



## Select Victims' Rights – Oregon

This resource is intended to provide a base of knowledge regarding the crime victims' rights in Oregon, and promising practices in ensuring compliance with and enforcement of those rights. To keep this *Guide* as user-friendly as possible in light of the breadth, complexity and evolving nature of law, the *Guide* does not include all laws. The *Guide* is intended for informational purposes only. It does not constitute legal advice, nor does it substitute for legal advice. For more in-depth information about the laws governing privacy, confidentiality and privilege in Oregon see the companion resource: *Law Enforcement-Based Victim Services in Oregon: Privacy, Privilege and Confidentiality*.

The following icons are used throughout this resource to highlight key moments for the user.







= Promising Practices: As used in this *Guide*, things identified as “promising practices” are procedures, methods or techniques, grounded in victim-centered and trauma informed research and experience, which afford victims meaningful rights in the justice system.



= Take Note: As used in this *Guide*, the “take note” indicator provides context for the law cited or discussed. For example, if a law has a particularly narrow application or does not explicitly prohibit an action the “take note” indicator is used to highlight or provide clarity around the law.

<b>SELECT DEFINITIONS</b>	<b>Oregon Constitutional Provisions and Statutes</b>
<p>(a) “Convicted criminal” includes a youth offender in juvenile court delinquency proceedings.</p> <p>(b) “Criminal defendant” includes an alleged youth offender in juvenile court delinquency proceedings.</p> <p>(c) “Victim” means any person determined by the prosecuting attorney or the court to have suffered direct financial, psychological or physical harm as a result of a crime and, in the case of a victim who is a minor, the legal guardian of the minor.</p>	<p>Or. Const. art. I, § 42(6)(a)-(d).</p>

<p>(d) “Violent felony” means a felony in which there was actual or threatened serious physical injury to a victim or a felony sexual offense.</p> <p> The above definitions explicitly apply to Oregon’s Victims’ Rights Constitutional Amendment, Or. Const. art. I, § 42.</p>	
<p>(a) “Victim” means any person determined by the prosecuting attorney or the court to have suffered direct financial, psychological or physical harm as a result of a crime and, in the case of a victim who is a minor, the legal guardian of the minor.</p> <p>(b) “Violent felony” means a felony in which there was actual or threatened serious physical injury to a victim or a felony sexual offense.</p> <p> The above definitions explicitly apply to Oregon’s Victims’ Rights Constitutional Amendment, Or. Const. art. I, § 43.</p>	<p>Or. Const. art. I, § 43(3)(a)-(b).</p>
<p>As used in ORS 40.385, 135.230, 147.417, 147.419 and 147.421 and in ORS chapters 136, 137 and 144, except as otherwise specifically provided or unless the context requires otherwise, “victim” means the person or persons who have suffered financial, social, psychological or physical harm as a result of a crime and includes, in the case of a homicide or abuse of corpse in any degree, a member of the immediate family of the decedent and, in the case of a minor victim, the legal guardian of the minor. In no event shall the criminal defendant be considered a victim.</p> <p> The above definitions explicitly apply to ORS 40.385, 135.230, 147.417, 147.419 and 147.421 and in ORS chapters 136, 137 and 144, except as otherwise specifically provided or unless the context requires otherwise.</p>	<p>Or. Rev. Stat. Ann. § 131.007.</p>
<p>(1) “Complete medical assessment” means an assessment that consists of:</p> <ul style="list-style-type: none"> <li>(a) A medical examination;</li> <li>(b) The collection of forensic evidence using an evidence collection kit approved by the Department of State Police; and</li> <li>(c) The offering and, if requested, provision of emergency contraception, sexually transmitted disease prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency contraception.</li> </ul> <p>(2) “Medical assessment” means a complete or partial medical assessment.</p> <p>(3) “Partial medical assessment” means an assessment that consists of:</p> <ul style="list-style-type: none"> <li>(a) A medical examination; and</li> </ul>	<p>Or. Rev. Stat. Ann. § 147.395(1)-(4).</p>

<p>(b) The offering and, if requested, provision of emergency contraception, sexually transmitted disease prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency contraception.</p> <p>(4) “Sexual assault forensic evidence kit” has the meaning given that term in ORS 181A.323.</p> <p> The above definitions explicitly apply to ORS 147.397.</p>	
<p>(1) “Authorized prosecuting attorney” means a prosecuting attorney who, at the request of a victim, has agreed to assert and enforce a right granted to the victim by section 42 or 43, Article I of the Oregon Constitution.</p> <p>(2) “Claim” means the allegation and proposed remedy described in ORS 147.515 (1).</p> <p>(3) “Crime” includes an act committed by a person who is under 18 years of age that, if committed by an adult, would constitute a misdemeanor or felony.</p> <p>(4) “Criminal proceeding” means an action at law in which a person is alleged, or has been adjudicated, to have committed a crime for which there is a victim and that is conducted in the trial court before or after sentencing or disposition.</p> <p>(5) “Critical stage of the proceeding” means:</p> <ul style="list-style-type: none"> <li>(a) Release hearings or hearings to modify the conditions of release, except hearings concerning release decisions at arraignment;</li> <li>(b) Preliminary hearings;</li> <li>(c) Hearings related to the rescheduling of trial;</li> <li>(d) Hearings on motions or petitions:             <ul style="list-style-type: none"> <li>(A) Conducted pursuant to ORS 40.210 or 135.139;</li> <li>(B) To amend, dismiss or set aside a charge, conviction, order or judgment;</li> </ul> </li> <li>or</li> <li>(C) To suppress or exclude evidence;</li> <li>(e) Entry of guilty or no contest pleas;</li> <li>(f) Trial;</li> <li>(g) Restitution hearings;</li> <li>(h) Sentencing;</li> <li>(i) Probation violation or revocation hearings if the crime of conviction is a felony or person Class A misdemeanor and the victim has requested notice of the hearing from the prosecuting attorney or the supervisory authority as defined in ORS 144.087;</li> </ul>	<p>Or. Rev. Stat. Ann. § 147.500(1)-(14).</p>

- (j) Hearings for relief from the requirement to report as a sex offender or for the reclassification of a sex offender;
- (k) Hearings related to a deferred sentencing agreement;
- (L) Hearings designated as a critical stage of the proceeding in ORS 419C.273; and
- (m) Any other stage of a criminal proceeding the court determines is a critical stage of the proceeding for purposes of section 42, Article I of the Oregon Constitution.

(6) "Defendant" includes a person under 18 years of age alleged to be within the jurisdiction of the juvenile court under ORS chapter 419C.

(7) "Plea hearing" means a hearing in which a defendant enters a plea of guilty or no contest.

- (8) "Plea of guilty or no contest" includes:
  - (a) An admission by a person under 18 years of age that the person is within the jurisdiction of the juvenile court; and
  - (b) If a juvenile court petition has been filed, entering into a formal accountability agreement under ORS 419C.230 or entering an authorized diversion program under ORS 419C.225.

(9) "Prosecuting attorney" means a district attorney as defined in ORS 131.005. In a criminal proceeding conducted in the juvenile court, "prosecuting attorney" includes the juvenile department.

(10) "Reasonable efforts to inform the victim" includes, but is not limited to, providing information orally, in writing, electronically or by mail to the victim's last known address.

(11) "Sentencing hearing" includes the dispositional phase of a juvenile delinquency proceeding under ORS chapter 419C.


(12) "Trial court" includes the juvenile court.


(13) "Victim" means any person determined by the prosecuting attorney or the court to have suffered direct financial, psychological or physical harm as a result of the crime alleged in the criminal proceeding and, in the case of a victim who is a minor, the legal guardian of the minor.

(14) "Violent felony" means a felony in which there was actual or threatened serious physical injury to a victim or a felony sexual offense.



The above definitions explicitly apply to ORS 147.500 to 147.550.


<p>(1) “Criminal activities” means any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant.</p> <p>(2) “Economic damages”:</p> <p>(a) Has the meaning given that term in ORS 31.710, except that “economic damages” does not include future impairment of earning capacity; and</p> <p>(b) In cases involving criminal activities described in ORS 163.263, 163.264 or 163.266, includes the greater of:</p> <p>(A) The value to the defendant of the victim’s services as defined in ORS 163.261; or</p> <p>(B) The value of the victim’s services, as defined in ORS 163.261, computed using the minimum wage established under ORS 653.025 and the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).</p> <p>(3) “Restitution” means full, partial or nominal payment of economic damages to a victim. Restitution is independent of and may be awarded in addition to a compensatory fine awarded under ORS 137.101.</p> <p>(4) “Victim” means:</p> <p>(a) The person or decedent against whom the defendant committed the criminal offense, if the court determines that the person or decedent has suffered or did suffer economic damages as a result of the offense.</p> <p>(b) Any person not described in paragraph (a) of this subsection whom the court determines has suffered economic damages as a result of the defendant’s criminal activities.</p> <p>(c) The Criminal Injuries Compensation Account, if it has expended moneys on behalf of a victim described in paragraph (a) of this subsection.</p> <p>(d) An insurance carrier, if it has expended moneys on behalf of a victim described in paragraph (a) of this subsection.</p> <p>(e) Upon the death of a victim described in paragraph (a) or (b) of this subsection, the estate of the victim.</p> <p>(f) The estate, successor in interest, trust, trustee, successor trustee or beneficiary of a trust against which the defendant committed the criminal offense, if the court determines that the estate, successor in interest, trust, trustee, successor trustee or beneficiary of a trust suffered economic damages as a result of the offense.</p> <p>(5) “Victim” does not include any coparticipant in the defendant’s criminal activities.</p> <p> The above definitions explicitly apply to statutes governing restitution, ORS 137.101 to 137.109.</p>	<p>Or. Rev. Stat. Ann. § 137.103(1)-(5).</p>
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<p>(1) “Abuse” means the occurrence of one or more of the following acts between family or household members:</p> <ul style="list-style-type: none"> <li>(a) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury.</li> <li>(b) Intentionally, knowingly or recklessly placing another in fear of imminent bodily injury.</li> <li>(c) Causing another to engage in involuntary sexual relations by force or threat of force.</li> </ul> <p>(2) “Child” means an unmarried person who is under 18 years of age.</p> <p>(3) “Declaration under penalty of perjury” means a declaration under penalty of perjury in the form required by ORCP 1 E.</p> <p>(4) “Family or household members” means any of the following:</p> <ul style="list-style-type: none"> <li>(a) Spouses.</li> <li>(b) Former spouses.</li> <li>(c) Adult persons related by blood, marriage or adoption.</li> <li>(d) Persons who are cohabiting or who have cohabited with each other.</li> <li>(e) Persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them of a petition under ORS 107.710.</li> <li>(f) Unmarried parents of a child.</li> </ul> <p>(5) “Interfere” means to interpose in a manner that would reasonably be expected to hinder or impede a person in the petitioner’s situation.</p> <p>(6) “Intimidate” means to act in a manner that would reasonably be expected to threaten a person in the petitioner’s situation, thereby compelling or deterring conduct on the part of the person.</p> <p>(7) “Menace” means to act in a manner that would reasonably be expected to threaten a person in the petitioner’s situation.</p> <p>(8) “Molest” means to act, with hostile intent or injurious effect, in a manner that would reasonably be expected to annoy, disturb or persecute a person in the petitioner’s position.</p> <p> The above definitions explicitly apply to statutes governing Oregon’s Family Abuse Prevention Act (FAPA), ORS 107.700 to 107.735.</p>	<p>Or. Rev. Stat. Ann. § 107.705(1)-(8).</p>
<p>(1) “Alarm” means to cause apprehension or fear resulting from the perception of danger.</p>	<p>Or. Rev. Stat. Ann. § 163.730(1)-(8).</p>

- (2) “Coerce” means to restrain, compel or dominate by force or threat.
- (3) “Contact” includes but is not limited to:
- (a) Coming into the visual or physical presence of the other person;
  - (b) Following the other person;
  - (c) Waiting outside the home, property, place of work or school of the other person or of a member of that person’s family or household;
  - (d) Sending or making written or electronic communications in any form to the other person;
  - (e) Speaking with the other person by any means;
  - (f) Communicating with the other person through a third person;
  - (g) Committing a crime against the other person;
  - (h) Communicating with a third person who has some relationship to the other person with the intent of affecting the third person’s relationship with the other person;
  - (i) Communicating with business entities with the intent of affecting some right or interest of the other person;
  - (j) Damaging the other person’s home, property, place of work or school;
  - (k) Delivering directly or through a third person any object to the home, property, place of work or school of the other person; or
  - (L) Service of process or other legal documents unless the other person is served as provided in ORCP 7 or 9.
- (4) “Household member” means any person residing in the same residence as the victim.
- (5) “Immediate family” means father, mother, child, sibling, spouse, grandparent, stepparent and stepchild.
- (6) “Law enforcement officer” means:
- (a) A person employed in this state as a police officer by:
    - (A) A county sheriff, constable or marshal;
    - (B) A police department established by a university under ORS 352.121 or 353.125; or
    - (C) A municipal or state police agency; or
  - (b) An authorized tribal police officer as defined in ORS 181A.680.
- (7) “Repeated” means two or more times.
- (8) “School” means a public or private institution of learning or a child care facility.







