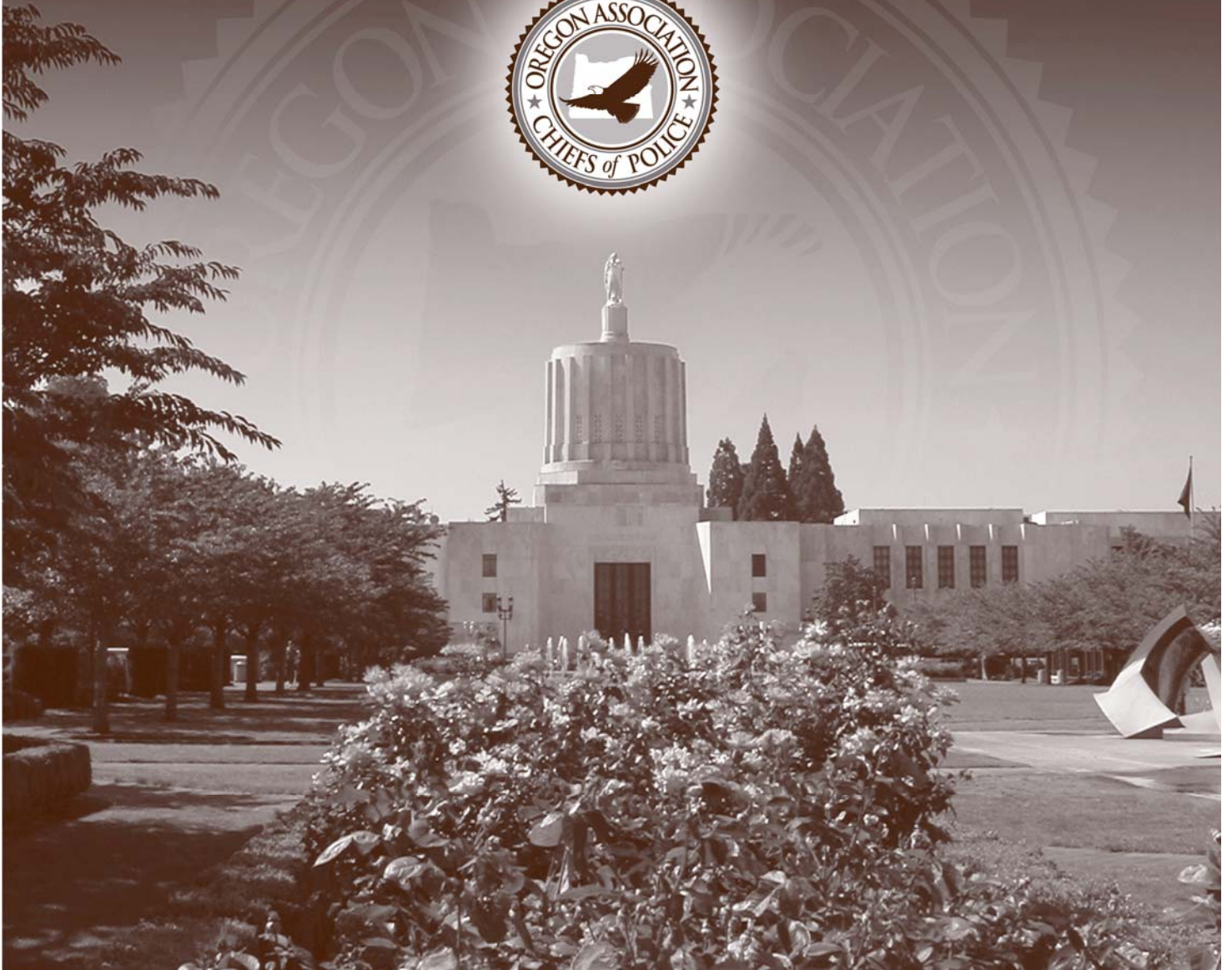


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OREGON ASSOCIATION CHIEFS OF POLICE

# LEGISLATIVE REPORT



# 2009

## LEGISLATIVE SESSION

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Dear Members:

On behalf of Keizer Chief Marc Adams and Albany Chief Ed Boyd (Legislative Committee Co-Chairs), I want to thank the members of the Oregon Association Chiefs of Police for engaging the legislative process during a very difficult economic time for the State of Oregon. Your willingness to testify before committees, make phone calls, write letters and participate on work groups contributed significantly to our ability to preserve system critical public safety budget priorities and to defeat legislation that would have adversely affected law enforcement agencies throughout the state.

The hallowed halls of the Oregon State Capitol are quiet again after six months of frantic politicking and policymaking. All of the interested parties are tired of their jockeying and arguing and everyone is back at home reloading for another round in February of next year. Veterans of the legislative process will tell you that a legislative session, regardless of length, leaves legislators, staffers, lobbyists and bureaucrats in a deep exhaustion that resembles a form of post traumatic stress disorder. A lack of sleep combined with sustained conflict and unpleasantness is more than a good night of sleep will cure.

The legislative process in Oregon is often compared to sausage making because it is both messy and ugly at times. Interest groups from almost every possible perspective gather in Salem during legislative session to vie for resources and to debate policy. In this pressurized environment, most pundits agree that the legislative assembly easily loses sight of what the typical Oregonian believes and cares about. As a result, most Oregonians feel unrepresented and alienated from a process we call a "citizens legislature". This is proven out by a recent Riley Research Associates poll that found that only 26% of Oregonians say they approve of the 2009 Legislature's performance.

Respectfully submitted,

Kevin Campbell, Executive Director



# ALCOHOL/DUII

## HB 2238: Breath Test Refusal, Hardship Permit Delay

HB 2238 increases the penalty for refusing to take a breath test by increasing the period of time a person is ineligible to receive a hardship permit from one year to three years. The determination regarding a delay in eligibility for a hardship permit is based on the following factors:

- Whether the person is presently participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction; or
- Whether within the five years preceding the date of arrest any of the following occurred:
  1. Suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replacement Part) became effective;
  2. The person was convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart to ORS 813.010 in another jurisdiction, as described in ORS 813.430;
  3. The person was convicted of driving while under the influence of intoxicants in violation of a municipal ordinance in this state or another jurisdiction, as described in ORS 813.430; or
  4. The person commenced participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction, as described in ORS 813.430.

### VITAL STATISTICS

Effective Date: January 1, 2010  
2009 ORS Site: Chapter 607



*"Oregon DUII laws continue to show an aggressive intolerance for drinking and driving."*

## HB 2246: Providing Alcohol to Underage Person Change

HB 2246B establishes that a parent or guardian may provide alcohol to an underage person only if they are accompanying the underage person and they are in a private residence. In all other instances, a person in control of property may not allow any person under age 21 to consume alcohol on the property and may not allow someone who is underage and who has consumed alcohol to remain on the property. HB 2246 provides an exemption from these requirements for sacramental wine that is given or provided as part of a religious rite or service.

### VITAL STATISTICS

Effective Date: January 1, 2010  
2009 ORS Site: Chapter 608

## HB 2331: Diversion Period of Ineligibility Extension

HB 2331 allows a person to enter a diversion program if fifteen years have passed since the person's last diversion. Further, the measure provides that a person is not eligible for another diversion if the person has been convicted of a crime involving a motor vehicle in the fifteen years preceding their second or subsequent diversion. Currently, if a person has not participated in a diversion program within ten years of an offense date, he or she may be eligible to enter a diversionary program for driving under the influence of intoxicants. HB 2331 extends the period of ineligibility to fifteen years.

### VITAL STATISTICS

Effective Date: January 1, 2010  
2009 ORS Site: Chapter 515



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## HB 2426: Enhanced Fine for DUII when BAC is over .15%

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HB 2426 imposes an increased minimum fine of \$2,000 for a person convicted of driving under the influence of intoxicants (DUII) with a blood alcohol level (BAC) of .15 percent or greater. The passage of this measure, specifically the increased fine for a BAC of .15 percent or greater, may be essential for the state to continue receiving 410 Grant funds from the federal government.

**VITAL STATISTICS**

Effective Date: January 1, 2010  
2009 ORS Site: Chapter 613



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## HB 2427: Refusal to Submit to Urine Test Penalty

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HB 2427 adds refusal to submit to a urine test to the offense of refusal to take a test for intoxicants when requested by a police officer in accordance with ORS 813.131 and 813.132. The penalty for refusal to submit to a urine test is a traffic offense punishable by a \$500 to \$1000 fine. Adding this requirement to the statute is important in cases involving substances other than alcohol when a Drug Recognition Expert (DRE) is conducting an investigation for driving under the influence of intoxicants. As part of a 12-step DRE evaluation, an officer must request a urine sample. If a defendant refuses to provide a sample, the conclusions of the DRE evaluation may not be admissible in court.

**VITAL STATISTICS**

Effective Date: January 1, 2010  
2009 ORS Site: Chapter 614

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## HB 3051: DUII Urinalysis Admissible at Trial

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HB 3051 stipulates that a valid chemical analysis of a person's urine (performed in a licensed or accredited laboratory) is admissible at a trial as evidence and that it may be used with other evidence to determine whether a person was driving under the influence of intoxicants. Under the Implied Consent Law, a person is deemed to have given consent to a blood, breath or urine test when, after being arrested for driving while under the influence of intoxicants (DUII), an officer believes that the person is under the influence of a controlled substance or an inhalant. HB 3051 clarifies that urinalysis evidence is admissible in court if the testing is performed by a licensed or accredited laboratory.

**VITAL STATISTICS**

Effective Date: January 1, 2010  
2009 ORS Site: Chapter 325

*"HB 2426 insures that our most dangerous and egregious DUII offenders receive an appropriate sentence for the terrible tragedy that can result from their actions."*

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## HB 3194: Adds Juvenile DUII as a Felony Predicate

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HB 3194 includes prior juvenile adjudications for driving under the influence of intoxicants as a predicate for felony driving under the influence. The measure specifies that a person that has three prior convictions for driving under the influence within ten years, including prior juvenile adjudications, is a Class C felony.

**VITAL STATISTICS**

Effective Date: January 1, 2010  
2009 ORS Site: Chapter 525



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## HB 3295: Intoxicants Prohibited for Youth in Diversion

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HB 3295 requires diversion programs for persons less than 18 years of age to include an agreement that the youth will not use intoxicants during the diversion program.

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 586

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## SB 225: License Suspension for Minor Failure to Appear

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SB 225 requires a court to suspend a minor's drivers license if the minor, at least 13 years of age but less than 21 years, is cited for attempting to purchase alcohol or possessing alcohol and later fails to appear in court. The measure provides that person's age at the time of the offense, not at time of conviction, governs the imposition of the license suspension. SB 225 closes a loophole in the statutory language that allows a person cited under the statute to defer or avoid trial until after his or her 21<sup>st</sup> birthday in order to avoid receiving a license suspension as part of a conviction.

