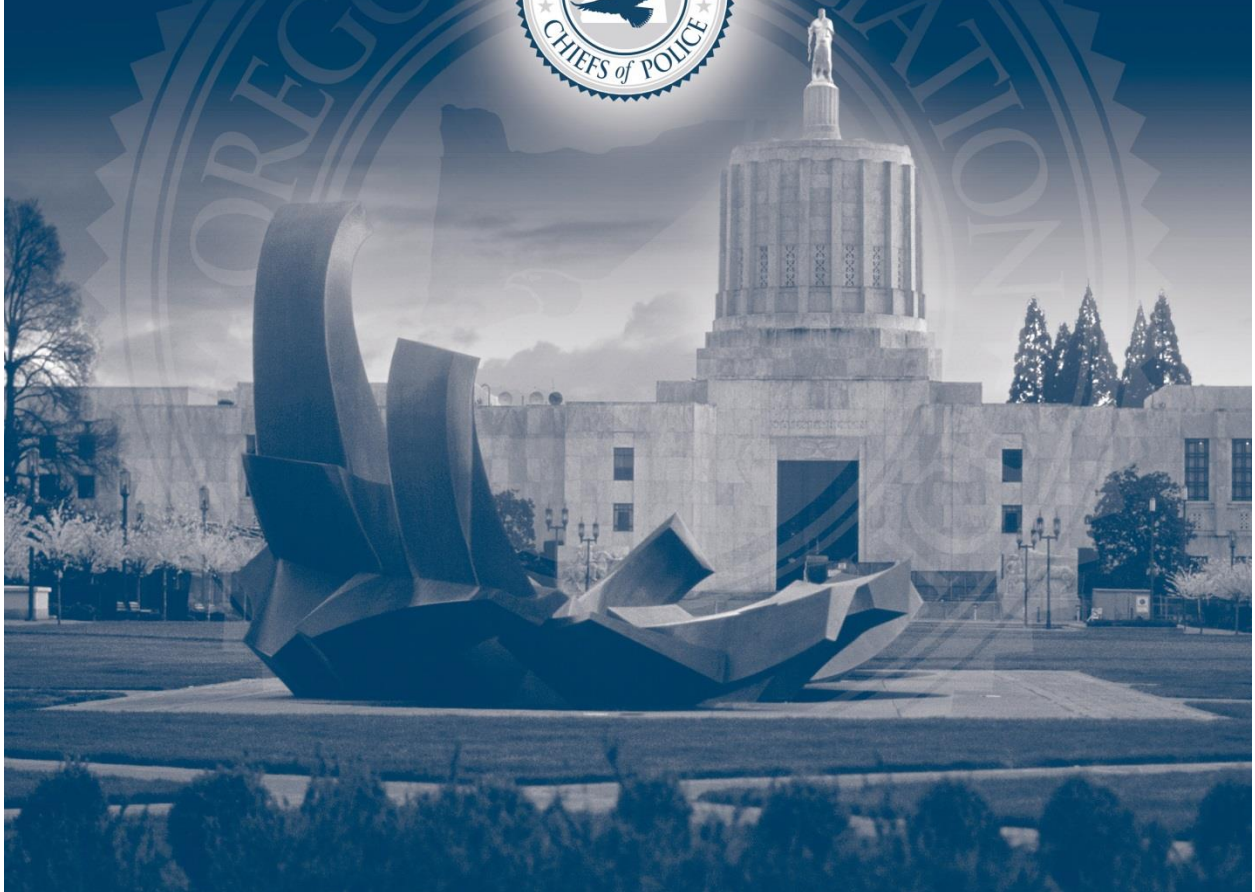


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OREGON ASSOCIATION CHIEFS OF POLICE

# LEGISLATIVE REPORT



# 2018

## Legislative Session

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On behalf of the Oregon Association Chiefs of Police and Oregon State Sheriffs Association Legislative Committee, please accept this report on the new laws adopted by the Oregon Legislative Assembly during the 2018 Legislative Session. I want to thank the members of the OACP and OSSA for engaging the legislative process during this fast-paced "short" session.

# 2018 Legislative Session “New Laws” Report

On Saturday, March 3rd, the Oregon Legislature adjourned the 2018 Legislative Session in just 26 days (9 days short of the 35 day limit). Unlike the six month sessions that are held in odd-numbered years, sessions in even numbered years move much more quickly because of the limited number of days that are established in the Oregon Constitution. As you know, in 2010, voters overwhelmingly passed Ballot Measure 71, a legislatively referred measure that created time limited annual sessions of the Oregon Legislature. As originally intended, the short session in even-numbered years was designed to allow the legislature to make adjustments to the state budget and to fix problems with legislation adopted during the long session in odd-numbered years. For a number of reasons, the short-session expanded well beyond the original intent by entertaining substantial and often controversial legislative initiatives.

The 35-day session that is held in even-numbered years is dangerous because the aggressive timelines necessitate action without full deliberation and the politically charged election-year atmosphere doesn't always result in thoughtful public policy. Despite the potential threats and the rapid pace this legislative session, results for law enforcement interests (both budget and policy) were largely positive.

**Disclaimer:** The following “New Laws” report attempts to provide law enforcement agencies with a detailed review of the key provisions of measures impacting public safety that were passed during the 2018 Legislative Session. While every effort was made to insure accuracy, this report should not be considered legal advice or counsel. Please consult your city attorney or county counsel regarding issues involving legal interpretation and always read the actual text of a measure for confirmation and clarification.

Thank you for your confidence in my work on your behalf and thank you for the privilege to represent Oregon's law enforcement leaders!



Kevin Campbell, OACP Executive Director

## Important Background – Getting the Most from this Report

### Accessing the complete text of a measure:

While the following report attempts to provide a significant amount of detail regarding the provisions of adopted legislation, you may want to read the actual language of the bill. To read the actual text of a new law, simply click on the bill number on the left side of the report and a pdf of the “Enrolled Bill” will open. As a bill makes its way through the legislative process, earlier versions of a bill will identify current language that is being removed in *italics* and new language in **bold text**. However, the enrolled bill shows the final language of the law as it will appear initially in Oregon Laws and eventually in the Oregon Revised Statutes.

## The difference between Oregon Laws vs. Oregon Revised Statutes

### What are the “Oregon Laws”?:

At the end of every legislative session, all the bills passed by the House and Senate and signed by the Governor are combined into a publication called the “Oregon Laws”. In addition to legislative measures, the Oregon Laws also includes legislative resolutions, the text of statutory initiatives adopted by voters for the regular session that follows the election and supplemental documents including the index, tables and foreword. Each bill that is signed by the Governor is assigned an Oregon Laws chapter number by the Secretary of State. Chapter numbering begins with 1 for each regular or special session. While legislation will eventually receive an Oregon Revised Statute (ORS) citation, the Oregon Laws chapter citation is the reference until it does and law enforcement will cite to an Oregon Laws reference until an updated ORS cite is identified for provisions of the law.

### When are the Oregon Revised Statutes Updated?:

The Oregon Revised Statutes constitute the codified laws of the State of Oregon and they are published every two years. Each addition incorporates all laws and changes to laws enacted by the Legislative Assembly through the odd-numbered year regular session referenced in the volume titles for that edition. In other words, the 2017 Edition of the Oregon Revised Statutes includes the law changes made by the Oregon Legislature during the 2017 Legislative Session. The next ORS update will be published after the completion of the 2019 Legislative Session.

