



Sybil Hebb
Director of Legislative Advocacy
522 SW Fifth Ave., Ste. 812
Portland, OR 97204
P: 503.936.8959
shebb@oregonlawcenter.org

To: Senate Judiciary Committee
From: Sybil Hebb, Oregon Law Center
Date: April 1, 2021
Re: Support SB 766 - technical fixes to Sexual Abuse Protective Order (SAPO) statute

Chair Prozanski, Vice-Chair Thatcher, and members of the Committee:

On behalf of the Oregon Law Center (OLC), I respectfully request your support for SB 766 to modify the date of expiration of sexual abuse protection orders (SAPOs) when the petitioner is a minor and to specify procedures when respondent is to be served by a method of alternative service.

The Oregon Law Center is a statewide non-profit entity whose mission is to provide access to justice for low-income Oregonians through the provision of the highest quality civil legal services. Many of our clients seek our assistance to address legal issues related to domestic violence, sexual assault, sexual harassment, and stalking. These issues greatly contribute to the vulnerability of our clients, and further trap them in poverty.

Protection orders are an effective tool in reducing violence and establishing safety for victims. Oregon's Sexual Assault Protection Orders (SAPO) are available in certain cases where a person was subjected to unwanted sexual abuse by a person who does not meet the definition of family member or intimate partner under the Family Abuse Prevention Act, and who is not covered by any other form of protection order. While relatively few SAPOs are issued each year - an average of less than 90 per year statewide - this is an extremely important form of relief for those survivors who need protection. Almost 40% of the victims protected by these orders in Oregon, since 2014, are minor victims of assault.

Oregon Law Center is thankful for the legislature's passage of 2019's SB 995, which made three important changes to the SAPO statute:

1. Removed the requirement that a Petitioner file the SAPO within 180 days of the sexual abuse.
2. Extended the duration of a SAPO from one year to five years or until a minor petitioner reaches the age of 19 years old, whichever occurs later. In certain circumstances, the SAPO order may be permanent.
3. Granted the Court the authority to order that the Respondent be served by alternative service as outlined Oregon Rules of Civil Procedure (ORCP) 7D(6).

SB 766 is a necessary fix to fully implement the important changes of 2019's SB 995 in three ways: by changing the expiration date to avoid revealing a survivor's date of birth, by clarifying the procedures by which respondent can be served by alternative method, and by ensuring that a SAPO served by alternative method is entered into the appropriate law enforcement databases.



Oregon Law Center

WORKING TOGETHER TO ACHIEVE JUSTICE FOR LOW INCOME OREGONIANS

Sybil Hebb
Director of Legislative Advocacy
522 SW Fifth Ave., Ste. 812
Portland, OR 97204
P: 503.936.8959
shebb@oregonlawcenter.org

First, in those cases where the SAPO would expire when the minor petitioner turns 19 years old, the expiration date of the SAPO would reveal the petitioner's date of birth. However, Oregon's Uniform Trial Court Rule (UTCRC) 2.100 requires that 'protected personal information,' which includes dates of birth, be segregated from any document filed with the Court, and filed in a separate document that will remain protected from viewing by any person, with few exceptions (such as court personnel). It is not feasible to segregate the expiration date from a SAPO order when it is necessary for both parties to have, as well as law enforcement and perhaps some others aiding in implementation of the order. In addition, there is a concern that revealing the petitioner's date of birth may conflict with the intent of the federal Violence Against Women Act (VAWA) prohibitions on releasing information that may reveal the identity or location of a person protected by a protection order, including the victim's date of birth.¹ Finally, it is a privacy and safety concern if survivors of sexual abuse, especially minor survivors, are required to reveal their date of birth to the very person who perpetrated the sexual abuse. However, there is a simple fix to change the expiration date to January 1 of the year following the petitioner's 18th birthday. This fix will not reveal a petitioner's date of birth and will continue to appropriately extend the duration of the SAPO as intended by 2019's SB 995.

The second fix of SB 766 specifies the procedures by which a respondent may be served by an alternative method of service. 2019's SB 995 allows a Court to order that a SAPO respondent be served by an alternative method pursuant to Oregon Rules of Civil Procedure 7D(6) if personal service has been unsuccessful. Two of the most common types of alternative service are posting, such as at the courthouse, and publication, such as in the newspaper. In many cases that use alternative service methods, a single-page summons is served to inform the respondent that the lawsuit has been filed against them, and it is this summons that is posted or published. Generally, a SAPO matter does not include a summons, and when the respondent is personally served, they receive the SAPO Petition, SAPO Order and information regarding requesting a hearing. The SAPO Petition includes a description of the incident(s) of sexual abuse, as well as residential and employment/school addresses of both parties. If alternative service is ordered without the specifications of SB 766, such service would require very public posting or publication of these incredibly private and personal matters. SB 766 allows the Court to order use of a summons in alternative service to inform the respondent that a SAPO has been filed and where the respondent can get the remaining related documents.

SB 766 clarifies that a summons is not required every time alternative service is ordered. Another method of alternative service is first class mailing to the respondent's last known address, certified, registered, or express mail, return receipt requested. If this type of alternative service is ordered by the Court, the SAPO Petition, SAPO Order and information regarding requesting a hearing can be mailed to the respondent without the need for the additional summons.

¹ 18 U.S.C. § 2265(d)(3) and 34 USC §12291(b)(2)



Oregon Law Center

WORKING TOGETHER TO ACHIEVE JUSTICE FOR LOW INCOME OREGONIANS

Sybil Hebb
Director of Legislative Advocacy
522 SW Fifth Ave., Ste. 812
Portland, OR 97204
P: 503.936.8959
shebb@oregonlawcenter.org

Finally, SB 766 will make it clear that if respondent is served by an alternative method, the county sheriff shall be required to enter the SAPO into the Law Enforcement Data System (LEDS) and the databases of the National Crime Information Center (NCIC), just as they do now with those SAPOs that are personally served. It clarifies that, if alternative service is ordered by the court, the person serving the respondent shall immediately deliver to the county sheriff a copy of the SAPO Petition, SAPO Order, proof of service and summons, if used. This language ensures that the same materials are provided to the sheriff as if the respondent was personally served, and that they are provided immediately. Providing these documents will allow the sheriff's office to enter the SAPO into LEDS and NCIC as required.

The passage of 2019's SB 995 was an important change to ensure the protection of sexual abuse survivors. SB 766 ensures that the changes of SB 995 can be fully and safely implemented. For all of these reasons, OLC requests your support of the bill. Thank you for your time and for the consideration of this important issue.