

LEGISLATIVE UPDATE 2015

House Bills Senate Bills

Signed Into Law
By
Governor Kate Brown

Compiled by:



Oregon Department of Public Safety
Standards and Training

With thanks to:



Oregon Association Chiefs of Police



Oregon District Attorneys Association

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**NOTE: All bills are effective January 1, 2016
unless otherwise noted in the bill summary.**

2015 LEGISLATIVE UPDATE

A. Traffic/Motor Vehicle Laws:

Speed Limit Bill

HOUSE BILL 3402, 2015 Oregon Laws, Chapter 746, increases the speed limit for passenger vehicles/certain other vehicles on segments of:

- Interstate 84 between The Dalles and Idaho State Line: 70 mph/65 mph
- Highway 95 between Idaho and Nevada state lines: 70 mph/65 mph
- Highway 20 between Bend and Ontario: 65 mph/60 mph
- Highway 197 between The Dalles and Highway 97: 65 mph/60 mph
- Highway 198 between Highway 97 and Klamath Falls: 65 mph/60 mph
- Highway 31 between Valley Falls and LaPine: 65 mph/60 mph
- Highway 78 between Burns Junction and Burns: 65 mph/60 mph
- Highway 395 between Burns and John Day: 65 mph/60 mph
- Highway 395 between Riley and California State Line: 65 mph/60 mph
- Route 205 between Burns and French Glen: 65 mph/60 mph
- Highway 26 between John Day and Vale: 65 mph/60 mph

The measure exempts portions of Highway 95, Highway 20, and Highway 197 that fall inside of city limits. Implementation of the bill included a one-time appropriation of \$735,000 from the State Highway Fund to replace 370 speed limit signs on more than fifteen hundred miles of highway.

“Vaping” in a Motor Vehicle

HOUSE BILL 2546, 2015 Oregon Laws, Chapter 158, defines an “inhalant delivery system” as any device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device, as well as any component of such a device or any substance sold for the purpose of being vaporized or aerosolized by such a device. This definition does not include cigarettes, tobacco products, or tobacco cessation products. Amends ORS 811.193 which becomes the offense of “Smoking, Aerosolizing or Vaporizing in a Motor Vehicle.

Emergency Clause: This bill took effect on May 26, 2015

“Stoplight Mercy”

SENATE BILL 533, 2015 Oregon Laws, Chapter 147, amends ORS 811.360 to provide that a bicyclist or motorcyclist does not violate ORS 811.260 and 811.265 if:

- (a) The bicyclist or motorcyclist approaches an intersection where there is a traffic control device showing a steady circular red signal, a steady red bicycle signal or a steady red arrow signal;
- (b) The traffic control device is controlled by a vehicle detection device;
- (c) The bicyclist or motorcyclist comes to a complete stop and waits for the traffic control device to complete one full cycle; and
- (d) After the vehicle detection device fails to detect the presence of the bicycle or motorcycle and change the traffic control device to a green signal, the bicyclist or motorcyclist proceeds with caution through the intersection.

B. Alcohol and Driving Under the Influence:

Sobering Centers

HOUSE BILL 2936, 2015 Oregon Laws, Chapter 730, defines a sobering facility as a center that provides acutely intoxicated persons with a safe, clean, supervised environment until sobriety. The bill requires these facilities to adopt policies in consultation with addiction treatment programs or providers. The bill extends civil and criminal immunity to new sobering facilities for actions taken in good faith, on probable cause, and without gross negligence. The Oregon Health Authority is directed to maintain a registry of sobering facilities. In addition, the bill adds a sobering facility as an alternative to other locations, such as a home or a treatment facility, which law enforcement could take intoxicated persons. The new sober facilities coming online after January 1st, 2016 are limited to three. The Oregon Health Authority will study and report back to the legislature in 2017 on outcomes. \$500,000 was appropriated to support the Grants Pass Sobering Center project.

Emergency Clause: This bill took effect on July 20, 2015

Interlock Ignition Device

HOUSE BILL 2660, 2015 Oregon Laws, Chapter 251, modifies who is required to have an ignition interlock while on diversion. A device is required if the person's BAC is .08 or higher, the person refused a breath test, or the person's BAC is .01 or higher and the person has a controlled substance or an inhalant on board. If it is an alcohol only case and the person's BAC is .07 or under, the court has the discretion to order an IID.

SENATE BILL 937, 2015 Oregon Laws, Chapter 577, imposes several requirements on ignition interlock providers in DUII cases. First, when a person installs an ignition interlock, the provider must notify the court who ordered the device as well as the district attorney or city prosecutor of the installation within seven business days. Second, if, while the device is installed, the person attempts to start the car with a registerable BAC or otherwise tampers with or removes the device, the provider must notify the court and the district attorney or city prosecutor within seven business days. In addition, this bill allows a person on diversion to ask the court to remove the IID requirement if they have been on diversion for six months, they show proof that they have entered into and are in compliance with treatment, and they have not had any negative IID reports. In determining whether to remove the IID requirement, the court may consider the underlying facts of the offense and the person's BAC.

Urine

HOUSE BILL 2372, 2015 Oregon Laws, Chapter 11, requires that police officers be certified by the Department of Public Safety Standards and Training rather than Board on Public Safety Standards and Training before an officer may request a urine test of a person arrested for the offense of driving while under the influence of intoxicants.