### Paying attention to effective dates:

In this report, the effective date of each measure will be included in the explanation of key provisions. In some cases, the effective date isn’t known yet because the Governor hasn’t signed the bill yet. It is important to note that in some cases, different provisions within a single bill may have different effective dates. Every measure will take effect based on one of three options:

- **Default Effective Date:** If there is no specific effective date mentioned in the final text of a bill, the effective date is always January 1<sup>st</sup> of the following year. For bills passed during the 2018 Legislative Session, these measures will take effect on January 1<sup>st</sup>, 2019
- **Designated Effective Date:** In some cases, the effective date is specifically noted “date certain” in the text of a bill for a wide variety of reasons including:
  - To provide time to educate the public regarding a new measure
  - To delay any potential cost of implementing provisions of a bill into the future
  - To give impacted organizations/agencies, time to adjust to the new requirements/provisions
- **“Emergency Clause” - Takes Effect Upon Passage Date:** The terminology for an effective date that occurs “upon passage” is called an “Emergency Clause” because these bills take effect immediately once the Governor signs the bill. An “Emergency Clause is intended to address situations where the legislature determines the measure is necessary for the immediate preservation of the public peace, health and safety



# 2018 Public Safety Legislation

## ❖ ALCOHOL/DRUGS/PRESCRIPTION DRUGS:

### **HB 4137 Enrolled: Alcohol and Drug Policy Commission Comprehensive Plan Report**

<b>Effective Date:</b> March-27-2018	<b>2018 Oregon Laws Site:</b> Pending
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Background/Summary: The Alcohol and Drug Policy Commission (Commission) was created by the Legislative Assembly in 2009, via passage of House Bill 3353. It was charged with “producing a plan for the funding and effective delivery of alcohol and drug treatment and prevention services.” In 2015, Senate Bill 951 altered the Commission to simplify its objectives and resolve long-standing quorum issues in order to improve its effectiveness.

HB 4137 includes the following key provisions:

- Requires the Alcohol and Drug Policy Commission, no later than September 15, 2018, to develop preliminary recommendations for the scope and framework of a comprehensive addiction, prevention, treatment and recovery plan to be completed by July 1, 2020.
- Requires the Commission to incorporate the recommendations into a request for proposals to be issued by November 1, 2018.
- Requires the Commission to report to the interim committees of the Legislative Assembly related to health, no later than December 31, 2018,
- Requires the Commission to review and update the addiction, prevention, treatment, and recovery plan no later than July 1 of each even-numbered year, beginning July 1, 2020.
- Grants the Governor the authority to appoint a Director of the Commission.
- Establishes the functions and powers of the Director including:
  - Director shall be paid a salary as provided by law or, if not so provided, as prescribed by the Governor.
  - Director shall appoint all employees of the commission, prescribe their duties and fix their compensation. (Subject to ORS chapter 240)
  - Director has all powers necessary to effectively and expeditiously carry out the duties, functions and powers of the commission.
  - Director shall enter into agreements with the Oregon Health Authority, the Department of Justice, the Department of Human Services and other state and local agencies for the sharing of information as necessary to carry out the duties of the commission.
  - Director shall ensure that the agreements protect the confidentiality of all information that is protected from disclosure by state and federal laws.
- Appropriates an increase of \$46,202 for the purpose of meeting the requirements of the measure.
- Includes an “Emergency Clause” – provisions take effect on the date the Governor signs the legislation.

### **HB 4143 Enrolled: Study of Barriers to Effective Treatment and Recovery from Substance Use Disorders**

<b>Effective Date:</b> March 27 <sup>th</sup> , 2018	<b>2018 Oregon Laws Site:</b> Pending
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Background: In 2017, Governor Brown created the Opioid Epidemic Task Force as a statewide effort to “combat opioid abuse and dependency.” The Task Force consists of medical experts, drug treatment specialists, and government officials. The Task Force initially prioritized reducing the number of narcotic pills in circulation, improving access to high quality treatment, facilitating data sharing, and promoting education efforts in Oregon. Based on the

work to date, the Task Force and Governor Brown propose House Bill 4143 as a multi-pronged approach to address the epidemic of opioid abuse in Oregon.

HB 4143 includes the following key provisions:

- Requires Department of Consumer and Business Services (DCBS), in consultation with the Oregon Health Authority (OHA) and the Department of Corrections, to study the barriers to medication-assisted treatment for substance use disorder, including access to treatment in rural and underserved areas.
- Requires DCBS to submit their findings to the Legislative Assembly no later than June 30, 2018.
- Requires OHA to establish a pilot project to assess the effectiveness of peer recovery support mentors and report annually on the efficacy of the project to the Legislative Assembly no later than December 31 of each year. The section addressing the pilot project takes effect on January 1, 2019.
- Appropriates \$2 million from the General Fund to OHA to support the pilot project and sunsets the project on January 2, 2021.
- Requires health care professionals licensed to prescribe opioids and opiates to register with Oregon's Prescription Drug Monitoring Program.
- Includes an "Emergency Clause" – provisions take effect on the date the Governor signs the legislation.

## ANIMAL/WILDLIFE:

### **HB 4030 Enrolled: Wildlife Law Violations – Court May Order Fees to Fish & Wildlife Commission**

<b>Effective Date:</b> January 1 <sup>st</sup> , 2019	<b>2018 Oregon Laws Site:</b> Chapter 14
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Background/Summary: HB 4030 was introduced to address State v. Shockey where a judge in Gilliam County found two men guilty of unlawfully possessing bighorn sheep in 2017, but ultimately denied the State's request for a restitution award. The judge found that the civil damages provided in ORS 496.705 (2) for unlawfully taking wildlife do not constitute "economic damages" necessary for purposes of restitution in criminal cases. This verdict was supported by a subsequent Court of Appeals case:

House Bill 4030 includes the following key provisions for an offense that involves the unlawful taking or killing of wildlife listed under ORS 496.705::

- Requires a court to order a defendant to pay all or a portion of a fine to the court clerk for payment to the State Fish and Wildlife Commission (Commission) if the court imposes a fine as a penalty.
- Specifies that the court-ordered amount to be paid to the Commission must be the lesser of: the amount of the imposed fine or the amount the Commission could recover as damages.
- Sets the maximum fine for the offense as the damages amount if that amount is more than the maximum fine established for the offense under felony, misdemeanor, or violation maximum fines.
- Specifies that a payment by the defendant to the Commission does not prevent the Commission from bringing an action to recover damages for the unlawful taking or killing if the amount paid to the Commission is less than the amount the Commission could recover under ORS 496.705 (2).
- Clarifies that the amount recoverable by the Commission as damages must be reduced by the amount already paid to the Commission from a fine.
- Clarifies that these provisions apply to all offenses under Oregon wildlife laws.

## **HB 4050 Enrolled: Crime of cockfighting – Reorganizes and Clarifies Provisions**

<b>Effective Date:</b> January 1 <sup>st</sup> , 2019	<b>2018 Oregon Laws Site:</b> Chapter 19
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Background/Summary: The purpose of House Bill 4050 is to reorganize the statutes related to the Crime of Cockfighting in order to eliminate confusion caused by exception language in the law as it relates to prohibitions from animal possession for persons convicted of an animal abuse crime.

HB 4050 has the following provisions:

- Moves the provisions of the crime of cockfighting relating to implements of cockfighting from the crime of cockfighting and into the crime of participation in cockfighting.
- Retains both crimes as Class C felonies.
- Clarifies that the exempt activity list in ORS 167.335 does not create an exemption to the prohibition on possession of animals after conviction for an animal abuse crime.
- Note: The exempt activity list provides a list of activities that are exempt from the animal abuse statutes unless gross negligence can be found. These include activities such as livestock transportation, animals in rodeos, commercially grown poultry, lawful hunting, fishing, and trapping activities, research, wildlife management practices, pest control, and reasonable handling and training techniques.

## **❖ BUDGET HIGHLIGHTS:**

### **HB 5201 Enrolled Budget Reconciliation Legislation – Public Safety Highlights**

<b>Effective Date:</b> January 1 <sup>st</sup> , 2019	<b>2018 Oregon Laws Site:</b> Pending
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HB 5201 includes increases and decreases to budgets for agencies and branches adopted by the Oregon Legislative Assembly. The following are budget appropriation highlights for the public safety budget area.

#### **Criminal Justice Commission (CJC):**

The Oregon Criminal Justice Commission received a General Fund increase of \$95,330 (0.1% increase), an Other Funds increase of \$440,000 (88% increase) and a Federal Fund increase of \$1,054,297 (14.7% increase) over the 2017-2019 Legislatively Adopted budget. The additional resources include the following notable appropriations:

- \$1,045,940 for two federal grants awards received in larger amounts than anticipated in the 2017-19 legislatively adopted budget. The awards supplement an existing program supporting Local Public Safety Coordinating Councils in rural Oregon counties and the state's Statistical Analysis Center program.
- \$450,000 for implementation of a new case management system for Oregon's specialty courts.

