

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
SENATE BILL 1547**

1 On page 3 of the printed bill, delete lines 9 through 45.

2 Delete pages 4 through 6 and insert:

3 **“SECTION 4.** ORS 163.765 is amended to read:

4 “163.765. (1) When a petition is filed in accordance with ORS 163.763, the  
5 circuit court shall hold an ex parte hearing in person or by telephone on the  
6 day the petition is filed or on the following judicial day. Upon a finding that  
7 it is objectively reasonable for a person in the petitioner’s situation to fear  
8 for the person’s physical safety if an order granting relief under ORS 163.760  
9 to 163.777 is not entered and that the respondent has subjected the petitioner  
10 to sexual abuse, the circuit court:

11 “(a) Shall enter an order restraining the respondent from contacting the  
12 petitioner and from intimidating, molesting, interfering with or menacing the  
13 petitioner, or attempting to intimidate, molest, interfere with or menace the  
14 petitioner.

15 “(b) If the petitioner requests, may order:

16 “(A) That the respondent be restrained from contacting the petitioner’s  
17 children or family or household members;

18 “(B) That the respondent be restrained from entering, or attempting to  
19 enter, a reasonable area surrounding the petitioner’s residence;

20 “(C) That the respondent be restrained from intimidating, molesting, in-  
21 terfering with or menacing any children or family or household members of

1 the petitioner, or attempting to intimidate, molest, interfere with or menace  
2 any children or family or household members of the petitioner;

3 “(D) That the respondent be restrained from entering, or attempting to  
4 enter, any premises and a reasonable area surrounding the premises when  
5 necessary to prevent the respondent from intimidating, molesting, interfering  
6 with or menacing the petitioner or the petitioner’s children or family or  
7 household members; and

8 “(E) Other relief necessary to provide for the safety and welfare of the  
9 petitioner or the petitioner’s children or family or household members.

10 “(2) If the respondent is restrained from entering or attempting to enter  
11 an area surrounding the petitioner’s residence or any other premises, the  
12 restraining order must specifically describe the area or premises.

13 “(3) When the circuit court enters a restraining order under this section,  
14 the court shall set a security amount for the violation of the order.

15 “(4) If the circuit court enters a restraining order under subsection (1)  
16 of this section:

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

26 “(b) The county sheriff shall serve the respondent personally unless the  
27 petitioner elects to have the respondent served personally by another party.  
28 Proof of service shall be made in accordance with ORS 163.773. When the  
29 restraining order does not contain the respondent’s date of birth and service  
30 is effected by the sheriff, the sheriff shall verify the respondent’s date of

1 birth with the respondent and shall record that date on the restraining order  
2 or proof of service entered into the Law Enforcement Data System under  
3 ORS 163.773.

4 “(5)(a) If the county sheriff:

5 “(A) Determines that the restraining order and petition are incomplete,  
6 the sheriff shall return the restraining order and petition to the clerk of the  
7 court. The clerk of the court shall notify the petitioner, at the address pro-  
8 vided by the petitioner, of the error or omission.

9 “(B) Cannot complete service within 10 days after accepting the re-  
10 straining order and petition, the sheriff shall notify the petitioner, at the  
11 address provided by the petitioner, that the documents have not been served.  
12 If the petitioner does not respond within 10 days, the sheriff shall hold the  
13 restraining order and petition for future service and file a return to the clerk  
14 of the court showing that service was not completed.

15 “(b) If a petitioner receives notice of incomplete service under paragraph  
16 (a)(B) of this subsection and cannot effect service on the respondent within  
17 30 days after the granting or renewal of the restraining order, the circuit  
18 court may order service by an alternative method in accordance with ORCP  
19 7 D(6) on proof of the petitioner’s due diligence in attempting to effect ser-  
20 vice.

21 “(6)(a) Within 30 days after a restraining order is served under this sec-  
22 tion, the respondent may request a circuit court hearing upon any relief  
23 granted.

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

29 “(7) If the respondent fails to request a hearing within 30 days after a  
30 restraining order is served, the restraining order is confirmed by operation

1 of law.

2 “(8)(a) A restraining order entered under this section is effective for a  
3 period of five years or, if the petitioner is under 18 years of age at the time  
4 of entry, until [*the person attains 19 years of age*] **January 1 of the year**  
5 **following the petitioner’s 18th birthday**, whichever occurs later, except  
6 as otherwise provided in paragraph (b) or (c) of this subsection or unless the  
7 restraining order is renewed, modified or terminated in accordance with ORS  
8 163.760 to 163.777.