Emergency Clause: This bill took effect on March 18, 2015

C. New Crimes/Offenses and Changes to Existing Crimes:

Computer Crime

SENATE BILL 377, 2015 Oregon Laws, Chapter 350, prohibits any person from knowingly accessing, attempting to access, use, or attempt to use any computer, computer system, computer network or any part thereof for the purpose of committing theft of an intimate image. An intimate image is defined as a photograph, film, video, recording, digital picture, or other visual reproduction of a person whose intimate parts are visible or who is engaged in sexual conduct.

Disorderly Conduct

SENATE BILL 919, 2015 Oregon Laws, Chapter 361, amends language in the Disorderly Conduct in the First Degree crime, ORS 166.023, to refer to circulating a false report concerning “a court facility, or a public building, as those terms are defined in ORS 166.360.” The previous language referred to a threat against a “school.”

Domestic Violence

HOUSE BILL 2776, 2015 Oregon Laws, Chapter 252, allows a peace officer to apply to a circuit court judge for an ex parte emergency protective order provided that victim consents. The court may enter an order if the court finds probable cause to believe that the officer has responded to a domestic disturbance that requires mandatory arrest, or the person is in immediate danger of abuse by a family or household member, and the emergency protective order is necessary to prevent a person from suffering further abuse. The protective order expires seven days after entry and provides that a violation of the emergency protective order constitutes contempt of court. ORS 133.310(3) amended to require mandatory arrest for violation of order.

HOUSE BILL 3468, 2015 Oregon Laws, Chapter 751, expands the definition of coercion to include conduct where the perpetrator threatens to unlawfully cause physical injury to some animal. Additionally, it amends ORS 162.375, initiating a false report, to require a minimum of 10 days jail, that cannot be suspended, should the report result in a SWAT type response.

HOUSE BILL 3469, 2015 Oregon Laws, Chapter 639, adds provisions to felony strangulation and felony assault in the fourth degree.

Felony Strangulation – adds to the current list of provisions that enhance Strangulation to a Class C felony:

- a) Prior conviction of strangulation, any degree of assault, or menacing against the same victim
- b) Three prior convictions, in any combination, against any victim, for strangulation, any degree of assault or menacing
- c) If the defendant knows the victim is pregnant

Felony Assault in the Fourth Degree - adds to the current list of provisions that enhance Assault 4 to a Class C felony:

- a) Prior conviction of strangulation, any degree of assault, or menacing against the same victim
- b) Three prior convictions, in any combination, against any victim, for strangulation, any degree of assault or menacing.

SENATE BILL 3, 2015 Oregon Laws, Chapter 527, creates the crime of Endangering a Person Protected by a Family Abuse Prevention Act Restraining Order as a class C felony. A person commits the offense if having been (1) served with the order (or appeared in court, waiving service), (2) intentionally engages in conduct prohibited by the order; and (3) while engaging in the prohibited conduct, recklessly creates a substantial risk of physical injury to the protected person, or intentionally attempts to place them in imminent fear of physical injury.

SENATE BILL 525, 2015 Oregon Laws, Chapter 497, amends Unlawful Possession of Firearms, ORS 166.250 and prohibits persons from possessing firearms or ammunition if they are subject to a restraining order or have been previously convicted of a qualifying misdemeanor. Persons are not allowed to possess any firearm or ammunition if they are subject to a court order that restrains the person from stalking, intimidating, molesting or menacing an intimate partner, a child of an intimate partner or a child of the person. The court must have made a finding that the person represents a credible threat to the physical safety of an intimate partner, a child of an intimate partner, or a child of the person. To qualify the order must also be one in which the person had actual notice and a hearing where they had the opportunity to be heard. Persons are not allowed to possess any firearm or ammunition if they have been convicted of a qualifying misdemeanor where the victim was, at the time of the offense, a family or household member of the victim of the offense.

An “intimate partner” means the person’s spouse, former spouse, a parent of the person’s child, or another person who has cohabited or is cohabitating with the person in a relationship akin to a spouse.

A “qualifying misdemeanor” is any misdemeanor that has, as an element of the offense, the use or attempted use of physical force or the threatened use of a deadly weapon.

A “family or household member” is the victim’s spouse, former spouse, a person with whom the victim shares a child in common, the victim’s parent or guardian, a person cohabiting with, or who has cohabited with, the victim as a spouse, parent or guardian or a person similarly situated to a spouse, parent, or guardian of the victim.

Elder Abuse

HOUSE BILL 2227, 2015 Oregon Laws, Chapter 416, amends the definition of “sexual abuse” for purposes of elder abuse. Consensual sexual contact is not specifically prohibited between an employee of a facility and the elderly person where the employee is also the spouse of the elderly person.

Endangering the Welfare of a Minor

HOUSE BILL 2546, 2015 Oregon Laws, Chapter 158, defines an “inhalant delivery system” as any device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device, as well as any component of such a device or any substance sold for the purpose of being vaporized or aerosolized by such a device. The bill adds a subsection to the Endangering Welfare of a Minor statute prohibiting distribution or sale of an inhalant delivery system to a minor – penalty is an A Misdemeanor if the inhalant system contains a cannabinoid and a Class A Violation if the inhalant delivery system is a substance that does not contain a cannabinoid.

Emergency Clause: This bill took effect on May 26, 2015.

