

SB 183-3
(LC 313)
3/24/21 (MNJ/ps)

Requested by SENATE COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

**PROPOSED AMENDMENTS TO
SENATE BILL 183**

1 On page 1 of the printed bill, line 2, after “courts;” delete the rest of the
2 line and insert “amending ORS 24.105, 24.190, 133.310 and 133.315.”

3 Delete lines 4 through 30 and delete pages 2 through 4 and insert:

4 **“SECTION 1.** ORS 24.105 is amended to read:

5 “24.105. In ORS 24.105 to 24.125, 24.135 and 24.155 to 24.175, ‘foreign
6 judgment’ means:

7 **“(1) Any judgment, decree or order of a court of the United States or of
8 any other court which is entitled to full faith and credit in this state; and**

9 **“(2) Any judgment, decree or order of a tribal court of a federally
10 recognized Indian tribe, except when another Oregon statute provides
11 a different process to enforce a tribal judgment, decree or order, or
12 as provided in ORS 426.180.**

13 **“SECTION 2.** ORS 24.190 is amended to read:

14 “24.190. (1) For the purposes of this section:

15 “(a) ‘Foreign restraining order’ means a restraining order that is a foreign
16 judgment as defined by ORS 24.105.

17 “(b)(A) ‘Restraining order’ means an injunction or other order issued for
18 the purpose of preventing:

19 “(i) Violent or threatening acts or harassment against another person;

20 **“(ii) Sexual violence against another person;**

21 “[*ii*] **(iii) Contact or communication with another person; or**

1 “[(iii)] (iv) Physical proximity to another person.

2 “(B) ‘Restraining order’ includes temporary and final orders[, *other than*
3 *support or child custody orders,*] issued by a civil or criminal court regardless
4 of whether the order was obtained by filing an independent action or as a
5 pendente lite order in another proceeding. However, for a civil order to be
6 considered a restraining order, the civil order must have been issued in re-
7 sponse to a complaint, petition or motion filed by or on behalf of a person
8 seeking protection.

9 “(2)(a) Except as otherwise provided in paragraph (b) of this subsection,
10 immediately upon the arrival in this state of a person protected by a foreign
11 restraining order, the foreign restraining order is enforceable as an Oregon
12 order without the necessity of filing and continues to be enforceable as an
13 Oregon order without any further action by the protected person.

14 “(b) A foreign restraining order is not enforceable as an Oregon order if:

15 “(A) The person restrained by the order shows that:

16 “(i) The court that issued the order lacked jurisdiction over the subject
17 matter or lacked personal jurisdiction over the person restrained by the or-
18 der; or

19 “(ii) The person restrained by the order was not given reasonable notice
20 and an opportunity to be heard under the law of the jurisdiction in which
21 the order was issued; or

22 “(B) The foreign restraining order was issued against a person who had
23 petitioned for a restraining order unless:

24 “(i) The person protected by the foreign restraining order filed a separate
25 petition seeking the restraining order; and

26 “(ii) The court issuing the foreign restraining order made specific findings
27 that the person was entitled to the order.

28 “(c) **Except as otherwise expressly provided in the order, issues of**
29 **nonenforceability described in paragraph (b) of this subsection are af-**
30 **firmative defenses in an action seeking enforcement of the order.**

1 “[(3)(a) A person protected by a foreign restraining order may present a true
2 copy of the order to a county sheriff for entry into the Law Enforcement Data
3 System maintained by the Department of State Police. Subject to paragraph
4 (b) of this subsection, the county sheriff shall enter the order into the Law
5 Enforcement Data System if the person certifies that the order is the most re-
6 cent order in effect between the parties and provides proof of service or other
7 written certification that the person restrained by the order has been personally
8 served with a copy of the order or has actual notice of the order. Entry into
9 the Law Enforcement Data System constitutes notice to all law enforcement
10 agencies of the existence of the restraining order. Law enforcement agencies
11 shall establish procedures adequate to ensure that an officer at the scene of
12 an alleged violation of the order may be informed of the existence and terms
13 of the order. The order is fully enforceable as an Oregon order in any county
14 or tribal land in this state.]

15 “(3)(a) A person may present a copy of a foreign restraining order
16 to a county sheriff for entry into the Law Enforcement Data System
17 maintained by the Department of State Police. Subject to paragraph
18 (b) of this subsection, and after promptly verifying the validity of the
19 foreign restraining order and that the person restrained by the order
20 has been personally served with a copy of the order or has actual no-
21 tice of the order, the county sheriff shall enter the order into the Law
22 Enforcement Data System and the National Crime Information Center
23 of the United States Department of Justice. Entry into the Law
24 Enforcement Data System or the National Crime Information Center
25 constitutes notice to all law enforcement agencies of the existence of
26 the restraining order. Law enforcement agencies shall establish pro-
27 cedures adequate to ensure that an officer at the scene of an alleged
28 violation of the order may be informed of the existence and terms of
29 the order. The order is fully enforceable as an Oregon order in any
30 county or tribal land in this state.

1 “(b) The Department of State Police shall specify information that is re-
2 quired for a foreign restraining order to be entered into the Law Enforce-
3 ment Data System.