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 228

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## SB 227: Fine Increase for Furnishing Alcohol

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SB 227 increases the fine for knowingly furnishing alcohol to a minor or someone who is visibly intoxicated from \$350 to at least \$500 for a first conviction, from \$500 to at least \$1,000 for a second conviction and from \$1000 to at least \$1500 for a third conviction. The measure allows the court to waive at least \$200 but not more than one-third of the fine if the violator performs at least 30 hours of community service. Except for the community service exception, SB 227 prevents the court from waiving or suspending the mandatory minimum sentence and allows the court to require restitution for any damage to property where the alcoholic liquor was illegally consumed or require participation in volunteer service to a community service agency.

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 412



# ANIMAL ENFORCEMENT

## HB 2369: Impoundment and Forfeiture of Animals

HB 2529 includes the crimes of animal fighting, dog fighting and cockfighting to the list of animal mistreatment crimes that may result in impoundment and forfeiture of the animals. The measure also adds these crimes to the list of circumstances where peace officers may provide emergency food, water and medical care to an animal for its own protection. The measure may provide a cost savings in cases involving seizures of large numbers of fighting birds or fighting dogs because it allows for the animals to be impounded on the premises where they are found.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 550



## HB 2629: Increased Penalty for Police Animal Assault

HB 2629 imposes an addition fine for committing the crimes of interfering with, or assaulting, a police animal. Currently, interfering with a police animal is a Class A misdemeanor and assaulting a police animal is a Class C felony. In the event a defendant is convicted of either crime, this measure requires a judge to impose an additional \$500 fine for a misdemeanor and an additional \$1,000 fine for a felony.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 555

## SB 280: Increased Penalty for Cockfighting

SB 280 includes the following provisions related to cockfighting, animal fighting and forfeiture:

- increases the penalty for participating in a cockfight from a Class A misdemeanor (with a maximum penalty of one year imprisonment and a \$6,250 fine), to a Class C felony (with a maximum penalty of five years' imprisonment and a \$125,000 fine).
- increases the penalty for the crime of involvement in animal fighting from a Class A misdemeanor (with a maximum penalty of one year imprisonment and \$6,250 fine), to a Class C felony (with a maximum penalty of five years imprisonment and a \$125,000 fine).
- adds participating in cockfighting to the list of crimes subject to criminal forfeiture.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 796



## SB 298: Placement of Forfeited Animals and New Crime

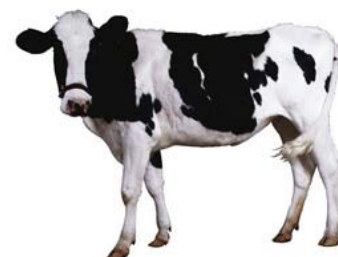
SB 298 creates a new crime of encouraging animal abuse by knowingly allowing a person who forfeited an animal because of abuse to possess the animal. The measure designates the new violation as a Class C misdemeanor punishable with a fine of up to \$1,250 and up to 30 days in jail.

In addition, SB 298 includes the following additional provisions related to the placement of forfeited animals:

- Prohibits returning a forfeited animal to a person in the same household.
- Requires written acknowledgment of the rights and responsibilities of a person receiving a forfeited animal.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 273



## SB 299: Possession of a Domestic Animal Prohibition

SB 299 allows a court to remove all domestic animals from the residence of a person who has been convicted of unlawfully possessing domestic animals and includes the following additional provisions:

- Adds sexual assault and animal fighting offenses to offenses that prevent a person from possessing a domestic animal for five years after conviction.
- Adds dog fighting and cockfighting offenses to offenses that bar possession of a domestic animal for 15 years after conviction.
- Designates unlawful possession as a Class C misdemeanor.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 486

*“Surprisingly, animal crime measures garnered significant attention this session despite the economic crisis.”*

## SB 303: Humane Agents Training and Certification

SB 303 allows Humane Society special agents who carry a Governor’s commission to be considered police officers and to be recertified by DPSST. The measure adds a “nonprofit animal care agency that has maintained an investigation department for five years and has had officers commissioned as special agents by the Governor” to the definition of law enforcement unit for purposes of public safety standards and training. SB 303 clarifies that any training provided to the Humane Society by the Department of Public Safety Standards and Training (DPSST) will be paid for by the animal care agency.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 417

## SB 398: Equines Added to Animal Abandonment

SB 398 adds equine abandonment (defined as horses, ponies, donkeys, mules, hinnies or zebras or hybrids), to the crime of animal abandonment and establishes the violation as a Class B misdemeanor punishable by 6 months in prison and a \$2500 fine. SB 398 also changes the standard of care that constitutes animal abandonment from failure to provide continued care to failure to provide minimum care, a term that is already defined in statute.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 233



# BUDGET POLICY ISSUES

## SB 77: County Public Safety Services Crisis Declaration

SB 77 allows the Governor or a county government to request a review of county level public safety services when a state of fiscal distress compromises the county's ability to provide a minimally adequate level of public safety services.

The measure includes the following provisions:

- Directs the Governor or a county government to request a review and analysis of public services in the county by the Oregon Criminal Justice Commission (CJC).
- Requires the CJC to establish, by rule, public safety services guidelines by which to identify the minimally adequate level at which public safety services must be delivered in a county.
- Requires the Oregon Criminal Justice Commission to consult with public safety stakeholders, review and analyze public safety services and to report its findings and recommendations to the Governor within 14 days after the request for review is made.
- Requires the CJC to recommend that the Governor declare a public safety services emergency for the county if the commission finds that the county is providing a less than minimally adequate level of public safety services and requires the commission to copy its findings/recommendation to the legislature and the county government.
- Requires the Governor to review the findings and recommendations provided by the Criminal Justice Commission and to either issue the declaration of a public safety services emergency or to determine that the county's fiscal distress does not constitute the basis for an emergency declaration.
- If an emergency declaration is issued, the Governor is required to form a "fiscal control board that is responsible for developing and recommending a recovery plan to the county governing body. The membership of the fiscal control board as established by the Governor includes three members appointed by the Governor, one member appointed by the Senate President, one member appointed by the House Speaker and three ex officio members including the Secretary of State, the State Treasurer and the director of the Department of Revenue. The fiscal control board terminates when the governor determines that an emergency no longer exists.
- Requires the county governing body to approve or reject the recovery plan proposed by the fiscal control board. If the county governing body accepts the recovery plan, the fiscal control board will provide technical assistance in support of the implementation of the plan. If the plan is rejected, the fiscal control board will monitor efforts by the county to restore minimally adequate services and will offer technical assistance.

### VITAL STATISTICS

Effective Date: July 23rd, 2009  
2009 ORS Site: Chapter 789



*"Despite passage of SB 93, capturing delinquent fines from income tax will have to wait on Congressional action"*

## SB 93: Federal Intercept Legislation

SB 93 would allow the Oregon Judicial Department (OJD) to enter into an intergovernmental agreement with the federal government to intercept federal tax refunds in order to offset debt owed to state for past-due liquid and delinquent accounts for crime victim restitution payments, compensatory fines, other fines, costs, and assessments. Passage of a Federal companion is required for this to take effect.

### VITAL STATISTICS

Effective Date: July 23rd, 2009  
2009 ORS Site: Chapter 791



# Corrections/Parole and Probation

## HB 2292: DOC Contracts for Out of State Confinement

HB 2292 provides that the Department of Corrections (DOC) may enter into a contract with a public entity for correctional services in a facility located in another state when they determine that the facility is suitable for the confinement and care of persons committed to the legal and physical custody of the department. The provisions of HB 2292 sunset on January 2, 2014.

### VITAL STATISTICS

Effective Date: June 26, 2009  
2009 ORS Site: Chapter 611

## HB 2321: DOC Supervision Relief for Graffiti Offenders

HB 2321 removes the requirement for the Department of Corrections to supervise a person convicted of criminal mischief involving graffiti when the person refuses to donate their labor. This measure releases DOC from the requirement to supervise individuals who are charged with misdemeanors such as criminal mischief involving graffiti when they refuse to participate in community service.

### VITAL STATISTICS

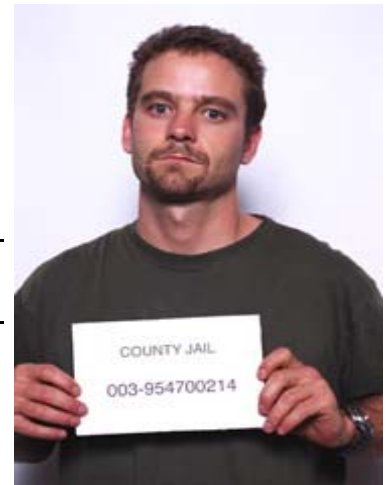
Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 15

## HB 2623: Earned Time for Educational Achievement

HB 2623 authorizes the Department of Corrections to reduce a term of incarceration by up to 60 days for inmates who successfully complete a high school diploma, GED, post-secondary degree or registered apprenticeship program. Under current law, offenders can receive "earned time" credit for up to 20 percent of their total sentence for participating in adult skills programs as defined by ORS 421.084. HB 2623 allows education and apprenticeship programs to count towards the 20 percent reduction available. The judge must include eligibility for earned time in a persons' sentence in order for them to qualify to receive these credits.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 623



## HB 2789: Firearm Possession for Retired Parole and Probation

HB 2789 clarifies the definition of parole and probation officers for the purpose of carrying firearms by providing that retired parole and probation officers are exempt from being prosecuted for unlawful possession of a firearm and by clarifying that parole and probation officers may carry a firearm prior to having one year of experience on the job.

### VITAL STATISTICS

Effective Date: June 17, 2009  
2009 ORS Site: Chapter 316

## HB 3199: DOC Requirement to Train DOC Officers

HB 3199 requires the Department of Corrections to provide training for basic certification of corrections officers employed by the Department of Corrections. Further, the measure requires DOC to develop proposed training standards for basic certification of state corrections officers that must be reviewed by the Corrections Policy Committee and adopted by the Board on Public Safety Standards and Training through rule. The training standards must meet the minimum training standards for the basic training of other corrections officers in Oregon (city and county). HB 3199 requires DPSST to conduct periodic audits of the training provided by the Department of Corrections in order to ensure compliance with the adopted training standards and, if it complies with the standards, to accredit the DOC training. No later than March 1, 2011, DPSST is required to report to the Legislative Assembly regarding the efficacy of the DOC basic training program. The provisions of HB 3199 sunset on January 2, 2014.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter



## SB 74: Supervision Transfer Fee for Arrest and Return

SB 74 provides that a person on probation, parole or post-prison supervision who applies to transfer their supervision under the Interstate Compact for Adult Offender Supervision described in ORS 144.600 must pay an application fee in an amount determined by rule of the Department of Corrections for the purpose of paying costs incurred in retaking offenders who transfer supervision under the compact. The fee shall be collected by the supervisory authority as defined in ORS 144.087 and forwarded to the Governor's office for deposit in the Arrest and Return Account described in ORS 133.865.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 742

*"The removal of state corrections training from DPSST was one of the most contentious issues of the 2009 Legislative Session"*

## SB 275: Medical Assistance Application Prior to Release

SB 275 allows individuals with a serious mental illness to apply for medical assistance between 90 and 120 days prior to their release from a public institution and to receive assistance upon release if found to be eligible. The People with Disabilities Division of the Department of Human Services and the Department of Corrections determined that allowing any inmate with a severe mental illness to apply for Medicaid pre-release improves the chances of obtaining the medical cards they need to access mental health treatment and to continue their medication regime after release.

