

HB 2013 A STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 5/15

WHAT THE MEASURE DOES:

Provides that a person unlawfully and knowingly possesses a firearm or ammunition if the person is the subject of a court order that was continued after the person received notice of the opportunity to request a hearing and failed to request a hearing during the required time period. Establishes procedures under which a person convicted of a qualifying offense, or subject to an order described in ORS 166.255, is prohibited from possessing firearms and pursuant to court order, must provide proof of transferring the person's firearms to a local law enforcement agency or a third party as directed. Requires a person to transfer the firearms as directed within 24 hours of becoming subject to a court order, during which time the person may possess the firearm, unloaded, and for the purpose of transferring the firearm in compliance with the court order. Requires third party declaration of receipt of firearm transfer to be filed with the respondent's declaration of dispossession of firearms. Provides that a respondent must either confirm by declaration that they were not in possession of firearms at the time the court entered the order or assert their constitutional right against self-incrimination. Establishes criminal penalties to a third party who allows a person to access firearms transferred to the third party during the prohibition. Directs a party ordered to transfer firearms under this section to submit a declaration, within 48 hours of the court's order, attesting that all firearms in the person's possession have been transferred in accordance with the court's order. Provides that a district attorney may initiate contempt proceedings if a respondent does not file a declaration as required by the measure. Requires the Department of Justice to notify a petitioner of a receipt of a request to return a firearm relinquished pursuant to a court order. Requires law enforcement to hold any firearm for 72 hours after receiving a request for return and confirm the person receiving the firearm is the lawful owner and may legally possess firearms under state or federal law. Declares an emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Current Oregon law prohibits certain individuals from knowingly possessing firearms or ammunition. Among those excluded are persons subject to a court order, such as a Family Abuse Prevention Act (FAPA) order, Sexual Abuse Protective Order (SAPO), and Elderly Persons and Persons with Disabilities Abuse Prevention Act (EPPDAPA) order, that restrains the person from stalking, intimidating, molesting, or menacing an intimate partner or child, and includes a finding of a credible threat to the physical safety of the other party. In order to be prohibited under this section, the person subject to the order must have had actual notice and opportunity to be heard in a hearing on the order. Additionally, persons who have been convicted of a qualifying misdemeanor against a family member are prohibited from possessing firearms or ammunition. A qualifying misdemeanor is one that includes use of physical force, attempted use of physical force, or the threatened use of a deadly weapon. ORS 166.255(3)(f).

House Bill 2013 A eliminates the requirement that a person be present in court in order to establish that an order is valid in restricting the possession of firearms. Instead, an order restricting possession of firearms under ORS 166.255 is valid if a person has received notice of the opportunity to request a hearing in which to be heard and the person did not request a hearing. House Bill 2013 A also establishes protocols to dispossess individuals of

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firearms when a court has made findings associated with a conviction or court order described in the measure prohibiting an individual from possessing firearms.

PRELIMINARY