#### **Department of Justice (DOJ):**

The Oregon Department of Justice received a General Fund increase of \$1,079,888 (1.5% increase), an Other Funds increase of \$9,011,420 (2.8% increase) and a Federal Fund increase of \$ 7,684,573 (4.3% increase) over the 2017-2019 Legislatively Adopted budget. The additional resources include the following notable appropriations:

- \$2.8 million in Other Funds and \$5.4 in Federal Funds expenditure limitation for the continued development and bonding necessary for the Child Support Enforcement Automated System (CSEAS), designed to replace its current antiquated COBOL-based mainframe child support case management and financial system.

- \$185,916 General Fund and the establishment of one permanent full-time Assistant Attorney General (0.63 FTE) in the Criminal Justice Division for the prosecution of election fraud violations
- \$1.3 million in “one time” funds for the establishment of four limited duration positions (2.68 FTE) in the General Counsel Division to handle higher caseload requirements.

#### **Department of Public Safety Standards and Training (DPSST):**

DPSST received a total Other Funds increase of 5,593,477 (12.9% increase) over the 2017-2019 Legislatively Adopted budget. The additional resources include the following notable appropriations:

- \$3,657,838 for the addition of five basic police classes and one basic corrections class to the 2017-2019 Public Safety Academy training calendar including the addition of seven permanent positions (4.06 FTE) and six limited duration positions (3.48 FTE).
- \$623,260 for expenses incurred during the 2017 fire season in Oregon.
- \$400,000 to continue and expand mental health and crisis intervention training for first responders with funding from the Oregon Health Authority.

#### **Judicial Branch:**

The Oregon Judicial Branch received a General Fund increase of \$7,486,562 (1.7% increase), and an Other Funds increase of \$423,309 (0.2% increase) over the 2017-2019 Legislatively Adopted budget. The additional resources include the following notable appropriations:

- \$2,378,568 to avoid employee layoffs, furloughs, court closures, and other significant public service reductions during the second year of the current biennium.
- \$735,683, for the 2017-19 biennium costs of providing a \$5,000 per year salary increase to all statutory judges, beginning on July 1, 2018.

#### **Oregon State Police:**

OSP received a General Fund increase of \$11,233,774 (4.3% increase) and an Other Funds increase of \$14,558,834 (10.6% increase) over the 2017-2019 Legislatively Adopted budget. Beyond the actual appropriations approved during the 2018 Session, OSP was allowed to rebalance its resources between program units in order to minimize the practice of having to hold trooper positions vacant in order to keep other critical positions filled. The additional resources include the following notable appropriations:

- \$2,975,558 to allow OSP to move forward with a recruit school class of fourteen troopers anticipated for October 2018, and an additional class of twenty troopers in January 2019.
- \$12,770,000 for federally reimbursable expenses incurred during mobilizations coordinated by the State Fire Marshal during the 2017 fire season in Oregon and \$3,255,945 to cover the portion of the Patrol Division's and State Fire Marshal's 2017 fire season expenses that are not eligible for federal reimbursement.



## ❖ CORRECTIONS/PAROLE & PROBATION:

### **SB 1543 Enrolled (Omnibus Bill): Inmate Transitional Fund Protection (Section 8):**

<b>Effective Date:</b> June 30, 2018	<b>2018 Oregon Laws Site:</b> Pending
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**Note:** SB 1543 is an “omnibus” bill that includes a wide range of unrelated criminal justice provisions that can fit because of the broad relating clause in the measure (related to Public Safety). This is one of 13 separate subjects covered by the bill. This provision is located in Section 8 of the bill.

SB 1543 (Section 8) includes the following key provisions:

Provides that while moneys held in an inmate’s transitional fund described in this subsection remain within the custody or control of the Department of Corrections, those moneys are neither assignable nor subject to execution, garnishment, attachment or any other process.

### **SB 1543 Enrolled (Omnibus Bill): Addition of Needs Assessment Recommendations to General Probation Conditions (Section 10)**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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**Note:** SB 1543 is an “omnibus” bill that includes a wide range of unrelated criminal justice provisions that can fit because of the broad relating clause in the measure (related to Public Safety). This is one of 13 separate subjects covered by the bill. This provision is located in Section 10 of the bill.

SB 1543 (Section 10) includes the following key provision:

- Adds the requirement that a probationer to follow reasonable recommendations resulting from a risk and needs assessment to the list of general conditions of probation.

## ❖ DOMESTIC VIOLENCE:

### **SB 1543 Enrolled (Omnibus Bill): Batterers’ Intervention Program Advisory Committee Membership (Section 1):**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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**Note:** SB 1543 is an “omnibus” bill that includes a wide range of unrelated criminal justice provisions that can fit because of the broad relating clause in the measure (related to Public Safety). This is one of 13 separate subjects covered by the bill. This provision is located in Section 1 of the bill.

SB 1543 includes the following key provisions:

- Modifies the Batterers' Intervention Program advisory committee membership qualifications to insure the Attorney General appoints members who:
  - Are experienced with evidence-based practices specific to reducing recidivism that take into account risk factors, needs and responsiveness to treatment; and

- Represent the diverse groups that interact with violence prevention and batterers' intervention programs.
- Requires the standards for batterers' intervention programs to:
  - Consist of separate standards for programs that address male defendants, female defendants, defendants offending against same-sex victims and circumstances in which the defendant or victim is gender nonconforming; and
  - Be based on scientific research and direct practice with both persons who have perpetrated and persons who have survived domestic violence.

## **SB 1562 Enrolled: Crime of Strangulation – Increased Penalties and Additional Elements**

<b>Effective Date:</b> January 1 <sup>st</sup> , 2019	<b>2018 Oregon Laws Site:</b> Pending
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Background: Prior to the passage of SB 1562, the offense of strangulation was categorized as a Class A misdemeanor unless special factors were present. After numerous attempts to increase the penalty for strangulation over a series of Legislative Sessions, the objective was accomplished this session through the passage of SB 1562.

SB 1562 includes the following provisions:

- Adds knowingly impeding the normal breathing or circulation of another person by applying pressure to the chest of the other person to the offense of strangulation.
- Increases the penalty for strangulation to a Class C felony when the victim is a family or household member. Family or household members include spouses, former spouses, adult persons related by blood or marriage, persons cohabiting together, persons who have cohabited together or been involved in a sexually intimate relationship, or unmarried parents of a minor child.
- Directs the Oregon Criminal Justice Commission to classify strangulation as a crime category 5 when the victim is a family or household member.
- Retains strangulation as a Class C felony as a crime category 6 on the sentencing guidelines when any of the following factors are present:
  - The offense is committed in the immediate presence of, or witnessed by, the person's or victim's minor child, stepchild, or a minor residing in the household of the person or the victim.
  - The victim is under 10 years of age.
  - The person used, attempted to use, or threatened to use a dangerous or deadly weapon.
  - The person has previously been convicted of strangulation, any degree of assault, or menacing against the same victim.
  - The person has at least three prior convictions for strangulation, any degree of assault, or menacing.
  - The person knows that the victim is pregnant.

## **❖ DRONES/UNMANNED AIRCRAFT SYSTEM (UAS)**

### **SB 1543 Enrolled (Omnibus Bill): Unmanned Aircraft System (UAS) Weaponization Penalties (Section 6):**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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**Note:** SB 1543 is an "omnibus" bill that includes a wide range of unrelated criminal justice provisions that can fit because of the broad relating clause in the measure (related to Public Safety). This is one of 13 separate subjects

covered by the bill. This provision is located in Section 6 of the bill.

SB 1543 (Section 6) includes the following key provisions:

This measure makes the following modifications to penalties for a person who intentionally, knowingly or recklessly operates or causes to operate an unmanned aircraft system:

- Class A Misdemeanor for operating a UAS that is capable of firing a bullet or projectile; or specifically designed or modified to cause, and is presently capable of causing, serious physical injury (as defined in ORS 161.015)
- Class C Felony for operating a UAS that actually fires a bullet or projectile.
- Class B Felony for operating a UAS that:
  - Fires a bullet or projectile that causes serious physical injury to another person (as defined in ORS 161.015); or
  - Is specifically designed or modified to cause, and is presently capable of causing, serious physical injury and the design or modification causes serious physical injury to another person (as defined in ORS 161.015).

## ❖ FIREARMS LEGISLATION:

### [HB 4145 Enrolled](#): Governor's Firearm Legislation

<b>Effective Date:</b> January 1, 2019	<b>2018 Oregon Laws Site:</b> Chapter 5
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Background/Summary: Modifies definitions relating to the relationship status of various types of court orders and misdemeanor convictions that cause persons to be prohibited from possessing firearms.

