

STAFF MEASURE SUMMARY

CARRIER: Sen. Gelser

Senate Committee On Judiciary

Fiscal: Has minimal fiscal impact**Revenue:** No Revenue Impact**Action Date:** 02/19/16**Action:** Do Pass.**Meeting Dates:** 02/19**Vote:**

Yeas: 4 - Gelser, Prozanski, Rosenbaum, Thatcher

Exc: 1 - Kruse

Prepared By: Whitney Perez, Counsel**WHAT THE MEASURE DOES:**

Expands crime of obstructing governmental or judicial administration to include acting as notary public or immigration consultant without authorization. Renames theft by extortion to extortion. Expands extortion to include inducing or compelling person from reporting unlawful conduct to law enforcement. Adds reporting of immigration status as means of inducing or compelling for extortion. Removes some manners of inducing or compelling for extortion. Imposes additional qualification requirements on person applying to be notary public. Adds additional reasons Secretary of State may deny, revoke, suspend, or impose condition on notary public.

ISSUES DISCUSSED:

- Result of Task Force on Immigration Consultant Fraud
- Constitutional revision of Extortion
- Provides more tools for prosecution and protection
- Fraud or extortion may occur when persons seek immigration and tax advice

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

An immigration consultant is someone who gives advice on an immigration matter. Oregon prohibits a person from acting as an immigration consultant without a bar license. In addition, a “notario”, or notary, can be someone who represents themselves as qualified to give legal advice. This representation is possible because the term notario in several Latin American countries refers to someone who acts in a very similar capacity as an attorney. These terms have led to individuals being deceived into thinking that a qualified person or an attorney is providing them with legal advice. These deceptive activities have resulted in serious harm, including monetary loss, loss of irreplaceable documents, loss of eligibility for immigration benefits, and the filing of false or frivolous immigration applications.

House Bill 4128 does several things to prevent this fraud. First, it expands the crime of obstructing governmental or judicial administration to include acting as a notary public or an immigration consultant without authorization and with the intent to defraud. It also expands the crime of theft by extortion to include compelling or inducing a person to refrain from reporting unlawful conduct to a law enforcement agent. In addition, it adds the reporting of immigration status as one of the ways in which a person could induce or compel a victim of extortion. HB 4128 also renames the crime “theft by extortion” to simply “extortion.” It adds restrictions and requirements for becoming a notary public; namely, a person is not qualified to be a notary public if they have been convicted of impersonating a notary public, obstructing governmental or judicial administration, or of engaging in the unlawful practice of law. A person is also not qualified to be a notary public if a court has found that the person practiced law without a license, engaged in an unlawful trade practice or has entered into an assurance of voluntary compliance for comports to be an immigration consultant without being a member of the Oregon State Bar. To bring effect

to the new notary public requirements, the measure also authorizes the Secretary of State to deny, revoke, suspend, or impose conditions on a notary public who has committed these acts.