

LEGISLATIVE UPDATE 2017

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



Oregon State Police

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2017 LEGISLATIVE UPDATE

A. TRAFFIC/MOTOR VEHICLE LAWS:

Cell Phone Fix Legislation

HOUSE BILL 2597, 2017 Oregon Laws, Chapter 629, addresses a court case that resulted in the dismissal of citations for texting or talking on a cell phone while driving a motor vehicle. The measure includes the following key provisions:

- Renames the offense of operating a motor vehicle while using a mobile communication device and expands it to cover operating a motor vehicle while using a mobile electronic device.
- Increases the penalty for a first offense and for subsequent offenses or when a first offense contributes to an accident.
- Beginning January 1, 2018, a court may suspend a fine upon a first offense if the person completes a distracted driving avoidance course.
- Directs the Oregon Department of Transportation to create standards for a distracted driving avoidance course.
- Creates an affirmative defense to the offense for certain purposes.

Emergency Clause: This bill took effect on October 1, 2017.

Child Occupant Protection

HOUSE BILL 3404, 2017 Oregon Laws, Chapter 177, requires children under the age of two years to be properly secured with a child safety system in a rear-facing position in a vehicle. Exempts children who are one year of age or older immediately before effective date of Act.

Emergency Clause: This bill took effect on May 25, 2017.

Driving Near Rail Crossings

HOUSE BILL 3389, 2017 Oregon Laws, Chapter 176, modifies current obligations of drivers with respect to rail crossings. Under current statutes, motor vehicles approaching

a grade crossing must stop for, or yield to, oncoming trains. However, the statutes refer only to "trains," meaning that drivers are not, by law, required to stop or yield to "other on-track equipment." The bill clarifies that motor vehicles must yield at grade crossings for on-track equipment.

Enforcement Authority of Weighmaster and Motor Carrier Enforcement Officer

HOUSE BILL 2291, 2017 Oregon Laws, Chapter 45, amends ORS 810.530 to provide additional authority for weighmasters and motor carrier enforcement officers to either arrest or issue a citation for the offense of illegally altering or displaying a registration plate in violation of ORS 803.550, in the same manner as a police officer.

Failure to Maintain a Safe Distance from a Vehicle

SENATE BILL 34, 2017 Oregon Laws, Chapter 305, expands Oregon's "move over law" to include all motor vehicles stopped and displaying required warning or hazard lights, or to circumstances when a person is using emergency flares or posting emergency signs. Allows motorist to either slow down or change lanes, without requiring assessment of whether lane change is unsafe before choosing option to slow down. Provides exemption if the stopped vehicle is in designated parking area.

Failure to Perform Duties of a Driver

HOUSE BILL 2403, 2017 Oregon Laws, Chapter 75, amends ORS 811.700, and ORS 811.705, to require drivers involved in an automobile accident to exchange the names of their respective insurance carriers and the applicable policy numbers associated with the vehicles involved in the accident.

Motor Vehicle Accident Reports

SENATE BILL 35, 2017 Oregon Laws, Chapter 189, amends ORS 811.720 and 811.745. The new threshold for DMV crash reporting will be \$2,500 instead of \$1,500.

Off Road Vehicles

SENATE BILL 344, 2017 Oregon Laws, Chapter 453, adds language to the off road vehicle statutes allowing the Oregon Transportation Commission to designate all-terrain vehicle highway access routes on state highways throughout the state, after consulting with the newly formed ATV Highway Access Routes Advisory Committee.

Photo Red Light Speed

HOUSE BILL 2409, 2017 Oregon Laws, Chapter 288, authorizes cities which operate photo red light cameras to record and cite drivers who speed in excess of 11 miles per hour over the speed limit. The measure prohibits a city from issuing both a speeding ticket and a ticket for running a red light, unless a driver exceeds speed limit by more than 21 miles per hour.

Effective date: This bill took effect on October 6, 2017.

“Real ID Act”

SENATE BILL 374, 2017 Oregon Laws, Chapter 568, authorizes the Oregon Department of Transportation to issue identification cards and driver's licenses that meet the requirements of the federal REAL ID Act of 2005. A “Real ID” means a driver license, driver permit or identification card that complies with the Real ID Act of 2005, that is issued by this state and marked with a distinguishing feature. This definition, and new requirements for issuance, replacement and renewal of Real IDs, will be added to the Oregon Vehicle Code. While the bill passed with an emergency clause, the new processes set forth in Section 3 to 10 of the bill *do not take effect until July 1, 2020*.

Emergency Clause: This bill took effect on July 7, 2017.

White Canes

HOUSE BILL 3160, 2017 Oregon Laws, Chapter 175, amends ORS 811.035, 814.110 and 814.120. Prior to passage of this bill, these statutes referred to “blind persons.” The bill expands the language to include persons with “limited vision.” Permits persons who have limited vision to carry and use white canes on highways and in other public places.

Emergency Clause: This bill took effect on May 25, 2017.

B. ALCOHOL/DRIVING UNDER THE INFLUENCE:

Ignition Interlock Devices

HOUSE BILL 2638, 2017 Oregon Laws, Chapter 655, revises standards for ignition interlock devices (IIDs) used in Oregon. Requires providers of IIDs to hold certificate from Department of Transportation. Specifies Department may issue certificates to providers who agree to provide statewide service centers, operate a 24-hour phone assistance line, perform background checks on IID technicians, and provide testimony on IID process. Requires provider fees adequate to cover expense of program administration. Requires criminal background check on all individuals acting as IID technician. Prohibits employment as IID technician for individuals convicted of driving under the influence of intoxicants or criminal offenses involving fraud, forgery, or theft. Creates complaint process for individuals who have IIDs installed on vehicle. Requires GPS location information be recorded when IID records a test violation. Adds Oregon State Police to entities receiving negative reports. Allows court to order individual to complete additional treatment if court receives at least two negative reports. Defines "test violation." Transfers oversight of IID providers to Department of State Police on July 1, 2019.

Effective Date: This bill took effect on October 6, 2017.

