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EMERGENCY PROTECTIVE ORDER—TRAINING BULLETIN

What: Emergency Protective Order (EPO)

When: Effective January 1, 2016

Who: Law Enforcement May Offer EPO to victims of DV

Under What Circumstances:

The victim has consented to and/or given permission for application for an EPO; AND
The peace officer has probable cause to believe one of two circumstances, listed below, exists:

- a) When the peace officer has responded to an incident of a domestic disturbance and the circumstances for a mandatory arrest (per ORS 133.055(2)(a)) exist; OR
- b) The person is in immediate danger of abuse by a family or household member; AND
- c) The EPO is necessary to prevent the person from suffering the occurrence or recurrence of abuse

How Does An Officer Apply for an EPO:

Fill out the top (sections 1 & 2) and center sections of the EPO (sections 6 & 7).
Locate a Circuit Court Judge to review and sign the Order (sections 3, 4, & 5). This process should be the same or similar to an agency's Search Warrant affidavit review process.¹

After the EPO Is Signed By The Judge:

Provide a certified true copy (section 9 requires peace officer signature) of the EPO to the Petitioner/victim.

Serve the Respondent personally and upon completion of service, fill in and sign the Declaration of Proof of Service (section 8).

File the Declaration of Service with the court.

Enter the EPO into LEDS.

One copy of the EPO goes each to: a) The Court; b) Respondent; c) Petitioner;
d) Issuing Agency.²

Other:

The EPO only lasts for seven calendar days from the date the Judge signs the Order.

If a peace officer cannot serve the EPO on the Respondent within one day of the Order's entry, the peace officer must notify the court, but can keep trying to locate and serve the Respondent.

Violation of an EPO is a mandatory arrest and can be prosecuted as a Contempt charge.

¹ A judge should be available 24 hours a day, seven days a week to review and sign EPOs.

² Right now the EPO form does not contain a space for the Petitioner/Victim's DOB. For LEDS entry, the Order must contain the Petitioner/Victim's DOB. After the EPO has been signed by the Judge, make two copies. On one copy write the Petitioner/victim's DOB. The "DOB" copy will be kept by your agency's Records Dept. for entry into LEDS. File a copy *without* the Petitioner/victim's DOB with the Court. Under no circumstances shall the Respondent receive a copy of the EPO with the Petitioner/Victim's DOB.

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FAQs of EPOs

Question: How is an EPO useful if the suspect has been arrested (and there is a criminal no-contact order put in place) or if the suspect flees and he can't be served with the EPO?

Answer:

HB 2776 is meant to be a stop-gap, providing victim(s) immediate protection and a little more time and space away from the defendant/suspect than they usually have. This way, victims aren't forced to race to the courthouse the very next day to get an RO—they can, if they need to, still go to work, take their kids to school, go to the doctor's, etc. An EPO buys them some time. Even if the suspect is arrested and put in jail with a no-contact order or is released with a no-contact order, it's better to have more protection than less. We don't discourage victims from getting ROs just because there's a criminal no-contact order. This EPO simply provides victims more time to OBTAIN that permanent RO if they want one, or make other safety plans with the help of DA-based or community advocates, or others.

As for a situation where a suspect flees a scene, yes, law enforcement will still have to serve him with the EPO for it to be valid. However, LEA will continue to look for the suspect to arrest him. It would be great if they find him within 24 hours and cannot only arrest him, but also serve him with the EPO. If the suspect cannot be found within 24 hours, the officer must notify the court that the EPO has not been served, however lack of service does not automatically invalidate the order; the officer can still continue to search for the suspect and, if found, serve him. In every event the EPO expires (and cannot be renewed) within seven days.

The other situation where this will be really helpful is where there isn't necessarily a mandatory arrest situation (recall that technically only DV assaults, strangulation, and menacing require mandatory arrest) but because of the information the officer receives, s/he's very concerned about the victim's safety. The new law allows an officer to request an EPO when a victim is in immediate danger of abuse by a family or household member.

The language in the new statute says that an EPO is appropriate when: (a)(A) The peace officer has responded to an incident of domestic disturbance and the circumstances for mandatory arrest as described in ORS 133.055 (2)(a) exist; **OR** (B) The person is in immediate danger of abuse by a family or household member; and (b) An emergency protective order is necessary to prevent the person from suffering the occurrence or recurrence of abuse. (**Note:** ORS 133.055 requires that law enforcement, as part of the Mandatory Arrest analysis, try to determine, among other things, the history of DV between the parties and the potential for future assaults. These inquiries should assist in making a determination not only about Mandatory Arrest but also whether the an EPO is appropriate.)

Again, the issuance of an EPO in these types of situations will allow immediate protection and provide the victim time and space, if she wants, to get away from the suspect/defendant AND to go and get a more permanent protection order, or pursue other safety measures.

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Finally, as law enforcement begins to use this resource and tool we will see situations we may not have even contemplated where an EPO is really useful.

Question: Can an EPO be completed and signed by an officer without a judge's signature?

Answer:

In order for an EPO to be valid, it must be signed by a judge.

Question: How will after hours EPOs be handled if a judge must indeed sign these?

Answer:

The Presiding Judge of each county must assign a judge to be on-call to receive EPO requests. It is very similar, but not exactly like, the search warrant process. Every jurisdiction should adopt its own protocol to fit its resources and needs.

Link to the Bill:

<https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/HB2776/Enrolled>

Link to the Training Video: <https://youtu.be/Zo802wX5eGg>

Link to the EPO forms:

<http://www.oregon.gov/osp/CJIS/docs/Emergency%20Protection%20Order%20Form.pdf>