Firearms

SENATE BILL 941, 2015 Oregon Laws, Chapter 50, includes the following key provisions:

- Requires all private transferors of firearms to appear at a gun dealer in person with both the transferee and firearm and request a criminal background check before transfer.
- Specifies exceptions for family members, law enforcement, inherited firearms and certain temporary transfers.
- Provides that a violation of the background check law constitutes a Class A misdemeanor for first offense and a Class B felony for second and subsequent offenses.
- Provides that if transferor and transferee live over 40 miles from each other, the transferor may ship or deliver the firearm to a gun dealer located near the transferee.
- Allows Department of State Police to notify local law enforcement when a background check demonstrates that the transferee is prohibited from possession of a firearm.
- Allows a court to prohibit a person from participating in outpatient treatment from possession of a firearm during the period of treatment upon certain findings.

Emergency Clause: This bill took effect on May 11, 2015, however the language mandating private transfer background checks and resulting crimes for failure to comply did not take effect until August 9, 2015.

Invasion of Personal Privacy/Redefined as First and Second Degree: TWO BILLS

HOUSE BILL 2356, 2015 Oregon Laws, Chapter 645, amended ORS 163.700 (Invasion of Personal Privacy) to create the new crime of Invasion of Personal Privacy in the Second Degree. The bill also created a new crime of Invasion of Personal Privacy in the First Degree. However, HOUSE BILL 2596, 2015 Oregon Laws, Chapter 321, **also** amended ORS 163.700, and created a new second degree crime, but provided for the contingency of both bills becoming law.

The result of the passage of both bills is the following: That language in HOUSE BILL 2356 which created the crime of Invasion of Personal Privacy in the First Degree moves forward. Invasion of Personal Privacy in the First Degree, a class C felony, occurs when a person makes or visually records without consent another person in a state of nudity and at the time of the recording the person has a reasonable expectation of privacy, or the person has a prior conviction for invasion of personal privacy, public indecency, private indecency or any sex crime. The effective date of the new felony offense is January 1, 2016.

HOUSE BILL 2596, most but not all of which passed with an emergency clause, took effect on June 10, 2015. It amended ORS 163.700, significantly expanding the crime of Invasion of Personal Privacy. The crime now includes so-called “up skirt” photographs. New language adds a prohibition against making any recordings of another person’s “intimate areas” without the other person’s consent. “Intimate areas” are defined as “undergarments...worn by a person, are covered by clothing and are intended to be protected from being seen.”

After January 1, 2016, the remainder of HOUSE BILL 2596 takes effect so that ORS 163.700 becomes the crime of Invasion of Personal Privacy in the Second Degree. The previous theory in ORS 163.700 prohibiting visual recording of a person in a state of nudity without consent, becomes one of the theories for the new first degree, felony crime.

Luring a Minor

HOUSE BILL 2385, 2015 Oregon Laws, Chapter 101, provides it is no defense to the crime of luring a minor or purchasing sex with a minor, if the person the offender is communicating with is a police officer or agent of a police officer, posing as a minor. Age defenses apply if the officer purports to be of an age that would raise the defense if the officer had been a minor of that age.

Prostitution

HOUSE BILL 2206, 2015 Oregon Laws, Chapter 98, renames the crime of Patronizing a Prostitute ORS 167.008 to Commercial Sexual Solicitation, a Class A misdemeanor.

Recording Police Officers

HOUSE BILL 2704, 2015 Oregon Laws, Chapter 553, amends the Obtaining Contents of Communications statute (ORS 165.540) to allow recording, without consent or knowledge, of law enforcement officers if it is made while the officer is performing official duties, is made openly and in plain view of the conversation participants, the conversation being recorded is audible by unaided hearing, and the person makes the recording while being in a place where the person may lawfully be present.

Sexual Assault of an Animal

HOUSE BILL 2693, 2015 Oregon Laws, Chapter 324, elevates the crime of Sexual Assault of an Animal from a Class A Misdemeanor to a Class C Felony. It also creates the new crime of prohibiting the possession of bestiality pornography, a Class A misdemeanor.

Trespass

HOUSE BILL 2335, 2015 Oregon Laws, Chapter 10 amends the definition found in ORS 164.205 of “enter or remain unlawfully.” Enter or remain unlawfully means: To enter or remain in or upon premises when the premises, at the time of such entry or remaining are not open to the public **and** when the entrant is not otherwise licensed or privileged to do so.

Unlawful Dissemination of an Intimate Image

SENATE BILL 188, 2015 Oregon Laws, Chapter 379 creates the crime of “Unlawful Dissemination of an Intimate Image.” This is intended to get at the dissemination of “sexting” images to others that were not the intended recipient but is broader than that. Provides that a person: (1) ‘with the intent to harass, humiliate or injure another person’; (2) causes to be disclosed through an internet website (does not provide for

forwarding a text message), (3) an identifiable image of the other person, (4) whose intimate parts are visible or who is engaged in sexual conduct; AND (5) the person knows or reasonably should have known that the other person does not consent to the disclosure; AND (6) the other person is harassed, humiliated or injured by the disclosure; AND (7) a reasonable person would harassed, humiliated or injured by the disclosure. Class “A” misdemeanor on the first conviction and a “C” felony on a subsequent conviction where the conduct was committed after the first conviction. Exceptions are allowed for medical, law enforcement, legal proceedings, and reporting of the conduct. Conduct is exempt from being unlawful if the disseminated picture (video, etc.) of the person (intimate parts or engaging in sexual conduct) was done in a public area or originally created for a commercial purpose.

Emergency Clause: This bill took effect on June 11, 2015.