Increased Time to Petition for Diversion

SENATE BILL 961, 2017 Oregon Laws, Chapter 491, allows a defendant charged with driving while under the influence of controlled substance or inhalant to file diversion petition 14 days after prosecuting attorney sends laboratory test results from blood or urine sample to defendant, provided defendant's blood alcohol content was not over .08 percent. Current law requires the defendant to file a petition to enter diversion within 30 days after the defendant's first appearance on the charge, unless the court finds good cause to allow a later filing.

Minor in Possession of Alcohol

SENATE BILL 303, 2017 Oregon Laws, Chapter 20, is the companion to Senate Bill 302, and clarifies and creates consistency in prohibitions and procedures related to minors possessing, purchasing, attempting to purchase or acquiring alcoholic beverages or marijuana items. Additional information is available on the AOC marijuana web page referenced below in the Marijuana/Controlled Substances section, under Senate Bill 302.

Emergency Clause: This bill took effect on April 21, 2017.

C. NEW CRIMES/OFFENSES AND CHANGES TO EXISTING CRIMES/OFFENSES:

Existing Crimes/Offenses

Assault in the Fourth Degree

SENATE BILL 493, 2017 Oregon Laws, Chapter 337, amends ORS 163.160 to expand the crime of assault in the fourth degree to include criminally negligent conduct that causes serious physical injury to a vulnerable road user by means of a motor vehicle. “Vulnerable road user” is defined as a pedestrian, highway worker, person riding an animal, or person operating a bicycle, scooter, in-line skates, roller skates, farm tractor or implement of husbandry on a public way, crosswalk or shoulder of the highway (ORS 801.608).

Assault in the Third Degree

HOUSE BILL 2721, 2017 Oregon Laws, Chapter 658, amends ORS 163.165 to extend the crime of assault in the third degree to individuals who intentionally, knowingly or recklessly cause physical injury to a flagger or highway worker while they are performing official duties. Defines flagger and highway worker.

Emergency Clause: This bill took effect on August 8, 2017.

Giving False Information

HOUSE BILL 2987, 2017 Oregon Laws, Chapter 99, amends ORS 162.385 to address *State v. Lusk* and *State v. Moresco*, in which the Court of Appeals of Oregon ruled that giving false information to a police officer does not apply when an officer requests a person's identification to ascertain if a warrant exists. The bill renames the offense to giving false information to a peace officer in connection with a citation or warrant and expands the existing crime to include providing false information to a police officer when there is an outstanding warrant.

Impounded or Seized Animals

HOUSE BILL 3283, 2017 Oregon Laws, Chapter 677, amends several statutes pertaining to seized/forfeited animals. ORS 167.332 prohibits a person convicted of certain animal crimes from possessing certain animals for a period of five or 15 years. The bill increases the length of prohibition from five to 15 years for person convicted of first or second degree felony animal neglect. A court may reduce the period if the defendant completes a court-approved mental health program. The bill also prohibits the court from reducing restitution orders based on donations or fundraising received by an agency that cares for any forfeited animals.

Interfering with Public Transportation

SENATE BILL 357, 2017 Oregon Laws, Chapter 454, amends ORS 166.116(1) (a) to reduce the penalty for interfering with public transportation from a Class A misdemeanor to a Class C misdemeanor. On the third or any subsequent conviction thereafter, the penalty is increased to a Class A misdemeanor. The penalty for impeding movement or entry into public transportation, disorderly conduct on public transportation or offensive contact of a passenger, employee, agent or officer on public transportation remains a Class A misdemeanor.

Official Misconduct in the First Degree

SENATE BILL 257, 2017 Oregon Laws, Chapter 519, amends ORS 162.415, official misconduct in the first degree, to include committing official misconduct in the second degree if the public servant is acting as a supervisory authority and the violation places a vulnerable person at risk of physical injury or the commission of a sex crime, or the violation will cause the withholding of food, physical care or medical attention.

Trafficking in Persons

HOUSE BILL 2740, 2017 Oregon Laws, Chapter 395, amends ORS 163.266 to increase the age of trafficked person from 15 to 18 for crime of trafficking in persons for use in commercial sex act.

SENATE BILL 250, 2017 Oregon Laws, Chapter 246, amends ORS 167.007 to allow affirmative defense to crime of prostitution that defendant, at time of alleged offense, was the victim of the crime of trafficking in persons (ORS 163.266(1) (b) or (c)).

Vehicular Assault

HOUSE BILL 2598, 2017 Oregon Laws, Chapter 388, amends ORS 811.060 to expand vehicular assault to include contact with a motorcycle or motorcycle operator or passenger.

Violation Fines Increase

HOUSE BILL 2797, 2017 Oregon Laws, Chapter 712, increases presumptive and minimum fines for violations. Increases presumptive fines for traffic violations that occur in highway work zone, school zone, or safety corridor. Though the bill passed with an emergency clause, *these fine increases only apply to offenses occurring after January 1, 2018.*

Emergency Clause: This bill took effect on August 15, 2017.

New Crimes

Arson Incident to the Manufacture of a Controlled Substance

SENATE BILL 323, 2017 Oregon Laws, Chapter 248, creates the crime of arson incident to the manufacture of a controlled substance in the second degree if the person causes a fire or an explosion that damages a building which is not protected property, or any property exceeding \$750 in value. It is a C felony. Creates the crime of arson incident to the manufacture of a controlled substance in the first degree if the fire or explosion damages protected property, damages any property and recklessly places a person in danger of physical injury or protected property at risk of damage, or damages any property and recklessly causes serious physical injury to a peace officer or firefighter. Class A felony. Intended to fill the gap between methamphetamine labs (current Arson crimes) and butane honey oil (BHO) labs (recent marijuana legislation).

Drone Legislation

HOUSE BILL 3047, 2017 Oregon Laws, Chapter 502, includes a number of provisions. One authorizes the use of drones by law enforcement without a warrant for accident scene reconstruction. The measure creates an offense for operating unmanned aircraft system (UAS) over privately owned premises in a manner to intentionally, knowingly or recklessly harass or annoy the owner or occupant of premises. The penalty for use of a weaponized UAS is elevated to a Class C felony if a person intentionally, knowingly or recklessly operates a UAS to fire a bullet or projectiles or causes a UAS to function as a dangerous weapon.

