

REVENUE: No revenue impact
FISCAL: Minimal fiscal impact, no statement issue
SUBSEQUENT REFERRAL TO:

Action:

Vote:

Yeas:

Nays:

Exc.:

Prepared By: Erin Seiler, Administrator

Meeting Dates: 5/12, 5/20

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

ISSUES DISCUSSED:

- Alignment with federal prohibitions in Violence Against Women Act
- Number of domestic violence deaths and assaults by firearms
- Impact of domestic violence on victims and their children
- Enforceability of prohibitions by local law enforcement

EFFECT OF COMMITTEE AMENDMENT:

-A4 amendment: Prohibits possession of firearm or ammunition if person is subject of court order that: was issued or continued after hearing for which person had actual notice and during the course of which person had opportunity to be heard; restrains person from stalking, intimidating, molesting or menacing intimate partner, child of intimate partner or child of person; and includes finding that person represents credible threat to physical safety of intimate partner, child of intimate partner or child of person; or person has been convicted of qualifying misdemeanor and, at the time of offense, person was family member of victim of offense. Defines 'Family member', with respect to victim, as victim's spouse, victim's former spouse, person with whom victim shares child in common, victim's parent or guardian, person cohabiting with or who has cohabited with victim as spouse, parent or guardian or person similarly situated to spouse, parent or guardian of victim; 'Intimate partner', with respect to person, person's spouse, person's former spouse, parent of person's child or another person who has cohabited or is cohabiting with person in relationship akin to spouse and 'Qualifying misdemeanor' means misdemeanor that has, as element of offense, use or attempted use of physical force or threatened use of deadly weapon.

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. 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.

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

Senate Bill 525-A 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 both notice and a hearing before the court. Additionally, Senate Bill 525-A 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. The bill makes clear that the prohibition on firearms applies to 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 a person is convicted of a qualifying misdemeanor involving domestic violence. Lastly, Senate Bill 525-A allows for a person to petition the court for relief from the firearms prohibition.