

HB 2779 Bulletpoints

- Background:
 - Bill is mirror of DV RO application process
 - DV cases are by statute mandatory arrest for police officers and the majority of the cases begin quickly as in custody cases and victims usually have observable physical injuries
 - SA cases are NOT mandatory arrest
 - Many (if not most) cases are reported late (days, weeks, months, years)
 - Usually there is no observable injuries
 - Often SA cases need additional investigation before a charging decision can be made = DELAY
- Additional evidence that may be necessary in order to file criminal charges:
 - Pretext phone calls
 - Detective interviews of witnesses and the suspect
 - Search warrants for evidence in the suspect's possession or control
 - Obtaining and testing DNA evidence
 - All of which will be lost if the suspect is tipped off that the victim has contacted law enforcement
- Because these orders will likely be obtained prior to a criminal arrest or adjudication, the majority will result in contested civil hearings:
 - Will be victim vs. suspect word
 - No evidence present to support victim's claim from law enforcement
 - Suspects commonly have an attorney present during these hearings and victims do not
 - Victims will be under oath and subject to cross examination
 - Testimony will be used by the defense in any future criminal prosecution
 - Law enforcement and the DA will not be notified of such civil hearings
 - Children as young as 12 can obtain this order on their own and have to either appear at the contested hearing or hire an attorney
- Additional concerns for victims:
 - At risk for all civil procedures and remedies available – depositions, lawsuits for libel/slander
- Current remedies available: many SA victims would likely qualify currently for a civil stalking order. Civil stalking orders carry more significant penalties if violated – A misdemeanor for the first violation and a C felony for the second. If this SA RO is violated, the penalty is contempt of court. The maximum penalty is 6 months jail, it is not even a crime under Oregon law
- ODAA recognizes that many victims of SA do not ever involve law enforcement. We want them to have all the protections possible. Our solution is to empower victims with knowledge so that the petition for this order does not unwittingly destroy the evidence that would likely make prosecution possible, if they at any point choose to pursue. We propose that the following information be printed on the top of the SA RO form and be filled out as part of the application process.

[The following is to be printed on the first page of the SARO petition and must be completed by the petitioner to submit the application.]

I understand and have read the following statements; I have received satisfactory answers to all of my related questions or concerns regarding these statements:

1. I understand that this application and subsequent proceedings may compromise any criminal prosecution for the potential crimes alleged in this petition. _____ (initial)
2. I understand that any written or oral statements or testimony given during the application for this order, and during any related court hearings, may be used by any party for any other legal (criminal or civil) proceedings. _____ (initial)
3. I understand that I am not entitled to a court appointed attorney to represent me during the process to obtain this order. _____ (initial)