

House Bill 2298

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Committee on Judiciary)

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 provisions relating to stalking protective orders.

A BILL FOR AN ACT

Relating to stalking; creating new provisions; and amending ORS 30.866, 40.355, 90.453, 107.755, 133.310, 135.240, 163.730, 163.732, 163.735, 163.738, 163.741, 163.744, 163.750, 163.755 and 166.291.

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

SECTION 1. ORS 30.866 is amended to read:

30.866. (1) A person may bring a civil action in a circuit court for [*a court's stalking protective order or for damages, or both,*] **damages** against a person if:

(a) The person intentionally[, *knowingly or recklessly*] engages in repeated and unwanted contact with the other person or a member of that person's immediate family or household thereby alarming or coercing the other person;

(b) It is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and

(c) The repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household.

[(2) At the time the petition is filed, the court, upon a finding of probable cause based on the allegations in the petition, shall enter a temporary court's stalking protective order that may include, but is not limited to, all contact listed in ORS 163.730. The petition and the temporary order shall be served upon the respondent with an order requiring the respondent to personally appear before the court to show cause why the temporary order should not be continued for an indefinite period.]

[(3)(a) At the hearing, whether or not the respondent appears, the court may continue the hearing for up to 30 days or may proceed to enter a court's stalking protective order and take other action as provided in ORS 163.738.]

[(b) If respondent fails to appear after being served as required by subsection (2) of this section, the court may issue a warrant of arrest as provided in ORS 133.110 in order to ensure the appearance of the respondent in court.]

[(4)] (2) The plaintiff may recover:

(a) Both special and general damages, including damages for emotional distress;

(b) Punitive damages; and

(c) Reasonable attorney fees and costs.

[(5)] (3) The court may enter [*an order*] **a judgment** under this section against a minor [*respondent*] **defendant** without appointment of a guardian ad litem.

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 [(6)] (4) An action under this section must be commenced within two years of the conduct giving
 2 rise to the claim.

3 [(7)] (5) Proof of the claim *[shall be]* **is** by a preponderance of the evidence.

4 [(8)] (6) The remedy provided by this section is in addition to any other remedy, civil or crimi-
 5 nal, provided by law for the conduct giving rise to the claim.

6 [(9) *No filing fee, service fee or hearing fee shall be charged for a proceeding under this section*
 7 *if a court's stalking order is the only relief sought.*]

8 [(10) *If the respondent was provided notice and an opportunity to be heard, the court shall also*
 9 *include in the order, when appropriate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) and*
 10 *(g)(8) to affect the respondent's ability to possess firearms and ammunition or engage in activities in-*
 11 *volving firearms.*]

12 [(11) *ORS 163.741 applies to protective orders issued under this section.*]

13 [(12)] (7) Except for purposes of impeachment, a statement made by the *[respondent]* **defendant**
 14 at a hearing under this section may not be used as evidence in a prosecution for stalking as defined
 15 in ORS 163.732 or for violating a *[court's]* stalking protective order as defined in ORS 163.750.

16 **SECTION 2. (1) A person may petition the circuit court for a stalking protective order**
 17 **against another person if:**

18 (a) **The other person intentionally engages in repeated and unwanted contact with the**
 19 **petitioner or a member of the petitioner's immediate family or household, thereby alarming**
 20 **or coercing the petitioner;**

21 (b) **It is objectively reasonable for a person in the petitioner's situation to have been**
 22 **alarmed or coerced by the contact; and**

23 (c) **The repeated and unwanted contact causes the petitioner reasonable apprehension**
 24 **regarding the personal safety of the petitioner or a member of the petitioner's immediate**
 25 **family or household.**

26 (2) **A parent may present a petition on behalf of a minor child. A guardian may present**
 27 **a petition on behalf of a protected person.**

28 (3) **Allegations in the petition must be made under oath or affirmation.**

29 (4) **A petition under this section must be filed in the court within two years of the con-**
 30 **duct giving rise to the claim.**

31 (5) **No filing fee, service fee or hearing fee may be charged for a proceeding under this**
 32 **section.**

33 (6) **In a proceeding under this section, the petitioner or respondent may recover reason-**
 34 **able attorney fees and costs.**

35 **SECTION 3. (1) When a person files a petition under section 2 of this 2005 Act, the court**
 36 **shall hold an ex parte hearing in person or by telephone on the day the petition is filed or**
 37 **on the following judicial day. The court, upon a finding of probable cause of stalking based**
 38 **on the allegations in the petition, may enter a temporary stalking protective order that may**
 39 **include, but is not limited to, prohibiting all contact with the petitioner. The petition and**
 40 **the temporary stalking protective order, if issued, must be served on the respondent with**
 41 **an order requiring the respondent to personally appear before the court to schedule a hear-**
 42 **ing on the petition. The clerk of the court shall provide without charge the number of cer-**
 43 **tified true copies of the petition and the temporary stalking protective order necessary to**
 44 **provide the petitioner with one copy and to effect service. The clerk shall deliver a certified**
 45 **true copy of the petition and order to the county sheriff for service on the respondent. Upon**

1 request by the petitioner, the clerk shall also provide to the petitioner, without charge, two
 2 exemplified copies of the petition and order.

3 (2) An order requiring the respondent to appear issued under subsection (1) of this sec-
 4 tion must include, but need not be limited to:

- 5 (a) The name of the court at which the respondent is to appear;
- 6 (b) The name of the respondent;
- 7 (c) A copy of the petition for a stalking protective order; and
- 8 (d) The time, date and place at which the respondent is to appear in court.

9 (3) At the appearance required by subsection (1) of this section, the court shall schedule
 10 a hearing on the petition and shall orally order the respondent to appear at the time, date
 11 and place set for the hearing. The court shall inform the respondent that:

12 (a) Failure to appear at the time, date and place set for the hearing may result in the
 13 entry of a stalking protective order; and

14 (b) The respondent is subject to arrest for failing to appear as ordered by the court and
 15 to potential liability under federal law for the possession or purchase of firearms or firearm
 16 ammunition and for other acts prohibited by 18 U.S.C. 2261 to 2262.

17 (4) If the respondent fails to appear as ordered by the court under subsection (1) of this
 18 section, the court shall schedule the hearing and issue a summons ordering the respondent
 19 to personally appear before the court to show cause why a stalking protective order should
 20 not be entered or, if a temporary stalking protective order was entered, why the temporary
 21 stalking protective order should not be continued. The summons must be served on the re-
 22 spondent and must include, but need not be limited to:

- 23 (a) The name of the court at which the respondent is to appear;
- 24 (b) The name of the respondent;
- 25 (c) A copy of the petition for a stalking protective order;
- 26 (d) The time, date and place at which the respondent is to appear in court;
- 27 (e) Notice to the respondent that failure to appear at the time, date and place as ordered
 28 by the court may result in the entry of a stalking protective order; and
- 29 (f) Notice to the respondent that the respondent is subject to arrest for failing to appear
 30 as ordered by the court and to potential liability under federal law for the possession or
 31 purchase of firearms or firearm ammunition and for other acts prohibited by 18 U.S.C. 2261
 32 to 2262.

