

Submitter: Jim Jagger

On Behalf Of:

Committee: Senate Committee On Judiciary

Measure, Appointment or Topic: SB1172

My name is Jim Jagger. I retired from being a trial attorney for almost 50 years. I prosecuted and defended criminal cases and did some pro-tem Judging. I've written now codified criminal statutes. I oppose Senate Bill 1172 on community safety reasons. I appeared and testified personally and this is to add to that.

The case of State v Eggers, was brought up. It is not helpful. I realize that if the decision was correct, or not, is interesting, but not helpful here. We are by this bill trying to decide if a change in the law should occur, not if the decision was correct. However there is one important reason to briefly review the case. In law we are reviewing the application of the law to the facts. Thus the holding is only helpful as we look at the facts. Harassment is only a "qualifying misdemeanor" and thus prohibits firearm use only if there is "as an element of the offense the use or attempted use of physical force or the threatened use of a deadly weapon." I don't think we want those kind of people to have a firearm. If in the Eggers case there had been a finding by the Court, or a Jury or by the Judgment in the same words of the Statute defining "qualifying misdemeanor" then we would not have had the case to review. But that is not what happened. The record factually was that the Defendant reached into the van of the victim and "grabbed him". The legal position was that the State alleged "offensive physical contact", "domestic violence" and the Defendant admitted "reaching into his brother's van and grabbing him. Not the actual words of the statute. So did that mean the same as the statute definition? Thus the Court discussed that issue. Statutory interpretation.

However I believe the question we have is different. The question here is do we remove Harassment entirely from the Statute? Is that safe? We don't want people who use or attempt to use physical force or threaten use of a deadly weapon to have firearms. Seems reasonable. So I say no.

Assume this: My granddaughter lives with us. She has her boyfriend living here also. He becomes angry and shoves my granddaughter against the wall and says "I'm going to shoot and kill you". We kick him out of the house. He is prosecuted for Harassment alleging use/threatened use of force and threat to use a deadly weapon. Convicted, but still angry. A. Do not pass Senate Bill 1172 and he goes in to buy a gun. Background check says he can not have a gun. My granddaughter lives. B. Senate Bill 1172 passes. He goes in to buy a gun. Background check says, even though a finding of violence, he can buy a gun. He buys a gun and kills my granddaughter. Not a good result and we look very bad. Safety. That is why we have laws. I ask you to not make the world a less safe place.