#### Key Provisions:

- Closes the “Boyfriend Loophole”: amends ORS 166.255 by removing the current definitions for “family member” and “intimate partner” and instead adopting the definition of “family or household member” already used in ORS 135.230
  - The practical effect of this change means that adult persons related by blood or marriage and persons who have been involved in a sexually intimate relationship but have *not* cohabitated would now be prohibited from possessing a firearm if they are convicted of a crime against a family or household member
- Adds a prohibition against possessing a firearm if a person has been convicted of the Class A misdemeanor crime of Stalking
- Ensures that Crimes of Domestic Violence are appropriately entered into national databases by OSP
- Codifies existing protocols when a prohibited person attempts to purchase a firearm by requiring the Oregon State Police to notify local law enforcement as well as any applicable supervising authority, and requires that entities that respond report back to OSP the dispositions of the referrals to enable OSP to more thoroughly track and report the cases (note: this provision was amended in SB 1543 to limit the reporting requirement to agencies that respond to a notification of a denial notification instead of to all agencies that receive a notification).

## **SB 1543 Enrolled (Omnibus Bill): Firearm Denial Disposition Reporting Requirement Clarification (Section 15 &16)**

<b>Effective Date:</b> January 1, 2019	<b>2018 Oregon Laws Site:</b> Chapter 5
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**Note:** SB 1543 is an “omnibus” bill that includes a wide range of unrelated criminal justice provisions that can fit because of the broad relating clause in the measure (related to Public Safety). This is one of 13 separate subjects covered by the bill. This provision is located in Section 16 of the bill.

SB 1543 (Section 16) includes the following key provision:

- This provision of SB 1543 amends HB 4145 (Governor’s Firearm Legislation) to clarify that only agencies that respond to a firearm denial notification are required to report the action taken to the Oregon State Police. HB 4145 would have required every police agency to receive a notification for any gun purchase denial that occurred in the agencies jurisdiction and would have required the agency to submit a report to the Oregon State Police regarding the action they took in response...even if the police agency doesn’t respond to denial notifications. Section 16 of SB 1543 eliminates this requirement for agencies that don’t respond to gun purchase denial notifications. The language now reads:
  - On or before January 31 of each year, a law enforcement agency or a prosecuting attorney’s office that received a report pursuant to paragraph (c) of this subsection during the previous calendar year shall inform the department of ~~the~~ any action that was taken concerning ~~each attempted transfer~~ the report and the outcome of the action.

## **HONOR AND RECOGNITION:**

### **HCR 203 Enrolled: Honors Deputy Thomas Robert Farrell (1939-1987)**

<b>Filed with Secretary of State:</b> March 3,2018
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Summary/Background: House Concurrent Resolution 203 recognizes and honors Deputy Thomas Robert Farrell for his service to the state. After nine years serving the Tillamook County Sheriff’s Office, Deputy Thomas Robert Farrell suffered a fatal heart attack on April 23, 1987, while freeing a vehicle that had overturned in the surf on the beach in Tierra Del Mar. After serving his country in the United States Navy Reserve for two years and the United States Air Force for 20 years, Robert Farrell began his law enforcement career serving as a Tillamook County Sheriff’s Office reserve deputy and a Tillamook County 9-1-1 dispatcher until January 9, 1984, when he became a deputy sheriff.

### **HCR 204 Enrolled: Honors Deputy Gil Catalino Datan (1971-2015)**

<b>Filed with Secretary of State:</b> March 3,2018
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Summary/Background: House Concurrent Resolution 204 recognizes and honors Deputy Gil Catalino Datan for his service to this state. After a distinguished 19 year law enforcement career, Deputy Datan was killed on April 20, 2015, in an all-terrain vehicle crash, while patrolling timber lands near Coos Bay. In 2009, Deputy Datan joined the Coos County Sheriff’s Office and served as a deputy sheriff for five years after previously serving the Myrtle Point, North Bend, Confederated Tribes, and Reedsport Police Departments. Deputy Datan was posthumously awarded the Medal of Honor for his quick actions to prevent the loss of valuable evidence in a case against a notorious murderer and arsonist in North Bend in 1999.

## **HCR 207 Enrolled: Honors Oregon State Police Trooper Ralph D. Bates (1938-1962)**

<b>Filed with Secretary of State:</b> March 3, 2018
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Summary/Background: House Concurrent Resolution 207 recognizes and honors Oregon State Police Trooper Ralph D. Bates for his service to the State of Oregon. Shortly after joining the Oregon State Police and celebrating his 24th birthday, Trooper Ralph D. Bates pulled over a motor vehicle on Highway 30 and took gunfire from the vehicle's driver. Despite being mortally wounded, he managed to record the license number of his assailant's vehicle, which led to successful apprehension of the shooter with no additional loss of life. Prior to joining the Oregon State Police, Trooper Bates served his country in the United States Navy from 1956 to 1959.

### **JUVENILE/CHILD:**

## **HB 4009 Enrolled: Juvenile Dependency Hearings – Reinstatement of Parental Rights**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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Background/Summary: House Bill 4009-B provides an avenue for reinstatement of parental rights in certain circumstances.

HB 4009 includes the following key provisions:

- Allows reinstatement of terminated parental rights in specific circumstances. Specifies that the Department of Human Services (DHS) or the ward may file a motion to reinstate the parental rights of a former parent if:
  - The ward has not been adopted or does not have a legal parent,
  - It has been at least 18 months since the termination of parental rights or six months since affirmation of the judgment by an appellate court, and
  - The ward is at least 12 years old or good cause exists when the ward is under age 12.
- Requires the courts, parties, and tribe (if the Indian Child Welfare Act applies) to be notified when a copy of the motion to reinstate parental rights is provided to the former parent.
- Requires showing by clear and convincing evidence that the conduct and conditions that led to the termination of parental rights have been ameliorated and the former parent is presently fit, wishes to have their parental rights reinstated, the ward consents to the reinstatement, and that reinstatement is in ward's best interest.
- Specifies criteria courts must consider when determining reinstatement of parental rights to include:
  - The ward's health, safety, permanency, age, maturity and ability to express the ward's preferences;
  - The reasons that a former parent's parental rights were terminated;
  - The former parent's stated reasons for wishing to have parental rights reinstated; and
  - The likely impact on the ward of the former parent's past abuse or neglect.
- Directs DHS to adopt procedures through rule for investigating the present fitness of the former parent and for providing appropriate reunification services.
- Provides a six-month period following reinstatement in which ward remains a ward of the court.
- Requires a permanency hearing within 60 days of reinstating parental rights.
- Requires DHS to provide counsel at the state's expense for a ward who meets financial eligibility requirements.



## **HB 4082 Enrolled: Juvenile Justice Info System – OYA Partnership with County Juvenile Departments.**

<b>Effective Date:</b> February 28, 2018	<b>2018 Oregon Laws Site:</b> Chapter 1
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Background/Summary: The Juvenile Justice Information System (JJIS) was developed in the 1990's and is a statewide system that supports continuity of services among the juvenile justice community. According to the Oregon Youth Authority (OYA), Oregon is one of only three states that has a statewide data system for the juvenile justice system. There is currently a JJIS Steering Committee comprised of representatives from OYA, the Oregon Juvenile Department Directors Association, the Oregon Department of Corrections, and others. OYA and county juvenile departments have access to JJIS, which provides case information about juvenile offenders and the services they receive in Oregon.

HB 4082 includes the following key provisions:

- Directs the Oregon Youth Authority (OYA) to administer the Juvenile Justice Information System in partnership with county juvenile departments through a steering committee.
- Allows disclosure of certain juvenile records to a government agency; public or private post-secondary educational institution; or person with whom OYA, a county, or a county juvenile department has entered into an agreement for disclosure for certain purposes.
- The authorized purposes for disclosure will be adopted by rule to include research, evaluation, coordination of public safety services, program planning, compliance with grant requirements and audits.
- Specifies that persons who receive these records are responsible for preserving confidentiality.
- Includes an "Emergency Clause" – provisions take effect on the date the Governor signs the legislation.

## **SB 1540 Enrolled: Child Abuse Investigations on School Premises**

<b>Effective Date:</b> April 3 <sup>rd</sup> , 2018	<b>2018 Oregon Laws Site:</b> Pending
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Background/Summary: Senate Bill 101 passed during the 2017 legislative session, made changes to child abuse investigations conducted by DHS and law enforcement agencies on school premises. Senate Bill 1540 clarifies the authority DHS and law enforcement agencies have to conduct child abuse investigations on school premises.

