

Senate Bill 816

Sponsored by Senators THATCHER, MANNING JR; Senator SOLLMAN

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**.

Modifies duration of certain restraining orders when restrained person requests hearing within relevant time frame.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to the duration of restraining orders; creating new provisions; amending ORS 107.718, 124.015, 124.020, 124.030 and 419B.845; and declaring an emergency.

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

DURATION OF RESTRAINING ORDERS (Family Abuse Prevention Act)

SECTION 1. ORS 107.718 is amended to read:

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

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

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

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

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

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

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

4 (g) That the respondent be restrained from entering, or attempting to enter, on any premises and
 5 a reasonable area surrounding the premises when it appears to the court that such restraint is
 6 necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the
 7 petitioner or children whose custody is awarded to the petitioner;

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

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

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

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

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

23 (3) The court's order under subsection (1) of this section is effective [*for a period of one year*
 24 *or*] until **the earliest of the following:**

25 (a) **One year from the date the order is issued or amended or, if the respondent requests**
 26 **a hearing under subsection (10) of this section, one year from the date the court amends or**
 27 **continues the order;**

28 (b) **The date** the order is withdrawn [*or amended, or until*]; **or**

29 (c) **The date** the order is superseded as provided in ORS 107.722[, *whichever is sooner*].

30 (4) If **the** respondent is restrained from entering, or attempting to enter, an area surrounding
 31 **the** petitioner's residence or any other premises, the order restraining **the** respondent shall specif-
 32 ically describe the area.

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

35 (6) If the court awards parenting time to a parent who committed abuse, the court shall make
 36 adequate provision for the safety of the child and of the petitioner. The order of the court may in-
 37 clude, but is not limited to, the following:

38 (a) That exchange of a child between parents shall occur at a protected location.

39 (b) That parenting time be supervised by another person or agency.

40 (c) That the perpetrator of the abuse be required to attend and complete, to the satisfaction of
 41 the court, a program of intervention for perpetrators or any other counseling program designated
 42 by the court as a condition of the parenting time.

43 (d) That the perpetrator of the abuse not possess or consume alcohol or controlled substances
 44 during the parenting time and for 24 hours preceding the parenting time.

45 (e) That the perpetrator of the abuse pay all or a portion of the cost of supervised parenting

1 time, and any program designated by the court as a condition of parenting time.

2 (f) That no overnight parenting time occur.

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

6 (8) If the court orders relief:

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

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

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

23 (9) If the county sheriff:

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

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

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

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

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

44 (11) If the respondent fails to request a hearing within 30 days after a restraining order is
45 served, the restraining order is confirmed by operation of law. The provisions of this section are

1 sufficient to meet the due process requirements of 18 U.S.C. 922(g) in that the respondent received
 2 actual notice of the right to request a hearing and the opportunity to participate at the hearing but
 3 the respondent failed to exercise those rights.

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

6
 7 **(Elderly Persons and Persons with Disabilities**
 8 **Abuse Prevention Act)**
 9

10 **SECTION 2. Section 3 of this 2023 Act is added to and made a part of ORS 124.005 to**
 11 **124.040.**

12 **SECTION 3. (1) An order entered under ORS 124.020 is effective until the earliest of:**

13 **(a) One year from the date the order is issued or amended or, if the respondent, elderly**
 14 **person or person with a disability requests a hearing under ORS 124.020 (9), one year from**
 15 **the date of an order or consent agreement described in ORS 124.015 (4);**

16 **(b) The date the order is withdrawn; or**

17 **(c) The date the order is terminated by court order.**

18 **(2) An order or consent agreement described in ORS 124.015 (4) shall continue in effect**
 19 **while the order issued under ORS 124.020 is effective.**

20 **(3) When an order has been entered under ORS 124.020, the order may not be terminated**
 21 **upon a motion for dismissal by the petitioner or guardian petitioner unless the motion is**
 22 **notarized.**

23 **(4) When an order described in ORS 124.030 (1) is terminated before the expiration date,**
 24 **the clerk of the court shall immediately deliver a copy of the termination order to the county**
 25 **sheriff with whom the original order was filed.**

26 **SECTION 4. ORS 124.015 is amended to read:**

27 124.015. (1) The court shall hold a hearing within 21 days following the request, and may cancel
 28 or change any order issued under ORS 124.020 if the respondent, elderly person or person with a
 29 disability requests a hearing pursuant to ORS 124.020 (9).