D. Sentencing and Related Issues:

Deferred Sentencing

HOUSE BILL 2326, 2015 Oregon Laws 125, provides that when a defendant is placed on a deferred sentence agreement for possession of a controlled substance, unlawful possession of a prescription drug, endangering the welfare of a child, frequenting a place where controlled substances are used, or any property offense “motivated by a dependence on controlled substances”, and the conditions of the probation are not completed before the expiration of the agreement, the court may not discharge the proceedings and dismiss the charges against the person. If it is determined that the original conditions were not fulfilled, the court shall issue an order for the person to appear in court and show why the probation should not be revoked. After a hearing, the court may order a new period of probation or enter an adjudication of guilt and sentence the person accordingly.

Emergency Clause: This bill took effect on May 21, 2015.

Wildlife Violation Penalties

SENATE BILL 175, 2015 Oregon Laws, Chapter 151 provides that upon a conviction for a wildlife offense punishable as a Class A misdemeanor the court shall impose the following additional fines:

- a) \$6250 when the defendant has two or more previous Class A misdemeanor wildlife convictions or if the offense involves taking three or more times the daily bag limit of any wildlife;
- b) Not less than half of \$6250 if the offense involves: i) failing to release a sturgeon more than six feet in length, ii) unlawfully taking wildlife with the intent to or to

actually sell, barter, trade, import or export the wildlife or its parts, or iii) taking a raptor and the person has a previous conviction for taking a raptor;
c) Not less than one-fourth of \$6250 if the offense involves taking a raptor and the person does not have a previous conviction for taking a raptor.

Emergency Clause: This bill took effect on June 11, 2015.

E. Criminal Procedure:

Declaration Under Penalty of Perjury

SENATE BILL 375, 2015 Oregon Laws, Chapter 121, allows evidence to be admitted in the following proceedings with a declaration under the penalty of perjury of a witness instead of an affidavit:

- a) In a violation trial;
- b) A petition for a family abuse, sexual abuse, elder, or disabled person restraining order;
- c) Proof of service of a family abuse, sexual abuse, elder, or disabled person restraining order;
- d) A petition for a renewal of a family abuse, sexual abuse, elder or disabled person restraining order;
- e) Proof of service of a civil stalking protective order.

Set Aside

SENATE BILL 364, 2015 Oregon Laws, Chapter 290, allows a person to file a motion to set aside a conviction for possession of marijuana as a Class A or B felony that occurred before July 1, 2013 as if it occurred on or after July 1, 2013.

Search Warrants

HOUSE BILL 2225, 2015 Oregon Laws, Chapter 415, expands the authority of a judge to authorize execution of a search warrant outside of the judicial district if the judge finds that the search relates to offenses involving an elderly victim, 65 or older at the time of the offense, and the offense is Criminal Mistreatment 1, ID Theft, Aggravated ID Theft, Computer Crime, Fucc, Forgery in any degree, Criminal Possession of a forged instrument in any degree, Theft in any degree or if the object of the search consist of financial records and the person applying for the search warrant is not able to ascertain, at the time of the application, the proper place for trial of the offense.

Searching Cell Phones Incident to Arrest

SENATE BILL 641, 2015 Oregon Laws, Chapter 613. OACP/OSSA worked with Oregon DOJ and the Oregon District Attorneys Association to reach agreement with the ACLU on language that responds to recent court cases like *Riley v. California* that prohibited searching cell phones incident to arrest. The practice of forensically imaging a device at the scene of an arrest for the purpose of securing data (and avoiding a remote sweep of the device) for a later search pursuant to a warrant is not a common practice and is unlikely to stand up to constitutional scrutiny. In *Riley v. California*, the court described a number of methods for preventing the remote wipe of devices. The bill includes the following provisions:

- Prohibits law enforcement from forensically imaging the data on a portable electronic device unless the investigating officer has obtained consent or a search warrant to do so.
- Provides that only the owner of the device or a person who has a reasonable expectation of privacy in the device can challenge the admission of evidence that was obtained in violation of the bill.
- Provides that when a person seeks the return of a portable electronic device that is no longer needed as evidence, the court may order the state to return any forensic copies of the device as well.
- Exempts correctional facilities, state hospital, community corrections, and probation officers from the prohibition on forensic imaging to the extent those agencies are engaged in otherwise lawful conduct.

The measure does not prohibit any manual searching or copying of data from a portable electronic device. That is, the bill does not prohibit an officer from manually searching (scrolling) through a device, taking screenshots or photos of data on the device, taking notes about data on the device, or taking any other action that does not include forensically copying the device.

Statute of Limitations

HOUSE BILL 2317, 2015 Oregon Laws, Chapter 417 increases the statute of limitations from six years to 12 years for the following crimes where the victim was 18 years or older at the time of the crime: Rape in the first degree; Sodomy in the first degree; Unlawful Sexual Penetration in the first degree; Sexual abuse in the first degree. Where victim was less than 18 years of age at the time of the crime, a prosecution may be commenced for these same sex crimes any time before the victim attains 30 years of age.

Verifying Misdemeanor Information or Complaint

HOUSE BILL 2609, 2015 Oregon Laws, Chapter 259, allows a misdemeanor information or complaint to be verified if it contains a form of certificate in which the complainant certifies that the defendant committed the stated offense. It is a Class A Misdemeanor to knowingly falsely certify such an information or complaint.

F. Sexual Offenders:

Sex Offender Registration

HOUSE BILL 2320, 2015 Oregon Laws, Chapter 820, is the combined result of several initially separate bills addressing various aspects of sex offender registration. The bulk of the bill deals with repairs and funding for the program of categorizing adult sex offenders into three tiers that was part of House Bill 2549 (2013).

