
2017 SUMMARY OF LEGISLATION



JUDICIARY



JUDICIARY MEASURES

Business/Trust

Enacted: SB 899, HB 2608, HB 2610

Not Enacted: SB 301-A

Corrections

Enacted: SB 844, HB 2251, HB 3078

Not Enacted: SB 692-A, SB 1005, HB 2105

Courts

Enacted: SB 505, HB 2308

Not Enacted: HB 2807-B

Crimes

Enacted: SB 1050, HB 2355, HB 2360,
HB 2988, HB 3047

Not Enacted: SB 356-A, HB 2615, HB 2793-A

Animals

Enacted: HB 2625, HB 3283

Assault

Enacted: SB 493, HB 2598, HB 2721

Not Enacted: HB 2620, HB 2717

Driving/Vehicle Operation

Enacted: SB 34, SB 117, SB 483, SB 488,
HB 2409, HB 2597, HB 2638, HB 2732

Not Enacted: SB 385, SB 693-C, HB 2794-A

Public Transportation

Enacted: SB 357, HB 2777

Fiduciary

Enacted: HB 2622, HB 2630

Not Enacted: SB 494-B, SB 503-A

Guns

Enacted: SB 719

Not Enacted: HB 2526

Picture: Wallowa Lake, Wallowa County - [Gary Halvorson, Oregon State Archives](#)

JUDICIARY MEASURES

Juveniles	Enacted: SB 846, HB3242
	Not Enacted: HB 2171, HB 2345-A, HB 2718, HB 3244
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Land	Enacted: SB 327
	Not Enacted: HB 2739
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Miscellaneous	Enacted: HB 2113
	Not Enacted: SB 215-A, HB2472
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Rehabilitation	Enacted: SB 65, SB 360, SB 690, HB 2249, HB 2579
	Not Enacted: SB 689
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Victims Protection	Enacted SB 249, SB 250, SB 257, SB 261, SB 508, SB 762
	Not Enacted:

Picture: Wallowa Lake, Wallowa County - [Gary Halvorson, Oregon State Archives](#)

JUDICIARY

TASK FORCES AND REPORTING REQUIREMENTS

The following bills created task forces and reporting requirements. Additional information is provided in the bill summaries.

HB 2238	Study and report findings, including recommendations for legislation, on reducing racial and ethnic disparity in pretrial incarceration, the impact of pretrial fees, and review the implementation of the Justice Reinvestment Program	January 2, 2018
HB 3061	Report findings and recommendations of study examining financial tools with regard to land transfer and succession planning for working land.	December 31, 2019

[Senate Bill 34](#)

Effective Date: January 1, 2018

Expanded Driver Requirements for Passing Hazards

At the request of: Governor Brown for Oregon Department of Transportation

Committees: Senate Judiciary, House Judiciary

Background and Current Law: Oregon requires drivers to change lanes or slow down to five miles per hour below the maximum speed limit when approaching stopped emergency or roadside assistance vehicles with warning lights on. Failure to do so is punishable by a fine of up to \$1,000.

Bill Summary: Senate Bill 34 expands the requirement to change lanes or slow down to include any stopped vehicle with warning lights on or people using flares or emergency signs.

Oregon Laws 2017: Chapter 305

[Senate Bill 65](#)

Effective Date: June 22, 2017

Jurisdiction of Mentally Ill Offenders

At the request of: Governor Brown for Psychiatric Security Review Board

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: People determined to be legally insane at the time they commit a crime (*i.e.*, “guilty except for insanity”) may be placed in the Oregon State Hospital or a similar psychiatric facility. If it is determined that they are no longer dangerous, they may be released into the community under supervision. Prior to 2011, these individuals were supervised by the Psychiatric Security Review Board (PSRB). In 2011, the Legislative Assembly transferred supervision authority over some people found guilty except for insanity to the Oregon Health Authority (OHA): those who commit less serious crimes. PSRB retains jurisdiction over people who commit more serious crimes, including crimes that carry mandatory minimum sentences.

Bill Summary: Senate Bill 65 transfers jurisdiction over all people determined to be legally insane at the time they commit a felony from OHA to PSRB, operative July 1, 2018. OHA retains jurisdiction over people committed to the Oregon State Hospital for misdemeanors. Senate Bill 65 also authorizes the PSRB to establish a restorative justice program.

Oregon Laws 2017: Chapter 442

[Senate Bill 117](#)

Effective Date: January 1, 2018

Expanded Towing Regulations

Chief Sponsors: Sens. Riley, Manning, Jr.

Committees: Senate Judiciary, House Judiciary

Background and Current Law: In 2016, the Oregon Department of Justice received over 130 complaints related to towing operations. Complaints expressed frustration and confusion about when and how a motor vehicle may be towed. The majority of laws that govern towing have not been updated since 2007, and have inspired discussions involving consumers, towers, and the Oregon Department of Justice.

Bill Summary: Senate Bill 117 clarifies and generally strengthens requirements that must be met before a motor vehicle may be towed. It prohibits towing from parking facilities unless towers have advance, signed authorization from facility owners or agents and there are signs in plain view that restrict parking. Signed authorizations must also be available to vehicle owners or operators upon request and towers are no longer permitted to tow vehicles, without prior authorization,

that are parked in violation of signs that prohibit parking 24 hours a day. Copies of photographs, that towers are already required to take, must also be available to vehicle owners upon request. Finally, the measure clarifies when a vehicle hook-up is complete for purposes of fee determination, and requires vehicles to be towed in-county to the nearest storage lot with available space that is operated by the tower.

Oregon Laws 2017: Chapter 480

[Senate Bill 215-A](#)

Not Enacted

Emergency Medical Treatment for Rare Diseases

At the request of: Senate Interim Committee on Education

Committees: Senate Health Care, Senate Judiciary, Joint Ways and Means

Background and Current Law: Approximately 7,000 rare diseases are currently listed in the Global Rare Diseases Registry. The National Institutes of Health considers a disease or condition to be rare if it affects fewer than 200,000 people in the United States. An estimated 25 million people in the United States live with a rare disease. Reliable information is difficult for providers to locate to help diagnose these diseases.

Bill Summary: Senate Bill 215-A would have directed the Oregon Health Authority to create and operate a statewide database for the collection and dissemination of instructions on rare disease emergency medical response, to ensure the safe treatment of individuals with rare diseases in emergency situations.

[Senate Bill 249](#)

Effective Date: January 1, 2018

Vacation of Convictions for Prostitution

Chief Sponsors: Sens. Taylor, Gelser, Knopp; Rep. Huffman

Committees: Senate Judiciary, House Judiciary

Background and Current Law: A person commits the crime of prostitution if the person engages in, or offers or agrees to engage in, sexual conduct or sexual contact for a fee. An accused person may assert duress as a defense if they can demonstrate that the crime was committed because they were coerced by threats or physical force sufficient to overcome earnest resistance.

Bill Summary: Senate Bill 249 requires courts to vacate prostitution convictions if a motion is filed within 21 days of judgment and the court finds based on clear and convincing evidence, that the use of force, intimidation, fraud, or coercion caused the person to engage in, or attempt to engage in, the prohibited conduct.

Oregon Laws 2017: Chapter 245

[Senate Bill 250](#)

Effective Date: January 1, 2018

Affirmative Defense to Prostitution Charge

Chief Sponsors: Sens. Taylor, Gelser, Knopp; Rep. Huffman

Committees: Senate Judiciary, House Judiciary

Background and Current Law: A person commits the crime of prostitution if the person engages in, or offers or agrees to engage in, sexual conduct or sexual contact for a fee.

Bill Summary: Senate Bill 250 creates an affirmative defense to the crime of prostitution if the accused person was a victim of human trafficking at the time of the offense. The person must show, by a preponderance of the evidence, that another person knowingly recruited, enticed, harbored, transported, provided, or obtained them, or attempted to, and that the other person knew or recklessly disregarded the fact that they would be caused to engage in a commercial sex act through force, fraud, or coercion, or at a time when they were under age 15.