33 (5) The clerk of the court shall provide an informational brochure that explains the rights
 34 set forth in sections 2 to 5 of this 2005 Act and shall make the petition, order and related
 35 forms developed under subsection (6) of this section available at no cost to the petitioner.

36 (6) The State Court Administrator shall prepare a uniform petition, a uniform order and
 37 any other related forms or informational materials required by sections 2 to 5 of this 2005
 38 Act.

39 **SECTION 4.** (1) At a hearing required by an order issued under section 3 of this 2005 Act
 40 or a citation issued under ORS 163.735, the petitioner may appear in person or by telephone.
 41 Whether or not the respondent appears, the court may:

- 42 (a) Continue the hearing for up to 30 days for good cause shown;
- 43 (b) Enter a temporary stalking protective order pending further proceedings, with a du-
 44 ration not to exceed 90 days and subject to renewal if the respondent cannot be served; or
- 45 (c) Enter a stalking protective order if the court finds by clear and convincing evidence

1 that:

2 (A) The respondent intentionally engaged in repeated and unwanted contact with the
 3 petitioner or a member of the petitioner’s immediate family or household, thereby alarming
 4 or coercing the petitioner;

5 (B) It is objectively reasonable for a person in the petitioner’s situation to have been
 6 alarmed or coerced by the contact; and

7 (C) The repeated and unwanted contact causes the petitioner reasonable apprehension
 8 regarding the personal safety of the petitioner or a member of the petitioner’s immediate
 9 family or household.

10 (2) The court shall specify in any stalking protective order the conduct from which the
 11 respondent is to refrain. The prohibited conduct may include all contact and any attempt to
 12 make contact. Unless dismissed, the order is effective for a period of one to five years, as
 13 determined by the court, and may be renewed. If the respondent was provided notice and
 14 an opportunity to be heard, the court shall include in the order, when appropriate, terms and
 15 findings sufficient under 18 U.S.C. 922(d)(8) and (g)(8) to affect the respondent’s ability to
 16 possess firearms and ammunition or engage in activities involving firearms.

17 (3) The court may enter an order under this section against a minor respondent without
 18 appointment of a guardian ad litem.

19 (4) The court may order the respondent to undergo a mental health evaluation and, if
 20 indicated by the evaluation, treatment. If the respondent is without sufficient resources to
 21 obtain the evaluation, treatment or both, the court shall refer the respondent to the mental
 22 health agency designated by the community mental health director for evaluation, treatment
 23 or both.

24 (5) If the court, the mental health evaluator or any other person has probable cause to
 25 believe that the respondent is dangerous to self or others or is unable to provide for basic
 26 personal needs, the court shall initiate commitment procedures as provided in ORS 426.070
 27 or 426.180.

28 (6) If the respondent fails to appear at the date, time and place specified in an order
 29 under section 3 of this 2005 Act, the court may proceed under ORS 33.055.

30 (7) If the petitioner fails to appear at the time, date and place set for the hearing, the
 31 court may dismiss the petition and terminate any orders issued in the proceeding.

32 (8) A statement made by the respondent at a hearing under this section may not be used
 33 as evidence or for impeachment in a prosecution for stalking as defined in ORS 163.732 or for
 34 violating a stalking protective order as defined in ORS 163.750.

35 **SECTION 5.** (1) A stalking protective order issued under section 3 or 4 of this 2005 Act
 36 is in addition to any other remedy, civil or criminal, provided by law for the conduct giving
 37 rise to the petition.

38 (2) Issuance of a stalking protective order under section 3 or 4 of this 2005 Act does not
 39 prevent the issuance of a restraining order under ORS 107.718, and the issuance of a re-
 40 straining order under ORS 107.718 does not prevent the issuance of a stalking protective or-
 41 der.

42 **SECTION 6.** ORS 163.741 is amended to read:

43 163.741. (1) If the court orders relief under section 4 of this 2005 Act:

44 (a) The respondent must be personally served with a certified true copy of the petition
 45 and order unless the court finds that further service is unnecessary because the respondent

1 **appeared in person before the court. The clerk of the court shall provide without charge the**
 2 **number of certified true copies of the petition and order necessary to provide the petitioner**
 3 **with one copy and to effect service. The clerk shall deliver a certified true copy of the peti-**
 4 **tion and order to the county sheriff for service on the respondent. Upon request by the**
 5 **petitioner, the clerk shall also provide the petitioner, without charge, two exemplified copies**
 6 **of the petition and order.**

7 **(b) The county sheriff shall serve the respondent unless the petitioner elects to have the**
 8 **respondent served by a private party. Service may also be made by a peace officer who is**
 9 **called to the scene of a domestic disturbance at which the respondent is present if the peace**
 10 **officer is able to obtain a copy of the petition and order within a reasonable amount of time.**
 11 **Proof of service must be made in accordance with subsection (3) of this section. When the**
 12 **petition and order do not contain the respondent's date of birth and service is made by the**
 13 **county sheriff or other peace officer, the county sheriff or peace officer shall verify the re-**
 14 **spondent's date of birth with the respondent and shall record that date on the order or proof**
 15 **of service entered into the Law Enforcement Data System under subsection (3) of this sec-**
 16 **tion.**

17 **(2) If the county sheriff:**

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

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

26 **[(1)] (3) Whenever a stalking protective order, as authorized by [ORS 163.735 or 163.738] section**
 27 **4 of this 2005 Act, is issued and the person to be restrained has actual notice [thereof] of the**
 28 **order, the person serving the petition and order shall immediately deliver [forthwith] to the county**
 29 **sheriff a true copy of the petition and order and an affidavit of proof of service on which it is stated**
 30 **that personal service of the petition and order was made on the respondent. If an order entered**
 31 **by the court recites that the respondent appeared in person before the court, the necessity for fur-**
 32 **ther service of the order is waived and accompanying proof of service is not necessary. Upon receipt**
 33 **of proof of service, when required, and a true copy of the petition and order, the county sheriff**
 34 **shall [forthwith] immediately enter the order into the Law Enforcement Data System [maintained**
 35 **by the Department of State Police] and into the databases of the National Crime Information Center**
 36 **of the United States Department of Justice. The sheriff shall also provide the [complainant]**
 37 **petitioner with a true copy of the proof of service. Entry into the Law Enforcement Data System**
 38 **constitutes notice to all law enforcement agencies of the existence of such order. Law enforcement**
 39 **agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged**
 40 **violation of such order may be informed of the existence and terms of such order. [Such order shall**
 41 **be] The order is fully enforceable in any county in the state. The [complainant] petitioner may elect**
 42 **to deliver documents personally to a county sheriff or to have them delivered by a private person**
 43 **for entry into the Law Enforcement Data System and the databases of the National Crime Informa-**
 44 **tion Center of the United States Department of Justice.**