The above definitions explicitly apply to statutes governing stalking protective orders, ORS 30.866 and 163.730 to 163.750.



<p>(1) “Declaration under penalty of perjury,” “family or household members,” “interfere,” “intimidate,” “menace” and “molest” have the meanings given those terms in ORS 107.705.</p> <p>(2) “Sexual abuse” means sexual contact with:</p> <p>(a) A person who does not consent to the sexual contact; or</p> <p>(b) A person who is considered incapable of consenting to a sexual act under ORS 163.315, unless the sexual contact would be lawful under ORS 163.325 or 163.345.</p> <p>(3) “Sexual contact” has the meaning given that term in ORS 163.305.</p> <p> The above definitions explicitly apply to statutes governing sexual abuse restraining orders, ORS 163.760 to 163.777.</p>	<p>Or. Rev. Stat. Ann. § 163.760(1)-(3).</p>
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<p><b>SELECT CRIME VICTIMS' RIGHTS</b></p>	<p><b>Oregon Constitutional Provisions and Statutes</b></p>
<p><b>Present At—And Upon Request Informed In Advance About—Any Critical Stage Of The Proceedings Held In Open Court When Defendant Will Be Present; Heard At Pretrial Release Hearing, Sentencing And Juvenile Court Delinquency Disposition.</b></p> <p>(1) To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role in the criminal and juvenile justice systems, to accord crime victims due dignity and respect and to ensure that criminal and juvenile court delinquency proceedings are conducted to seek the truth as to the defendant’s innocence or guilt, and also to ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal and juvenile court delinquency proceedings, the following rights are hereby granted to victims in all prosecutions for crimes and in juvenile court delinquency proceedings:</p> <p>(a) The right to be present at and, upon specific request, to be informed in advance of any critical stage of the proceedings held in open court when the defendant will be present, and to be heard at the pretrial release hearing and the sentencing or juvenile court delinquency disposition.</p>	<p>Or. Const. art. I, § 42(1)(a).</p>






<p> A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction’s law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p> <p> Victims’ constitutional right to be present at any critical stage of the proceedings, including trial, should provide for the victims’ presence during the entirety of the trial. Even if the victim is to be a witness and the court concludes that the victim’s testimony would be materially altered if the victim hears other testimony, consider discussing with the prosecutor the possibility of the victim testifying first to best ensure the victim’s right to be present during the entirety of the trial.</p>	
<p><b>Information Upon Request About The Conviction, Sentence, Imprisonment, Criminal History And Future Release Of Defendant Or Youth Offender.</b></p> <p>(1) To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role in the criminal and juvenile justice systems, to accord crime victims due dignity and respect and to ensure that criminal and juvenile court delinquency proceedings are conducted to seek the truth as to the defendant’s innocence or guilt, and also to ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal and juvenile court delinquency proceedings, the following rights are hereby granted to victims in all prosecutions for crimes and in juvenile court delinquency proceedings:</p> <p>....</p> <p>(b) The right, upon request, to obtain information about the conviction, sentence, imprisonment, criminal history and future release from physical custody of the criminal defendant or convicted criminal and equivalent information regarding the alleged youth offender or youth offender.</p>	<p>Or. Const. art. I, § 42(1)(b).</p>


 <p>A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p><b>Refuse An Interview, Deposition Or Other Discovery Request By The Criminal Defendant Or Other Person Acting On Behalf Of The Criminal Defendant.</b></p> <p>(1) To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role in the criminal and juvenile justice systems, to accord crime victims due dignity and respect and to ensure that criminal and juvenile court delinquency proceedings are conducted to seek the truth as to the defendant’s innocence or guilt, and also to ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal and juvenile court delinquency proceedings, the following rights are hereby granted to victims in all prosecutions for crimes and in juvenile court delinquency proceedings:</p> <p>....</p> <p>(c) The right to refuse an interview, deposition or other discovery request by the criminal defendant or other person acting on behalf of the criminal defendant provided, however, that nothing in this paragraph shall restrict any other constitutional right of the defendant to discovery against the state.</p>	<p>Or. Const. art. I, § 42(1)(c).</p>
<p><b>Receive Prompt Restitution.</b></p> <p>(1) To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role in the criminal and juvenile justice systems, to accord crime victims due dignity and respect and to ensure that criminal and juvenile court delinquency proceedings are conducted to seek the truth as to the defendant’s innocence or guilt, and also to ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal and juvenile court delinquency proceedings, the following rights are hereby granted to victims in all prosecutions for crimes and in juvenile court delinquency proceedings:</p> <p>....</p> <p>(d) The right to receive prompt restitution from the convicted criminal who caused the victim’s loss or injury.</p>	<p>Or. Const. art. I, § 42(1)(d).</p>

 <p>Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p><b>Copy Of Transcript Of Any Court Proceeding.</b></p> <p>(1) To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role in the criminal and juvenile justice systems, to accord crime victims due dignity and respect and to ensure that criminal and juvenile court delinquency proceedings are conducted to seek the truth as to the defendant’s innocence or guilt, and also to ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal and juvenile court delinquency proceedings, the following rights are hereby granted to victims in all prosecutions for crimes and in juvenile court delinquency proceedings:</p> <p>....</p> <p>(e) The right to have a copy of a transcript of any court proceeding in open court, if one is otherwise prepared.</p>	<p>Or. Const. art. I, § 42(1)(e).</p>
<p><b>Consulted About Plea Negotiations Involving Violent Felony Upon Request.</b></p> <p>(1) To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role in the criminal and juvenile justice systems, to accord crime victims due dignity and respect and to ensure that criminal and juvenile court delinquency proceedings are conducted to seek the truth as to the defendant’s innocence or guilt, and also to ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal and juvenile court delinquency proceedings, the following rights are hereby granted to victims in all prosecutions for crimes and in juvenile court delinquency proceedings:</p> <p>....</p> <p>(f) The right to be consulted, upon request, regarding plea negotiations involving any violent felony.</p>  <p>A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must</p>	<p>Or. Const. art. I, § 42(1)(f).</p>


<p>“request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p><b>Informed About Rights As Soon As Practicable.</b></p> <p>(1) To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role in the criminal and juvenile justice systems, to accord crime victims due dignity and respect and to ensure that criminal and juvenile court delinquency proceedings are conducted to seek the truth as to the defendant’s innocence or guilt, and also to ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal and juvenile court delinquency proceedings, the following rights are hereby granted to victims in all prosecutions for crimes and in juvenile court delinquency proceedings:</p> <p>....</p> <p>(g) The right to be informed of these rights as soon as practicable.</p> <p> A promising practice is to have a policy and procedure defining “as soon as practicable” to ensure that law enforcement provide victims required information promptly. Consideration should be given to providing written notice in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	<p>Or. Const. art. I, § 42(1)(g).</p>
<p><b>Victim Standing; Every Victim To Have Remedy For Violation Of Rights Established In Oregon Constitution, Section 42; May Assert Claim In A Pending Case, By Mandamus If No Case Is Pending Or As Otherwise Provided By Law.</b></p> <p>(3)(a) Every victim described in paragraph (c) of subsection (6) of this section shall have remedy by due course of law for violation of a right established in this section.</p> <p>(b) A victim may assert a claim for a right established in this section in a pending case, by a mandamus proceeding if no case is pending or as otherwise provided by law.</p> <p>....</p> <p> A promising practice is that when notifying victims that they have standing to enforce their rights in court, to let them know that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs.</p>	<p>Or. Const. art. I, § 42(3)(a)-(b).</p>

<p>an attorney hired by the victim to represent their interests and assert their rights.</p>	
<p><b>Prosecutor Standing To Assert And Enforce Victims' Rights Established In Oregon Constitution, Section 42.</b></p> <p>(4) Upon the victim's request, the prosecuting attorney, in the attorney's discretion, may assert and enforce a right established in this section.</p> <p> The prosecutor's standing to enforce victims' rights does not deny or diminish victims' standing to enforce their rights.</p>	<p>Or. Const. art. I, § 42(4).</p>
<p><b>Reasonably Protected From Defendant, Convicted Criminal, Alleged Youth Offender Or Youth Offender Throughout The Process/Proceedings.</b></p> <p>(1) To ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal proceedings, the following rights are hereby granted to victims in all prosecutions for crimes:</p> <p>(a) The right to be reasonably protected from the criminal defendant or the convicted criminal throughout the criminal justice process and from the alleged youth offender or youth offender throughout the juvenile delinquency proceedings.</p>	<p>Or. Const. art. I, § 43(1)(a).</p>
<p><b>Court Must Base Pretrial Release Decisions On Principle Of Reasonable Protection Of The Victim And Public; Certain Offenses Not Bailable.</b></p> <p>(1) To ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants in the course and conduct of criminal proceedings, the following rights are hereby granted to victims in all prosecutions for crimes:</p> <p>....</p> <p>(b) The right to have decisions by the court regarding the pretrial release of a criminal defendant based upon the principle of reasonable protection of the victim and the public, as well as the likelihood that the criminal defendant will appear for trial. Murder, aggravated murder and treason shall not be bailable when the proof is evident or the presumption strong that the person is guilty. Other violent felonies shall not be bailable when a court has determined there is probable cause to believe the criminal defendant committed the crime, and the court finds, by clear and convincing evidence,</p>	<p>Or. Const. art. I, § 43(1)(b).</p>

<p>that there is danger of physical injury or sexual victimization to the victim or members of the public by the criminal defendant while on release.</p>	
<p><b>Prosecutor Standing To Assert And Enforce Victims' Rights Established In Oregon Constitution, Section 43.</b></p> <p>(4)(b) Upon the victim's request, the prosecuting attorney, in the attorney's discretion, may assert and enforce a right established in this section.</p> <p> The prosecutor's standing to enforce victims' rights does not deny or diminish victims' standing to enforce their rights.</p>	<p>Or. Const. art. I, § 43(4)(b).</p>
<p><b>Victim Standing; Every Victim To Have Remedy For Violation Of Rights Established in Oregon Constitution, Section 43; May Assert Claim In A Pending Case, By Mandamus If No Case Is Pending Or As Otherwise Provided By Law.</b></p> <p>(5)(a) Every victim described in paragraph (a) of subsection (3) of this section shall have remedy by due course of law for violation of a right established in this section.</p> <p>(b) A victim may assert a claim for a right established in this section in a pending case, by a mandamus proceeding if no case is pending or as otherwise provided by law.</p> <p>....</p> <p> A promising practice is that when notifying victims that they have standing to enforce their rights in court, to let them know that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.</p>	<p>Or. Const. art. I, § 43(5)(a)-(b).</p>
<p><b>Law Enforcement Must Notify Victims As Soon As Is Reasonably Practicable Of Their State Constitutional Rights; Notice May Be Written Or Oral; Law Enforcement Agency Means The Police Agency That Initially Responds To Or Investigates The Case, Or The District Attorney Who Prosecutes The Case.</b></p> <p>(1) As soon as is reasonably practicable in a criminal action in which there is a victim, a law enforcement agency shall notify a person who reasonably appears to be a victim of the offense of the person's rights under section 42, Article I of the Oregon Constitution. The notice may be oral or written and</p>	<p>Or. Rev. Stat. Ann. § 147.417(1)(a)-(b), (4)(a)-(b).</p>

