

# **SB 183 (2021) – Full Faith and Credit Recognition and Enforcement Overview**

**SB 183 amended ORS 24.190 in two respects:**

- 1- Amended “Foreign Judgment” to include “any judgment, decree or order of a tribal court of a federally recognized Indian Tribe, except when another Oregon statute provides a different process to enforce a tribal judgment, decree or order, or as provided in ORS 426.180.”
- 2- Amended and clarified the recognition and enforcement of tribal protection orders

**Oregon Law on Recognition and Enforcement of Tribal Protection Orders:**

- 1- **ADDED** to the definition of “restraining order” under ORS 24.190(1)(b)(A).
  - a. Definition now includes “... issued for the purpose of preventing violent or threatening acts or harassment against another person; **sexual violence against another person**; contact or communication with another person; or physical proximity to another person.”
- 2- **FACIAL VALIDITY TEST** under ORS 24.190(2) (c).
  - a. Unless it is expressly provided in the order, issues of non-enforceability (regarding subject matter/ personal jurisdiction of the court, reasonable notice and opportunity to be heard, that it is not a dual order without separate petitions) are affirmative defenses in an action seeking enforcement of the order.
- 3- **PROCESS FOR VOLUNTARY ENTRY TO SHERIFF**. Under ORS 24.190(3)(a)
  - a. **Submission to Sheriff:** *A person* may present a *copy* of the foreign restraining order to a county sheriff for entry into LEDS. The Sheriff *must promptly verify the validity* of the order and that the person restrained by the order has been personally *served or has actual notice* of the order. Once done, the sheriff shall enter into LEDS/ NCIC
  - b. **“Personal Service and Actual Notice”** include alternative forms of service or notice that are permitted by the issuing jurisdiction to constitute service or notice.
  - c. **Existence and Terms of Order:** Agencies shall establish procedures adequate to ensure that an officer at the scene of a alleged violation of the order may be informed of the existence and terms of the order. - *“Entry into LEDS/NCIC constitutes notice to all law enforcement agencies of the existence of the restraining order”*

**4- PROCESS FOR VOLUNTARY ENTRY TO CIRCUIT COURT. Under ORS 24.190(6)**

- a. Submission to Court: a protected person or a person acting on behalf of a protected person may file a certified copy and proof of service in the office of the clerk.

**5- MANDATORY ARREST ENFORCEMENT ACTION under ORS 133.310**

- a. **METHOD 1/ COPY OF ORDER (ORS 133.310(4)(a)):** *A person* protected by a foreign restraining order presents a *physical or electronic copy* of the order and represents to the officer that the order supplied is the most recent in effect and that the person restrained by the order has been personally served or has actual notice of the order AND the peace officer has PC to believe the respondent has violated the terms of the foreign order.
- b. **METHOD 2/ EXISTENCE IN LEDS (ORS 133.310(5)(a)):** A foreign restraining order *has been filed with a court or has been entered into LEDS/ NCIC* AND the officer has PC to believe the respondent has violated the terms of the foreign order.

**6- LIABILITY PROTECTION under ORS 24.190(7).**

- a. This state or a local governmental agency, law enforcement officer, prosecuting attorney, clerk of the court or any state or local governmental official acting in an official capacity is immune from civil and criminal liability for an act arising out of the registration, entry or enforcement of a foreign restraining order or the detention or arrest of an alleged violator of a foreign restraining order if the act was done in good faith and without malice in an effort to comply with state and federal law.