

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 05/27/15

Action: Do Pass As Amended And Be Printed Engrossed.

Meeting Dates: 05/19, 05/27

Vote:

Yeas: 8 - Barker, Barton, Greenlick, Krieger, Olson, Post, Sprenger, Williamson

Exc: 1 - Lininger

Prepared By: Jeff Rhoades, Counsel

WHAT THE MEASURE DOES:

Creates crime of endangering person protected by Family Abuse Prevention Act (FAPA) restraining order. Provides that if offender recklessly creates substantial risk of serious physical injury to protected person while violating restraining order at any time, or attempts to place protected person in fear of imminent physical injury, 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:

Restores language to measure as introduced.

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. Individuals 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 B creates the crime of endangering a person 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 recklessly places the protected party at substantial risk of physical injury, or attempts to place a protected party in fear of imminent physical injury. Therefore if persons commit the crimes of recklessly endangering another person (ORS 163.195) or menacing (ORS 163.190) while violating the order, they commit the crime of endangering a person protected by a FAPA order. 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.