

D R A F T

SUMMARY

Digest: The Act allows petitions for certain abuse court orders to be filed in the county in which the abuse occurred. The Act also changes the elements of two crimes related to violating privacy. The Act goes into effect when the Governor signs it. (Flesch Readability Score: 60.4).

Provides that a petition for a Family Abuse Prevention Act order, Elderly Persons and Persons with Disabilities Abuse Prevention Act order or sexual abuse restraining order may be filed in the county in which the abuse occurred.

Removes the requirement that a disclosed image be identifiable for purposes of the crime of unlawful dissemination of an intimate image.

Modifies the crime of invasion of privacy in the second degree to include the recording of a person who is dressing, undressing, bathing or toileting in an area in which the person has a reasonable expectation of privacy.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to victims; amending ORS 107.728, 124.012, 163.472, 163.700 and
3 163.763; and declaring an emergency.

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

5 **SECTION 1.** ORS 107.728 is amended to read:

6 107.728. (1) A petition under ORS 107.710 may be filed [*only in a county*
7 *in which the petitioner or respondent resides*] **in a county in which:**

8 (a) **The petitioner resides;**

9 (b) **The respondent resides; or**

10 (c) **The abuse occurred.**

11 (2) Any contempt proceedings for violation of a restraining order issued
12 under ORS 107.700 to 107.735 must be conducted by the court that issued the
13 order, or by the circuit court for a county in which a violation of the re-

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 straining order occurs. If contempt proceedings are initiated in the circuit
2 court for a county in which a violation of the restraining order occurs, the
3 person initiating the contempt proceedings shall file with the court a copy
4 of the restraining order, certified by the clerk of the court that issued the
5 order. Upon filing of the certified copy of the restraining order, the court
6 shall enforce the order as though that court had issued the order.

7 **SECTION 2.** ORS 124.012 is amended to read:

8 124.012. (1) A petition under ORS 124.010 may be filed [*only in a county*
9 *in which the petitioner or respondent resides*] **in a county in which:**

- 10 (a) **The petitioner resides;**
11 (b) **The respondent resides; or**
12 (c) **The abuse occurred.**

13 (2) Any contempt proceedings for violation of a restraining order issued
14 under ORS 124.005 to 124.040 must be conducted by the court that issued the
15 order, or by the circuit court for a county in which a violation of the re-
16 straining order occurs. If contempt proceedings are initiated in the circuit
17 court for a county in which a violation of the restraining order occurs, the
18 person initiating the contempt proceedings shall file with the court a copy
19 of the restraining order, certified by the clerk of the court that issued the
20 order. Upon filing of the certified copy of the restraining order, the court
21 shall enforce the order as though that court had issued the order.

22 **SECTION 3.** ORS 163.763 is amended to read:

23 163.763. (1) A person who has been subjected to sexual abuse and who
24 reasonably fears for the person's physical safety may petition the circuit
25 court for a restraining order if:

- 26 (a) The person and the respondent are not family or household members;
27 (b) The respondent is at least 18 years of age; and
28 (c) The respondent is not prohibited from contacting the person pursuant
29 to a foreign restraining order as defined in ORS 24.190, an order issued under
30 ORS 30.866, 124.015, 124.020, 163.738 or 419B.845 or an order entered in a
31 criminal action.

1 (2)(a) A petition seeking relief under ORS 163.760 to 163.777 must be filed
2 in the circuit court for the county in which the petitioner or the respondent
3 resides **or in which the abuse occurred**. The petition may be filed, without
4 the appointment of a guardian ad litem, by a person who is at least 12 years
5 of age or by a parent or lawful guardian of a person who is under 18 years
6 of age.

7 (b) The petition must allege that:

8 (A) The petitioner reasonably fears for the petitioner's physical safety
9 with respect to the respondent; and

10 (B) The respondent subjected the petitioner to sexual abuse.

11 (c) The petition must include allegations made under oath or affirmation
12 or a declaration under penalty of perjury.

13 (d) The petitioner has the burden of proving a claim under ORS 163.760
14 to 163.777 by a preponderance of the evidence.

15 **SECTION 4.** ORS 163.472 is amended to read:

16 163.472. (1) A person commits the crime of unlawful dissemination of an
17 intimate image if:

18 (a) The person, with the intent to harass, humiliate or injure another
19 person, knowingly causes to be disclosed an [*identifiable*] image of the other
20 person whose intimate parts are visible or who is engaged in sexual conduct;

21 (b) The person knows or reasonably should have known that the other
22 person does not consent to the disclosure;

23 (c) The other person is harassed, humiliated or injured by the disclosure;
24 and

25 (d) A reasonable person would be harassed, humiliated or injured by the
26 disclosure.

27 (2)(a) Except as provided in paragraph (b) of this subsection, unlawful
28 dissemination of an intimate image is a Class A misdemeanor.

