
MEMORANDUM

Legislative Fiscal Office
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To: Public Safety Subcommittee

From: John Terpening, Legislative Fiscal Office
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Date: July 25, 2013

Subject: HB 2779 Work Session Recommendations

HB 2779 relates to protective orders for victims of sexual abuse. The measure authorizes the issuance of protective orders in certain cases where persons have been subjected to sexual abuse.

The measure, the original staff measure summary, preliminary Joint Committee on Ways and Means staff measure summary, revenue impact statement [if available], amendment and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The measure previously had a public hearing in the Public Safety Subcommittee on May 13th, 2013.

The measure has an estimated fiscal impact to Oregon Judicial Department (OJD) for one-time programming of the two current case management systems utilized by OJD, Oregon Judicial Information Network and Oregon eCourt Case Information.

The –A5 amendment appropriates \$85,000 General Fund for the 2013-2015 biennium to OJD for the programming changes and also includes a technical fix from Legislative Counsel that does not affect the policy or fiscal implications.

Motion to Move Measure

The measure is recommended to be amended and moved to the full Committee on Joint Ways and Means.

Motion: Move the –A5 amendment into HB 2779.

Motion: Move HB 2779 to the full committee with a “do pass as amended” recommendation.

Assignment of Carriers

Full: _____
2nd Chamber: _____

FISCAL IMPACT OF PROPOSED LEGISLATION

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

Measure: HB 2779 - A

***Only Impacts on Original or Engrossed
Versions are Considered Official***

Prepared by: John Terpening
Reviewed by: Steve Bender
Date: 3-19-2013

Measure Description:

Authorizes issuance of restraining order protecting certain persons subjected to sexual abuse.

Government Unit(s) Affected:

Judicial Department, Cities, Counties

Summary of Expenditure Impact: See Analysis

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

The measure authorizes the issuance of protective orders in certain cases where persons have been subjected to sexual abuse.

The Oregon Judicial Department (OJD) notes that the issuance of these certain protective orders are a new case type that will be additional workload to the courts. Additionally, the new case type will require one-time programming changes to the two current case management systems utilized by OJD, the Oregon Judicial Information Network and the Oregon eCourt Case Information system. Both systems are currently operational and would require updates to allow for types of notifications required by the measure. OJD estimates the one-time programmatic changes to cost between \$85,760 and \$117,920 General Fund in 2013-15. The on-going costs related to the courts additional workload is assumed to be minimal.

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Ways and Means
Vote:	9 - 0 - 0
Yeas:	Barton, Cameron, Garrett, Hicks, Krieger, Olson, Tomei, Williamson, Barker
Nays:	0
Exc.:	0
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	3/12, 3/19

WHAT THE MEASURE DOES: Allows person who has been sexually abused and who has an objectively reasonable fear for his or her physical safety to petition a circuit court for a restraining order against his or her alleged abuser if: (1) Person seeking the restraining order and respondent are not family or household members; (2) respondent is at least 18 years old; and (3) respondent is not already subject to a restraining order. Requires court to hold ex parte hearing day of filing or following judicial day. If petitioner can show that his or her fear is objectively reasonable and that respondent subjected the petitioner to sexual abuse within the 180 days preceding the filing of the petition, the court must: (1) Restrain respondent from contacting or intimidating the petitioner; and (2) restrain the respondent from contacting the petitioner's children or family or household members if requested. If respondent is restrained from entering an area surrounding the petitioner's residence, the order must describe the area.

Provides respondent, the right to request a hearing within 30 days after the order is issued. If the person does not request a hearing, the order is confirmed by operation of law. Limits the use of evidence relating to the petitioner's reputation or past sexual behavior.

ISSUES DISCUSSED:

- Applies to situations when Family Abuse Prevention act is not applicable

EFFECT OF COMMITTEE AMENDMENT: Changes standard to "it is objectively reasonable for a person in the petitioner's situation to fear physical harm."

BACKGROUND: ORS 30.866 allows court to grant civil protective order if a person intentionally, knowingly, or recklessly engages in repeated and unwanted contact with another person or the person's family. ORS 124.010 allows an elderly person or a person with disabilities or their guardian to obtain a protective order against an abuser for abuse that had taken place within 180 days of the petition for a restraining order. ORS 163.738 allows for a restraining order in a criminal stalking proceeding. ORS 419B.845 allows for a restraining order to protect a child that has been physically or sexually abused.

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2779**

1 On page 1 of the printed A-engrossed bill, line 2, delete “and”.

2 In line 3, after “79E” insert “; appropriating money; and declaring an
3 emergency”.

4 On page 7, delete lines 25 through 39 and insert:

5 **“SECTION 10.** Section 8 of this 2013 Act is amended to read:

6 **“Sec. 8.** (1)(a) A filing fee, service fee or hearing fee may not be charged
7 for proceedings seeking only the relief provided under sections 1 to 8 of this
8 2013 Act.

9 “(b) An undertaking may not be required in any proceeding under sections
10 1 to 8 of this 2013 Act.

11 “(2) A proceeding under sections 1 to 8 of this 2013 Act is in addition to
12 any other available civil or criminal remedies.

13 “(3)(a) [*After obtaining the approval of the Chief Justice of the Supreme*
14 *Court, the Attorney General’s Sexual Assault Task Force*] **The State Court**
15 **Administrator** shall produce:

16 “(A) The forms for petitions and restraining orders, hearing requests and
17 any related forms for use under sections 1 to 8 of this 2013 Act; and

18 “(B) An instructional brochure explaining the rights set forth in sections
19 1 to 8 of this 2013 Act.

20 “(b) [*After obtaining the approval of the Chief Justice of the Supreme Court*
21 *of the forms and instructional brochures produced pursuant to this subsection,*
22 *the Attorney General’s Sexual Assault Task Force*] **The State Court Ad-**

1 **ministrator** shall provide the forms and copies of the instructional brochure
2 to the clerks of the circuit court who shall make the forms and brochures
3 available to the public.”.

4 On page 12, after line 14, insert:

5 **“SECTION 19. Notwithstanding any other provision of law, the**
6 **General Fund appropriation made to the Judicial Department by sec-**
7 **tion 1 (2), chapter _____, Oregon Laws 2013 (Enrolled House Bill 5016),**
8 **for the biennium beginning July 1, 2013, as modified by legislative or**
9 **Emergency Board action, is increased by \$85,000 for the purpose of**
10 **implementing the provisions of sections 1 to 8 of this 2013 Act.**

11 **“SECTION 20. Sections 1 to 8 of this 2013 Act and the amendments**
12 **to ORS 21.245, 36.185, 40.210, 107.835, 133.310, 133.381 and 659A.270 and**
13 **ORCP 79E by sections 11 to 18 of this 2013 Act become operative on**
14 **January 1, 2014.**

15 **“SECTION 21. This 2013 Act being necessary for the immediate**
16 **preservation of the public peace, health and safety, an emergency is**
17 **declared to exist, and this 2013 Act takes effect July 1, 2013.”.**

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