

## HOUSE AMENDMENTS TO HOUSE BILL 2940

By COMMITTEE ON JUDICIARY

April 8

1 On page 1 of the printed bill, line 2, after “ORS” insert “133.055,”.

2 On page 3, after line 1, insert:

3 “**SECTION 4.** ORS 133.055 is amended to read:

4 “133.055. (1) A peace officer may issue a criminal citation to a person if the peace officer has  
5 probable cause to believe that the person has committed a misdemeanor or has committed any felony  
6 that is subject to misdemeanor treatment under ORS 161.705. The peace officer shall deliver a copy  
7 of the criminal citation to the person. The criminal citation shall require the person to appear at  
8 the court of the magistrate before whom the person would be taken pursuant to ORS 133.450 if the  
9 person were arrested for the offense.

10 “(2)(a) Notwithstanding the provisions of subsection (1) of this section, when a peace officer re-  
11 sponds to an incident of domestic disturbance and has probable cause to believe that an assault has  
12 occurred between family or household members, as defined in ORS 107.705, or to believe that one  
13 such person has placed the other in fear of imminent serious physical injury, the officer shall arrest  
14 and take into custody the alleged assailant or potential assailant.

15 “(b) When the peace officer makes an arrest under paragraph (a) of this subsection, the peace  
16 officer is not required to arrest both persons.

17 “(c) When a peace officer makes an arrest under paragraph (a) of this subsection, the peace of-  
18 ficer shall make every effort to determine who is the assailant or potential assailant by considering,  
19 among other factors:

20 “(A) The comparative extent of the injuries inflicted or the seriousness of threats creating a fear  
21 of physical injury;

22 “(B) If reasonably ascertainable, the history of domestic violence between the persons involved;

23 “(C) Whether any alleged crime was committed in self-defense; and

24 “(D) The potential for future assaults.

25 “**(d) As used in this subsection, ‘assault’ includes conduct constituting strangulation un-  
26 der ORS 163.187.**

27 “(3) Whenever any peace officer has reason to believe that a family or household member, as  
28 defined in ORS 107.705, has been abused as defined in ORS 107.705 or that an elderly person or a  
29 person with a disability has been abused as defined in ORS 124.005, that officer shall use all rea-  
30 sonable means to prevent further abuse, including advising each person of the availability of a  
31 shelter or other services in the community and giving each person immediate notice of the legal  
32 rights and remedies available. The notice shall consist of handing each person a copy of the fol-  
33 lowing statement:

34 “  
35 \_\_\_\_\_

1 IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE OR ABUSE, you can ask the district  
2 attorney to file a criminal complaint. You also have the right to go to the circuit court and file a  
3 petition requesting any of the following orders for relief: (a) An order restraining your attacker from  
4 abusing you; (b) an order directing your attacker to leave your household; (c) an order preventing  
5 your attacker from entering your residence, school, business or place of employment; (d) an order  
6 awarding you or the other parent custody of or parenting time with a minor child or children; (e)  
7 an order restraining your attacker from molesting or interfering with minor children in your cus-  
8 tody; (f) an order awarding you other relief the court considers necessary to provide for your or  
9 your children’s safety, including emergency monetary assistance. Such orders are enforceable in  
10 every state.

11 You may also request an order awarding support for minor children in your care or for your  
12 support if the other party has a legal obligation to support you or your children.

13 You also have the right to sue for losses suffered as a result of the abuse, including medical and  
14 moving expenses, loss of earnings or support, and other out-of-pocket expenses for injuries sustained  
15 and damage to your property. This can be done without an attorney in the small claims department  
16 of a court if the total amount claimed is under \$7,500.

17 Similar relief may also be available in tribal courts.

18 For further information you may contact: \_\_\_\_\_.

19 “ \_\_\_\_\_ ”.

20

21 In line 2, delete “4” and insert “5”.

22 In line 4, delete “5” and insert “6”.

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