Oregon Laws 2017: Chapter 246

[Senate Bill 257](#)

Effective Date: January 1, 2018

Official Misconduct and Vulnerable Victims

Chief Sponsors: Sens. Gelser, Manning, Jr.

Committees: Senate Judiciary, House Judiciary

Background and Current Law: Official misconduct in the second degree occurs when a public servant knowingly violates any laws relating to their office. Official misconduct in the first degree occurs when a public servant knowingly fails to perform an inherent or legally imposed duty in order to obtain a benefit or harm another, or knowingly engages in an unauthorized exercise of their official duties.

Bill Summary: Senate Bill 257 expands the crime of official misconduct in the first degree to include acts constituting official misconduct in the second degree when the public servant is acting as a supervisory employee and is aware of, and consciously disregards, a risk that places a vulnerable person in danger of physical injury or a sex crime, or deprivation of food, physical care, or medical attention.

Oregon Laws 2017: Chapter 519

[Senate Bill 261](#)

Effective Date: June 14, 2017

“Rape Shield” in Civil Proceedings

Chief Sponsors: Sens. Dembrow, Knopp, Manning, Jr., Monnes Anderson; Reps. Lininger, Williamson

Committees: Senate Judiciary, House Judiciary

Background and Current Law: Historically, in a criminal trial for sexual assault, accused individuals were permitted to introduce information about alleged victims’ past sexual behavior or manner of dress as evidence. In the latter half of the 20th century, most if not all jurisdictions in the United States adopted “rape shield” laws to limit the admissibility of this kind of information as evidence. More recently, the federal government and several states have begun also limiting the introduction of this kind of information in civil proceedings that involve allegations of sexual assault.

Bill Summary: Senate Bill 261 prohibits the introduction of information about an alleged victim’s past sexual behavior or manner of dress as evidence in civil proceedings involving allegations of sexual assault, with an exception if the alleged victim first raises the issue and a court determines that the probative value of the information substantially outweighs the danger of harm and unfair prejudice.

Oregon Laws 2017: Chapter 321

[Senate Bill 301-A](#)

Not Enacted

Unlawful Employment Practices and Medical Marijuana

At the request of: Joint Interim Committee on Marijuana Legalization

Committees: Senate Judiciary, Senate Business and Transportation

Background and Current Law: It is an unlawful employment practice in Oregon to restrict a person’s lawful tobacco use away from work, as a condition of employment. There are exceptions if the restriction relates to a bona fide occupational requirement or if an applicable collective bargaining agreement prohibits off duty use of tobacco. Medical use of marijuana was legalized in Oregon in 1998, but it does not have the same employment protections as tobacco.

Bill Summary: Senate Bill 301-A would have made it unlawful to discharge, penalize, refuse to employ, or discriminate against an employee in compensation or employment terms because of their status as a marijuana registry identification cardholder, with some exceptions.

[Senate Bill 327](#)

Effective Date: June 22, 2017

Immunity from Liability for Public Use of Land

At the request of: Senate Interim Committee on Business and Transportation

Committees: Senate Judiciary, House Judiciary

Background and Current Law: The Oregon Public Use of Lands Act protects public and private landowners from tort liability when they allow their lands to be used for public recreation. In a 2016 case, the Oregon Supreme Court held that officers, employees, volunteers, and other agents of owners were not considered “owners” for purposes of this protection (Johnson v. Gibson, 369 P.3d 1151 (Or. 2016)). As a result, public entities and private landowners were very hesitant to give consent to public access for recreation because of uncertainty about liability.

Bill Summary: Senate Bill 327 broadens the definition of owner to include the holder of any legal or equitable title; officers, employees, volunteers, or agents of possessors of any interest in land acting within the scope of their assigned duties; and the director, partner, general partner, shareholder, limited liability company member, limited liability partner, or limited partner of possessors of any interest in land.

Oregon Laws 2017: Chapter 449

[Senate Bill 356-A](#)

Not Enacted

Intimidation Crimes

Chief Sponsors: Sen. Frederick

Committees: Senate Judiciary, House Judiciary

Background and Current Law: Intimidation in the second degree is when someone tampers or interferes with another's property, subjects them to offensive physical contact, or intentionally causes alarm with threats of injury or property damage against them or their family because of race, color, religion, sexual orientation, disability, or national origin. Intimidation in the first degree is when multiple people commit intimidation in the second degree, or assault in the fourth degree based on their perception of the victim's race, color, religion, sexual orientation, disability, or national origin. District attorneys in Oregon are authorized to pursue civil claims when they have reasonable cause to believe that criminal intimidation has occurred.

Bill Summary: Senate Bill 356-A would have added gender and ethnicity to the list of characteristics protected against intimidation. The bill would also have added assault in the fourth degree by a person acting alone within the ambit of intimidation in the first degree, and renamed intimidation crimes as bias crimes. Finally, Senate Bill 356-A would have authorized the Oregon Attorney General to also pursue civil claims when there is reasonable cause to believe that criminal intimidation has occurred.

[Senate Bill 357](#)

Effective Date: January 1, 2018

Graduated Penalties for Trespassing on Public Transportation

Chief Sponsors: Sen. Frederick; Rep. Greenlick

Committees: Senate Judiciary, House Judiciary

Background and Current Law: In Oregon, criminal trespass is classified as a Class C misdemeanor. It is elevated to a Class A misdemeanor when it occurs in a public transit vehicle or at a public transit station, under the crime of interfering with public transportation.

Bill Summary: Senate Bill 357 reduces this form of interfering with public transportation to a Class C misdemeanor unless the offender has at least three prior convictions for this conduct.

Oregon Laws 2017: Chapter 454

[Senate Bill 360](#)

Effective Date: October 6, 2017

Community Service Exchange Programs

Chief Sponsors: Sen. Frederick

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: Criminal convictions can result in a number of financial burdens, such as fines for the criminal conduct, restitution to any victims, court fees, and fees for the appointment of counsel. There are also monthly fees for probation and post-prison supervision, and if a person is ordered to take classes or participate in treatment, they pay the associated costs. These expenses are in addition to ordinary financial obligations a person may have, such as child support.

Bill Summary: Senate Bill 360 directs the governing body of each county to create a community service exchange program that allows individuals on parole or post prison supervision following incarceration with the Department of Corrections to enter into written agreements with a community-based organization to perform community service in lieu of payment of delinquent fees or debts, court-appointed attorney fees, and supervision fees.

Oregon Laws 2017: Chapter 522

[Senate Bill 385](#)

Not Enacted

Motorcycle “Lane-Splitting”

Chief Sponsors: Sen. Kruse; Rep. Post (at the request of former Rep. Hoyle)

Committees: Senate Judiciary

Background and Current Law: In 2016, California became the first state to allow motorcycle “lane-splitting” by directing the California Highway Patrol to develop educational guidelines.

Bill Summary: Senate Bill 385 would have authorized motorcycles and mopeds to drive in between adjacent lanes of traffic travelling in the same direction, when traffic slowed to less than 10 miles per hour on high speed roadways.

[Senate Bill 483](#)

Effective Date: January 1, 2018

Nonconsensual Use of GPS Tracking Devices

Chief Sponsors: Sen. Prozanski

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: Currently, Oregon does not clearly govern the nonconsensual use of GPS tracking devices by private parties.

Bill Summary: Senate Bill 483 criminalizes knowingly affixing a GPS tracking device to a motor vehicle without the owner’s consent, while preserving existing uses of such devices by commercial motor carriers and law enforcement acting pursuant to a warrant or other court order. The crime is classified as a Class A misdemeanor, unless the accused person previously engaged in stalking-related behavior, in which case the crime is classified as a Class C felony.

Oregon Laws 2017: Chapter 649

[Senate Bill 488](#)

Effective Date: January 1, 2018

Recovery of Stolen Vehicles

At the request of: Senate Interim Committee on Judiciary

Committees: Senate Judiciary, House Judiciary

Background and Current Law: The Federal Bureau of Investigation estimates that over 721,000 motor vehicles were stolen nationwide in 2012. Owners of stolen vehicles sometimes incur significant costs getting their vehicles back due to towing fees and vehicle storage charges.

