

Senate Bill 298

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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**.

Conforms language in provisions relating to stalking protective order to language used in other provisions relating to protective orders.

Modifies filing requirements for seeking relief from sex offender reporting.

Allows person to apply for simultaneous change of name and legal change of sex in any circuit court.

Modifies requirements for judgment including support award.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to courts; amending ORS 18.042, 30.866, 33.460, 107.174 and 163A.150; and prescribing an
3 effective date.

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

5 **SECTION 1.** ORS 30.866 is amended to read:

6 30.866. (1) A [*person*] **petitioner** may bring a civil action in a circuit court for a court's stalking
7 protective order or for damages, or both, against a [*person*] **respondent** if:

8 (a) The [*person*] **respondent** intentionally, knowingly or recklessly engages in repeated and un-
9 wanted contact with the [*other person*] **petitioner** or a member of [*that person's*] **the petitioner's**
10 immediate family or household thereby alarming or coercing the [*other person*] **petitioner**;

11 (b) It is objectively reasonable for a person in the [*victim's*] **petitioner's** situation to have been
12 alarmed or coerced by the contact; and

13 (c) The repeated and unwanted contact causes the [*victim*] **petitioner** reasonable apprehension
14 regarding the personal safety of the [*victim*] **petitioner** or a member of the [*victim's*] **petitioner's**
15 immediate family or household.

16 (2) At the time the petition is filed, the court, upon a finding of probable cause based on the
17 allegations in the petition, shall enter a temporary court's stalking protective order that may in-
18 clude, but is not limited to, all contact listed in ORS 163.730. The petition and the temporary order
19 shall be served upon the respondent with an order requiring the respondent to personally appear
20 before the court to show cause why the temporary order should not be continued for an indefinite
21 period.

22 (3)(a) At the hearing, whether or not the respondent appears, the court may continue the hear-
23 ing for up to 30 days or may proceed to enter a court's stalking protective order and take other
24 action as provided in ORS 163.738.

25 (b) If respondent fails to appear after being served as required by subsection (2) of this section,
26 the court may issue a warrant of arrest as provided in ORS 133.110 in order to ensure the appear-
27 ance of the respondent in court.

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 (4) The *[plaintiff]* **petitioner** may recover:

2 (a) Both special and general damages, including damages for emotional distress;

3 (b) Punitive damages; and

4 (c) Reasonable attorney fees and costs.

5 (5) The court may enter an order under this section against a minor respondent without ap-
6 pointment of a guardian ad litem.

7 (6) An action under this section must be commenced within two years of the conduct giving rise
8 to the claim.

9 (7) Proof of the claim shall be by a preponderance of the evidence.

10 (8) The remedy provided by this section is in addition to any other remedy, civil or criminal,
11 provided by law for the conduct giving rise to the claim.

12 (9) No filing fee, service fee or hearing fee may be charged for a proceeding under this section.

13 (10) If the respondent was provided notice and an opportunity to be heard, the court shall also
14 include in the order, when appropriate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) and
15 (g)(8) to affect the respondent's ability to possess firearms and ammunition or engage in activities
16 involving firearms.

17 (11) ORS 163.741 applies to protective orders issued under this section.

18 (12) Except for purposes of impeachment, a statement made by the respondent at a hearing un-
19 der this section may not be used as evidence in a prosecution for stalking as defined in ORS 163.732
20 or for violating a court's stalking protective order as defined in ORS 163.750.

21 **SECTION 2.** ORS 163A.150 is amended to read:

22 163A.150. (1) A person who meets the criteria described in ORS 163A.140 and seeks relief from
23 the requirement to report under ORS 163A.010, 163A.015 or 163A.020 shall:

24 (a) If the person was convicted in this state of the offense or adjudicated in this state for the
25 act giving rise to the obligation to report, file a *[motion]* **petition** for relief from the requirement to
26 report *[and an affidavit of eligibility]* with the circuit court of the county in which the person was
27 convicted or adjudicated and serve a copy of the *[motion and affidavit]* **petition** on the district at-
28 torney for that county.

