

CRIMINAL JUSTICE



This Legislative Summary Report highlights Criminal Justice policy measures that received a public hearing during the 2021 Regular Legislative Session. The report is organized by sub-topics and includes the measure number; the measure status: enacted [✓] or not enacted [✗]; and a brief description of the measure.


Criminal Justice policy sub-topics:

- [Crimes](#)
- [Criminal Procedures](#)
- [Juveniles](#)
- [Sexual Assault and Domestic Violence](#)










Crimes

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| SB 274 | ✗ | Would have modified certain provisions of law relating to the crime of prostitution to exclude child victims of sex trafficking. Would have extended affirmative defense to the crime of prostitution to victims of sex trafficking irrespective of results of any criminal prosecution for sex trafficking. |
| SB 398 | ✓ | Establishes the crime of intimidation by display of a noose is committed if a person, with the intent to intimidate another, knowingly places a noose on public or private property without consent and the display causes the other person to be reasonably intimidated or placed in fear of bodily harm by the display. |
| SB 399 | ✗ | Would have narrowed the scope of conduct constituting the crime of interfering with a peace officer by limiting the criminality of a refusal to obey an order to circumstances when an officer was ordering a person to move back and keep a safe distance from the officer while the officer was conducting an investigation, issuing or serving a citation to another person, or performing other lawful duties. |
| SB 649 | ✓ | Expands the crime of sex abuse in the second degree to include certain sexual abuses committed against a minor when the defendant is the victim's teacher. |
| SB 752 | ✓ | Establishes an affirmative defense to an allegation of second-degree sexual abuse based on non-consent if a jury finds the defendant reasonably believed the victim did consent to the sexual intercourse, in response to a Court of Appeals decision, <i>State v. Haltom</i> . The measure also amends sex offender registration exceptions under sex abuse in the second-degree to align with existing exceptions. |

Crimes, cont'd

- HB 2339  Would have created a mandatory sentence for certain crimes where a defendant caused permanent physical injury, defined as injury directly resulting in the permanent loss of vision or hearing, or ability to walk, breathe, eat, or move the person's limbs.

Criminal Procedures

- SB 48  Eliminates certain mandatory minimum security amounts currently in statute and requires courts and pretrial release officers to conduct individualized assessments when making release determinations and setting security.
- SB 176  Creates exceptions to certain privileges in proceedings involving allegations or reports of elder or adult abuse.
- SB 177  States that the proponent of a statement is not required to issue a material witness warrant in order to establish the unavailability of witness.
- SB 186  Approves amendments to existing administrative rules adopted by Oregon Criminal Justice Commission.
- SB 191  Would have converted mandatory minimum sentences established by Measure 11 to presumptive sentences subject to the sentencing guidelines established by the Oregon Criminal Justice Commission and would have authorized reductions to certain persons currently serving mandatory sentences.
- SB 214 A  Would have created rebuttable presumption that a charge, expense, or cost is reasonable if a record, bill, estimate, or invoice was produced by a third party and introduced by the district attorney as part of presentation on economic damages suffered by victim.
- SB 397  Modifies the procedure for filing a motion to set aside a qualifying conviction, arrest, citation, or charge; eliminates fees, fingerprinting, and background check; and reduces the waiting period for filing the motion for several categories.
- SB 401  Would have converted mandatory minimum sentences established by Measure 11 to presumptive sentences subject to the sentencing guidelines established by the Oregon Criminal Justice Commission.
- SB 620  Repeals the authority of community corrections program, State Board of Parole and Post-Prison Supervision, or other local supervisory authority to impose or collect a monthly fee to offset the costs of supervising a individual's probation, parole, post-prison supervision, or other supervised release.

Criminal Procedures, cont'd

- SB 651 ✓ Requires a probation officer to notify a probationer of the right to file an objection and have a hearing when certain probation condition modifications are proposed.
- SB 704 ✓ Prohibits a person from asserting a claim of self-defense or extreme emotional disturbance based on the discovery of the victim's actual or perceived gender, gender identity, or gender expression.
- SB 751 ✓ Modifies the definition of "disclose" for purposes of providing discovery and requires exculpatory evidence be provided to defendant by the district attorney, regardless of whether the information is recorded or in writing.
- HB 2132 ✓ Aligns state law with federal requirements and explicitly allows an authorized agency to request Oregon State Police conduct a fingerprint-based criminal background check on contractors and vendors who provide noncriminal justice administrative functions on behalf of an authorized agency.
- HB 2133 ✗ Would have required palm prints and a unique arrest fingerprint control number be included in arrest disposition reports and forwarded by law enforcement agencies to both the district attorney and the court in cases that were not disposed by the agency. The measure would have also required the district attorney or a court to transmit disposition information as specified in the measure to the Department of State Police for entry into the Law Enforcement Data System (LEDS).
- HB 2134 ✗ Would have required courts to ensure that fingerprints of person convicted of any felony or misdemeanor were submitted to the Oregon Department of State Police (OSP). Would have provided that during set aside process, prosecuting attorney review defendant's criminal history for discrepancies, file affidavit explaining any discrepancy found, and submit the affidavit to OSP.
- HB 2459 ✓ Includes communication through a video conferencing program within definition of "conversation" for purposes of prohibitions on recording conversations without specifically informing participants. Provides exemptions.
- HB 2825 ✗ Would have directed courts to consider evidence that a defendant was subjected to domestic abuse as a mitigating factor when sentencing a defendant, and would have authorized a court to depart from presumptive and mandatory sentences if the abuse was found to have been a significant contributing factor to the defendant's criminal behavior.
- HB 2852 A ✗ Would have allowed courts to make upward deviations from sentencing guidelines in criminal matters if it is determined that a defendant took

