

SB 1546 A STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Action Date: 02/11/20

Action: Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)

Vote: 7-0-0-0

Yeas: 7 - Dembrow, Gelser, Linthicum, Manning Jr, Olsen, Prozanski, Thatcher

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Gillian Fischer, Counsel

Meeting Dates: 2/5, 2/11

WHAT THE MEASURE DOES:

Relates to public safety. Establishes procedures for a District Attorney to provide notice to a defendant charged with certain misdemeanor crimes of domestic violence so the conviction will cause any state or federal firearm prohibition designation to be reflected on the defendant's criminal history record. Specifies procedures necessary for proving a qualifying relationship between defendant and victim that will cause a conviction to be documented on a defendant's criminal history as prohibiting possession of firearms under state or federal law. Requires a court or jury find a qualifying relationship beyond a reasonable doubt and directs court to enter order prohibiting defendant from possession of firearms under state and federal law if conviction includes such finding. Directs court to provide determination and order to Department of State Police and county sheriff for entry into databases in a manner that identifies any state or federal prohibitions established by order. Shifts duty to receive complaints alleging law enforcement profiling from Law Enforcement Contacts Policy and Data Review Committee to Oregon Criminal Justice Commission. Exempts from definition of "commercial motor vehicle" emergency vehicles operated by police officers. Removes the detention timelines for youth subject to waiver hearings and replaces them with mandatory 30-day status hearings. Allows for any youth to waive their detention hearing or status hearing. Clarifies that the venue for a youth subject to a waiver hearing is the county where the alleged act was committed, unless and until the waiver to adult court is denied. Clarifies that a youth may be placed in the custody of the Oregon Youth Authority (OYA) up until age 20 if the act was committed prior to age 18, with some exceptions. Modifies process for law enforcement psychological screening. Allows a person who has been previously employed as a corrections officer by an agency to forgo new psychological screening if person has completed prior similar psychological screening conducted by a licensed mental health professional and will be employed by same agency. Declares emergency, effective on passage. Makes provisions relating to firearm prohibitions, law enforcement profiling, emergency vehicles operated by police officers, and psychological screening operative on January 1, 2021.

ISSUES DISCUSSED:

- Firearms prohibitions are triggered in crimes where certain familial relationships exists
- Nuanced relationship between federal and state definitions of domestic violence
- Current documentation of case or criminal history does not clearly indicate if person is prohibited from possessing firearms after misdemeanor convictions of domestic violence
- Goal to provide effective notice to defendant, clear findings for court record, and accurate computer criminal history
- Provisions of measure

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EFFECT OF AMENDMENT:

Makes technical changes to procedures relating to firearm prohibitions. Makes technical changes to juvenile provisions. Modifies process for law enforcement psychological screening. Allows a person who has been previously employed as a corrections officer by an agency to forgo new psychological screening if person has completed prior similar psychological screening conducted by a licensed mental health professional and will be employed by same agency. Adds emergency clause, making portions of measure relating to juveniles effective on passage.

BACKGROUND:

Senate Bill 1546-A is an omnibus bill relating to public safety. It has 5 principal components.

First, SB 1546-A modifies the process when persons who have been convicted of a qualifying misdemeanor against a family member are prohibited from possessing firearms or ammunition under Oregon and Federal law. ORS 166.255(3)(e) defines a "qualifying misdemeanor" as one that includes use of physical force, attempted use of physical force, or the threatened use of a deadly weapon. Federal statute 18 USCS § 921 similarly prohibits individuals convicted of a "misdemeanor crime of domestic violence" from possessing firearms. No procedural mechanism currently exists to document on a computerized criminal history (CCH) when an individual has been convicted of a crime involving domestic violence, and which, if any, firearm prohibition is satisfied by the conviction. Sections 1-4 of SB 1546-A creates a process to identify and record on an individual CCH when a conviction satisfies either the Oregon or Federal prohibitions on possession of firearms.

Second, In 2019, the Legislative Assembly approved transferring the responsibilities of the Criminal Justice Policy Research Institute's Law Enforcement Contacts Policy & Data Review Committee from Portland State University to the Criminal Justice Commission, thereby consolidating both quantitative and qualitative data collection on traffic and pedestrian stops in one state agency. Sections 6-7 of SB 1546-A conform statutory language to reflect the change in reporting requirements resulting from the transfer of the responsibilities.

Third, ORS 801.208 exempts firefighters from needing a commercial drivers license (CDL) when operating an emergency fire vehicle. However, no such exemption exists for police officers operating emergency vehicles. Section 8 of SB 1546-A amends the definition of commercial motor vehicles to exempt emergency vehicles when being operated by police officers.

Fourth, in 2019, the Legislative Assembly enacted SB 1008, which created significant changes in the way that youth who commit Measure 11 crimes are treated in the juvenile and criminal justice systems. Specifically, it ended the automatic prosecution of 15-, 16-, and 17-year-olds as adults for Measure 11 offenses, authorized conditional release hearings for youth offenders under specified circumstances, and prohibited the imposition of a life sentence on youth offenders. After SB 1008's passage, the Office of Governor Kate Brown convened an implementation work group. As part of its charge, the group examined whether any legislative changes were necessary to better support the implementation of SB 1008. Sections 9-12 of SB 1546-A are a product of that process. Those sections modify the venue, detention hearings, and OYA placement provisions of the juvenile code.

Finally, Section 13 of SB 1546-A exempts from psychological screening requirements a law enforcement officer employed by a law enforcement agency if the officer was previously employed by that same agency as a corrections officer and underwent a psychological screening as part of that employment by a similarly qualified mental health professional.