Bill Summary: Senate Bill 488 requires law enforcement agencies to provide towers with vehicle owners’ contact information when stolen vehicles are recovered; prohibits accrual of storage fees until towers first attempt to notify owners; allows registered owners of vehicles totaled in connection with theft to transfer the title to the tower in lieu of fees when there is no applicable insurance coverage; and allows owners to inspect vehicles to determine their current condition and contents.

Oregon Laws 2017: Chapter 523

[Senate Bill 493](#)

Effective Date: January 1, 2018

Fourth-Degree Assault against Vulnerable Road Users

At the request of: Senate Interim Committee on Judiciary

Committees: Senate Judiciary, House Judiciary

Background and Current Law: In Oregon, assault in the fourth degree is usually a misdemeanor, committed when a person intentionally, knowingly, or recklessly causes physical injury to another, or causes physical injury to another by means of a deadly weapon while acting with criminal negligence.

Bill Summary: Senate Bill 493 broadens assault in the fourth degree to include also causing serious physical injury to a vulnerable user of a public way by means of a motor vehicle while acting with criminal negligence. Vulnerable road users include pedestrians, bicyclists, tractor operators, and others.

Oregon Laws 2017: Chapter 337

[Senate Bill 494-B](#)

Not Enacted

Modification of Advance Directives

At the request of: Senate Interim Committee on Judiciary

Committees: Senate Judiciary, Senate Rules, House Judiciary

Background and Current Law: Advance directives are legal documents that allow people to plan for health care treatments and other decisions like placement in a facility, in the event they are unable to make their own decisions. Advance directives may be used to appoint representatives or agents to make health care decisions and to provide health care instructions and preferences.

Bill Summary: Senate Bill 494-B would have modified a number of provisions governing advance directives in Oregon, including the definition of advance directive and their manner of execution. It would also have created an Advance Directive Adoption Committee and periodically review and revise Oregon's advance directive form.

[Senate Bill 503-A](#)

Not Enacted

Appointment of Visitors in Protective Proceedings

At the request of: Senate Interim Committee on Judiciary

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: Courts are authorized to appoint fiduciaries to make decisions on behalf of individuals who are incapacitated. Fiduciaries include both guardians and conservators. Under current law, courts are required to appoint visitors in guardianship proceedings and have the discretion to do so in any other protective proceeding. Appointed visitors are required to interview fiduciaries and individuals who are the subject of the proceedings, are authorized to interview others, and must submit a report to the court assessing the fiduciary and the appropriateness of appointment. Presiding judges are responsible for establishing the standards and qualifications of visitors they appoint.

Bill Summary: Senate Bill 503-A would have required the Chief Justice of the Oregon Supreme Court to establish policies and qualifications for court appointed visitors rather than the individual presiding judges. Visitor appointments would have been required in conservatorship as well as guardianship proceedings and courts would have been authorized to obtain visitors' criminal histories.

[Senate Bill 505](#)

Effective Date: August 2, 2017

Recording Grand Jury Proceedings

At the request of: Senate Interim Committee on Judiciary

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: Most felony charges are by grand jury indictment, although they can also occur after a preliminary hearing. A grand jury consists of seven people who evaluate evidence and decide whether there is enough evidence to file formal charges. A district attorney typically presents evidence but is not present for deliberations. Individuals who may be charged cannot be at all of grand jury proceedings, but they can testify; in contrast, the defense attorney is not allowed to attend any of the proceedings. Grand jury proceedings are not recorded, although jurors often take handwritten notes that may be disclosed with a court order.

Bill Summary: Senate Bill 505 requires grand jury proceedings to be recorded electronically or by shorthand reporters beginning March 1, 2018 on a graduated basis, and implemented statewide by July 1, 2019. The measure specifies what matters must be recorded, what is prohibited from being recorded, and how transcripts may be obtained or protected from release. The measure also specifies when recorded information may be used in subsequent court proceedings, such as to refresh a witness' recollection, and further allows peace officers to present the statements of certain people, such as minor victims, that might otherwise be considered hearsay.

Oregon Laws 2017: Chapter 650

Public Records Exemption for Images of Deceased Persons

At the request of: Senate Interim Committee on Judiciary

Committees: Senate Judiciary, House Judiciary

Background and Current Law: In Oregon, government records must be disclosed to the public unless they are exempt from disclosure. Each public body must maintain its own records and handle requests for documents. They are required to have a process, available in writing, to request a copy of records or an opportunity to inspect them. There are, however, several categories of public records that are not subject to mandatory disclosure. For example, Oregon law contains an exemption for information of a “personal nature,” including medical files, if the disclosure would create an unreasonable invasion of privacy, unless the person seeking the information can demonstrate that the public interest requires disclosure.

Bill Summary: Senate Bill 508 similarly classifies images of a decedent that are part of a law enforcement investigation, deeming the images exempt from public disclosure, absent an individualized showing of a clear and convincing public interest that does not constitute an unreasonable invasion of privacy.

Oregon Laws 2017: Chapter 340

Reestablishment of Task Force on Reentry, Employment and Housing

Chief Sponsors: Sens. Dembrow, Frederick, Winters; Rep. Parrish

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: In 2015, the legislature established a Task Force on Reentry, Employment and Housing, charged with studying and making recommendations on a number of issues to improve reentry success and reduce recidivism. It concluded in December 2016 and issued a report in January 2017. Several legislative concepts resulted from its work. One of its recommendations was to continue work on reentry needs specific to women.

Bill Summary: Senate Bill 689 would have continued the work of the Task Force on Reentry, Employment and Housing until December 31, 2018.

Certificates of Good Standing for Nonviolent Offenders

Chief Sponsors: Sens. Dembrow, Frederick; Rep. Parrish

Committees: Senate Judiciary, House Judiciary

Background and Current Law: In 2015, the legislature established a Task Force on Reentry, Employment and Housing, charged with studying a number of issues to improve reentry success and reduce recidivism, and required to make recommendations to the legislature. Several legislative concepts resulted from its work.

Bill Summary: Senate Bill 690 authorizes a pilot, modeled after a similar program in Washington State, that allows courts to issue Certificates of Good Standing to persons convicted of nonperson crimes who meet specified criteria, including the completion of all requirements of their sentence. If employers hire persons with certificates, it provides a presumption of non-negligence in cases that allege negligent hiring. Senate Bill 690 also requires courts to revoke certificates if a recipient made a material misrepresentation in the application or was subsequently convicted of a crime other than a Class C misdemeanor. Finally, the issuance of certificates and any subsequent revocation must be recorded in the Law Enforcement Data System. The pilot program is scheduled to sunset January 2, 2022.

Oregon Laws 2017: Chapter 526

Pre-Entry Services Pilot Program

Chief Sponsors: Sens. Dembrow, Frederick; Rep. Parrish

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: In 2015, the legislature established a Task Force on Reentry, Employment and Housing, charged with studying and making recommendations on a number of issues to improve reentry success and reduce recidivism. As part of its work, the task force examined the pre-entry program at Metropolitan Public Defender Services (MPDS). The program assists people in preparing for incarceration, such as teaching them how to defer or suspend financial obligations during incarceration. The task force recommended establishing a program for pre-entry services.

Bill Summary: Senate Bill 692-A would have created a pre-entry pilot program administered by MPDS in Multnomah and one rural county. The measure would have directed MPDS to develop a pre-entry checklist, partner with the Oregon Department of Corrections, and collect data on the results of the program.

Driver License Suspensions

Chief Sponsors: Sens. Winters, Courtney, Dembrow

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: In 2015, the legislature established a Task Force on Reentry, Employment and Housing, charged with studying and making recommendations on a number of issues to improve reentry success and reduce recidivism. Several legislative concepts resulted from its work. In most jurisdictions, including Oregon, a person's driver license may be suspended for a variety of administrative or technical reasons unrelated to driving, such as failing to pay a fine for littering. The task force found that an inability to reinstate one's driver license was "one of the single greatest barriers to obtain/maintain stable employment."

Bill Summary: Senate Bill 693-C would have made several changes to provisions governing driver licenses, including the elimination of probationary driving permits and several driving privilege suspensions unrelated to the operation of motor vehicles. The measure would have also standardized the various requirements for a hardship permit.