Emergency Clause: This bill took effect on June 29, 2017.

Tobacco and Inhalant Delivery Systems

SENATE BILL 754, 2017 Oregon Laws, Chapter 701, creates the offense of selling tobacco products or inhalant delivery systems to person under 21 years of age. Punishes violation by fine. Specifies that manager or other person who supervises retail sale of tobacco products or inhalant delivery systems commits offense if person is acting within course and scope of person's employment and person has supervisory authority over person who makes sale. Specifies that owner of business that sells tobacco products or inhalant delivery systems at retail commits violation if sale occurs at business. Raises minimum age at which person may purchase tobacco products and inhalant delivery systems to 21 years of age. Adjusts certain other requirements related to tobacco products and inhalant delivery systems to reflect raised minimum age. *The bill applies to conduct occurring after January 1, 2018*, though the bill was passed with an emergency clause.

Emergency Clause: This bill took effect on August 9, 2017.

Unlawful Use of GPS

SENATE BILL 483, 2017 Oregon Laws, Chapter 649, creates the crime of unlawful use of a global positioning system device if a person knowingly affixes a GPS device to a motor vehicle without the consent of owner. Class A misdemeanor. It is enhanced to a Class C felony if the person has a prior stalking-related conviction or is subject to a restraining order. Exempts law enforcement and motor carriers.

D. SENTENCING AND RELATED ISSUES:

Felony Driving While Suspended or Revoked

HOUSE BILL 3446, 2017 Oregon Laws, Chapter 439, authorizes the court to enter judgment of conviction for a Class A misdemeanor at any time after successful completion of probation by a person convicted of criminal driving while suspended or revoked, committed before September 1, 1999, and resulting from habitual offender status, if court determines that it would be unduly harsh for the person to have a felony conviction.

Life Sentence for Certain Sex Offenses

SENATE BILL 1050, 2017 Oregon Laws, Chapter 699, provides a presumptive sentence of life imprisonment without the possibility of release or parole for a defendant sentenced for rape in the first degree, sodomy in the first degree or unlawful sexual penetration in the first degree if, at time crime is committed, the defendant has a prior conviction for the same crime or an equivalent crime in another jurisdiction.

Major Changes to Oregon Sentencing

HOUSE BILL 3078, 2017 Oregon Laws, Chapter 673, makes three major changes in Oregon sentencing law and two appropriations.

1. The bill modifies the Family Sentencing Alternative Pilot Program by expanding the number of offenders who may be eligible to participate.
2. The bill expands short-term transitional leave from 90 days to 120 days.
3. The bill modifies the repeat property offender statutes (Ballot Measure 57)
 - a. For Theft 1 and ID Theft lowers the presumptive sentence from 18 months to 13 months.
 - i. Exception if prior conviction for Aggravated Theft, UUV, Burglary 1, Robbery 2, Robbery 1, Possession of Stolen Vehicle, Trafficking in Stolen Vehicles or Aggravated ID Theft.
 - ii. Increases the number of prior convictions needed to trigger presumptive sentence from two to four;

- iii. If (when) court imposes sentence of probation for conviction of Theft 1 or ID Theft, authorizes court to require person receive high level supervision for at least 12 months, which may be extended.
 - b. Repeals the 10-year sunset on the Ballot Measure 57 changes made in HB 3194 (2013).
- 4. Increases funding for Justice Reinvestment by \$7 million.
- 5. Increases funding to Department of Justice for Crime Victims Services Division and services for victims of domestic and sexual violence by \$1 million.
- 6. Criminal Justice Commission to study impact on prison utilization, recidivism and public safety.

Emergency Clause: This bill took effect on August 8, 2017.

Probation Condition – No Anonymous Text Messaging

HOUSE BILL 3061, 2017 Oregon Laws, Chapter 670, authorizes the court, the State Board of Parole and Post-Prison Supervision or a community corrections agency to prohibit a person from using an Internet website to send an anonymous text message, if the person is supervised for dealing drugs or committing domestic violence or telephonic harassment. The bill also creates a Task Force on Anonymous Text Message Services.

Waiver of Residency Requirement upon Prison Release

HOUSE BILL 3438, 2017 Oregon Laws, Chapter 438, requires the State Board of Parole and Post-Prison Supervision, in determining whether to waive requirements applicable to inmate's residency during first six months of supervision, to consider eligibility for transitional housing and residential treatment programs. Provides that acceptance into transitional housing or residential treatment program constitutes good cause for waiving residency requirement. Requires DOC and local supervisory authority to include in inmate release plan any transitional housing or treatment programs to which inmate has been accepted.

E. CRIMINAL PROCEDURE:

Grand Jury Recordation

SENATE BILL 505, 2017 Oregon Laws, Chapter 650, requires the district attorney to ensure grand jury proceedings are recorded. The bill is phased in beginning in March, 2018 (Deschutes, Jackson, Multnomah) and all other counties in July 2019. Below are the key features of the legislation:

- It requires the courts to purchase and maintain the recording equipment and the district attorney to retain the recordings.
- It delegates the recording responsibility to a grand juror and requires the district attorney to train the grand juror on the proper use of the recording equipment and what portions of the grand jury proceeding may and may not be recorded.
- Requires the recording of the case name and number, names of witnesses appearing, each question asked and each response provided by a witness.
- Excludes recording of deliberations, certain presentments, and other limited events.
- Allows case agent testimony for:
 - Persons who cannot readily understand the proceedings based on physical or mental disabilities; or
 - Victims under 18 years of age at the time of proceedings.
- Allows the district attorney to appoint a certified short hand reporter to record the proceedings.
- Clarifies that failure of a grand juror to properly operate the equipment does not affect the validity of the indictment.
- It creates procedures for the release of the recordings and limits as to its dissemination.
 - Must be released within 10 days of arraignment if indorsed “true bill;”
 - Has separate set of provisions if defendant is pro se;
 - Requires defense attorney to redact personal identifiers;
 - Prohibits defense attorney from releasing a copy of recordings or notes to defendant.
- It requires the district attorney to inform victims and witnesses of the availability of protective orders and, if requested, to seek protective orders.
- It requires the DA to prove by substantial and compelling reasons that the protective order is necessary and describes the factors that the judge may consider: Protection from physical harm, secrecy of informants, confidentiality of information, or any other relevant considerations.

