

SB 183 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

**Senate Committee On Judiciary and Ballot Measure 110
Implementation**

Action Date: 04/01/21
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 4-3-0-0
Yeas: 4 - Dembrow, Gelser, Manning Jr, Prozanski
Nays: 3 - Heard, Linthicum, Thatcher
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Amie Fender-Sosa, Counsel
Meeting Dates: 3/8, 4/1

WHAT THE MEASURE DOES:

Establishes process for party seeking enforcement of order or judgment of a tribal court of record or a federally recognized Indian tribe and includes any judgment, decree, or order of those courts as a "foreign judgment." Excludes judgments, decrees, or orders that have a separate process for enforcement provided in Oregon law from definition. Includes sexual violence against another person within definition of restraining order. Includes support and child custody orders within definition of restraining order for purposes of enforcing foreign restraining orders in Oregon. Specifies that issues of nonenforceability are affirmative defenses in actions to enforce order. Removes requirement that person presenting foreign restraining order to county sheriff certify the order is the most recent in effect between the parties and specifies that sheriff shall promptly verify the validity of the foreign order before entering order into Law Enforcement Data System (LEDS) and National Crime Information Center of the U.S. Department of Justice. Provides that any state or local government agency, law enforcement officer, prosecuting attorney, or clerk of court acting in an official capacity, is immune from criminal and civil liability for registering or enforcing a foreign restraining order or detention or arrest of person alleged to have violated restraining order if the act or omission was done in good faith and without malice in effort to comply with the law. Clarifies that a physical or electronic copy of a foreign restraining order may be used for certain purposes.

ISSUES DISCUSSED:

- Cooperation with other governments and sovereigns, including tribal nations
- Enforcement, training, and education regarding tribal court orders
- Full faith and credit
- Protection for victims of domestic violence, off and on tribal lands
- Violence Against Women Act
- Process for verifying the validity of a foreign restraining order

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

Federal law requires that protection orders issued by other states, Indian tribes, or territories be given full faith and credit, meaning they must be recognized and enforced as though the order had been issued in the enforcing jurisdiction. In Oregon, these orders are called "foreign restraining orders" (ORS 24.190). When an Oregon law enforcement officer has probable cause to believe that a foreign restraining order has been violated, that officer must take into custody the person restrained by the order when a protected party: (1) presents a copy of the foreign restraining order to the officer and represents to the officer that the order is the most recent order in effect between the parties and provides proof of service or other written certification that the person restrained

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by the order has been personally served with a copy of the order or has actual notice of the order; or, (2) when there has been a voluntary entry of the order into the Law Enforcement Data System (LEDS) or the National Crime Information Center (NCIC). ORS 133.310. U.S. Attorney for the District of Oregon, Billy J. Williams, and Oregon Attorney General, Ellen Rosenblum, jointly issued Official Guidance for Enforcement of Tribal Protection Orders/ "Foreign Restraining Orders" in January 2020, providing the above context and concluding that it was critical that "any gaps or obstacles that prevent adequate and appropriate enforcement [of tribal protection orders] from happening across the state or in individual jurisdictions be addressed and resolved."

Senate Bill 183 A establishes a statewide process for a party seeking enforcement of an order or judgment of a tribal court of record or a federally recognized Indian tribe and includes any judgment, decree, or order of those courts as a "foreign judgment."