9 “(b) The circuit court shall enter a permanent restraining order if, at the  
10 time of the petition or renewal of the order, the respondent has been con-  
11 victed of a crime described in ORS 163.355 to 163.445 committed against the  
12 petitioner.

13 “(c) The circuit court may enter a permanent restraining order if the  
14 court finds that it is objectively reasonable for a person in the petitioner’s  
15 situation to fear for the person’s physical safety and that the passage of time  
16 or a change in circumstances would not dissipate that fear. In making the  
17 finding, the court shall consider any information offered by the petitioner to  
18 support the request for a permanent restraining order, including but not  
19 limited to:

20 “(A) Information that the respondent has a history of engaging in sexual  
21 abuse or domestic violence as defined in ORS 135.230;

22 “(B) If the petitioner is a minor, the fact that the respondent is related  
23 to the petitioner by blood or marriage; or

24 “(C) Any vulnerability of the petitioner that is not likely to change over  
25 time.

26 “**SECTION 5.** ORS 163.765, as amended by section 4 of this 2020 Act, is  
27 amended to read:

28 “163.765. (1) When a petition is filed in accordance with ORS 163.763, the  
29 circuit court shall hold an ex parte hearing in person or by telephone on the  
30 day the petition is filed or on the following judicial day. Upon a finding that

1 it is objectively reasonable for a person in the petitioner’s situation to fear  
2 for the person’s physical safety if an order granting relief under ORS 163.760  
3 to 163.777 is not entered and that the respondent has subjected the petitioner  
4 to sexual abuse, the circuit court:

5 “(a) Shall enter an order restraining the respondent from contacting the  
6 petitioner and from intimidating, molesting, interfering with or menacing the  
7 petitioner, or attempting to intimidate, molest, interfere with or menace the  
8 petitioner.

9 “(b) If the petitioner requests, may order:

10 “(A) That the respondent be restrained from contacting the petitioner’s  
11 children or family or household members;

12 “(B) That the respondent be restrained from entering, or attempting to  
13 enter, a reasonable area surrounding the petitioner’s residence;

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

18 “(D) That the respondent be restrained from entering, or attempting to  
19 enter, any premises and a reasonable area surrounding the premises when  
20 necessary to prevent the respondent from intimidating, molesting, interfering  
21 with or menacing the petitioner or the petitioner’s children or family or  
22 household members; and

23 “(E) Other relief necessary to provide for the safety and welfare of the  
24 petitioner or the petitioner’s children or family or household members.

25 “(2) If the respondent is restrained from entering or attempting to enter  
26 an area surrounding the petitioner’s residence or any other premises, the  
27 restraining order must specifically describe the area or premises.

28 “(3) When the circuit court enters a restraining order under this section,  
29 the court shall set a security amount for the violation of the order.

30 “(4) If the circuit court enters a restraining order under subsection (1)

1 of this section:

2 “(a) The clerk of the court shall provide, without charge, the number of  
3 certified true copies of the petition and the restraining order necessary to  
4 provide the petitioner with one copy and to effect service and shall have a  
5 true copy of the petition and the restraining order delivered to the county  
6 sheriff for service upon the respondent, unless the circuit court finds that  
7 further service is unnecessary because the respondent appeared in person  
8 before the court. In addition and upon request by the petitioner, the clerk  
9 of the court shall provide the petitioner, without charge, two exemplified  
10 copies of the petition and the restraining order.

11 “(b) The county sheriff shall serve the respondent personally unless the  
12 petitioner elects to have the respondent served personally by another party.  
13 Proof of service shall be made in accordance with ORS 163.773. When the  
14 restraining order does not contain the respondent’s date of birth and service  
15 is effected by the sheriff, the sheriff shall verify the respondent’s date of  
16 birth with the respondent and shall record that date on the restraining order  
17 or proof of service entered into the Law Enforcement Data System under  
18 ORS 163.773.

19 “(5)(a) If the county sheriff:

20 “(A) Determines that the restraining order and petition are incomplete,  
21 the sheriff shall return the restraining order and petition to the clerk of the  
22 court. The clerk of the court shall notify the petitioner, at the address pro-  
23 vided by the petitioner, of the error or omission.