30 (2) In addition to the relief granted under ORS 124.020, the court, in a hearing held pursuant
 31 to subsection (1) of this section, may:

32 (a) Require either party to move from any residence whose title or right to occupy such prem-
 33 ises is held jointly by the parties; and

34 (b) Assess against any party reasonable attorney fees and such costs as may be incurred in the
 35 hearing.

36 (3)(a) If the respondent is represented by an attorney, time for the hearing may be extended for
 37 up to five days at the request of the petitioner or guardian petitioner so that the petitioner or
 38 guardian petitioner may seek representation.

39 (b) If the elderly person or person with a disability is represented by an attorney, time for the
 40 hearing may be extended for up to five days at the request of the respondent or guardian petitioner
 41 so that the respondent or guardian petitioner may seek representation.

42 (4) The court may approve any consent agreement to bring about a cessation of abuse of the
 43 parties. However, the court may not approve a term in a consent agreement that provides for re-
 44 straint of a party to the agreement unless the other party petitioned for and was granted an order
 45 under ORS 124.010. An order or consent agreement made under this section may be amended at any

1 time *[and shall continue in effect for a period of one year from the date of the order issued under ORS*
 2 *124.020]*.

3 (5) An order or agreement made under ORS 124.005 to 124.040 or ORS 133.310 and 133.381 may
 4 not in any manner affect title to any real property.

5 (6) No undertaking shall be required in any proceeding under ORS 124.005 to 124.040.

6 (7) Any proceeding under ORS 124.005 to 124.040 shall be in addition to and not in lieu of any
 7 other available civil or criminal remedies.

8 (8) Notwithstanding any right or remedy established in ORS chapter 90 or ORS 105.105 to
 9 105.168, a petitioner or guardian petitioner may enforce an order issued under ORS 124.005 to
 10 124.040.

11 **SECTION 5.** ORS 124.020 is amended to read:

12 124.020. (1) When a petitioner or guardian petitioner files a petition under ORS 124.010, the
 13 circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed
 14 or on the following judicial day. Upon a showing that the elderly person or person with a disability
 15 named in the petition has been the victim of abuse committed by the respondent within 180 days
 16 preceding the filing of the petition and that there is an immediate and present danger of further
 17 abuse to the person, the court shall, if requested by the petitioner or guardian petitioner, order~~[~~ *for*
 18 *a period of one year or until the order is withdrawn or amended, whichever is sooner]*:

19 (a) That the respondent be required to move from the residence of the elderly person or person
 20 with a disability, if in the sole name of the person or if jointly owned or rented by the person and
 21 the respondent, or if the parties are married to each other;

22 (b) That a peace officer accompany the party who is leaving or has left the parties' residence
 23 to remove essential personal effects of the party;

24 (c) That the respondent be restrained from abusing, intimidating, molesting, interfering with or
 25 menacing the elderly person or person with a disability, or attempting to abuse, intimidate, molest,
 26 interfere with or menace the person;

27 (d) That the respondent be restrained from entering, or attempting to enter, on any premises
 28 when it appears to the court that such restraint is necessary to prevent the respondent from abus-
 29 ing, intimidating, molesting, interfering with or menacing the elderly person or person with a disa-
 30 bility;

31 (e) That the respondent be:

32 (A) Restrained, effective on a date not less than 150 days from the date of the order, from
 33 mailing the elderly person or person with a disability any sweepstakes promotion;

34 (B) Required to remove the elderly person or person with a disability from the respondent's
 35 sweepstakes promotion mailing list or place the person on a list of persons to whom sweepstakes
 36 promotions may not be mailed; and

37 (C) Required to promptly refund any payment received in any form from the elderly person or
 38 person with a disability after the date the order is entered by the court; or

39 (f) Except as provided in subsection (2) of this section, other relief that the court considers
 40 necessary to provide for the safety and welfare of the elderly person or person with a disability.

41 (2)(a) If the court finds that the elderly person or person with a disability has been the victim
 42 of abuse as defined in ORS 124.005 (1)(g), the court may order only relief that the court considers
 43 necessary to prevent or remedy the wrongful taking or appropriation of the money or property of
 44 the person, including but not limited to:

45 (A) Directing the respondent to refrain from exercising control over the money or property of