- The public servant, district attorney or member of the public or media may petition the court for disclosure of recordings of cases that are “not true bill” if the allegations involve a public official in the execution of their public duties.
- In all other instances, the recordings are exempt from public disclosure.

Emergency Clause: This bill took effect on August 2, 2017.

Recording Interviews with Juveniles

HOUSE BILL 3242, 2017 Oregon Laws, Chapter 431, amends ORS 133.400 to require recordation of interviews with person less than 18 years of age in connection with an investigation into a felony if the interview is conducted in a law enforcement facility. Essentially expands the interview requirements that currently apply to investigations of Ballot Measure 11 crimes to any interviews in connection with felony investigations of a youth suspected or alleged to have committed an act that, if committed by an adult, would constitute a felony. The state may offer unrecorded statements as evidence in subsequent juvenile delinquency proceedings, but the court is directed to consider the superior reliability of electronic recordings. There are a range of exceptions to the recording requirement, including an exception for agencies employing five or fewer peace officers.

F. SEXUAL OFFENDERS:

Failure to Report

HOUSE BILL 2360, 2017 Oregon Laws, Chapter 418, modifies ORS 163A.040, failure to report as a sex offender. This bill modifies reporting the obligation for sex offenders by requiring report within 10 days following change of residence. Eliminates the state’s obligation to prove that the sex offender has acquired a new residence.

Guilty Except for Insanity Registration

SENATE BILL 66, 2017 Oregon Laws, Chapter 233, has three key provisions: First, it amends ORS 163A.050 to require that courts notify individuals found guilty except for insanity of a sex crime of their obligation to register as a sex offender under ORS 163A.010. This fills a gap in the law. The second and third provisions are discussed under mental health below.

Sexual Assault Forensic Evidence Kits

SENATE BILL 960, 2017 Oregon Laws, Chapter 361, requires law enforcement to have policy requiring that a sexual assault forensic evidence kit be classified as non-anonymous when a victim who did not previously participate in the creation of a report of sexual assault subsequently participates in the creation of a report. Requires law enforcement agency to submit the kit for testing to OSP within 14 days of the reclassification.

Terminology Change

SENATE BILL 247, 2017 Oregon Laws, Chapter 318, amends a dozen statutes to rename “deviate sexual intercourse” to “oral or anal sexual intercourse.”

G. DOMESTIC VIOLENCE:

Increased Penalty for Harassment

HOUSE BILL 2988, 2017 Oregon Laws, Chapter 430, amends ORS 166.065 to increase the penalty for harassment when it occurs in the presence of a minor residing within the household or who is the child or step child of the defendant or victim. The bill includes a definition of family member (ORS 135.230) for the purposes of applying the statute.

Residency Restrictions

SENATE BILL 714, 2017 Oregon Laws, Chapter 689, amends ORS 137.540 to allow the court to impose residency restrictions on defendants who have committed the crime of stalking or have violated a stalking protective order. It also amends ORS 144.102 to authorize the Board of Parole and Post-Prison Supervision or any other supervising authority to impose residency restrictions on defendants who have committed the crime of stalking or violated a stalking protective order.

Sentencing Mitigation

HOUSE BILL 3176, 2017 Oregon Laws, Chapter 123, allows the court to consider whether the defendant committed the crime while under duress, compulsion, direction or pressure from another person who previously committed acts of domestic violence (ORS 135.230 definition), or abuse (ORS 107.705 definition), or used force, intimidation, fraud or coercion to cause the defendant to engage in a commercial sex act.

H. LAW ENFORCEMENT ISSUES:

Bodily Fluids Testing

SENATE BILL 1025, 2017 Oregon Laws, Chapter 696, creates a process by which law enforcement and public safety personnel, who, in the performance of their official duties, are exposed to blood, bodily fluid, or other potentially infectious materials of another person, may petition the court to compel the testing of the other person for a communicable disease. Requires the court to order testing upon a showing that the circumstances create probable cause to conclude that the petitioner's contact with the source person constitutes direct contact with blood, bodily fluids or other potentially infectious materials of the person.

Effective Date: This bill took effect on October 6, 2017.

Compact of Free Association

HOUSE BILL 2594, 2017 Oregon Laws, Chapter 53, amends existing law, which requires that a person be a citizen of the United States to serve as a member of the State Police, police officer, certified reserve officer, corrections officer or parole and probation officer. The United States has entered into agreements of free association with the Republic of Palau, Federated States of Micronesia, and Republic of the Marshall Islands. These agreements allow citizens of these three nations to enter the United States as nonimmigrants. The bill will allow these persons who are lawfully admitted to the United States pursuant to these Compacts of Free Association to serve in these law enforcement positions.

Images of Deceased Persons

SENATE BILL 508, 2017 Oregon Laws, Chapter 340, amends ORS 192.502. This measure provides that images related to the death of a person, which are part of a law enforcement investigation, are exempt from disclosure as a public record if the disclosure would create an unreasonable invasion of privacy of the family of the deceased person.

Law Enforcement Dogs

SENATE BILL 927, 2017 Oregon Laws, Chapter 258, provides sellers and lessors of law enforcement dogs with immunity under product liability statutes for injuries caused by their dogs. A "law enforcement dog" means a dog that is purchased or leased by law

enforcement with the intention that the dog will receive the training required to be qualified as a law enforcement animal under ORS 167.310(7). The immunity takes effect once the dog starts a training program approved by a law enforcement agency or a program accredited and recognized by an animal handling organization.

Racial Profiling

HOUSE BILL 2355, 2017 Oregon Laws, Chapter 706, has two parts. The first will be discussed here. The second is discussed below under Marijuana/Controlled Substances.

