

SB 183 -1, -3 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

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Meeting Dates: 3/8, 4/1

WHAT THE MEASURE DOES:

Establishes process for a party seeking enforcement of order or judgment of a tribal court of record or federally recognized Indian tribe. Directs a court to enforce orders and judgments of a tribal court unless a party subject to the order demonstrates specific factors. Allows a person acting on behalf of a person protected by a foreign restraining order to file the order and proof of service with a court. Provides that any state or local government actor, acting in an official capacity, is immune from criminal and civil liability for registering or enforcing a foreign restraining order if act or omission was done in good faith and without malice in an effort to comply with the law. Clarifies that a physical or electronic copy of a foreign restraining order may be used for certain purposes.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the measure.

Modifies the process for presenting of a foreign restraining order for entry of order into the Law Enforcement Data System maintained by the Department of State Police and that entry constitutes notice to all law enforcement agencies of the existence of the restraining order. Provides that unless expressly stated in the order, issues of non-enforceability are affirmative defenses in an action to enforce the order. Allows person not a party to the restraining order to file a certified copy of the order with any Oregon circuit court. Specifies that order is fully enforceable in any county or tribal land in the state of Oregon.

Requires law enforcement agencies to establish procedures to ensure that an officer at the scene of an alleged violation may be informed of the order and its terms. Provides that any state or local government actor, acting in an official capacity, is immune from criminal and civil liability for registering or enforcing a foreign restraining order if the act or omission was done in good faith and without malice in effort to comply with the law.

Clarifies that a physical or electronic copy of a foreign restraining order may be used for certain purposes.

Modifies definition of "foreign judgment" to include any judgment, decree or order of a tribal court of a federally recognized Indian tribe, except when another Oregon statute provides a different process to enforce a tribal judgment, decree or order, or as provided under ORS 426.180 (provisions for emergency commitment of individuals in Indian country). Modifies definition of "restraining order."

-3 Replaces the measure. Includes any judgment, decree, or order of a tribal court of a federally recognized Indian tribe as a "foreign judgment." Excludes judgments, decrees, or orders that have a separate process for enforcement provided in Oregon law from definition. Includes sexual violence against another person within definition of restraining order. Includes support and child custody orders within definition of restraining order for purposes of enforcing foreign restraining orders in Oregon. Specifies that issues of nonenforceability are affirmative defenses in actions to enforce order. Removes requirement that person presenting foreign restraining order to county sheriff certify the order is the most recent in effect between the parties and specifies that sheriff shall promptly verify the validity of the foreign order before entering order into Law Enforcement Data System (LEDS) and National Crime Information Center of the US Department of Justice. Provides that any state or local government agency, law enforcement officer, prosecuting attorney, or clerk of court acting in an official capacity,

This summary has not been adopted or officially endorsed by action of the committee.

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is immune from criminal and civil liability for registering or enforcing a foreign restraining order or detention or arrest of person alleged to have violated restraining order if the act or omission was done in good faith and without malice in effort to comply with the law. Clarifies that a physical or electronic copy of a foreign restraining order may be used for certain purposes.

BACKGROUND: