

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass the A-Engrossed Measure
Vote:	5 - 0 - 0
Yeas:	Bonamici, Dingfelder, Kruse, Whitsett, Prozanski
Nays:	0
Exc.:	0
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	5/10, 5/16

WHAT THE MEASURE DOES: Cross references into the Family Abuse Protection Act (FAPA), ORS 45.400, which sets forth when a party or witness to a civil proceeding may or may not testify before a court by electronic communication. Requires the court, in exercising its discretion to allow testimony by motion filed less than 30 days prior to the hearing, to consider the expedited nature of the FAPA proceeding. In addition to considering the factors for allowing electronic testimony set forth in ORS 45.400(7) that are applicable to all civil proceeding, House Bill 2928 A allows the court in FAPA proceeding to consider the safety and welfare of a party or witness if testimony were required in person.

ISSUES DISCUSSED:

- Right to face one's accuser
- Protection of the abused

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 45.400 allows a party in any civil proceeding to file a motion with the court to have testimony presented before the court by telephone or other means of electronic communication. The Family Abuse Protection Act (FAPA), ORS 107.700 to 107.735, is a civil proceeding. Consequently, a party to a FAPA proceeding may motion the court to have testimony presented by telephone or other means of electronic communication. In determining whether to allow testimony by electronic communication, the court may consider whether: (a) a witness or party is unavailable because of age, infirmity or mental or physical illness; (b) a party seeks to take the telephone testimony of a witness whose attendance the party has been unable to secure by process or other reasonable means; (c) a personal appearance would be an undue hardship; (d) any other circumstances the court deems appropriate, See ORS 45.400(7). A court may not allow testimony of a party or witness if, among other things: (1) the ability to evaluate the credibility of the witness or party in person is critical; (2) the issues the party or witness are so critical that face-to-face cross-examination is necessary, or (3) the failure of a witness or party to appear personally would result in substantial prejudice, See ORS 45.400(3).

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This summary has not been adopted or officially endorsed by action of the committee.