<p>written notice may be provided electronically. If exercise of any of the rights depends upon the victim making a request, the law enforcement agency shall include in the notice the time period in which the victim is required to make the request. A law enforcement agency satisfies the requirements of this section if the law enforcement agency:</p> <p>(a) Provides notice to the victim named in the accusatory instrument, the victim’s guardian or, in a homicide case, the victim’s next of kin; and</p> <p>(b) Presents, if written notice is given, the notice directly to the victim, sends the notice to the last address given to the law enforcement agency by the victim or sends the notice electronically to the cellular phone number or electronic mail address given to the law enforcement agency by the victim.</p> <p>....</p> <p>(4)(a) As used in this section, “law enforcement agency” means the police agency that initially responds in the case, the police agency that investigates the case or the district attorney who prosecutes the case.</p> <p>(b) The district attorney shall determine if the notice required by this section has been given and, if not, shall provide the notice.</p> <p> A promising practice is to have a policy and procedure defining “as soon as is reasonably practicable” to ensure that law enforcement provide victims required information promptly. Consideration should be given to providing written notice in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p><b>Copy Of Transcript, Audiotape Or Videotape Of Court Proceedings; Victim To Pay Cost Of Copying.</b></p> <p>In any criminal proceeding in which a transcript, audiotape or videotape of the proceedings held in open court is prepared, the victim may obtain a copy of the transcript or tape by paying the court or the person who prepared the transcript or tape the actual cost of copying it.</p>	<p>Or. Rev. Stat. Ann. § 147.419.</p>
<p><b>Entitled Upon Request To Information From Public Body/Custodian About Defendant Or Convicted Criminal Including Conviction And Sentence, Criminal History, Imprisonment And Future Release From Custody.</b></p> <p>(1) If a public body is the custodian of any of the following information, upon the request of the victim, the public body shall provide to the victim any of the following information of which it is the custodian and that is about the defendant or convicted criminal:</p> <p>(a) The conviction and sentence;</p>	<p>Or. Rev. Stat. Ann. § 147.421(1)-(3).</p>



<p>(b) Criminal history;                  (c) Imprisonment; and                  (d) Future release from physical custody.</p> <p>(2) A public body, in its discretion, may provide the requested information by furnishing the victim with copies of public records. The public body may charge the victim its actual cost for making public records available as provided in ORS 192.324 (4).</p> <p>(3) As used in this section:                  (a) "Criminal history" means a description of the prior arrests, convictions and sentences of the person.                  (b) "Future release" means the projected or scheduled date of release of the person from confinement, the name and location of the correctional facility from which the person is to be released and the community where the person is scheduled to reside upon release.                  (c) "Imprisonment" means the name and location of the correctional facility in which the person is confined.                  (d) "Public body" has the meaning given that term in ORS 192.311.</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p>	
<p><b>Victims Of Person Crimes Who Are 15 Years Or Older At Time Crimes Are Committed May Select Personal Representative To Accompany Them To All Phases Of Investigation And Prosecution Except Grand Jury Proceedings And Child Abuse Assessments.</b></p> <p>(1) As used in this section:                  (a) "Health care provider" has the meaning given that term in ORS 192.556.                  (b) "Law enforcement agency" means:                  (A) A city or municipal police department.                  (B) A county sheriff's office.                  (C) The Oregon State Police.                  (D) A district attorney.                  (E) A police department established by a university under ORS 352.121 or 353.125.                  (F) A special campus security officer commissioned under ORS 352.118.                  (G) An authorized tribal police officer as defined in ORS 181A.680.                  (c) "Person crime" means a person felony or person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission.</p>	<p>Or. Rev. Stat. Ann. § 147.425(1)-(7).</p>



<p>(d) "Personal representative" means a person selected under subsection (2) of this section to accompany the victim of a crime to certain phases of an investigation and prosecution.</p> <p>(e) "Protective service worker" means an employee or contractor of a local or state agency whose role it is to protect children or vulnerable adults from abuse or neglect.</p> <p>(2) A victim of a person crime, who is at least 15 years of age at the time the crime is committed, may select a person who is at least 18 years of age as the victim's personal representative for purposes of this section. The victim may not select a person who is a suspect in, or a party or witness to, the crime as a personal representative.</p> <p>(3) Except for grand jury proceedings and child abuse assessments occurring at a child advocacy center recognized by the Department of Justice, a personal representative may accompany the victim to those phases of the investigation, including medical examinations, and prosecution of the crime at which the victim is entitled or required to be present.</p> <p>(4) A health care provider, law enforcement agency, protective service worker or court may not prohibit a personal representative from accompanying a victim as authorized by subsection (3) of this section unless the health care provider, law enforcement agency, protective service worker or court believes that the personal representative would compromise the process.</p> <p>(5) A health care provider, law enforcement agency, protective service worker or court is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to a decision under subsection (4) of this section to prohibit a personal representative from accompanying a victim.</p> <p>(6) The fact that a personal representative was allowed or was not allowed to accompany a victim may not be used as a basis for excluding otherwise admissible evidence.</p> <p>(7) The fact that a victim has or has not selected a personal representative under this section may not be used as evidence in the criminal case.</p>	
<p><b>Trial Or Adjudication Conducted With All Practicable Speed; Prompt And Final Conclusion Of The Criminal Or Juvenile Delinquency Proceedings In Any Appellate Or Post-Judgment Proceeding.</b></p>	<p>Or. Rev. Stat. Ann. § 147.430(1)-(7).</p>

<p>(1) A victim in a criminal or juvenile delinquency proceeding has the following rights:</p> <ul style="list-style-type: none"> <li>(a) The right to have the trial or adjudication, including the imposition and execution of the sentence or disposition, conducted with all practicable speed.</li> <li>(b) The right to the prompt and final conclusion of the criminal or juvenile delinquency proceeding in any related appellate or post-judgment proceeding.</li> </ul> <p>(2) The sole remedy for a violation of the rights described in subsection (1) of this section is for the trial or proceeding to promptly occur or for the sentence to be promptly imposed or executed. This remedy may not be imposed if the remedy would:</p> <ul style="list-style-type: none"> <li>(a) Affect the defendant's due process right to adequately prepare and present a defense;</li> <li>(b) Impair the right of the defendant to a fair and impartial hearing in accordance with the Oregon and United States Constitutions; or</li> <li>(c) Impair the ability of the state to prepare and locate witnesses.</li> </ul> <p>(3) Nothing in this section authorizes:</p> <ul style="list-style-type: none"> <li>(a) The dismissal of a criminal or juvenile delinquency proceeding;</li> <li>(b) The imposition of sanctions against the state or the defendant; or</li> <li>(c) A court to sever into separate trials or proceedings a single charging instrument alleging criminal acts committed against multiple victims.</li> </ul> <p>(4) Upon the victim's request, the state may assert the rights of the victim on behalf of the victim.</p> <p>(5) A victim who intends to assert a right described in this section must assert the right:</p> <ul style="list-style-type: none"> <li>(a) Orally, at any critical stage of the proceedings as described in section 42, Article I of the Oregon Constitution; or</li> <li>(b) In writing, after providing a copy to the parties.</li> </ul> <p>(6) When a victim asserts a right described in this section, the court may hold a hearing or resolve the issue based on the record of the case.</p> <p>(7) As used in this section, "victim" means any person determined by the prosecuting attorney or the court to have suffered direct financial, psychological or physical harm as a result of a crime and, in the case of a victim who is a minor, the legal guardian of the minor.</p>	
<p><b>For Victims Of Specified Crimes, Notice Of Certain Rights By Prosecutor Upon Request; Notice Of Appeal Or Petition For Post-Conviction Relief Upon Request; Attend Any Public Hearing</b></p>	<p>Or. Rev. Stat. Ann. § 147.433(1)-(3).</p>

**Conducted By Appellate Court Upon Request; Reasonably Protected From The Offender At Any Appellate Or Post-Conviction Relief Proceeding Upon Request.**

(1) To accord crime victims due dignity and respect, a victim in a criminal proceeding described in subsection (2) of this section has, upon request to the district attorney before a judgment of conviction is entered, the following rights:

- (a) The right to be notified by the district attorney of the victims' rights described in this section and ORS 138.627 and 144.750;
- (b) The right to reasonable, accurate and timely notice from the Attorney General when an appeal is taken in the criminal proceeding;
- (c) The right to reasonable, accurate and timely notice from the counsel for the state when a conviction in the criminal proceeding is the subject of a petition for post-conviction relief filed under ORS 138.510 to 138.680;
- (d) The right to attend any public hearing related to the criminal proceeding that is conducted by an appellate court; and
- (e) The right to be reasonably protected from the offender, if the offender is present, at any related appellate or post-conviction relief proceeding.


(2) The provisions of this section apply only to criminal proceedings involving a defendant charged with or convicted of:

- (a) A person felony, as that term is defined in the rules of the Oregon Criminal Justice Commission;
- (b) A person Class A misdemeanor, as that term is defined in the rules of the Oregon Criminal Justice Commission;
- (c) Burglary in the first degree under ORS 164.225;
- (d) A sex crime as defined in ORS 163A.005; or
- (e) An attempt, conspiracy or solicitation to commit a crime described in paragraph (a) or (b) of this subsection.

(3) As used in this section, "victim" has the meaning given that term in ORS 131.007.



A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must "request" the exercise of certain rights. Because of the phrasing of this statute, victims should be informed that the request to exercise these rights should be made before a judgment of conviction is entered in the case. Agencies should carefully maintain documentation of a victim's request to exercise rights.

<p><b>State Shall Comply With Rights Afforded To Victims In Habeas Corpus Proceedings In Federal Court As Provided In The Federal Crime Victims' Rights Act (CVRA), 18 U.S.C. 3771.</b></p> <p>In any habeas corpus proceeding brought in federal court to which the State of Oregon is a party, the state shall comply with the rights afforded to crime victims under 18 U.S.C. 3771. Remedies for violations of 18 U.S.C. 3771 are as provided under federal law.</p> <p> The CVRA, 18 U.S.C. § 3771(2), provides that in federal habeas corpus proceedings arising out of state convictions, courts must ensure that victims are afforded the following rights: (1) the right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (2) the right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (3) the right to proceedings free from unreasonable delay; and (4) the right to be treated with fairness and with respect for the victim's dignity and privacy.</p>	<p>Or. Rev. Stat. Ann. § 147.438.</p>
<p><b>In Child Abuse Cases, Compensation For Costs Of Child Abuse Medical Assessments, Medical Examinations And Forensic Interview Conducted At A Community Assessment Center.</b></p> <p>(1) Notwithstanding that a child is not a victim under ORS 147.015 (1)(a), in cases of suspected child sexual abuse as described in ORS 419B.005 (1)(a)(C), (D) or (E), or child physical abuse by an adult or caretaker as otherwise described in ORS 419B.005 (1)(a)(A), compensation may be made on behalf of the child for a child abuse medical assessment as defined in ORS 418.782, a medical examination required by ORS 419B.023 or a forensic interview conducted at a community assessment center as defined in ORS 418.782, if:</p> <p>(a) The expenses are actually paid or incurred by the applicant; and</p> <p>(b) A claim is filed on behalf of the child in the manner provided in ORS 147.015.</p> <p>(2) The Department of Justice may pay compensation for child abuse medical assessments or medical examinations required by ORS 419B.023 regardless of whether a finding of abuse is made and only if other insurance is unavailable. If the department pays compensation, the department shall pay the compensation directly to the provider of the services. The medical fee schedules for payment under this section shall be the schedules adopted under ORS 147.035.</p>	<p>Or. Rev. Stat. Ann. § 147.390(1)-(2).</p>

