

HB 2572 -1, -2 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/6, 3/20

WHAT THE MEASURE DOES:

Modifies definition of "civil disorder" for crime of unlawful paramilitary activity; creates civil action for persons injured as a result of another person engaging in paramilitary activity. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces measure. Repeals ORS 166.660 in its entirety and creates new crime of unlawful paramilitary activity; seeks to clarify definition of "private paramilitary organization;" seeks to clarify elements of crime of unlawful paramilitary activity and provides five ways in which the crime may be committed; seeks to clarify lawful activity that does not constitute unlawful paramilitary activity; provides authority for the Attorney General to seek injunctive relief upon reasonable belief that a person or group of persons has engaged in, or is about to engage in, unlawful paramilitary activity; provides investigative authority to Attorney General if it appears to the Attorney General that a person has possession, custody, or control of any material relevant to an investigation of unlawful paramilitary activity; clarifies that irrespective of any criminal prosecution, any person injured as a result of unlawful paramilitary activity may bring a civil action; amends ORS 131.602, 161.005 and 166.385 to reflect repeal of ORS 166.660 and codification of new crime of unlawful paramilitary activity.

-2 Replaces measure. Creates civil action for persons injured as a result of unlawful paramilitary activity. Provides authority for the Attorney General to seek injunctive relief upon reasonable belief that a person or group of persons has engaged in, or is about to engage in, unlawful paramilitary activity. Provides investigative authority to Attorney General if it appears that a person has possession, custody, or control of any material relevant to an investigation of unlawful paramilitary activity. Describes elements of engaging in paramilitary activity for purposes of the civil action and Attorney General authority and lists exemptions.

BACKGROUND:

According to an Advisory Report released by the Oregon Secretary of State and Oregon Audits Division in March 2022, Oregon ranked sixth in the nation for the number of domestic violent extremist incidents between 2011 and 2020, with the number rising precipitously from 2019 to 2021. The U.S. Department of Justice is the governing entity that most often brings domestic terrorism and violent extremism charges against individuals. However, several states also have legislation defining and criminalizing such activity.

Oregon does not currently define or criminalize domestic terrorism or violent extremism, but since 1983, ORS 166.660 has provided that engaging in "unlawful paramilitary activity" is a Class C felony. Under the statute, a person engages in unlawful paramilitary activity one of two ways: (1) if they exhibit, display, or demonstrate to another person the use, application, or making of any firearm, explosive or other technique capable of causing injury or death, intending or knowing that it will be illegally used in a civil disorder; or (2) if they assemble with one or more people for the purpose of training, practicing, or receiving instruction in the use of any firearm, explosive, or other technique with the intent to engage in civil disorder. The statute contains several explicit exceptions including for practicing self-defense; lawful sports related to firearm instruction, practice and training; and activity of the State Department of Fish and Wildlife.

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House Bill 2752 would modify the definition of "civil disorder" in ORS 166.660, seeking to clarify that civil disorder includes acts of intimidation or force by groups of armed persons that (1) interfere with government functioning, (2) assert authority over others without their consent, or (3) prevent others from exercising their constitutional rights. House Bill 2752 would also create a civil action for any person injured as a result of another person engaging in paramilitary activity. The civil action could be brought by the injured person or the Attorney General, and would allow for recovery of economic and noneconomic damages, injunctive and equitable relief, and reasonable attorney fees.