

# Senate Bill 322

Sponsored by Senator PROZANSKI (at the request of Pat Melendy)

## 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**.

Authorizes court to award attorney fees to prevailing party in action for court's stalking protective order.

## A BILL FOR AN ACT

1  
2 Relating to court's stalking protective order; amending ORS 30.866.

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

4 **SECTION 1.** ORS 30.866 is amended to read:

5 30.866. (1) A person may bring a civil action in a circuit court for a court's stalking protective  
6 order or for damages, or both, against a person if:

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

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

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

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

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

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

26 (4) The plaintiff may recover:

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

28 (b) Punitive damages[; *and*]

29 [*(c) Reasonable attorney fees and costs*].

30 (5) The court may enter an order under this section against a minor respondent without ap-  
31 pointment 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) An action under this section must be commenced within two years of the conduct giving rise  
2 to the claim.

3 (7) Proof of the claim shall be by a preponderance of the evidence.

4 (8) The remedy provided by this section is in addition to any other remedy, civil or criminal,  
5 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 **protective** 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  
11 involving firearms.

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

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

16 (13) **The court may award reasonable attorney fees and costs to the prevailing party in**  
17 **an action under this section.**

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