SB 1540 includes the following key provisions:

- Clarifies provisions related to child abuse investigations conducted on school premises by;
  - Requiring the Department of Human Services (DHS) or law enforcement agency conducting a child abuse investigation on school premises to present adequate identification to school personnel.
  - Requiring school personnel to cooperate with the investigation and, at a minimum, allow access to the child who is the suspected victim and provide a private space in which to conduct and interview of the child.
  - Prohibiting school personnel from disclosing the investigation outside DHS, law enforcement, and other school personnel necessary to enable the investigation.
  - Clarifying that information obtained during the investigation is not part of the child's school record.
- Modifies definitions of "adult," "community program," and "sexual abuse" for purpose of reporting abuse of adults with mental illness or developmental disabilities to include:
  - Persons receiving mental health treatment in a community program or facility, or treatment of substance use disorders or mental illness at a state hospital within mandatory reporting requirements that apply to adults with mental illness or developmental disabilities.
  - Providers whose services are paid for by the Oregon Health Authority within the definition of "community program."

- Clarifies that the definition of "sexual abuse" applies to sexual contact between a recipient of mental health or substance use disorder treatment and the provider of the treatment.
- Includes an "Emergency Clause" – provisions take effect on the date the Governor signs the legislation.

## ❖ LINE OF DUTY DEATH BENEFITS:

### **HB 4056 Enrolled: Education Scholarships for the Children of Deceased/Disabled Public Safety Officers**

<b>Effective Date:</b> March 16 <sup>th</sup> , 2018	<b>2018 Oregon Laws Site:</b> Chapter 23
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Background/Summary: HB 4056 seeks to insure that the children of public safety professionals who make the ultimate sacrifice or that are disabled can count on the resources necessary to attend college when they reach the age to do so. The measure appropriately funds the scholarship program created in the bill from civil forfeiture proceeds and it seeks to reduce complexity of the process and the burden on survivors by streamlining the steps necessary to access these educational scholarship funds.

HB 4056 includes the following provisions:

- Distributes ten percent of asset forfeitures from prohibited conduct into an account for scholarships awarded by the Higher Education Coordinating Committee (HECC) for the children of public safety officers established under ORS 348.270.
- Public safety officer is defined as a corrections officer, fire service professional, parole and probation officer, police officer, reserve officer or youth correction officer.
- To be eligible to receive a scholarship, a student must:
  - Be a child of a public safety officer who has suffered a qualifying death or disability;
  - Be enrolled or have applied for enrollment at an institution of higher education in this state;
  - Be under 25 years of age at the time that the student first submits an application;
  - Complete and submit the Free Application for Federal Student Aid for each academic year and accept all state and federal aid grants available to the person
  - Not have achieved a baccalaureate or higher degree from any post-secondary institution.
- A student is eligible to receive a scholarship under this section for a maximum of the equivalent of four academic years if the student makes satisfactory academic progress, as defined by the institution of higher education at which the student is enrolled.
- Sets the maximum amount of a scholarship award at \$13,000 per academic year for a four-year degree program.
- Requires the HECC to report to the Legislative Assembly on the implementation and administration of the scholarship program by January 1, 2021.
- Applies to scholarships submitted on or after July 1, 2018

## ❖ MARIJUANA:

### **HB 4089 Enrolled: Industrial Hemp Omnibus Legislation**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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Background/Summary: Industrial hemp is an agricultural product that is subject to regulation by the Oregon Department of Agriculture (ODA) and refers to cannabis varieties that are grown for fiber, seed, oil, or as a cover crop. In 2009, the Legislative Assembly enacted Senate Bill 676 which authorized the production, possession, and commerce of industrial hemp and commodities in Oregon. ODA licensed Oregon's first industrial hemp grower in early 2015. In 2016, House Bill 4060 updated and clarified provisions related to the regulation of industrial hemp, and authorized ODA to adopt rules to govern quality, packaging, and labeling of industrial hemp seed.

HB 4089 includes the following provisions:

- Gives hemp research program currently operated by the Oregon Department of Agriculture (ODA) the name of the Oregon Industrial Hemp Agricultural Pilot Program and authorizes ODA to administer the program (Section 3).
- Specifies that agricultural hemp seed is agricultural seed or flower seed for purposes of statutes regulating labeling, testing, certifying, or other aspects of seeds (Section 7).
- Directs Director of Agriculture and Dean of College of Agricultural Sciences of OSU to establish a program for labeling and certification of agricultural hemp seed (Section 7).
- Provides that an accredited independent testing laboratory that has been approved by the Oregon Health Authority or ODA may test industrial hemp and industrial hemp commodities and products produced or processed by a grower, handler, or agricultural hemp seed producer (Section 11).
- Authorizes the Oregon Liquor Control Commission to take actions regarding industrial hemp to enforce and ensure compliance with marijuana laws and provisions of industrial hemp laws that incorporate requirements, restrictions, or other provisions of marijuana laws (Section 14).
- Requires a grower, handler or processor to enter hemp, commodity or product into the tracking system if it is intended for human consumption and is intended for transfer, sale or transport to a licensed processor, retailer or wholesaler (Section 15).
- Prohibit a person other than a licensed marijuana retailer from selling Industrial hemp products that contain more than 0.3 percent tetrahydrocannabinol to a consumer and requires that the OLCC adopt rules to ensure compliance (Section 15a).
- Limits the production and storage of homegrown cannabis plants to four plants at any time by one or more persons 21 years of age or older. (Section 20)
- Prohibits a person from producing, processing or storing homemade industrial hemp extracts and establishing the penalty as a Class A Misdemeanor.(Section 22)
- Allows the Oregon Department of Agriculture to adopt rules establishing higher average tetrahydrocannabinol concentration limit for industrial hemp if the higher average concentration limit is established by federal law (Section 27).
- Establishes the Industrial Hemp Fund and appropriates fund moneys to the Oregon Department of Agriculture (ODA) for the purposes of implementing, administering, and enforcing industrial hemp statutes (Section 30)
- Includes an "Emergency Clause" – provisions take effect on the date the Governor signs the legislation (Section 35).

## **SB 1544 Enrolled: Comprehensive Marijuana “Clean-up” Legislation**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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Summary: This measure cleans up a number of glitches from legislation passed in previous sessions and addresses a number of concerns expressed by federal authorities.

SB 1544 includes the following key provisions:

- Fixes a glitch in Oregon law so that cities and counties with a small number of marijuana retailers can comply with budget law when dealing with marijuana tax revenues (Section 1)
- Clarifies that an OLCC licensed producer with a medical certificate can sell immature plants to medical cardholders (Section 2)
- Makes a number of technical changes and clarifications to the medical marijuana program with regard to plants (Sections 3 to 5).
- Allows OHA to set limits on the number of medical seedlings that can be possessed (section 6). There is currently no limit.
- Creates the illegal Marijuana Market Enforcement Grant Program with the Criminal Justice Commission to assist local governments with costs incurred by local law enforcement agencies in addressing unlawful marijuana cultivation or distribution (Sections 7, 7a, and 13 through 17). This seeks to address a major federal concern regarding inadequate enforcement. The grant program would be started with \$1.5 million per year through the year 2024.
- Clarifies that just because a medical grow site is subject to tracking because it has more than 12 mature plants does not mean, by itself, that the marijuana grow site is a “commercial” operation for purposes of state law (Section 8). This does not impact local ordinances, and does not mean that state agencies can’t make a “commercial” determination based on other factors.
- Gives the Cannabis Commission more time to prepare their report detailing what further legislative actions should be taken to assist the medical marijuana program (Sections 9 & 10).
- Grandfathers city or county determinations that a geographic barrier, such as a river or freeway separates a marijuana shop from a school such that the shop can be less than 1,000 feet from the school if it is at least 500 feet from the school so that OLCC does not have to make a new determination upon license renewal for that shop (Section 11).
- Provides that industrial hemp products sold in OLCC licensed shops be labelled as such (Section 19).
- Clarifies that high THC industrial hemp products (above .3% THC) can only be sold in OLCC licensed shops and cannot be exported (Sections 20 & 21).