<p><b>Law Enforcement, Investigators And Prosecutors May Not Require A Victim Of Sexual Assault To Submit To A Polygraph Examination As A Prerequisite To Filing Charges.</b></p> <p>No district attorney or other law enforcement officer or investigator involved in the investigation or prosecution of crimes, or any employee thereof, shall require any complaining witness in a case involving the use of force, violence, duress, menace or threat of physical injury in the commission of any sex crime under ORS 163.305 to 163.575, to submit to a polygraph examination as a prerequisite to filing an accusatory pleading.</p>	<p>Or. Rev. Stat. Ann. § 163.705.</p>
<p><b>Department Of Justice To Pay The Costs Of Medical Assessments Obtained By Victims Of Sexual Assault Under Certain Circumstances; Law Enforcement Agencies Must Preserve The Sexual Assault Forensic Evidence Kits For No Less Than 60 Years.</b></p> <p>(1) Subject to the availability of funds from gifts, grants and donations in the Sexual Assault Victims' Emergency Medical Response Fund, the Department of Justice shall pay the costs of:</p> <p>(a) A complete medical assessment obtained by the victim of a sexual assault if the victim obtains the medical assessment no later than 84 hours after the sexual assault.</p> <p>(b) A partial medical assessment obtained by the victim of a sexual assault if the victim obtains the medical assessment no later than seven days after the sexual assault.</p> <p>(2) The department may not deny payment under this section for any of the following reasons:</p> <p>(a) The victim of a sexual assault has not reported the assault to a law enforcement agency.</p> <p>(b) The identity of a victim of a sexual assault is not readily available to the department because forensic evidence has been collected from the victim and preserved in a manner intended to protect the victim's identity.</p> <p>(3) The department shall develop a form that the victim of a sexual assault must complete if the victim wants the department to pay for a medical assessment as provided in subsection (1) of this section. The department shall make copies of the form available to providers of medical assessments. The form must inform the victim that:</p> <p>(a) A complete or partial medical assessment can be obtained regardless of whether the victim reports the assault to a law enforcement agency; and</p> <p>(b) A complete or partial medical assessment can be performed and evidence collected in a manner intended to protect the victim's identity.</p>	<p>Or. Rev. Stat. Ann. § 147.397(1)-(11).</p>

(4) When the victim of a sexual assault completes the form developed by the department under subsection (3) of this section, the victim shall submit the form to the provider of the medical assessment. The provider shall submit the form with a bill for the medical assessment to the department. A provider who submits a bill under this subsection may not bill the victim or the victim's insurance carrier for the medical assessment except to the extent that the department is unable to pay the bill due to lack of funds or declines to pay the bill.

(5) Providers of medical assessments that seek reimbursement under this section shall:

(a) Maintain records of medical assessments that protect the identity of victims of sexual assault and keep confidential the identity of victims who have not reported the sexual assault to a law enforcement agency;

(b) Store sexual assault forensic evidence kits and transfer custody of the kits to a law enforcement agency having jurisdiction over the geographic area where the provider is located; and

(c) Cooperate with law enforcement agencies to develop and implement procedures that protect the identities of victims while allowing retrieval and assessment of sexual assault forensic evidence kits and related evidence.

(6) Law enforcement agencies that receive evidence as provided by subsection (5) of this section shall preserve:

(a) A sexual assault forensic evidence kit for no less than 60 years after collection of the evidence; and


(b) Any related evidence for at least six months.

(7) A provider may not charge the department more for a complete medical assessment or a partial medical assessment than the maximum amounts established by the department by rule for the assessments.


(8) The victim of a sexual assault may obtain a medical assessment and complete and submit a form under this section regardless of whether the victim reports the sexual assault to a law enforcement agency.

(9) This section does not require the department to pay any costs of treatment for injuries resulting from the sexual assault.


(10) The department shall create, and make available to medical assessment providers, informational materials describing the services payable by the fund as described in subsection (1) of this section. A provider shall ensure that the informational materials are made available to sexual assault victims.

<p>(11) The department may adopt rules necessary to carry out the provisions of this section.</p> <p> Consideration should be given to the adoption of a policy and procedure that clarifies how notice will be given about biological evidence to victims in active and cold cases, and post-conviction.</p>	
<p><b>Provider Of Medical Assessment For A Sexual Assault Victim To Contact A Victim Advocate And Make Reasonable Efforts To Ensure The Advocate Is Present And Available At The Medical Facility Where The Assessment Occurs.</b></p> <p>(1) Upon a sexual assault victim’s decision to participate in a medical assessment, as soon as practicable and in a manner consistent with the county’s sexual assault response team protocols adopted under ORS 147.401 and the protocols and procedures of the county multidisciplinary child abuse teams described in ORS 418.747, the provider of the medical assessment or, if applicable, a law enforcement officer shall contact a victim advocate and make reasonable efforts to ensure that the victim advocate is present and available at the medical facility in which the medical assessment occurs.</p> <p>(2) A victim advocate contacted under subsection (1) of this section:</p> <p>(a) Shall clearly inform the victim that the victim may decline the services of the victim advocate at any time; and</p> <p>(b) May not impede the medical assessment, the provision of medical services to the victim or the collection of evidence.</p> <p>(3) As used in this section, “medical assessment” has the meaning given that term in ORS 147.395.</p>	<p>Or. Rev. Stat. Ann. § 147.404(1)-(3).</p>
<p><b>Victim Standing; Assertion Of Claims Personally, Through An Attorney Or An Authorized Prosecutor; No Fees For Proceeding Under Statutes Governing Effectuation Of Victims’ Constitutional Rights, ORS 147.500 To 147.550; Victims’ Counsel To Be Served In Lieu Of Victims.</b></p> <p>(1) A victim may assert a claim under ORS 147.500 to 147.550 personally, through an attorney or through an authorized prosecuting attorney.</p> <p>(2) If the defendant or victim is represented by counsel, counsel for the defendant or victim shall be served or notified in lieu of service on or notification to a defendant or victim under ORS 147.500 to 147.550.</p>	<p>Or. Rev. Stat. Ann. § 147.502(1)-(5).</p>




<p>(3) A court may not charge a filing fee, service fee, motion fee or hearing fee for a proceeding under ORS 147.500 to 147.550.</p> <p>(4) The time within which an act is to be done under ORS 147.500 to 147.550 is determined under ORS 174.120 and 174.125.</p> <p>(5) ORCP 17 applies to the provision of documents to the court under ORS 147.500 to 147.550.</p> <p> A promising practice is that when notifying victims that they have standing to enforce their rights in court, to let them know that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.</p>	
<p><b>Remedy For Violations Of Victims’ Constitutional Rights; Writ Of Mandamus.</b></p> <p>ORS 147.500 to 147.550 effectuate the provisions of sections 42 and 43, Article I of the Oregon Constitution, for violations that occur in criminal proceedings and do not provide a remedy for violations that occur in any other proceeding. A remedy for a violation of section 42 or 43, Article I of the Oregon Constitution, in any other proceeding may be enforced by writ of mandamus under ORS 34.105 to 34.240.</p>	<p>Or. Rev. Stat. Ann. § 147.504(1).</p>
<p><b>Upon Request Of Victim, Prosecutor May Request Court To Reconsider A Release Decision Under Certain Circumstances.</b></p> <p>(1) At the request of a victim, the prosecuting attorney may request that the court schedule a hearing to reconsider a release decision if:</p> <p>(a) The victim did not have notice of, or an opportunity to be heard at, a hearing in which the court released the defendant from custody or reduced the defendant’s security amount; and</p> <p>(b) The victim’s request is made no later than 30 days after the victim knew or reasonably should have known of the release decision that is to be reconsidered.</p> <p>(2) As used in this section, “release decision” includes:</p> <p>(a) Decisions made at arraignment; and</p> <p>(b) Decisions made at hearings described in ORS 419C.273 (4)(b)(A) to (C).</p>	<p>Or. Rev. Stat. Ann. § 147.508(1)-(2).</p>



 <p>A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p><b>Duty Of Prosecutor At The Beginning Of Each Critical Stage Of The Proceeding To Inform The Court If The Victim Is Present, Whether The Victim Requested Notice And Was Provided Notice; In All Felony Cases, Duty Of Prosecutor To Provide Court With A Form Notice Of Compliance With Victims’ Rights; If Victim Is Present At A Critical Stage Of The Proceeding, The Prosecutor Shall Inquire Whether The Victim Is Asserting And Enforcing Victims’ Constitutional Rights.</b></p> <p>(1) This section does not apply:</p> <p>(a) In a juvenile delinquency proceeding; or</p> <p>(b) In a criminal case in which no person has been determined to be the victim of the crime.</p> <p>(2) At the beginning of each critical stage of the proceeding:</p> <p>(a) The prosecuting attorney shall inform the court whether the victim is present.</p> <p>(b) If the victim is not present, the prosecuting attorney shall inform the court, based on the prosecuting attorney’s knowledge, whether the victim requested advance notice of any critical stage of the proceeding and, if so, whether the victim:</p> <p>(A) Was notified of the date, time and place of the proceeding;</p> <p>(B) Was informed of the victim’s rights implicated in the proceeding; and</p> <p>(C) Indicated an intention to attend the proceeding or requested that the prosecuting attorney assert a particular right associated with the proceeding and, if the victim made such a request, whether the prosecuting attorney agreed to do so.</p> <p>(3) Subsection (2) of this section does not apply in any criminal proceeding in which the prosecuting attorney provides the court with the notice described in subsection (4) of this section.</p> <p>(4) In all felony cases, no later than 21 days after the defendant is arraigned on an indictment, waives indictment or is held to answer following a preliminary hearing, the prosecuting attorney shall provide the court with a notice of compliance with victims’ rights on a form prescribed by the Chief Justice of the Supreme Court or on a substantially similar form that indicates whether:</p>	<p>Or. Rev. Stat. Ann. § 147.510(1)-(6).</p>

<p>(a) The prosecuting attorney, a person known to the prosecuting attorney or a member of the prosecuting attorney's staff made reasonable efforts to inform the victim of the rights granted to the victim by sections 42 (1)(a) to (f) and 43, Article I of the Oregon Constitution;</p> <p>(b) The charging instrument includes the name or pseudonym of each victim known to the prosecuting attorney. If the charging instrument does not include the name or pseudonym of each victim known to the prosecuting attorney, the prosecuting attorney shall identify any victim not included in the charging instrument, unless it would be impractical to do so;</p> <p>(c) The victim requested that the prosecuting attorney assert and enforce a right granted to the victim by section 42 or 43, Article I of the Oregon Constitution, and whether the prosecuting attorney agreed to do so; and</p> <p>(d) The victim requested to be informed in advance of any critical stage of the proceeding.</p> <p>(5) If the victim is present at a critical stage of the proceeding, the prosecuting attorney shall inquire of the victim whether the victim intends to assert a right granted to the victim by section 42 or 43, Article I of the Oregon Constitution, and shall report the results of that inquiry to the court. The court may ask the victim for information about any aspect of the rights granted to the victim by sections 42 and 43, Article I of the Oregon Constitution.</p> <p>(6)(a) Information provided to the court under subsection (2) or (4) of this section may be based on information obtained from a law enforcement agency, a member of the prosecuting attorney's staff, the prosecuting attorney's file or an electronic data system or other record keeping system regularly maintained by the office of the prosecuting attorney.</p> <p>(b) If the prosecuting attorney discovers that information provided to the court under subsection (2) or (4) of this section is no longer accurate, the prosecuting attorney shall orally provide the court with updated information prior to or during the critical stage of the proceeding that immediately follows the discovery.</p>	
<p><b>Duty Of Prosecutor At Beginning Of Judicial Settlement Conferences, Plea Hearings And Sentencing Hearings To Inform The Court If The Victim Is Present, And In Violent Felony Cases Whether The Victim Was Informed Of The Conference Or Hearing; In Violent Felony Cases, Upon Request Of The Victim, The Prosecutor Must Make Reasonable Efforts To Consult The Victim Before Making A Plea Offer And Entering Into A Plea Agreement; Court May Not Accept A Plea If It Finds That The Victim Requested Consultation And Prosecutor Failed To Make Reasonable Efforts To Consult.</b></p>	<p>Or. Rev. Stat. Ann. § 147.512(1)-(3).</p>

