



CIRCUIT COURT OF THE STATE OF OREGON

FOURTH JUDICIAL DISTRICT
MULTNOMAH COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OR 97204-1123

TESTIMONY REGARDING DASH 1 AMENDMENTS TO SB 525

ELIMINATION OF JUDICIAL AUTHORITY TO ORDER FIREARM DISPOSSESSION IN FAMILY ABUSE PREVENTION ACT RESTRAINING ORDERS AT THE EX PARTE STAGE

Before the Senate Judiciary Committee of the Oregon Legislature
March 25, 2015

Submitted by:

Maureen McKnight, Chief Family Court Judge, Multnomah County
Katherine Tennyson, Chief Probate Court Judge, Multnomah County

Chair Prozanski, Vice-Chair Kruse, and Members of the Committee:

Our names are Maureen McKnight and Katherine Tennyson. We are respectively the Chief Family Court Judge and the Chief Probate Court Judge in Multnomah County. We regularly hear proceedings under the Family Abuse Prevention Act and are writing to **oppose the Dash 1 amendments**. We oppose the limitation on the discretion of Oregon judges to enter individualized protection orders setting out terms designed on the facts of the particular case to keep vulnerable individuals and their children safe.

We write solely to express our own views and do not speak for the Oregon Judicial Department.

The Dash1 amendments would impose restrictions that do not exist now on a Judge in a Family Abuse Prevention Act case regarding dispossession of firearms. Under current law, the Court can order at the *ex parte* stage or at a contested hearing (if a hearing is requested) that the Respondent not have firearms if we believe the Petitioner's or a child's safety requires this. Under the Dash 1 amendments, the Court would be able to order firearms dispossession only when a hearing had been requested to challenge the *ex parte* order.

We believe the current law should remain because:

- In some cases, dispossession orders are appropriate at the point the Petitioner is first seeking protection from the court.
The Respondent may not be aware that the Petitioner is seeking to leave the relationship and the point of separation is a time of highest lethality. Restricting access to firearms at this point when justified by the particular facts makes the most sense safety-wise.
- We do not order firearm dispossession in every case.
By statute, to order firearm dispossession, we must find that the Petitioner is in imminent danger of further abuse, that the Respondent is a credible threat to the Petitioner's safety, and that the firearms terms are "necessary for the safety and welfare of the petitioner and children in the petitioner's custody." ORS 107.718(1)(h). We therefore look for a nexus between the risk of abuse and the weapon we are asked to temporarily restrict. We

examine the nature and history (if any) of the abuse alleged, whether weapons were used or threatened previously, and ask other questions to determine whether this particular term is appropriate in this particular case. Many petitioners tell us specifically that they do *not* want that particular relief ordered because they believe that term is the one most likely to anger the Respondent.

- The restriction on the possession right is temporary.
Respondents have the right to a contested hearing on the entire order within 5 to 21 days by statute. If children are involved between the parties (and this is the slight majority of FAPA cases), the hearing must happen within 5 days. The documents served on Respondents clearly inform them of this hearing right and the contested hearings are routinely held.

We recognize and understand concerns about judicial restriction on firearms. But firearms restrictions at the *ex parte* FAPA stage are truly temporary, are individually supported by the particular case facts, and are sometimes the means most likely to ensure safety. We urge you to not restrict our ability to address the safety needs of family and household members under the Family Abuse Prevention Act.

Thank you for considering our comments.

Respectfully submitted,



MAUREEN McKNIGHT, Circuit Court Judge



Katherine Tennyson, Circuit Court Judge

cc: Members of the Senate Judiciary Committee
Kingsley Click, Phil Lemman, and Rebecca Orf of the State Court Administrator's Office
Jeff Rhoades, Senate Judiciary Counsel