- 1 the person;
- 2 (B) Requiring the respondent to return custody or control of the money or property of the per-
3 son to the person;
- 4 (C) Requiring the respondent to follow the instructions of the guardian or conservator of the
5 person; or
- 6 (D) Prohibiting the respondent from transferring the money or property of the elderly person
7 or person with a disability to any person other than the elderly person or person with a disability.
- 8 (b) The court may not use a restraining order issued under ORS 124.005 to 124.040:
- 9 (A) To allow any person other than the elderly person or person with a disability to assume
10 responsibility for managing any of the money or property of the elderly person or person with a
11 disability; or
- 12 (B) For relief that is more appropriately obtained in a protective proceeding filed under ORS
13 chapter 125 including, but not limited to, giving control and management of the financial accounts
14 or property of the elderly person or person with a disability for any purpose other than the relief
15 granted under paragraph (a) of this subsection.
- 16 (3) The showing required under subsection (1) of this section may be made by testimony of:
- 17 (a) The elderly person or person with a disability;
- 18 (b) The guardian or guardian ad litem of the elderly person or person with a disability;
- 19 (c) Witnesses to the abuse; or
- 20 (d) Adult protective services workers who have conducted an investigation.
- 21 (4) Immediate and present danger under this section includes but is not limited to situations in
22 which the respondent has recently threatened the elderly person or person with a disability with
23 additional abuse.
- 24 (5) When a guardian petitioner files a petition on behalf of an elderly person or a person with
25 a disability, the guardian petitioner shall provide information about the person and not about the
26 guardian petitioner where the petition, order or related forms prescribed under subsection (6) of this
27 section require information about the petitioner.
- 28 (6) The State Court Administrator shall prescribe the content and form of the petition, order and
29 related forms for use under ORS 124.005 to 124.040. The clerk of the court shall make available the
30 forms and an instruction brochure.
- 31 (7) If the court orders relief:
- 32 (a) The clerk of the court shall provide without charge the number of certified true copies of
33 the petition and order necessary to effect service and shall have a true copy of the petition and
34 order delivered to the county sheriff for service upon the respondent, unless the court finds that
35 further service is unnecessary because the respondent appeared in person before the court.
- 36 (b) The county sheriff shall serve the respondent personally unless the petitioner or guardian
37 petitioner elects to have the respondent served personally by a private party or by a peace officer
38 who is called to the scene of a domestic disturbance at which the respondent is present, and who
39 is able to obtain a copy of the order within a reasonable amount of time. Proof of service shall be
40 made in accordance with ORS 124.030.
- 41 (c) A respondent accused of committing abuse by means of a sweepstakes promotion may be
42 served:
- 43 (A) Personally;
- 44 (B) By mailing certified true copies of the petition and order by certified mail to the address to
45 which the elderly person or person with a disability would have sent the payment for goods or ser-

1 vices promoted in the sweepstakes promotion had the elderly person or person with a disability been
 2 ordering the goods or services; or

3 (C) In the manner directed by the court.

4 (d) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the
 5 relief provided under ORS 124.005 to 124.040.

6 (8) If the county sheriff:

7 (a) Determines that the order and petition are incomplete, the order and petition shall be re-
 8 turned to the clerk of the court. The clerk of the court shall notify the petitioner or guardian
 9 petitioner, at the address provided by the petitioner or guardian petitioner, of the error or omission.

10 (b) After accepting the order and petition, cannot complete service within 10 days, the sheriff
 11 shall notify the petitioner or guardian petitioner, at the address provided by the petitioner or
 12 guardian petitioner, that the documents have not been served. If the petitioner or guardian
 13 petitioner does not respond within 10 days, the county sheriff shall hold the order and petition for
 14 future service and file a return to the clerk of the court showing that service was not completed.

15 (9)(a) Within 30 days after a restraining order is served on the respondent under this section
 16 or within 30 days after notice is served on the elderly person or person with a disability under ORS
 17 124.024, the respondent, elderly person or person with a disability may request a court hearing upon
 18 any relief granted. The hearing request form shall be available from the clerk of the court in the
 19 form prescribed by the State Court Administrator.

20 (b) If the respondent, elderly person or person with a disability requests a hearing under para-
 21 graph (a) of this subsection, the clerk of the court shall notify the petitioner or guardian petitioner
 22 of the date and time of such hearing, and shall supply the petitioner or guardian petitioner with a
 23 copy of the request for a hearing. The petitioner or guardian petitioner shall give to the clerk of the
 24 court information sufficient to allow such notification.

25 (c) The hearing is not limited to the issues raised in the request for hearing form and may in-
 26 clude testimony from witnesses to the abuse and adult protective services workers. The hearing may
 27 be held in person or by telephone. If the respondent, elderly person or person with a disability seeks
 28 to raise an issue at the hearing not previously raised in the request for hearing form, the petitioner
 29 or guardian petitioner is entitled to a reasonable continuance for the purpose of preparing a re-
 30 sponse to the issue.