Racial Profiling Provisions - The measure allocates resources to DPSST to provide training for agencies and officers that is designed to reduce profiling and requires law enforcement agencies to collect pedestrian and vehicle stop data. The stop data would be implemented in large agencies initially and would phase in others over a period of years. The measure also simplifies the racial profiling complaint process by limiting the requirement to submit a report summarizing profiling complaints and their disposition to one time annually and requires all agencies to report even if no racial profiling complaints are received.

Emergency Clause: This bill took effect on August 15, 2017.

Special State Police Officers

SENATE BILL 15, 2017 Oregon Laws, Chapter 188, broadens the authority of the Superintendent of State Police to appoint Department of Corrections (DOC) employees who are certified corrections officers as special state police officers, if necessary to assist DOC in transport functions and duties.

Emergency Clause: This bill took effect on May 31, 2017.

Training Reimbursement Fix

HOUSE BILL 2611, 2017 Oregon Laws, Chapter 29, creates clarity for agencies that seek reimbursement for certain expenses incurred when a recently trained officer is hired by another agency.

I. CRIME VICTIMS:

Child Abuse Military Determination Requirement

HOUSE BILL 2930, 2017 Oregon Laws, Chapter 210, provides that DHS and/or law enforcement may collect information concerning the military affiliation of the person having custody or control of a child subject to a child abuse investigation and may share this information with the appropriate military authorities.

Convictions of Sex Trafficking Victims

SENATE BILL 249, 2017 Oregon Laws, Chapter 245, requires the court to vacate conviction for prostitution if court finds, by clear and convincing evidence, that person was victim of sex trafficking at or around time of conduct underlying conviction. Allows motion to be filed with court and district attorney no sooner than 21 days after judgment of conviction is entered. Prescribes contents of motion and identifies non-exclusive list of evidence the court may consider.

DHS Findings in Abuse Cases

SENATE BILL 942, 2017 Oregon Laws, Chapter 740, amends ORS 419B.005 to 419B.050 to require DHS to investigate all reports of child abuse and make a finding of “founded,” “unfounded,” or “cannot be determined.” The requirement is lifted if DHS achieves certain specified staffing and performance benchmarks. The legislation specifically targeted the Differential Response program that is being piloted in many counties.

Emergency Clause: This bill took effect on August 15, 2017.

Expands Critical Incident Response Team Assignments

SENATE BILL 819, 2017 Oregon Laws, Chapter 469, amends ORS 419B.024 to expand the requirements for assigning a Critical Incident Response Team (CIRT) to include instances in which there was a death of a sibling or other child living in the household with a child subject to child protective services or if the child, child’s sibling or other child living in the household with the child was the subject of a report of abuse made to the Department of Human Services within the prior 12 months.

The bill codifies members of the CIRT to include the DHS director, child welfare director, DHS media relations and, discretionarily, public members, a juvenile court

judge, and a legislator. Further, the bill identifies information required to be provided to the CIRT, establishes its confidentiality, and prescribes timelines and expected work products of the CIRT including a written report to be submitted to DHS contingent on its release not compromising a law enforcement investigation.

Emergency Clause: This bill took effect on June 22, 2017.

Financial Exploitation of Vulnerable Person

HOUSE BILL 2622, 2017 Oregon Laws, Chapter 290, authorizes a financial institution to refuse certain financial transactions when the financial institution reasonably believes financial exploitation of a vulnerable person may have occurred, may have been attempted or is being attempted. The bill requires the financial institution to provide notice of action or refusal to act to parties authorized to transact business on account of the vulnerable person. While the bill passed with an emergency clause, *the operative language took effect on October 1, 2017.*

Emergency Clause: This bill took effect on June 14, 2017.

Investigations at Post-Secondary Institutions

HOUSE BILL 2972, 2017 Oregon Laws, Chapter 57, prohibits a public university, community college or Oregon-based private university or college to use the threat of or imposition of student discipline or other sanction to influence the decision of a victim of an alleged incident of sexual assault, domestic violence or stalking regarding whether to report the alleged incident or participate in an investigation or adjudication of the alleged incident.

Protected Information

HOUSE BILL 3077, 2017 Oregon Laws, Chapter 171, amends ORS 135.815 to include victim's email and identifying information for social media as personal identifiers to be presumptively excluded from discovery.

Sexual Assault Victims

SENATE BILL 762, 2017 Oregon Laws, Chapter 347, bars evidence obtained during sexual assault investigation from being used to arrest or prosecute minor for purchase or possession of alcohol (ORS 471.430) if minor was sexual assault victim and a person contacted emergency services. Similar bar for minor who contacts emergency services to report sexual assault on behalf of another.

SENATE BILL 795, 2017 Oregon Laws, Chapter 349, requires a provider of sexual assault medical assessment, or law enforcement officer, to contact victim advocate and make reasonable efforts to ensure advocate is available to victim at medical facility where assessment is conducted. Requires advocate to clearly inform victim that victim may decline services of advocate and prohibits advocate from impeding medical services or investigation.

J. JUVENILE LAW:

Appointed Counsel for Indigent Youth

HOUSE BILL 2616, 2017 Oregon Laws, Chapter 389, requires the court to appoint counsel to represent indigent youth in all stages of a juvenile proceeding involving a petition alleging an offense classified as a crime, in a probation proceeding or any case in which the youth would be entitled to counsel if he or she were an adult charged with the same offense. The bill also creates procedures for youth to waive counsel and increases the age to 16. The procedure requires that the youth be advised of right to counsel, sign a written waiver of counsel, and is approved through a hearing. There is an exception for youths entering into a formal accountability agreement under ORS 419C.230. However, any waiver prior to entering into a formal accountability agreement must include written notice of right to counsel by the youth's juvenile department counselor and any waiver must be in writing and signed by the youth.

Child Abuse Investigation on School Premises

SENATE BILL 101, 2017 Oregon Laws, Chapter 515, amends ORS 419B.045 to allow DHS and law enforcement to conduct investigations of child abuse reports on private school grounds. School administrators and staff are not permitted to disclose the interview or its contents to parents or guardians. The bill amends 419B.045 to make clear its provisions apply solely to an investigation that involves an interview of the suspected *victim* in the report of child abuse or *witnesses* and do *not* apply to an investigation or interview of a person who is suspected of having committed the abuse which is the subject of the report.

