

# 2021 LEGISLATIVE SUMMARY REPORT

## CIVIL LAW



This Legislative Summary Report highlights Civil Law 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.

### Civil Law policy sub-topics:

- Civil Actions
- Civil Rights and Reparations
- Employment, Business, and Labor Regulation
- Fiduciary and Protective Proceedings
- Probate and Estates
- Other Legislation

### Civil Actions

- SB 180 ✓ Requires an insurer to notify a claimant in writing at the time that the insurer issues a payment on a third-party liability claim when the payment is more than \$5,000, the claimant is a natural person, and the insurer or their agent or attorney is issuing the payment to the claimant or the claimant's attorney or agent.
- SB 183 ✓ Establishes a process for party seeking enforcement of order or judgment of a tribal court of record or a federally recognized Indian tribe and includes any judgment, decree, or order of those courts as a "foreign judgment."
- SB 197 ✓ Allows a person to bring an action in court seeking to compel a private school to comply with the requirements of statutes on teen dating violence, sexual harassment, and reporting of suspected child abuse or sexual conduct. If the school did not meet those requirements, the measure allows a student or parent to bring a private right of action against the private school for its failure to comply with the court order.
- SB 198 A ✗ Would have specified that a person providing services to restore fitness to proceed or community restoration under contract with the state is considered a state officer, employee, or agent for purpose of defense and indemnity within the Oregon Tort Claims Act.
- SB 213 ✗ Would have voided provisions of a construction contract agreement that required a design professional to defend or indemnify another against claims or damages arising from negligence in design services, except to the extent the design professional's proportionate negligence caused the indemnitee's damage as determined at trial or arbitration.

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**Civil Actions, cont'd**

- SB 409      ✗      Would have required reporting of student-to-student sexual conduct and would have allowed a lawsuit with statutory damages against school employees who failed to report, as required, if the school employee was not subject to discipline by the Teacher Standards and Practices Commission.
- SB 499 A    ✗      Would have allowed a person to recover compensation if convicted of a felony and imprisoned, and later the conviction is reversed or vacated, or the person receives a grant of pardon on the grounds of innocence if the person did not commit the crime, was not an accessory or accomplice to the crime, and did not commit perjury.
- SB 528      ✗      Would have prohibited the Director of the Department of Consumer and Business Services or designated representative of director from assessing a civil penalty against an employer for a serious violation causing injury or harm to an employee that was the result of certain employee conduct, such as interference with safety devices, failure to comply with certain policies or procedures established by the employer, or failure to comply with guidance directed at preventing the spread of a communicable disease.
- SB 753      ✗      Would have modified the Oregon Child Support Program's duties so they would have only been required to provide spousal support enforcement services to persons also receiving child support enforcement services.
- SB 780 A    ✗      Would have prohibited claims against health care providers, hospitals, health maintenance organizations, or covered entities arising from acts or omissions performed while rendering health care services and in order to comply with COVID-19 emergency rules in effect at the time of the act or omission.
- SB 812      ✓      Removes the requirement that the obligor must have complied with the terms of any previous income withholding exception agreement to be granted an exception to income withholding under ORS 25.378.
- SB 813      ✓      Modifies statute of limitation provisions of Section 7 of House Bill 4212 (1st Special Session, 2020) to clarify that extensions of time to commence an action or give notice of a claim due to COVID-19 emergency applies to time periods expiring on or after March 8, 2020, on or before the date 90 days after the declaration of the state of emergency issued on March 8, 2020 is no longer in effect, or during the time in which any other COVID-19 declaration of a state of emergency is in effect.
- SB 821      ✓      Creates a process for objecting to the presumption of inability to pay after the suspension of a child support order.
- SB 822      ✓      Allows the related child support debts to be consolidated into one court case without having to file a motion to consolidate.

