

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Judiciary

REVENUE: No revenue impact**FISCAL: May have fiscal impact, statement not yet issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Jeff Rhoades, Counsel**Meeting Dates:** 3/25

WHAT THE MEASURE DOES: Prohibits possession of firearm or ammunition if person subject of restraining order continued after opportunity for hearing or if person has been convicted of qualifying misdemeanor involving domestic violence. States that prohibition does not apply if offense is expunged. Allows for relief from prohibition upon court petition.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: Proposed -1 amendment states that, unless prohibited by Section 2 of the Act, court may not include firearm prohibition in restraining order.

Proposed -2 amendments do not allow 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 person convicted of qualifying misdemeanor involving domestic violence.

Proposed -3 amendment deletes “catch-all” language concerning prohibition from firearms upon conviction for any misdemeanor that involves as an element of the crime the use of physical force or a deadly weapon. Renumbers provisions of bill without further substantive changes.

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 one hundred eighty 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 provides that a person who is the subject of a FAPA restraining order may not possess a firearm or ammunition. In order for the prohibition to be in effect, the person must have had notice and an opportunity to be heard with the court. Additionally, Senate Bill 525 states that if a person is convicted of a qualifying misdemeanor for domestic violence, they may not possess a firearm or ammunition. “Qualifying misdemeanor” is defined as Assault in the Fourth Degree, Attempted Assault in the Fourth Degree, Strangulation, or any other misdemeanor that involves as an element of the crime the use of physical force or a deadly weapon. Lastly, Senate Bill 525 allows for a person to petition the court for relief from the firearms prohibition.

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