## **SB 1555 Enrolled: County Mental Health Funding from Marijuana Tax Revenue “Fix”**

<b>Effective Date:</b> April 3 <sup>rd</sup> , 2018	<b>2018 Oregon Laws Site:</b> Pending
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Summary: SB 1555 modifies the purposes for which a certain percentage of moneys in the Oregon Marijuana Account may be used. A portion of the retail marijuana tax revenues (20%) are allocated to the Oregon Health Authority (OHA) for use in alcohol and drug abuse prevention, early intervention and treatment. Senate Bill 1555 enables the Oregon Health Authority to distribute a portion of the retail marijuana tax revenues to community mental health services in keeping with the intent of HB 5026 (passed during the 2017 Legislative Session) which specified that \$16 million be spent on these services. As adopted in 2017, distribution language directed marijuana tax revenues into the Mental Health Alcoholism and Drug Services Account, which can only allocate moneys for drug abuse prevention, early intervention and treatment services, and not community mental health services.

SB 1555 includes the following key provisions:

- Clarifies that 20% of the Oregon Marijuana Account must be used solely for mental health treatment or for alcohol and drug abuse prevention, early intervention and treatment for moneys deposited into the Mental Health Alcoholism and Drug Services Account established under ORS 430.380
- Applies to any moneys transferred into the account between the effective date of Act and July 1<sup>st</sup>, 2019.
- Sunsets (discontinues) the new language in the measure and reverts law to original statutory language on July 1, 2019 so that money's transferred after this date are to be used solely for purposes for which moneys in the Mental Health Alcoholism and Drug Services Account established under ORS 430.380 may be used.
- Includes an "Emergency Clause" – provisions take effect on the date the Governor signs the legislation.

## ❖ MENTAL ILLNESS/PSRB:

### **SB 1543 Enrolled (Omnibus Bill): Psychiatric Security Review Board Access to Medical Records (Section 4):**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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**Note:** SB 1543 is an "omnibus" bill that includes a wide range of unrelated criminal justice provisions that can fit because of the broad relating clause in the measure (related to Public Safety). This is one of 13 separate subjects covered by the bill. This provision is located in Section 2 & 3 of the bill.

SB 1543 (Section 4) includes the following key provisions:

- Requires the state hospital, a community mental health program and any other health care service provider to provide the Psychiatric Security Review Board (PSRB) with all medical records pertaining to a person committed to the jurisdiction of the board except as otherwise provided by law.

### **SB 1543 Enrolled (Omnibus Bill): PSRB Authority to Order Custody and Transport of a PSRB Client Who Absconds (Section 5):**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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Background/Summary: This provision clarifies the process for ordering the return of a person under the PSRB found guilty except for insanity and on conditional release and allows a community mental health program director to order return of these persons when the person has absconded from conditional release. This clarification in statute results from a circumstance where a law enforcement officer didn't take a PSRB client who absconded into custody when directed because they didn't believe they had the legal grounds to do so. The client later committed a serious criminal offense.

SB 1543 (Section 5) includes the following key provisions:

- Specifies that a written or electronic order for the return of a person on conditional release to a state hospital or other facility designated by the supervising entity or, if the person is under 18 years of age, to a secure intensive community inpatient facility or other facility designated by the supervising entity, may be issued by:
  - The supervising entity (the board or the chairperson or executive director of the board);
  - A person designated by the supervising entity, if the designation is made as part of a written policy; or
  - The community mental health program director, if the person has absconded from conditional release.



- Authorizes an order to be issued when the supervising entity, the authorized designee or, if the person has absconded, the community mental health program director, has determined that:
  - The person has violated the terms of conditional release; or
  - The mental health of the person has changed such that the supervising entity, or, if applicable, the authorized designee or the community mental health program director, reasonably believes that the person may no longer be fit for conditional release.
- Clarifies that a written order is sufficient warrant for any law enforcement officer to take into custody and transport the person named in the order.
- Requires a peace officer to execute the order
- Requires the police agency of the officer that takes a person into custody based on an order to “cause” the person, as soon as practicable, to be transported to a state hospital or other facility designated by the supervising entity. This language is designed to allow the officer to decide whether to transport the person or to arrange secure transport. Prior law required the officer to take the person into custody and do the transport.
- Requires the supervising entity to facilitate the reimbursement of reasonable costs of the transport to the agency employing the peace officer if the person was taken into custody pursuant to an order described in the measure and the police officer or agency decided to transport the person. No reimbursement language was included in the previous law.

## ❖ PERS ISSUES:

### **SB 1529 Enrolled: PERS Employer Incentive Fund (EIF)**

<b>Effective Date:</b> June 2 <sup>nd</sup> , 2018	<b>2018 Oregon Laws Site:</b> Chapter 317
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Summary/Background: Senate Bill 1529 establishes and appropriates funds into the Employer Incentive Fund (EIF), from revenue resulting from repatriation, which will be used to assist PERS employers in meeting their state mandated PERS rates. Monies generated in this bill for the EIF result from re-connecting Oregon’s tax code to the federal tax changes which was altered in late 2017. Eighteen percent of the total amount raised by this bill is dedicated to the EIF and the Office of Legislative Revenue projects that the fund will receive \$25 million from this legislation.

The key provisions of SB 1529 include:

- Directs the Department of Revenue, on or before July 1, 2021, to estimate the increase, if any, of corporate tax revenue received by the department and attributable to the treatment of post-1986 deferred foreign income under “An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018 (P.L. 115-97).
- Directs the Department of Revenue to transfer 18 percent of these moneys to the Employer Incentive Fund established under SB 1529 (Section 31a).
- Establishes the Employer Incentive Fund in the State Treasury separate and distinct from the General Fund.
- Directs interest earned by the Employer Incentive Fund to be credited to the fund.
- Directs moneys in the fund to be continuously appropriated to the Public Employees Retirement Board for the purpose of incentivizing participating public employers, as defined in ORS 238.005, to make lump sum prepayments of employer contributions.

## **SB 1566 Enrolled: PERS Employer Incentive Fund (EIF) Framework**

<b>Effective Date:</b> January 1, 2019	<b>2018 Oregon Laws Site:</b> Chapter 317
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Summary: SB 1566 establishes eligibility criteria for the Employer Incentive Fund which is established in SB 1529 (see above). The key provisions of the measure include the following:

- The match rate is up to 25% of a PERS employer's contribution (Section 2).
- All PERS employers are eligible to receive matching funds; however, an employer must have an approved Unfunded Actuarial Liability Resolution (UALR) plan (Section 2)..
- The employer must make a minimum contribution of \$25,000 and the maximum amount to be matched is up to five percent of an employer's UAL or \$300,000, whichever is greater (Section 2).
- The employer must apply to reserve matching funds no later than December 31, 2019, and lump sum payments must be made by July 1, 2023 (Section 2).
- Contributions generated from debt financing are not eligible to receive a match (Section 2).
- Employers with unfunded actuarial liabilities of more than 200% of their PERS-eligible payroll will be eligible for the first 180-days after the enactment of the act and then the fund becomes open to all other employers up to the amount remaining in the Employer Incentive Fund.
- The PERS agency is tasked by the bill to develop rules and technical assistance for agencies to develop their UALR plans (Section 26).
- During each regular session of the Legislative Assembly, the Public Employees Retirement Board shall report to the Joint Committee on Ways and Means on the status of the Employer Incentive Fund (Section 28).

## **❖ PROSECUTION/SENTENCING:**

### **HB 4149 Enrolled: Plea Bargain Reform**

<b>Effective Date:</b> January 1st, 2019	<b>2018 Oregon Laws Site:</b> Chapter 37
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Background/Summary: As introduced, the original version of HB 4149 included significant changes to the way prosecutors negotiate plea and release agreements. The final version was pared back to include fewer changes that the Oregon District Attorney's Association chose not to oppose..

HB 4149 includes the following key provisions:

- Prohibits a prosecuting attorney from conditioning a defendant's plea offer on
  - The defendant's waiver of the obligation of the prosecution to disclose any material or information that tends to exculpate the defendant, negate or mitigate the defendant's guilt or punishment; or impeach a person the district attorney intends to call as a witness at the trial, or
  - The defendant's waiver of the ability to receive the audio recording of grand jury proceedings as permitted under ORS 132.270, if the indictment has been indorsed "a true bill."
  - A requirement that the defendant or the defense attorney stipulate to the unconstitutionality of an existing law.
- Specifies that a plea agreement may not contain a prohibited provision and prohibited provisions in plea agreements are void and unenforceable.
- Prohibits a court from conditioning a defendant's release on the defendant's waiver of appearance at trial.

