

SENATE AMENDMENTS TO HOUSE BILL 2261

By COMMITTEE ON JUDICIARY

March 16

- 1 On page 2 of the printed bill, line 18, after “ORCP 68 C” insert “, 79 A and 83 F”.
- 2 On page 5, after line 18, insert:
- 3 “**SECTION 4a.** ORCP 79 A is amended to read:
- 4 “A Availability generally.
- 5 “A(1) Circumstances. Subject to the requirements of Rule 82 A(1), a temporary restraining order
- 6 or preliminary injunction may be allowed under this rule:
- 7 “A(1)(a) When it appears that a party is entitled to relief demanded in a pleading, and such re-
- 8 lief, or any part thereof, consists of restraining the commission or continuance of some act, the
- 9 commission or continuance of which during the litigation would produce injury to the party seeking
- 10 the relief; or
- 11 “A(1)(b) When it appears that the party against whom a judgment is sought is doing or threat-
- 12 ens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights
- 13 of a party seeking judgment concerning the subject matter of the action, and tending to render the
- 14 judgment ineffectual. This paragraph shall not apply when the provisions of Rule [83 F, G(4), and
- 15 I(2)] **83 E, F(4) and H(2)** are applicable, whether or not provisional relief is ordered under those
- 16 provisions.
- 17 “A(2) Time. A temporary restraining order or preliminary injunction under this rule may be al-
- 18 lowed by the court, or judge thereof, at any time after commencement of the action and before
- 19 judgment.
- 20 “**NOTE:** Corrects citations in A(1)(b) to sections relettered in amendments promulgated by the
- 21 Council on Court Procedures on December 11, 2004.
- 22 “**SECTION 4b.** ORCP 83 F, as amended by the Council on Court Procedures on December 11,
- 23 2004, is amended to read:
- 24 “F Appearance; hearing; service of show cause order; content; effect of service on person in
- 25 possession of property.
- 26 “[G(1)] **F(1)** Subject to section B of this rule, the court shall issue an order directed to the de-
- 27 fendant and each person having possession or control of the claimed property requiring the defend-
- 28 ant and each such other person to appear for hearing at a place fixed by the court and at a fixed
- 29 time after the third day after service of the order and before the seventh day after service of the
- 30 order to show cause why provisional process should not issue. Upon request of the plaintiff the
- 31 hearing date may be set later than the seventh day.
- 32 “[G(2)] **F(2)** The show cause order issued under subsection (1) of this section shall be served on
- 33 the defendant and on each other person to whom the order is directed.
- 34 “[G(3)] **F(3)** The order shall:
- 35 “[G(3)(a)] **F(3)(a)** State that the defendant may file affidavits or declarations with the court and

1 may present testimony at the hearing; and

2 “[G(3)(b)] **F(3)(b)** State that if the defendant fails to appear at the hearing the court will order
3 issuance of the specific provisional process sought.

4 “[G(4)] **F(4)** If at the time fixed for hearing the show cause order under subsection (1) of this
5 section has not been served on the defendant but has been served on a person in possession or
6 control of the property, and if Rule 82 A has been complied with, the court may restrain the person
7 so served from injuring, destroying, transferring, removing, or concealing the property pending fur-
8 ther order of the court or continue a temporary restraining order issued under section [F] **E** of this
9 rule. Such order shall conform to the requirements of Rule 79 D. Any restraining order issued under
10 this subsection does not create a lien.

11 “**NOTE:** Completes relettering begun in amendments promulgated by the Council on Court
12 Procedures on December 11, 2004; corrects citation in F(4) to section relettered in council amend-
13 ments.”.

14 On page 216, delete lines 43 through 45.

15 On page 217, delete lines 1 through 32 and insert:

16 “**SECTION 288.** ORS 418.017 is amended to read:

17 “418.017. (1) A parent may leave an infant at an authorized facility in the physical custody of
18 an agent, employee, [*doctor*] **physician** or other medical professional working at the authorized fa-
19 cility if the infant:

20 “(a) Is 30 days of age or younger as determined to a reasonable degree of medical certainty; and

21 “(b) Has no evidence of abuse.

22 “(2) A parent leaving an infant under this section is not required to provide any identifying in-
23 formation about the infant or the parent.

24 “(3) An **agent**, employee, [*agent, doctor*] **physician** or other medical professional working at an
25 authorized facility shall receive an infant brought to the authorized facility under this section.

26 “(4) If acting in good faith in receiving an infant, an authorized facility receiving an infant under
27 this section and any agent, employee, [*doctor*] **physician** or other medical professional working at
28 the authorized facility are immune from any criminal or civil liability that otherwise might result
29 from their actions relating to receiving the infant. A city, county or other political subdivision of
30 this state that operates a sheriff’s office, police station or fire station that receives an infant under
31 this section is immune from any criminal or civil liability that otherwise might result from the
32 actions taken by its employees or agents in receiving the infant.

33 “(5) When an infant has been left at an authorized facility as provided in this section:

34 “(a) The authorized facility shall notify the Department of Human Services that an infant has
35 been left at the facility as provided in subsection (1) of this section no later than 24 hours after
36 receiving the infant.

37 “(b) The infant is deemed abandoned for purposes of ORS 419B.100, and the department is
38 deemed to have protective custody of the infant under ORS 419B.150 from the moment the infant
39 was left at the facility. The department shall comply with the applicable provisions of ORS chapter
40 419B with regard to the infant.

41 “(6) The authorized facility shall release the infant to the department when release is appropri-
42 ate considering the infant’s medical condition and shall provide the department with all information
43 the facility has regarding the infant.

44 “(7) As used in this section:

45 “(a) ‘Abuse’ has the meaning given that term in ORS 419B.005.

1 “(b) ‘Authorized facility’ means a hospital as described in ORS 442.015, freestanding birthing
2 center as defined in ORS 442.015, physician’s office, sheriff’s office, police station or fire station.

3 “(c) ‘Physician’ means a person licensed by the Board of Medical Examiners for the State of
4 Oregon to practice medicine and surgery.

5 “**NOTE:** Repairs inconsistent terminology in (1), (3) and (4).”.

6 On page 225, line 4, delete “(A)”.

7 In line 8, delete “(B)”.

8 In line 9, delete “(i)” and insert “(A)”.

9 In line 10, delete the semicolon and insert a period.

10 In line 11, delete “(ii)” and insert “(B)”.

11 In line 14, delete “; and” and insert a period.

12 In line 15, delete “(iii)” and insert “(C)”.

13 On page 228, delete line 29 and insert:

14 “**NOTE:** Corrects word choice in (2) lead-in; corrects read-in woes, internal reference and
15 punctuation in (3)(L).”.

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