

2020 SUMMARY OF LEGISLATION



Judiciary



TASK FORCES AND REPORTING REQUIREMENTS

There were no task forces or reporting requirements created by bills in this policy area.

[Senate Bill 1575-A](#)**Not Enacted****Fitness to Proceed**

At the request of: Chief Justice Martha L. Walters for Oregon Judicial Department for Senate Bill 24 Implementation Work Group

Committees: Senate Judiciary, House Judiciary

Background and Current Law: In a criminal proceeding, if a defendant is determined unable to aid in their own defense, the criminal proceeding against the defendant is suspended until such time as the defendant has gained or regained their fitness to proceed. In the 2018-2019 interim, the Oregon State Hospital convened a work group to address the increase in commitment of fitness to proceed defendants to the Oregon State Hospital. The product of that work group was Senate Bill 24 (2019). In the following interim, a collaborative work group was convened to assess whether any legislative changes were necessary for successful implementation of Senate Bill 24.

Bill Summary: Senate Bill 1575-A would have reorganized and restructured the fitness to proceed statutes, defined key terms, and modified the separate procedures and criteria for committing a defendant charged with felony versus a misdemeanor to the Oregon State Hospital where fitness to proceed was in question. It also modified the separate procedures to return a defendant charged with felony versus a misdemeanor to community restoration services when circumstances authorizing commitment of defendant to the Oregon State Hospital no longer exist.

[Senate Bill 1561-A](#)**Not Enacted****Cannabis and Hemp Regulatory Changes****Chief Sponsors:** Sen. Prozanski; Rep. Helm**Committees:** Senate Judiciary, Joint Ways and Means

Background and Current Law: In 1998, Oregon voters passed Ballot Measure 67, which authorized the use of marijuana for medical purposes. Oregon voters then passed Ballot Measure 91 in 2014, which allowed for the creation of a recreational marijuana market. Subsequent legislation allowed individuals to grow, sell, and consume marijuana subject to certain conditions without having to show a medical need. Additionally, starting in 2009, Oregon has allowed for the possession and production of hemp. In 2018, Congress passed the Hemp Farming Act, which allows for the transportation of hemp across state lines subject to certain requirements.

Bill Summary: Senate Bill 1561-A would have authorized the Oregon Department of Agriculture to implement a State Hemp Program; modified criminal statutes related to marijuana; required collaboration between the Oregon Cannabis Commission and other state agencies; and directed the Oregon Liquor Control Commission to develop educational programs for licensees and assess the costs of tracking licensees.

House Bill 4107-B**Not Enacted****Discrimination**

Chief Sponsors: Reps. Bynum, Alonso Leon, Lawrence Spence, Piluso; Sens. Frederick, Manning Jr.

Committees: House Judiciary, Senate Labor and Business, Senate Rules

Background and Current Law: According to the Federal Deposit Insurance Corporation, in 2017, 6.5 percent, or 8.4 million households in the U.S. did not have a bank-issued debit or credit card. Additionally, a 2019 study by the Federal Reserve's Cash Product Office found that consumers used cash in 26 percent of transactions.

The Create a Respectful and Open World for Natural Hair (CROWN) Act prohibits discrimination based on hair style and texture. First enacted in California in 2019, the act has been adopted by New York, New Jersey, the City of Cincinnati, and Montgomery County, Maryland, and is under consideration in the U.S. Congress and several states.

Bill Summary: House Bill 4107-B would have prohibited discrimination in two ways. First, it would have made refusal to accept cash by a business or government entity, that serves the public, an unlawful practice. Second, it would have included physical characteristics including hair type, texture, and style within the definition of race in school discrimination policies, interscholastic organization activities, and in unlawful employment practices, and prohibited school or employer dress codes or policies from disproportionately impacting members of a protected class.

[Senate Bill 1547-A](#)

Not Enacted

Court-Related Technical Updates

At the request of: Senate Interim Committee on Judiciary

Committees: Senate Judiciary, House Judiciary

Background and Current Law: Senate Bill 1547-A was an omnibus bill containing court-related technical corrections.

