend the date of the hearing for up to five days at the other party’s request
35 so that the other party may seek representation.

1 “(5) If the court continues the order, with or without changes, at a hearing about which the
2 respondent received actual notice and the opportunity to participate, the court shall include in the
3 order a certificate in substantially the following form in a separate section immediately above the
4 signature of the judge:

5 “ _____

6
7 CERTIFICATE OF COMPLIANCE
8 WITH THE VIOLENCE
9 AGAINST WOMEN ACT
10

11 This protective order meets all full faith and credit requirements of the Violence Against Women
12 Act, 18 U.S.C. 2265 (1994). This court has jurisdiction over the parties and the subject matter. The
13 respondent was afforded notice and timely opportunity to be heard as provided by the law of this
14 jurisdiction. This order is valid and entitled to enforcement in this and all other jurisdictions.

15 “ _____

16
17 “(6) The court may approve any consent agreement to bring about a cessation of abuse of the
18 parties. However, the court may not approve a term in a consent agreement that provides for re-
19 straint of a party to the agreement unless the other party petitioned for and was granted an order
20 under ORS 107.710. An order or consent agreement made under this section may be amended at any
21 time and shall continue in effect for a period of one year from the date of the order issued under
22 ORS 107.718, or until superseded as provided in ORS 107.722.

23 “(7) No order or agreement made under ORS 107.705 to 107.720, 133.310 and 133.381 shall in any
24 manner affect title to any real property.

25 “(8) No undertaking shall be required in any proceeding under ORS 107.700 to 107.735.

26 “(9) Any proceeding under ORS 107.700 to 107.735 shall be in addition to any other available
27 civil or criminal remedies.”.

28 In line 17, delete “7” and insert “2” and after “ORS” delete the rest of the line.

29 In line 18, delete “by sections 1 to 6” and insert “107.716 by section 1”.

30 In line 21, delete “8” and insert “3”.

31 _____