31 (d) The court shall exercise its discretion in a manner that protects the elderly person or person
 32 with a disability from traumatic confrontation with the respondent.

33 **SECTION 6.** ORS 124.030 is amended to read:

34 124.030. (1) Whenever a restraining order, as authorized by ORS 124.015 or 124.020, that includes
 35 a security amount and an expiration date pursuant to ORS 124.015 and 124.020 and this section, is
 36 issued and the person to be restrained has actual notice of the order, the clerk of the court or any
 37 other person serving the petition and order shall immediately deliver to a county sheriff a true copy
 38 of proof of service, on which it is stated that personal service of the petition and order was served
 39 on the respondent, and copies of the petition and order. Proof of service may be made by affidavit
 40 or by declaration under penalty of perjury. If an order entered by the court recites that the re-
 41 spondent appeared in person before the court, the necessity for service of the order and proof of
 42 service is waived. Upon receipt of a copy of the order and notice of completion of any required
 43 service by a member of a law enforcement agency, the county sheriff shall immediately enter the
 44 order into the Law Enforcement Data System maintained by the Department of State Police. If the
 45 petition and order were served on the respondent by a person other than a member of a law

1 enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System
 2 upon receipt of a true copy of proof of service. Entry into the Law Enforcement Data System con-
 3 stitutes notice to all law enforcement agencies of the existence of the order. Law enforcement
 4 agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged
 5 violation of the order may be informed of the existence and terms of the order. The order is fully
 6 enforceable in any county in this state.

7 *[(2)(a) A restraining order shall remain in effect until the order expires or is terminated by court*
 8 *order.]*

9 *[(b) When a restraining order has been entered under ORS 124.020, the restraining order shall not*
 10 *be terminated upon a motion for dismissal by the petitioner or guardian petitioner unless the motion*
 11 *is notarized.]*

12 *[(3) In any situation where a restraining order described in subsection (1) of this section is termi-*
 13 *nated before the expiration date, the clerk of the court shall immediately deliver a copy of the termi-*
 14 *nation order to the county sheriff with whom the original order was filed.]*

15 **(2)** Upon receipt of *[the]* a termination order **as described in section 3 (4) of this 2023 Act**,
 16 the county sheriff shall promptly remove the original order from the Law Enforcement Data System.

17 *[(4)]* **(3)** Pending a contempt hearing for an alleged violation of a restraining order issued under
 18 ORS 124.015 or 124.020, a person arrested and taken into custody pursuant to ORS 133.310 may be
 19 released as provided in ORS 135.230 to 135.290. Whenever a restraining order is issued under ORS
 20 124.015 or 124.020, the issuing court shall set a security amount for the violation of the order.

21
 22 **(Child Abuse)**
 23

24 **SECTION 7.** ORS 419B.845 is amended to read:

25 419B.845. (1)(a) When a petition has been filed alleging that the child has been physically or
 26 sexually abused, the court may enter an order restraining the alleged perpetrator of the abuse from
 27 having contact with the child or attempting to contact the child and requiring the alleged
 28 perpetrator to move from the household in which the child resides. The court may issue a restrain-
 29 ing order only if the court finds that:

30 (A) There is probable cause to believe the abuse occurred and that the person to be restrained
 31 committed the abuse; and

32 (B) The order is in the best interest of the child.

33 (b) Upon finding that to do so would aid in protecting the victim of the alleged abuse, the court
 34 may enter, in addition to a restraining order described in paragraph (a) of this subsection, other
 35 appropriate orders including, but not limited to, orders that control contact between the alleged
 36 abuser and other children in the household.

37 (c) The court shall include in an order entered under this subsection the following information
 38 about the person to be restrained:

39 (A) Name;

40 (B) Address;

41 (C) Age and birth date;

42 (D) Race;

43 (E) Sex;

44 (F) Height and weight; and

45 (G) Color of hair and eyes.

1 (d) The court may include in the order a provision that a peace officer accompany the restrained
2 person to the household when it is necessary for the person to remove the person's essential per-
3 sonal effects including, but not limited to, clothing, toiletries, medications, Social Security cards,
4 certified copies of records of live birth, identification and tools of the trade. The restrained person
5 is entitled to remove the person's essential personal effects under this paragraph on one occasion
6 only and is required to be accompanied by a peace officer. The restrained person and the peace of-
7 ficer shall remain for no longer than 20 minutes and the peace officer may temporarily interrupt the
8 removal of essential personal effects at any time. Nothing in this paragraph affects a peace officer's
9 duty to arrest under ORS 133.055 and 133.310. A peace officer who accompanies a restrained person
10 under this paragraph has immunity from any liability, civil or criminal, for any actions the person
11 commits during the removal of the person's essential personal effects.

