

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
House Committee On Judiciary

****CORRECTED****

MEASURE: SB 525 B
CARRIER: Rep. Piluso

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 06/01/15

Action: Do Pass.

Meeting Dates: 06/01

Vote:

Yeas: 7 - Barker, Barton, Greenlick, Krieger, Lininger, Olson, Williamson

Nays: 2 - Post, Sprenger

Prepared By: Jeff Rhoades, Counsel

WHAT THE MEASURE DOES:

Prohibits possession of firearm or ammunition if respondent is subject to restraining order protecting intimate partner or child of intimate partner issued or continued after respondent had actual notice and opportunity to be heard. Applies prohibition if person has been convicted of misdemeanor involving domestic violence that has used or attempted use of physical force or used or threatened use of a deadly weapon as element of offense and defendant was family member of victim at time of offense. Establishes definitions for family member, intimate partner and conviction. States that prohibition does not apply if offense is expunged. Allows for relief from prohibition upon court petition.

ISSUES DISCUSSED:

- The need to protect victims of domestic violence
- High lethality rates when guns are in the home and a restraining order is in effect
- Substance of the bill
- Why the bill mirrors federal law

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

ORS 107.700 to 107.735 governs the definitions, petitions, hearings and enforcement of Family Abuse Prevention Act (FAPA) restraining orders. When a petitioner requests relief from the court in the form of a FAPA restraining order, the circuit court holds an ex parte hearing either in person or by telephone. To grant the request for a FAPA order, the court must find: 1) the petitioner has been the victim of abuse by the respondent within 180 days preceding the hearing; 2) there is an imminent danger of further abuse to the petitioner; and 3) the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's child. Upon the granting of the order, the respondent is prohibited from any and all contact with the petitioner. The court may fashion additional remedies for the protection of the petitioner. A FAPA order does not become effective until it is properly served upon the respondent. The respondent then has 30 days to request a contested hearing from the court.

Senate Bill 525-B provides that a respondent who is the subject of a FAPA restraining order may not possess a firearm or ammunition. In order for the prohibition to apply, the respondent must have had both notice and a hearing before the court. Additionally, Senate Bill 525-B states that if a person is convicted of a qualifying misdemeanor and the victim was a family member at the time of the offense, they may not possess a firearm or ammunition. Senate Bill 525-B provides specific definitions necessary for the prohibition on firearms or ammunition to become applicable. "Qualifying misdemeanor" is defined as any misdemeanor that involves as an

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element of the crime the use or attempted use of physical force or a deadly weapon. “Family member” is defined as, with respect to the victim, the victim’s spouse, the victim’s former spouse, a person with whom the victim shares a child in common, the victim’s parent or guardian, a person cohabiting with or who has cohabited with the victim as a spouse, parent or guardian or a person similarly situated to a spouse, parent or guardian of the victim. “Intimate partner” is defined as, with respect to a person, the person’s spouse, the person’s former spouse, a parent of the person’s child or another person who has cohabited or is cohabiting with the person in a relationship akin to a spouse. “Possession,” “conviction” and “deadly weapon” are all given specific definitions under the bill.

Senate Bill 525-B makes clear that the prohibition on firearms does not apply to transportation, shipment, receipt, possession or importation of any firearm or ammunition imported for, sold or shipped to or issued for the use of the United States Government or any federal department or agency, or any state or department, agency or political subdivision of a state if a person is convicted of a qualifying misdemeanor involving domestic violence. Lastly, Senate Bill 525-B allows for a person to petition the court for relief from the firearms prohibition.