



**TO: Sen. Floyd Prozanski, Chair
Sen. Kim Thatcher, Vice-Chair
Members of Senate Committee on Judiciary**

FR: Oregon District Attorneys Association

RE: SB 1172 - Oppose

March 18, 2025

Thank you for the opportunity to offer our concerns in opposition to SB 1172.

SB 1172 seeks to amend ORS 166.255 by specifically removing the crime of domestic violence Harassment from the definition of a “Qualifying Misdemeanor.” Harassment is a very common charge for domestic violence offenders, reflecting the harm that is frequently inflicted upon them by their abusers. Accordingly, by removing the crime of Harassment from the list of misdemeanors which prohibit firearm possession, the bill would allow domestic violence offenders convicted of Harassment to continue to possess firearms under Oregon law. The amendment contemplated in this bill is detrimental to the physical and emotional safety of domestic violence victims in Oregon.

Harassment under Oregon law frequently includes acts of intentional offensive physical contact such as kicking, hitting, pushing, grabbing, slapping, hair pulling, squeezing, and biting with the specific intent to harass or annoy the victim. Domestic violence Harassment is a crime that is often charged by deputy district attorneys in response to acts committed by abusers against their victims. Additionally, cases that involve more severe levels of physical violence and abuse may result in a Harassment conviction as a result of mutual plea negotiations or a trial verdict.

Victims of domestic violence are at a significantly greater risk of being subjected to increased intimidation, and even homicide whenever there is a firearm in the possession of their abuser:

“More than seven in 10 intimate partner homicides in the United States are committed with a gun, and 76 percent of intimate partner firearm homicide victims are women”.¹ “The number of female homicides by violent partners with a firearm

has accelerated in recent years. Over the 10-years from 2014 to 2023, there was a 22 percent increase in intimate partner homicides of women. This trend was driven by homicides with guns, which increased by 36 percent. During the same period, female intimate partner homicides by all other means increased by 3 percent.”²

“Indeed, many abusers follow a common pattern of predetermined threats against and intimidation of their partners, even explicitly telling victims that a gun will be used against them. For this reason, law enforcement officials and victim advocates have learned to recognize the use of a gun by an abuser to threaten or intimidate their partner as a key predictor for intimate partner homicides.”³

ORS 166.255 currently prohibits the possession of firearms by anyone convicted of a “qualifying misdemeanor”. ORS 166.255 only creates a firearm prohibition to qualifying crimes committed by a family or household member of the victim, or a parent or guardian of the victim. ORS 166.255 was enacted in 2015 (SB 525) with bipartisan support recognizing the inherent and significantly enhanced risks to victims of domestic violence, and their children, when their abuser has access to firearms. Most domestic violence crimes are misdemeanors. This prohibition is necessary to specifically prohibit those who have been convicted of a qualifying crime of domestic violence from possessing firearms.

The definition of a “qualifying misdemeanor” is “any misdemeanor that has, as an element of the offense, the use or attempted use of physical force or the threatened use of a deadly weapon.” When SB 525 was passed in 2015, this definition of a “qualifying misdemeanor” was specifically chosen to mirror the language in the federal prohibition statute – U.S.C. 921(a)(33)(A). The replication of the language in the new Oregon firearm prohibition would also serve to reduce any confusion between the two standards.

By codifying this federal standard into Oregon law, the Legislature ensured local law enforcement would have the authority to enforce the firearm prohibition for those convicted of domestic Harassment. Some may ask why an Oregon specific law was needed when there had been a federal prohibition for the possession of firearms for any “misdemeanor crime of domestic violence” pursuant to U.S.C. 921(a)(33)(A) since 1996? The answer is simply that Oregon state law enforcement officers have no legal authority to enforce such a prohibition solely pursuant to federal law. Without a state firearm prohibition statute, Oregon state law enforcement officers cannot legally seize unlawfully possessed firearms, and Oregon state prosecutors and judges cannot adjudicate those violations of law. Prior to the adoption of SB 525 (2015) this was a significant loophole in the law.