Extreme Risk Protection Orders

Chief Sponsors: Senate Committee on Judiciary

Committees: Senate Judiciary, House Rules

Background and Current Law: Protective or restraining orders, also called injunctions, are sought in court to prohibit action or conduct by persons or entities, and may be issued in connection with criminal or civil cases, or from an independent process. Oregon separates such orders by type and circumstances, such as stalking protection orders for stalking cases.

Bill Summary: Senate Bill 719 authorizes an extreme risk protection order for law enforcement or family or household members to prohibit someone from possessing deadly weapons, if it can be shown by clear and convincing evidence that they present a risk, in the near future, of committing suicide or causing physical injury to another. The measure provides for a hearing, allows modification and termination of the order, and creates Class A misdemeanor crimes for both violating such an order and for falsely seeking such an order. Such violations can result in a five-year prohibition against possessing firearms.

Oregon Laws 2017: Chapter 737

[Senate Bill 762](#)

Effective Date: January 1, 2018

Immunity for Certain Minors in Possession of Alcohol

Chief Sponsors: Sen. Gelser, Sen. Taylor

Committees: Senate Judiciary, House Judiciary

Background and Current Law: Oregon prohibits individuals under age 21 from purchasing or possessing alcohol. However, minors cannot be prosecuted if evidence of a violation is obtained when they seek medical assistance for alcohol use for themselves or others.

Bill Summary: Senate Bill 762 extends this immunity from prosecution for purchasing or possessing alcohol to include minors seeking assistance from law enforcement or emergency medical providers for themselves or others due to sexual assault.

Oregon Laws 2017: Chapter 347

[Senate Bill 844](#)

Effective Date: August 8, 2017

Use of Inmate Trust Funds

Chief Sponsors: Committee on Judiciary

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: The Oregon Department of Corrections (DOC) establishes trust accounts for inmates. Inmate earnings, and funds from other sources, such as family, may be deposited into the account to purchase items and services during incarceration. On November 28, 2016, an Inmate Financial Accountability Workgroup issued a report recommending legislation to allow inmate funds to be used to save for reentry and to pay certain financial obligations.

Bill Summary: Senate Bill 844 creates a process for DOC to collect certain amounts from inmates' trust accounts for their transition and the payment of court-ordered financial obligations. It specifies the percentage of funds that DOC may collect and how those funds are dispersed, including establishing a priority system for payment of court-ordered financial obligations.

Oregon Laws 2017: Chapter 692

[Senate Bill 846](#)

Effective Date: January 1, 2018

Prohibition of Physical Restraint in Juvenile Proceedings and Youth Transport

Chief Sponsors: Sens. Gelser, Frederick, Manning, Jr., Thatcher

Committees: Senate Judiciary, House Judiciary

Background and Current Law: Oregon has recognized the right of an accused person to appear unshackled in front of a jury since 1883. A person may only be restrained if there is an immediate and serious risk of dangerous or disruptive behavior.

Bill Summary: Senate Bill 846 prohibits youth in any juvenile proceeding from being subject to physical restraints unless it is necessary because of an immediate and serious risk of dangerous or disruptive behavior and no less restrictive alternative exists. The measure also prohibits the use of restraints during the transport of youth in the custody of the Oregon Department of Human Services or the Oregon Health Authority unless it is secure transport or necessary because of an immediate and serious risk of dangerous or disruptive behavior and no less restrictive alternatives exist.

Oregon Laws 2017: Chapter 257

[Senate Bill 899](#)

Effective Date: January 1, 2018

Establishment of Oregon Receivership Code

Chief Sponsors:

Committees: Senate Judiciary, Senate General Government and Accountability, House Judiciary

Background and Current Law: Receivership is a process by which courts appoint persons to manage the property of others (receivers), usually business entities that are being liquidated or dissolved. Receivers may have broad authority to manage and dispose of real and personal property, to reject or execute contracts, and to settle outstanding claims from available assets. Oregon does not currently have a comprehensive code to govern receiverships.

Bill Summary: Senate Bill 899 establishes the Oregon Receivership Code. It provides for appointment of receivers, their powers and duties, claims processes, the obligations of property owners, notification and reporting requirements, and stays of certain related judicial and administrative proceedings.

Oregon Laws 2017: Chapter 358

[Senate Bill 1005](#)

Not Enacted

Restrictions on Public Investment in Private Prisons

Chief Sponsors: Sen. Taylor

Committees: Senate Judiciary

Background and Current Law: The Oregon Department of Corrections (DOC) is authorized to contract with public entities for correctional services in other states, but not with private prisons.

Bill Summary: Senate Bill 1005 would have directed the Oregon Investment Council and the State Treasurer to ensure, insofar as possible, that money in the Public Employees Retirement Fund was not invested in companies that operate private prisons or that own more than one million shares in other companies that operate private prisons. It would have also directed the State Treasurer to adopt a policy statement instructing fund managers to end such investments within 90 days, if possible without monetary loss, consistent with fiduciary standards.

[Senate Bill 1050](#)

Effective Date: January 1, 2018

Presumptive Life Sentence for Felony Sex Crimes with Prior Convictions

Chief Sponsors: Sens. Courtney, Thatcher

Committees: Senate Judiciary, Joint Ways and Means

Background and Current Law: Offenders convicted of multiple sex crimes in Oregon may be subject to specific enhanced sentences. For example, offenders are subject to a presumptive life sentence if convicted of a third felony sex crime, and persons convicted of more than one specified “major felony” sex crime are subject to a 25-year minimum mandatory sentence.

Bill Summary: Senate Bill 1050 creates a presumptive life sentence for persons convicted of specified first degree sex crimes, if they have previously been convicted of a crime on the same list or a similar crime in another jurisdiction.

Oregon Laws 2017: Chapter 699

Creation of Budget Oversight Commission for Department of Corrections

Chief Sponsors: Rep. Gorsek

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: Oregon Department of Corrections (DOC) employees can be required to work overtime, due to the nature of the work: corrections facilities are 24/7 operations where order and supervision are maintained over populations that greatly outnumber staff. The American Federation of State, County and Municipal Employees (AFSCME) estimates that DOC personnel across 13 institutions in Oregon worked in excess of 300,000 hours of overtime in 2016, and that 126,302 (or 40 percent) of those hours were mandatory. In addition to obvious budget implications, required overtime can impact the health and safety of employees.

Bill Summary: House Bill 2105 would have created a DOC Budget Oversight Commission to advise the Governor and DOC, and to recommend legislation concerning the management and implementation of DOC’s biennial budget, including employee overtime and healthcare expenses.

Secular Solemnization of Marriages

Chief Sponsors: Rep. Greenlick; Sen. Steiner Hayward

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Oregon allows marriages to be solemnized by a judicial officer, county clerk, religious organization or congregation, or clergy person authorized by a religious congregation or organization. Oregon law is silent with regard to secular organizations or officiants.

Bill Summary: House Bill 2113 adds secular organizations and celebrants or officiants of secular organizations to the list of persons and entities authorized to solemnize marriages.

Oregon Laws 2017: Chapter 61

[House Bill 2171](#)

Not Enacted

Court Appointed Special Advocates

Chief Sponsors: Reps. Stark, Olson; Sens. Roblan, Gelser

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: Nearly 1,900 individuals volunteered to serve as Court Appointed Special Advocates (CASAs) in 2015. CASAs are appointed by courts to advocate for children involved in juvenile dependency proceedings. There are 26 individual CASA programs in Oregon serving children in 35 counties. These programs are supported by the Oregon Volunteers Commission for Voluntary Action and Service.

Bill Summary: House Bill 2171 would have required the Oregon Volunteers Commission to maintain a volunteer CASA base large enough to appoint:

- 1.) a CASA for each juvenile dependency proceeding
- 2.) only 45 cases per CASA
- 3.) at least 1 supervisor per 30 volunteer CASAs as recommended by the National CASA

[House Bill 2249](#)

Effective Date: January 1, 2018

Reentry Services for More Youth Offenders

At the Request of: Governor Brown for Department of Corrections

Committees: House Judiciary, Senate Judiciary

Background and Current Law: The Department of Corrections (DOC) currently awards grants to counties to support reentry services for youth offenders serving DOC sentences in the physical custody of the Oregon Youth Authority who are released on supervision prior to turning age 19. Reentry services may include aid for housing, employment and vocational assistance, transportation, access to health care and medications, mentoring, and specialized supervision strategies.