45 **[(2)] (4) When a stalking protective order has been entered into the Law Enforcement Data**

1 System and the databases of the National Crime Information Center of the United States Department
 2 of Justice under subsection [(1)] (3) of this section, a county sheriff shall cooperate with a request
 3 from a law enforcement agency from any other jurisdiction to verify the existence of the stalking
 4 protective order or to transmit a copy of the order to the requesting jurisdiction.

5 [(3)] (5) When a stalking protective order described in subsection [(1)] (3) of this section is ter-
 6 minated by order of the court, the clerk of the court shall **immediately** deliver [forthwith] a true
 7 copy of the termination order to the county sheriff with whom the original order was filed. Upon
 8 receipt of the termination order, the county sheriff shall promptly remove the original order from
 9 the Law Enforcement Data System and the databases of the National Crime Information Center of
 10 the United States Department of Justice.

11 **SECTION 7.** ORS 163.738 is amended to read:

12 163.738. (1)(a) A citation [shall] **must** notify the respondent of a circuit court hearing where the
 13 respondent [shall] **is required to** appear [at the place and time set forth in the citation]. The citation
 14 [shall] **must** contain:

15 (A) The name of the court at which the respondent is to appear;

16 (B) The name of the respondent;

17 (C) A copy of the **petition for a** stalking [complaint] **citation**;

18 (D) The date, time and place at which the citation was issued;

19 (E) The name of the law enforcement officer who issued the citation;

20 (F) The time, date and place at which the respondent is to appear in court;

21 (G) Notice to the respondent that failure to appear at the time, date and place set forth in the
 22 citation [shall] **may** result in the [respondent's arrest and] entry of a [court's] stalking protective
 23 order; and

24 (H) Notice to the respondent [of potential] **that the respondent is subject to arrest for failing**
 25 **to appear as directed in the citation and to potential** liability under federal law for the pos-
 26 session or purchase of firearms or firearm ammunition and for other acts prohibited by 18 U.S.C.
 27 2261 to 2262.

28 (b) The officer shall notify the petitioner in writing of the **time, date and** place [and time] set
 29 for the hearing.

30 [(2)(a) The hearing shall be held as indicated in the citation. At the hearing, the petitioner may
 31 appear in person or by telephonic appearance. The respondent shall be given the opportunity to show
 32 cause why a court's stalking protective order should not be entered. The hearing may be continued for
 33 up to 30 days. The court may enter:]

34 [(A) A temporary stalking protective order pending further proceedings; or]

35 [(B) A court's stalking protective order if the court finds by a preponderance of the evidence
 36 that:]

37 [(i) The person intentionally, knowingly or recklessly engages in repeated and unwanted contact
 38 with the other person or a member of that person's immediate family or household thereby alarming
 39 or coercing the other person;]

40 [(ii) It is objectively reasonable for a person in the victim's situation to have been alarmed or co-
 41 erced by the contact; and]

42 [(iii) The repeated and unwanted contact causes the victim reasonable apprehension regarding the
 43 personal safety of the victim or a member of the victim's immediate family or household.]

44 [(b) In the order, the court shall specify the conduct from which the respondent is to refrain, which
 45 may include all contact listed in ORS 163.730 and any attempt to make contact listed in ORS 163.730.

1 *The order is of unlimited duration unless limited by law. If the respondent was provided notice and*
 2 *an opportunity to be heard, the court shall also include in the order, when appropriate, terms and*
 3 *findings sufficient under 18 U.S.C. 922 (d)(8) and (g)(8) to affect the respondent's ability to possess*
 4 *firearms and ammunition or engage in activities involving firearms.]*

5 [(3) *The circuit court may enter an order under this section against a minor respondent without*
 6 *appointment of a guardian ad litem.]*

7 [(4) *If the respondent fails to appear at the time, date and place specified in the citation, the circuit*
 8 *court shall issue a warrant of arrest as provided in ORS 133.110 in order to ensure the appearance*
 9 *of the respondent at court and shall enter a court's stalking protective order.]*

10 [(5) *The circuit court may also order the respondent to undergo mental health evaluation and, if*
 11 *indicated by the evaluation, treatment. If the respondent is without sufficient resources to obtain the*
 12 *evaluation or treatment, or both, the court shall refer the respondent to the mental health agency des-*
 13 *ignated by the community mental health director for evaluation or treatment, or both.]*

14 [(6) *If the circuit court, the mental health evaluator or any other persons have probable cause to*
 15 *believe that the respondent is dangerous to self or others or is unable to provide for basic personal*
 16 *needs, the court shall initiate commitment procedures as provided in ORS 426.070 or 426.180.]*

17 [(7)] (2) A law enforcement officer shall report the results of any investigation arising from a
 18 [complaint] **petition for a stalking citation** under ORS 163.744 to the district attorney within three
 19 days after presentation of the [complaint] **petition**.

20 [(8) *Except for purposes of impeachment, a statement made by the respondent at a hearing under*
 21 *this section may not be used as evidence in a prosecution for stalking as defined in ORS 163.732 or*
 22 *for violating a court's stalking protective order as defined in ORS 163.750.]*

23 **SECTION 8.** ORS 163.755 is amended to read:

24 163.755. (1) Nothing in [ORS 30.866 or 163.730 to 163.750 shall be construed to permit] **sections**
 25 **2 to 5 of this 2005 Act permits** the issuance of a [court's] stalking protective order under [ORS
 26 30.866 or 163.738] **section 3 or 4 of this 2005 Act**, the issuance of a citation under ORS 163.735, a
 27 criminal prosecution under ORS 163.732 or a civil action under ORS 30.866:

28 (a) For conduct that is authorized or protected by the labor laws of this state or of the United
 29 States.

30 (b) By or on behalf of a person who is in the legal or physical custody of a law enforcement unit
 31 or is in custody under ORS chapter 419C.

32 (c) By or on behalf of a person not described in paragraph (b) of this subsection to or against
 33 another person who:

34 (A) Is a parole and probation officer or an officer, employee or agent of a law enforcement unit,
 35 a county juvenile department or the Oregon Youth Authority; and

36 (B) Is acting within the scope of the other person's official duties.