Bill Summary: Senate Bill 1547-A would have allowed misdemeanor proceedings to remain in the Multnomah County Circuit Court's Gresham location if good cause was shown or to be returned to Gresham upon the request of either party when a defendant was not in custody and all warrants had been vacated or extinguished. SB 1547- A would have corrected an error from House Bill 3007 (2019) regarding the process for proving a writing was a will or revocation of a will. The measure would have allowed for alternative forms of notice to a protected person when a guardianship had been ordered. SB 1547-A would have provided minor petitioners an expiration date by which they must renew a Sexual Assault Protection Order (SAPO) after their 18th birthday that did not allow for disclosure of their confidential birthdate information. The measure would also have made procedural changes to the alternative methods of service allowed in certain circumstances.

[House Bill 4040-A](#)

Not Enacted

Family Treatment Courts

At the request of: House Interim Committee on Human Services and Housing for Representative Alissa Keny-Guyer

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: The purpose of a Family Treatment Court (FTC) is to guide child-welfare-involved parents into drug or alcohol treatment while providing intensive judicial supervision. [A study of FTC](#) in Washington state showed a decrease in abuse and neglect of participant children, increased reunification rates and stability for participant children, and a cost savings of \$10,230 per adult participant.

Bill Summary: House Bill 4040-A would have directed the Oregon Judicial Department to establish FTCs in Clackamas and Douglas Counties. The bill would have also expanded the Office of Public Defense Services' Parent-Child Representation Program to Clackamas and Douglas Counties. Under this measure, the State Court Administrator would have been required to submit biennial reports regarding the status and efficacy of FTCs to the Legislative Assembly. The program would have sunset on January 2, 2027.

[House Bill 4065](#)

Not Enacted

Driving Privilege Suspension Authority

Chief Sponsors: Reps. Gorsek, Barker, Bynum, Noble, Piluso; Sen. Manning Jr.

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Under ORS 809.210, a court can order the suspension of an individual's driving privileges if that individual fails to pay court fines related to a driving offense or fails to meet a requirement ordered in lieu of a fine. The suspension will stay in place for 20 years unless the individual presents a reinstatement notice from the court to Oregon Driver and Motor Vehicle Services (DMV). Individuals who have had their driving privileges suspended for failing to pay traffic-related fines are eligible to apply for a hardship permit, which allows suspended individuals to drive for certain specific purposes.

Bill Summary: House Bill 4065 would have prohibited courts from imposing driving privilege suspensions based on an individual's failure to pay traffic-related court fines or meet requirements ordered in lieu of fines.

[House Bill 4142](#)

Not Enacted

Court Collections

At the request of: Chief Justice Martha L. Walters for Oregon Judicial Department

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Under ORS 1.199, Oregon courts can set up a payment plan or other collection process for a court judgment. Such plans are required to have an added fee of at least \$50, but no more than \$200. Additionally, while courts are authorized to collect and settle debts, courts are prohibited from settling judgments that contain restitution or compensatory fines.

Bill Summary: House Bill 4142 would have removed the minimum \$50 fee added to judgments collected by the court and would have allowed settling of portions of a judgment that are not restitution or a compensatory fine.

[House Bill 4004](#)**Not Enacted****Public Defense Services Commission Composition and Policy**

At the request of: House Interim Committee on Judiciary for Representative Tina Kotek

Committees: House Judiciary, Senate Judiciary

Background and Current Law: In Oregon, the Office of Public Defense Services (OPDS) provides defense counsel for indigent defendants in criminal proceedings. OPDS is overseen by the Public Defense Services Commission (PDSC). In 2018, the Sixth Amendment Center assessed the PDSC, OPDS, and the systems they maintain. House Bill 4004 addressed some of the concerns raised by [The 6th Amendment Center report](#).

Bill Summary: House Bill 4004 would have changed the membership of the PDSC from seven to nine members. It would have also required the PDSC to adopt specific policies for contracting with public defense providers and oversight of their work and would have directed the PDSC to report to the Judiciary committees on the implementation of the bill on or before March 1, 2021.

[Senate Bill 1545](#)**Not Enacted****Oregon State Police Patrol Trooper Staffing Levels**

At the request of: Senate Interim Committee on Judiciary for Oregon State Police Officers' Association

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: The Oregon State Police (OSP) enforces traffic laws, investigates crimes, conducts forensic analysis, provides background checks, and collects and distributes law enforcement data. OSP also regulates gaming, the handling of hazardous materials and fire codes, maintains the sex offender registry, and enforces fish, wildlife, and natural resource laws. Oregon currently has 454 total sworn Patrol Division officer positions to serve a population of over 4 million residents. In 2016, OSP had 8 troopers per 100,000 persons. At a high in the 1970s, Oregon had nearly 30 troopers per 100,000 people.

