

HB 4156 A STAFF MEASURE SUMMARY

House Committee On Judiciary

Action Date: 02/15/24

Action: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)

Vote: 9-1-0-0

Yeas: 9 - Andersen, Bynum, Conrad, Kropf, Lewis, Reynolds, Tran, Wallan, Yunker

Nays: 1 - Chaichi

Fiscal: Fiscal impact issued

Revenue: Has minimal revenue impact

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Meeting Dates: 2/6, 2/15

WHAT THE MEASURE DOES:

The measure expands the definition of **contact** in Oregon’s stalking laws, expands the circumstances when the misdemeanor crimes of **stalking** and **violating a court’s stalking protective order** become a felony, and increases the classification of felony-level **stalking** and felony-level **violating a court's stalking protective order** from C to B.

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 classification of felony-level **stalking** and felony-level **violating a court's stalking protective order** from a Class C to a Class B felony. Adds that conduct qualifying as **violating a stalking protective order** may take place after a *waiver of service* of the order in addition to *service* of the order.

Takes effect July 1, 2024.

ISSUES DISCUSSED:

- Court-appointed representation of juveniles in stalking-related civil and criminal cases
- Confidentiality of juvenile court records

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- Interference through use of electronic applications in shared automobiles.

EFFECT OF AMENDMENT:

The amendment removes the provision that would prevent a stalking protective order from becoming confidential if the proceeding were transferred to juvenile court.

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 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.