## Civil Actions, cont'd

- HB 2206 ✗ Would have allowed a party to a domestic relations case to use the party's initials instead of the party's name in a domestic relations proceeding by filing a written request and declaration with the court clerk.
- HB 2571 ✓ Requires study of liability for prescribed fires.
- HB 2909 ✗ Would have required the Department of Justice to study and make recommendations on provisions of state law related to limits on awarding custody of children to a parent who has a history of domestic violence.
- HB 2937 ✗ Would have provided that a student who experiences an incident of harassment, discrimination, or intimidation based on student's race, color, religion, gender identity, sexual orientation, disability, or national origin, during school or a school-sponsored activity could bring a claim against the school district for negligently failing to prevent the incident and against the perpetrator.
- HB 2948 ✗ When considering the statutory factors in determining the custody of a child in a domestic relations case, would have allowed the court to order joint custody even if both parents did not agree to the terms and conditions of the order, if the court found that joint custody would be in the best interests of the child.
- HB 2959 ✗ Would have required that if the child is age 14 or older, a parenting plan could not be entered into or ordered without the consent of the child.
- HB 3047 ✓ Creates a civil cause of action for the improper disclosure of private information (doxing).
- HB 3230 A ✗ Would have created a statewide universal representation program to provide for specified immigration services.
- HB 3265 ✓ Modifies provisions relating to immigration enforcement and information sharing. The measure creates restrictions on the use of public resources to assist in enforcement of federal immigration laws and arrests of individuals based on violations of immigration laws.

## Civil Rights and Reparations

- SB 618 ✗ Would have directed the Department of Administrative Services to study methods of providing reparations for slavery to Black Oregonians and to report to the Legislative Assembly by September 15, 2022.
- SB 619 ✗ Would have directed the Department of Revenue to establish a program to pay reparations to Black Oregonians who could demonstrate a heritage in slavery and who applied by December 31, 2022.

## Civil Rights and Reparations, cont'd

- SB 778 ✓ Establishes the Office of Immigrant and Refugee Advancement to operate a statewide immigration and refugee integration strategy, which would include partnering with existing immigrant and refugee programs, collecting data on immigrant and refugee populations in Oregon and their needs, and being involved in the legislative process at the state and federal levels.
- SJM 1 ✗ Would have urged Congress to codify the internal Immigration and Customs Enforcement policy that prohibits enforcement in sensitive locations.
- SJM 2 ✓ Urges Congress to remove the “punishment” clause from the 13th amendment which allows slavery or involuntary servitude to be punishment for a crime.
- SJM 4 ✓ Urges Congress to pass House Resolution 40, the Federal Commission to Study and Develop Reparation Proposals for African-Americans Act.
- SJR 10 ✓ Proposes an amendment to the Oregon Constitution to remove language allowing slavery and involuntary servitude in all circumstances, including as punishment for a crime, while clarifying that a convicted person may still be ordered by a court or probation or parole agency to engage in alternatives to incarceration.
- HB 2935 ✓ Prohibits discrimination by including 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 prohibits school or employer dress codes or policies from disproportionately impacting members of a protected class.
- HB 3041 ✓ Adds "gender identity" to all statutes that reference "sexual orientation" and expands certain protections to include gender identity relating to real property.

## Employment, Business, and Labor Regulation

- SB 41 ✓ Modifies the definition of parole and probation officer to include certified full-time officers who are employed by the Oregon Board of Parole and Post-Prison Supervision.
- SB 42 A ✗ Would have added members and officers of the Board of Parole and Post-Prison Supervision and employees of the Board who have duties that include in-person contact with adults in custody, adults on supervision, or adults on the sex offender registry within the definition of "police officer" for purposes of PERS.
- SB 114 ✗ Would have made it an unlawful practice for private security entities to provide security services without obtaining a license for operation through the Department of Public Safety Standards and Training.