<p>(1) Notwithstanding ORS 147.510, at the beginning of each judicial settlement conference, plea hearing or sentencing hearing, the prosecuting attorney shall inform the court whether the victim is present. If the victim is not present and the case involves a defendant charged with a violent felony, the prosecuting attorney shall inform the court whether the victim was informed of the conference or hearing.</p> <p>(2) In any case involving a defendant charged with a violent felony:</p> <p>(a) If the victim requests, the prosecuting attorney shall make reasonable efforts to consult the victim before making a plea offer and before entering into a final plea agreement.</p> <p>(b) Before the court accepts a plea of guilty or no contest:</p> <p>(A) If the victim is present, the court shall ask whether the victim was consulted regarding plea negotiations, if the victim agrees or disagrees with the plea agreement as presented to the court and whether the victim wishes to be heard regarding the plea agreement.</p> <p>(B) If the victim is not present, the court shall ask the prosecuting attorney whether the victim requested to be informed and consulted regarding plea negotiations. If the victim made such a request, the court shall ask the prosecuting attorney what reasonable efforts to inform and consult the victim concerning plea negotiations were made and whether the victim agrees or disagrees with the plea agreement.</p> <p>(c) If the court finds that the victim requested consultation regarding plea negotiations and that the prosecuting attorney failed to make reasonable efforts to consult the victim, the court shall direct the prosecuting attorney to make reasonable efforts to consult the victim and may not accept the plea unless the court makes a finding on the record that the interests of justice require the acceptance of the plea.</p> <p>(3) Before the court imposes sentence, the court shall ask whether the victim wishes to express the views described in ORS 137.013.</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p><b>Procedures And Time Frames For Alleging A Violation Of Victims’ Constitutional Rights; Obligations Of The Court In Response To Victims’ Claims Of Rights’ Violations.</b></p> <p>(1) A victim who wishes to allege a violation of a right granted to the victim in a criminal proceeding by Article I, section 42 or 43, of the Oregon</p>	<p>Or. Rev. Stat. Ann. § 147.515(1)-(6).</p>

<p>Constitution, shall inform the court within 30 days of the date the victim knew or reasonably should have known of the facts supporting the allegation. The victim shall describe the facts supporting the allegation and propose a remedy.</p> <p>(2) The victim may inform the court of a claim:</p> <p>(a) On a form prescribed by the Chief Justice of the Supreme Court; or</p> <p>(b) On the record in open court and in the presence of the defendant and the prosecuting attorney.</p> <p>(3) If the victim informs the court of a facially valid claim on a form under subsection (2)(a) of this section, the court shall promptly issue the order to show cause described in ORS 147.517.</p> <p>(4) If the victim informs the court of a facially valid claim orally under subsection (2)(b) of this section and the court determines:</p> <p>(a) That each person entitled to notice of the claim and a reasonable opportunity to be heard is present, the court shall hold a hearing under ORS 147.530 as soon as practicable; or</p> <p>(b) That any person entitled to notice of the claim and a reasonable opportunity to be heard is not present, the court shall issue the order to show cause described in ORS 147.517.</p> <p>(5) If the court determines that the victim has not alleged a facially valid claim, the court shall enter a written order dismissing the claim. The order must:</p> <p>(a) Include the reasons the claim was dismissed; and</p> <p>(b) Be without prejudice to file, within seven days from the date the victim receives the written order dismissing the claim, a corrected claim for the sole purpose of correcting the deficiency identified by the court.</p> <p>(6) If a victim informs the court of a claim orally and the court does not immediately hear the matter, the court may require the victim to complete the form described in subsection (2)(a) of this section.</p>	
<p><b>Requirement To Provide Notice Of Claim; Procedures Applicable To Parties, Victims And Courts.</b></p> <p>(1)(a) Except as provided in subsection (3) of this section, the victim or the prosecuting attorney shall provide notice of a claim asserted by the victim to any person the victim wishes to have bound by an order granting relief by providing the person with a copy of the order to show cause described in this section. The victim or prosecuting attorney shall provide the court with a mailing address for any person the victim or prosecuting attorney provides with a copy of the order to show cause under this paragraph.</p>	<p>Or. Rev. Stat. Ann. § 147.517(1)-(4).</p>

<p>(b) An order granting relief under ORS 147.520 or 147.530 is not enforceable against, and has no legal effect on, any person who did not receive notice or have knowledge of the claim and did not have a reasonable opportunity to be heard regarding the claim.</p> <p>(2) Upon receipt of a facially valid claim under ORS 147.515 (3) or (4)(b), the court shall issue an order to show cause why the victim should not be granted relief. The court shall, after considering the requirements of ORS 147.530 (5)(a), include in the order to show cause the date:</p> <p>(a) By which responses to the claim must be submitted to the court; and</p> <p>(b) On which the court will conduct a hearing on timely responses to the claim.</p> <p>(3) The court shall provide a copy of the order to show cause and of the form described in ORS 147.515 (2)(a), if the form was completed, to:</p> <p>(a) The victim;</p> <p>(b) The prosecuting attorney; and</p> <p>(c) The defendant.</p> <p>(4)(a) If the court issues an order to show cause under this section, a victim, the prosecuting attorney, the defendant or any person against whom relief is requested may contest the claim by filing a response with the court before the date specified in the order under subsection (2)(a) of this section.</p> <p>(b)(A) When a claim alleges a violation of a right granted to the victim under section 42, Article I of the Oregon Constitution, the prosecuting attorney may file an ex parte response that includes an affidavit setting forth good cause to suspend the rights established in section 42, Article I of the Oregon Constitution.</p> <p>(B) The court shall review the response and affidavit in camera. If the court finds that the prosecuting attorney has a good faith belief that the criminal proceeding involves a minor victim or organized crime, as that term is defined in ORS 180.600, and the court finds good cause to suspend the rights established in section 42, Article I of the Oregon Constitution, the court shall enter an order suspending those rights. The order may not include the facts that formed the basis of the suspension.</p> <p>(C) The prosecuting attorney shall make a reasonable effort to provide notice of the suspension to the victim and the defendant.</p> <p>(D) The response and affidavit described in this paragraph may not be disclosed and must be sealed and made a part of the record for purposes of appellate review.</p>	
<p><b>Procedures If Response To The Order To Show Cause Is Not Timely Filed; Court's Obligations To Issue Written Order On Victim's Claim.</b></p>	<p>Or. Rev. Stat. Ann. § 147.520(1)-(4).</p>

<p>(1) If a response to the order to show cause issued under ORS 147.517 is not timely filed, the court shall:</p> <p>(a) Make factual findings supported by the record; and</p> <p>(b) Determine whether the factual findings constitute a violation of a right granted to the victim by section 42 or 43, Article I of the Oregon Constitution.</p> <p>(2) If the court determines that the victim's rights:</p> <p>(a) Have been violated, except as provided in paragraph (c) of this subsection, the court shall issue an order after giving due consideration to the proposed remedy.</p> <p>(b) Have not been violated, the court shall issue an order denying relief.</p> <p>(c) Have been violated but that the Oregon Constitution or the United States Constitution prohibits all appropriate remedies or that the court has suspended the rights of the victim under ORS 147.517 (4)(b), the court shall issue an order denying relief.</p> <p>(3) The order issued under subsection (2) of this section must be in writing and, except as provided in ORS 147.517 (4)(b)(B), must include the reasons relief was granted or denied.</p> <p>(4) The court shall provide a copy of the order issued under subsection (2) of this section to the victim, the prosecuting attorney, the defendant and any person against whom relief was ordered at the mailing address provided under ORS 147.517 (1)(a).</p>	
<p><b>Timelines For Seeking Determination Of Victims' Rights Issue That Will Impact The Conduct Of Trial; Court May Not Exclude The Victim From Trial Unless It Finds That The Victim's Presence Would Violate The Oregon Constitution Or United States Constitution.</b></p> <p>(1) A victim or prosecuting attorney who seeks a determination of an issue involving a right granted by section 42 or 43, Article I of the Oregon Constitution, that will impact the conduct of the trial shall file a motion within 35 days of the arraignment, or of the defendant's entry of the initial plea on an accusatory instrument, whichever is sooner, unless the factual basis of the determination becomes known to the movant at a later time and could not reasonably have been discovered earlier, in which case the motion must be filed promptly.</p> <p>(2) A defendant who seeks to challenge the designation of a person as a victim shall:</p> <p>(a) File a response to a claim under ORS 147.517 (4); or</p>	<p>Or. Rev. Stat. Ann. § 147.522 (1)-(4).</p>


<p>(b) File a motion within seven days after the date the victim first exercises a right granted by section 42 or 43, Article I of the Oregon Constitution, unless the court finds good cause to allow the motion at a later time.</p> <p>(3) A defendant who seeks to object to a victim's presence at trial shall file a motion within 35 days of arraignment, or of the defendant's entry of the initial plea on an accusatory instrument, whichever is sooner, unless the factual basis of the objection could not reasonably be discovered earlier, in which case the motion must be filed promptly.</p> <p>(4) The court shall conduct a hearing on a motion filed under this section and rule on the motion as soon as practicable. The court may not grant relief under subsection (2) or (3) of this section unless the designation of a person as a victim or the victim's presence at trial violates the Oregon Constitution or the United States Constitution.</p>	
<p><b>Court May Reschedule Any Matter In A Criminal Proceeding That May Be Impacted By A Claim For Violation Of A Victim's Rights.</b></p> <p>(1) Pending the hearing described in ORS 147.530, the court may reschedule any matter in the criminal proceeding that may directly impact, or be directly impacted by, the claim, a response filed under ORS 147.517 (4) or a motion filed under ORS 147.522. All other matters in the criminal proceeding shall continue in the ordinary course.</p> <p>(2) In determining whether to reschedule a matter under subsection (1) of this section, in addition to other factors the court considers important, the court shall consider:</p> <ul style="list-style-type: none"> <li>(a) The likelihood that the requested relief will be granted in light of the support in fact and law for the relief, as shown in the claim, the response filed under ORS 147.517 (4) or the motion filed under ORS 147.522;</li> <li>(b) Whether the claim, response or motion is made in good faith and not for the purpose of delay;</li> <li>(c) The nature of the harm to the victim, the prosecuting attorney, the defendant, any person against whom relief is requested and the public that will likely result from rescheduling the matter;</li> <li>(d) The rights guaranteed to the victim, the prosecuting attorney, the defendant and any person against whom relief is requested under the Oregon Constitution or the United States Constitution and under Oregon statutory and decisional law; and</li> <li>(e) Whether the defendant is in custody and, if so, whether the defendant has expressly consented to a continuance of the trial under ORS 136.290.</li> </ul> <p>(3) A pretrial release decision may not be continued under this section for more than 14 days.</p>	<p>Or. Rev. Stat. Ann. § 147.525(1)-(4).</p>



<p>(4) Unless the court finds good cause to continue the trial to a later date, a trial may not be continued under this section for more than 14 days.</p>	
<p><b>Court Procedures For Hearings On Claims Of A Violation Of Victims' Rights Or Seeking Determination Of A Victims' Rights Issue.</b></p> <p>(1) A hearing on a claim, a response filed under ORS 147.517 (4) or a motion filed under ORS 147.522 shall be conducted in accordance with this section.</p> <p>(2) At the hearing, the court may receive evidence relevant to the claim or motion.</p> <p>(3) As to a particular fact at issue, the court shall find against the person bearing the burden of persuasion unless the person proves the fact by a preponderance of the evidence.</p> <p>(4) If the court determines that the moving party:</p> <p>(a) Is entitled to relief, the court shall, after giving due consideration to the requested relief, issue a written order.</p> <p>(b) Is not entitled to relief or that the Oregon Constitution or the United States Constitution prohibits all appropriate relief, the court shall issue a written order denying relief.</p> <p>(5) An order issued under subsection (4) of this section must:</p> <p>(a) Be issued within seven days from the date of the hearing held pursuant to this section, unless the court finds good cause to issue the order at a later date.</p> <p>(b) Except as provided in ORS 147.517 (4)(b)(B), include the reasons relief was granted or denied.</p> <p>(6) The court shall provide a copy of the order issued under subsection (4) of this section to the victim, the prosecuting attorney, the defendant, any person who filed a response under ORS 147.517 (4) and any person against whom relief was ordered at the mailing address provided under ORS 147.517 (1)(a).</p>	<p>Or. Rev. Stat. Ann. § 147.530(1)-(6).</p>
<p><b>Waiver Of Remedy For Victims' Rights Violations; Exceptions.</b></p> <p>(1) A remedy under ORS 147.500 to 147.550 is waived if the remedy is requested:</p> <p>(a) By a victim who had notice of a related claim and did neither of the following:</p>	<p>Or. Rev. Stat. Ann. § 147.533(1)-(2).</p>



