

House Bill 3216

Sponsored by Representative BYNUM, Senators MANNING JR, FREDERICK; Representatives ALONSO LEON, CLEM, GORSEK, HERNANDEZ, LIVELY, MCLAIN, MEEK, NOSSE, PILUSO, SANCHEZ, SOLLMAN, Senators DEMBROW, FAGAN, GELSER, MONNES ANDERSON

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**.

Creates offense of unlawfully summoning a police officer. Punishes by maximum of \$250 fine. Provides that person other than enforcement officer may commence violation proceeding.

Creates civil cause of action for person injured by commission of unlawfully summoning a police officer.

A BILL FOR AN ACT

1
2 Relating to unlawfully summoning a police officer; creating new provisions; and amending ORS
3 153.058.

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

5 **SECTION 1. (1) A person commits the offense of unlawfully summoning a police officer**
6 **if the person knowingly causes a police officer to arrive at a location to contact another**
7 **person for a reason other than suspected criminal activity and:**

8 (a) **A reasonable person would not consider the other person to pose a risk to any person**
9 **or property; and**

10 (b) **The other person's contact with the police officer causes:**

11 (A) **Infringement of the other person's rights under the Oregon or United States Con-**
12 **stitutions;**

13 (B) **Unlawful discrimination against the other person;**

14 (C) **The other person to feel harassed, humiliated or embarrassed;**

15 (D) **A groundless legal process to be initiated against the other person; or**

16 (E) **Damage to the other person's reputation or standing within the community.**

17 (2) **Unlawfully summoning a police officer is a Class D violation.**

18 (3) **As used in this section, "police officer" has the meaning given that term in ORS**
19 **181A.355.**

20 **SECTION 2.** ORS 153.058 is amended to read:

21 153.058. (1) A person other than an enforcement officer may commence a violation proceeding
22 by filing a complaint with a court that has jurisdiction over the alleged violation. The filing of the
23 complaint is subject to ORS 153.048. The complaint shall be entered by the court in the court record.

24 (2) A complaint under this section must contain:

25 (a) The name of the court, the name and address of the person bringing the action and the name
26 and address of the defendant.

27 (b) A statement or designation of the violation that can be readily understood by a person
28 making a reasonable effort to do so and the date, time and place at which the violation is alleged
29 to have occurred.

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 (c) A certificate signed by the complainant stating that the complainant believes that the named
 2 defendant committed the violation specifically identified in the complaint and that the complainant
 3 has reasonable grounds for that belief. A certificate conforming to this section shall be deemed
 4 equivalent of a sworn complaint. Complaints filed under this section are subject to the penalties
 5 provided in ORS 153.990.

6 (3) Upon the filing of a complaint under this section, the court shall cause a summons to be
 7 delivered to the defendant and shall deliver a copy of the complaint to the district attorney for the
 8 county in which the complaint is filed. The court may require any enforcement officer to serve the
 9 summons.

10 (4) If the complaint does not conform to the requirements of this section, the court shall set it
 11 aside upon motion of the defendant made before the entry of a plea. A pretrial ruling on a motion
 12 to set aside may be appealed by the state.

13 (5) A court may, acting in its sole discretion, amend a complaint filed under the provisions of
 14 this section.

15 (6) A court shall dismiss a complaint filed under this section upon the motion of the district
 16 attorney for the county or of the city attorney for a city if:

17 (a) The district attorney or city attorney has brought a proceeding against the defendant named
 18 in the complaint or intends to bring a proceeding against the defendant named in the complaint; and

19 (b) The proceeding is brought by the district attorney or city attorney by reason of the same
 20 conduct alleged in the complaint.

21 (7) Any political subdivision of this state may require by ordinance that violation proceedings
 22 for the purpose of enforcing the charter or ordinances of the political subdivision may not be com-
 23 menced in the manner provided by this section and that those proceedings may be commenced only
 24 by enforcement officers.

25 (8) A person other than an enforcement officer may commence a violation proceeding under this
 26 section only for:

27 (a) Boating violations under ORS chapter 830, or any violation of rules adopted pursuant to ORS
 28 chapter 830 if the violation constitutes an offense;

29 (b) Traffic violations under ORS chapters 801 to 826, or any violation of rules adopted pursuant
 30 to those chapters if the violation constitutes an offense;

31 (c) Violations under the wildlife laws, as described in ORS 496.002, or any violation of rules
 32 adopted pursuant to those laws if the violation constitutes an offense;

33 (d) Violations under the commercial fishing laws, as described in ORS 506.001, or any violation
 34 of rules adopted pursuant to those laws if the violation constitutes an offense; [or]

35 (e) Violations of ORS 618.121 to 618.161, and violation of rules adopted pursuant to those laws
 36 if the violation constitutes an offense[.]; or

37 (f) **A violation of section 1 of this 2019 Act.**

38 **SECTION 3. (1) A person injured by a violation of section 1 of this 2019 Act may bring a**
 39 **civil action for damages against any person whose actions are unlawful under section 1 of**
 40 **this 2019 Act.**

41 **(2) Upon prevailing in an action under this section, the plaintiff may recover the greater**
 42 **of:**

43 **(a) Special and general damages, including damages for emotional distress; or**

44 **(b) Statutory damages of \$250 against each defendant found liable under this section.**

45 **(3) The court may award reasonable attorney fees to the prevailing plaintiff in an action**

1 **under this section.**

2 **(4) A civil action under this section:**

3 **(a) May be brought in the small claims department of a circuit court if the total damages**
4 **do not exceed the jurisdictional limit of the small claims department.**

5 **(b) Does not affect a right or remedy available under any other law of this state.**

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