Bill Summary: House Bill 2249 authorizes DOC to enter into agreements with counties to include services for youth who are released on transitional leave, work release, into conditional or supervised programs, or who received a reduced sentence prior to turning age 25.

Oregon Laws 2017: Chapter 150

[House Bill 2251](#)

Effective Date: January 1, 2018

Incarceration of All Youth Offenders at Oregon Youth Authority Facilities

At the Request of: Governor Kate Brown for Department of Corrections

Committees: House Judiciary, Senate Judiciary

Background and Current Law: In Oregon, adult offenders are housed at Department of Corrections (DOC) facilities, and youth offenders are housed at Oregon Youth Authority (OYA) facilities, including the small number of juveniles who are prosecuted as adults and sentenced to terms of imprisonment at DOC before they reach age 20. When a juvenile reaches the age of 25 while housed at OYA with time remaining on their sentence, they are transferred to DOC.

Bill Summary: House Bill 2251 codifies current practice by prohibiting incarceration of persons under age 18 at DOC institutions.

Oregon Laws 2017: Chapter 134

[House Bill 2308](#)

Effective Date: January 1, 2018

Credit for Time Served for Persons Who Are Unfit to Proceed

At the Request of: Governor Kate Brown for Oregon Health Authority

Committees: House Judiciary, Senate Judiciary, Senate Rules

Background and Current Law: The United States Constitution prohibits criminal prosecution of people who, as a result of mental illness, are not competent to stand trial. Every state has established processes to suspend prosecutions so that accused individuals may receive treatment designed to restore competency, at which time prosecution may continue. In Oregon, such individuals are referred to as unfit to proceed by reason of incapacity, and they may be committed to the Oregon State Hospital for evaluation and treatment. Oregon's process also includes enforceable timelines to guard against the risk of indefinite institutionalization when a person's competence is not capable of restoration: an accused person may not be committed to the Oregon State Hospital for more than three years or a period of time equal to the maximum sentence that could have been imposed if the person had been convicted, whichever is shorter.

Bill Summary: House Bill 2308 authorizes credit against the maximum period of commitment to the Oregon State Hospital for restorative treatment for each day an accused person served in jail unless the person is charged with aggravated murder or a specified crime with a mandatory minimum sentence.

Oregon Laws 2017: Chapter 628

Juvenile Dependency Proceedings Improvements

At the Request of: Governor Brown for Department of Human Services

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: In juvenile dependency proceedings, courts may temporarily or permanently remove children from the care of their parents or guardians to protect them from abuse or neglect. Dependency cases are typically brought by the Department of Human Services (DHS) on behalf of the state, and the agency is required to appear with its attorney from the Department of Justice (DOJ). In historical practice, however, DHS caseworkers often appear without counsel. In 2014, House Bill 4156 authorized DHS to continue to appear without counsel in certain uncontested dependency cases, but only until a more permanent solution could be found. This authority was extended by Senate Bill 222 in 2015, but only until 2018, SB 222 also established a task force to make recommendations to improve or resolve legal representation and other issues in juvenile court proceedings. House Bill 2345-A resulted from task force efforts.

Bill Summary: House Bill 2345-A would have required DOJ to appear at all phases of dependency proceedings for a flat fee. The measure would also have established performance standards and capped attorney caseloads by implementing the Parent-Child Representation Program, currently operating in three counties in Oregon, by January 1, 2022.

Race-Based Concerns in the Public Safety System

At the Request of: Attorney General Rosenblum

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: Public safety and criminal justice systems across the nation, and the communities they serve, are increasingly concerned with racial profiling, the collateral consequences of criminal convictions, and the effect of individuals' immigration status on their involvement with such systems.

The possession of certain controlled substances is currently punishable as a felony and often results in collateral consequences, including adverse effects on employment opportunity, housing, jury service, and the ability to possess a firearm, even long after a person successfully completes all the conditions of a criminal sentence.

In most jurisdictions, including Oregon, misdemeanors may be punished by sentences that include up to a year of imprisonment, and felonies may be punished by longer sentences. The federal Immigration and Nationality Act (INA) defines certain crimes as deportable if they are punishable by a term of "at least one year" or "one year or longer" in order to capture felony conduct.

Bill Summary: House Bill 2355 provides for both misdemeanor and felony classifications of controlled substance possession crimes, depending on the seriousness of the specific circumstances of each case, and requires the Criminal Justice Commission (CJC) to study the effect of this change. The measure requires the CJC, along with the Department of State Police (DSP) and the Department of Justice (DOJ), to develop a standard method for law enforcement entities to record data about traffic and pedestrian stops by July 1, 2018, and tasks the Department of Public Safety Standards and Training (DPSST) to develop corresponding training. Law enforcement entities must begin forwarding data to CJC on a staggered basis, and CJC will report annually to the Governor, DPSST, and the legislature. House Bill 2355 also reduces the possible term of imprisonment for a Class A misdemeanor in Oregon from a maximum of 365 days to a maximum of 364 days.

Oregon Laws 2017: Chapter 706

[House Bill 2360](#)

Effective Date: June 22, 2017

Sex Offender Reporting

At the Request of: Attorney General Rosenblum

Committees Assigned: House Judiciary, Senate Judiciary

Background and Current Law: Sex offenders who reside, work, or attend school in Oregon are required to register with law enforcement at specified times, including within 10 days of a change of residence. Failure to do so is a crime: the state must prove beyond a reasonable doubt that the offender moved and failed to report both the move and their new address.

Bill Summary: House Bill 2360 restores the crime of failing to report a change of address as it existed prior to 2009: the state must prove that the offender moved and did not inform authorities, without also having to prove what the offender's new address is. This change sunsets January 1, 2022, when the elements of the crime will again include having to prove the offender's new address.

Oregon Laws 2017: Chapter 418

[House Bill 2409](#)

Effective Date: October 6, 2017

Traffic Tickets Issued Based on Recorded Data

Chief Sponsors: Reps. Barker, Olson, Lininger; Sens. Kruse, Steiner Hayward

Committees: House Judiciary, House Revenue, Senate Judiciary

Background and Current Law: As a general rule, a traffic ticket may be issued by law enforcement only if the underlying conduct is witnessed by law enforcement. There are several exceptions, including the issuance of tickets based on evidence collected by red light cameras or photographic radar systems operated by some cities.

Bill Summary: House Bill 2409 authorizes cities to operate cameras and other technologies, mounted on street lights or other appropriate places, to record drivers who speed more than 11 miles per hour over the limit so long as: communities and drivers are notified; law enforcement reviews data prior to issuing citations; and registered owners are permitted to respond to such citations with a certificate of innocence or nonliability. House Bill 2409 also prohibits tickets, based on recorded data, for both running a red light and speeding unless the speed limit is exceeded by more than 21 miles per hour.

Oregon Laws 2017: Chapter 288

[House Bill 2472](#)

Not Enacted

Responsibilities for Death Investigations

Chief Sponsors: Rep. Bentz

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: Death investigations in Oregon are supervised by the Medical Examiner Division of the Oregon State Police. The division currently employs six medical examiners and one forensic anthropologist. Most counties also employ deputy medical examiners, who are often local sheriff’s deputies, to respond and conduct initial assessments. Some counties struggle to fund and maintain these positions and resources to train and supervise deputy medical examiners are limited.

Bill Summary: House Bill 2472 would have required the State Medical Examiner to assume all death investigation responsibilities currently being undertaken by counties by July 2021.

[House Bill 2526](#)

Not Enacted

Suicide Prevention Materials for Firearms Transactions

Chief Sponsors: Rep. Buehler

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: The Oregon Health Authority reports there were 2,280 firearm fatalities in Oregon between 2010 and 2014, and of those, 1,897 were suicides.

