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On Behalf Of: self
Committee: Senate Committee On Judiciary
Measure: SB348

I want to make clear my concern about the issue of the Permit agent's responsibility in the current draft SB 348. A major concern is to keep firearms out of the hands of those who may self harm and those who may harm others. It is what the voters of Oregon wanted to keep their community safer. Lets examine SB 348.

A

Page 3 line starting at line 7 and 30 is the language of M114:

"An applicant is qualified to be issued a permit-to-purchase under this section if the person is at least 21 years of age and:.....

(b)(E) Does not present reasonable grounds for a permit agent to conclude that the applicant has been or is reasonably likely to be a danger to self or others, or to the community at large,

as a result of the applicant's mental or psychological state or

as demonstrated by the applicant's past pattern of behavior involving unlawful violence or threats of unlawful violence;"

This same paragraph is repeated exactly the same at Page 6 line 16, (by reference) and Page 11 line 2-10 and page 12 line 13 (by reference). It can be argued that a "reasonable permit agent" would require a minimal investigation. What that would involve is subject to experience, experts and ultimately the Courts.

Page 4, the 348 draft says the applicant needs to be fingerprinted and photographed and then adds at line 9 (emphasis added).

"The permit agent shall.....conduct an investigation necessary to determine whether the applicant meets the qualifications described in paragraph (b) of this subsection. An investigation into whether the circumstances described in paragraph (b)(E) exist must be based on

objective facts and information

KNOWN by,

or records available to,

the permit agent

that establish a pattern of behavior involving"

LEFT OUT MENTAL OR PSYCHOLOGICAL STATE

"unlawful violence or threats of unlawful violence sufficient to

CLEARLY ESTABLISH

that the applicant has been or is reasonably likely to be a danger to self or to others."

Now assume joe has suffered cyclical depression periods, and is in one right now.

He talks about life not worth living, all of which his family knows. Further Joe has been posting on social media that he intends on killing children at a school, he is so depressed.

Now assume Joe comes to me, a Permit agent and applies for permit to purchase a firearm. I do all the background checks but do not contact a family member or check social media. So his depression and social media comments are not "known" to me. I give him the permit. He does as promised: buys a firearm, kills children in a school and then kills himself. The news media asks me why I gave him the permit. I say I did not "know" about the depression and social media comments. And based upon the language on page 4, I am correct, because I did not "know". And there was not a direction for me to perform a reasonable investigation to find out. The original M114 language of "does not present reasonable grounds for" implies there must not be inaction, but reasonable action, to determine if grounds exist. SB 348 removes that emphatically. -----But there is more.

The added language on page 4 does not say there needs to be investigation in, or even consideration of the, "mental or psychological state" of applicant. Page 3 original M114 does, page 4, SB 348, does not. The will of the voting public said include this. It helps to determine suicide and violence risk. Page language 4 limits the investigation in a material way removing available objective facts relevant to the issue of suicide and violence.

Next the weight of proof is also changed. On page 3 the weight of proof is if it "is reasonably likely to be". The term likely has legal significance. It means more likely than not. The classic picture of the lady of justice holding two scales, one in each hand, deciding which is the greater, ie or more likely than not. It is the burden use