

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass and Be Placed on the Consent Calendar
Vote:	10 - 0 - 0
Yeas:	Barton, Cameron, Garrett, Krieger, Olson, Shields, Smith J., Stiegler, Whisnant, Barker
Nays:	0
Exc.:	0
Prepared By:	Shannon Sivell, Counsel
Meeting Dates:	1/20, 2/17

WHAT THE MEASURE DOES: Clarifies that legal service of process is not a violation of a court issued restraining or stalking order.

ISSUES DISCUSSED:

- Possible tool for further abuse by respondent
- Safeguards built into Oregon Rules of Civil Procedure (ORCP) 7 and ORCP 9

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Under the Family Abuse Prevention Act (FAPA), a petitioner is entitled to relief when:

- 1) There has been abuse as defined in ORS 107.705(1) within the preceding 180 days,
- 2) It occurred between family or household members,
- 3) Petitioner is in “imminent danger of further abuse from the respondent, and
- 4) Respondent presents a credible threat to the physical safety of the petitioner or petitioner’s child.

FAPA establishes both mandatory and discretionary relief. Mandatory relief includes a temporary custody or parenting time order in favor of the petitioner, an order of restraint of abuse, ouster of the respondent from the petitioner’s residence, restraint from entry onto specific premises and no contact by telephone or mail. Discretionary relief may include a broader modification to custody or parenting time, firearm or weapon dispossession, and expanded “no contact” provisions.

A FAPA order remains in effect for one year unless it is withdrawn or renewed by the petitioner.

When a respondent files a legal pleading in a circuit court, or appeals the current FAPA order, the respondent is statutorily required to serve the petitioner with a copy of the filed documents. However, stalking and FAPA orders bar a respondent from contacting the petitioner, whether in writing or through a third party. The practical reality is that under current law, legal service of process constitutes a violation of a FAPA or stalking order. This amendment clarifies ORS 163.730 and 107.716 to allow for legal service under ORCP 7 and ORCP 9.