29 (b) If the person was convicted in another United States court of the offense or adjudicated in
30 another United States court for the act giving rise to the obligation to report, file a petition for
31 relief from the requirement to report and *[an affidavit of eligibility]* **declaration of eligibility under**
32 **penalty of perjury in the form required by ORCP 1 E** with the circuit court of the county in
33 which the person resides and serve a copy of the petition and *[affidavit]* **declaration** on the district
34 attorney for that county.

35 (2) A person filing a *[motion or]* petition under subsection (1) of this section must pay the filing
36 fee established under ORS 21.135. The court shall schedule a hearing more than 90 days from the
37 date of the filing. The court shall notify the person and the district attorney of the date of the
38 hearing.

39 (3)(a) Upon receipt of the *[affidavit]* **petition** described in subsection (1)(a) of this section, **or**
40 **the receipt of petition and declaration described in subsection (1)(b) of this section**, the dis-
41 trict attorney shall determine whether the district attorney contests the request for relief.

42 (b) If the district attorney does not contest the request for relief, the district attorney shall
43 submit an order to the court relieving the person of the reporting requirements described in ORS
44 163A.010, 163A.015 or 163A.020. The court shall *[enter the order]* **grant the petition**.

45 (c) If the district attorney contests the request for relief, the district attorney shall notify the

1 person of that determination within 90 days after receipt of the [affidavit] **petition and, if required**
 2 **under subsection (1)(b) of this section, the declaration.**

3 (4) At the hearing, the person has the burden of proving that the person meets the eligibility
 4 requirements described in ORS 163A.140.

5 (5)(a) At the hearing, the victim of the offense or act giving rise to the obligation to report:

6 (A) May testify voluntarily upon request.

7 (B) May be compelled by the person to testify only if the court issues an order allowing a
 8 subpoena upon the motion of the person.

9 (b) A copy of the motion for a subpoena under this subsection must be served on the district
 10 attorney.

11 (c) The court may not issue an order allowing a subpoena under this subsection unless the
 12 person can demonstrate good cause by showing that the victim's testimony is material and favorable
 13 to the person's request for relief.

14 (d) If the court grants an order allowing a subpoena under this subsection, the court may allow
 15 the victim to appear by telephone or other communication device approved by the court.

16 (6)(a) If the court finds, by a preponderance of the evidence, that the person meets the eligibility
 17 requirements described in ORS 163A.140, the court shall enter an order granting the request for
 18 relief from the requirement to report.

19 (b) If the court does not make the finding described in paragraph (a) of this subsection, the court
 20 shall enter an order denying the request for relief.

21 (7)(a) If the court relieves the person from the requirement to report, the person shall send a
 22 certified copy of the court order to the Department of State Police.

23 (b) Upon receipt of the order, the Department of State Police shall remove from the Law
 24 Enforcement Data System the sex offender information obtained from the sex offender registration
 25 form submitted under ORS 163A.010, 163A.015 or 163A.020.

26 (8) The order entered under subsection (6) of this section is not subject to appeal.

27 (9) The Oregon Evidence Code and the Oregon Rules of Civil Procedure do not apply to the
 28 hearing described in subsection (2) of this section.

29 **SECTION 3.** ORS 33.460 is amended to read:

30 33.460. (1) Application for legal change of sex of a person may be heard and determined by any
 31 circuit court in this state. A circuit court may order a legal change of sex and enter a judgment
 32 indicating the change of sex if the individual attests that the individual has undergone surgical,
 33 hormonal or other treatment appropriate for the individual for the purpose of affirming gender
 34 identity.

35 (2) The court may order a legal change of sex and enter the judgment in the same manner as
 36 that provided for change of name of a person under ORS 33.410.

37 (3) **Application for simultaneous change of name and legal change of sex may be heard**
 38 **and determined by any circuit court in this state.** If a person applies for a change of name under
 39 ORS 33.410 at the time the person applies for a legal change of sex under this section, the court
 40 may order change of name and legal change of sex at the same time and in the same proceeding.