### VITAL STATISTICS

Effective Date: June 18, 2009  
2009 ORS Site: Chapter 414

# COURTS/SENTENCING

## HB 2269: “All Practicable Speed” Definition for Extraditions

HB 2269 establishes that an extradition is presumed to have been conducted with “all practicable speed” if it is conducted within 90 days after the date the defendant has been delivered to an agent of this state. Under ORS 136.295(2), an extradited defendant must be tried or released within 60 days from the date the defendant enters the state, provided that law enforcement authorities have conducted the extradition with all practicable speed. Prior to the passage of HB 2269, “all practicable speed” was not defined by statute and instead was determined on a case-by-case analysis.

### VITAL STATISTICS

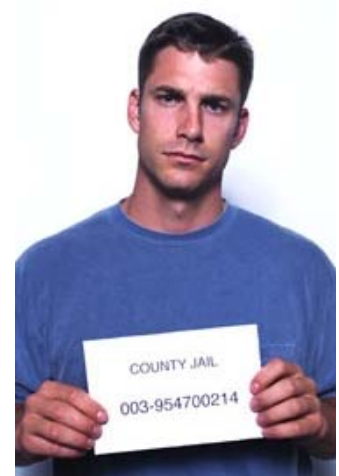
Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 357

## HB 3508: Ballot Measure 57 Suspension/Other Provisions

House Bill 3508 makes a number of changes in sentencing and other changes that generate net savings by reducing the need for prison beds and community corrections caseloads. The bill includes the following key elements:

- Measure 57 Phase-In:** The bill retains all the provisions of Ballot Measure 57 until 2/15/10, at which time the repeat property crime enhancements will be suspended through the end of the biennium. All remaining portions of M57 remain in effect. The bill adds the crime of Aggravated Identity Theft of an Elderly Victim to Ballot Measure 57 and requires the Oregon District Attorneys Association to report Ballot Measure 57 charging and conviction data to the Criminal Justice Commission by 1/15/2010.
- Earned Time Provisions:** The measure increases the maximum amount of earned time that offenders convicted of nonviolent crimes may earn from 20% to 30%. The earned time provision sunsets in two years but is designed to apply retroactively. This provision includes a streamlined process for resentencing that ensures notice and an opportunity for the victim to be heard.
- Community Corrections:** HB 3508 establishes a 60 day cap on probation revocations for technical violations; earned time incentive to gain inactive probation status at 50% of the term, and conforming when offenders on post prison supervision may be transferred to inactive status.
- Criminal Aliens:** The bill streamlines the commutation process by relieving the current statutory notice requirements for a class of offenders who have ICE holds, are convicted of nonviolent offenses and have six months remaining on their DOC sentence.
- Parole Board Hearings:** Allows the Parole Board to defer release hearing for up to 10 years. Currently, the statute requires release hearings for eligible offenders every two years.
- Kidnapping:** Enhances sentence for Kidnapping to 300 months where victim is 12 or under and the offender had a sexual intent.
- Assault 3/DUII:** Enhances sentence for Assault 3 to SGL level 8 when committed by a drunk driver
- Oregon State Police:** Appropriates \$8M for OSP to hire patrol troopers.

The companion budget bill, HB 5054, utilizes some of the \$40M estimated savings generated by HB 3508 to buy back the Oregon Youth Authority facility in Burns, custody beds at Maclaren, and positions in OSP patrol, criminal, fish & wildlife and forensics.



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## SB 86: Responsibility for Extradition Security

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SB 86 shifts the responsibility from the Superintendent of State Police to the Governor for determining the security requirements necessary to safely carry out the extradition of a person from another state including, but not limited to, the number of agents needed to secure the return of a person under ORS 133.743 to 133.857.

**VITAL STATISTICS**

Effective Date: January 1st, 2010

2009 ORS Site: Chapter 40

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## SB 389: Upward Departure for Substantial Quantities

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SB 389 explicitly repeals ORS 137.721(1) in order to conform the statute to section 6 of Ballot Measure 57 that was passed in November of 2008. The measure clarifies that the sentence for a person convicted of possession of substantial quantities of a controlled substance, or for delivery to a minor, is not limited to the presumptive 19-month sentence. Section 6 of Ballot Measure 57 prohibited a court from imposing a sentence of optional probation or granting a downward sentence disposition or duration for offenders who are convicted of manufacturing and delivering a controlled substance if the person had one or more prior convictions for manufacture or delivery.

**VITAL STATISTICS**

Effective Date: January 1st, 2010

2009 ORS Site: Chapter 191



# CRIMES/VIOLATIONS

## HB 2285: Marijuana Penalty Clarification/Other Provisions

HB 2285 includes a number of various changes to law including:

- **Marijuana Penalty Clarification:** clarifies that delivery of more than an ounce of marijuana, for no consideration, is a Class C felony (level 2 on the sentencing guidelines).
- **Artificial Light from a Vehicle while Hunting:** authorizes a peace officer to cite an individual for using artificial light from a vehicle while in possession of a bow and arrow, rifle or other firearm.
- **Updated Firearm Definition:** Clarifies the definition of a firearm to mean any weapon designed to expel a projectile by the action of powder (including guns without a firing pin). This provision also clarifies what constitutes a firearm for the crimes of felon in possession, unlawful possession of a weapon, first degree theft and unlawful paramilitary activity.
- **Forensic Analyst Signed Report in Lieu of Appearance:** Eliminates the sunset in ORS 475.235 which provides that a certified copy of a forensic laboratory report signed by an analyst is prima facie evidence of the test results unless the defendant provides notice of an objection, in which case the state must produce the analyst at trial.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 610



*"HB 2285 is considered a "stuffed" measure because it includes several/unrelated changes to criminal law"*

## HB 2323: Property Crime Value Threshold Increase

HB 2323 increases the value threshold of certain property crimes as follows:

- **Crime of theft** by increasing the threshold to less than \$100 for Theft 3 (previously set at less than \$50), to between \$100 up to \$1000 for Theft 2 (previously more than \$50 and less than \$200 for Theft by receiving and under \$750 in any other case) and to \$1000 or above for Theft 1 (previously \$200 or more in cases of theft by receiving and \$750 or more in any other case)
- **Theft of services** by increasing the threshold to less than \$100 for a Class C misdemeanor, less than \$1000 for a Class A misdemeanor, \$1000 or more for a Class C felony and leaves the threshold of \$10,000 for a Class B felony.
- **Criminal mischief** by increasing the threshold of damage to above \$500 for criminal mischief in the second degree, to above \$1000 for criminal mischief in the first degree.
- **Fraudulent use of a credit card** by increasing the value of property or services obtained to less than \$1000 for a Class A misdemeanor and \$1000 or more for a Class C felony.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 16



## HB 2476: Sex Abuse by Athletic Coach Penalty

HB 2476 enhances the penalty for sex abuse in the second degree when the offender is 21 years or older and is the athletic coach of the minor victim. This measure makes the following two changes to the law related to sex abuse:

- Establishes that conduct that currently constitutes sex abuse in the second degree (a level 7 crime on the sentencing grid block becomes a level 8 offense if the offender is 21 years or older and is the victim's coach.
- Establishes that conduct that currently constitutes sex abuse in the third degree becomes sex abuse in the second degree if the offender was the victim's coach and 21 years or older (a level 7 felony instead of a Class A misdemeanor).

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter



## HB 2477: Invasion of Privacy Nudity Definition Change

This bill clarifies the definition of nudity to include any uncovered or less than opaquely covered part of a person's genitalia or female breast. In changing the definition of nudity, the measure removes the requirement that the victim be "post-pubescent". Under current statute, a person could not be convicted of invasion of privacy if the victim is a pre-pubescent child. HB 2477 also provides that the ORS 163.700 does not apply to a visual recording of a person under 12 years of age if:

- The person who makes or records the visual recording is the father, mother, sibling, grandparent, aunt, uncle or first cousin, by blood, adoption or marriage, of the person under 12 years of age; and
- The visual recording is made or recorded for a purpose other than arousing or gratifying the sexual desire of the person or another person.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter

*"Current events often result in the passage of legislative measures designed to address a wrong...HB 2476 is an example."*

## HB 2478: Sex Abuse III for propelling dangerous substance

HB 2478 establishes that a person commits the crime of sexual abuse in the third degree if the person intentionally propels any dangerous substance (blood, urine, semen or feces) at a victim without the consent of the victim for the purpose of arousing or gratifying the sexual desire of the person or another person.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 616

## HB 2498: Crime of Endangering Aircraft in 2nd Degree

HB 2498 provides that a person commits:

- The **crime of endangering aircraft in the first degree** if the person knowingly
  1. Throws an object at, or drops an object upon, an aircraft;
  2. Discharges a bow and arrow, gun, airgun or firearm at or toward an aircraft;
  3. Tampers with an aircraft or a part, system, machine or substance used to operate an aircraft in such a manner as to impair the safety, efficiency or operation of an aircraft without the consent of the owner, operator or possessor of the aircraft; or
  4. Places, sets, arms or causes to be discharged a spring gun, trap, explosive device or explosive material with the intent of damaging, destroying or discouraging the operation of [any] an aircraft.
- The **crime of endangering aircraft in the second degree** if the person knowingly:
  - possesses a firearm or deadly weapon in a restricted access area of a commercial service airport that has at least 2 million passenger boardings per calendar year.
  - For purposes of the measure, “restricted access area” means an area of a commercial service airport that is designated as restricted in the airport security program approved by the federal Transportation Security Administration and is marked at points of entry with signs giving notice that access to the area is restricted.
  - This penalty does not apply to a person authorized under federal law or an airport security program to possess a firearm or deadly weapon in a restricted access area.

