

HB 2613-1
(LC 2874)
1/30/25 (LAS/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Representative Kim Wallan)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2613**

1 In line 2 of the printed bill, before the period, insert “; amending ORS
2 107.097 and 107.139”.

3 Delete lines 4 through 9 and insert:

4 **“SECTION 1.** ORS 107.097 is amended to read:

5 “107.097. (1) Except as otherwise provided in subsection (3) of this section,
6 a court may not enter ex parte a temporary order under ORS 107.095, 109.103
7 or 109.119 providing for the custody of, or parenting time with, a child.

8 “(2)(a) A party may apply to a court for a temporary protective order of
9 restraint by filing with the court an affidavit or a declaration under penalty
10 of perjury in the form required by ORCP 1 E, conforming to the requirements
11 of ORS 109.767.

12 “(b) Upon receipt of an application under this subsection, the court may
13 issue a temporary protective order of restraint restraining and enjoining
14 each party from:

15 “(A) Changing the child’s usual place of residence;

16 “(B) Interfering with the present placement and daily schedule of the
17 child;

18 “(C) Hiding or secreting the child from the other party;

19 “(D) Interfering with the other party’s usual contact and parenting time
20 with the child;

21 “(E) Leaving the state with the child without the written permission of

1 the other party or the permission of the court; or

2 “(F) In any manner disturbing the current schedule and daily routine of
3 the child until custody or parenting time has been determined.

4 “(c) A copy of the order and the supporting affidavit or declaration under
5 penalty of perjury must be served on the other party in the manner of service
6 of a summons under ORCP 7. The order must include the following state-
7 ment:

8 “ _____

9 Notice: You may request a hearing on this order as long as it remains in
10 effect by filing with the court a request for a hearing. In the request you
11 must tell the court and the other party that you object to the order and
12 specifically why you disagree with the representation of the status quo de-
13 scribed in the order. In the request you must also inform the court of your
14 telephone number or contact number and your current residence, mailing or
15 contact address.

16 “ _____

17 “(3)(a) A court may enter ex parte a temporary order providing for the
18 custody of, or parenting time with, a child if:

19 “(A) The party requesting an order is present in court and presents an
20 affidavit or a declaration under penalty of perjury, alleging that the child
21 is in immediate danger; and

22 “(B) The court finds, based on the facts presented in the party’s testi-
23 mony, the party’s affidavit or declaration under penalty of perjury and the
24 testimony of the other party, if the other party is present, that the child is
25 in immediate danger.

26 “(b) **When determining whether a child is in immediate danger for**
27 **purposes of this section, the court shall consider whether, absent the**
28 **temporary order, the child is at present risk of physical harm, severe**
29 **psychological damage, sex abuse, severe neglect significantly affecting**
30 **the child’s daily life or other similar harms. The court may not find**

1 **that a child is in immediate danger for purposes of this section based**
2 **solely on a parent’s homelessness, illness, poverty or other similar**
3 **circumstances.**

4 “[b] (c) The party requesting an order under this subsection shall pro-
5 vide the court with telephone numbers where the party can be reached at
6 any time during the day and a contact address.

7 “[c] (d) A copy of the order and the supporting affidavit or declaration
8 under penalty of perjury must be served on the other party in the manner
9 of service of a summons under ORCP 7. The order must include the follow-
10 ing statement:

11 “ _____
12 “Notice: You may request a hearing on this order as long as it remains
13 in effect by filing with the court a request for a hearing. In the request you
14 must tell the court and the other party that you object to the order on the
15 ground that the child was not in immediate danger at the time the order was
16 issued. In the request you must also inform the court of your telephone
17 number or contact number and your current residence, mailing or contact
18 address.

19 “ _____
20 “(4)(a) A party against whom an order is entered under subsection (2) or
21 (3) of this section may request a hearing by filing with the court a hearing
22 request described in subsection (2) or (3) of this section at any time while
23 the order is in effect.

24 “(b) The court shall make reasonable efforts to hold a hearing within 14
25 days and shall hold a hearing no later than 21 days after receipt of the re-
26 quest for the hearing. The court shall notify each party of the time, date and
27 place of the hearing.

28 “(c) An order issued under subsection (2) or (3) of this section remains in
29 effect through the date of the hearing. If the party against whom the order
30 was entered fails to appear at the hearing without good cause, the court

1 shall continue the order in effect. If the party who obtained the order fails
2 to appear at the hearing without good cause, the court shall vacate the or-
3 der.