12 (2) If the court enters an order under this section:

13 (a) The clerk of the court shall provide without charge the number of certified copies of the
14 petition and order necessary to effect service and shall have a copy of the petition and order de-
15 livered to the sheriff or other person qualified to serve the order for service upon the person to be
16 restrained; and

17 (b) The sheriff or other person qualified to serve the order shall serve the person to be re-
18 strained personally unless that person is present at the hearing. After accepting the order, if the
19 sheriff or other person cannot complete service within 10 days, the sheriff or other person shall hold
20 the order for future service and file a return to the clerk of the court showing that service was not
21 completed.

22 (3) Within 30 days after an order is served under this section, the restrained person may file a
23 written request with the court and receive a court hearing on any portion of the order. If the re-
24 strained person requests a hearing under this subsection:

25 (a) The clerk of the court shall notify the parties and, if the restrained person is not a party,
26 the restrained person of the date and time of the hearing; and

27 (b) The court shall hold the hearing within 21 days after the request and may cancel or modify
28 the order.

29 (4) Upon receipt of a copy of the order and notice of completion of any required service by a
30 member of a law enforcement agency, the sheriff shall immediately enter the order into the Law
31 Enforcement Data System maintained by the Department of State Police. If the order was served
32 on the person to be restrained by a person other than a member of a law enforcement agency, the
33 county sheriff shall enter the order into the Law Enforcement Data System upon receipt of a true
34 copy of the affidavit of proof of service. Entry into the Law Enforcement Data System constitutes
35 notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall
36 establish procedures adequate to ensure that an officer at the scene of an alleged violation of the
37 order may be informed of the existence and terms of the order. The order is fully enforceable in any
38 county in this state.

39 (5) A restraining order issued pursuant to this section remains in effect [*for a period of one year*
40 *or until the order is modified, amended or terminated by court order.*] **until the earliest of the fol-**
41 **lowing:**

42 (a) **One year from the date the order is issued or amended or, if the respondent requests**
43 **a hearing under subsection (3) of this section, one year from the date the court amends or**
44 **continues the order; or**

45 (b) **The date the order is terminated by court order.**

1 (6) A court that issued a restraining order under this section may renew the order for a period
 2 of up to one year if the court finds that there is probable cause to believe the renewal is in the best
 3 interest of the child. The court may renew the order on motion alleging facts supporting the re-
 4 quired finding. If the renewal order is granted, subsections (2) and (3) of this section apply.

5 (7) If a restraining order issued pursuant to this section is terminated before its expiration date,
 6 the clerk of the court shall immediately deliver a copy of the termination order to the sheriff. The
 7 sheriff shall promptly remove the original order from the Law Enforcement Data System.

8 (8) Pending a contempt hearing for alleged violation of a restraining order issued under this
 9 section, a person arrested and taken into custody pursuant to ORS 133.310 may be released as pro-
 10 vided in ORS 135.230 to 135.290. Unless the order provides otherwise, the security amount for re-
 11 lease shall be \$5,000.

12 (9) When a restraining order entered under this section prohibits the restrained person from
 13 contacting the protected person in writing, the restrained person does not violate the restraining
 14 order by serving on the protected person a copy of a notice of appeal of the restraining order or
 15 any other document required by law to be served on the adverse party to an appeal if:

- 16 (a) Neither the restrained person nor the protected person is represented by counsel;
- 17 (b) The restrained person serves the document by mail; and
- 18 (c) The contents of the document are not intended to harass or intimidate the protected person.

19
 20 **MISCELLANEOUS**

21
 22 **SECTION 8. The unit captions used in this 2023 Act are provided only for the convenience**
 23 **of the reader and do not become part of the statutory law of this state or express any leg-**
 24 **islative intent in the enactment of this 2023 Act.**

25 **SECTION 9. Section 3 of this 2023 Act and the amendments to ORS 107.718, 124.015,**
 26 **124.020, 124.030 and 419B.845 by sections 1 and 4 to 7 of this 2023 Act apply to restraining**
 27 **orders entered, amended or continued on or after the effective date of this 2023 Act.**

28 **SECTION 10. This 2023 Act being necessary for the immediate preservation of the public**
 29 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
 30 **on its passage.**

31 _____