29 (b) Unlawful dissemination of an intimate image is a Class C felony if the
30 person has a prior conviction under this section at the time of the offense.

31 (3) As used in this section:

1 (a) “Disclose” includes, but is not limited to, transfer, publish, distribute,
2 exhibit, advertise and offer.

3 [(b) “Identifiable” means that a reasonable person would be able to recog-
4 nize the individual depicted in the image as the other person.]

5 [(c)] (b) “Image” includes, but is not limited to, a photograph, film,
6 videotape, recording, digital picture and other visual reproduction, regardless
7 of the manner in which the image is stored.

8 [(d)] (c) “Information content provider” has the meaning given that term
9 in 47 U.S.C. 230(f).

10 [(e)] (d) “Interactive computer service” has the meaning given that term
11 in 47 U.S.C. 230(f).

12 [(f)] (e) “Intimate parts” means uncovered human genitals, pubic areas
13 or female nipples.

14 [(g)] (f) “Sexual conduct” means sexual intercourse or oral or anal sexual
15 intercourse, as those terms are defined in ORS 163.305, or masturbation.

16 (4) This section does not apply to:

17 (a) Activity by law enforcement agencies investigating and prosecuting
18 criminal offenses;

19 (b) Legitimate medical, scientific or educational activities;

20 (c) Legal proceedings, when disclosure is consistent with common practice
21 in civil proceedings or necessary for the proper functioning of the criminal
22 justice system;

23 (d) The reporting of unlawful conduct to a law enforcement agency;

24 (e) Disclosures that serve a lawful public interest;

25 (f) Disclosures of images:

26 (A) Depicting the other person voluntarily displaying, in a public area,
27 the other person’s intimate parts or engaging in sexual conduct; or

28 (B) Originally created for a commercial purpose with the consent of the
29 other person; or

30 (g) The provider of an interactive computer service for an image of inti-
31 mate parts provided by an information content provider.

1 **SECTION 5.** ORS 163.700 is amended to read:

2 163.700. (1) Except as provided in ORS 163.702, a person commits the crime
3 of invasion of personal privacy in the second degree if:

4 (a)(A) For the purpose of arousing or gratifying the sexual desire of the
5 person, the person is in a location to observe another person in a state of
6 nudity without the consent of the other person; and

7 (B) The other person is in a place and circumstances where the person
8 has a reasonable expectation of personal privacy; [*or*]

9 (b)(A) The person knowingly makes or records a photograph, motion pic-
10 ture, videotape or other visual recording of another person's intimate area
11 without the consent of the other person; and

12 (B) The person being recorded has a reasonable expectation of privacy
13 concerning the intimate area[.]; **or**

14 **(c)(A) The person, for the purpose of arousing or gratifying the**
15 **sexual desire of the person, or with the intent to humiliate, harass or**
16 **injure another person, knowingly makes or records a photograph,**
17 **motion picture, videotape or other visual recording of another person**
18 **who is dressing, undressing, bathing or toileting; and**

19 **(B) The other person is in a place and circumstances where the**
20 **person has a reasonable expectation of personal privacy.**

21 (2) As used in this section and ORS 163.701:

22 (a) "Intimate area" means nudity, or undergarments that are being worn
23 by a person and are covered by clothing.

24 (b) "Makes or records a photograph, motion picture, videotape or other
25 visual recording" includes, but is not limited to:

26 (A) Making or recording or employing, authorizing, permitting, compel-
27 ling or inducing another person to make or record a photograph, motion
28 picture, videotape or other visual recording.

29 (B) Making or recording a photograph, motion picture, videotape or other
30 visual recording through the use of an unmanned aircraft system as defined
31 in ORS 837.300, even if the unmanned aircraft system is operated for com-

1 mercial purposes in compliance with authorization granted by the Federal
2 Aviation Administration.

3 (c) "Nudity" means any part of the uncovered or less than opaquely cov-
4 ered:

5 (A) Genitals;

6 (B) Pubic area; or

7 (C) Female breast below a point immediately above the top of the areola.

8 (d) "Places and circumstances where the person has a reasonable expect-
9 tation of personal privacy" includes, but is not limited to, a bathroom,
10 dressing room, locker room that includes an enclosed area for dressing or
11 showering, tanning booth and any area where a person undresses in an en-
12 closed space that is not open to public view.

13 (e) "Public view" means that an area can be readily seen and that a per-
14 son within the area can be distinguished by normal unaided vision when
15 viewed from a public place as defined in ORS 161.015.

16 (f) "Reasonable expectation of privacy concerning the intimate area"
17 means that the person intended to protect the intimate area from being seen
18 and has not exposed the intimate area to public view.

19 (3) Invasion of personal privacy in the second degree is a Class A
20 misdemeanor.

21 **SECTION 6. This 2024 Act being necessary for the immediate pres-**
22 **ervation of the public peace, health and safety, an emergency is de-**
23 **clared to exist, and this 2024 Act takes effect on its passage.**

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