41 **SECTION 4.** ORS 18.042 is amended to read:

42 18.042. (1) The judgment document for a judgment in a civil action that includes a money award
 43 must contain a separate section clearly labeled as a money award. Any judgment in a civil action
 44 that includes a money award, but does not contain a separate section clearly labeled as a money
 45 award, does not create a judgment lien but may be enforced by any other judgment remedy.

1 (2) The separate section required by subsection (1) of this section must include all of the fol-
2 lowing:

3 (a) The name and address of each judgment creditor and the name, address and telephone num-
4 ber of any attorney who represents one or more of the judgment creditors.

5 (b) The name of each judgment debtor and, to the extent known by the judgment creditor:

6 (A) The address of each judgment debtor;

7 (B) The year of birth of each judgment debtor;

8 (C) The final four digits of the tax identification number of each judgment debtor, or the final
9 four digits of the Social Security number of each judgment debtor;

10 (D) The final four digits of the driver license number of each judgment debtor and the name of
11 the state that issued the license; and

12 (E) The name of any attorney for each judgment debtor.

13 (c) The name of any person or public body, as defined in ORS 174.109, other than the judgment
14 creditor's attorney, that is known by the judgment creditor to be entitled to any portion of the
15 money award.

16 (d) The amount of money awarded in the judgment, exclusive of amounts required to be included
17 in the separate section under paragraphs (e) to (h) of this subsection.

18 (e) Any interest owed as of the date the judgment is entered in the register, either as a specific
19 amount or as accrual information, including the rate or rates of interest, the balance or balances
20 upon which interest accrues, the date or dates from which interest at each rate on each balance
21 runs, and whether interest is simple or compounded and, if compounded, at what intervals.

22 (f) Information about interest that accrues on the judgment after entry in the register, including
23 the rate or rates of interest, the balance or balances upon which interest accrues, the date or dates
24 from which interest at each rate on each balance runs, and whether interest is simple or com-
25 pounded and, if compounded, at what intervals.

26 (g) For monetary obligations that are payable on a periodic basis, any accrued arrearages, re-
27 quired further payments per period and payment dates.

28 (h) If the judgment requires the payment of costs and disbursements or attorney fees, a state-
29 ment indicating that the award is made, any specific amounts awarded, a clear identification of the
30 specific requests for relief for which any attorney fees are awarded and the amount of attorney fees
31 awarded for each request for relief.

32 (3) The information required by subsection (2) of this section must be set forth in the money
33 award section of the judgment document in the same order as the requirements appear in subsection
34 (2) of this section.

35 (4) The separate section required by subsection (1) of this section must be placed immediately
36 above the judge's or court administrator's signature. The separate section must be clearly labeled
37 at its beginning as a money award. If the judgment includes a support award, the label of the sep-
38 arate section must so indicate **and state whether the judgment requires payment of a child**
39 **support obligation through the Department of Justice under Title IV-D of the federal Social**
40 **Security Act.** Except for information described in ORS 24.290, the separate section of the judgment
41 document may not contain any provision except the information required by this section.

42 (5) The provisions of this section do not apply to foreign judgments that are filed with a court
43 under ORS 24.115 or 110.605 to 110.611. If a foreign judgment is filed with the court under ORS
44 24.115, the separate statement required by ORS 24.125 must be filed with the foreign judgment.

45 **SECTION 5.** ORS 107.174 is amended to read:

1 107.174. (1) Except as otherwise provided in this subsection, the court shall order modification
2 under ORS 107.135 of so much of a judgment as relates to the parenting time with a minor child, if
3 the parents submit to the court a [notarized] stipulation signed by both of the parents and requesting
4 such modification together with a form of order. **The stipulation must be declared under penalty**
5 **of perjury or made under oath or affirmation.** The content and form of [such] the stipulation and
6 order shall be as prescribed by the State Court Administrator. At its discretion, the court may order
7 the matter set for a hearing and require the parties to appear personally before the court.

8 (2) This section shall not apply when the child to whom a duty of support is owed is in another
9 state which has enacted the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody
10 Jurisdiction and Enforcement Act and a court in that state would have subject matter and personal
11 jurisdiction under that Act to determine custody and parenting time rights.

12 **SECTION 6. This 2021 Act takes effect on the 91st day after the date on which the 2021**
13 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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