

STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 05/19/15

Action: Do Pass The A-Eng Bill.

Meeting Dates: 05/19

Vote:

Yeas: 4 - Gelser, Kruse, Prozanski, Thatcher

Exc: 1 - Burdick

Prepared By: Jeff Rhoades, Counsel

WHAT THE MEASURE DOES:

Allows peace officer to apply to circuit court judge for ex parte emergency protective order provided that victim consents. Establishes that court may enter order if court finds probable cause to believe that officer has responded to domestic disturbance that requires mandatory arrest, the person is in immediate danger of abuse by family or household member and emergency protective order is necessary to prevent person from suffering further abuse. States that emergency protective order expires seven days after entry. Provides that violation of emergency protective order constitutes contempt of court.

ISSUES DISCUSSED:

- Protection for domestic violence victims
- The cycle of violence
- Mechanics of the bill
- Why victim consent is important

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

ORS 107.700 to 107.735 governs the definitions, petitions, hearings and enforcement of Family Abuse Prevention Act (FAPA) restraining orders. When a petitioner requests relief from the court in the form of a FAPA restraining order, the circuit court holds an ex parte hearing either in person or by telephone. To grant the request for a FAPA order, the court must find: 1) the petitioner has been the victim of abuse by the respondent within 180 days preceding the hearing; 2) there is an imminent danger of further abuse to the petitioner; and 3) the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's child. Upon granting of the order, the respondent is prohibited from any and all contact with the petitioner. The court may fashion additional remedies for the protection of the petitioner.

House Bill 2776-A creates an emergency protective order that operates much like the FAPA restraining order, albeit on a more limited basis. The bill creates a protective order for which a peace officer may apply, with the victim's permission. Upon granting of the victim's consent, the peace officer is permitted to unilaterally approach the court to make a showing that probable cause exists that: 1) the officer has responded to an incident of domestic disturbance and the circumstances for mandatory arrest exist; 2) a person is in immediate danger of abuse by a family or household member; and 3) an emergency protective order is necessary to prevent a person from suffering the occurrence or recurrence of abuse. Should the judge make such a finding, the court will enter an order prohibiting contact between the individuals.

The order is not effective unless it is properly served upon the person restricted from contact. An emergency protective order expires on the seventh judicial business day following the day of its entry into the Law Enforcement Data System. Just like a FAPA restraining order, a violation of the order constitutes contempt of court punishable by up to six months in jail.