37 (2) As used in this section, "law enforcement unit" and "parole and probation officer" have the
 38 meanings given those terms in ORS 181.610.

39 **SECTION 9.** ORS 163.732 is amended to read:

40 163.732. (1) A person commits the crime of stalking if:

41 (a) The person [knowingly] **intentionally** alarms or coerces another person or a member of that
 42 person's immediate family or household by engaging in repeated and unwanted contact with the
 43 other person;

44 (b) It is objectively reasonable for a person in the victim's situation to have been alarmed or
 45 coerced by the contact; and

1 (c) The repeated and unwanted contact causes the victim reasonable apprehension regarding the
 2 personal safety of the victim or a member of the victim's immediate family or household.

3 (2)(a) Stalking is a Class A misdemeanor.

4 (b) Notwithstanding paragraph (a) of this subsection, stalking is a Class C felony if the person
 5 has a prior conviction for:

6 (A) Stalking; or

7 (B) Violating a [court's] stalking protective order.

8 (c) When stalking is a Class C felony pursuant to paragraph (b) of this subsection, stalking shall
 9 be classified as a person felony and as crime category 8 of the sentencing guidelines grid of the
 10 Oregon Criminal Justice Commission.

11 **SECTION 10.** ORS 163.750 is amended to read:

12 163.750. (1) A person commits the crime of violating a [court's] stalking protective order [when]
 13 **if:**

14 (a) The person has been served with a [court's] stalking protective order as provided in ORS
 15 [30.866 or 163.738] **163.741 or section 3 of this 2005 Act** or [if] further service was waived under
 16 ORS 163.741 because the person appeared before the court;

17 (b) The person, [subsequent to the] **after** service of the order **or waiver of service**, has engaged
 18 intentionally[, knowingly or recklessly] in conduct prohibited by the order; and

19 (c) [If] The conduct is prohibited contact as defined in ORS 163.730 (3)(d), (e), (f), (h) or (i), the
 20 subsequent conduct has created reasonable apprehension regarding the personal safety of a person
 21 protected by the order.

22 (2)(a) Violating a [court's] stalking protective order is a Class A misdemeanor.

23 (b) Notwithstanding paragraph (a) of this subsection, violating a [court's] stalking protective
 24 order is a Class C felony if the person has a prior conviction for:

25 (A) Stalking; or

26 (B) Violating a [court's] stalking protective order.

27 (c) When violating a [court's] stalking protective order is a Class C felony pursuant to paragraph
 28 (b) of this subsection, violating a [court's] stalking protective order shall be classified as a person
 29 felony and as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice
 30 Commission.

31 **SECTION 11.** ORS 107.755 is amended to read:

32 107.755. (1) [No later than January 1, 1999,] Each judicial district shall:

33 (a) Provide a mediation orientation session for all parties in cases in which child custody, par-
 34 enting time or visitation is in dispute, and in any other domestic relations case in which mediation
 35 has been ordered. The orientation session may be structured in any way the circuit court determines
 36 best meets the needs of the parties. The orientation session should be designed to make the parties
 37 aware of:

38 (A) What mediation is;

39 (B) Mediation options available to them; and

40 (C) The advantages and disadvantages of each method of dispute resolution.

41 (b) Except in matters tried under ORS 107.097 and 107.138 or upon a finding of good cause, re-
 42 quire parties in all cases described in paragraph (a) of this subsection to attend a mediation orien-
 43 tation session prior to any judicial determination of the issues.

44 (c) Provide mediation under ORS 107.755 to 107.795 in any case in which child custody, parent-
 45 ing time and visitation are in dispute.

1 (d) Have developed a plan that addresses domestic violence issues and other power imbalance
 2 issues in the context of mediation orientation sessions and mediation of any issue in accordance
 3 with the following guidelines:

4 (A) All mediation programs and mediators must recognize that mediation is not an appropriate
 5 process for all cases and that agreement is not necessarily the appropriate outcome of all mediation;

6 (B) Neither the existence of nor the provisions of a restraining order issued under ORS 107.718
 7 may be mediated;

8 (C) All mediation programs and mediators must develop and implement:

9 (i) A screening and ongoing evaluation process of domestic violence issues for all mediation
 10 cases;

11 (ii) A provision for opting out of mediation that allows a party to decline mediation after the
 12 party has been informed of the advantages and disadvantages of mediation or at any time during the
 13 mediation; and

14 (iii) A set of safety procedures intended to minimize the likelihood of intimidation or violence
 15 in the orientation session, during mediation or on the way in or out of the building in which the
 16 orientation or mediation occurs;

17 (D) When a mediator explains the process to the parties, the mediator shall include in the ex-
 18 planation the disadvantages of mediation and the alternatives to mediation;

19 (E) All mediators shall obtain continuing education regarding domestic violence and related is-
 20 sues; and

21 (F) Mediation programs shall collect appropriate data. Mediation programs shall be sensitive
 22 to domestic violence issues when determining what data to collect.

23 (e) In developing the plan required by paragraph (d) of this subsection, consult with one or more
 24 of the following:

25 (A) A statewide or local multidisciplinary domestic violence coordinating council.

26 (B) A nonprofit private organization funded under ORS 108.620.

27 (2) Notwithstanding any other provision of law, mediation under ORS 107.755 to 107.795, in-
 28 cluding the mediation orientation session described in subsection (1)(a) of this section, may not be
 29 encouraged or provided in proceedings under ORS 30.866, 107.700 to 107.732[,] **or** 124.005 to 124.040
 30 or [163.738] **section 3 or 4 of this 2005 Act.**

31 (3) The court, as provided in ORS 3.220, may make rules consistent with ORS 107.755 to 107.795
 32 to govern the operation and procedure of mediation provided under this section.

33 (4) If a court provides mediation of financial issues, it shall develop a list of mediators who meet
 34 the minimum education and experience qualifications established by rules adopted under ORS 1.002.
 35 The rules must require demonstrated proficiency in mediation of financial issues. Once the list is
 36 developed, the judicial district shall maintain the list. Mediation of financial issues is subject to the
 37 plan developed under subsection (1)(d) of this section and to the limitations imposed by subsection
 38 (2) of this section.

39 (5) A circuit court may provide mediation in connection with its exercise of conciliation juris-
 40 diction under ORS 107.510 to 107.610, but a circuit court need not provide conciliation services in
 41 order to provide mediation under ORS 107.755 to 107.795.

42 **SECTION 12.** ORS 133.310 is amended to read:

43 133.310. (1) A peace officer may arrest a person without a warrant if the officer has probable
 44 cause to believe that the person has committed any of the following:

45 (a) A felony.

