

# House Bill 2966

Sponsored by Representative HOLVEY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows respondent against whom restraining order has been issued to request withdrawal of order based on false allegations of abuse. Requires county sheriff to remove original restraining order from and make appropriate record or annotation modifications to background check databases and systems.

Applies to restraining orders issued before, on or after effective date of Act.

## A BILL FOR AN ACT

Relating to restraining orders based on false allegations of abuse.

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

**SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 107.700 to 107.735.**

**SECTION 2. (1) At any time after a restraining order has been issued under ORS 107.095 (1)(c) or (d), 107.716 or 107.718, and after the restraining order has been entered into the Law Enforcement Data System maintained by the Department of State Police and into the databases of the National Crime Information Center of the United States Department of Justice as required under ORS 107.720, and into any other manual or computerized database maintained by the Department of State Police for purposes of tracking restraining orders issued under ORS 107.095 (1)(c) or (d), 107.716 or 107.718, the respondent may request that the court withdraw the order on the grounds that the petition and order were based upon false allegations of abuse. The request may be made at a hearing requested under ORS 107.718 (10) or by a separate motion filed with the court by the respondent.**

**(2)(a) If the request is made by a separate motion to the court, the clerk of the court shall provide without charge the number of certified true copies of the motion for withdrawal of the order and of the notice of hearing necessary to effect service and, at the election of the respondent, shall have true copies of the motion and of the notice delivered to the county sheriff for service upon the petitioner.**

**(b) The county sheriff shall personally serve the petitioner with the motion unless the respondent elects to have the petitioner personally served by a private party or unless otherwise ordered by the court.**

**(3) Upon entry of an order under this section withdrawing a previously issued restraining order, the clerk of the court shall immediately deliver a copy of the order of withdrawal to the county sheriff with whom the original restraining order was filed.**

**(4) Upon receipt of the order of withdrawal, the county sheriff shall:**

**(a) Serve a copy of the order of withdrawal by mailing a copy of the order of withdrawal to the petitioner by first class mail unless the order of withdrawal recites that the petitioner appear in person before the court and the necessity for service of the order of withdrawal**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 and an affidavit of proof of service is waived;

2 (b) Immediately remove the original restraining order from the Law Enforcement Data  
3 System, from the databases of the National Crime Information Center and from any other  
4 manual or computerized database maintained by the Department of State Police for purposes  
5 of tracking restraining orders issued under ORS 107.095 (1)(c) or (d), 107.716 or 107.718; and

6 (c) To the extent any record or annotation remains in the Law Enforcement Data Sys-  
7 tem, the databases of the National Crime Information Center or any other manual or com-  
8 puterized database maintained by the Department of State Police for purposes of tracking  
9 restraining orders issued under ORS 107.095 (1)(c) or (d), 107.716 or 107.718, modify or oth-  
10 erwise cause the record or annotation to reflect that the restraining order was based upon  
11 false allegations of abuse and that the restraining order has been withdrawn by the court.

12 (5) The court may assess against either party reasonable attorney fees and costs that  
13 may be incurred in the proceeding.

14 SECTION 3. Section 2 of this 2013 Act applies to restraining orders issued under ORS  
15 107.095 (1)(c) or (d), 107.716 or 107.718 before, on or after the effective date of this 2013 Act.  
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