### VITAL STATISTICS

Effective Date: June 17, 2009  
2009 ORS Site: Chapter 299



*“HB 2498 is a testimony to persistence...after three sessions, this seemingly straightforward measure finally gained passage.”*

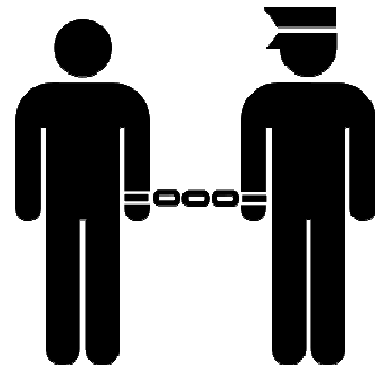
## HB 3271: Omnibus Crime Policy Changes

HB 3271 includes the following components:

- elevates the **penalties for harassment** from a Class B misdemeanor to a Class A misdemeanor if: The perpetrator had a previous conviction for harassment and the victim is the same as in the original offense or a family member of the victim of the original offense; the victim is protected by a stalking order; the victim is under 18 years and more than three years younger than the perpetrator; or the perpetrator threatened to kill the victim or a family member. Further, the measure clarifies that the crime occurs either in the county where the threat originated or was received.
- creates the **crime of aggravated harassment** (a Class C felony) as knowingly propelling saliva, blood, urine semen or feces or other dangerous substances at a staff member defined under ORS 163.165 (corrections officer, youth authority staff member or volunteer) or public safety officer (emergency medical technician, firefighter, parole or probation or police officer)
- creates the **crime of aggravated driving while suspended or revoked** defined as causing the serious injury or death of another person while having a suspended or revoked license resulting from a criminal offense and sets the offense as a level 7 on the sentencing guidelines grid.
- 3271 extends the amount of time a county or city has to seek reimbursement from a person committed to a local correctional facility from one year to six years.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter



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## HB 3505: Knowingly Murdering a Pregnant Woman

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HB 3505 requires a person convicted of murdering a pregnant woman, and who knew the victim was pregnant, to be sentenced to life imprisonment without the possibility of release or parole or to life imprisonment (30 years minimum). The measure allows a sentence of life imprisonment with the possibility of release or parole if 10 or more members of the jury find there are sufficient mitigating circumstances to warrant the reduced sentence. HB 3505 further stipulates that a sentence of life imprisonment without the possibility of release or parole in these cases may not be suspended, deferred or commuted by any judicial officer, and the State Board of Parole and Post-Prison Supervision may neither parole the prisoner nor reduce the period of confinement in any manner whatsoever. In addition, The Department of Corrections or any executive official may not permit the prisoner to participate in any sort of release or furlough program. The measure outlines additional sentencing policy related to the crime.

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter



HB 3505 also classifies the crime of assault in second degree as assault in first degree if the defendant commits the assault knowing the victim is pregnant and classifies the crime of assault in the fourth degree as a Class C felony if the defendant knows victim is pregnant.

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## SB 106: OYA Juvenile Justice Grants to Tribes

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SB 106 provides that the Oregon Youth Authority may receive applications from, and award funds under a competitive process to, tribes for the administration and provision of services to tribal youth. The services eligible for funding under the measure must be intended to protect the public and reduce juvenile delinquency. For purposes of the measure, "tribal youth" is defined as a member of a tribe who is under 18 years of age (or as defined under ORS 419A.004) and who has more than one of the risk factors identified in ORS 417.855(2)(a) or is demonstrating at-risk behaviors.

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 239



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## SB 251: Taser Addition to Felon in Possession of a Weapon

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Modifies the crime of felon in possession of a restricted weapon to include electromuscular disruption technology (tasers).

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 189

## SB 570: Metal Theft

SB 570 makes a number of changes in ORS designed to address the continuing metal theft epidemic throughout Oregon. The measure includes the following key sections/components:

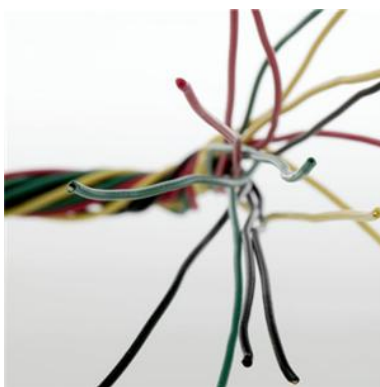
- Defines key terms for purposes of the measure including “scrap metal business”, “commercial metal property”, “metal property”, “transaction”, etc.
- Creates new crimes for Unlawfully Altering Metal Property, Making a False Statement on a Metal Property Record and Unlawfully Purchasing or Receiving Metal Property.
- Creates a new crime for Unlawfully Transporting Metal Property and outlines metal transportation certificate provisions/regulations.
- Requires scrap metal businesses to cooperate with law enforcement and to separate, protect, tag and hold property they suspect is lost or stolen.
- Provides exemptions from the requirement of the measure for recyclers of beverage containers or metal food containers, auto dealers, towers and dismantlers who do not purchase, receive or transport private metal property.
- Requires scrap metal businesses to create and maintain metal purchase/transport records for one year and required scrap metal businesses to create and maintain a commercial account before purchasing or receiving metal property from a commercial seller.
- Increases the sentence for Theft in the First Degree or Aggravated Theft in the First Degree when damage to property as the result of the theft involves a “disproportionate Impact”.
- Authorizes the installation or tracking of a mobile tracking device for Unlawfully Transporting Metal Property.
- Establishes a defense to a Charge of “Theft by Receiving”.
- Creates immunity for a landowner when an injury or damage occurs as a result of the theft of metal property.
- Requires each county District Attorney to create a written plan of action that ensures effective communication between law enforcement and the business community.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 880



*“For the second consecutive session, metal theft was the criminal penalty focus and priority”*



# DPSST LEGISLATION

## HB 2315: DPSST Investigation Info Exempt from Disclosure

HB 2315 exempts from disclosure, unless the public interest requires otherwise, the records of the Department of Public Safety Standards and Training relating to an ongoing investigation of the fitness of a public safety officer or private security officer to hold his or her position. The measure also exempts from disclosure records in the possession of the department that the department received from a public body in connection with an investigation if these records are not subject to disclosure when in the hands of the public body. Finally, the measure requires the department to issue a report when an investigation is completed regarding a private security officer or a public safety officer.

### VITAL STATISTICS

Effective Date: May 26, 2009  
2009 ORS Site: Chapter 135



## HB 2790: DPSST Board and Revocation Process Changes

HB 2790 includes the following provisions:

- Adds a non-management Parole & Probation officer to the Board
- Eliminates the Forestry position on the Board, designates a Forestry position on the Fire Policy Committee
- Adds two non-management representatives each to the Corrections & Police Policy Committees
- When a policy committee hears a discretionary matter and recommends revocation, the officer will be served a Notice of Intent to Revoke after the policy committee recommendation, rather than waiting for the Board decision two months later.
- When an officer requests a hearing in a discretionary misconduct case and DPSST proposes to amend an Administrative Law Judge's Proposed Order, the original policy committee that heard the case must approve the changes before DPSST can issue a Final Order.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 629

*"HB 2790 is the product of a meaningful negotiation between management and labor regarding revocation and DPSST board membership."*

## SB 92: DPSST Authorization to Conduct Research

Authorizes DPSST, in consultation with the board, to conduct and stimulate research to improve the police, fire service, corrections, adult parole and probation, emergency medical dispatch and telecommunicator professions.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 165

**POSTING  
LICENSE  
REVOKED**

## SB 971: Training Cost Reimbursement for “Poaching”

Requires the reimbursement of training costs between governmental agencies (that employ state or local police officers or state or local corrections officers) when a public safety officer trained by one agency leaves within three years to work for another agency. SB 971 stipulates that:

- reimbursement for purposes of the measure includes the cost of salary and benefits paid to an employee during training, the cost of salary and benefits paid to another employee to cover the workload of an employee in training and the cost of the initial training courses required for employment.
- agencies may not take into consideration the possibility of having to reimburse training costs of a candidate as a part of the hiring process.
- Authorizes the agency originally employing the officer to waive the reimbursement by the subsequent hiring agency.
- requires a governmental agency that requires employees to be trained to adopt a policy providing for a pro rata reimbursement based on following schedule outlined in the bill:

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter



State police officer, police officer or deputy sheriff:

- 100% if leave within 12 months
- 66% if leave within 13-23 months
- 33% if leave within 24-35 months

State or local corrections officer; parole and probation officer:

- 100% if leave within 10 months
- 66% if leave within 11-19 months
- 33% if leave within 19-29 months



# DRUGS/FORFEITURE

## HB 2403: Disabling a Hidden Compartment

HB 2403 allows a law enforcement agency to remove a hidden compartment from a vehicle that has been forfeited and to be reimbursed for expense associated with removal out of proceeds of selling the vehicle. The measure makes changes to both the civil (Chapter 475A) and criminal (Chapter 131) forfeiture statutes and requires the following:

- Requires law enforcement to disable the hidden compartment of a vehicle that is lawfully seized when the compartment is used or intended to be used to facilitate the commission of a criminal offense.
- If the vehicle is forfeited and retained for law enforcement purposes then law enforcement will deduct what it would cost to disable the vehicle then distribute proceeds based on value of the vehicle.
- If the vehicle is forfeited and sold then law enforcement is required to disable the compartment and can deduct the cost of disabling the vehicle then distribute the proceeds.
- If the vehicle is forfeited and the cost of disabling the compartment exceeds the value of the vehicle then the vehicle can be salvaged or scrapped and those proceeds distributed.
- Provides that law enforcement is not liable for the diminution in value as a result of disabling the compartment.
- Provides that law enforcement is required to disable a hidden compartment when the vehicle is to be returned to the owner and/or person the vehicle seized from.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter



## SB 355: Prescription Drug Monitoring Database

SB 355 requires the State Board of Pharmacy to establish and maintain an electronic database to collect and centrally store pharmacy records for controlled substances (Schedule II, III, IV) that are dispensed throughout the state. The measure specifies conditions under which the Board can disclose data to individuals, researchers, certified practitioners and pharmacists, law enforcement agencies, health professional regulatory boards, and other state reporting programs. SB 355 stipulates that providers are not required to utilize information in the database when making prescribing decisions and imposes an annual \$25 licensing fee on each individual licensed by the board who is authorized to prescribe or dispense controlled substances. The measure creates the Prescription Monitoring Program Advisory Commission to provide guidance to the Board and establishes the membership and roles of Commission.

