

Senate Bill 365

Sponsored by Senator HANSELL (Presession filed.)

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**.

Requires law enforcement officer to perform lethality assessment after making mandatory arrest for domestic assault.

A BILL FOR AN ACT

1
2 Relating to domestic violence offenses; amending ORS 133.055.

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

4 **SECTION 1.** ORS 133.055 is amended to read:

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

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

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

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

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

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

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

25 (D) The potential for future assaults.

26 **(d) When a peace officer makes an arrest under paragraph (a) of this subsection, as part**
27 **of the documentation of the arrest the officer shall conduct an evidence-based lethality as-**
28 **essment on the arrested person.**

29 *[(d)]* (e) As used in this subsection, "assault" includes conduct constituting strangulation under
30 ORS 163.187.

31 (3) Whenever any peace officer has reason to believe that a family or household member, as

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 defined in ORS 107.705, has been abused as defined in ORS 107.705 or that an elderly person or a
2 person with a disability has been abused as defined in ORS 124.005, that officer shall use all rea-
3 sonable means to prevent further abuse, including advising each person of the availability of a
4 shelter or other services in the community and giving each person immediate notice of the legal
5 rights and remedies available. The notice shall consist of handing each person a copy of the fol-
6 lowing statement:

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

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

21 You also have the right to sue for losses suffered as a result of the abuse, including medical and
22 moving expenses, loss of earnings or support, and other out-of-pocket expenses for injuries sustained
23 and damage to your property. This can be done without an attorney in the small claims department
24 of a court if the total amount claimed is under \$10,000.

25 Similar relief may also be available in tribal courts.

26 For further information you may contact: _____

27 _____

28
29 _____