Emergency Clause: This bill took effect on August 12, 2015.

G. Corrections/Parole and Probation:

Recidivism

SENATE BILL 366, 2015 Oregon Laws, Chapter 143, amends ORS 423.557 to define “recidivism” to mean the “arrest, conviction or incarceration of a person who has previously been convicted of a crime, if the arrest, conviction or incarceration is for a new crime and occurs within three years of the previous crime or within three years of release from custody for the prior crime.

H. Law Enforcement Issues:

Bias Policing, Police Accountability and Transparency

HOUSE BILL 2002, 2015 Oregon Laws, Chapter 681, includes:

- A new definition of profiling. The new definition provides that: “Profiling” means that a law enforcement agency or a law enforcement officer targets an individual for suspicion of violating a provision of law based solely on the real or perceived factor of the individual’s age, race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, homelessness or disability, unless the agency or officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law.
- A requirement that all agencies have a policy prohibiting profiling that is in keeping with the definition of profiling established in the measure and procedures for allowing a complaint alleging profiling to be made to the agency by January 1, 2016.
- A new method for the public to make bias policing complaints directly to the Law Enforcement Contacts and Data Review Committee (LECC). Complaints would be returned to the agency for investigation. All bias policing complaints (agency and LECC) would be sent along with the disposition/results of the investigation to the LECC. Complaints (including officer and complainant) information will be exempt from public record requests.
- Funding for the Law Enforcement Contacts Policy and Data Review Committee (LECC) that is housed and resourced by Portland State University. Funding would include resources for training, a statewide perceptions survey, analysis of voluntarily collected stop data and resources to fund the new complaint process. The funding amount is \$250,431.
- An interim work group with nine members appointed by the Governor and legislative leaders to:
 - Propose a process to identify any patterns or practices of profiling as defined in section 1 of this 2015 Act that impact groups of persons disproportionately on the basis of any of the factors listed in section 1 (3) of this 2015 Act.
 - Identify methods to address and correct patterns or practices of profiling.
 - Prepare a report identifying any statutory changes needed, including recommendations for legislation, to the interim committees of the Legislative Assembly related to the judiciary no later than December 1, 2015.

Body-Worn Cameras

HOUSE BILL 2571, 2015 Oregon Laws, Chapter 550, provides that deployment of body-worn cameras by a police agency is permissible (not mandated) and would include the following key provisions:

Provides an exception to the audio recording prohibition for:

A video camera worn upon the officer's person that records the officer's interactions with members of the public while the officer is on duty, unless:

- The officer has an opportunity to announce at the beginning of the interaction that the conversation is being obtained; and
- The announcement can be accomplished without causing jeopardy to the officer or any other person and without unreasonably impairing a criminal investigation;

Exempts body camera footage from public records requests (ORS 192.410 to 192.505) unless the public interest requires potential disclosure based on a number of factors:

- Recordings that have been sealed in a court's record of a court proceeding or otherwise ordered by a court not to be disclosed shall not be disclosed.
- If a recording is of an incident that involves the use of force by a law enforcement officer, the disclosure of that particular recording must be in the public interest.
- If a recording is of an incident that does not involve the use of force by a law enforcement officer, the incident itself must be of sufficient public interest that the public interest requires disclosure of that particular recording.
- The approximate date and time of the incident in question must be identified and the request must be reasonably tailored to include only material for which the public interest requires disclosure.

Adds important discovery provisions including:

- 60 day rule extension for just cause when editing (redaction) of digital video evidence is necessary if the defendant received discovery of digital video evidence [from body worn cameras] and, where discovery occurred in a reasonably timely manner.
- Statutory suppression of footage: provides that body worn camera footage would not be subject to suppression in most instances.

Emergency Clause: This bill took effect on June 25, 2015.

Police Officer Authority

SENATE BILL 343, 2015 Oregon Laws, Chapter 174. In 2011, the Legislative Assembly passed Senate Bill 412, which provides tribal law enforcement officers in Oregon the same arrest and police powers as other state, local, and special police officers based on compliance with a few parameters that were outlined in the original measure. At the time

Senate Bill 412 was passed, a sunset provision was included that would have ended the authority on June 30, 2015 unless formally extended by the legislature. Senate Bill 343 makes tribal police officer authority permanent by removing the sunset date.

Cell Phone Data

HOUSE BILL 2919, 2015 Oregon Laws, Chapter 255, eliminates the previously existing requirement that law enforcement provide biennial reports to the Legislature of the disclosure and collection of cellular phone call location data obtained in emergency situations.

Recording Police Officers

HOUSE BILL 2704, 2015 Oregon Laws, Chapter 553, amends the Obtaining Contents of Communications statute (ORS 165.540) to allow recording, without consent or knowledge, of law enforcement officers if it is made while the officer is performing official duties, is made openly and in plain view of the conversation participants, the conversation being recorded is audible by unaided hearing, and the person makes the recording while being in a place where the person may lawfully be present.

Release of Information

HOUSE BILL 2208, 2015 Oregon Laws, Chapter 213, addresses a DOJ opinion that required DPSST to release officer date of birth information in response to an Oregonian Public Records request. The measure provides that the personal information of individuals certified by DPSST is exempt from public records release including current and past licensees or certificate holders. The bill exempts the residential address and telephone number, personal cellular numbers, personal email addresses, driver license numbers, emergency contact information, Social Security numbers, and dates of birth from disclosure.