<p>(A) File a response under ORS 147.517 (4); or                  (B) Participate in a hearing under ORS 147.530; or                  (b) By any person after:                  (A) The date determined by the court under ORS 147.517 (2)(a) if the person is filing a response;                  (B) The period of time described in ORS 147.522 if the person is filing a motion; or                  (C) Former jeopardy attaches, unless a motion for new trial or a motion in arrest of judgment is granted.</p> <p>(2) Subsection (1) of this section does not apply to:                  (a) Remedies that may be effectuated after the disposition of a criminal proceeding;                  (b) The right to obtain information described in section 42 (1)(b), Article I of the Oregon Constitution;                  (c) The right to receive prompt restitution described in section 42 (1)(d), Article I of the Oregon Constitution;                  (d) The right to have a copy of a transcript described in section 42 (1)(e), Article I of the Oregon Constitution; or                  (e) Remedies requested in a subsequent criminal proceeding arising after a state or federal court has granted a new trial or sentencing, provided the remedy is not waived pursuant to subsection (1) of this section in the subsequent criminal proceeding.</p>	
<p><b>Victim And Prosecutor Standing To Seek Appellate Review Of Orders Adjudicating Victims' Rights Claims.</b></p> <p>(1)(a) Notwithstanding any other provision of law and except as provided in paragraph (b) of this subsection, appellate review of an order issued under ORS 147.515, 147.520 or 147.530 shall be solely as provided in this section and ORS 147.537, 147.539 and 147.542.                  (b) A defendant who seeks to appeal an order issued under ORS 147.515, 147.520 or 147.530 must do so in the manner provided for appeals in ORS chapter 138. The provisions of this section and ORS 147.537, 147.539 and 147.542 do not apply to an appeal under ORS chapter 138.                  (c) Nothing in ORS 147.500 to 147.550 affects the ability of a defendant to petition for a writ of mandamus.</p> <p>(2) Jurisdiction for appellate review of an order issued under ORS 147.515, 147.520 or 147.530 is vested originally and exclusively in the Supreme Court.</p> <p>(3) Subject to ORS 147.542, the jurisdiction of the Supreme Court is limited to the order for which appellate review is sought and the trial court retains jurisdiction over all other matters in the criminal proceeding.</p>	<p>Or. Rev. Stat. Ann. § 147.535(1)-(6).</p>

<p>(4) Appellate review of an order issued under ORS 147.515, 147.520 or 147.530 shall be as provided in:</p> <p>(a) ORS 147.537 if the order was issued under ORS 147.520 or 147.530 in a criminal proceeding in which a defendant is charged with a felony or a person Class A misdemeanor, as that term is defined by rule of the Oregon Criminal Justice Commission, and the order arises from a motion or claim alleging a violation that occurred prior to the pronouncement in open court of the sentence or disposition after a plea, admission or trial in the criminal proceeding.</p> <p>(b) ORS 147.539 in all appeals arising under ORS 147.500 to 147.550 except those described in paragraph (a) of this subsection.</p> <p>(5) The victim, the state or any person against whom relief was ordered has standing to seek appellate review of an order unless, after notice and a reasonable opportunity to be heard on the claim or motion that resulted in the order or a related claim or motion, the person or party seeking appellate review did none of the following:</p> <p>(a) Inform the court of a claim.</p> <p>(b) File a response under ORS 147.517 (4).</p> <p>(c) File a motion under ORS 147.522.</p> <p>(d) Participate in a hearing under ORS 147.530.</p> <p>(6) Pursuant to ORS 180.060, the Attorney General shall appear for the state in all appeals under this section and ORS 147.537, 147.539 and 147.542.</p> <p> A promising practice is that when notifying victims that they have standing to enforce their rights in court, to let them know that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.</p>	
<p><b>Appellate Review Of Order Described In ORS 147.535(4)(a) Is A Matter Of Right; Timelines.</b></p> <p>(1) Appellate review of an order described in ORS 147.535 (4)(a) must be initiated by filing a notice of interlocutory appeal with the Supreme Court substantially in the form prescribed by rule of the Supreme Court. Review of the order is a matter of right.</p> <p>....</p>	<p>Or. Rev. Stat. Ann. § 147.537(1), (16), (18).</p>

<p>(16)(a) Except as provided in paragraph (b) of this subsection, the Supreme Court shall issue its decision on appeal under this section within 21 days after the date the notice of interlocutory appeal is filed.</p> <p>(b) The Supreme Court may issue a final decision beyond the 21-day period if the court determines that the ends of justice served by issuing a final decision at a later date outweigh the best interests of the victim, the prosecuting attorney, the defendant, any person against whom relief was ordered and the public.</p> <p>(c) In making the determination under paragraph (b) of this subsection, the Supreme Court shall consider:</p> <p>(A) Whether the case is unusually complex, due to the number of persons involved or the existence of novel questions of law, and whether 21 days is an unreasonable amount of time for the court to issue a decision; and</p> <p>(B) Whether the failure to extend the 21-day period would be likely to result in a miscarriage of justice.</p> <p>....</p> <p>(18) The Supreme Court may affirm, modify, reverse or remand the trial court's order. The court may reverse or remand the order only if it finds that the order is unlawful in substance or procedure and that the substantial rights of the appellant were prejudiced as a result.</p>	
<p><b>Appellate Review Of Order Described In ORS 147.535(4)(B) Is A Matter Of Right Except That Supreme Court's Jurisdiction Is Discretionary; Timelines.</b></p> <p>Appellate review of an order described in ORS 147.535 (4)(b) shall be as provided in ORS 147.537, except that:</p> <p>(1) The Supreme Court's jurisdiction is discretionary. The court may by rule prescribe the criteria the court will use to decide whether to grant review. The initiating document is a petition for review, but the petition must be accompanied by the same materials described in ORS 147.537 (4), and the person seeking review shall be identified as the petitioner.</p> <p>....</p> <p>(4)(a) Except as provided in paragraph (b) of this subsection, the Supreme Court shall issue its decision on appeal under this section within 21 days after the date the court issued the order granting review.</p> <p>(b) The Supreme Court may issue a final decision beyond the 21-day period if the court determines that the ends of justice served by issuing a final decision at a later date outweigh the best interests of the victim, the prosecuting attorney, the defendant, any person against whom relief was ordered and the public.</p>	<p>Or. Rev. Stat. Ann. § 147.539(1), (4).</p>

<p><b>Granting, Extending, Reducing Or Vacating Stays; Factors The Court Must Consider.</b></p> <p>(1) The trial court shall stay for a period of 21 days all matters that directly impact, or are directly impacted by, the order on appeal:                  (a) Upon receipt of a notice of interlocutory appeal under ORS 147.537; or                  (b) Upon the issuance of an order granting review under ORS 147.539.</p> <p>(2) The Supreme Court may extend or reduce the length of or vacate the stay on its own motion or on the motion of a victim, prosecuting attorney, defendant or any person against whom relief was ordered.</p> <p>(3) In making the determination described in subsection (2) of this section, in addition to other factors the Supreme Court considers important, the court shall consider:                  (a) The likelihood that the appellant will prevail on appeal in light of the support in fact and law for the appeal;                  (b) Whether the appeal is taken in good faith and not for the purpose of delay;                  (c) The nature of the harm to the victim, the prosecuting attorney, the defendant, any person against whom relief was ordered and the public that will likely result from the grant or denial of a stay;                  (d) The rights guaranteed to the victim, the prosecuting attorney, the defendant and any person against whom relief was ordered under the Oregon Constitution or the United States Constitution and under Oregon statutory and decisional law; and                  (e) Whether the defendant is in custody and, if so, whether the defendant has expressly consented to a continuance of the trial under ORS 136.290.</p>	<p>Or. Rev. Stat. Ann. § 147.542(1)-(3).</p>
<p><b>Certified Advocate Or Qualified Victim Services Program May Not Disclose Confidential Communications With A Victim Or Victim Records Without The Written, Informed Consent Of The Victim; Exceptions.</b></p> <p>(1) As used in this section:                  (a) “Certified advocate” means a person who:                  (A) Has completed at least 40 hours of training in advocacy for victims of domestic violence, sexual assault or stalking, approved by the Attorney General by rule; and                  (B) Is an employee or a volunteer of a qualified victim services program.                  (b) “Confidential communication” means a written or oral communication that is not intended for further disclosure to third persons except to:</p>	<p>Or. Rev. Stat. Ann. § 147.600(1)-(4).</p>

<p>(A) Persons present at the time the communication is made who are present to further the interests of the victim in the course of seeking safety planning, counseling, support or advocacy services;</p> <p>(B) Persons reasonably necessary for the transmission of the communication; or</p> <p>(C) Other persons, in the context of group counseling.</p> <p>(c) "Qualified victim services program" means:</p> <p>(A) A nongovernmental, nonprofit, community-based program receiving moneys administered by the state Department of Human Services or the Oregon or United States Department of Justice, or a program administered by a tribal government, that offers safety planning, counseling, support or advocacy services to victims of domestic violence, sexual assault or stalking; or</p> <p>(B) A sexual assault center, victim advocacy office, women's center, student affairs center, health center or other program providing safety planning, counseling, support or advocacy services to victims that is on the campus of or affiliated with a two-year or four-year post-secondary institution that enrolls one or more students who receive an Oregon Opportunity Grant.</p> <p>(d) "Victim" means a person seeking safety planning, counseling, support or advocacy services related to domestic violence, sexual assault or stalking at a qualified victim services program.</p> <p>(2) Except as provided in ORS 40.252 and 40.264, without the written, informed consent of the victim that is reasonably limited in duration, a certified advocate or a qualified victim services program may not disclose:</p> <p>(a) Confidential communications between a victim and the certified advocate or qualified victim services program made in course of safety planning, counseling, support or advocacy services.</p> <p>(b) Records that are created or maintained in the course of providing services regarding the victim.</p> <p>(3) Notwithstanding subsection (2) of this section, a certified advocate or a qualified victim services program may disclose confidential communications or records without the victim's consent only:</p> <p>(a) To the extent necessary for defense in any civil, criminal or administrative action that is brought against the certified advocate, or against the qualified victim services program, by or on behalf of the victim; and</p> <p>(b) As otherwise required by law.</p> <p>(4) This section does not prohibit the disclosure of aggregate, nonpersonally identifying data.</p>	
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<p><b>Trial Court’s Authority To Determine Restitution During Pendency Of An Appeal.</b></p> <p>(1) The trial court retains authority during the pendency of an appeal to determine restitution and to enter a supplemental judgment specifying the amount and terms of restitution or an order denying restitution.</p> <p>(2) If the trial court enters a supplemental judgment or an order under subsection (1) of this section during the pendency of an appeal, the trial court administrator shall immediately provide a copy of the supplemental judgment or the order to the appellate court.</p>	<p>Or. Rev. Stat. Ann. § 137.105(1)-(2).</p>
<p><b>In Cases Where Crime Or Violation Resulted In Economic Damages, The Prosecutor Must Investigate And Present To The Court At Sentencing Or Within 90 Days After Entry Of Judgment Evidence Of The Nature And Amount Of Damages; Court To Order Full Restitution; Exceptions.</b></p> <p>(1)(a) When a person is convicted of a crime, or a violation as described in ORS 153.008, that has resulted in economic damages, the district attorney shall investigate and present to the court, at the time of sentencing or within 90 days after entry of the judgment, evidence of the nature and amount of the damages. The court may extend the time by which the presentation must be made for good cause. If the court finds from the evidence presented that a victim suffered economic damages, in addition to any other sanction it may impose, the court shall enter a judgment or supplemental judgment requiring that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim’s economic damages as determined by the court. The lien, priority of the lien and ability to enforce the specific amount of restitution established under this paragraph by a supplemental judgment relates back to the date of the original judgment that is supplemented.</p> <p>(b) Notwithstanding paragraph (a) of this subsection, a court may order that the defendant pay the victim restitution in a specific amount that is less than the full amount of the victim’s economic damages only if:</p> <p>(A) The victim or, if the victim is an estate, successor in interest, trust or other entity, an authorized representative of the victim consents to the lesser amount, if the conviction is not for a person felony; or</p> <p>(B) The victim or, if the victim is an estate, successor in interest, trust or other entity, an authorized representative of the victim consents in writing to the lesser amount, if the conviction is for a person felony.</p> <p>(c) As used in this subsection, “person felony” has the meaning given that term in the rules of the Oregon Criminal Justice Commission.</p>	<p>Or. Rev. Stat. Ann. § 137.106(1)-(6).</p>

