

House Bill 2774

Sponsored by Representative EVANS (Pre-session filed.)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act prohibits a parent from being left alone with a child if the parent commits certain acts with a gun. (Flesch Readability Score: 72.7).

Directs the court to prohibit unsupervised parenting time with a parent who committed abuse if the abuse involved certain acts with a firearm.

A BILL FOR AN ACT

1
2 Relating to supervised parenting time; creating new provisions; and amending ORS 107.718.

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

4 **SECTION 1.** ORS 107.718 is amended to read:

5 107.718. (1) When a person files a petition under ORS 107.710, the circuit court shall hold an
6 ex parte hearing in person or by telephone on the day the petition is filed or on the following judi-
7 cial day. Upon a showing that the petitioner has been the victim of abuse committed by the re-
8 spondent within 180 days preceding the filing of the petition, that there is an imminent danger of
9 further abuse to the petitioner and that the respondent represents a credible threat to the physical
10 safety of the petitioner or the petitioner's child, the court shall, if requested by the petitioner, order:

11 (a) Except as provided in subsection (2) of this section, that temporary custody of the children
12 of the parties be awarded to the petitioner or, at the request of the petitioner, to the respondent,
13 subject to reasonable parenting time rights of the noncustodial parent, which the court shall order,
14 unless such parenting time is not in the best interest of the child;

15 (b) That the respondent be required to move from the petitioner's residence, if in the sole name
16 of the petitioner or if it is jointly owned or rented by the petitioner and the respondent, or if the
17 parties are married to each other;

18 (c) That the respondent be restrained from entering, or attempting to enter, a reasonable area
19 surrounding the petitioner's current or subsequent residence if the respondent is required to move
20 from petitioner's residence;

21 (d) That a peace officer accompany the party who is leaving or has left the parties' residence
22 to remove essential personal effects of the party or the party's children, or both, including but not
23 limited to clothing, toiletries, diapers, medications, Social Security cards, certified copies of records
24 of live birth, identification and tools of the trade;

25 (e) That the respondent be restrained from intimidating, molesting, interfering with or menacing
26 the petitioner, or attempting to intimidate, molest, interfere with or menace the petitioner;

27 (f) That the respondent be restrained from intimidating, molesting, interfering with or menacing
28 any children in the custody of the petitioner, or attempting to intimidate, molest, interfere with or
29 menace any children in the custody of the petitioner;

30 (g) That the respondent be restrained from entering, or attempting to enter, on any premises and

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 a reasonable area surrounding the premises when it appears to the court that such restraint is
 2 necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the
 3 petitioner or children whose custody is awarded to the petitioner;

4 (h) Other relief that the court considers necessary to:

5 (A) Provide for the safety and welfare of the petitioner and the children in the custody of the
 6 petitioner, including but not limited to emergency monetary assistance from the respondent; and

7 (B) Prevent the neglect and protect the safety of any service or therapy animal or any animal
 8 kept for personal protection or companionship, but not an animal kept for any business, commercial,
 9 agricultural or economic purpose; or

10 (i) Except as described in subsection (12) of this section or parenting time ordered under this
 11 section, that the respondent have no contact with the petitioner in person, by telephone or by mail.

12 (2) If the court determines that exceptional circumstances exist that affect the custody of a
 13 child, the court shall order the parties to appear and provide additional evidence at a hearing to
 14 determine temporary custody and resolve other contested issues. Pending the hearing, the court
 15 may make any orders regarding the child's residence and the parties' contact with the child that the
 16 court finds appropriate to provide for the child's welfare and the safety of the parties. The court
 17 shall set a hearing time and date as provided in ORS 107.716 (2) and issue a notice of the hearing
 18 at the same time the court issues the restraining order.

19 (3) The court's order under subsection (1) of this section is effective for a period of two years
 20 or until the order is withdrawn or amended, or until the order is superseded as provided in ORS
 21 107.722, whichever is sooner.

22 (4) If respondent is restrained from entering, or attempting to enter, an area surrounding
 23 petitioner's residence or any other premises, the order restraining respondent shall specifically de-
 24 scribe the area.

25 (5) Imminent danger under this section includes but is not limited to situations in which the
 26 respondent has recently threatened petitioner with additional bodily harm.