Bill Summary: House Bill 2526 would have directed the Department of Justice to create a firearm safety and suicide prevention education program to provide a variety of free education materials to gun dealers for dissemination to gun purchasers.

[House Bill 2579](#)

Effective Date: January 1, 2018

Youth Offenders Supervision

Chief Sponsors: Reps. Rayfield, Olson

Committees: House Judiciary, Senate Judiciary

Background and Current Law: In Oregon, a person convicted in adult court is allowed to serve a sentence at the Oregon Youth Authority (OYA) if the person committed the offense as a minor and was sentenced prior to turning age 20. However, a person may not remain in the legal and physical custody of OYA after turning age 25. If a person still has remaining time to serve when the person turns age 25, that person's legal and physical custody is returned to the Department of Corrections (DOC). Under current law, these persons are supervised upon release by the State Board of Parole and Post-Prison Supervision, regardless of whether the person ever served part of the sentence at DOC.

Bill Summary: House Bill 2579 authorizes OYA to provide reentry support and services to youth sentenced to DOC who served their entire period of incarceration at an OYA facility, until they either turn 25 or complete all the other conditions of their sentence.

Oregon Laws 2017: Chapter 79

[House Bill 2597](#)

Effective Date: October 1, 2017

Expanded Prohibitions Against Distracted Driving

Chief Sponsors: Reps. Olson, Lininger; Sen. Burdick

Committees: House Judiciary, Senate Judiciary, Senate Rules

Background and Current Law: Since 2007, Oregon law has restricted the use of mobile communication devices while driving. In 2015, the Oregon Court of Appeals interpreted the law to prohibit "talking and texting on a mobile communication device, but not all activities that can be performed using such a device" (State v. Rabanales-Ramos, 359 P.3d 250 (Or. Ct. App. 2015)). The Oregon Department of Transportation, Oregon State Police, and the American Automobile Association organized a task force on distracted driving during 2016 that developed recommendations, resulting in House Bill 2597.

Bill Summary: House Bill 2597 strengthens restrictions against the use of mobile devices while driving, eliminates several exceptions, increases penalties, and allows the fine to be suspended for a first offense.

Oregon Laws 2017: Chapter 629

[House Bill 2598](#)

Effective Date: January 1, 2018

Motorcyclists Protection from Reckless Drivers

Chief Sponsors: Reps. Olson, Barker, Post

Committees: House Judiciary, Senate Judiciary

Background and Current Law: It is against the law in Oregon to recklessly operate a vehicle upon a highway in a manner that results in contact between the vehicle and a pedestrian, bicycle, or bicycle operator, when the contact results in physical injury to the pedestrian or bicycle operator.

Bill Summary: House Bill 2598 expands this offense to include contact with a motorcycle, operator, or passenger that results in injury to the operator or passenger.

Oregon Laws 2017: Chapter 388

[House Bill 2608](#)

Effective Date: May 15, 2017

Uniform Trust Code Applicability Corrections

At the Request of: House Interim Committee on Judiciary

Committees: House Judiciary, Senate Judiciary

Background and Current Law: In 2015, House Bill 2331 updated the Oregon Uniform Trust Code. The Oregon Uniform Trust Code was originally adopted in 2005 after it was developed by the National Conference of Commissioners on Uniform State Laws. House Bill 2331 made several updates and changes, but due to an oversight, those changes were only applied to trusts executed after the bill went into effect. Changes were intended to apply to all trust proceedings commenced after the bill passed, regardless of when the underlying trust was executed.

Bill Summary: House Bill 2608 corrects the oversight, making updates to Oregon's Uniform Trust Code applicable to trust proceedings commenced on or after May 15, 2017.

Oregon Laws 2017: Chapter 54

[House Bill 2610](#)

Effective Date: January 1, 2018

Electronic Signatures and Notices in Corporate Documents

At the Request of: House Interim Committee on Judiciary

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Many actions taken or meetings held by corporations require some form of written notice to the Board of Directors or shareholders, which includes electronic communications; however, electronic notices are not specifically contemplated by current law.

Bill Summary: House Bill 2610 provides for electronic signatures on corporate documents and the sending, receipt, and refusal of electronic notices.

Oregon Laws 2017: Chapter 55

[House Bill 2615](#)

Not Enacted

Penalty for Theft by Receiving Adjustment

At the Request of: House Interim Committee on Judiciary

Committees: House Judiciary

Background and Current Law: Theft crimes are divided by degree, generally based on the value of the stolen property. In Oregon, theft crimes include aggravated theft in the first degree, theft in the first degree, theft in the second degree, and theft in the third degree. There are also crimes of theft by deception and by extortion. Theft in the first degree is committed by either theft by receiving or theft of property worth at least \$1000. In 1980, the Oregon Court of Appeals held that an offender's attempt to return merchandise worth \$400 to the business it was stolen from constituted theft by receiving and upheld a conviction for first degree theft even though the value of the stolen property was less than \$1,000 (State v. Rocha, 618 P.2d 475 (Or. Ct. App. 1980)).

Bill Summary: House Bill 2615 would have made the penalty for theft committed by returning stolen merchandise dependent on the value of the merchandise.

[House Bill 2616](#)

Effective Date: January 1, 2018

Mandated Appointment of Counsel for Indigent Youth

At the Request of: House Interim Committee on Judiciary

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Youth have the same right to counsel as adults. The U.S. Supreme Court held that juveniles have a constitutional right to counsel in delinquency proceedings in 1967. Youth involved in delinquency proceedings are entitled, but not required, to have counsel, and counsel may be appointed at state expense if they are indigent. In Oregon, minors can currently waive counsel, regardless of age.

Bill Summary: House Bill 2616 requires courts to appoint counsel for indigent youth in delinquency proceedings whenever incarceration is a possible penalty, for probation proceedings, and to any case where an adult charged with the same conduct would be entitled to counsel. The measure also specifies procedures for youth to waive counsel.

Oregon Laws 2017: Chapter 389

[House Bill 2620](#)

Not Enacted

Crime of Assault Against Hospital Employees

At the Request of: House Interim Committee on Judiciary

Committees: House Judiciary

Background and Current Law: There are four degrees of assault crimes in Oregon. Assault in the fourth degree is usually a misdemeanor, committed when a person intentionally, knowingly, or recklessly causes physical injury to another. Assault in the first, second, and third degrees are felonies. Third degree assault includes a variety of specified conduct, such as intentionally, knowingly, or recklessly causing physical injury to an emergency medical services provider while the provider is performing their official duties.

Bill Summary: House Bill 2620 would have added intentionally, knowingly, or recklessly causing physical injury to a person working in a hospital while they are performing their duties to the list of prohibited conduct that constitutes assault in the third degree.

[House Bill 2622](#)

Effective Date: June 14, 2017

Financial Institutions Account Freeze to Limit Finance Exploitation

At the Request of: House Interim Committee on Judiciary

Committees: House Judiciary, Senate Judiciary

Background and Current Law: According to a 2015 report by the Oregon Department of Human Services' (DHS) Office of Adult Abuse Prevention and Investigation, of the 19,000 investigations of abuse conducted by DHS that year, over 1,500 resulted in findings of substantiated financial exploitation, which is the leading type of abuse of vulnerable adults.

Bill Summary: House Bill 2622 allows financial institutions, including credit unions, to refuse transactions when they reasonably suspect financial exploitation or have received information from DHS, law enforcement, or a district attorney's office that financial exploitation is suspected or has occurred. Financial institutions are not required to freeze transactions, but if they do so in good faith, they are provided with blanket immunity from liability. Accounts may be frozen up to 15 days, and the hold may be terminated by a court order or if the financial institution is satisfied that exploitation is not occurring.