Criminal Procedures, cont'd

advantage of an emergency situation caused by a natural disaster or the recovery effort afterward.

Juveniles

- SB 54 ✓ Clarifies the Youth Development Council's role and modifies language to comport with federal requirements.
- SB 83 ✓ Requires Oregon Youth Authority to collaborate with the county juvenile departments to divert youth offenders from commitment to youth correction facilities to alternative community services.
- SB 131 ✓ Adds supervisors of youth correction facilities and juvenile community supervision officers to the list of persons who must cooperate during a death investigation under the direction of the district medical examiner and the district attorney for the county where the death occurred.
- SB 132 ✓ Requires Oregon Youth Authority (OYA) to photograph and fingerprint a youth offender when the youth offender is committed to the youth correction facility and the youth offender's photograph files or fingerprints have not been provided to OYA by the juvenile department, court, or law enforcement agency.
- SB 133 ✓ Describes the purpose and scope of an Oregon Youth Authority (OYA) "facilitated dialogue and responsibility letter bank program" and the protections for communications within the program and allows OYA to disclose to a victim certain information about the youth offender.
- SB 134 ✓ Institutes a public interest test for Oregon Youth Authority (OYA) to release information or records prepared or maintained by OYA regarding a person who is in the custody of the Department of Corrections and temporarily assigned to a youth correction facility.
- SB 418 ✓ Creates additional restrictions on law enforcement interviews of youth about acts that, if committed by an adult, would constitute a crime.
- SB 422 ✗ Would have eliminated fees and court costs associated with juvenile delinquency matters and provided for court-appointed counsel at state expense for all juvenile delinquency matters.
- SB 436 ✓ Changes statutory references from "youth offender" to "adjudicated youth" and resolves conflicts with those terms in various measures.

Juveniles, cont'd

- SB 575 ✓ Creates a procedure for automatic expunction of certain types of juvenile records and provides for court-appointed counsel for financially eligible applicants in the beginning of the process.
- SB 817 ✓ Retroactively and proactively eliminates fees, fines, and court costs associated with juvenile delinquency matters and provides for court-appointed counsel at state expense for all juvenile delinquency matters.
- HB 2939 ✓ Specifies that a waiver hearing must be conducted in the county where the alleged act is alleged to have occurred. Provides that youth up to the age of 20 may be committed to the Oregon Youth Authority under certain circumstances.
- HB 2940 ✓ Creates an exception to the 28-day limit for detaining youth under certain circumstances and allows a youth to waive appearance detention and status hearings to review case progression.

Sexual Assault and Domestic Violence

- SB 271 A ✗ Would have appropriated \$5 million from General Fund to Department of Justice (DOJ) beginning July 1, 2021 to assist survivors of domestic violence and sexual assault with housing needs.
- SB 474 ✗ Would have expanded hearsay exceptions to include certain statements relating to sex crimes committed against the declarant victim.
- SB 497 ✓ Requires counties assume responsibility for community-based supervision of designated domestic violence misdemeanors.
- SB 766 ✓ Modifies certain procedural requirements for the provision and service of a Sexual Assault Protection Order to prevent disclosure of a petitioner's otherwise confidential birthday information and makes technical procedural changes to the alternative methods of service.
- HB 2400 ✗ Would have required law enforcement agencies and district attorneys to provide certain crime victims copies of criminal reports related to the crime for which they are the listed victim.
- HB 2586 ✗ Would have expanded eligibility for a sexual assault protection order to individuals who have been subjected to abuse as defined by the measure rather than sexual abuse.
- HB 2746 ✓ Creates the Hope Card Program and provides that a petitioner of a court-ordered protection order will be provided a compact card containing information relevant to and necessary for confirming the existence of said protection order.

Sexual Assault and Domestic Violence, cont'd

- HB 2747 **✗** Would have modified start date for calculating one-year duration of certain protective orders if court continued or modified order more than 30 days after the original date of issuance.

- HB 3327 **✗** Would have extended sunset for authorization to Department of Justice (DOJ) to assist victims of domestic violence and sexual assault with housing needs until January 2024 and allocated an additional \$5,000,000 from the General Fund to (DOJ) for the continued assistance.