<p>(2) After the district attorney makes a presentation described in subsection (1) of this section, if the court is unable to find from the evidence presented that a victim suffered economic damages, the court shall make a finding on the record to that effect.</p> <p>(3) No finding made by the court or failure of the court to make a finding under this section limits or impairs the rights of a person injured to sue and recover damages in a civil action as provided in ORS 137.109.</p> <p>(4)(a) If a judgment or supplemental judgment described in subsection (1) of this section includes restitution, a court may delay the enforcement of the monetary sanctions, including restitution, only if the defendant alleges and establishes to the satisfaction of the court the defendant's inability to pay the judgment in full at the time the judgment is entered. If the court finds that the defendant is unable to pay, the court may establish or allow an appropriate supervising authority to establish a payment schedule, taking into consideration the financial resources of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant. The supervising authority shall be authorized to modify any payment schedule established under this section.</p> <p>(b) As used in this subsection, "supervising authority" means any state or local agency that is authorized to supervise the defendant.</p> <p>(5) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall allow the defendant to be heard on such issue at the time of sentencing or at the time the court determines the amount of restitution.</p> <p>(6)(a) At least 10 days prior to the presentation described in subsection (1) of this section, the district attorney shall:</p> <p>(A) Disclose to the defendant the names of any witnesses that may be called during the presentation; and</p> <p>(B) Provide the defendant with copies of, or allow the defendant to inspect, any exhibits that will be used or introduced during the presentation.</p> <p>(b) If the court finds that the district attorney has violated the requirements of this subsection, the court shall grant a continuance to allow additional time for preparation upon request of the defendant. Any additional time granted under this paragraph may not count toward the 90-day time limitation described in subsection (1) of this section.</p>	
<p><b>Court May Amend Restitution Order.</b></p> <p>At any time after entry of a judgment upon conviction of a crime, the court may amend that part of the judgment relating to restitution if, in the original judgment, the court included language imposing, recommending or</p>	<p>Or. Rev. Stat. Ann. § 137.107.</p>



<p>requiring restitution but failed to conform the judgment to the requirements of ORS 18.048 or any other law governing the form of judgments in effect before January 1, 2004.</p>	
<p><b>Restitution In Cases Where Defendant Enters Driving While Under The Influence Of Intoxicants Diversion Agreement.</b></p> <p>(1) When a person has entered into a driving while under the influence of intoxicants diversion agreement and the person's actions resulted in economic damages, the district attorney shall investigate and present to the court within 90 days of when the diversion agreement is entered, evidence of the nature and amount of the damages. If the court finds from the evidence presented that a victim suffered economic damages, the court shall order the defendant to pay restitution and include in the diversion agreement one of the following:</p> <p>(a) A requirement that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim's economic damages as determined by the court.</p> <p>(b) A requirement that the defendant pay the victim restitution in a specific amount that is less than the full amount of the victim's economic damages, with the consent of the victim.</p> <p>(2) After the district attorney makes a presentation described in subsection (1) of this section, if the court is unable to find from the evidence presented that a victim suffered economic damages, the court shall make a finding on the record to that effect.</p> <p>(3) A finding made by the court under this section, or a failure of the court to make a finding, does not limit or impair the right of a person injured to sue and recover damages in a civil action as provided in ORS 137.109.</p> <p>(4) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall allow the defendant to be heard on such issue at the time the court determines the amount of restitution.</p> <p>(5) As used in this section, "victim" includes any person the court determines has suffered economic damages as a result of the act that has brought the defendant before the court for the purpose of entering into a driving while under the influence of intoxicants diversion agreement.</p>	<p>Or. Rev. Stat. Ann. § 137.108(1)-(5).</p>
<p><b>Presentence Report To Include Victim Statement Unless Victim Declines.</b></p>	<p>Or. Rev. Stat. Ann. § 137.530(1)-(4).</p>



<p>(1) Parole and probation officers, when directed by the court, shall fully investigate and report to the court in writing on the circumstances of the offense, criminal record, social history and present condition and environment of any defendant. Unless the court directs otherwise in individual cases, a defendant may not be sentenced to probation until the report of the investigation has been presented to and considered by the court.</p> <p>(2) Whenever a presentence report is made, the preparer of the report shall make a reasonable effort to contact the victim and obtain a statement describing the effect of the defendant's offense upon the victim. If the victim is under 18 years of age, the preparer shall obtain the consent of the victim's parent or guardian before contacting the victim. The preparer of the report shall include the statement of the victim in the presentence investigation report. If the preparer is unable to contact the victim or if the victim declines to make a statement, the preparer shall report that the preparer was unable to contact the victim after making reasonable efforts to do so, or, if contact was made with the victim, that the victim declined to make a statement for purposes of this section. Before taking a statement from the victim, the preparer of the report shall inform the victim that the statement will be made available to the defendant and the defendant's attorney prior to sentencing as required under ORS 137.079.</p> <p>(3) Whenever desirable, and facilities exist for conducting physical and mental examinations, the investigation shall include physical and mental examinations of such defendants.</p> <p>(4) As used in this section, "victim" means the person or persons who have suffered financial, social, psychological or physical harm as a result of an offense, and includes, in the case of any homicide or abuse of corpse in any degree, an appropriate member of the immediate family of the decedent.</p>	
<p><b>Petitions For FAPA Restraining Orders.</b></p> <p>(1) Any person who has been the victim of abuse within the preceding 180 days may petition the circuit court for relief under ORS 107.700 to 107.735, if the person is in imminent danger of further abuse from the abuser. The person may seek relief by filing a petition with the circuit court alleging that the person is in imminent danger of abuse from the respondent, that the person has been the victim of abuse committed by the respondent within the 180 days preceding the filing of the petition and particularly describing the nature of the abuse and the dates thereof. The abuse must have occurred not more than 180 days before the filing of the petition. The petition must include allegations made under oath or affirmation or a declaration under</p>	<p>Or. Rev. Stat. Ann. § 107.710(1)-(6).</p>

<p>penalty of perjury. The circuit court shall have jurisdiction over all proceedings under ORS 107.700 to 107.735.</p> <p>(2) The petitioner has the burden of proving a claim under ORS 107.700 to 107.735 by a preponderance of the evidence.</p> <p>(3) A person's right to relief under ORS 107.700 to 107.735 shall not be affected by the fact that the person left the residence or household to avoid abuse.</p> <p>(4) A petition filed under ORS 107.700 to 107.735 shall disclose the existence of any custody, Family Abuse Prevention Act or Elderly Persons and Persons With Disabilities Abuse Prevention Act proceedings, or any marital annulment, dissolution or separation proceedings, or any filiation proceeding, pending between the parties, and the existence of any other custody order affecting the children of the parties.</p> <p>(5) When the petitioner requests custody of any child, the petition shall comply with ORS 109.767 and disclose:</p> <p>(a) The child's present residence and the length of time the child has resided at the residence;</p> <p>(b) The county and state where the child resided for the five years immediately prior to the filing of the petition;</p> <p>(c) The name and address of the party or other responsible person with whom the child is presently residing;</p> <p>(d) The name and current address of any party or other responsible person with whom the child resided for the five years immediately prior to the filing of the petition;</p> <p>(e) Whether the party participated as a party, witness or in any other capacity, in any other litigation concerning the custody of the child in this or any other state;</p> <p>(f) Whether the party has information of any custody proceeding concerning the child pending in a court of this or any other state; and</p> <p>(g) Whether the party knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody, parenting time or visitation rights with respect to the child.</p> <p>(6) For purposes of computing the 180-day period in this section and ORS 107.718, any time during which the respondent is incarcerated or has a principal residence more than 100 miles from the principal residence of the petitioner shall not be counted as part of the 180-day period.</p>	
<p><b>Requests Of Party Or Witness For Appearance At FAPA Restraining Order Proceedings By Telephone Or By Other Two-Way Electronic Communication Device.</b></p>	<p>Or. Rev. Stat. Ann. § 107.717(1)-(4).</p>

<p>(1) A party may file a motion under ORS 45.400 requesting that the court allow the appearance of the party or a witness by telephone or by other two-way electronic communication device in a proceeding under ORS 107.700 to 107.735.</p> <p>(2) In exercising its discretion to allow written notice less than 30 days before the proceeding as required under ORS 45.400 (2), the court shall consider the expedited nature of a proceeding under ORS 107.700 to 107.735.</p> <p>(3) In addition to the factors listed in ORS 45.400 (3)(b) that would support a finding of good cause, the court shall consider whether the safety or welfare of the party or witness would be threatened if testimony were required to be provided in person at a proceeding under ORS 107.700 to 107.735.</p> <p>(4) A motion or good cause determination under this section or ORS 45.400 is not required for ex parte hearings held by telephone under ORS 107.718.</p>	
<p><b>Ex Parte Hearings On FAPA Petitions; Grounds For Issuance Of Restraining Order; Scope Of Order.</b></p> <p>(1) When a person files a petition under ORS 107.710, the circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day. Upon a showing that the petitioner has been the victim of abuse committed by the respondent within 180 days preceding the filing of the petition, that there is an imminent danger of further abuse to the petitioner and that the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's child, the court shall, if requested by the petitioner, order:</p> <p>(a) Except as provided in subsection (2) of this section, that temporary custody of the children of the parties be awarded to the petitioner or, at the request of the petitioner, to the respondent, subject to reasonable parenting time rights of the noncustodial parent, which the court shall order, unless such parenting time is not in the best interest of the child;</p> <p>(b) That the respondent be required to move from the petitioner's residence, if in the sole name of the petitioner or if it is jointly owned or rented by the petitioner and the respondent, or if the parties are married to each other;</p> <p>(c) That the respondent be restrained from entering, or attempting to enter, a reasonable area surrounding the petitioner's current or subsequent residence if the respondent is required to move from petitioner's residence;</p> <p>(d) That a peace officer accompany the party who is leaving or has left the parties' residence to remove essential personal effects of the party or the party's children, or both, including but not limited to clothing, toiletries,</p>	<p>Or. Rev. Stat. Ann. § 107.718(1)-(11).</p>

<p>diapers, medications, Social Security cards, certified copies of records of live birth, identification and tools of the trade;</p> <p>(e) That the respondent be restrained from intimidating, molesting, interfering with or menacing the petitioner, or attempting to intimidate, molest, interfere with or menace the petitioner;</p> <p>(f) That the respondent be restrained from intimidating, molesting, interfering with or menacing any children in the custody of the petitioner, or attempting to intimidate, molest, interfere with or menace any children in the custody of the petitioner;</p> <p>(g) That the respondent be restrained from entering, or attempting to enter, on any premises and a reasonable area surrounding the premises when it appears to the court that such restraint is necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the petitioner or children whose custody is awarded to the petitioner;</p> <p>(h) Other relief that the court considers necessary to:</p> <p>(A) Provide for the safety and welfare of the petitioner and the children in the custody of the petitioner, including but not limited to emergency monetary assistance from the respondent; and</p> <p>(B) Prevent the neglect and protect the safety of any service or therapy animal or any animal kept for personal protection or companionship, but not an animal kept for any business, commercial, agricultural or economic purpose; or</p> <p>(i) Except as described in subsection (12) of this section or parenting time ordered under this section, that the respondent have no contact with the petitioner in person, by telephone or by mail.</p> <p>(2) If the court determines that exceptional circumstances exist that affect the custody of a child, the court shall order the parties to appear and provide additional evidence at a hearing to determine temporary custody and resolve other contested issues. Pending the hearing, the court may make any orders regarding the child's residence and the parties' contact with the child that the court finds appropriate to provide for the child's welfare and the safety of the parties. The court shall set a hearing time and date as provided in ORS 107.716 (2) and issue a notice of the hearing at the same time the court issues the restraining order.</p> <p>(3) The court's order under subsection (1) of this section is effective for a period of one year or until the order is withdrawn or amended, or until the order is superseded as provided in ORS 107.722, whichever is sooner.</p> <p>(4) If respondent is restrained from entering, or attempting to enter, an area surrounding petitioner's residence or any other premises, the order restraining respondent shall specifically describe the area.</p>	
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(5) Imminent danger under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with additional bodily harm.