Emergency Clause: This bill took effect on June 29, 2017.

No Person under 18 in DOC Custody

HOUSE BILL 2251, 2017 Oregon Laws, Chapter 134, codifies the current practice of prohibiting persons under the age of 18 from being in the physical custody of the Oregon Department of Corrections.

No Physical Restraints for Juveniles

SENATE BILL 846, 2017 Oregon Laws, Chapter 257, prohibits the use of physical restraints in juvenile court proceedings on a youth, a youth offender or a young person with exceptions. The measure was amended to allow restraints when the court finds them necessary due to an immediate and serious risk of dangerous or disruptive behavior and there are no less restrictive alternatives. It also provides a procedure for a law enforcement agency, juvenile department or other party to the proceeding to request the use of restraints.

Telephonic Testimony in Juvenile Dependency Proceedings

SENATE BILL 131, 2017 Oregon Laws, Chapter 240, amends ORS 45.400. The bill authorizes the court, upon motion by a party, to permit telephonic or other remote testimony in civil and juvenile dependency proceedings for good cause unless it would result in prejudice to the unmoving party that would outweigh the good cause. Factors supporting a good cause finding are unavailability due to age, infirmity or illness; undue hardship on the witness; practicality, or other circumstances. Factors demonstrating prejudice include need to evaluate credibility and demeanor; whether the face-to-face cross-examination may be determinative of the outcome; whether the exhibits or documents are too voluminous to make remote testimony practical; availability of reasonable facilities for remote testimony, or other circumstances. The bill also updates the statutes to reflect that remote testimony could include a range of simultaneous electronic transmission, not just telephonic testimony.

K. MARIJUANA/CONTROLLED SUBSTANCES:

Dextromethorphan for Minors

SENATE BILL 743, 2017 Oregon Laws, Chapter 345, regulates the sale of dextromethorphan to minors. Prohibits businesses from selling to anyone 17 and under without a prescription and prohibits anyone 17 and under from purchasing. First violation is a warning and further violations are punishable by fines.

Location of Medical Marijuana Dispensaries and Recreational MJ Retailers

SENATE BILL 319, 2017 Oregon Laws, Chapter 7, requires medical marijuana dispensaries and recreational marijuana retail locations be at least 1000 feet away from a school unless a local government adopts an ordinance allowing medical marijuana dispensaries and marijuana retailers between 500 and 1000 feet away from a school, so long as a physical or geographic barrier separates the location and the school.

The Oregon Legislature had passed Senate Bill 1511 in 2016. Among other things, that bill authorized cities or counties to pass ordinances allowing the placement of marijuana dispensaries and retailers within 500 feet of a school so long as there was a major physical or geographic barrier separating the two facilities. This bill clarifies that marijuana dispensaries and retailers must be 500 feet from a school if there is a geographic barrier, otherwise they must remain 1000 feet from a school.

Emergency Clause: This bill took effect on March 20, 2017.

Marijuana Removed from Oregon Controlled Substances Act

SENATE BILL 302, 2017 Oregon Laws, Chapter 21, moves crimes, penalties, defenses to crimes, and procedural provisions that apply to marijuana offenses from the Uniform Controlled Substances Act to the Control and Regulation of Marijuana Act. (Subsequent legislation renamed the Act, yet again, as the Adult and Medical Use of Cannabis Act.) The bill creates some new offenses to deal with arson incident to manufacture - Arson I (A Felony) and Arson II (C Felony) Incident to Manufacture of a Cannabinoid Extract. ORS 475B.185 Unlawful Import/Export of Marijuana was strengthened.

Multiple statutes were modified to reflect the removal of marijuana and cannabis from classification as a controlled substance. The bill added felony charges for possession of over eight pounds of marijuana but removed the enhanced penalty for manufacture or delivery within 1000 feet of a school.

The Association of Oregon Counties (AOC) provided Oregon law enforcement with a training video as well as materials posted on AOC's marijuana web page.

Emergency Clause: This bill took effect on April 21, 2017.

Medical Marijuana Production System

SENATE BILL 1057, 2017 Oregon Laws, Chapter 183, was designed, in part, to address Oregon's medical marijuana production system. Among many other things, the bill:

- Reduces maximum plant count limits for designated medical growers.
- Requires designated medical growers with more than 12 mature plants to be in the OLCC seed-to-sale tracking system known as METRC, and allows OLCC to inspect those grows.
- Directs Oregon Health Authority (OHA) to create database for sharing information with OLCC.
- Allows an OLCC licensee to convert their license to “medical only.”
- Allows OLCC licensee, under certain conditions, to exhibit marijuana items at trade show, State Fair, or similar event.

Emergency Clause: This bill took effect on May 30, 2017.

Medical Marijuana Program Revisions

HOUSE BILL 2198, 2017 Oregon Laws, Chapter 613, addresses ongoing issues with the functionality of the Oregon Medical Marijuana Program (OMMP). Among other things, the bill:

- Pulls back some of the provisions in SB 1057 relating to maximum plant counts for designated medical growers. Specifies a cardholder and the designated primary caregiver can jointly possess no more than six mature medical marijuana plants and 12 immature medical marijuana plants 24” or taller. An unlimited number of immature medical marijuana plants under 24” is allowed.
- Allows designated medical growers with more than 12 plants to sell up to 20 pounds of excess marijuana per year to an OLCC licensed processor or wholesaler, thus reinstating a path for the sale of excess medical marijuana that largely disappeared when most medical dispensaries converted to OLCC licensed retailers.
- Establishes the Oregon Cannabis Commission to study the OMMP and make recommendations to the legislature about possible restructuring of the OMMP.

- Allows marijuana retailers and dispensaries to be located within 1,000 feet of school only if OLCC determines that there is physical or geographic barrier in between, such as a river or a freeway.
- Allows city or county to amend its opt-out ordinance, without an election, to add the new categories of OLCC “medical only” businesses created by SB 1057.

Emergency Clause: This bill took effect on August 2, 2017.