### VITAL STATISTICS

Effective Date: July 23rd, 2009  
2009 ORS Site: Chapter 799



## SB 356: Civil Forfeiture Clean Up

SB 356 re-enacts Oregon's civil forfeiture laws in order to ensure that any parts of the law that were in constitutional limbo after the Court of Appeals decision on Ballot Measure 3 are not challenged on the grounds that a law once found unconstitutional does not automatically become constitutional by a later court ruling, but requires legislative action. SB 356 includes the following language that identifies the purpose of the measure as it relates to civil forfeiture:

### VITAL STATISTICS

Effective Date: April 28th, 2009  
2009 ORS Site: Chapter 78

"The Legislative Assembly adopts the provisions of sections 1 to 51 of this 2009 Act as the sole and exclusive law of the state governing civil forfeiture of real and personal property based on prohibited conduct. Sections 1 to 51 of this 2009 Act supersede all charter provisions, ordinances, regulations and other enactments adopted by cities and counties relating to civil forfeitures. All forfeitures under the provisions of sections 1 to 51 of this 2009 Act are subject to the limitations of section 10, Article XV of the Oregon Constitution."

## SB 676: Production of Industrial Hemp Products

SB 676 authorizes the production, possession and commerce in industrial hemp commodities and products. The measure identifies that industrial hemp is an agricultural product that is subject to regulation by the Oregon Department of Agriculture (ODA) and includes the following requirements:

- Requires that all growers and handlers have an industrial hemp license issued by ODA.
- Requires that growers and handlers engaged in the production of agriculture hemp seed must have a production permit in addition to the license.
- Establishes permit application requirements and a three-year non-transferable permit length.
- Authorizes ODA to make an inspection or audit records to ensure compliance.
- Authorizes ODA to inspect and take composite samples of any industrial hemp crop during the growth phase.
- Authorizes ODA to detain, seize, or embargo a crop if it contains an average concentration exceeding 0.3 percent of tetrahydrocannabinol on a dry weight basis. Authorizes a grower to retain seeds from each hemp crop to ensure a sufficient supply of seeds the following year.
- Authorizes ODA to issue agriculture hemp seed production permits and authorizes ODA to charge growers and handlers a reasonable fee.
- Authorizes ODA to revoke or refuse to issue an industrial hemp license or an agriculture hemp seed production permit in addition to a civil penalty for violating a permit or license requirement, condition, rule, or order issued by ODA.
- Limits civil penalty to \$2,500.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter



*“Hopefully the protections built into the industrial hemp production bill will prevent the kind of abuse that is rampant with the Oregon Medical Marijuana Act”*

## SB 728: Marijuana Reclassification

SB 728 establishes that a person who manufactures or delivers a controlled substance in Schedule IV and who thereby causes death to any person is guilty of a Class C felony where the controlled substance plays “a substantial role” in the death. In addition SB 728 requires the State Board of Pharmacy to:

- classify marijuana as a controlled substance in Schedule II, III, IV or V
- classify methamphetamine as a controlled substance in Schedule I
- classify methamphetamine its salts, isomers and salts of its isomers shall be classified as a controlled substance in Schedule II for purposes of currently accepted medical use in treatment in the United States and currently accepted medical use with severe restrictions within the meaning of 21 U.S.C. 812(b)(2).

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter

The measure requires the State Board of Pharmacy to classify marijuana and methamphetamine no later than 180 days after the effective date of the bill.



# EMERGENCY PREPAREDNESS

## HB 2167: 911 Administrative Expense Reimbursement

HB 2167 modifies the statutory authority of the Military Department's Office of Emergency Management (OEM) and the reimbursement of its administrative costs from 9-1-1 Program revenues. The measure allows for administrative expenses to be reimbursed prospectively rather than retroactively as is the current practice. The measure also allows the Department temporary authority to reimburse the preceding quarter's administrative expense and at the same time draw funds for payment of the estimated current quarter's administrative expenses. The purpose of HB 2167 is to eliminate the need for OEM to temporarily utilize the cash balance of a non-911 account for one quarter in order to meet its administrative expense obligation and to later seek reimbursement from the 911 account.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter



## HB 3021: Declared Emergency Workers as Agents

HB 3021 revises laws relating to emergencies and emergency responders by designating qualified emergency service volunteers, health care providers, health care facilities, operators of emergency health care centers, and search and rescue volunteers to serve as agents of a public body under the Oregon Tort Claims Act during a declared emergency event. The measure also requires counties to provide workers compensation coverage to qualified search and rescue volunteers under direction of the sheriff of a county and allows self insured counties to use the workers' compensation assigned risk pool.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 718

*"With the passage of HB 3254, Umatilla and Morrow County have an opportunity to continue to operate their tactical communication system"*

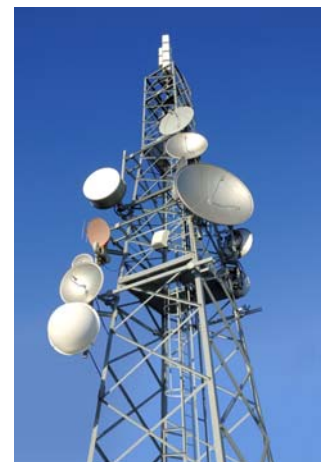
## HB 3254: Radio and Data Communications Districts

HB 3254 allows radio and data communications districts to be formed as special districts within all or part of one or more counties. The measure authorizes districts to acquire, maintain and operate voice and data communications systems for use by public safety agencies within their boundaries. In addition, the measure authorizes districts to contract with the United States for the acquisition and operation of radio and data communication facilities and related property.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 584

When the Chemical Stockpile Emergency Preparedness Program work in Umatilla is complete, the U.S. Army is expected to leave behind a tactical communications system valued at \$14 million that has been used and relied upon by Umatilla and Morrow County emergency responders. This measure will allow these counties to pursue funding to operate this system moving forward since federal funds will no longer be available.



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## HB 3255: Ambulance Contracts During Emergency

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House Bill 3255 prohibits cities and counties from penalizing ambulance providers when they're unable to meet their staffing levels as a result of responding to declared states of emergency. Currently, Oregon's 9-1-1 emergency ambulance service providers are under city or county contract with requirements for response times and staffing.

**VITAL STATISTICS**

Effective Date: June 17, 2009  
2009 ORS Site: Chapter 332

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## FIREARMS/WEAPONS

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### SB 603: Revised Definition of "readily accessible"

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SB 603 clarifies the definition of "readily accessible" for purposes of unlawful possession of a firearm. The measure clarifies that a person may transport a firearm in a vehicle that does not have a trunk, so long as firearm is in a locked box, locked center console or locked glove compartment. Further, the measure provides an affirmative defense to the charge of violating ORS 166.250 (1)(c)(C) if a person has been granted relief from the prohibition from owning a firearm under ORS 166.274.

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 499



# FORENSICS/EVIDENCE

## HB 3263: Statute of Limitation Extension for DNA

HB 3263 extends the statute of limitations indefinitely for certain crimes in cases where a defendant is identified on the basis of DNA sample comparisons (DNA sample was taken at the time of the offense and at a later point the offender is identified on the basis of that sample). The extension applies to rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first degree or sexual abuse in the first degree.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 499



## SB 310: Retention of Biological Evidence Requirement

SB 310 requires police agencies to preserve biological evidence in an amount that is sufficient to develop a DNA profile:

- that is collected as part of a criminal investigation into a covered offense (definition below)
- that reasonably may be used to incriminate or exculpate any person for a covered offense;
- that is in the possession of the custodian before any person is convicted of a covered offense

### VITAL STATISTICS

Effective Date: June 24, 2009  
2009 ORS Site: Chapter 489

The measure clarifies that a custodian is not required to preserve evidence solely because the physical evidence contains biological evidence if the physical evidence is of such a size, bulk or physical character as to render retention impracticable. When the retention of physical evidence is impracticable, the custodian is required to remove and preserve portions of the physical evidence likely to contain biological evidence in a quantity sufficient to permit future DNA testing before returning or disposing of the physical evidence.

SB 310 defines the following terms for purposes of the measure:

- “Biological evidence” as a sample of an individual’s blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids or other identifiable biological material or an item that contains such material, whether the material or item is stored or cataloged separately or the material is present upon other evidence. “Biological evidence” includes the contents of a sexual assault forensic evidence kit.
- “Convicted” includes a finding of guilty or responsible except for insanity, or a finding that a person is within the jurisdiction of the juvenile court under ORS 419C.005.
- “Covered offense” means: aggravated murder, murder, manslaughter in the first or second degree, criminally negligent homicide, aggravated vehicular homicide or a sex crime listed in ORS 181.594.
- “Custodian” means a law enforcement agency as defined in ORS 131.550 or any other person or public body as defined in ORS 174.109 that is charged with the collection, storage or retrieval of biological evidence in connection with a criminal investigation or criminal prosecution. “Custodian” does not include a court.

The provisions of HB 3263 sunset on January 2, 2012.

*“SB 310 is designed to provide time for public safety stakeholders and other interested parties to develop a statewide policy regarding the retention of biological evidence.”*

# HONOR AND RECOGNITION

## SCR 12: Honoring Thomas Paul Tennant (1957-2008)

Thomas Paul Tennant was born in Prineville, Oregon on February 20, 1957, and grew up on a farm in south Salem. While attending Sprague High School, his love for public safety and the common welfare began as an organizing member of the Salem Police Department Cadet Unit. Tennant graduated high school in 1975 and further continued his education, earning an associate's degree from Chemeketa Community College in 1977 and a bachelor's degree in criminal justice from Western Oregon University in 1979. Tennant was passionate about serving and protecting the public. Prior to 28 years with the Woodburn Police Department, he served in the Hubbard and Salem police departments. He distinguished himself at the Woodburn Police

### VITAL STATISTICS

Effective Date: June 15, 2009  
2009 ORS Site: Secretary of State

Department, where he was promoted to sergeant in 1989 and to captain in 2004. His proudest achievement came in 1993 when he graduated from the Federal Bureau of Investigation National Academy, a selective and rigorous professional course of study for U.S. and international law enforcement leaders that serves to improve the administration of justice in police departments and agencies at home and abroad and to raise law enforcement standards, knowledge, and cooperation worldwide. Tennant selflessly gave back to his community where he was active and coached, mentored and fundraised for St. Luke's Catholic Church, Woodburn High School, Woodburn High School Bulldog Foundation and Blanchet Catholic School. He was dedicated to his wife of 25 years, Mary, and to his two grown daughters, Becky and Jenny, and son, Scott, who were his pride, joy, and life.

Senate Concurrent Resolution 12 honors Captain Tennant's more than three decades of loyalty, sacrifice and bravery to public service and the impeccable common welfare of the people of Woodburn and all Oregonians. A copy of this resolution will be sent to his family as an expression of the Legislative Assembly's esteem, appreciation and condolences.

