

## SB 823 A STAFF MEASURE SUMMARY

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

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**Action Date:** 04/08/21

**Action:** Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)

**Vote:** 4-2-1-0

**Yeas:** 4 - Dembrow, Gelser, Manning Jr, Prozanski

**Nays:** 2 - Heard, Linthicum

**Exc:** 1 - Thatcher

**Fiscal:** Fiscal impact issued

**Revenue:** Revenue impact issued

**Prepared By:** Gillian Fischer, Counsel

**Meeting Dates:** 4/1, 4/8

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#### WHAT THE MEASURE DOES:

Establishes procedures for a district attorney to provide notice to a defendant charged with certain misdemeanor crimes of domestic violence so the conviction will cause any state or federal firearm prohibition designation to be reflected on the defendant's criminal history record. Specifies procedures necessary for proving a qualifying relationship between defendant and victim beyond a reasonable doubt that will cause a conviction to be documented on a defendant's criminal history as prohibiting possession of firearms under state or federal law. Directs court to enter order prohibiting defendant from possession of firearms under state and federal law if conviction includes such finding. Directs court to provide determination and order to Department of State Police and county sheriff for entry into databases in a manner that identifies any state or federal prohibitions established by order.

#### ISSUES DISCUSSED:

- Federal and state firearm prohibitions for convictions involving domestic violence
- Oregon State Police background check requirements for firearm purchasing
- Need for clarity regarding specific relationship between defendant and victim when conviction may involve domestic violence

#### EFFECT OF AMENDMENT:

Requires notice be filed with the court, unless waived by the defendant or for good cause shown, no later than 60 days after arraignment or 14 days before trial. Requires notice to state that the defendant will be prohibited from possessing firearms and ammunition upon conviction due to the nature of the offense. Makes technical changes. Clarifies that required orders may be included in judgment of conviction.

#### BACKGROUND:

Persons who have been convicted of a qualifying misdemeanor against a family member are prohibited from possessing firearms or ammunition under Oregon and Federal law. ORS 166.255(3)(e) defines a "qualifying misdemeanor" as one that includes use of physical force, attempted use of physical force, or the threatened use of a deadly weapon. Federal statute 18 USCS § 921 similarly prohibits individuals convicted of a "misdemeanor crime of domestic violence" from possessing firearms. No procedural mechanism currently exists to document on a computerized criminal history (CCH) when an individual has been convicted of a crime involving domestic violence, and which, if any, firearm prohibition is satisfied by the conviction.

**SB 823 A STAFF MEASURE SUMMARY**

Senate Bill 823 A creates a process to identify and record on an individual CCH when a conviction satisfies either the Oregon or Federal prohibitions on possession of firearms.