### **SB 1543 Enrolled (Omnibus Bill): “SWATTING” Penalty Increase (Section 9)**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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**Note:** SB 1543 is an “omnibus” bill that includes a wide range of unrelated criminal justice provisions that can fit because of the broad relating clause in the measure (related to Public Safety). This is one of 13 separate subjects covered by the bill. This provision is located in Section 9 of the bill.

SB 1543 (Section 9) includes the following key provisions:

- Imposes a mandatory minimum 30 day sentence of incarceration for Initiating a False Report when the offense results in deployment of a law enforcement special weapons and tactics team (SWAT), and that deployment results in the death or serious physical injury to another person.
- Applies to offenses committed on or after effective date.

### **SB 1543 Enrolled (Omnibus Bill): Reduction of Certain Felonies to a Class A Misdemeanor (Section 11 & 12)**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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Summary/Background: Currently, the court can reduce certain felonies to a Class A misdemeanor. This includes Class C felonies; a Class B felony for possession or delivery of marijuana or marijuana items; or a Class A felony for racketeering.

SB 1543 (Section 11 & 12) includes the following key provisions:

- Adds Class B felonies for possession of a controlled substance to the list of offenses that may receive a reduction to an A misdemeanor.
- Specifies that a person with a Class C felony may seek this reduction at the time of entry of judgment.
- Specifies that a person can request reduction of any Class C felony and the other specified felonies at any time after the sentence of probation has been completed.

### **SB 1543 Enrolled (Omnibus Bill): Optional Probationary Sentence – Credit for Time Served (Section 13)**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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SB 1543 (Section 13) includes the following key provision:

- Provides that an offender revoked from an optional probationary sentence shall receive credit for time served in jail unless the court orders otherwise.

## **SB 1543 Enrolled (Omnibus Bill): Supreme Court Jurisdiction – Constitutional Appeals of Chapter 673, Oregon Laws 2017 (Section 14)**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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Background/Summary: In 2017, House Bill 3078 was enacted. This measure reduced presumptive sentences for certain repeat property offenders and included appropriations to the Family Sentencing Alternative Pilot Program, Justice Reinvestment Program, and Domestic and Sexual Violence Services Fund. There is currently litigation addressing the constitutionality of this measure.

SB 1543 (Section 14) includes the following key provisions:

- Confers jurisdiction upon the Supreme Court to determine the constitutionality of chapter 673, Oregon Laws 2017 (HB 3078), for certain civil and criminal appeals.
- Requires the court to expedite the disposition in appeals of civil actions.
- Sunsets (ends) jurisdiction conveyed in Section 14 of SB 1543 on July 1, 2023.

## **❖ SEX OFFENSES/SEXUAL ASSAULT KITS:**

### **HB 4049 Enrolled Sexual Assault Kit Tracking System**

<b>Effective Date:</b> April 3 <sup>rd</sup> , 2018	<b>2018 Oregon Laws Site:</b> Pending
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Background/Summary: HB 4049 directs the Oregon State Police to establish a multidisciplinary committee on tracking of sexual assault forensic evidence kits and to create and maintain statewide electronic sexual assault forensic evidence kit tracking system based on the recommendations of the task force. Portland Police Bureau offered to allow all police agencies in the state to use their system for tracking sexual assault kits throughout the testing process. This will be an excellent tool for investigators and victims that will also create efficiencies.

Provisions:

- Directs Department of State Police to establish a multidisciplinary committee on the tracking of sexual assault forensic evidence kits. The committee shall:
  - Develop recommendations for establishing a statewide electronic sexual assault forensic evidence kit tracking system.
  - Identify and pursue state and federal funding to establish the tracking system, including grants.
  - Be composed of members that include law enforcement professionals, crime lab personnel, prosecutors, victim advocates, victim attorneys, survivors and Sexual Assault Nurse Examiners or Sexual Assault Forensic Examiners.
  - Monitor the tracking system's implementation for at least two years and recommend necessary modifications..
- Requires the Department of State Police to implement the committee's recommendations for a SAFE kit tracking system that includes the following capabilities:
  - Record the status of sexual assault forensic evidence kits from the collection site throughout the criminal justice process, including but not limited to the initial collection at medical facilities, inventory and storage by law enforcement agencies or crime labs, analysis at crime laboratories and storage or destruction after completion or analysis.
  - Allow all agencies or facilities that receive, maintain, store or preserve sexual assault forensic evidence kits to update the status and location of the kits.

- Allow a victim of sexual assault, or a parent or guardian of a victim if the victim is a minor, to anonymously access the system and to receive updates regarding the location of the victim's sexual assault forensic evidence kit and the status of analysis, including but not limited to the initiation and completion of testing.
- Use electronic technology that allows continuous access to the tracking system by victims, medical facilities, law enforcement agencies, prosecutors, private laboratories and crime laboratories.
- Requires all law enforcement agencies, medical facilities, crime laboratories, and others to fully participate in the tracking system within one year of system becoming operational.
- Requires the Oregon State Police to submit a status report to Task Force on Testing of Sexual Assault Forensic Evidence Kits, Governor, and Attorney General no later than January 1, 2019.
- Updates the timeline for Task Force on Testing of Sexual Assault Forensic Evidence Kits, extending its existence until July 31, 2020.
- Requires the Task Force to monitor implementation of SAFE kit tracking system and to include status update on implementation within its final report to the legislature no later than December 1<sup>st</sup>, 2020.

### **HB 4150 Enrolled: School Sexual Assault Complaint Process**

<b>Effective Date:</b> July 1 <sup>st</sup> , 2018	<b>2018 Oregon Laws Site:</b> Chapter 38
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Background/Summary: Under current Oregon law, school districts must adopt a policy on sexual harassment of students by staff or other students. At a minimum, the policy must apply to all students and staff and require investigations in a manner that does not adversely affect the educational assignments or study environment of the student. Upon conclusion of the investigation, the student who initiated the complaint and the student's parents are notified that the investigation has concluded, but the statute is silent on whether the findings of the investigation are shared.

HB 4150 includes the following key provisions:

- Requires that a student, parent or staff member who files a sexual harassment complaint to receive a notification when an investigation concludes that indicates whether a violation of the policy was found to have occurred, to the extent allowable under state and federal student confidentiality laws.
- Requires written notification to include sections detailing the rights of students or staff members who filed the complaint and information on legal and disciplinary options, school services, outside services, and privacy rights. Specifies the notice must be in plain language that is easy to understand.
- Extends the school district's sexual harassment policy to apply to persons who are not students, but are on school property or at a school event, and to persons using school transportation or at a school bus stop.

### **SB 1543 Enrolled (Omnibus Bill): Sexual Assault Kit Evidence Retention Clarification (Section 2 & 3):**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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**Note:** SB 1543 is an "omnibus" bill that includes a wide range of unrelated criminal justice provisions that can fit because of the broad relating clause in the measure (related to Public Safety). This is one of 13 separate subjects covered by the bill. This provision is located in Section 2 & 3 of the bill.

SB 1543 (Section 2 & 3) includes the following key provisions:

- Clarifies that law enforcement agencies must preserve:



- A sexual assault forensic evidence kit for no less than 60 years after collection of the evidence (Note: these kits already are retained for 60 years based on the DNA retention law); and
- Any related evidence for at least six months.
- Requires the Department of Justice to create, and make available to medical assessment providers, informational materials describing the services payable by the Sexual Assault Victims' Emergency Medical Response Fund. A provider shall ensure that the informational materials are made available to sexual assault victims.

## **SB 1543 Enrolled (Omnibus Bill): Vacating Municipal Prostitution Judgements for Sex Trafficking Victims (Section 7):**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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**Note:** SB 1543 is an “omnibus” bill that includes a wide range of unrelated criminal justice provisions that can fit because of the broad relating clause in the measure (related to Public Safety). This is one of 13 separate subjects covered by the bill. This provision is located in Section 7 of the bill.

SB 1543 (Section 7) includes the following key provisions:

This measure allows a court to vacate a judgment for conviction of a municipal prostitution ordinance when the person was a victim of sex trafficking at or near the time of the offense. Defines municipal prostitution ordinance.

