February 22, 2017

Senate Committee on Human Services
900 Court Street NE- HR D
Salem, Oregon 97301

Re: SB 652- 1- Family Abuse Prevention Order

Chair Gelsler members of the committee my name is Gilbert B. Feibleman and I am a member of the Oregon State Bar and am the past Chair of the Oregon State Bar Family law section and the past President of the Oregon Chapter of the American Academy of Matrimonial Lawyers. I also served on the legislative task force that did a first major rewrite of the Family Abuse law. In fact I just presented an educational program to 400 lawyers and Judges entitled "The Family Abuse Prevention Act from A to Z. I have practiced family law in Oregon since 1976. I have also serve as a Pro-Tem Circuit Judge in 8 counties and am approved as a Reference Judge throughout the state of Oregon. I support SB 652 with the dash 1 amendment.

Restraining orders are a necessary tool to protect those involved in emergency domestic situations however in my 40 years of practicing family law I have seen where restraining orders are often misused and the "zero tolerance" nature of their enforcement has caused irreparable harm to a spouse/partner.

SB 652-1 is a limited and targeted "fix" for one of the most egregious problem areas of Restraining Order misuse. I have seen countless situations where the party being restrained is being contacted by the Petitioner yet any response constitutes a violation of the order subjecting the part to immediate arrest.

As the law currently reads, the typical order reflects that person seeking the order has established to the satisfaction of the court that there is a credible threat of future imminent harm if there is contact between the parties. Common sense would tell us that if the Respondent is restrained from contacting the Petitioner then the Petitioner would be similarly restrained from imitating contact. But that is where we have an Alice if Wonderland approach to Family Abuse restraining Orders. The Petitioner can contact the Respondent without consequence but if the Respondent foolishly responds, that Respondent can and often is arrested. The police have no discretion because that response is a violation of the order.

The intent of SB 652 is to level the playing field so that if the Petitioner initiates the contact, then the response is not a violation and for that matter, if there is to be "no contact" as per court order, then an initiation of contact by the Petitioner is itself a violation by the Petitioner.

I have seen many situations where the petitioner has invited the respondent back in the

home as they both try and repair relationship issues. Yet only one party is subject to arrest in that situation. In fact I recently was involved in a case where the court record shows that the Petitioner took vacations with the Respondent despite the existence of a Restraining Order. The Respondent was arrested on a routine traffic stop during one of their trips. It was only with great effort that the Petitioner was able to get the judge to drop the restraining order after she told the judge that she would continue to initiate contact. But that was only after the judge has previously denied the dismissal and the Petitioner chose to initiate contact for months. Had it not been dismissed, if the relationship deteriorated, the petitioner could have simply contacted law enforcement and report the restraining order violation she initiated in the first place.

SB 652-1 will reduce the number of cases that are unfair and have little merit.

In my opinion, SB 652-1 will not "re victimize" victims. The only "victim" who would be subject to penalty would be the one who initiates the contact, easily proven by email, text or phone record. Those is serious fix that protects the rights of those who obtain an order yet makes it clear to BOTH parties that "no contact" means no contact.

I appreciate your attention to such an important issue and urge your support for SB 652-1

Sincerely,
/s/ Gilbert B. Feibleman
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Feibleman and Case, PC