In addition, the bill exempts the personal information of civil code enforcement officers from public records requests unless the public interest requires disclosure.

Emergency Clause: The bill took effect June 10, 2015.

Retired Law Enforcement Officers

HOUSE BILL 2357, 2015 Oregon Laws, Chapter 709, refines and expands on existing exceptions to a handful of weapons crimes for law enforcement personnel including:

- For both the crimes of unlawful possession and possession in public buildings, federal officers are exempted;

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- For the crime of possession in public buildings, off-duty police and off-duty reserve officers, as well as honorably retired law enforcement are added to the list of exemptions;
- For the violation of casting an artificial light from a vehicle in the presence of a weapon, an exception for honorably retired law enforcement was added;
- For the violation of operating an off-road vehicle with a loaded weapon, exceptions were added for both law enforcement and honorably retired law enforcement.

The exemptions added for honorably retired law enforcement officers above do not apply to retired law enforcement officers that have been convicted of an offense that would make them ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

Emergency Clause: This bill took effect on July 20, 2015

I. Crime Victims:

Interpreters

HOUSE BILL 2339, 2015 Oregon Laws, Chapter 197, requires the court to appoint a qualified interpreter or make available the appropriate assistive communication devices, to a victim wishing to be present at any critical stage of the proceeding.

Emergency Clause: This bill took effect on June 2, 2015.

No Contact Orders

HOUSE BILL 3466, 2015 Oregon Laws, Chapter 264. Currently defendants who are in custody pending adjudication on a domestic violence or sexual assault case are prohibited from contacting the victim of their crime. This bill adds the language that they are additionally prohibited from attempting to contact the victim directly or through a third party.

Temporary Emergency Protective Order

HOUSE BILL 2776, 2015 Oregon Laws, Chapter 252 authorizes a police officer to obtain an ex parte emergency protective order when the police officer has responded to an incident of domestic violence, or the person is in imminent danger of abuse by a family or household member. The emergency protective order expires seven days from the date the court signs the order.

J. Juvenile Law:

Sex Offender Registration

HOUSE BILL 2320, 2015 Oregon Laws, Chapter 820, specifically in Section 31, creates a new process for determining whether and when a juvenile, adjudicated for an offense that would be a felony sex crime if committed by an adult, will be obligated to register as a sex offender. Section 31 now does the following:

- Eliminates the law requiring automatic registration at the time a juvenile is adjudicated of a qualifying offense.
- Requires the juvenile court to hold a hearing within 6 months prior to termination of (local or OYA) jurisdiction.
- District Attorney shall notify the victim of the right to appear

At the hearing:

- DA, victim, youth, juvenile court counselor (or rep from OYA) shall have an opportunity to be heard
- Youth has the burden of proving
 - By clear and convincing evidence
 - That the youth is rehabilitated and does not pose a threat to the public
- The court *may* consider (not an exclusive list):
 - 19 factors currently listed in ORS 181.823
 - Evidence code is not strictly applied – court to look to relevant evidence
- The court SHALL CONSIDER:
 - Evaluations and treatment records concerning the person conducted by a clinician or program operating under the standards of practice for the evaluation and treatment of juvenile sex offenders adopted by the Sex Offender Treatment Board
 - All examination preparation material and examination records from polygraph examinations conducted by or for the treatment provider, juvenile department or OYA.
 - Any records reviewed by the court shall be released to the parties.

Emergency Clause: This bill took effect on August 12, 2015

K. Marijuana/Controlled Substances

Immunity from prosecution

SENATE BILL 839, Chapter 274, 2015 Oregon Laws, Chapter 274, creates immunity from arrest and prosecution for drug offenses, similar to that previously created for MIP offenses. Exempts specified persons from arrest and prosecution for certain offenses and for certain violations of terms of release or supervision if evidence of

offense was obtained because emergency medical services or law enforcement agency was contacted to obtain necessary medical assistance due to drug-related overdose.

Inhalant Delivery Systems

HOUSE BILL 2546, 2015 Oregon Laws, Chapter 158, defines an “inhalant delivery system” as any device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device, as well as any component of such a device or any substance sold for the purpose of being vaporized or aerosolized by such a device. This definition does not include cigarettes, tobacco products, or tobacco cessation products. It prohibits distribution or sale of either tobacco products or inhalant delivery systems to a person under 18. Retailers must post notices consistent with this rule and only sell such products in appropriately approved packaging. The civil penalty for any violations will be between \$250 - \$1000 per offense. Adds a subsection to the Endangering Welfare of a Minor statute prohibiting distribution or sale of an inhalant delivery system to a minor – penalty is an A Misdemeanor if the inhalant system contains a cannabinoid, and a Class A Violation if the inhalant delivery system is a substance that does not contain a cannabinoid. Adds inhalant delivery systems to multiple statutes that currently regulate the use and possession of tobacco products.

Emergency Clause: This bill took effect on May 26, 2015.

Recreational Marijuana

HOUSE BILL 3400, 2015 Oregon Laws, Chapter 614. See “Measure 91 with House Bill 3400 Changes” chart at the conclusion of this outline for “personal allowance” and other exemptions from criminal liability, and for further reductions in marijuana offense levels, as well as for new marijuana related offenses.

SENATE BILL 460, 2015 Oregon Laws, Chapter 784, otherwise known as “Early Start,” authorized medical marijuana dispensaries to sell marijuana on October 1, 2015. Dispensaries must check ID to ensure purchaser is over age 21 and may sell no more than ¼ ounce of recreational marijuana or four units of non-flowering plant materials (seeds, plants etc.) to the same person each day. Cities and counties may prohibit these sales.