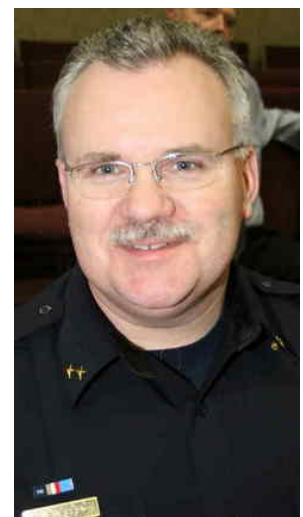


## SCR 13: Honoring Woodburn Police Chief Scott Russell

Chief Scott Russell was critically injured on December 12, 2008 in a bomb explosion that took the lives of two other police officers, Captain Thomas "Tom" Tennant and Senior State Trooper William "Bill" Hakim. Russell began his career with the Woodburn Police Department in August of 1988, where he established a friendship and was mentored by Captain Tennant for over twenty years. Russell has served the Woodburn Police Department with distinction and increasing responsibilities as a DUI Enforcement Officer, DARE Officer, Detective and Marion County Homicide Team member. In September 1995, Russell was promoted to Sergeant and subsequently appointed in 1999 to Deputy Chief of Police. In May 2002 at the age of 39, Russell was promoted to the rank of Chief of Police, the highest ranking law enforcement official in the city. Chief Russell's involvement in public service extends beyond his loyalty and sense of duty to the police department. An active member of his community, he serves on multiple public safety boards and committees, works with the Crisis Chaplaincy Services, North Marion Fellowship Church, Woodburn Rotary Club and serves as a board member for the Oregon Association of Chiefs of Police. He is supported by his wife, Cami, and two daughters, Kathryn and Mary. Senate Concurrent Resolution 13 extends support and encouragement to Woodburn Chief of Police Scott Douglas Russell, and well wishes for a speedy recovery. A copy of this resolution will be presented to his family as an expression of support and encouragement.

### VITAL STATISTICS

Effective Date: June 15, 2009  
2009 ORS Site: Secretary of State



# HONOR AND RECOGNITION

## SCR 14: Honoring William “Bill” Hakim (1957-2008)

Oregon State Police Senior State Trooper William “Bill” Robert Hakim was born in New York City on August 31, 1957, and spent much of his youth growing up in Spain, Italy and Mexico City. Fluent in the French, Italian, Spanish languages, Hakim led an adventurous childhood, traveling across the Atlantic and meeting Pablo Picasso on a seven-month cruise. An avid outdoorsman, Hakim shared this passion with his family through travel and recreation. Hakim briefly attended St. John’s College (1975-1977) before enlisting in the U.S. Navy as a medical service technician and hospital corpsman. He studied at George Washington University (1980-81) before returning to the University of Texas at Austin, earning a bachelor’s degree in history and further distinguishing himself receiving a naval officer commission in 1985. His proudest achievement was when he was certified as an Explosive Ordnance Disposal Diver, a highly selective and rigorous professional U.S. Navy course of study in explosives, diving, and parachuting.

### VITAL STATISTICS

Effective Date: June 15, 2009  
2009 ORS Site: Secretary of State



After leaving the U.S. Navy in 1994, Hakim and his family moved to the northwest, where he graduated from the Oregon Public Safety Academy and joined the Oregon State Police (OSP). His first assignment as a state trooper was in Klamath Falls. In 1999, he transferred to the Arson & Explosives Section as an arson detective and Certified Hazardous Device Technician. In addition, he served with the OSP elite Special Weapons and Tactics team and taught arson and bomb investigations. Hakim selflessly gave back to his community where he was active and loved coaching soccer as a volunteer coach for the Salem Parks and Recreation Department. His other passions were his motorcycle, and his 1966 cherry red Ford Mustang, the money pit. He was dedicated to his wife, Terri Milling and two children, daughter Page, and son, Victor who were his pride, joy and life.



Senate Concurrent Resolution 14 honors Senior State Trooper Bill Hakim’s more than three decades of loyalty, sacrifice and bravery to public service and the impeccable common welfare of the people of Woodburn and all Oregonians. A copy of this resolution will be sent to his family as an expression of the Legislative Assembly’s esteem, appreciation and condolences.



# JUVENILE/CHILD

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## HB 2299: Release of Juvenile Offenders Authorization

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HB 2299 allows a county to adopt standards for releasing juvenile offenders when the county's juvenile detention facility's capacity is exceeded. The measure also allows the county's juvenile department director to release juvenile offenders in order to reduce the facility's population to capacity and establishes a procedure for the release of juvenile offenders sent pursuant to contract by one county to another county's juvenile facility or regional facility. Finally, HB 2299 stipulates that the measure does not create a cause of action.

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 293



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## HB 2641: Child Sexual Corruption Communication Definition

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HB 2641 modifies the definition of online communication for purposes of online sexual corruption of a child to include communication that occurs via telephone text messaging, electronic mail, personal or instant messaging, chat rooms, bulletin boards or any other transmission of information by wire, radio, optical cable, cellular system, electromagnetic system or other similar means. The new definition applies to communications that occur on or after the effective date of the act.

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 517

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## HB 2299: Interstate Compact for Juvenile Offenders

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This bill enacts the Interstate Compact for Juvenile Offenders, which governs the supervision of juvenile offenders and runaways. This compact replaces the original compact that Oregon has been a member of since 1959. The compact sets forth how states work together to when juvenile offenders are supervised and returned to their state of origin.

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 499

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# OFFICER/LABOR ISSUES

## HB 2501: Base Pay for State Troopers

HB 2501 modifies ORS 243.746 which covers the arbitrator selection process and procedures for arbitration when a strike is prohibited. Among other criteria, this bill would require the arbitrator to take into account the base pay for city police officers in the five most populous cities in the state when a labor dispute concerning the Oregon State Police (OSP) goes to arbitration. This is a change in the definition of “comparable” for purposes relating to the arbitration of wages for the Department of State Police troopers.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter

The Public Employees Collective Bargaining Act (PECBA) established a collective bargaining process for Oregon’s public employers and unions representing public employees. While most bargaining units are able to strike after completing prior steps of the bargaining process in good faith and giving proper notification, some bargaining units are prohibited from striking and must resolve disputes through binding interest arbitration. Oregon State Police troopers are prohibited from striking.



## HB 2713: Police Officer Disciplinary Standards

HB 2713 requires employers to adopt written procedures for investigating public safety officers and includes the following provisions:

- Adds parole officers and corrections officers to police officers in the definition of public safety officers for the purpose of the policy.
- Creates a detailed process and safeguards for a public safety officer who is under investigation including specific requirements for the treatment of officers during investigative interviews.
- Establishes the responsibilities of an employer that is proceeding with disciplinary action against an officer.
- Modifies the current procedure for an officer to request and receive a copy of personnel records. Creates procedures for placing, reviewing and challenging an adverse comment in a public safety officer’s personnel file and allows an officer to inspect personnel records upon request.
- Establishes that investigations into officer misconduct must be completed within six months of the allegation and allows for an investigation to be extended to a maximum of 12 months if the employer provides the officer with written notice and an explanation for the delay.
- Clarifies that collective bargaining agreements control if they provide for similar protections and identifies additional situations where the provisions of HB 2713 do not apply.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 716



## SB 309: Electronic Recording of Custodial Interviews

SB 309 includes the following key provisions regarding the requirement to electronically record custodial interrogations in specific situations. The measure:

- Requires the electronic recordation of a custodial interview conducted by a law enforcement agency in a law enforcement facility if the interview is in connection with aggravated murder or crimes listed in ORS 137.700 or 137.707.
- Establishes that the requirement to record does not apply to statements made before a grand jury, in open court, a custodial interrogation conducted in another state in compliance with the laws of that state, a custodial interrogation conducted by federal law enforcement in compliance with the laws of the United States, a spontaneous statement of the defendant, or if good cause is shown for not electronically recording.
- Establishes that “good cause” for not electronically recording includes:
  1. The refusal of the defendant to have the interrogation recorded.
  2. The malfunction of equipment.
  3. The recording would jeopardize the safety of any person or the confidentiality of an informant.
- SB 309 allows unrecorded statements into evidence but requires that the judge give the jury instructions concerning the fact that the statement was not recorded.
- Requires the state to provide the defendant with an electronic copy of the statement, but not a written transcript of the tape.
- Allows the recordation into evidence in any pre-trial or post-trial proceedings.
- Defines a “law enforcement facility” as a courthouse or a building where a police or sheriff’s office is located.
- Applies to minors, nonnative English speakers and murder cases on January 1, 2010, and to all other personal felonies on July 1, 2011.
- Does not apply to police departments of five or fewer sworn officers.

### VITAL STATISTICS

Effective Dates: January 1st, 2010  
July 1st, 2011  
2009 ORS Site: Chapter 488



*“Police agencies with 5 or fewer sworn officers are exempt from the electronic recording requirements in SB 309. The final version of the measure is far narrower than the original bill”*

## SB 658: OHSU University Police

The bill authorizes the Oregon Health and Science University (OHSU) to commission special campus security officers to be known as university police. University police officers would have all the powers and authority given by statute to peace officers and police officers of this state with the exception of the ability to carry arms. The bill requires university police officers to be trained and certified by the Department of Public Safety Standards and Training at the expense of OHSU. This new classification and training would enable university police officers to respond to emergencies, investigate crimes, submit requests for warrants to judges and prepare cases for prosecutors. The bill also specifies that OHSU is a criminal justice agency and a law enforcement unit.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter

# PROSECUTION

## HB 2336: Witness Credibility...Out of State Convictions

HB 2336 allows for another jurisdiction's statutory counterpart for convictions for assault in the fourth degree, menacing, harassment, attempted assault in the fourth degree and strangulation under another jurisdiction's statutory counterpart to be entered into evidence in certain criminal proceedings for the purpose of attacking the credibility of a witness.

