

HB 4146 A STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 2/26, 2/27

WHAT THE MEASURE DOES:

The measure provides that a petition for a Family Abuse Prevention Act order, Elderly Persons and Persons with Disabilities Abuse Prevention Act order, or a sexual abuse restraining order may be filed in the county where the abuse occurred. The measure also removes the word “identifiable” from the crime of unlawful dissemination of an intimate image. Declares emergency, effective on passage.

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact

ISSUES DISCUSSED:

- The word "identifiable" in unlawful dissemination of an intimate image created litigation over freckles or birthmarks
- Removing "identifiable" still requires the prosecutor to prove, beyond a reasonable doubt, that the victim is in the image
- Unlawful dissemination of intimate image laws in other states
- Artificial intelligence's impact on unlawful dissemination of an intimate image
- The need for legal access in different counties from where they reside
- Concerns of the burden on the respondent when an individual can file a restraining order in a county where neither resides, how service can be effectuated or witnesses obtained

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In Oregon, a Family Abuse Prevention Act order, Elderly Persons and Persons with Disabilities Abuse Prevention Act order, or a sexual abuse restraining order can only be filed in the county where the petitioner or respondent resides. However, stalking protective orders can be filed in the county where the petitioner resides, respondent resides, or where the acts occurred.

- Family Abuse Prevention Act orders are a type of restraining order intended to provide protection from abuse by family, household members, or someone with whom the petitioner has had a sexual relationship with. The abuse must have been committed within the last 180 days.
- Elderly Persons and Persons with Disabilities Abuse Prevention Act order are a type of restraining order intended to provide abuse protection for people aged 65 or older or people who are vulnerable due to a disability. This restraining order addresses physical, verbal, financial, sexual abuse, and neglect. There isn't a necessary qualifying relationship for this type of restraining order.
- Sexual abuse restraining orders are intended to protect a victim from an abuser who sexually assaulted the petitioner but who is not family or a household member.

A person commits the crime of unlawful dissemination of an intimate image when the person, with the intent to harass, humiliate, or injure another person, knowingly causes to be disclosed an *identifiable* image of the other person whose intimate parts are visible or who is engaged in sexual conduct. "Identifiable" means that a reasonable person would recognize the individual depicted in the image as the other person. HB 2393 (2019)

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amended the crime of unlawful dissemination of an intimate image to include the definition of "identifiable." The term requires that the victim is identified from the image alone and evidence outside the image, such as admissions of who is in the picture, would not satisfy the "identifiable" requirement.

PRELIMINARY