Oregon Laws 2017: Chapter 290

[House Bill 2625](#)

Effective Date: January 1, 2018

Forfeiture of Abused and Neglected Animals

At the Request of: House Interim Committee on Judiciary

Committees: House Judiciary, Senate Judiciary

Background and Current Law: In Oregon, law enforcement may remove an animal when there is probable cause to believe the animal has been abused or neglected. Animals may be placed with care agencies and agencies can petition courts to order forfeiture of the animal prior to resolution of a corresponding criminal case. After a hearing on the petition, a court may order an animal forfeited, unless the defendant posts a bond sufficient to provide for the animal's care until the criminal case is resolved. Only animals identified as abused or neglected in pending criminal cases may be forfeited, which encourages prosecutors to file separate charges in the interest of each animal, even if fewer charges might be more appropriate.

Bill Summary: House Bill 2625 applies the existing animal forfeiture process to any animal that is lawfully recovered pending a criminal trial for animal abuse or neglect, regardless of whether the specific animal is involved in a particular criminal charge.

Oregon Laws 2017: Chapter 279

[House Bill 2630](#)

Effective Date: January 1, 2018

Expanded Requirements for Fiduciary Appointments

At the Request of: House Interim Committee on Judiciary

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Fiduciaries are persons or entities appointed by courts to assume duties on behalf of protected persons. Fiduciaries include both guardians and conservators: guardians may have broad authority to act, while the scope of a conservator's authority is limited to financial decisions. In order for an appointment to be made, a court must first determine that a person lacks the capacity to make decisions on their own behalf.

Bill Summary: House Bill 2630 strengthens requirements around the appointment and conduct of fiduciaries. Petitions for appointment must describe less-restrictive alternatives that were considered, explain why those alternatives were inadequate, and identify the scope of authority being sought. The measure also allows protected persons to object orally to motions in protective proceedings. It further requires guardians to follow a specific process to change the abode or placement of protected adults and authorizes the removal of guardians who fail to comply. Finally, the measure requires the yearly guardian's report to specify facts that support findings of incapacity and to provide notice for anyone concerned about the guardian's conduct to contact the court.

Oregon Laws 2017: Chapter 391

[House Bill 2638](#)

Effective Date: October 6, 2017

Standards for Ignition Interlock Devices

At the Request of: House Interim Committee on Judiciary

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: Any person convicted of driving under the influence of intoxicants (DUII) or participating in a DUII diversion program and driving must have an ignition interlock device installed in any vehicle they drive. Interlock devices record and report breath samples provided by drivers and prevent vehicles from starting if alcohol is detected. Interlock devices also record and report tampering and lockouts.

Bill Summary: House Bill 2638 strengthens standards and requirements imposed on providers of ignition interlock devices: they must offer service centers statewide, have a 24-hour assistance line, and complete background checks on technicians. The measure also requires interlock devices to take location readings via GPS when test violations occur, permits diversion participants to be ordered back into treatment upon receipt of two negative reports, and transfers oversight of providers from the Oregon Department of Transportation to the Department of State Police in 2019.

Oregon Laws 2017: Chapter 655

Crime of Assault Against Public Transit Employees

Chief Sponsors: Reps. Gorsek, McLain; Sen. Dembrow

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: There are four degrees of assault crimes in Oregon. Assault in the fourth degree is usually a misdemeanor, committed when a person intentionally, knowingly, or recklessly causes physical injury to another. Assault in the first, second, and third degrees are felonies. Third degree assault includes a variety of specified conduct, such as intentionally, knowingly, or recklessly causing physical injury, by means other than a motor vehicle, to a public transit vehicle operator while they are operating the vehicle.

Bill Summary: House Bill 2717 would have broadened assault in the third degree to include causing injury to public transit employees acting within the scope of their employment.

Requirement of Counsel for Youth Prior to Custodial Interviews

Chief Sponsors: Reps. Gorsek, Piluso, Bynum

Committees: House Judiciary

Background and Current Law: Law enforcement may not interrogate individuals in custody unless such individuals are first advised of their rights to counsel and against self-incrimination, including youth. Both rights can be waived. Because brain development is not yet complete among youth, they may have decreased decision-making ability.

Bill Summary: House Bill 2718 would have required youth to consult with an attorney in person, by telephone, or by video conference, prior to consenting to a custodial interview with law enforcement. The measure would also have provided a narrow exception for law enforcement to obtain information believed necessary to protect life or property from a substantial threat.

[House Bill 2721](#)

Effective Date: August 8, 2017

Crime of Assault Against Highway Workers

Chief Sponsors: Reps. McLain, Gorsek, Sprenger; Sen. Thomsen

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: There are four degrees of assault crimes in Oregon. Assault in the fourth degree is usually a misdemeanor, committed when a person intentionally, knowingly, or recklessly causes physical injury to another. Assault in the first, second, and third degrees are felonies. Third degree assault includes a variety of specified conduct, such as intentionally, knowingly, or recklessly causing physical injury, by means other than a motor vehicle, to the operator of a taxi while the operator is in control of the taxi.

Bill Summary: House Bill 2721 adds knowingly or recklessly causing physical injury to a flagger or highway worker performing their duties to the list of prohibited conduct that constitutes assault in the third degree.

Oregon Laws 2017: Chapter 658

[House Bill 2732](#)

Effective Date: June 22, 2017

Unattended Children and Pets in Motor Vehicles

Chief Sponsors: Rep. Clem

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Law enforcement officers who have probable cause to believe that an animal is being abused or neglected are authorized to enter premises or motor vehicles to recover the animal and care for it without being held liable for damage that was necessary to make entry.

Bill Summary: House Bill 2732 similarly protects any person who enters a motor vehicle to assist an unattended child or domestic animal from criminal or civil liability, under specific circumstances. Among other factors, the person making entry must reasonably believe that the child or animal is in imminent danger of suffering harm.

Oregon Laws 2017: Chapter 424

Patent Holder Liability for Genetically Engineered Organisms

Chief Sponsors: Rep. Barnhart

Committees: House Judiciary, House Rules

Background and Current Law: A “GMO” is a genetically modified organism. Genetic changes are achieved through laboratory techniques, including the manipulation of existing genetic material or the introduction of modified genetic material into the organism. Crops may be genetically altered to be resistant to pesticides and herbicides, to combat disease and parasites, or to increase nutritional value. Several countries ban producing or importing genetically modified crops and local farmers and agricultural operations may be concerned about accidental contamination of nonmodified crops.

Bill Summary: House Bill 2739 would have allowed lawsuits against GMO patent holders if their products were discovered on land without permission. If a GMO was found on public land, any person within the jurisdiction of the public body owning the land would have been authorized to bring an action if the public body declined to do so. The measure also provided an affirmative defense if a GMO was present on land through an intentional act without the patent holder’s permission.

Transit Violations Administrative Resolutions

Chief Sponsors: Rep. Barker; Sen. Dembrow

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Public transit riders who fail to pay the fare or who commit other transit-related violations may be issued citations to appear in court the same as with ordinary traffic violations, and may be subject to fines.

Bill Summary: House Bill 2777 authorizes mass transit districts to create an optional, alternative administrative process for resolving transit violations that allows them to reduce fines through an in-house hearing, or order community service as an alternative to fines, in order to permit riders to avoid court if they wish. If a violation is not resolved through the administrative process within 90 days, the individual will be required to appear in court.

Oregon Laws 2017: Chapter 427

[House Bill 2793-A](#)

Not Enacted

Consequences of Conviction of Commercial Sexual Solicitation

At the Request of: House Committee on Judiciary

Committees: House Judiciary, House Rules

Background and Current Law: One approach to reducing prostitution is to impose harsher penalties on those who buy sexual services while offering aid and support services to sex workers and individuals being trafficked.

Bill Summary: House Bill 2793-A would have increased the consequences of a conviction for commercial sexual solicitation by requiring offenders to disclose all licenses, certificates, permits, and registrations they held, and the court to notify issuing entities of the conviction. The measure would also have revoked any hunting or angling tags or licenses held by offenders for one year. Finally, House Bill 2793-A would have created a “john school” where offenders would have been required to complete courses as a condition of diversion or probation.

