

Enrolled
House Bill 2628

Sponsored by Representative LININGER, Senators GELSER, THATCHER; Representatives BARKER, BARNHART, BARTON, BOONE, BUCKLEY, BUEHLER, CLEM, EVANS, FAGAN, FREDERICK, GOMBERG, GORSEK, GREENLICK, HACK, HELM, HOLVEY, HOYLE, HUFFMAN, KENY-GUYER, KOMP, LIVELY, MCLAIN, MCLANE, NATHANSON, PILUSO, REARDON, SMITH WARNER, SPRENGER, TAYLOR, VEGA PEDERSON, WILLIAMSON, Senators DEVLIN, JOHNSON (Presession filed.)

CHAPTER

AN ACT

Relating to court’s protective stalking orders; amending ORS 30.866; and declaring an emergency.

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

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

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

(8) The remedy provided by this section is in addition to any other remedy, civil or criminal, provided by law for the conduct giving rise to the claim.

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

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

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

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

SECTION 2. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House March 25, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 7, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State