1 (b) A misdemeanor.

2 (c) An unclassified offense for which the maximum penalty allowed by law is equal to or greater
3 than the maximum penalty allowed for a Class C misdemeanor.

4 (d) Any other crime committed in the officer's presence.

5 (2) A peace officer may arrest a person without a warrant when the peace officer is notified by
6 telegraph, telephone, radio or other mode of communication by another peace officer of any state
7 that there exists a duly issued warrant for the arrest of a person within the other peace officer's
8 jurisdiction.

9 (3) A peace officer shall arrest and take into custody a person without a warrant when the
10 peace officer has probable cause to believe that:

11 (a) There exists an order issued pursuant to ORS [30.866,] 107.095 (1)(c) or (d), 107.716, 107.718,
12 124.015, 124.020[, 163.738] or 419B.845 **or section 3 or 4 of this 2005 Act** restraining the person;

13 (b) A true copy of the order and proof of service on the person has been filed as required in
14 ORS 107.720, 124.030, 163.741 or 419B.845; and

15 (c) The person to be arrested has violated the terms of that order.

16 (4) A peace officer shall arrest and take into custody a person without a warrant if:

17 (a) The person protected by a foreign restraining order as defined by ORS 24.190 presents a copy
18 of the foreign restraining order to the officer and represents to the officer that the order supplied
19 is the most recent order in effect between the parties and that the person restrained by the order
20 has been personally served with a copy of the order or has actual notice of the order; and

21 (b) The peace officer has probable cause to believe that the person to be arrested has violated
22 the terms of the foreign restraining order.

23 (5) A peace officer shall arrest and take into custody a person without a warrant if:

24 (a) The person protected by a foreign restraining order as defined by ORS 24.190 has filed a copy
25 of the foreign restraining order with a court or has been identified by the officer as a party pro-
26 tected by a foreign restraining order entered in the Law Enforcement Data System or in the data-
27 bases of the National Crime Information Center of the United States Department of Justice; and

28 (b) The peace officer has probable cause to believe that the person to be arrested has violated
29 the terms of the foreign restraining order.

30 (6) A peace officer shall arrest and take into custody a person without a warrant if the peace
31 officer has probable cause to believe:

32 (a) The person has been charged with an offense that also constitutes domestic violence, as de-
33 fined in ORS 135.230, and is presently released as to that charge under ORS 135.230 to 135.290; and

34 (b) The person has failed to comply with the no contact condition of the release agreement.

35 **SECTION 13.** ORS 163.744 is amended to read:

36 163.744. (1) A person may initiate an action seeking a citation under ORS 163.735 by presenting
37 a [complaint] **petition for a stalking citation** to a law enforcement officer or to any law enforce-
38 ment agency. The [complaint shall be] **petition must contain** a statement setting forth with
39 particularity the conduct that is the basis for the [complaint] **petition**. The petitioner must affirm
40 the truth of the facts in the [complaint] **petition**.

41 (2) The Department of State Police shall develop and distribute the form of the [complaint] **pe-**
42 **tion**. The form [shall] **must** include the standards for reviewing the [complaint] **petition** and for
43 action. The form [shall] **must** be uniform throughout the state and [shall] **must** include substantially
44 the following material:

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[STALKING COMPLAINT] PETITION FOR A STALKING CITATION

Name of petitioner (person presenting [complaint] petition): _____

Name of person being stalked if other than the petitioner: _____

Name of respondent (alleged stalker): _____

Description of respondent: _____

Length of period of conduct: _____

Description of relationship (if any) between petitioner or person being stalked, if other than the petitioner, and respondent: _____

Description of contact: _____

Subscribed to and affirmed by: _____

(signature of petitioner)
(printed name of petitioner)

Dated: _____

(3) A parent may present a [complaint to protect] petition on behalf of a minor child. A guardian may present a [complaint to protect a dependent] petition on behalf of a protected person.

(4) By signing the [complaint] petition, a person is making a sworn statement for purposes of ORS 162.055 to 162.425.

SECTION 14. ORS 163.735 is amended to read:

163.735. (1) Upon a [complaint] petition initiated as provided in ORS 163.744, a law enforcement officer shall issue a citation ordering the person to appear in court within three judicial days and show cause why the court should not enter a [court's] stalking protective order when the officer has probable cause to believe that:

(a) The person intentionally[, knowingly or recklessly] engages in repeated and unwanted contact with the [other person] petitioner or a member of [that person's] the petitioner's immediate family or household, thereby alarming or coercing the [other person] petitioner;

1 (b) It is objectively reasonable for a person in the [victim's] **petitioner's** situation to have been
2 alarmed or coerced by the contact; and

3 (c) The repeated and unwanted contact causes the [victim] **petitioner** reasonable apprehension
4 regarding the personal safety of the [victim] **petitioner** or a member of the [victim's] **petitioner's**
5 immediate family or household.

6 (2) The Department of State Police shall develop and distribute a form for the citation. The form
7 [shall] **must** be uniform throughout the state and [shall] **must** contain substantially the following
8 in addition to any other material added by the department:
9 _____

10
11
12 OFFICER:_____

13 AGENCY:_____

14 PETITIONER:_____

15 PERSON TO BE PROTECTED IF OTHER THAN PETITIONER:_____

16 RESPONDENT:_____

17 On behalf of petitioner, I affirm that I am a law enforcement officer in the State of Oregon.

18 You, the respondent, must appear at _____ (name and location of court at
19 which respondent is to appear) on _____ (date and time respondent is to appear in court).
20 At this hearing, you must be prepared to establish why the court should not enter a [court's] stalking
21 protective order which shall be for [an unlimited duration unless limited by law or court order] **a**
22 **period of one to five years, as determined by the court.** If you fail to appear at this hearing, the
23 court [shall immediately] **may** issue a warrant for your arrest and shall enter a [court's] stalking
24 protective order.

25 If the court issues a stalking protective order at this hearing, and while the protective order is
26 in effect, federal law may prohibit you from:

27 Traveling across state lines or tribal land lines with the intent to violate this order and then
28 violating this order.

29 Causing the person protected by the order, if the person is your spouse or intimate partner, to
30 cross state lines or tribal land lines for your purpose of violating the order.

31 Possessing, receiving, shipping or transporting any firearm or firearm ammunition.

32 Whether or not a stalking protective order is in effect, federal law may prohibit you from:

33 Traveling across state lines or tribal land lines with the intent to injure or harass another
34 person and during, or because of, that travel placing that person in reasonable fear of death or se-
35 rious bodily injury to that person or to a member of that person's immediate family.