(6) If the court awards parenting time to a parent who committed abuse, the court shall make adequate provision for the safety of the child and of the petitioner. The order of the court may include, but is not limited to, the following:

(a) That exchange of a child between parents shall occur at a protected location.

(b) That parenting time be supervised by another person or agency.

(c) That the perpetrator of the abuse be required to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or any other counseling program designated by the court as a condition of the parenting time.

(d) That the perpetrator of the abuse not possess or consume alcohol or controlled substances during the parenting time and for 24 hours preceding the parenting time.

(e) That the perpetrator of the abuse pay all or a portion of the cost of supervised parenting time, and any program designated by the court as a condition of parenting time.

(f) That no overnight parenting time occur.

(7) The State Court Administrator shall prescribe the content and form of the petition, order and related forms for use under ORS 107.700 to 107.735. The clerk of the court shall make available the forms and an instructional brochure explaining the rights set forth under ORS 107.700 to 107.735.

(8) If the court orders relief:

(a) The clerk of the court shall provide without charge the number of certified true copies of the petition and order necessary to provide the petitioner with one copy and to effect service and shall have a true copy of the petition and order delivered to the county sheriff for service upon the respondent, unless the court finds that further service is unnecessary because the respondent appeared in person before the court. In addition and upon request by the petitioner, the clerk shall provide the petitioner, without charge, two exemplified copies of the petition and order.

(b) The county sheriff shall serve the respondent personally unless the petitioner elects to have the respondent served personally by a private party or by a peace officer who is called to the scene of a domestic disturbance at which the respondent is present, and who is able to obtain a copy of the order within a reasonable amount of time. Proof of service shall be made in accordance with ORS 107.720. When the order does not contain the respondent's date of birth and service is effected by the sheriff or other peace officer, the sheriff or officer shall verify the respondent's date of birth with the respondent and shall record that date on the order or proof of

<p>service entered into the Law Enforcement Data System under ORS 107.720.</p> <p>(c) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the relief provided under ORS 107.700 to 107.735.</p> <p>(9) If the county sheriff:</p> <p>(a) Determines that the order and petition are incomplete, the sheriff shall return the order and petition to the clerk of the court. The clerk of the court shall notify the petitioner, at the address provided by the petitioner, of the error or omission.</p> <p>(b) After accepting the order and petition, cannot complete service within 10 days, the sheriff shall notify the petitioner, at the address provided by the petitioner, that the documents have not been served. If the petitioner does not respond within 10 days, the sheriff shall hold the order and petition for future service and file a return to the clerk of the court showing that service was not completed.</p> <p>(10)(a) Within 30 days after a restraining order is served under this section, the respondent therein may request a court hearing upon any relief granted. The hearing request form shall be available from the clerk of the court in the form prescribed by the State Court Administrator.</p> <p>(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner of the date and time of the hearing, and shall supply the petitioner with a copy of the respondent's request for a hearing. The petitioner shall give to the clerk of the court information sufficient to allow such notification.</p> <p>(c) The hearing shall not be limited to the issues raised in the respondent's request for hearing form. If the respondent seeks to raise an issue at the hearing not previously raised in the request for hearing form, or if the petitioner seeks relief at the hearing not granted in the original order, the other party shall be entitled to a reasonable continuance for the purpose of preparing a response to the issue.</p> <p>(11) If the respondent fails to request a hearing within 30 days after a restraining order is served, the restraining order is confirmed by operation of law. The provisions of this section are sufficient to meet the due process requirements of 18 U.S.C. 922(g) in that the respondent received actual notice of the right to request a hearing and the opportunity to participate at the hearing but the respondent failed to exercise those rights.</p> <p>(12) Service of process or other legal documents upon the petitioner is not a violation of this section if the petitioner is served as provided in ORCP 7 or 9.</p>	
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<p><b>Petitions For Stalking Protective Orders; Procedures; Scope Of Order.</b></p> <p>(1)(a) A citation shall notify the respondent of a circuit court hearing where the respondent shall appear at the place and time set forth in the citation. The citation shall contain:</p> <ul style="list-style-type: none"> <li>(A) The name of the court at which the respondent is to appear;</li> <li>(B) The name of the respondent;</li> <li>(C) A copy of the stalking complaint;</li> <li>(D) The date, time and place at which the citation was issued;</li> <li>(E) The name of the law enforcement officer who issued the citation;</li> <li>(F) The time, date and place at which the respondent is to appear in court;</li> <li>(G) Notice to the respondent that failure to appear at the time, date and place set forth in the citation shall result in the respondent's arrest and entry of a court's stalking protective order; and</li> <li>(H) Notice to the respondent of potential liability under federal law for the possession or purchase of firearms or firearm ammunition and for other acts prohibited by 18 U.S.C. 2261 to 2262.</li> </ul> <p>(b) The officer shall notify the petitioner in writing of the place and time set for the hearing.</p> <p>(2)(a) The hearing shall be held as indicated in the citation. At the hearing, the petitioner may appear in person or by telephonic appearance. The respondent shall be given the opportunity to show cause why a court's stalking protective order should not be entered. The hearing may be continued for up to 30 days. The court may enter:</p> <ul style="list-style-type: none"> <li>(A) A temporary stalking protective order pending further proceedings; or</li> <li>(B) A court's stalking protective order if the court finds by a preponderance of the evidence that:             <ul style="list-style-type: none"> <li>(i) 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;</li> <li>(ii) It is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and</li> <li>(iii) 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.</li> </ul> </li> </ul> <p>(b) In the order, the court shall specify the conduct from which the respondent is to refrain, which may include all contact listed in ORS 163.730 and any attempt to make contact listed in ORS 163.730. The order is of unlimited duration unless limited by law. 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.</p>	<p>Or. Rev. Stat. Ann. § 163.738(1)-(8).</p>
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<p>(3) The circuit court may enter an order under this section against a minor respondent without appointment of a guardian ad litem.</p> <p>(4) If the respondent fails to appear at the time, date and place specified in the citation, the circuit court shall issue a warrant of arrest as provided in ORS 133.110 in order to ensure the appearance of the respondent at court and shall enter a court's stalking protective order.</p> <p>(5) The circuit court may also order the respondent to undergo mental health evaluation and, if indicated by the evaluation, treatment. If the respondent is without sufficient resources to obtain the evaluation or treatment, or both, the court shall refer the respondent to the mental health agency designated by the community mental health director for evaluation or treatment, or both.</p> <p>(6) If the circuit court, the mental health evaluator or any other persons have probable cause to believe that the respondent is dangerous to self or others or is unable to provide for basic personal needs, the court shall initiate commitment procedures as provided in ORS 426.070 or 426.180.</p> <p>(7) A law enforcement officer shall report the results of any investigation arising from a complaint under ORS 163.744 to the district attorney within three days after presentation of the complaint.</p> <p>(8) 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.</p>	
<p><b>Petitions For Sexual Abuse Restraining Orders.</b></p> <p>(1) A person who has been subjected to sexual abuse and who reasonably fears for the person's physical safety may petition the circuit court for a restraining order if:</p> <ul style="list-style-type: none"> <li>(a) The person and the respondent are not family or household members;</li> <li>(b) The respondent is at least 18 years of age; and</li> <li>(c) The respondent is not prohibited from contacting the person pursuant to a foreign restraining order as defined in ORS 24.190, an order issued under ORS 30.866, 124.015, 124.020, 163.738 or 419B.845 or an order entered in a criminal action.</li> </ul> <p>(2)(a) A petition seeking relief under ORS 163.760 to 163.777 must be filed in the circuit court for the county in which the petitioner or the respondent resides. The petition may be filed, without the appointment of a guardian</p>	<p>Or. Rev. Stat. Ann. § 163.763(1)-(3).</p>

<p>ad litem, by a person who is at least 12 years of age or by a parent or lawful guardian of a person who is under 18 years of age.</p> <p>(b) The petition must allege that:</p> <p>(A) The petitioner reasonably fears for the petitioner’s physical safety with respect to the respondent; and</p> <p>(B) The respondent subjected the petitioner to sexual abuse within the 180 days preceding the filing of the petition.</p> <p>(c) The petition must include allegations made under oath or affirmation or a declaration under penalty of perjury.</p> <p>(d) The petitioner has the burden of proving a claim under ORS 163.760 to 163.777 by a preponderance of the evidence.</p> <p>(3) The following periods of time may not be counted for the purpose of computing the 180-day period described in this section and ORS 163.765:</p> <p>(a) Any time during which the respondent is incarcerated.</p> <p>(b) Any time during which the respondent has a principal residence more than 100 miles from the principal residence of the petitioner.</p> <p>(c) Any time during which the respondent is subject to an order described in subsection (1)(c) of this section.</p>	
<p><b>Requests Of Party Or Witness For Appearance At Sexual Abuse Restraining Order Proceeding By Telephone Or By Other Two-Way Electronic Communication Device.</b></p> <p>(1) A party may file a motion under ORS 45.400 requesting that the circuit court allow the appearance of the party or a witness by telephone or by other two-way electronic communication device in a proceeding under ORS 163.760 to 163.777.</p> <p>(2) In determining whether to allow written notice less than 30 days before the proceeding under ORS 45.400 (2), the circuit court shall consider the expedited nature of a proceeding under ORS 163.760 to 163.777.</p> <p>(3) In addition to the factors listed in ORS 45.400 (3)(b) that would support a finding of good cause, the circuit court shall consider whether the safety or welfare of the party or witness would be threatened if testimony were required to be provided in person at a proceeding under ORS 163.760 to 163.777.</p> <p>(4) A motion or good cause determination is not required for ex parte hearings held by telephone under ORS 163.765.</p>	<p>Or. Rev. Stat. Ann. § 163.770(1)-(4).</p>
<p><b>No Filing, Service Or Hearing Fees May Be Charged For Proceedings When Seeking Sexual Abuse Restraining Orders; Attorney General’s</b></p>	<p>Or. Rev. Stat. Ann. § 163.777(1)-(3).</p>

<p><b>Sexual Task Force To Produce Forms For Petitions, Restraining Orders And Hearing Requests And Instructional Brochure Explaining Rights Under Sexual Abuse Restraining Order Statutes; Forms And Instructional Brochure To Be Made Available To The Public.</b></p> <p>(1)(a) A filing fee, service fee or hearing fee may not be charged for proceedings seeking only the relief provided under ORS 163.760 to 163.777.</p> <p>(b) An undertaking may not be required in any proceeding under ORS 163.760 to 163.777.</p> <p>(2) A proceeding under ORS 163.760 to 163.777 is in addition to any other available civil or criminal remedies.</p> <p>(3)(a) After obtaining the approval of the Chief Justice of the Supreme Court, the Attorney General's Sexual Assault Task Force shall produce:</p> <p>(A) The forms for petitions and restraining orders, hearing requests and any related forms for use under ORS 163.760 to 163.777; and</p> <p>(B) An instructional brochure explaining the rights set forth in ORS 163.760 to 163.777.</p> <p>(b) After obtaining the approval of the Chief Justice of the Supreme Court of the forms and instructional brochures produced pursuant to this subsection, the Attorney General's Sexual Assault Task Force shall provide the forms and copies of the instructional brochure to the clerks of the circuit court who shall make the forms and brochures available to the public.</p>	
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