4 “(d) The issue at a hearing to contest:

5 “(A) A temporary protective order of restraint is limited to a determi-
6 nation of the status quo at the time the order was issued. If the child’s usual
7 place of residence cannot be determined, the court may make any further
8 order the court finds appropriate in the best interests of the child.

9 “(B) A temporary order for the custody of, or parenting time with, a child
10 is limited to whether the child was in immediate danger at the time the order
11 was issued.

12 “(5) The State Court Administrator shall prescribe the content and form
13 of a request for a hearing described in subsections (2) and (3) of this section.

14 “(6) As used in this section:

15 “(a) ‘Child’s usual place of residence’ has the meaning given that term in
16 ORS 107.138.

17 “(b) ‘Party’s usual contact and parenting time,’ ‘present placement and
18 daily schedule of the child’ and ‘current schedule and daily routine of the
19 child’ have the meanings given ‘parent’s usual contact and parenting time,’
20 ‘present placement and daily schedule of the child’ and ‘current schedule and
21 daily routine of the child’ in ORS 107.138.

22 “**SECTION 2.** ORS 107.139 is amended to read:

23 “107.139. (1)(a) Following entry of a judgment, a court may enter ex parte
24 a temporary order providing for the custody of, or parenting time with, a
25 child if:

26 “(A) A parent of the child is present in court and presents an affidavit
27 or a declaration under penalty of perjury in the form required by ORCP 1
28 E, alleging that the child is in immediate danger;

29 “(B) The parent has made a good faith effort to confer with the other
30 party regarding the purpose and time of this court appearance; and

1 “(C) The court finds by clear and convincing evidence, based on the facts
2 presented in the parent’s testimony, the parent’s affidavit or declaration un-
3 der penalty of perjury and the testimony of the other party, if the other party
4 is present, that the child is in immediate danger.

5 “(b) **When determining whether a child is in immediate danger for**
6 **purposes of this section, the court shall consider whether, absent the**
7 **temporary order, the child is at present risk of physical harm, severe**
8 **psychological damage, sex abuse, severe neglect significantly affecting**
9 **the child’s daily life or other similar harms. The court may not find**
10 **that a child is in immediate danger for purposes of this section based**
11 **solely on a parent’s homelessness, illness, poverty or other similar**
12 **circumstances.**

13 “[b] (c) The party requesting an order under this subsection shall pro-
14 vide the court with telephone numbers where the party can be reached at
15 any time during the day and a contact address.

16 “[c] (d) A copy of the order and the supporting affidavit or declaration
17 under penalty of perjury must be served on the other party in the manner
18 of service of a summons under ORCP 7. The order must include the follow-
19 ing statement:

20 “ _____
21 “Notice: You may request a hearing on this order as long as it remains
22 in effect by filing with the court a request for a hearing. In the request you
23 must tell the court and the other party that you object to the order on the
24 ground that the child was not in immediate danger at the time the order was
25 issued. In the request you must also inform the court of your telephone
26 number or contact number and your current residence, mailing or contact
27 address.

28 “ _____
29 “(2)(a) A party against whom an order is entered under subsection (1) of
30 this section may request a hearing by filing with the court a hearing request

1 described in subsection (1) of this section at any time while the order is in
2 effect.

3 “(b) The court shall hold a hearing within 14 days after receipt of the
4 request for the hearing. The court shall notify each party of the time, date
5 and place of the hearing.

6 “(c) An order issued under subsection (1) of this section remains in effect
7 through the date of the hearing. If the party against whom the order was
8 entered fails to appear at the hearing without good cause, the court shall
9 continue the order in effect. If the party who obtained the order fails to
10 appear at the hearing without good cause, the court shall vacate the order.

11 “(d) The issue at a hearing to contest a temporary order for the custody
12 of, or parenting time with, a child is limited to whether the child was in
13 immediate danger at the time the order was issued.

14 “(3) The State Court Administrator shall prescribe the content and form
15 of a request for a hearing described in this section.

16 “(4) A party seeking relief under this section shall concurrently file, or
17 have pending, a motion under ORS 107.135 to set aside, alter or modify any
18 portion of the judgment that provides for custody, parenting time or
19 visitation.”.

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