36 Traveling across state lines or tribal land lines with the intent to injure your spouse or intimate
37 partner and then intentionally committing a crime of violence causing bodily injury to that person.

38 Causing your spouse or intimate partner to travel across state lines or tribal land lines if your
39 intent is to cause bodily injury to that person or if the travel results in your causing bodily injury
40 to that person.

41 It has been alleged that you have alarmed or coerced the petitioner, or person to be protected
42 if other than the petitioner. If you engage in contact that alarms or coerces the petitioner, or person
43 to be protected if other than the petitioner, in violation of ORS 163.732, you may be arrested for the
44 crime of stalking.
45

1 Date: _____ Time: _____

2 Signed: _____

3 (Respondent)

4 Signed: _____

5 (Law enforcement officer).

6

7

8 **(3) If the respondent fails to appear at the date, time and place specified in a citation**
9 **issued under this section, the court may proceed under ORS 33.055.**

10 **SECTION 15.** ORS 166.291 is amended to read:

11 166.291. (1) The sheriff of a county, upon a person’s application for an Oregon concealed
12 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
13 out in this section, shall issue the person a concealed handgun license if the person:

14 (a)(A) Is a citizen of the United States; or

15 (B) Is a legal resident alien who can document continuous residency in the county for at least
16 six months and has declared in writing to the [*Immigration and Naturalization Service*] **United**
17 **States Citizenship and Immigration Services** the intent to acquire citizenship status and can
18 present proof of the written declaration to the sheriff at the time of application for the license;

19 (b) Is at least 21 years of age;

20 (c) Has a principal residence in the county in which the application is made;

21 (d) Has no outstanding warrants for arrest;

22 (e) Is not free on any form of pretrial release;

23 (f) Demonstrates competence with a handgun by any one of the following:

24 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
25 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
26 of the course;

27 (B) Completion of any National Rifle Association firearms safety or training course if handgun
28 safety was a component of the course;

29 (C) Completion of any firearms safety or training course or class available to the general public
30 offered by law enforcement, community college, or private or public institution or organization or
31 firearms training school utilizing instructors certified by the National Rifle Association or a law
32 enforcement agency if handgun safety was a component of the course;

33 (D) Completion of any law enforcement firearms safety or training course or class offered for
34 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
35 cers if handgun safety was a component of the course;

36 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
37 ized shooting competition or military service;

38 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
39 revoked; or

40 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
41 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
42 was a component of the course;

43 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
44 of a felony;

45 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS

1 161.295, of a misdemeanor within the four years prior to the application;

2 (i) Has not been committed to the Department of Human Services under ORS 426.130;

3 (j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that
4 the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

5 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
6 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
7 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
8 volving violence, as defined in ORS 166.470; and

9 (L) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS
10 [30.866,] 107.700 to 107.732 or [163.738] **section 3 or 4 of this 2005 Act.**

11 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or
12 has had the person’s record expunged under the laws of this state or equivalent laws of other ju-
13 risdictions is not subject to the disabilities in subsection (1)(g) to (k) of this section.

14 (3) Before the sheriff may issue a license:

15 (a) The application must state the applicant’s legal name, current address and telephone number,
16 date and place of birth, hair and eye color and height and weight. The application must also list the
17 applicant’s residence address or addresses for the previous three years. The application must contain
18 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
19 section. The application may include the Social Security number of the applicant if the applicant
20 voluntarily provides this number. The application must be signed by the applicant.

21 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
22 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
23 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
24 records check is necessary, the sheriff shall request the Department of State Police to conduct the
25 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
26 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
27 check and may not keep any record of the fingerprints. The Department of State Police shall report
28 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
29 Police shall also furnish the sheriff with any information about the applicant that the Department
30 of State Police may have in its possession from its central bureau of criminal identification includ-
31 ing, but not limited to, manual or computerized criminal offender information.

32 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
33 quest. The forms shall be uniform throughout the state in substantially the following form:

34 _____
35
36 APPLICATION FOR LICENSE TO CARRY CONCEALED HANDGUN

37 Date_____

38 I hereby declare as follows:

39 I am a citizen of the United States or a legal resident alien who can document continuous res-
40 idency in the county for at least six months and have declared in writing to the [*Immigration and*
41 *Naturalization Service*] **United States Citizenship and Immigration Services** my intention to be-
42 come a citizen and can present proof of the written declaration to the sheriff at the time of this
43 application. I am at least 21 years of age. I have been discharged from the jurisdiction of the juve-
44 nile court for more than four years if, while a minor, I was found to be within the jurisdiction of
45 the juvenile court for having committed an act that, if committed by an adult, would constitute a

1 felony or a misdemeanor involving violence, as defined in ORS 166.470. I have never been convicted
2 of a felony or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon
3 or elsewhere. I have not, within the last four years, been convicted of a misdemeanor or found
4 guilty, except for insanity under ORS 161.295, of a misdemeanor. There are no outstanding warrants
5 for my arrest and I am not free on any form of pretrial release. I have not been committed to the
6 Department of Human Services under ORS 426.130, nor have I been found mentally ill and presently
7 subject to an order prohibiting me from purchasing or possessing a firearm because of mental illness.
8 If any of the previous conditions do apply to me, I have been granted relief or wish to petition for
9 relief from the disability under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records
10 expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under ORS
11 [30.866,] 107.700 to 107.732 or [163.738] **section 3 or 4 of this 2005 Act.** I understand I will be fin-
12 gerprinted and photographed.

13
14 Legal name _____
15 Age _____ Date of birth _____
16 Place of birth _____
17 Social Security number _____

18 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
19 thorized under ORS 166.291. It will be used only as a means of identification.)

20
21 Proof of identification (Two pieces of current identification are required, one of which must bear a
22 photograph of the applicant. The type of identification and the number on the identification are to
23 be filled in by the sheriff.):

- 24 1. _____
25 2. _____

26
27 Height _____ Weight _____
28 Hair color _____ Eye color _____

29
30 Current address _____

(List residence addresses for the
past three years on the back.)

31
32
33
34 City _____ County _____ Zip _____
35 Phone _____

36
37 I have read the entire text of this application, and the statements therein are correct and true.
38 (Making false statements on this application is a misdemeanor.)

39 _____
40 (Signature of Applicant)

41
42 Character references.
43 _____
44 Name Address
45 _____

1 Name Address
2
3 Approved _____ Disapproved _____ by _____
4

5 Competence with handgun demonstrated by _____ (to be filled in by sheriff) Date _____ Fee
6 Paid _____
7 License No. _____
8
9

10 (5)(a) Fees for concealed handgun licenses are:

11 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

12 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

13 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

14 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
15 the concealed handgun license.

16 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
17 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
18 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
19 performance of duties under those sections.