Minor in Possession of Marijuana

SENATE BILL 303, 2017 Oregon Laws, Chapter 20, is the companion to Senate Bill 302, and modifies the Minor in Possession of Marijuana statute and penalties, providing for similar penalties to the Minor in Possession of Alcohol statute. A Class A violation is added to the statute provided that the minor violates ORS 475B.260 while operating a motor vehicle.

Emergency Clause: This bill took effect on April 21, 2017.

Naloxone and Opioid Dependency

HOUSE BILL 3440, 2017 Oregon Laws, Chapter 683, includes these key features:

- Removes the special training requirement governing the prescribing, dispensing and distributing of naloxone, a drug that can often save someone overdosing on opiates from death.
- Provides that reimbursing the cost of medication prescribed for purpose of treating opioid or opiate withdrawal does not require prior authorization during first 30 days of treatment.
- Provides that a person may not be denied entry into a specialty court program solely because the person is taking, or intends to take, medication prescribed for treatment of drug abuse or dependency.
- Provides for the Prescription Drug Monitoring Program (PDMP) to send an automated notice to a prescriber, medical director, or pharmacy director under certain circumstances.

Effective Date: This bill took effect on October 5, 2017.

Reduction of Felony Drug Possessions to Misdemeanors

HOUSE BILL 2355, 2017 Oregon Laws, Chapter 706, has two parts. The first was discussed under “Law Enforcement Issues.” The second part of the bill makes the intentional or knowing possession of drugs a Class A misdemeanor unless the State can prove certain required additional factors/elements.

The bill defines the elements for an enhancement to a felony associated with all Schedule I and Schedule II controlled substances and then specifically defines the requirements for: (1) methadone, (2) oxycodone, (3) heroin, (4) 3,4 methylenedioxymethamphetamine, (5) cocaine, and (6) methamphetamine. For all the crimes both general and specific there are two main threshold requirements to elevate a charge from a misdemeanor to a felony.

In each of the provisions (except the Schedule II controlled substances) there are two scenarios that elevate the crime. The first is when the person possess a usable amount of the controlled substance and you have one of the following three factors: (1) at the time of possession the person has a prior felony conviction, or (2) at the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of the controlled substance, or (3) the possession is a commercial drug offense under ORS 475.900(1) (b). A “usable quantity” means either: (1) an amount of a controlled substance that is sufficient to physically weigh independent of its packaging and that does not fall below the uncertainty of the measuring scale, or (2) an amount of a controlled substance that has not been deemed unweighable, as determined by a Department of State Police forensic laboratory, due to the circumstances of the controlled substance. This is the first statutory scenario that elevates the crime from a misdemeanor to a felony.

The second simply requires that the person possess a specific amount of the drug. These specific amounts include the following: (1) Methadone: 40 or more user units of a mixture or substance containing a detectable amount, (2) Oxycodone: 40 or more pills, tablets or capsules of a mixture or substance containing a detectable amount, (3) Heroin: 1 gram or more of a mixture or substance containing a detectable amount of heroin, (3) 3,4 methylenedioxymethamphetamine: 1 gram or more or 5 or more pills, tablets or capsules of a mixture of 3,4 methylenedioxymethamphetamine, 3,4-methylenedioxymethamphetamine, or 3,4-methylenedioxy-N-ethyleamphetamine, (4) Cocaine: 2 grams or more of a mixture or substance containing a detectable amount, and (5) Methamphetamine: 2 grams or more or of a mixture or substance containing a detectable amount.

If the amount is under a “usable” amount (i.e. residue) then it is a Class A misdemeanor and is not a predicate for a later felony conviction.

The legislation mandates that the Oregon Criminal Justice Commission study the effect that the de-felonization of these offenses has on the criminal justice system, “recidivism rates” and the “composition of the population of persons convicted of felony offenses.” A report to the legislature is due by September 15, 2018.

Emergency Clause: This bill took effect on August 15, 2017.

L. MENTAL HEALTH:

Mental Disease or Defect Language Change

SENATE BILL 64, 2017 Oregon Laws, Chapter 634, amends a wide range of statutes to change the phrase “mental disease or defect” to “qualifying mental disorder.”

Notification of Gun Ownership Prohibition

SENATE BILL 66, 2017 Oregon Laws, Chapter 233, has three key provisions: The first was discussed above under sex offenders. Second, it amends ORS 426.130 to require that courts notify individuals who are found to have mental illness of prohibitions against gun ownership that apply in light of this finding. The court is required to provide notification if the person was committed under subsection (1) (a) (B) or (C) of the statute, or if the court entered an order under (1) (a) (D). This means that the court has conditionally released the person, committed the person to OHA, or specifically ordered that the person be prohibited from purchasing or possessing a firearm. Third, the bill amends ORS 161.370 by requiring that the court notify defendants who are found unable to aid and assist that they are prohibited under federal law from purchasing or possessing a firearm unless they obtain relief under federal law.

M. MISCELLANEOUS:

DPSST Bills

HOUSE BILL 2294, 2017 Oregon Laws, Chapter 47, adds one person representing the public to the Police, Fire, Corrections and Telecommunications policy committees established by the Board on Public Safety Standards and Training. The bill specifies that this person must not have been employed or utilized within the area addressed by the policy committee. The person may also not be related within the second degree by affinity or consanguinity to a person who is employed or utilized within the area addressed by the policy committee. The bill also changes the eligibility requirements for

the person representing the public on the Private Security Policy Committee to match those of the other committees.

SENATE BILL 39, 2017 Oregon Laws, Chapter 227, provides the Board on Public Safety Standards and Training and the Department of Public Safety Standards and Training with powers related to suspension of private security providers.

Effective Date: This bill took effect on October 6, 2017.

SENATE BILL 40, 2017 Oregon Laws, Chapter 228, requires all private security providers to apply for licensure with Department of Public Safety Standards and Training (DPSST) in same manner as certification. Directs DPSST to maintain fingerprint cards used for criminal records check of public safety officers seeking certification or recertification or who are under investigation by DPSST. Removes requirement that DPSST maintain fingerprint cards used for criminal records check of applicants for certification or licensure as private security provider or licensure as a general polygraph examiner or private investigator. Exempts DPSST from law requiring certain government agencies to use electronic fingerprint capture technology when conducting criminal records checks. Expands existing law to require certain employers of public safety officers to provide DPSST with access to personnel records of current or former employee if DPSST requests records related to investigation of employee's qualifications, training, or certification as public safety officer. Provides immunity from civil liability for employer of public safety officer who discloses records in good faith.