Emergency Clause: This bill took effect on July 27, 2015.

Medical Marijuana

SENATE BILL 844, 2015 Oregon Laws, Chapter 844:

- Created a research task force
- Reduces expunction waiting period from three years to one year for person adjudicated or convicted of marijuana offenses when they were under 21.
- Changes OMMA “agitation incident to Alzheimer’s disease” qualifying condition to “a degenerative or pervasive neurological condition.”
- Allows certain medical organizations to be a designated OMMA caregiver.
- Prohibits transplant hospitals from discriminating against OMMA cardholders.

Emergency Clause: This bill took effect on August 21, 2015. However, the provision above regarding expunctions takes effect on January 1, 2016. All other provisions, except for that creating the task force, take effect on March 1, 2016.

L. Mental Illness

Motion to Set Aside

HOUSE BILL 2557, 2015 Oregon Laws, Chapter 320, allows a person who has been found guilty except for insanity to set aside the judgment if it is an offense which would qualify for an order setting aside a conviction pursuant to ORS 137.225.

Document use of “seclusion”

HOUSE BILL 2363, 2015 Oregon Laws, Chapter 81, amends ORS 426.072 to require a treating physician to document in the clinical record any use of seclusion as an intervention on a person alleged to have a mental illness who is confined in a hospital or non-hospital facility while on an “involuntary hold,” – meaning while awaiting an evaluation to determine if a civil commitment hearing is necessary. The term “seclusion” is not defined in this statute but is commonly known as being placed in a locked room alone without the ability to leave. The statute, ORS 426.072, already requires a physician to document the use of restraints on an allegedly mentally ill person while on an involuntary hold.

Emergency Clause: This bill took effect on May 18, 2015.

New definition of “person with a mental illness”

HOUSE BILL 3347, 2015 Oregon Laws, Chapter 433, narrows the definition in ORS 426.005, of “person with a mental illness” from, inter alia, a person “unable to provide for basic personal needs” to “unable to provide for basic personal needs that are necessary to avoid serious physical harm in the near future, and is not receiving such care as is necessary to avoid such harm.”

Firearms possession prohibition for “assisted outpatient treatment”

SENATE BILL 941, 2015 Oregon Laws, Chapter 50, expanded background checks to apply to private firearms transfers. However, the bill also expanded the authority of a judge when ordering a person to participate in “assisted outpatient treatment” pursuant to ORS 426.133. As part of the order, the court may now prohibit the person from purchasing or possessing a firearm during the period of assisted outpatient treatment if, in the opinion of the court, there is a reasonable likelihood the person would constitute a danger to self or others or to the community at large as a result of the person’s mental or psychological state, as demonstrated by past behavior or participation in incidents involving unlawful violence or threats of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When a court adds a firearm prohibition to such an order, the court shall cause a copy of the order to be delivered to the sheriff of the county, who shall enter the information into the Law Enforcement Data System.

The bill further amended ORS 166.250, Unlawful Possession of Firearm, to include a new theory of prohibited possession, namely, “...(F) Is presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm”

Emergency Clause: This bill took effect on May 11, 2015.

M. Miscellaneous

Asset Forfeiture

SENATE BILL 391, 2015 Oregon Laws, Chapter 493 prohibits a law enforcement agency, unless a search warrant or seizure order is first obtained, from seizing any property that is deposited or attempted to be deposited as bail.

DNA Testing

HOUSE BILL 3206, 2015 Oregon Laws, Chapter 564, changes when and how a person convicted of a criminal offense can seek post-conviction DNA testing. The measure expands the practice in the following ways:

- It expands the availability of testing to all felony offenses.
- It requires the defendant to identify the evidence to be tested with as much specificity as is practicable.
- It requires the defendant to make a prima facie showing that exculpatory evidence would lead to a finding that the person is actually innocent of the offense.
- It limits victim testimony in motion practice for testing. It changes when testing can be completed by labs other than the Oregon State Police.
- It requires the court to make written findings when denying a motion for testing.
- It clarifies the availability of court-appointed counsel to aid in the motions for testing.

Missing Children

HOUSE BILL 2601, 2015 Oregon Laws, Chapter 134, requires a member of a law enforcement agency to notify the Oregon State Police Missing Children Clearinghouse within 24 hours if they have probable cause to believe that custodial interference in the first or second degree, or kidnapping in the first or second degree, involving a child has occurred.

Emergency Clause: This bill took effect on May 21, 2015.

Reinstatement of Gun Rights

HOUSE BILL 2429, 2015 Oregon Laws, Chapter 201, adds to the statutes providing for reinstatement of rights related to guns, for those “found guilty except for insanity of a misdemeanor involving violence...” Provides for a contested hearing, with notice to the DA and others. The form of petition is in the bill.

Emergency Clause: This bill took effect on June 2, 2015.

DPSST Legislation

Extension of PERS Exemption Sunset

HOUSE BILL 2684, 2015 Oregon Laws, Chapter 108, extends sunset on provision allowing retired member of PERS to be employed full time by public employer as nursing instructor or a trainer for DPSST and without loss of retirement benefits.

Private Investigator Advertisements

HOUSE BILL 3487, 2015 Oregon Laws, Chapter 226, amends ORS 703.415 and restores language that will require private investigators to list their DPSST license number in all advertisements.

Emergency Clause: This bill took effect on June 2, 2015.