## **❖ TRAFFIC/MOTOR VEHICLE:**

### **HB 4055 Enrolled: Hit and Run “Fix” Legislation**

<b>Effective Date:</b> January 1 <sup>st</sup> , 2019	<b>2018 Oregon Laws Site:</b> Chapter 22
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Background/Summary: Called Anna and Abigail’s Law because of the tragic death of these two children who were killed while playing in a pile of leaves and the failure of the driver of the vehicle to make any effort to investigate what they hit and to provide aid.. HB 4055 seeks to address the Garcia-Cisneros case by imposing duties on drivers who learn that they may have been involved in a collision involving injury or death to another person; domestic animal; or damage to property, after leaving the scene of the collision.

HB 4055 includes the following key provisions:

- Modifies applicable mental state to driver “knowing or having reason to believe the driver was involved in a collision.”
  - Property damage, injury or death to a person, or injury or death to a domestic animal.
- Defines “reason to believe.”
  - Driver is aware of a circumstance that would cause a reasonable person to be aware of a substantial and unjustifiable risk that the driver’s vehicle has been in a collision.
- Requires that a driver reasonably investigate what the driver’s vehicle struck.
- Imposes duties on drivers who learn that they may have been involved in a collision involving injury or death to another person; domestic animal; or damage to a vehicle, fixtures, or property, after leaving the scene of the collision.
- Adds additional duties to drivers involved in these collisions, such as investigating what the vehicle struck and providing the phone number of the insurance carrier of the vehicle.

## **HB 4063 Enrolled: Autonomous Vehicle Program Task Force**

<b>Effective Date:</b> Effective on Date Governor Signs	<b>2018 Oregon Laws Site:</b> Pending
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Background/Summary: The terms "automated motor vehicle" and "autonomous motor vehicle" refer to motor vehicles that utilize sensors computers and self-control systems to sense the surrounding road environment and other vehicles on the road and navigate with limited or no human input. This measure designates the Oregon Department of Transportation (ODOT) as the lead agency for autonomous vehicle programs and policies.

HB 4063 includes the following key provisions:

- Establishes a 31-member Task Force on Autonomous Vehicles that includes two members appointed by the Senate President, two members appointed by the Speaker of the House and 27 members from a wide range of stakeholder groups appointed by the Director of the Oregon Department of Transportation.
- Requires the task force to develop recommendations for legislation to be introduced during the next odd-numbered year regular session of the Legislative Assembly regarding the deployment of autonomous vehicles on highways and to report to the legislature no later than September 15<sup>th</sup>, 2018.
- Requires ODOT to provide staff support to the task force and all agencies are required to assist with the work of the Task Force.
- The Task Force is disbanded on January 2, 2021
- Includes an "Emergency Clause" – provisions take effect on the date the Governor signs the legislation.

## **HB 4116 Enrolled Mobile Electronic Device/Distracted Driving "Fix" Legislation**

<b>Effective Date:</b> March 16, 2018	<b>2018 Oregon Laws Site:</b> Chapter 32
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Background/Summary: Following the passage of HB 2597 during the 2017 Legislative Session, some courts were dismissing citations due to a lack of clarity about what constitutes "activating and deactivating" the functions of a device for purposes of the law. HB 4116 addresses this definitional issue and a number of small fixes to the statute.

HB 4116 includes the following key provisions:

- Exempts construction work requiring parking vehicle on a roadway from the definition of "driving", for purposes of driving while using a mobile electronic device.
- Modifies the definition of "hands-free accessory". The current definition is: "means an attachment or built-in feature for or an addition to a mobile electronic device that gives a person the ability to keep both hands on the steering wheel at all times while using the device. HB 4116 adds the following language to the definition: "*or requires only the minimal use of a finger, via a swipe or tap, to activate or deactivate a function of the device*".
- Adds business band radio service to exceptions and affirmative defenses applicable to two-way radio devices for the offense of driving a motor vehicle while using a mobile electronic device.
- Adds the following exceptions to this offense for:
  - Use of a two-way radio device while operating a vehicle wider than the lane of travel, a vehicle transporting livestock, a slow-moving vehicle, or a pilot or safety vehicle used to assist these vehicles, when the device facilitates safe operation of the vehicle.
  - Use of a mobile electronic device to comply with federal regulations (49 U.S.C. 31137) for vehicles weighing at least 10,001 pounds. Federal law requires use of Electronic Logging Devices (ELDs) in commercial vehicles over 10,001 pounds.
- Specifies that the enhanced classification of this offense only applies to prior convictions occurring on or

after July 1<sup>st</sup>, 2018, and allows someone whose offense classification was enhanced due to a conviction before that date to have the court reduce the classification.

- Requires the court to enter a sentence of discharge if the person successfully completes a distracted driving avoidance course and prohibits the sentence of discharge from including a fine. The intent is for the conviction to remain on a person's record but the fine would not be issued.

## **SB 1538 Enrolled: Suspensions and Hardship Permits**

<b>Effective Date:</b> January 1 <sup>st</sup> , 2019	<b>2018 Oregon Laws Site:</b> Pending
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This 27 page bill was introduced in response to recommendation from the Joint Interim Task Force on Reentry, Employment and Housing (Task Force) that was created by the passage of SB 969 in 2015. The Task Force was mandated to study and recommend actions that state and local governments could take to improve reentry for persons with a criminal conviction, and assist in expanding housing and employment opportunities. The Task Force found that a driver's license is critical for obtaining employment and independence. In Oregon, a license can be suspended for a number of reasons unrelated to the operation of a motor vehicle.

SB 1538 includes the following key provisions:

- Eliminates probationary driving permits for people whose license are revoked, and replaces them with hardship permits.
- Standardizes the various requirements for a hardship permit and allows habitual offenders to obtain a hardship permit. Qualifications include a wait time before issuance and SR-22 proof of insurance. In the case of a DUI offense, the person must also prove installation of an ignition interlock device.
- Prohibits the department from issuing a hardship permit to a person:
  - Whose driver license or driver permit is suspended pursuant to ORS 25.750 to 25.783;
  - Whose driving privileges are suspended pursuant to ORS 809.280 (2);
  - That authorizes the person to operate a commercial motor vehicle;
  - Whose suspension of driving privileges is based on a second or subsequent conviction of driving while under the influence of intoxicants in this or another jurisdiction within a five-year period.
  - Whose driving privileges are suspended for a conviction of assault in the second, third or fourth degree if the person, within 10 years preceding application for the permit, has been convicted of:
    - Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle;
    - Reckless driving, as defined in ORS 811.140;
    - Driving while under the influence of intoxicants, as defined in ORS 813.010;
    - Failure to perform the duties of a driver involved in an accident or collision, as described in ORS 811.700 or 811.705;
    - Criminal driving while suspended or revoked, as defined in ORS 811.182;
    - Fleeing or attempting to elude a police officer, as defined in ORS 811.540;
    - Aggravated vehicular homicide, as defined in ORS 163.149; or
    - Aggravated driving while suspended or revoked, as defined in ORS 163.196; or
  - Whose driving privileges are suspended for a conviction of assault in the second, third or fourth degree
- Modifies the authority of courts to suspend driver licenses for youth offenses involving alcohol or cannabis by making the suspensions permissive rather than mandatory, and only when the following factors are present:
  - For the offense of misrepresentation of age when it is to purchase or consume cannabis on the second offense;
  - For a first offense, if it involves the operation of a motor vehicle; or

- For a first offense, if the person has previously entered in to a formal accountability agreement.
- Eliminates several types of driving privilege suspensions that are unrelated to the operation of a motor vehicle including for littering, uncollectible payments to ODOT, failure to use the same name, giving false information to a police officer, transfer of documents for misrepresentation of age, perjury or false affidavit for certain vehicle transactions, and theft of gasoline.
- Authorizes members of the National Oceanic and Atmospheric Administration within Oregon to operate a motor vehicle without an Oregon driver license when in the course of conducting their work, and allows these persons and their spouses to operate a motor vehicle in Oregon without an Oregon driver license if they have a current out-of-state license or driver permit.
- Specifies that these changes are applicable to hardship permits and driving privilege suspensions or revocations issued on or after the bill's effective date.
- Hardship permits, probationary permits, and driving privilege suspensions or revocations issued prior to the date are governed by the applicable laws in effect at the time of the most recent suspension.

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