Bill Summary: Senate Bill 1545 would have required OSP to bring patrol trooper staffing levels up to 15 troopers per 100,000 state residents beginning January 1, 2030.

[Senate Bill 1567-A](#)**Not Enacted****Law Enforcement Arbitration**

Chief Sponsors: Sens. Frederick, Manning Jr., Roblan, Findley, Thatcher; Reps. Bynum, Lawrence Spence, Lewis, Noble, Piluso, Power

Committees: Senate Judiciary, House Judiciary

Background and Current Law: Many state and local government employees, including employees of states, counties, cities, school districts, and law enforcement agencies are subject to the Public Employee Collective Bargaining Act (PECBA). Under the law, resolution of disputes over imposed discipline may be resolved through binding arbitration. As a condition of enforceability, an arbitration award that orders the reinstatement of a public employee or otherwise relieves the employee of responsibility for misconduct must comply with clearly defined public policy in statute or judicial decisions.

Bill Summary: Senate Bill 1567-A would have required an arbitrator who makes a finding of misconduct, consistent with the law enforcement agency's finding of misconduct, to impose the same disciplinary action that was imposed by the agency, so long as the discipline was done pursuant to a discipline guide or matrix that was adopted by the agency as a result of collective bargaining.

[Senate Bill 1576](#)**Not Enacted****Judicial Marshal Benefits**

At the request of: Chief Justice Martha L. Walters for Oregon Judicial Department

Committees: Senate Judiciary, House Judiciary

Background and Current Law: Judicial marshals are appointed by the Chief Justice and are charged with implementing the state court security and emergency preparedness plan and ensuring the safety of judges and court staff. Judicial marshals have the authority of police officers and are certified by the Department of Public Safety Standards and Training. However, judicial marshals are not considered police officers for purposes of the Public Employees Retirement System (PERS).

Bill Summary: Senate Bill 1576 would have included judicial marshals within the PERS definition of police officer, making them eligible for specific retirement benefits.

[House Bill 4148-A](#)**Not Enacted****Oregon Indian Child Welfare Act****Chief Sponsors:** Rep. Sanchez; Sens. Hansell, Roblan; Reps. Lewis, Noble**Committees:** House Judiciary, Senate Judiciary

Background and Current Law: The Indian Child Welfare Act (ICWA) is a federal law created “to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture.” 25 U.S.C. § 1902 (1978). In 2018, American Indian and Alaska Native (AI/AN) children made up 1.6 percent of Oregon’s child population, but were 4.8 percent of the children in Oregon’s foster care system.

Bill Summary: House Bill 4148-A would have aligned Oregon dependency proceedings with the requirements of the Indian Child Welfare Act (ICWA) and incorporated other provisions into the dependency code to promote Indian children’s continued connection to culture, family, and tribe. The measure also would have required biennial reports about Indian children in Oregon’s child welfare system.

[Senate Bill 1568-A](#)**Not Enacted****Vulnerable Youth Guardianship****Chief Sponsors:** Sen. Wagner; Rep. Piluso**Committees:** Senate Judiciary, House Judiciary

Background and Current Law: Guardianship is a protective proceeding created by state law in which a court gives a person or entity the duty and power to make decisions for another. There is currently no mechanism for creating a guardianship for a person who is over the age of 18 or has capacity to meet the essential requirements for maintaining physical health and safety. Special Immigrant Juvenile (SIJ) status is a type of lawful permanent residency for persons who meet federal statutory requirements, which include that the person be under age 21, not married, currently living in the U.S., and have a valid state court order that finds the person is a dependent of the court, or in the custody of a state agency, department, or individual or entity appointed by the court, who cannot be reunified with one or both parents because of abuse, abandonment, or neglect, and that it is not in the best interest of the person to be returned to the country of nationality or last residence.

Bill Summary: Senate Bill 1568-A would have created a new category of persons for whom a guardian may be appointed, called a "vulnerable youth." A vulnerable youth is a person between the ages of 18 and 21 who is eligible for classification as a special immigrant juvenile and who cannot be reunified with one or more parents due to abuse, neglect, or abandonment that occurred when the person was a minor. This guardianship may also serve as the state court order for juveniles pursuing SIJ status.

