

HB 4156 A -A3 STAFF MEASURE SUMMARY

Joint Committee On Ways and Means

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Meeting Dates: 3/6, 3/6

WHAT THE MEASURE DOES:

The measure expands the definition of “contact” and, defines “disclose” and “personal identification” under ORS 163.730. The measure modifies the crime of stalking and the crime of violating a court’s stalking protective order.

Detailed Summary:

Expands the definition of contact in ORS 163.730 to include:

- Obtaining, possessing, transferring, creating, uttering, or converting to the person’s own use the personal identification of the other person;
- Disclosing an intimate image of the other person without consent;
- Using electronic means to obtain, monitor, or interfere with the location, communication, or activities of the other person without consent; and
- Causing or attempting to cause a third person to harass or humiliate the other person by disclosing the person’s name, image, or personal information without consent.

Expands felony-level stalking and felony-level violating a court’s stalking protective order to include:

- When the person has a prior conviction for a crime in another jurisdiction that is the same as stalking or violating a stalking protective order in Oregon;
- When the person is the respondent for an active stalking, intimidating, molesting, or menacing protection order in any jurisdiction regarding a person who is not the victim of the current offense; and
- When at least one instance of the unwanted contact in the current offense was the commission—against the victim of the current offense—of:
 - A felony;
 - Unlawful dissemination of an intimate image; or
 - Unlawful use of a global positioning system device.

Increases the crime of stalking and crime of violating a court's stalking protective order from a Class C to a Class B felony.

Takes effect July 1, 2024.

ISSUES DISCUSSED:

The -A3 amendment and fiscal impact of the measure.

EFFECT OF AMENDMENT:

-A3 HB 4156 -A increases the crime of stalking from a Class C felony to a Class B felony. The -A3 amendment returns the crime to a Class C felony.

BACKGROUND:

A person commits the crime of stalking, [ORS 163.732](#), if they knowingly alarm or coerce another person or member of that person’s immediate family or household by engaging in repeated and unwanted contact with the other person that is objectively alarming or coercive and causes the victim reasonable apprehension for their safety or the safety of their immediate family or household. A person commits the crime of violating a court’s stalking protective order, [ORS 163.750](#), when they engage intentionally, knowingly or recklessly in conduct

HB 4156 A -A3 STAFF MEASURE SUMMARY

prohibited by the order, which may include contact as defined in ORS 163.730.

[ORS 163.730](#) defines the prohibited contact for both stalking and stalking protective orders, which includes, for example:

- Coming into the visual or physical presence of the other person;
- Following the other person;
- Sending electronic communications to the other person;
- Speaking to the other person;
- Delivering an object to the person directly or through a third person; and
- Damaging the other person's property.

Stalking and violating a court's stalking protective order are both generally Class A misdemeanors. However, under current law, either crime is classified as a Class C felony if the offender has a prior conviction for either stalking or violating a court's stalking protective order. Class A misdemeanors are punishable by up to 364 days of imprisonment. [ORS 161.165](#). Class C felonies are punishable by a maximum term of imprisonment of five years and Class B felonies by up to 10 years. [ORS 161.605](#). Under Oregon's Sentencing Guidelines, both stalking and violating a court's stalking protective order have a crime seriousness rating of eight, which carries presumptive sentences between 16 and 45 months, depending on criminal history, and a presumptive period of post-prison supervision of three years. [OAR 213-017-0004](#); [OAR 213-005-0002](#). The combined length of prison time and time on post-prison supervision may not exceed the maximum period of imprisonment for the classification of a crime. [OAR 213-005-0002](#). HB 4156 increases the classification of felony-level stalking and violating a court's stalking protective order and does not modify the crime seriousness rating.