20 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
21 shall enter the applicant’s name into the Law Enforcement Data System indicating that the person
22 is an applicant for a concealed handgun license or is a license holder.

23 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
24 for a resident of a contiguous state who has a compelling business interest or other legitimate
25 demonstrated need.

26 **SECTION 16.** ORS 135.240 is amended to read:

27 135.240. (1) Except as provided in subsections (2), (4) and (5) of this section, a defendant shall
28 be released in accordance with ORS 135.230 to 135.290.

29 (2)(a) When the defendant is charged with murder, aggravated murder or treason, release shall
30 be denied when the proof is evident or the presumption strong that the person is guilty.

31 (b) When the defendant is charged with murder or aggravated murder and the proof is not evi-
32 dent nor the presumption strong that the defendant is guilty, the court shall determine the issue of
33 release as provided in subsection (4) of this section. In determining the issue of release under sub-
34 section (4) of this section, the court may consider any evidence used in making the determination
35 required by this subsection.

36 (3) The magistrate may conduct such hearing as the magistrate considers necessary to determine
37 whether, under subsection (2) of this section, the proof is evident or the presumption strong that the
38 person is guilty.

39 (4)(a) Except as otherwise provided in subsection (5) of this section, when the defendant is
40 charged with a crime listed in ORS 137.700 or 137.707, other than attempt or conspiracy to commit
41 murder or attempt or conspiracy to commit aggravated murder, release shall be denied unless the
42 court determines by clear and convincing evidence that the defendant will not commit new criminal
43 offenses while on release.

44 (b) If the defendant wants to have a hearing on the issue of release, the defendant must request
45 the hearing at the time of arraignment in circuit court. If the defendant requests a release hearing,

1 the court must hold the hearing within five days of the request.

2 (c) At the release hearing, unless the state stipulates to the setting of security or release, the
 3 court shall determine whether probable cause exists to believe the defendant has committed an of-
 4 fense listed in ORS 137.700 or 137.707, other than attempt or conspiracy to commit murder or at-
 5 tempt or conspiracy to commit aggravated murder, and, if so, whether the defendant would commit
 6 new crimes while on release. The state has the burden of producing evidence at the release hearing
 7 subject to ORS 40.015 (4).

8 (d) The defendant may be represented by counsel and may present evidence on any relevant is-
 9 sue. However, the hearing may not be used for purposes of discovery.

10 (e) If the court determines that the defendant will not commit new crimes while on release, the
 11 court shall set security or other appropriate conditions of release. If the court does not determine
 12 that the defendant will not commit new crimes while on release, the court shall deny release.

13 (f) When a defendant who has been released violates a condition of release and the violation:

14 (A) Constitutes a new criminal offense, the court shall cause the defendant to be taken back into
 15 custody and shall order the defendant held pending trial without release.

16 (B) Does not constitute a new criminal offense, the court may order the defendant to be taken
 17 back into custody, may order the defendant held pending trial and may set a security amount of not
 18 less than \$250,000.

19 (5) If the United States Constitution or the Oregon Constitution prohibits application of sub-
 20 section (4) of this section, then notwithstanding any other provision of law, the court shall set a
 21 security amount of not less than \$50,000 for a defendant charged with an offense listed in ORS
 22 137.700 or 137.707 and may not release the defendant on any form of release other than a security
 23 release. In addition to the security amount, the court may impose any supervisory conditions deemed
 24 necessary for the protection of the victim and the community. When a defendant who has been re-
 25 leased violates a condition of release and the violation:

26 (a) Constitutes a new criminal offense, the court shall cause the defendant to be taken back into
 27 custody, shall order the defendant held pending trial and shall set a security amount of not less than
 28 \$250,000.

29 (b) Does not constitute a new criminal offense, the court may order the defendant to be taken
 30 back into custody, may order the defendant held pending trial and may set a security amount of not
 31 less than \$250,000.

32 **(6) When the defendant is charged with violating any provision of a stalking protective**
 33 **order issued under section 3 or 4 of this 2005 Act and unless otherwise specified by the court,**
 34 **the court shall set a security amount of not less than \$5,000.**

35 **SECTION 17.** ORS 163.730 is amended to read:

36 163.730. As used in ORS 30.866 and 163.730 to 163.750 **and sections 2 to 5 of this 2005 Act,**
 37 unless the context requires otherwise:

38 (1) "Alarm" means to cause apprehension or fear resulting from the perception of danger.

39 (2) "Coerce" means to restrain, compel or dominate by force or threat.

40 (3) **And except as otherwise provided in subsection (4) of this section,** "contact" includes
 41 but is not limited to:

42 (a) Coming into the visual or physical presence of the other person;

43 (b) Following the other person;

44 (c) Waiting outside the home, property, place of work or school of the other person or of a
 45 member of that person's family or household;

- 1 (d) Sending or making written or electronic communications in any form to the other person;
- 2 (e) Speaking with the other person by any means;
- 3 (f) Communicating with the other person through a third person;
- 4 (g) Committing a crime against the other person;
- 5 (h) Communicating with a third person who has some relationship to the other person with the
- 6 intent of affecting the third person’s relationship with the other person;
- 7 (i) Communicating with business entities with the intent of affecting some right or interest of
- 8 the other person;
- 9 (j) Damaging the other person’s home, property, place of work or school; or
- 10 (k) Delivering directly or through a third person any object to the home, property, place of work
- 11 or school of the other person.

12 **(4) “Contact” does not include serving the other person with a copy of a document re-**

13 **quired by law to be served on the other person if:**

- 14 **(a) The person serves the document by mail; and**
- 15 **(b) The contents of the document are not intended to alarm or coerce the other person.**

16 [(4)] (5) “Household member” means any person residing in the same residence as the victim.

17 [(5)] (6) “Immediate family” means father, mother, child, sibling, parent, spouse, grandparent,

18 stepparent and stepchild.

19 [(6)] (7) “Law enforcement officer” means any person employed in this state as a police officer

20 by a county sheriff, constable, marshal or municipal or state police agency.

21 [(7)] (8) “Repeated” means two or more times.

22 [(8)] (9) “School” means a public or private institution of learning or a child care facility.

23 **SECTION 18.** ORS 40.355 is amended to read:

24 40.355. (1) For the purpose of attacking the credibility of a witness, evidence that the witness

25 has been convicted of a crime shall be admitted if elicited from the witness or established by public

26 record, but only if the crime:

- 27 (a) Was punishable by death or imprisonment in excess of one year under the law under which
- 28 the witness was convicted; or
- 29 (b) Involved false statement or dishonesty.

