

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:** 3/5

WHAT THE MEASURE DOES: Creates crime of endangering person protected by Family Abuse Prevention Act (FAPA) restraining order. Classifies offense as Class C felony.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: Proposed -3 amendments create Class A misdemeanor offense if defendant previously violated FAPA order against same victim. Defines “previous conviction” for purposes of section.

Proposed -4 amendments direct Oregon Criminal Justice Commission to classify crime as contemplated by the bill.

Proposed -5 amendments state that, in order for defendant to be criminally liable for Class A misdemeanor, must have been convicted of previously violating order at time offense occurs. Specifies that protected party must have substantial risk of serious physical injury for Class C felony.

BACKGROUND: Oregon law allows victims of domestic violence to apply for a FAPA restraining order protecting them from abuse by family or household members. This includes individuals who are: 1) spouses; 2) former spouses; 3) adult persons related by blood, marriage or adoption; 4) persons who are cohabitating or have cohabitated with each other; 5) persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them of a petition; and 6) the unmarried parents of a child. An individual seeking protection from a FAPA order must demonstrate to the court that they are in imminent danger of further abuse from the subject of the order. Should a restraining order be granted by the court, the subject of the order is prohibited from contacting the protected party, either by themselves or through a third party. Violation of a FAPA order constitutes contempt of court, and is punishable by up to six months in jail for each violation.

SB 3 creates the crime of endangering a persons protected by a FAPA order. Unlike a typical contempt of court action for a restraining order violation, it is not mere contact that constitutes the crime. Rather, the prohibited contact must be the type that places the protected party at substantial risk of physical injury. Such behavior elevates the level of offense to a class C felony, and is thus punishable by a maximum of five years incarceration, \$125,000 fine, or both.

4/20/2015 8:35:00 AM *

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

Committee Services Form – 2015 Regular Session