



SB 525 Testimony  
Kevin Starrett

The proponents of this legislation have repeatedly stated that it is needed because Oregon law enforcement agents lack the authority to enforce Federal law.

Commissioner Dan Saltzman, Judges Don Letourneau, Maureen McKnight and Katherine Tennyson, along with Sybil Hebb of Oregon Law Center, Walter Beglau (Marion County DA) Senator Monnes Anderson, and others all made this assertion.

This is simply false.

Our Supreme Court has made this clear. In *Willis-V-Winters* they said: "The federal act makes such possession illegal, the sheriffs generally are authorized to enforce federal as well as state law, and no state law prohibits the sheriffs from taking such enforcement actions." (Emphasis added.)

Oregon Statute 133.310 describes the authority of peace officers to make arrest without warrant. Included in this authority is the ability to arrest for:

- (a) A felony.
- (b) A misdemeanor.
- (c) An unclassified offense for which the maximum penalty allowed by law is equal to or greater than the maximum penalty allowed for a Class C misdemeanor.
- (d) Any other crime committed in the officer's presence. (Emphasis added.)

There are no restrictions limiting a peace officer to arrest only for offenses against Oregon law.

In it's unamended form, SB 525 will be a dangerous expansion of a failed system.

Currently in Oregon, judges have virtually unlimited discretion to seize firearms from persons who have restraining orders against them.

Those people can lose their rights with no accusation, let alone conviction, of a crime. For some, like a Washington County Sheriff's Deputy I spoke to a few years ago, this loss of rights can also mean loss of employment.

It is hard to square this kind of action with the concept of due process.

As you know, if a person is the subject of a restraining order, and the judge does *not* seize his firearms, he is still subject to a federal prohibition should he challenge the order and the order is upheld.

For a person who is falsely accused but attempts to clear his name, this is almost certainly a no win proposition.

In many cases the Judge will ask the respondent if he plans on harassing the petitioner. Of course he or she will say "no." Then the judge will say, "*Then you should have no problem complying with this order.*" The order is upheld and the person loses his or her firearm's rights.

This bill seeks to extend the authority to enforce a federal ban to local law enforcement.

We believe that taking someone's rights away when they have not been convicted of a crime is wrong no matter who is responsible for taking them.

We don't believe a Judge should have the discretion to take someone's rights away under those circumstances, but we certainly don't believe that if an Oregon Judge has NOT taken away those rights, the federal government should be allowed to. But of course, currently they are.

To expand this does a disservice to Oregonians who may very well be guilty of nothing.

But this bill goes further by expanding the list of qualifying offenses to *"Any other misdemeanor that involves as an element of the crime the use of physical force or a deadly weapon."*

Oregon's definition of "physical force" is not particularly specific and is quite broad. (161.215)

Oregon's definition of who is a "household member", to which this bill would apply, is also broad. It includes *"Adult persons related by blood or marriage."* (135.230)

So, if a person gets into a shoving match with an obnoxious brother-in-law, under this bill they will be treated like a wife beater.

We believe this demeans real acts of domestic violence.

At very least, we believe this part of the bill needs to be removed. People who have committed acts of violence are subject to criminal prosecution. People who have been accused of no crime should not be subject to a loss of their rights.

The dash 3 amendments remove the expansion of what is mistakenly called "domestic violence." The dash 1 amendments return some measure of due process to people who are the subjects of restraining orders. I urge you to consider them.

I have read the testimony that was provided by proponents of this bill. One comment was: ***"Prohibiting the abuser from possessing a firearm and ammunition following the granting of a restraining order or a conviction will protect victims and their children. It reduces ease of access to a tool that increases the risk of lethality."***

This is a fantasy. And a very dangerous one. There are some things that are just facts no matter how politically inconvenient they are. A truly dangerous person does not become less dangerous because some judge signed a piece of paper saying they could not own something. Until the people who claim to speak for victims face this and give victims tools to protect themselves instead of utterly meaningless papers from the courts, innocent people will continue to die. I strongly urge you to stop pushing legislation that takes away rights from people who have done nothing wrong and instead consider legislation that empowers people who have been victimized.