30 (2)(a) If a defendant is charged with one or more of the crimes listed in paragraph (b) of this

31 subsection, and the defendant is a witness, evidence that the defendant has been convicted of com-

32 mitting one or more of the following crimes against a family or household member, as defined in

33 ORS 135.230, may be elicited from the defendant, or established by public record, and admitted into

34 evidence for the purpose of attacking the credibility of the defendant:

- 35 (A) Assault in the fourth degree under ORS 163.160.
- 36 (B) Menacing under ORS 163.190.
- 37 (C) Harassment under ORS 166.065.
- 38 (D) Attempted assault in the fourth degree under ORS 163.160 (1).
- 39 (E) Attempted assault in the fourth degree under ORS 163.160 (3).
- 40 (F) Strangulation under ORS 163.187.

41 (b) Evidence may be admitted into evidence for the purpose of attacking the credibility of a

42 defendant under the provisions of this subsection only if the defendant is charged with committing

43 one or more of the following crimes against a family or household member, as defined in ORS

44 135.230:

- 45 (A) Aggravated murder under ORS 163.095.

- 1 (B) Murder under ORS 163.115.
 2 (C) Manslaughter in the first degree under ORS 163.118.
 3 (D) Manslaughter in the second degree under ORS 163.125.
 4 (E) Assault in the first degree under ORS 163.185.
 5 (F) Assault in the second degree under ORS 163.175.
 6 (G) Assault in the third degree under ORS 163.165.
 7 (H) Assault in the fourth degree under ORS 163.160.
 8 (I) Rape in the first degree under ORS 163.375 (1)(a).
 9 (J) Sodomy in the first degree under ORS 163.405 (1)(a).
 10 (K) Unlawful sexual penetration in the first degree under ORS 163.411 (1)(a).
 11 (L) Sexual abuse in the first degree under ORS 163.427 (1)(a)(B).
 12 (M) Kidnapping in the first degree under ORS 163.235.
 13 (N) Kidnapping in the second degree under ORS 163.225.
 14 (O) Burglary in the first degree under ORS 164.225.
 15 (P) Coercion under ORS 163.275.
 16 (Q) Stalking under ORS 163.732.
 17 (R) Violating a [court's] stalking protective order under ORS 163.750.
 18 (S) Menacing under ORS 163.190.
 19 (T) Harassment under ORS 166.065.
 20 (U) Strangulation under ORS 163.187.
 21 (V) Attempting to commit a crime listed in this paragraph.
 22 (3) Evidence of a conviction under this section is not admissible if:
 23 (a) A period of more than 15 years has elapsed since the date of the conviction or of the release
 24 of the witness from the confinement imposed for that conviction, whichever is the later date; or
 25 (b) The conviction has been expunged by pardon, reversed, set aside or otherwise rendered
 26 nugatory.
 27 (4) When the credibility of a witness is attacked by evidence that the witness has been convicted
 28 of a crime, the witness shall be allowed to explain briefly the circumstances of the crime or former
 29 conviction; once the witness explains the circumstances, the opposing side shall have the opportu-
 30 nity to rebut the explanation.
 31 (5) The pendency of an appeal therefrom does not render evidence of a conviction inadmissible.
 32 Evidence of the pendency of an appeal is admissible.
 33 (6) An adjudication by a juvenile court that a child is within its jurisdiction is not a conviction
 34 of a crime.
 35 (7) A conviction of any of the statutory counterparts of offenses designated as violations as de-
 36 scribed in ORS 153.008 may not be used to impeach the character of a witness in any criminal or
 37 civil action or proceeding.
 38 **SECTION 19.** ORS 90.453 is amended to read:
 39 90.453. (1) As used in this section, "verification" means:
 40 (a) A copy of a valid order of protection issued by a court pursuant to ORS [30.866,] 107.095
 41 (1)(c), 107.716, 107.718, 124.015[,] or 124.020 [or 163.738] or **section 3 or 4 of this 2005 Act** or any
 42 other court order that restrains a person from contact with the tenant;
 43 (b) A copy of a police report regarding an act of domestic violence, sexual assault or stalking
 44 against the tenant or a minor member of the tenant's household; or
 45 (c) A statement by a law enforcement officer that the tenant has reported to the officer that the

1 tenant or a minor member of the tenant's household is a victim of domestic violence, sexual assault
2 or stalking.

3 (2) If a tenant gives a landlord at least 14 days' written notice, with verification that the tenant
4 has been the victim of domestic violence, sexual assault or stalking within the 90 days preceding the
5 date of the notice, and the notice so requests, the landlord shall release the tenant from the rental
6 agreement. The notice given by the tenant must specify the release date.

7 (3) A tenant who is released from a rental agreement pursuant to subsection (2) of this section:

8 (a) Is not liable for rent or damages to the dwelling unit incurred after the release date; and

9 (b) Is not subject to any fee solely because of termination of the rental agreement.

10 (4) Notwithstanding the release from a rental agreement of a tenant who is a victim, any other
11 tenant remains subject to the rental agreement.

12 (5) A verification statement by a law enforcement officer must be in substantially the following
13 form:

14 _____
15
16 LAW ENFORCEMENT OFFICER
17 VERIFICATION
18

19 _____
20 Name of law enforcement officer

21 _____
22
23 Name of tenant
24

25 PART 1. STATEMENT BY TENANT

26
27 I, _____ (Name of tenant), do hereby state as follows:

28
29 (A) I or a minor member of my household have been abused, sexually assaulted or stalked as
30 described or defined by ORS 124.005, 135.230, 147.450 or 163.732.

31
32 (B) The most recent incident(s) that I rely on in support of this statement occurred on the fol-
33 lowing date(s): _____.

34
35 I make this statement in support of my request to be released from my rental agreement.
36

37 _____
38 (Signature of tenant)

39 Date: _____
40

41 PART 2. STATEMENT BY LAW ENFORCEMENT OFFICER

42
43 I, _____ (Name of law enforcement officer), do hereby verify as follows:

44
45 (A) I am a law enforcement officer.

1 (B) My name, business address and business telephone are as follows:

2 _____

3 _____

4 _____

5

6 I am employed by _____.

7 (Name and address of law enforcement agency)

8

9 (C) I verify that the person who signed the statement above has informed me that the person
10 or a minor member of the person's household is a victim of domestic violence, sexual assault or
11 stalking, based on incidents that occurred on the dates listed above.

12

13 (D) I reasonably believe the statement of the person above that the person or a minor member
14 of the person's household is a victim of domestic violence, sexual assault or stalking. I understand
15 that the person who made the statement may use this document as a basis for gaining a release from
16 the rental agreement with the person's landlord.

17

18 _____

19 (Signature of law enforcement officer
20 making this statement)

21 Date: _____

22 _____

23

24 _____