[House Bill 4005-B](#)**Not Enacted****Safe Storage of Firearms****Chief Sponsors:** Reps. Sollman, Prusak, Keny-Guyer**Committees:** House Judiciary, House Rules

Background and Current Law: According to the National Center for Health Statistics and the Centers for Disease Control and Prevention, in 2017, 486 people in the United States died of unintentional gun injuries. That same year, 23,854 people committed suicide with a gun and 14,542 people were intentionally killed by gun injuries. A 2010 study by Mayors Against Illegal Guns found that, per capita, states without lost or stolen reporting laws are the source of more than 2.5 times as many recovered guns found to have been used in crimes than those states with a lost or stolen reporting requirement.

Bill Summary: House Bill 4005-B would have established standards and liabilities for the transfer, supervision, and storage of firearms. It would have also created requirements for reporting the loss or theft of firearms and liabilities for failure to do so.

[Senate Bill 1573-B](#)**Not Enacted****Automatic Juvenile Expunction for Youth Never Adjudicated****Chief Sponsors:** Sens. Dembrow, Manning Jr.; Rep. Bynum**Committees:** Senate Judiciary, Joint Ways and Means

Background and Current Law: Expunction is a process to seal a record of arrest or conviction. During the 2018-2019 interim, a Senate Judiciary work group on reentry, employment, and housing identified Oregon's juvenile expunction statutes as a key area of reform. At the end of the 2019 session, the Senate Committee on Judiciary convened a work group on juvenile expunction to pick up where the reentry work group left off.

Bill Summary: Senate Bill 1573-B would have directed juvenile departments to automatically expunge records of juveniles who have had contact with juvenile departments, but for which contact did not result in a petition being filed or the juvenile court taking jurisdiction. The measure would also have provided counsel for persons seeking expungement of juvenile records and changed the penalty for releasing expunged information. Finally, it would have created a reporting requirement regarding the implementation of the bill and further necessary legislative changes.

[House Bill 4131](#)**Not Enacted****Family Preservation Project Support and Analysis**

Chief Sponsors: Reps. Piluso, Prusak, Neron, Bynum, Helt, Sanchez; Sen. Fredrick

Committees: House Judiciary; Joint Ways and Means

Background and Current Law: Since the early 2000s, the YWCA of Greater Portland has hosted a program for incarcerated mothers of minor children called the Family Preservation Project (FPP). The FPP provides targeted support to incarcerated mothers to see their children and increase self-reliance, family stability, and successful parenting upon reentry.

Bill Summary: House Bill 4131 would have directed the Oregon Criminal Justice Commission (CJC), in collaboration with the Department of Corrections, to establish a Family Preservation Project pilot program administered by the YWCA of Greater Portland at Coffee Creek Correctional Facility and designated program goals. The measure would have required biannual program analysis by the CJC and sunset in 2027.

[Senate Bill 1503-A](#)**Not Enacted****DUII BAC Testing Period and Statutory Counterparts****Chief Sponsors:** Sens. Courtney, Prozanski**Committees:** Senate Judiciary, House Judiciary, House Rules

Background and Current Law: Under ORS 813.010, prosecutors can prove that a person was driving under the influence of intoxicants (DUII) if they show that the person, at the time of driving, had a .08 percent or higher blood alcohol level, was under the influence of intoxicating liquor, cannabis, a controlled substance, or an inhalant, or was under the influence of any combination thereof. Whether the person has the requisite blood alcohol level is determined by a breath or blood test, usually taken at a police station or medical facility. Depending on when and where the stop occurs, it may be several hours before the breath or blood test occurs. Additionally, if an individual has had two previous DUII convictions in the previous 10 years, any subsequent conviction will be considered a felony. The two prior convictions could have occurred in Oregon or in a state with a "statutory counterpart" to Oregon's DUII laws.

Bill Summary: Senate Bill 1503-A would have provided that an individual is guilty of driving under the influence of intoxicants if that person is found to have a .08 percent or higher blood alcohol level within two hours of driving and defined "statutory counterpart" to address the Oregon Supreme Court's decisions in *State v. Hedgpeth*, 365 Or. 724 (2019) and *State v. Guzman*, 366 Or. 18 (2019).

