

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:

Vote:

Yeas:

Nays:

Exc.:

Prepared By: Jeff Rhoades, Counsel

Meeting Dates: 3/25, 4/20; 5/19

WHAT THE MEASURE DOES: Allows peace officer to apply to circuit court judge for ex parte emergency protective order provided that victim consents. Establishes that court may enter order if court finds probable cause to believe that officer has responded to domestic disturbance that requires mandatory arrest, the person is in immediate danger of abuse by a family or household member and emergency protective order is necessary to prevent person from suffering further abuse. States that emergency protective order expires seven days after entry. Provides that violation of emergency protective order constitutes contempt of court.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: No amendment.

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 180 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.

House Bill 2776 A creates an emergency protective order that operates much like the FAPA restraining order, albeit on a more limited basis. The bill creates a protective order that a peace officer can apply for with the victim's permission. Upon the granting of the victim's consent, the peace officer would be permitted to unilaterally approach the court to make a showing that probable cause exists that: 1) the officer has responded to an incident of domestic disturbance and the circumstances for mandatory arrest exist; 2) a person is in immediate danger of abuse by a family or household member; and 3) an emergency protective order is necessary to prevent a person from suffering the occurrence or recurrence of abuse. Should the judge make such a finding, the court will enter an order prohibiting contact between the individuals.

The order is not effective unless it is properly served upon the person restricted from contact. An emergency protective order will expire on the seventh judicial business day following the day of its entry into the Law Enforcement Data System. Just like a FAPA restraining order, a violation of the order will constitute a contempt of court and be punishable by up to six months in jail. House Bill 2776A passed out of both the House Judiciary Committee and House Floor unanimously.

5/19/2015 7:58:00 AM

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