



September 2014

## Inside this Brief

- **Legal Definitions**
- **Restraining Orders**
- **Recent Legislation**
- **Federal Law Regarding Domestic Violence and Restraining Orders**
- **Staff and Agency Contacts**

Legislative Committee Services  
State Capitol Building  
Salem, Oregon 97301  
(503) 986-1813

Background Brief on ...

# Domestic Violence

“Domestic violence” is a behavior that one partner uses to control the other partner. It may involve physical violence, threats, emotional abuse, and/or economic control.

- Domestic violence in Oregon occurs 10 times more frequently than breast cancer.
- One in 10 Oregon women between the ages of 20-55 said that their current or most recent intimate partner had physically or sexually assaulted them in the preceding five years (over 85,000 women).
- Almost 30,000 Oregon women between the ages of 20-55 (three percent) experienced physical and/or sexual assaults by their current or most recent intimate partner in the past year.
- Although women from all racial and ethnic groups experience domestic violence, American Indian women report experiencing a disproportionate amount of domestic violence.
- A woman’s risk of serious injury or death is 4 to 14 times higher than a man’s risk.
- Domestic violence is associated with short-term health problems, such as injuries, and long-term problems, such as depression and other mental health conditions.
- Each year in Oregon, about 18 people are killed by intimate partners – about one in three perpetrators commit suicide and many kill family members or friends during the incident.
- One in three women who experienced domestic violence said that a child witnessed a physical assault, and one in five witnessed a sexual assault that occurred in the previous five years. These children can develop physical, behavioral, and emotional problems.

The state promotes routine screening by a health care provider of women for domestic violence, in emergency rooms and in primary care settings, and works with law enforcement support and community services for victims of domestic violence.

## Legal Definitions

The Oregon Revised Statutes define “domestic violence” in ORS 135.230 to mean *abuse* between family or household members. “Family or household members” means any of the following:

- Spouses;
- Former spouses;
- Adult persons related by blood or marriage;
- Persons cohabiting with each other;
- Persons who have cohabited with each other or who have been involved in a sexually intimate relationship; or
- Unmarried parents of a minor child.

In Oregon, there is no single crime of domestic violence. The term is used to describe any number of crimes (assault, murder, burglary, harassment or menacing) that occur between family or household members.

“Abuse” is defined as the occurrence of one or more of the following acts between family or household members:

- Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury;
- Intentionally, knowingly, or recklessly placing another in fear of imminent bodily injury; or
- Causing another to engage in involuntary sexual relations by force or threat of force.

## Restraining Orders

A victim of domestic violence abuse, as defined above, can obtain a restraining order if the abuse occurred within six months of the request for such an order. In Oregon, a victim of abuse can obtain a restraining order by petitioning the court, in person or by telephone, through a sworn statement that proves by a preponderance of the evidence that the abuse occurred. The restrained person need not be present at this hearing, but may contest the hearing up to 30 days after receiving a copy of the restraining order. The order prohibits the abuser from intimidating, molesting, interfering with, or menacing the petitioner or the petitioner’s minor children.

The judge can also give the petitioner temporary custody of children, and prevent the restrained person from entering the home, school, or workplace of the petitioner, or contacting the victim by telephone or mail.

A restraining order is a valid court order effective for a year once signed by a judge. However, it cannot be enforced until a copy has been legally served on the restrained person. A copy of the order is then given to the sheriff, who enters it into a statewide police computer. Police agencies are required by law to make an arrest if they have reason to believe that an enforceable order has been violated. The order may be vacated at the petitioner’s request, and can be renewed if a court finds the petitioner reasonably fears further acts of abuse if the order is not renewed.

Violating a restraining order is not a crime in Oregon; however, it does constitute contempt of court and is punishable by up to six months in jail.

## Recent Legislation

House Bill 2940 (2011) increased the penalty for the crime of strangulation, making strangulation a Class C felony, and introduced repeat offenses as an enhancement factor. It also added strangulation to the list of crimes requiring a peace officer to make a mandatory arrest per ORS 133.055.

## Federal Law Regarding Domestic Violence and Restraining Orders

Federal law prohibits a person who has been convicted of a state misdemeanor crime of domestic violence from possessing a firearm if an element of the crime for which the person was convicted was the use or attempted use of physical force, or the threatened use of a deadly weapon.

Federal law prohibits a person who is subject to a restraining order from possessing a firearm only if the order was issued after a hearing of which the restrained person received actual notice.

## **Staff and Agency Contacts**

Channa Newell, Judiciary Committee Counsel  
Legislative Committee Services  
[channa.newell@state.or.us](mailto:channa.newell@state.or.us)  
503-986-1525

Shannon Sivell  
[Attorney General's Sexual Assault Task Force](#)  
503-378-5348

For information about shelters and other  
domestic violence services contact: [Oregon  
Coalition Against Domestic and Sexual  
Violence](#)  
503-365-9644

*Committee Services provides centralized, non-partisan research and issue analysis for the Legislative Branch. Committee Services does not provide legal advice. Background Briefs are intended to give the reader a general understanding of a subject, and are based on information which is current as of the date of publication. Legislative, executive, and judicial actions subsequent to publication may affect the timeliness of the information.*