

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
Senate Committee On Judiciary

MEASURE: SB 3 A
CARRIER: Sen. Courtney

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 04/20/15

Action: Do Pass With Amendments. (Printed A-Eng.)

Meeting Dates: 03/05, 03/25, 04/20

Vote:

Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher

Prepared By: Jeff Rhoades, Counsel

WHAT THE MEASURE DOES:

Creates crime of endangering person protected by Family Abuse Prevention Act (FAPA) restraining order. Establishes that if person previously convicted of violating order at time of second offense, violation of restraining order constitutes Class A misdemeanor. Provides that if offender places protected party at substantial risk of serious physical injury while violating restraining order at any time, violation constitutes Class C felony.

ISSUES DISCUSSED:

- High lethality rate in cases involving FAPA restraining orders
- The need to protect victims of domestic violence
- The severity of restraining order violations in the continuum of criminal activity
- Mechanics of FAPA orders

EFFECT OF COMMITTEE AMENDMENT:

Provides 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.

Senate Bill 3 A 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.

Senate Bill 3 A also applies when an offender has previously been convicted of violating the same restraining order against the same victim. If the offender has been previously convicted in this fashion at the time the second violation occurs, the second violation is elevated to a Class A misdemeanor. This means that both a full jury trial will ensure, and that the penalties for conviction are increased. A defendant convicted of such a crime can be sentenced to a maximum of one year in jail, \$6,250 fine, or both.