Private Safety Agency Records Request

SENATE BILL 238, 2015 Oregon Laws, Chapter 116, requires private safety agencies to comply with certain requests for personnel records from DPSST.

Emergency Clause: This bill took effect on May 20, 2015.

Reserve Officers

SENATE BILL 239, 2015 Oregon Laws, Chapter 117, includes reserve officers in the definition of “public safety personnel” and “public safety officer” subject to rules governing standards and training determinations by employing agencies.

Emergency Clause: This bill took effect May 20, 2015.

Public Safety Memorial Fund

SENATE BILL 496, 2015 Oregon Laws, Chapter 236, adds injuries or occupational diseases compensable under Worker’s Compensation or a disability program provided by a city having a population of more than 200,000 providing comparable benefits to the definition of qualifying death or disability for the purposes of eligibility for Public Safety Memorial Fund benefits.

**Unlawful manufacture, delivery or possession of marijuana
(P = MJ Solid Products, L=MJ Liquid Products, E=Extract)**

Possession (475.864)	Delivery (475.860)	Manufacturing (ORS 475.856)
<p>A person 21 years or older may possess up to 8 ounces of usable marijuana, 16 ounces of solid marijuana product and 72 ounces in liquid form while in the home. May possess 1 oz in public.</p>	<p>A person 21 or older may deliver up to one ounce of home grown marijuana to a person 21 or older for noncommercial purposes.</p>	<p>A person 21 or older is allowed to grow up to 4 plants. Each household is allowed a maximum of 4 plants.</p>
<ol style="list-style-type: none"> 1. Persons 21 or older in public: <ul style="list-style-type: none"> • > 4 oz. is an A Misd • > 2 oz. is a B Misd • > 1 oz. is a B Violation 2. Persons 21 or older in private: <ul style="list-style-type: none"> • > 32 oz. is an A Misd • > 16 oz. is a B Misd • > 8 oz. is a B Violation 3. Persons 21 or older MJ Products: <ul style="list-style-type: none"> • > 64 oz. (P) is an A Misd • > 32 oz. (P) is a B Misd • > 16 oz. (P) is a B Viol • > 288 oz. (L) - A Misd • > 144 oz. (L) - B Misd • > 72 oz. (L) - B Viol • > ¼ oz (E) not purchased from licensed retailer is a C Fel, < 1/4oz is B Misd 4. Persons under 21: <ul style="list-style-type: none"> • > 8 oz (MJ) is an A Misd • >1 oz. (MJ) is a B Misd • < 1 oz. (MJ) is a Viol • >16 oz (P) or >72oz (L) is a A Misd • <16 oz (P) or <72oz (L) is a B Misd 5. NEW OFFENSE: Unlawful to use MJ in a public place –B Viol – Or Laws 2015, ch 1 §54 6. NEW OFFENSE: Homegrown MJ in Public View -B Viol - Or Laws 2015, ch 1 §56 7. NEW OFFENSE: Unlawful to consume MJ while driving – B Viol –Or Laws 2015, ch 1 §73 8. NEW OFFENSE: Marijuana MIP – B Viol –Or Laws 2015, ch 614 §25 	<ol style="list-style-type: none"> 1. Delivery of MJ is an A Misd where: <ul style="list-style-type: none"> • > 1 oz (MJ) • > 16 oz. (P) • > 72 oz. (L) • Delivery of MJ Extract 2. Delivery (MJ) >1 oz for consideration w/in 1000 ft. of a school is an A Fel (ORS 475.862) 3. Delivery of any amount of (MJ) to a person under 18 and the defendant is at least 21 is a class C Fel 4. Delivery of violations: <ul style="list-style-type: none"> • < 1 oz. (MJ) for consideration is an A Violation • >5 gr (MJ) is a Class A Violation • < 5gr (MJ) is a unclassified Violation 5. NEW OFFENSE: It is unlawful to deliver MJ to a visibly intoxicated person – A Misd - Or Laws 2015, ch 1 §§47(1)/69(1) 6. NEW OFFENSE: It is unlawful to deliver MJ as a prize – A Misd Or Laws 2015, ch 1 §46/69(1) 	<ol style="list-style-type: none"> 1. > 8 plants is a C Fel 2. > 4 plants is a B Misd 3. > 16 oz. (P) is a C Fel 4. > 72 oz. (L) is a C Fel 5. Any plants under 21 is C Fel 6. “Manufacture” of any amount of extract is C Fel 7. Manufacturing w/in 1000 ft. of school (in excess of above amounts) A Fel (ORS 475.858) <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p align="center">Extracts</p> <ol style="list-style-type: none"> 1. No person may “process” or possess any amount of homemade extract. A Misd Or Laws 2015, ch 1 §§57/69(1) 2. A person 21 or older may possess up to 1 oz. of extract purchased from a retailer. See ORS 475.864 for penalties(no retail until after 1/1/16) </div> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p align="center">Definitions</p> <p>Public Place: General public has access including highways, streets and schools</p> <p>MJ Extract: Product obtained by separating resins by <u>hydrocarbon</u> solvent extraction. Carbon-Dioxide extraction permitted if no high heat or pressure used.</p> <p>MJ Products: Solid Products (P) that contain MJ or MJ extract.</p> <p>MJ Liquids: Liquid products (L) that contain marijuana or extracts.</p> <p>Homegrown or Homemade: Grown or made by a person 21 or older for non-commercial purposes.</p> <p>Usable (MJ): Dried MJ flowers and leaves, and any mixture or preparation thereof.</p> </div>