Elder Abuse

SENATE BILL 760, 2017 Oregon Laws, Chapter 346, removes the requirement, for abuse reporting purposes, that contact between public or private official and abused person or abuser be while acting in official capacity.

Entry into Vehicle to Save Animal or Child

HOUSE BILL 2732, 2017 Oregon Laws, Chapter 424, creates a new statute limiting civil or criminal liability for an individual who enters a vehicle, by force or otherwise, for the limited purpose of assisting an unattended child or an animal about which they have a reasonable belief is in imminent danger of suffering harm. The individual must use no more force than is necessary, and must stay near the vehicle with the child or animal until the authorities or vehicle owner is present. The liability shield is lifted in cases of gross negligence or reckless misconduct.

Extreme Risk Protection Order

SENATE BILL 719, 2017 Oregon Laws, Chapter 737, allows a peace officer or family or household member to petition the court for an extreme risk protection order. An extreme risk protection order prohibits the respondent from possessing a firearm or ammunition. The measure provides for a law enforcement officer serving an order to request the immediate surrender of deadly weapons and any concealed handgun license and authorizes a law enforcement officer to take possession of surrendered items. The bill also allows a respondent to surrender their deadly weapons to a gun dealer or a third party in lieu of a law enforcement officer.

Forfeiture

HOUSE BILL 2625, 2017 Oregon Laws, Chapter 279, clarifies that 167.347 allows for pre-trial forfeiture of *all* animals seized, if there is a criminal animal cruelty case pending.

HOUSE BILL 3177, 2017 Oregon Laws, Chapter 276, amends ORS 167.426 to 167.439 to allow the seizure of “source birds,” defined as hens and chicks that are intended to be, or to produce, fighting birds.

Immigration Policy Legislation

HOUSE BILL 3464, 2017 Oregon Laws, Chapter 724, prohibits public bodies from asking about citizenship or immigration status or from disclosing specific information about persons for purpose of enforcing federal immigration laws, unless required by state or federal law. The measure authorizes public bodies to refuse to disclose this information unless required by federal or state law, or pursuant to a court order or warrant. The measure directs the Attorney General (AG) to publish model policies for public bodies, consistent with state and federal law that protects persons from enhanced federal immigration enforcement practices at public bodies and facilities, such as public school grounds, public health facilities, courthouses, and public shelters. Finally, the bill encourages public bodies or entities that contract with public bodies for health care, education, or access to justice, to implement policies based on AG's model policies.

Emergency Clause: This bill took effect on August 15, 2017.

Medical Examiner Terminology Change

HOUSE BILL 2322, 2017 Oregon Laws, Chapter 151, amends numerous statutes to change the title "State Medical Examiner" to "Chief Medical Examiner" and the title "Deputy Medical Examiner" to "Medical-Legal Death Investigator."

Racial and Ethnic Impact Statements

HOUSE BILL 2238, 2017 Oregon Laws, Chapter 614, directs the Criminal Justice Commission and DHS to prepare racial and ethnic impact statements on proposed legislation and ballot measures related to crime and human services, respectively, at request of legislator from each major political party. The bill also establishes a Task Force on Public Safety which shall study pretrial security release in Oregon, focusing on reducing racial and ethnic disparity in pretrial incarceration.

Emergency Clause: This bill took effect on August 2, 2017.

Recognition for Fallen Military Service Members

SENATE BILL 573, 2017 Oregon Laws, Chapter 343, encourages Oregonians to honor and remember those who have given their lives in military service in war, at noon on the 21st day of each month.

“Set Asides”

SENATE BILL 497, 2017 Oregon Laws, Chapter 338, amends ORS 137.225 to add “criminal citation” and “criminal charge” as records that can be set aside by a court. It clarifies that an individual does not have to be taken into custody to be eligible for the set aside. It does not affect traffic citations.

SENATE BILL 507, 2017 Oregon Laws, Chapter 339, is a technical “clean up” bill which clarifies that Class C felonies punishable as Class A misdemeanors may be set aside.

Towing Bills

SENATE BILL 488, 2017 Oregon Laws, Chapter 523, creates a new statute that requires law enforcement agencies to provide the motor vehicle owner’s contact information to towers who have recovered vehicles that are reported stolen. The contact information may only be used to notify the owner that the vehicle is recovered and its location. The

bill also limits the accrual of fees until that notification is provided. The registered owner of a vehicle that is totaled after theft may transfer the title of the vehicle to the tower instead of paying tower's fees. The bill also allows the owner to inspect the towed vehicle.

SENATE BILL 117, 2017 Oregon Laws, Chapter 480, makes significant changes to Oregon's civil towing laws by placing additional requirements and prohibitions on towers. It prohibits a tower from towing a motor vehicle from a parking facility unless there is a sign displayed in plain view prohibiting or restricting public parking at the facility. There is an exception if the tow is with prior consent of the vehicle owner or operator. It requires a tower to receive signed written authorization from a parking facility's owner or owner's agent before towing a motor vehicle from the facility. The tower must maintain this authorization and provide it to the owner or operator upon request.

It prohibits a tower from acting as a parking facility owner's agent for purpose of this signed authorization. It removes an exception that allows towing without signed authorization for motor vehicles parked in violation of a sign warning that parking is prohibited 24 hours a day.

The bill modifies the existing requirement that a tower photograph a towed vehicle as it was unlawfully left or parked by directing the tower to provide a copy of the photograph upon request of the motor vehicle owner or operator. It also defines when a hook up of a motor vehicle is complete, for purposes of determining associated fees. The measure adds a requirement that a tower with multiple storage facilities tow the motor vehicle to the facility closest to the tow with space available and within the same county as the tow. It also removes the exception allowing towers to monitor parking facilities within 1,000 feet for business when the tower provides notice of the hours when this monitoring occurs.