## Employment, Business, and Labor Regulation, cont'd

- SB 115 ✓ Specifically allows Department of Public Safety Standards and Training to procure goods and services.
- SB 116 ✓ Prohibits private security providers or entities employing private security providers from possessing or using equipment, vehicles, uniforms, or titles that imply the provider or entity is affiliated with a public or private safety agency.
- SB 175 ✓ Adds assistant attorneys general whose duties include representing the Department of Human Services in child welfare matters to the list of eligible employees who may substitute their employer's address for their own on certain Department of Transportation vehicle or driver records.
- SB 185 ✓ Provides update to nonprofit corporation processes.
- SB 211 ✗ Would have required Oregon State Police to maintain a patrol trooper staffing level of at least 15 troopers per 100,000 residents by January 1, 2030.
- SB 297 ✓ Includes certified judicial marshals within the definition of police officer in the Public Employees Retirement System.
- SB 424 ✓ Allows use of base pay of attorneys employed by public corporations, nonprofit organizations, public universities, cities, and counties as comparable base pay for assistant attorneys general if doing substantially similar work.
- SB 768 ✓ Modifies Bar Act. Authorizes Supreme Court to adopt rules on admission of individuals with substantial legal education as associate members of Bar without taking Bar exam. Modifies process for custodial actions involving attorney practices. Specifies person assisting the public with court processes and selecting and completing forms at the direction of the court is not engaged in the practice of law.
- SB 841 ✗ Would have appropriated \$1.6 million from the General Fund to Department of Justice for funding of Environmental Crimes and Cultural Resources Enforcement Unit.
- HB 2003 ✓ Revises certain statutes relating to the Public Defense Services Commission and the Office of Public Defense Services to address some of the Sixth Amendment Center's recommendations.
- HB 2126 ✗ Would have required applicants for private investigator license to undergo fingerprinting for the purposes of state or national criminal records check. Extended civil liability protection to Department of Public Safety Standards and Training (DPSST) and employees who refuse to issue a license to an applicant based on information received in criminal records check. Provided protection from actions based on employment-related decisions, defamation, or invasion

## Employment, Business, and Labor Regulation, cont'd

of privacy when DPSST or an employee acting within the scope of employment makes a decision or lawfully shares information found in the criminal records check.

- HB 2527 ✓ Requires licensure of private security entities by Department of Public Safety Standards and Training and provides a process for obtaining licensure, including an investigation into the character, competency, and reliability of the applicant.
- HB 3284 ✓ Prohibits covered entities from collecting, using, or disclosing a person's data related to exposure, infection, or other information related to COVID-19, without the individual's affirmative express consent.

## Fiduciary and Protective Proceedings

- SB 182 ✓ Terminates authority of spouse under power of attorney, advance directive, or mental health treatment declaration upon judgment of dissolution or annulment. Clarifies liability protections for each spouse when real property held by spouses as tenants in the entirety is subsequently conveyed to trustees of a revocable trust. Modifies process for attorney destruction of wills.
- SB 190 ✓ Provides details on required notice of appointment of guardian.
- SB 199 ✓ Revises Advance Directive form. Provides increased content, options, and opportunity for direction in section of form on health care instructions. Includes section on values and directions regarding quality of life, spiritual beliefs, life and values, place of care, and other information for health care representative or health care provider.
- SB 202 ✗ Would have established pilot program in three counties to provide counsel for persons in protective proceedings when requested by respondent, objection was made or filed, the visitor recommended appointment of counsel, or court determined respondent or protected person was in need of counsel.
- SB 219 A ✗ Would have required the Advance Directive Adoption Committee to submit a report to Legislative Assembly committees relating to judiciary and to health with recommendations for development, adoption, and administration of statewide advance directive registry.
- SB 572 ✓ Creates new class of protected person for purposes of guardianship proceeding. Defines vulnerable youth. Creates new class of protected person for purposes of guardianship proceeding. Defines vulnerable youth as a person between 18 years and 21 years of age who is eligible for classification within



## Fiduciary and Protective Proceedings, cont'd

the Special Immigrant Juvenile status and who cannot be reunified with one or more of the person's parents due to abuse, neglect, or abandonment that occurred when the person was a minor.

- SB 578 ✓ Establishes pilot program in three counties to provide counsel for persons in protective proceedings. Allows appointment of counsel at state expense for qualifying individuals.
- SB 579 A ✗ Would have directed Oregon Public Guardian and Conservator to develop program to provide guardianship services to defendants who have been determined unfit to proceed and who may be or have been released into the community.

## Probate and Estates

- SB 220 ✓ Specifies process and formalities for electronic witnessing of execution or acknowledgment of writings.
- SB 221 ✓ Corrects error in process to establish that a decedent's writing was intended to be a partial or complete revocation of the decedent's will.
- SB 728 ✓ Provides specific authorities, processes, and definitions in probate proceedings.

## Other Legislation

- SB 765 ✓ Makes permanent provisions relating to performance of remote notarial acts enacted on temporary basis in the 2020 1st Special Session. Allows notary public to perform notarial acts, including taking acknowledgments, administering oaths or affirmations, witnessing or attesting a signature, or certifying or attesting copies of documents, with individuals who are not in the physical presence of the notary.