4 “[*(c) At the time a county sheriff enters an order into the Law Enforcement*
5 *Data System under paragraph (a) of this subsection, the sheriff shall also enter*
6 *the order into the databases of the National Crime Information Center of the*
7 *United States Department of Justice.*]

8 “(c) **As used in this subsection, ‘personal service’ and ‘actual**
9 **notice’ include alternative forms of service or notice that are permit-**
10 **ted by the issuing jurisdiction to constitute service or notice.**

11 “(4) Pending a contempt hearing for alleged violation of a foreign re-
12 straining order, a person arrested and taken into custody pursuant to ORS
13 133.310 may be released as provided in ORS 135.230 to 135.290. Unless the
14 order provides otherwise, the security amount for release is \$5,000.

15 “(5) ORS 24.115, 24.125, 24.129, 24.135, 24.140, 24.150 and 24.155 do not ap-
16 ply to a foreign restraining order.

17 “(6) A person protected by a foreign restraining order, **or a person act-**
18 **ing on behalf of a person protected by a foreign restraining order,** may
19 file a certified copy of the order and proof of service in the office of the clerk
20 of any circuit court of any county of this state. A judgment [*so filed*] **or**
21 **order filed under this subsection** has the same effect and is subject to the
22 same procedures, defenses and proceedings for reopening, vacating or staying
23 as a judgment **or order** of the circuit court in which the foreign judgment
24 **or order** is filed, and may be enforced or satisfied in like manner. The court
25 may not collect a filing fee for a filing under this [*section*] **subsection.**

26 “(7) **This state or a local governmental agency, or a law enforce-**
27 **ment officer, prosecuting attorney, clerk of the court or any state or**
28 **local governmental official acting in an official capacity, is immune**
29 **from civil and criminal liability for an act arising out of the registra-**
30 **tion, entry or enforcement of a foreign restraining order or the de-**

1 **tention or arrest of an alleged violator of a foreign restraining order**
2 **if the act was done in good faith and without malice in an effort to**
3 **comply with state and federal law.**

4 **“SECTION 3.** ORS 133.310 is amended to read:

5 “133.310. (1) A peace officer may arrest a person without a warrant if the
6 officer has probable cause to believe that the person has committed any of
7 the following:

8 “(a) A felony.

9 “(b) A misdemeanor.

10 “(c) An unclassified offense for which the maximum penalty allowed by
11 law is equal to or greater than the maximum penalty allowed for a Class C
12 misdemeanor.

13 “(d) Any other crime committed in the officer’s presence.

14 “(2) A peace officer may arrest a person without a warrant when the
15 peace officer is notified by telegraph, telephone, radio or other mode of
16 communication by another peace officer of any state that there exists a duly
17 issued warrant for the arrest of a person within the other peace officer’s
18 jurisdiction.

19 “(3) A peace officer shall arrest and take into custody a person without
20 a warrant when the peace officer has probable cause to believe that:

21 “(a) There exists an order issued pursuant to ORS 30.866, 107.095 (1)(c)
22 or (d), 107.716, 107.718, 124.015, 124.020, 133.035, 163.738, 163.765, 163.767 or
23 419B.845 restraining the person;

24 “(b) A true copy of the order and proof of service on the person has been
25 filed as required in ORS 107.720, 124.030, 133.035, 163.741, 163.773 or 419B.845;
26 and

27 “(c) The person to be arrested has violated the terms of that order.

28 “(4) A peace officer shall arrest and take into custody a person without
29 a warrant if:

30 “(a) The person protected by a foreign restraining order as defined by

1 ORS 24.190 presents a **physical or electronic** copy of the foreign restraining
2 order to the officer and represents to the officer that the order supplied is
3 the most recent order in effect between the parties and that the person re-
4 strained by the order has been personally served with a copy of the order
5 or has actual notice of the order; and

6 “(b) The peace officer has probable cause to believe that the person to
7 be arrested has violated the terms of the foreign restraining order.

8 “(5) A peace officer shall arrest and take into custody a person without
9 a warrant if:

10 “[*(a) The person protected by a foreign restraining order as defined by ORS*
11 *24.190 has filed a copy of the foreign restraining order with a court or has been*
12 *identified by the officer as a party protected by a foreign restraining order*
13 *entered in the Law Enforcement Data System or in the databases of the Na-*
14 *tional Crime Information Center of the United States Department of Justice;*
15 *and]*

16 “**(a) A foreign restraining order as defined by ORS 24.190 has been**
17 **filed with a court or has been entered into the Law Enforcement Data**
18 **System or in the databases of the National Crime Information Center**
19 **of the United States Department of Justice; and**

20 “(b) The peace officer has probable cause to believe that the person to
21 be arrested has violated the terms of the foreign restraining order.

22 “(6) A peace officer shall arrest and take into custody a person without
23 a warrant if the peace officer has probable cause to believe:

24 “(a) The person has been charged with an offense and is presently re-
25 leased as to that charge under ORS 135.230 to 135.290; and

26 “(b) The person has failed to comply with a no contact condition of the
27 release agreement.

28 “**SECTION 4.** ORS 133.315 is amended to read:

29 “133.315. (1) No peace officer shall be held criminally or civilly liable for
30 making an arrest pursuant to ORS 133.055 (2) or 133.310 (3) or (5) provided

1 the peace officer acts in good faith and without malice.

2 “(2) No peace officer shall be criminally or civilly liable for any arrest
3 made under ORS 133.310 (4) if the officer reasonably believes that:

4 “(a) A **physical or electronic** document or other writing supplied to the
5 officer under ORS 133.310 (4) is an accurate copy of a foreign restraining
6 order as defined by ORS 24.190 and is the most recent order in effect between
7 the parties; and

8 “(b) The person restrained by the order has been personally served with
9 a copy of the order or has actual notice of the order.”.

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