27 (6)(a) If the court awards parenting time to a parent who committed abuse, the court shall make
 28 adequate provision for the safety of the child and of the petitioner.

29 (b) The order of the court may include[, *but is not limited to,*] **or, if the abuse involved the**
 30 **unlawful and reckless use, display or brandishing of a firearm by the parent who committed**
 31 **the abuse, shall include, at a minimum,** the following:

32 [(a)] (A) That exchange of a child between parents shall occur at a protected location.

33 [(b)] (B) That parenting time be supervised by another person or agency.

34 [(c)] (C) That the perpetrator of the abuse be required to attend and complete, to the satisfaction
 35 of the court, a program of intervention for perpetrators or any other counseling program designated
 36 by the court as a condition of the parenting time.

37 [(d)] (D) That the perpetrator of the abuse not possess or consume alcohol or controlled sub-
 38 stances during the parenting time and for 24 hours preceding the parenting time.

39 [(e)] (E) That the perpetrator of the abuse pay all or a portion of the cost of supervised par-
 40 enting time, and any program designated by the court as a condition of parenting time.

41 [(f)] (F) That no overnight parenting time occur.

42 (7) The State Court Administrator shall prescribe the content and form of the petition, order and
 43 related forms for use under ORS 107.700 to 107.735. The clerk of the court shall make available the
 44 forms and an instructional brochure explaining the rights set forth under ORS 107.700 to 107.735.

45 (8) If the court orders relief:

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

7 (b) The county sheriff shall serve the respondent personally unless the petitioner elects to have
 8 the respondent served personally by a private party or by a peace officer who is called to the scene
 9 of a domestic disturbance at which the respondent is present, and who is able to obtain a copy of
 10 the order within a reasonable amount of time. Proof of service shall be made in accordance with
 11 ORS 107.720. When the order does not contain the respondent's date of birth and service is effected
 12 by the sheriff or other peace officer, the sheriff or officer shall verify the respondent's date of birth
 13 with the respondent and shall record that date on the order or proof of service entered into the Law
 14 Enforcement Data System under ORS 107.720.

15 (c) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the
 16 relief provided under ORS 107.700 to 107.735.

17 (9) If the county sheriff:

18 (a) Determines that the order and petition are incomplete, the sheriff shall return the order and
 19 petition to the clerk of the court. The clerk of the court shall notify the petitioner, at the address
 20 provided by the petitioner, of the error or omission.

21 (b) After accepting the order and petition, cannot complete service within 10 days, the sheriff
 22 shall notify the petitioner, at the address provided by the petitioner, that the documents have not
 23 been served. If the petitioner does not respond within 10 days, the sheriff shall hold the order and
 24 petition for future service and file a return to the clerk of the court showing that service was not
 25 completed.

26 (10)(a) Within 30 days after a restraining order is served under this section, the respondent
 27 therein may request a court hearing upon any relief granted. The hearing request form shall be
 28 available from the clerk of the court in the form prescribed by the State Court Administrator.

29 (b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the
 30 court shall notify the petitioner of the date and time of the hearing, and shall supply the petitioner
 31 with a copy of the respondent's request for a hearing. The petitioner shall give to the clerk of the
 32 court information sufficient to allow such notification.

33 (c) The hearing shall not be limited to the issues raised in the respondent's request for hearing
 34 form. If the respondent seeks to raise an issue at the hearing not previously raised in the request
 35 for hearing form, or if the petitioner seeks relief at the hearing not granted in the original order,
 36 the other party shall be entitled to a reasonable continuance for the purpose of preparing a response
 37 to the issue.

38 (11) If the respondent fails to request a hearing within 30 days after a restraining order is
 39 served, the restraining order is confirmed by operation of law. The provisions of this section are
 40 sufficient to meet the due process requirements of 18 U.S.C. 922(g) in that the respondent received
 41 actual notice of the right to request a hearing and the opportunity to participate at the hearing but
 42 the respondent failed to exercise those rights.

43 (12) Service of process or other legal documents upon the petitioner is not a violation of this
 44 section if the petitioner is served as provided in ORCP 7 or 9.

45 **SECTION 2. The amendments to ORS 107.718 by section 1 of this 2025 Act apply to acts**

1 **occurring on or after the effective date of this 2025 Act.**

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