

CRIMINAL LAW

**ENDANGERING A PERSON PROTECTED BY
FAPA RESTRAINING ORDER****ORS 163.160 TO 163.208****2015 OREGON LAWS CH. 527 (SB 3)**

Senate Bill 3 creates the crime of endangering a person protected by a Family Abuse Prevention Act (FAPA) order. The prohibited contact must be the type that recklessly places the protected party at substantial risk of physical injury, or attempts to place a protected party in fear of imminent physical injury. Therefore, if persons commit the crimes of recklessly endangering another person (ORS 163.195) or menacing (ORS 163.190) while violating the order, they commit the crime of endangering a person protected by a FAPA order. Such behavior elevates the level of offense to a Class C felony and is punishable by a maximum of five years incarceration, \$125,000 fine, or both.

Effective date: January 1, 2016. The bill applies only to conduct occurring on or after the effective date.

**DEFENDANT RIGHT TO TESTIFY
BEFORE GRAND JURY****ORS 132.320****2015 OREGON LAWS CH. 586 (SB 825)**

Senate Bill 825 modifies ORS 132.320 and grants a defendant the right to testify before the grand jury when the defendant has been arraigned on a felony allegation and is represented by counsel. The defense attorney must notify the district attorney in writing of the defendant's request to testify before the grand

jury. If notice is provided, the district attorney must notify the defense attorney of the date, time, and location of the grand jury proceeding.

SB 825 does not afford a defendant the right to appear and testify when the grand jury is meeting in secret, nor does it afford a defendant the right to offer additional evidence or witnesses, other than his or her own testimony.

Effective date: January 1, 2016. The amendments apply to criminal offenses committed on or after the effective date.

POST-CONVICTION RELIEF CLEANUP**2015 OREGON LAWS CH. 12 (HB 2380)**

Currently, there is no mechanism in the law to allow for a settlement of post-conviction relief cases that have been appealed out of circuit court. House Bill 2380 gives the parties to such an action the ability to ask the circuit court for a revised judgment in order to settle the appeal.

Effective date: January 1, 2016. The bill applies to post-conviction relief petitions filed on or after the effective date.

**ELECTRONIC CERTIFICATION OF
COMPLAINT****ORS 133.015, 133.992****2015 OREGON LAWS CH. 250 (HB 2609)**

ORS 133.015 prescribes what an information or a complaint must contain. Traditionally, complaints have been physically filed with the local court. House Bill 2609 allows jurisdictions to file informations and

DISCLAIMER

This material is provided for informational purposes only and does not establish, report, or create the standard of care for attorneys in Oregon, nor does it represent a complete analysis of the topics presented. Readers should conduct their own appropriate legal research. The information presented does not represent legal advice. This information may not be republished, sold, or used in any other form without the written consent of the Oregon State Bar Professional Liability Fund except that permission is granted for Oregon lawyers to use and modify these materials in their own practices. © 2016 OSB Professional Liability Fund.

complaints electronically without the need for verification with a physical signing of the document. Rather, the document may be processed electronically in court along with a verification that complies with the new language of the statute.

Effective date: January 1, 2016.

EMERGENCY PROTECTIVE ORDERS

ORS 133.310

2015 OREGON LAWS CH. 252 (HB 2776)

House Bill 2776 creates an emergency protective order that operates much like the FAPA restraining order, albeit on a more limited basis. The bill creates a protective order for which a peace officer may apply, with the victim's permission. Once the victim gives consent, the peace officer is permitted to unilaterally approach the court to make a showing that probable cause exists that: (1) The officer has responded to an incident of domestic disturbance and the circumstances for mandatory arrest exist; (2) A person is in immediate danger of abuse by a family or household member; and (3) An emergency protective order is necessary to prevent a person from suffering the occurrence or recurrence of abuse. Should the judge make such a finding, the court will enter an order prohibiting contact between the individuals.

The order is not effective unless it is properly served upon the person restricted from contact. An emergency protective order expires on the seventh judicial business day following the day of its entry into the Law Enforcement Data System. Just like a FAPA restraining order, a violation of the order constitutes contempt of court punishable by up to six months in jail.

Effective date: January 1, 2016.