24 “(B) Cannot complete service within 10 days after accepting the re-  
25 straining order and petition, the sheriff shall notify the petitioner, at the  
26 address provided by the petitioner, that the documents have not been served.  
27 If the petitioner does not respond within 10 days, the sheriff shall hold the  
28 restraining order and petition for future service and file a return to the clerk  
29 of the court showing that service was not completed.

30 “(b) If a petitioner receives notice of incomplete service under paragraph

1 (a)(B) of this subsection and cannot effect service on the respondent within  
2 30 days after the granting or renewal of the restraining order, the circuit  
3 court may order service by an alternative method in accordance with ORCP  
4 7 D(6) on proof of the petitioner’s due diligence in attempting to effect ser-  
5 vice. **If appropriate, the court may order the use of a summons to ef-**  
6 **fect service. The summons must include notice of where the**  
7 **respondent may obtain a complete copy of the order.**

8 “(6)(a) Within 30 days after a restraining order is served under this sec-  
9 tion, the respondent may request a circuit court hearing upon any relief  
10 granted.

11 “(b) If the respondent requests a hearing under paragraph (a) of this  
12 subsection, the clerk of the court shall notify the petitioner of the date and  
13 time of the hearing and shall supply the petitioner with a copy of the  
14 respondent’s request for a hearing. The petitioner shall give the clerk of the  
15 court information sufficient to allow such notification.

16 “(7) If the respondent fails to request a hearing within 30 days after a  
17 restraining order is served, the restraining order is confirmed by operation  
18 of law.

19 “(8)(a) A restraining order entered under this section is effective for a  
20 period of five years or, if the petitioner is under 18 years of age at the time  
21 of entry, until January 1 of the year following the petitioner’s 18th birthday,  
22 whichever occurs later, except as otherwise provided in paragraph (b) or (c)  
23 of this subsection or unless the restraining order is renewed, modified or  
24 terminated in accordance with ORS 163.760 to 163.777.

25 “(b) The circuit court shall enter a permanent restraining order if, at the  
26 time of the petition or renewal of the order, the respondent has been con-  
27 victed of a crime described in ORS 163.355 to 163.445 committed against the  
28 petitioner.

29 “(c) The circuit court may enter a permanent restraining order if the  
30 court finds that it is objectively reasonable for a person in the petitioner’s

1 situation to fear for the person’s physical safety and that the passage of time  
2 or a change in circumstances would not dissipate that fear. In making the  
3 finding, the court shall consider any information offered by the petitioner to  
4 support the request for a permanent restraining order, including but not  
5 limited to:

6 “(A) Information that the respondent has a history of engaging in sexual  
7 abuse or domestic violence as defined in ORS 135.230;

8 “(B) If the petitioner is a minor, the fact that the respondent is related  
9 to the petitioner by blood or marriage; or

10 “(C) Any vulnerability of the petitioner that is not likely to change over  
11 time.

12 **“SECTION 6.** ORS 163.773 is amended to read:

13 “163.773. (1)(a) When a restraining order is issued in accordance with ORS  
14 163.760 to 163.777 and the person to be restrained has actual notice of the  
15 restraining order, the clerk of the court or any other person serving the pe-  
16 tition and the restraining order shall immediately deliver to a county sheriff  
17 copies of the petition and the restraining order and a true copy of proof of  
18 service on which it is stated that the petition and the restraining order were  
19 served personally on the respondent. **If alternative service is ordered by**  
20 **the court, the person performing service shall instead immediately**  
21 **deliver to the county sheriff copies of the petition, the restraining or-**  
22 **der and, if applicable, the summons, and a true copy of proof of service**  
23 **on which it is stated that alternative service was completed in ac-**  
24 **cordance with ORCP 7 D(6).** Proof of service may be made by affidavit or  
25 by declaration under penalty of perjury. If a restraining order entered by the  
26 circuit court recites that the respondent appeared in person before the court,  
27 the necessity for service of the restraining order and proof of service is  
28 waived.