[House Bill 4097-B](#)**Not Enacted****Mass Transit District Police Officers****Chief Sponsors:** Reps. Hernandez, Sanchez**Committees:** House Judiciary, Senate Judiciary

Background and Current Law: Under ORS 267.320, mass transit districts may assess fares or other charges on individuals who use the transportation services provided by the districts. Failure to pay the fare may be prosecuted as a misdemeanor theft of services under ORS 164.125 or as a violation of a local ordinance. Alternatively, failure to pay fare may be resolved through an administrative process created by the districts. Mass transit districts are able to commission police officers to work on transit property and vehicles. These officers may be asked to assist fare inspectors during fare checks, in addition to their other duties.

Bill Summary: House Bill 4097-B would have prohibited police officers from participating in certain fare enforcement duties, clarified what support police officers can provide on mass transit district vehicles and property, and provided districts with immunity from civil liability for claims arising from a police officer's nonenforcement of fare ordinances.

Senate Bill 1546-B**Not Enacted****Public Safety Omnibus Bill**

At the request of: Senate Interim Committee on Judiciary

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law:

Senate Bill 1546-B had five principal components:

- 1) **Domestic Violence Firearm Prohibition Documentation.** ORS 166.255(3)(e) defines a "qualifying misdemeanor" as one that includes use of physical force, attempted use of physical force, or the threatened use of a deadly weapon. Federal statute 18 USCS § 921 similarly prohibits individuals convicted of a "misdemeanor crime of domestic violence" from possessing firearms. No procedural mechanism currently exists to document on a computerized criminal history (CCH) when an individual has been convicted of a crime involving domestic violence, and which, if any, firearm prohibition is satisfied by the conviction.
- 2) **Transfer of Traffic and Pedestrian Stop Data Collection and Analysis.** In 2019, the Legislative Assembly approved transferring the responsibilities of the Criminal Justice Policy Research Institute's Law Enforcement Contacts Policy and Data Review Committee from Portland State University to the Criminal Justice Commission, thereby consolidating both quantitative and qualitative data collection on traffic and pedestrian stops in one state agency.
- 3) **Law Enforcement Ability to Drive Emergency Vehicles.** ORS 801.208 exempts firefighters from needing a commercial driver license (CDL) when operating an emergency fire vehicle. However, no such exemption exists for police officers operating emergency vehicles.
- 4) **Senate Bill 1008 (2019) Juvenile Justice Work Group Recommendations.** In 2019, the Legislative Assembly enacted SB 1008, which ended the automatic prosecution of 15-, 16-, and 17-year-olds as adults for Measure 11 offenses. After SB 1008's passage, the Office of Governor Kate Brown convened an implementation work group that examined whether any legislative changes were necessary to support the implementation of SB 1008.
- 5) **Correction Officer Psychological Screenings.** Oregon law prohibits law enforcement agencies from hiring officers unless the officers have undergone a psychological screening to determine the officer's fitness to serve as a law enforcement officer.

Bill Summary:

- 1) **Domestic Violence Firearm Prohibition Documentation.** Sections 1-4 of SB 1546-B would have created a process to identify and record on an individual computerized criminal history (CCH) when a conviction satisfies either the Oregon or federal prohibitions on possession of firearms.
- 2) **Transfer of Traffic and Pedestrian Stop Data Collection and Analysis.** Sections 6-7 of SB 1546-B would have shifted the duty to receive complaints alleging law enforcement profiling from Law Enforcement Contacts Policy and Data Review Committee to Oregon Criminal Justice Commission.
- 3) **Law Enforcement Ability to Drive Emergency Vehicles.** Section 8 of SB 1546-B would have exempted from definition of "commercial motor vehicle" emergency vehicles operated by police officers.

- 4) **Senate Bill 1008 (2019) Juvenile Justice Work Group Recommendations.** Sections 9-12 of SB 1546-B would have removed the detention timelines for youth subject to waiver hearings, clarified that the venue for a youth subject to a waiver hearing is the county where the alleged act was committed, and allowed for a youth to be placed in the custody of the Oregon Youth Authority (OYA) up until age 20 if the act was committed prior to age 18.
- 5) **Correctional Officer Psychological Screenings.** The measure would have allowed a person previously employed as a correctional officer to forgo new psychological screening if they had completed prior similar psychological screening and would have been employed by the same agency that had the prior testing performed.