Prior to the passage of SB 525 in 2015, the definition of the “use of physical force” in the related federal statute had been interpreted by the United States Supreme Court in 2014 to mean “that Congress ‘incorporated the common-law meaning of ‘force’—namely, offensive touching—in section 921(a)(33)(A)’s definition of a ‘misdemeanor crime of domestic violence.’ *U.S. v. Castleman* at 162-63, 134 S.Ct. 1405.” “To get there, the Court noted that, at common law, the element of ‘force’ in the crime of battery was ‘satisfied by

even the slightest offensive touching’” *State v. Eggers*, 372 Or 789 (2024) citing, *U.S. v. Castleman*, 134 S. Ct. 1405 (2014).

Subsequently, the Oregon Supreme Court in 2024 in *State v. Eggers*, held that the Oregon statute generally mirrors the Federal statute and “as such they cover the same misdemeanors committed against the same class of victims” and therefore citing the “borrowed-statute rule” the court upheld the firearm prohibition against domestic abusers convicted of domestic Harassment under Oregon law. *Id*, 372 Or 789 (2024).

The Oregon Supreme Court in their majority opinion in *Eggers*, objectively concluded that, “Thus, from the start, the undisputed goal of SB 525 was to give local law enforcement agencies and district attorneys the tools to protect victims from lethal domestic violence under state law in the same way as federal law (citing the legislative testimony of both Sybil Hebb and Erin Greenawald, March 25, 2015).” *State v. Eggers*, 372 OR 789, 805 (2024). Therefore, without the clear prohibition against possessing firearms in Oregon law, there is no enforceable deterrent to those convicted of a domestic violence “qualifying misdemeanor” from being in possession of firearms, and the ability to prohibit future unlawful firearm purchases will be more challenging.

Additionally, the Oregon Supreme Court reviewed the legislative history of the creation of ORS 166.255 in their *Eggers* opinion. The court concluded that “the text, context, and legislative history of ORS 166.255 lead us to conclude that the legislature intended the term ‘physical force’ to be satisfied by the degree of force that is akin to ‘offensive physical contact.’” *State v. Eggers*, 372 Or 789 (2024).

Victims of domestic abuse are at significant risk of both emotional and physical harm. That risk is further aggravated when the abuser has the lawful access to firearms. SB 1172 would be opening the door to allowing abusers convicted of domestic violence Harassment to have access to firearms pursuant to Oregon state law. This would also put Oregon at odds with the current federal law creating additional confusion. Oregon victims of domestic violence need the full protection of both state and federal law to keep firearms out of the hands of their abusers.

¹ Everytown Research analysis of Centers for Disease Control and Prevention, *National Violent Death Reporting System (NVDRS)*, 2012. Ages: 18-85+. Cited by the report *Guns and Violence Against Women: America’s Uniquely Lethal Intimate Partner Violence Problem*, Everytown For Gun Safety. October 17, 2019, last updated November 20, 2024.

² Everytown Research analysis of FBI Supplemental Homicide Report (SHR) data from 2014 – 2023, accessed October 2024. Cited by the report *Guns and Violence Against Women: America’s Uniquely Lethal Intimate Partner Violence Problem*, Everytown For Gun Safety. October 17, 2019, last updated November 20, 2024.

³ Jacquelyn C. Campbell et al., “Risk Factors for Femicide in Abusive Relationships;” Christina Nicolaidis et al., “Could We Have Known? A Qualitative Analysis of Data from Women Who Survived an Attempted Homicide by an Intimate Partner” *Journal of General Internal Medicine* 18, no. 10 (2003): 788-94, <https://doi.org/10.1046/j.1525-1497.2003.21202.x>. Cited by the report *Guns and Violence Against Women: America’s Uniquely Lethal Intimate Partner Violence Problem*, Everytown For Gun Safety. October 17, 2019, last updated November 20, 2024.