29 “(b) Upon receipt of a copy of the restraining order and notice of com-  
30 pletion of any required service by a member of a law enforcement agency,



1 the county sheriff shall immediately enter the restraining order into the Law  
2 Enforcement Data System maintained by the Department of State Police and  
3 the databases of the National Crime Information Center of the United States  
4 Department of Justice. If the petition and the restraining order were served  
5 on the respondent by a person other than a member of a law enforcement  
6 agency, **or if alternative service was ordered by the court and com-**  
7 **pleted in accordance with ORCP 7 D(6)**, the county sheriff shall enter the  
8 restraining order into the Law Enforcement Data System and the databases  
9 of the National Crime Information Center upon receipt of a true copy of  
10 proof of service. The sheriff shall provide the petitioner with a true copy of  
11 any required proof of service.

12 “(c) Entry into the Law Enforcement Data System constitutes notice to  
13 all law enforcement agencies of the existence of the restraining order. Law  
14 enforcement agencies shall establish procedures adequate to ensure that an  
15 officer at the scene of an alleged violation of the restraining order may be  
16 informed of the existence and terms of the restraining order. The restraining  
17 order is fully enforceable in any county or tribal land in this state.

18 “(d) When a restraining order has been entered into the Law Enforcement  
19 Data System and the databases of the National Crime Information Center  
20 of the United States Department of Justice under this subsection, a county  
21 sheriff shall cooperate with a request from a law enforcement agency from  
22 any other jurisdiction to verify the existence of the restraining order or to  
23 transmit a copy of the restraining order to the requesting jurisdiction.

24 “(2) A sheriff may serve a restraining order issued under ORS 163.760 to  
25 163.777 in the county in which the sheriff was elected and in any county that  
26 is adjacent to the county in which the sheriff was elected.

27 “(3)(a) A sheriff may serve and enter into the Law Enforcement Data  
28 System a copy of a restraining order issued under ORS 163.760 to 163.777 that  
29 was transmitted to the sheriff by a circuit court or law enforcement agency  
30 through an electronic communication device. Before transmitting a copy of

1 a restraining order to a sheriff under this subsection through an electronic  
2 communication device, the person transmitting the copy must receive con-  
3 firmation from the sheriff's office that an electronic communication device  
4 is available and operating.

5 “(b) For purposes of this subsection, ‘electronic communication device’  
6 means a device by which any kind of electronic communication can be made,  
7 including but not limited to communication by telephonic facsimile and  
8 electronic mail.

9 “(4) When a circuit court enters an order terminating a restraining order  
10 issued under ORS 163.760 to 163.777 before the expiration date, the clerk of  
11 the court shall immediately deliver a copy of the termination order to the  
12 county sheriff with whom the original restraining order was filed. Upon re-  
13 ceipt of the termination order, the county sheriff shall promptly remove the  
14 original restraining order from the Law Enforcement Data System and the  
15 databases of the National Crime Information Center of the United States  
16 Department of Justice.

17 “(5)(a) A contempt proceeding for an alleged violation of a restraining  
18 order issued under ORS 163.760 to 163.777 must be conducted by the circuit  
19 court that issued the restraining order or by the circuit court for the county  
20 in which the alleged violation of the restraining order occurs. If contempt  
21 proceedings are initiated in the circuit court for the county in which the  
22 alleged violation of the restraining order occurs, the person initiating the  
23 contempt proceedings shall file with the court a copy of the restraining order  
24 that is certified by the clerk of the court that originally issued the re-  
25 straining order. Upon filing of the certified copy of the restraining order, the  
26 circuit court shall enforce the restraining order as though that court had  
27 originally issued the restraining order.

28 “(b) Pending a contempt hearing for an alleged violation of a restraining  
29 order issued under ORS 163.760 to 163.777, a person arrested and taken into  
30 custody pursuant to ORS 133.310 may be released as provided in ORS 135.230

1 to 135.290.

2 “(c) Service of process or other legal documents upon the petitioner is not  
3 a violation of a restraining order entered under ORS 163.760 to 163.777 if the  
4 petitioner is served as provided in ORCP 7 or 9.

5 **“SECTION 7. (1) The amendments to ORS 3.014, 112.238 and 125.082  
6 by sections 1 to 3 of this 2020 Act become operative January 1, 2021.**

7 **“(2) The amendments to ORS 163.765 and 163.773 by sections 5 and  
8 6 of this 2020 Act become operative on the 91st day after the date on  
9 which the 2020 regular session of the Eightieth Legislative Assembly  
10 adjourns sine die.**

11 **“SECTION 8. This 2020 Act being necessary for the immediate  
12 preservation of the public peace, health and safety, an emergency is  
13 declared to exist, and this 2020 Act takes effect on its passage.”.**

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