### VITAL STATISTICS

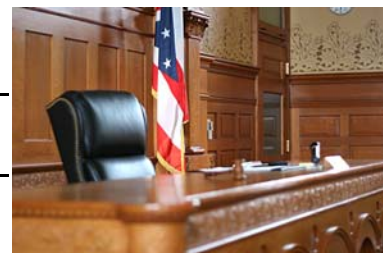
Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 56

## HB 2339: Prosecutor Info Exempt from Disclosure

HB 2339 is designed to protect persons who prosecute criminals by allowing them to request that their address and electronic mail information be undisclosed on certain documents that are readily available to the public. The measure applies to district attorneys, deputy district attorneys, the Attorney General or an assistant attorney general, the United States Attorney for the District of Oregon or an assistant United States attorney for the District of Oregon and city attorneys who engage in the prosecution of criminal matters. HB 2339 requires the person requesting the exemption from disclosure to file a claim in writing, using the prescribed form, with the public body to which the exemption applies. The measure limits requestors to 10 documents held by a county clerk's office. The exemption continues unless and until a written request is submitted by the person originally seeking the exemption that discontinues the exemption.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter



## HB 2340: Single Venue Allowed for Stalking Crimes

HB 2340 includes the following provisions relating to the venue for criminal prosecutions involving stalking or violations of a court stalking order:

- Provides that where violations of a stalking order have occurred in multiple counties, incidents may be tried together in one of the counties where the violations occurred.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 212



## HB 2343: "Mentally Incapacitated" Definition Change

House Bill 2343 changes the definition of "mentally incapacitated" as it applies to sex offenses by removing language that refers to "how" the victim became incapacitated. This measure removes the question of how a person who is assaulted became incapacitated as a factor in determining an offender's level of guilt and focuses instead on the person's ability to consent to sexual activity.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 488

## HB 2394: Service of Subpoenas and Stalking Orders

HB 2394 includes the following provisions related to the service of subpoenas and stalking protective orders:

- Allows service of a subpoena on a witness under the age of 14 by delivering a copy to the witness or the witness's parent or guardian or guardian ad litem.
- Clarifies that a subpoena in a civil or criminal matter must be served upon an agency employing a peace officer 10 days prior to the date that the officer's attendance is required; if service is made to the officer personally, it need not be delivered 10 days prior to the required attendance.
- Clarifies that whenever a stalking protective order is issued, a copy of the order must be served by personal delivery to the person against whom the order is issued.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 364



## HB 2441: Confessions in Vulnerable Victim Sex Crimes

HB 2441 modifies the law that requires corroboration before a confession is admissible and creates an exception for sex crimes against vulnerable victims when a confession is deemed trustworthy and the victim is incompetent to testify. HB 2441 requires the following:

- Requires that a confession be made to a peace officer, federal officer, or Department of Human Services (DHS) investigator acting in their official capacity.
- Requires the state to file a notice of intention to rely on the confession alone within 60 days of arraignment, or the defendant's entry of an initial plea, unless the court finds good cause.
- Requires the court to establish that the confession is trustworthy based on sufficient evidence including the following factors; evidence demonstrating the truthfulness of portions of the confession, evidence that the defendant had the opportunity to commit the crime, the method of interrogation used to solicit the confession and whether the defendant is a vulnerable person.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter

## SB 242: Pleading and Proving Previous Convictions

SB 242 codifies several Oregon appellate court opinions that address pleading and proof issues that arise in criminal cases where the offense is elevated based on a previous conviction. Cases codified in SB 242 include *State v. Reynolds*, *State v. Hess*, *State v. Probst* and *State v. Jacob*. This measure requires that the indictment must allege that the defendant has previously been convicted of an offense when the previous conviction constitutes a material element of the charged offense. When a previous conviction is alleged in an accusatory instrument or written notice:

- The state has the burden of proving the previous conviction unless the defendant stipulates to that fact. The stipulation must be in writing, admit without qualification that the defendant previously was convicted of the offense and that the conviction is valid, include an express waiver of the defendant's right to a jury trial on the fact of the previous conviction and be filed with the court and served on the district attorney.
- The defendant may challenge the validity of the previous conviction by filing a notice of the defendant's intent to do so. The notice must identify the previous conviction that the defendant seeks to challenge, specify the factual and legal basis for the challenge and be filed with the court and served on the district attorney within 35 days of the arraignment, or of the defendant's entry of the initial plea on an accusatory instrument, whichever is sooner, unless a different time is permitted by the court for good cause shown.
- The court shall determine the validity of the previous conviction before trial and will enter an order excluding the evidence if the court determines the previous conviction is not valid or shall admit the evidence at trial if the court determines the previous conviction is valid.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 180



## SB 380: Testimony Via Electronic Transmission

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SB 380 stipulates that a witness in a criminal proceeding may not appear before a jury by simultaneous electronic transmission without the written consent of the parties and the agreement of the court. Prior to the passage of this measure, testimony via electronic transmission was explicitly prohibited in criminal trials even when all parties agreed to allow it. Trials suffered delays in situations where a witness wasn't available to testify in the courtroom and the judge lacked the statutory authority to grant an appearance by a witness by electronic transmission.

**VITAL STATISTICS**

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 219

# PSRB ISSUES (Psychiatric Review)

## HB 2052: LPSCC Review of PSRB Facility Locations

HB 2052 requires public agencies to “fully” inform the local public safety coordinating council (LPSCC) of the agencies intent to site residences for individuals under the jurisdiction of the Psychiatric Security Review Board in the council’s locality and to provide the following information (not including disclosure of information protected under state or federal law):

- The proposed location, estimated population size and use of the facility;
- The proposed number and qualifications of resident professional staff at the facility;
- The proposed rules of conduct for residents of the facility; and
- Other relevant information that the city, county, department, youth authority or agency responsible for establishing the facility considers appropriate or that the council requests.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 121

HB 2052 also includes the following additional provisions:

- Expands the duties of the LPSCCs to include the appointment of a facility advisory subcommittee for reviewing agency proposals. The subcommittee membership must include a district attorney, a mental health director, a designee of the affected local government, an advocate for persons with mental illness, a consumer (defined in ORS 430.073) and the affected law enforcement officer.
- Requires the facility advisory subcommittee to respond to the facility siting proposal no more than 60 days after receiving the facility information. The response must be in writing, must represent the view of the majority of the subcommittee and address issues of suitability regarding the facility proposal.



## SB 401: PSRB Supervision Plan in Underserved Areas

SB 401 requires the Department of Human Services to develop and implement a plan to increase supervision and treatments options in underserved areas for individuals released under the jurisdiction of the Psychiatric Security Review Board. The measure requires the department to submit a plan to the Legislature, an assessment of the department’s progress and a description of the financial or legal impediments to implementation.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 426

*“A number of legislative measures focused on problems associated with the placement of PSRB secure facilities in local communities”*

## SB 911: Minimum Standards for PSRB Facilities

SB 911 requires the Department of Human Services (DHS) to adopt rules applicable to secure residential treatment homes and facilities as defined in ORS 443.400 that house persons released under the jurisdiction of the Psychiatric Security Review Board. For the purposes of the measure, a residential treatment home or facility is considered “secure” if a resident exit from the home, facility or grounds of the home or facility is restricted through the use of locking devices on resident exit doors, gates or other closures. The rules developed by DHS must:

- Provide minimum security, health and safety standards;
- Require the home or facility to have an emergency preparedness plan;
- Set minimum training standards for the staff of the home or facility; and
- Ensure compliance with any orders of the court or the board.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 475

# SEX OFFENSES

## HB 2169: Sex Offender Reporting “Clean Up Bill”

SB 2169 clarifies the sex offender reporting requirements by:

- Requiring the person required to report as a sex offender to provide the information necessary to complete the sex offender registration form and sign the form as required.
- Requires the police agency or supervising agency to photograph the person when they initially report and when they annually report. The measure allows agencies to take additional photos of the person or any identifying scars, marks or tattoos located on the person when the person reports.
- Requires the police agency or supervising agency to fingerprint the person if the person's fingerprints are not included in the record file of the OSP bureau of criminal identification.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 204

SB 2169 establishes that a person commits the crime of failure to report as a sex offender in addition to current provisions of law if they also fail to:

- sign the sex offender registration form as required
- submit to fingerprinting
- submit to having a photograph taken of their face, identifying scars, marks or tattoos



## HB 2170: Registration for School Employees and Students

SB 2170 addresses a gap in the sex offender reporting requirements for persons who were convicted in another jurisdiction who move into the state of Oregon and attend school, or who get a job at an institution of higher learning (they are not currently required to report). This measure will now require these individuals to register within 10 days of the first day of school or the 14th day of employment. Thereafter they have to report after any change in school attendance or employment.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 34



## HB 2172: Petition for Relief from Duty to Report

SB 2172 requires that a petition for relief from the requirement to report as a sex offender must be filed in the circuit court of the county in which the person was convicted of, or found to be within the jurisdiction of the juvenile court based on, the sex crime. For persons convicted of the sex crime in another state, the petition must be filed in the circuit court of the county in which the person resides.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 8

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## HB 2173: Sex Offender Reporting Relief Eligibility

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HB 2173 narrows the class of offenders that are eligible for relief from sex offender reporting requirements to those persons with no more than one conviction listed under ORS 181.830 (1). SB 2173 specifies that a person who is convicted of more than one offense under ORS 181.830 (1) may be eligible for relief if the convictions involve the same victim and, at the time offenses were committed, the defendant did not have any prior convictions for sex offenses.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 205

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## HB 2174: Requirement to Notify OSP of Reporting Relief

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SB 2174 requires a person who is granted relief by the court from the requirement to report as a sex offender to send a certified copy of the court order to the Department of State Police.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 9

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## HB 2175: Sex Offender Reporting for Out of State Convictions

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HB 2175 clarifies that a person residing in Oregon and convicted of a sex offense or an adjudicated delinquent convicted of a sex offense in another state court, federal court, military court, tribal court of federally recognized tribe, court of District of Columbia or United States' territory must report in Oregon as a sex offender. The measure clarifies current reporting requirements for juveniles and adult offenders and allows for prosecution for failure to report as a sex offender following a change of address in either the county in which a person previously resided and reported or in the county in which person now resides. HB 2175 requires the State of Oregon to make a diligent effort to ensure the sending state notifies the juvenile of Oregon's sex-offender reporting requirements prior to allowing an out-of-state juvenile offender to reside and be supervised in Oregon.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 713

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## SB 582: SO Long-term Care Facility Notice Requirements

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SB 582 removes the sunset provision on Section 13 of the Elder abuse law (Chapter 671) enacted in 2005 in order to continue to require the Department of Human Services, area agency or sex offender to give notice to a long term care facility or residential facility when a person seeking admission is convicted of a sex crime. In addition, the removal of the sunset continues to allow a long term care facility to refuse admission to a sex offender and to discharge a resident for failure to give notice.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 278

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# TRAFFIC/MOTOR VEHICLE

## HB 2040: “Move Over Law” Additions/Clarifications

Oregon enacted its “move over” law with the passage of House Bill 2176 in 2003. The measure created the offense of failing to maintain a safe distance from an emergency vehicle or ambulance stopped alongside a roadway while displaying warning lights. HB 2040 adds roadside assistance vehicles (vehicle with warning lights providing repair assistance to motorists with disabled vehicles) and tow vehicles to the list of vehicles that require motorists to “maintain a safe distance”. The measure clarifies that motorists are required to:

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 198

- Make a lane change to a lane not adjacent to that of an emergency vehicle, roadside assistance vehicle, tow vehicle or ambulance; or
- Reduce the speed of the motor vehicle to a speed that is at least five miles per hour under the posted speed limit, if making a lane change is unsafe.

The offense for failure to maintain a safe distance continues to be a Class B traffic violation.