[House Bill 2794-A](#)

Not Enacted

Modification of Crime for Unlawful Use of a Vehicle

At the Request of: House Committee on Judiciary

Committees: House Judiciary, Joint Ways and Means

Background and Current Law: In prosecutions for the unlawful use of a vehicle, which frequently involve allegations that the vehicle was stolen, one of the elements the state must prove beyond a reasonable doubt is the defendant’s mental state: that they knew the vehicle was operated without the owner’s consent. Judges and juries reach conclusions about whether or not the elements of a crime have been proven based on direct evidence and on reasonable inferences drawn from circumstantial evidence. The Oregon Court of Appeals has reversed a number of convictions for lack of evidence of mental state in particular, which often involves circumstantial evidence. As a result, some counties are prosecuting fewer stolen car cases.

Bill Summary: House Bill 2794-A would have relaxed the mental state needed to steal a car, requiring the state to prove beyond a reasonable doubt that a defendant failed to be aware of a substantial and unjustifiable risk that the vehicle owner did not consent to its use.

Cap Raised on Noneconomic Damages in Certain Civil Cases

At the Request of: House Committee on Judiciary

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Damages available in civil actions may be economic or noneconomic. Economic damages are for objectively verifiable losses, such as health care costs and lost wages. Noneconomic damages cover subjective losses, such as pain and suffering and emotional distress. Since 1987, Oregon has capped noneconomic damage awards at \$500,000. However, the cap has been challenged repeatedly in court as violating one or both clauses of the Oregon Constitution that guarantee rights to a jury trial and to a remedy. Court decisions over time essentially eroded the cap's applicability, leaving it intact primarily for wrongful death cases. However, in a 2016 case, the Oregon Supreme Court modified some of its previous reasoning and opened the door to permit application of the cap to more claims on a case-by-case basis.

Bill Summary: House Bill 2807-B would have raised the \$500,000 cap on noneconomic damages in certain personal injury cases to \$10 million with annual adjustments for inflation. The cap would have remained intact for wrongful death cases and claims brought under the Tort Claims Act or the Workers' Compensation system. The measure would also have required affidavits in support of personal injury settlements for minors, incapacitated persons, and decedents to remain confidential absent a court order after a showing of good cause.

Graduated Penalties for Harassment When Children Present

At the Request of: House Committee on Judiciary

Committees: House Judiciary, Senate Judiciary

Background and Current Law: The crime of harassment can be committed when a person intentionally harasses or annoys another person by subjecting the other person to offensive physical contact. Harassment is ordinarily a Class B misdemeanor, punishable by up to six months' imprisonment and a \$2,500 fine.

Bill Summary: House Bill 2988 elevates this form of harassment to a Class A misdemeanor, punishable by imprisonment of up to one year and a \$6,250 fine, when the crime constitutes domestic violence and the harassment is committed in the immediate presence of, or is witnessed by, a minor child or stepchild of, or a minor child residing with, the defendant or the victim. House Bill 2988 also classifies this elevated form of harassment as a "person Class A misdemeanor" for purposes of the offender's criminal history under Oregon's felony sentencing guidelines.

Oregon Laws 2017: Chapter 430

Expanded Drone Prohibitions

Chief Sponsors: Rep. Huffman

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Drones, or unmanned aircraft systems (UAS), are unmanned flying machines that range in size from that of a bird to a small airplane. It is a Class A misdemeanor in Oregon to intentionally, knowingly, or recklessly use drones that are capable of firing bullets or projectiles, or in a way that functions as a dangerous weapon.

Bill Summary: House Bill 3047 elevates this conduct to a Class C felony if the drone is used to fire bullets or projectiles, or as a dangerous weapon, and to a Class B felony if such use results in serious physical injury to another person. The measure also prohibits using drones that are capable of releasing projectiles for crowd management, and operating drones over privately owned premises to intentionally, knowingly, or recklessly harass or annoy the property's owner or occupant.

However, HB 3047 provides an exemption to the crime of weaponized UAS when a person has specific authorization from the Federal Aviation Administration; gives notice to the Department of Aviation, Oregon State Police, and any other agency that issues a permit or license for the activity; and provides reasonable notice to the public if the use is in a public area.

Finally, House Bill 3047 authorizes law enforcement to use drones to investigate accident scenes.

Oregon Laws 2017: Chapter 502

Criminal Sentencing and Offender Reentry

Chief Sponsors: Reps. Piluso, Sanchez, Williamson

Committees: House Judiciary, House Rules, Joint Ways and Means

Background and Current Law: The Department of Corrections (DOC) is required to administer a transitional leave program that helps eligible inmates approaching the end of incarceration to plan for successful reintegration into society. DOC works with inmates, and the supervisory entities in communities where they will be released, to apply for employment and arrange educational and other supports in advance.

Oregon provides increased penalties for repeat property offenders: presumptive prison sentences for persons who, at the time of sentencing for certain property crimes, have been convicted of other specified property crimes. Currently, persons convicted of identity theft or theft in the first degree can be subject to an 18-month presumptive sentence.

The Family Sentencing Alternative Pilot Program, established in 2015, is available to certain offenders who have been sentenced to probation in lieu of prison, who had physical custody of a minor child when they committed the crime. The program offers special probation conditions ranging from vocational training to parenting and life skills classes, to substance abuse and mental health treatment.

Bill Summary: House Bill 3078 increases the current maximum amount of available transitional leave for eligible inmates from 90 to 120 days. The measure also reduces the presumptive sentence for certain property crimes to 13 months, increases the number of specified predicate convictions necessary to trigger the presumptive sentence, and lifts a limitation on judicial discretion to allow courts to impose probation in lieu of prison when appropriate. The measure makes these changes permanent, eliminating scheduled reductions in the length of short term transitional leave and scheduled increases in the sentences applicable to identity theft and theft in the first degree. Finally, House Bill 3078 authorizes courts to consider an offender's eligibility for the Family Sentencing Alternative Pilot Program as reason to impose probation in lieu of prison, eliminates criminal history-based ineligibility for the program, and allows offenders who are pregnant or who have physical custody of a child at the time of sentencing to participate.

Oregon Laws 2017: Chapter 673

[House Bill 3242](#)

Effective Date: January 1, 2018

Minors Custodial Interview Recordings

Chief Sponsors: Reps. Gorsek, Piluso, Bynum

Committees: House Judiciary, Senate Judiciary

Background and Current Law: Oregon law requires peace officers to electronically record custodial interviews that occur in law enforcement facilities if the interviews are part of an investigation into aggravated murder or certain other felonies, with some exceptions.

Bill Summary: House Bill 3242 expands the recording requirement to include custodial interviews of minors in connection with felony investigations and allows courts in juvenile delinquency proceedings to consider violations of this provision when making determinations about the evidentiary value of statements made by the minor.

Oregon Laws 2017: Chapter 431

[House Bill 3244](#)

Not Enacted

limitations of Law Enforcement Interview Techniques with Youth

Chief Sponsors: Reps. Gorsek, Piluso

Committee: House Judiciary

Background and Current Law: A false confession is when a person admits guilt for a crime they did not commit. One study, that examined 340 exonerations in the United States between 1989 and 2003, found that 33 cases involved minors, and that nearly half of those involved false confessions. It is suggested that certain interrogation techniques may contribute to false confessions.

Bill Summary: House Bill 3244 would have prohibited law enforcement from using deceit, trickery, artifice, or any other misleading interrogation technique when interviewing youth.

Animal Abuse and Neglect

At the Request of: House Committee on Judiciary

Committees: House Judiciary, Senate Judiciary, Conference Committee

Background and Current Law: Individuals convicted of animal abuse or neglect in Oregon are barred from possessing certain animals for five or 15 years, depending on the conviction, and can be ordered to reimburse the cost of care provided to subject animals pending resolution of the criminal case.

Bill Summary: House Bill 3283 increases the prohibition against possessing certain animals from five to 15 years for persons convicted of animal neglect in the first or second degree, and authorizes courts to reduce that period if the offender successfully completes court-approved mental health treatment. The measure also prohibits donations or fundraising amounts received by entities caring for animals to be used to offset the amount owed by offenders, reclassifies parrots as “domestic animals” rather than “livestock” for purposes of animal abuse and neglect statutes, and provides that contracting with an individual to rent or lease animals and care for them does not constitute insurance for purposes of the Insurance Code.

Oregon Laws 2017: Chapter 677