

A-Engrossed
Senate Bill 719

Ordered by the Senate April 26
Including Senate Amendments dated April 26

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Directs State Court Administrator to study methods for improving efficiency of courts and to report to appropriate committee or interim committee of Legislative Assembly no later than September 1, 2018.]

Creates process for obtaining extreme risk protection order prohibiting person from possessing deadly weapon when court finds that person presents risk in near future, including imminent risk, of suicide or causing injury to another person. Establishes procedures for law enforcement officer or family or household member of person to apply for order. Establishes procedures for respondent to request hearing, and for continuance of order after hearing or if hearing is not requested. Establishes procedures for termination and renewal of order.

Requires court to order respondent to surrender deadly weapons and concealed handgun license within 24 hours of service of initial order, and immediately upon service of continued or renewed order. Provides for law enforcement officer serving order to request immediate surrender of deadly weapons and concealed handgun license and authorizes law enforcement officer to take possession of surrendered items. Allows respondent to surrender deadly weapons to gun dealer or third party in lieu of law enforcement officer.

Punishes violation of order, or false application for order, by maximum of one year's imprisonment, \$6,250 fine, or both.

Permits service upon attorney or party in juvenile dependency proceeding by electronic mail or electronic service through court's electronic filing system.

Prescribes how proof of service is to be made when service is by facsimile communication device, electronic mail or electronic service.

A BILL FOR AN ACT

1
2 Relating to courts; creating new provisions; and amending ORS 419B.812, 419B.848 and 419B.851.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 8 of this 2017 Act:**

5 **(1) "Deadly weapon" means:**

6 **(a) Any instrument, article or substance specifically designed for and presently capable**
7 **of causing death or serious physical injury; or**

8 **(b) A firearm, whether loaded or unloaded.**

9 **(2) "Family or household member" means a spouse, intimate partner, mother, father,**
10 **child or sibling of the respondent, or any person living within the same household as the**
11 **respondent.**

12 **(3) "Gun dealer" has the meaning given that term in ORS 166.412.**

13 **(4) "Law enforcement agency" means an agency or department of the State of Oregon**
14 **or of a political subdivision of the State of Oregon whose principal function is the appre-**
15 **hension of criminal offenders.**

16 **(5) "Law enforcement officer" means a member of the Oregon State Police, a sheriff, a**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

3/1/17

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Date: 4-28-2017

Measure Description:

Creates extreme risk protection order.

Government Unit(s) Affected:

Judicial Department, Department of Justice, District Attorneys and their Deputies, Oregon State Police (OSP), Public Defense Services Commission

Summary of Expenditure Impact: See Analysis

Analysis:

The fiscal impact is indeterminate. The measure creates a process for obtaining an extreme risk protection order prohibiting person from possessing a deadly weapon. The measure requires the court to hear the petition and issue an order on the same day it is filed or by the next judicial business day.

The number of protective orders that may be filed with the courts is unknown. Additionally, the number of orders that may need to be served and deadly weapons that may need to be seized and retained by the Oregon State Police or other law enforcement entities is unknown.

The Oregon Judicial Department (OJD) assumes this protective order process will be modeled after the Family Abuse Prevention Act (FAPA) process and be similar in cost, which is generally about \$240 per case. In order to attempt to estimate the number of protective orders that may occur, OJD is estimating an amount equivalent to 10% of the total FAPA and stalking protective order cases. The Department notes that there were 9,869 FAPA cases and 2,704 stalking protective order cases filed in circuit courts in 2016.

If the 10% estimate materialized, OJD anticipates 1,257 extreme protection order cases at an average cost of \$240 per case, for equivalent costs of approximately \$600,000 General Fund per biennium. The Department notes that due to the complexity of this new protective order, there may be minimal one-time costs associated with implementation estimated at around \$22,000 General Fund. OJD notes that circuit court docket management will be an issue, especially with the timeliness of hearing these extreme protection order cases; however, this impact is indeterminate at this time.

The measure creates two new misdemeanor offenses, for possessing a deadly weapon knowingly in violation of the risk protection order and for knowingly filing a false petition. There is anticipated to be a minimal fiscal impact as a result of these misdemeanors to the Judicial Department, District Attorney's and their Deputies, Public Defense Services Commission, and the Department of Justice.

The Legislative Fiscal Office (LFO) anticipates that the costs associated with this measure could be absorbed within existing resources. While the number of cases is unknown, excessive demand may require additional staff or resources depending on the cumulative workload requirements added this session or possible budget reductions enacted by the Legislature.