*“HB 2040 requires drivers to move over to a non adjacent lane or reduce speed to at least 5 miles under the speed limit for emergency vehicles, ambulances, roadside assistance vehicles and tow vehicles”*

## HB 2318: Expungement for Diversion and Arrest

HB 2318 amends ORS 137.225 (statute addressing expungement of traffic offenses) to:

- Allow expungement of a traffic offense in situations where a person was arrested, but not convicted, for a traffic offense.
- Prohibit expungement of a traffic offense in cases where a person successfully completes a diversion program after an arrest for DUII.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 360



## HB 2377: Driving While Using a Cell Phone

HB 2377 creates a Class D traffic violation (punishable by a maximum fine of \$90) for operating a motor vehicle while using a mobile communication device. For the purposes of the measure, “mobile communication device” is defined as a text messaging device or a wireless, two-way communication device designed to receive and transmit voice or text communication. HB 2377 designates the violation as a primary offense, meaning that a police officer may stop a driver solely for using a cell phone without using a hands-free accessory. The measure provides exceptions to the law for:

- a person who is summoning medical or other emergency help if no other person in the vehicle is capable of summoning help;
- a person using a mobile communication device for the purpose of farming or agricultural operations;
- a person operating an ambulance or emergency vehicle;
- a person 18 years of age or older who is using a hands-free accessory;
- a person operating a motor vehicle while providing public safety services or emergency services as a volunteer;
- a person operating a motor vehicle while acting in the scope of the person’s employment as a public safety officer, as defined in ORS 348.270;
- a person operating a motor vehicle in the scope of the person’s employment if operation of the motor vehicle is necessary for the person’s job;
- a person activating or deactivating the mobile communication device or a function of the device;
- a person who holds a valid amateur radio operator license issued or any other license issued by the Federal Communications Commission and is operating an amateur radio;
- a person who operates a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the citizens’ or family radio service bands in accordance with rules of the Federal Communications Commission;
- a person using a function of the mobile communication device that allows for only one-way voice communication while the person is:
  1. Operating a motor vehicle in the scope of the person’s employment;
  2. Providing transit services to persons with disabilities or to senior citizens; or
  3. Participating in public safety or emergency service activities.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter



## HB 2553: DOT Wreck Clean Up for Youth Fatalities

HB 2553 requires the Department of Transportation to pay reasonable costs for the removal of any vehicle, cargo or debris resulting from a motor vehicle accident if the vehicle accident results in the death of a person 18 years of age or younger, the accident occurs on a state highway, no insurance is available and the surviving family members would otherwise be responsible for the cost of the cleanup. The measure does not apply in situations where it is established (by a preponderance of the evidence) that the deceased was engaged in conduct that would constitute a crime or when the vehicle of the deceased was not insured under a motor vehicle liability insurance policy in compliance with ORS 806.060.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 620

## HB 2578: Parking Facility Towing Requirements

HB 2578 creates the following new provisions impacting the towing of vehicles from a parking facility:

- Requires a tower who tows a vehicle at the request of an owner of a parking facility to take at least one photograph of the vehicle and record the time and date of the photograph, requires the photograph to show the vehicle left or parked in violation of ORS 98.810 and requires the tower to keep the photograph in electronic or printed form for two years.
- Prohibits a tower from towing a vehicle without first contacting the owner of the facility or the owner's agent at the time of the tow. The measure also prohibits a tower from towing a vehicle if the parking facility owner or agent is an employee of a tower.
- Allows a tower to park a tow vehicle within 1,000 feet of a parking facility if the tower provides notice of the hours during which monitoring occurs on signs that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility.
- Allows a tower to tow a motor vehicle if the motor vehicle: Blocks or prevents access by emergency vehicles, blocks or prevents entry to the premises, blocks a parked motor vehicle, violates a prominently posted parking prohibition or parks without permission in a parking facility used for residents of an apartment when there are more residential units than there are parking spaces, the landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises and there are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.
- Requires the tower to release the motor vehicle at no charge when the owner or operator of the motor vehicle is present at the time of the tow unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as published.

### VITAL STATISTICS

Effective Date: January 1st, 2010

2009 ORS Site: Chapter 622



## SB 124: Increased Penalty for Motorcycle without Endorsement

SB 124 increases the penalty for operating a motorcycle without a motorcycle endorsement from a Class B traffic violation, punishable by a maximum fine of \$360 to a Class A traffic violation, punishable by a maximum fine of \$720. The measure directs the court to suspend or dismiss the fine if the operator completes the necessary training course and obtains a motorcycle endorsement within 120 days of sentencing.

### VITAL STATISTICS

Effective Date: January 1st, 2010

2009 ORS Site: Chapter 482



## SB 128: Fictitious Licenses for Undercover Use

SB 128 includes the following three provisions related to limited term driver permits and fictitious driver licenses:

- Stipulates that a limited term driver permit is valid during an applicant's stay in the united states (but no longer than the period of time for which a driver permit of the same type is issued by the department) or for a maximum period of one year when there is no definite end to an authorized stay.
- Relieves the Department of Transportation from the duty to issue renewal notifications for limited-term driver licenses, driver permits or identification cards that are valid for less than one year.
- Authorizes the Department of Transportation to issue or renew a fictitious drive license or identification card for a law enforcement official for use in discharging the undercover criminal investigative duties of a law enforcement agency. The measure stipulates that the fees for issuance or renewal of a fictitious license or ID card are the same for a standard license or ID Card. Further, SB 128 requires the Department of Transportation to keep the true identity of a law enforcement official confidential and only allows the disclosure of information to a law enforcement agency upon request.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 258

## SB 314: Crash Notification Requirement for Injury/Damage

SB 314 requires any driver involved in an accident, resulting in the death or injury of a person or property damage in excess of \$1500, to give notice of the accident immediately to a police officer or law enforcement agency by the quickest means available. In addition, SB 314:

- Requires each driver involved in an accident to report if damage requires the towing of any of the involved vehicles from the scene.
- Allows the Department of Transportation to increase the cost of damage that requires notification every five years based on any increase in the Portland-Salem Consumer Price Index.
- Exempts law enforcement officials performing a lawful intervention technique (PIT maneuver) or accidents occurring with a person committing a criminal offense. The measure also exempts operators of snowmobiles, Class I all-terrain vehicles or Class III all-terrain vehicles.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 490

SB 314 stipulates that a driver or occupant (when the driver is unable to report) that fails to report an accident to a police officer or law enforcement agency based on the provisions of the law commits a Class A traffic violation.



## SB 579: All Terrain Vehicle Safety Restraint Requirements

SB 579 requires the parent or legal guardian of children under age 16 to ensure that the child is secured with a safety belt or safety harness when operating or riding on a Class I or Class II all-terrain vehicle while on premises open to the public.

- As defined in ORS 801.190, Class I all-terrain vehicles have three or more wheels, weighing 800 pounds or less, and are designed for off-road travel.
- As defined in ORS 801.193, Class II all-terrain vehicles are motor vehicles weighing in excess of 800 pounds that are designed for, capable of, and are actually being operated off a highway over land, water, sand, snow, ice, marsh, swampland, or other natural terrain.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 498

# VICTIMS RIGHTS

## SB 212: Victim Notification “as soon as practicable”

SB 212 rewrites the criteria for programs distributing victim assistance funds to city and county offices for victim services. The measure adds a requirement that notice be given to victims of their rights as soon as practicable. ORS 147.227 governs the distribution of Criminal Fine and Assessment Account Funds to city and county offices for victim services. The District Attorney Based Victim Assistance programs and the Oregon District Attorney’s Association worked together to rewrite the language to better reflect current practice. The only substantive change to the statute is the requirement that victims be notified of their rights as soon as practicable.

### VITAL STATISTICS

Effective Date: May 26, 2009  
2009 ORS Site: Chapter 176



JUSTICE

## SB 218: Crime Victim Compensation Program Changes

SB 218 makes the following changes related to crime victims’ compensation program benefits:

- Increases the aggregate damages to the victim and to the dependents of a victim that are not considered a compensable loss from \$44,000 to \$47,000.
- When the case against an assailant of a victim is under direct or collateral review or when the assailant of a victim has a parole hearing scheduled, compensable losses may include crime-related counseling expenses up to a maximum of \$5000 and other expenses including transportation and lodging necessary for a victim to attend hearings and oral arguments up to a maximum of \$3000.
- In cases of homicide, a claim for reasonable counseling expenses for surviving family members may continue until five years have elapsed from the date of the determination order (increased from 3 years).

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 272

## SB 220: AG Authorization to Issue VAWA Grants

SB 220 authorizes the Attorney General to administer the federal Violence Against Women Act grants and any other state or federal grant related to service for victims of violent crimes, property crimes and crimes involving fraud and deception.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 411



## SB 233: Statutory Framework for Exercise of Victims Rights

SB 233 creates a statutory framework for victims to exercise their constitutional rights as set forth in Sections 42 and 43, Article I of the Constitution of the State of Oregon. The measure authorizes the Attorney General to adopt rules to establish a non-judicial process to determine if violations have occurred and to make nonbinding recommendations for achieving full compliance with victims’ rights laws in the future. SB 233 clarifies when a district attorney and when probation department will notify a victim of a probation hearing.

### VITAL STATISTICS

Effective Date: May 26th, 2009  
2009 ORS Site: Chapter 178

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## SB 248: Default Prohibition on Victim Info Disclosure

SB 248 creates a default prohibition on disclosure of personal information of victims and witnesses to youth offenders in juvenile proceedings. Requires defense attorney to request protected information from either a district attorney's office or from a juvenile department. SB 248 conforms ORS 419C.276 to the comparable adult non-disclosure statute outlined in ORS 135.815. Under current law, a victim or witness must request that their personal information be kept from the offender, the court does not do so automatically.

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 113

## SB 928: Employer Safety Accommodations for Victims

SB 928 requires employers to make reasonable safety accommodations for victims of domestic violence, sexual assault and stalking that may include, but are not limited to, a transfer, reassignment, modified schedule, unpaid leave from employment, changed work telephone number, changed work station, installed lock, implemented safety procedure or any other adjustment to a job structure, workplace facility or work requirement in response to actual or threatened domestic violence, sexual assault or stalking. Further, the measure specifies that it is an unlawful employment practice for an employer to:

### VITAL STATISTICS

Effective Date: January 1st, 2010  
2009 ORS Site: Chapter 478

- Refuse to hire an otherwise qualified individual because the individual is a victim of domestic violence, sexual assault or stalking.
- Discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an individual with regard to promotion, compensation or other terms, conditions or privileges of employment because the individual is a victim of domestic violence, sexual assault or stalking.
- Refuse to make a reasonable safety accommodation requested by an individual who is a victim of domestic violence, sexual assault or stalking, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer, as determined under ORS 659A.121. Prior to making a reasonable safety accommodation, an employer may require an individual to provide certification that the individual is a victim of domestic violence, sexual assault or stalking.



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