2017 OREGON LEGISLATION HIGHLIGHTS

PUBLISHED BY
OREGON STATE BAR
PUBLIC AFFAIRS DEPARTMENT

Many bills passed during the 2017 session have special effective dates. These dates are noted in the description of each bill.

If a special effective date is not proscribed in a bill, the bill takes effect on January 1, 2018.

This handbook may be cited as:
2017 Oregon Legislation Highlights

Published in the United States of America

Special Thanks to
2017 Oregon Legislation Highlights reviewers and editors

MARISA JAMES
AND THE OFFICE OF LEGISLATIVE COUNSEL

AND TO
KENNETH HAGLUND, JR, AND
TIMOTHY SYLWESTER

OREGON STATE BAR
EXECUTIVE DIRECTOR

Helen Hierschbiel

2017 OREGON LEGISLATION HIGHLIGHTS
PRODUCTION STAFF

Matt Shields – *Editor in Chief*
Susan Evans Grabe
Amy Zubko
Kellie Baumann

FORWARD

The annual *Oregon Legislation Highlights* offers a timely and authoritative resource to help lawyers catch up on the latest legislative developments.

This book highlights more than 330 bills and other measures that were passed by both houses of the legislature. This book does not describe all of the enacted legislation. *When nots otherwise noted, legislation takes effect on January 1, 2018.*

The information in this book is organized into chapters by subject. If a bill has a special effective date, that date is noted at the end of the discussion of that bill. Please note that in some cases a bill may have more than one effective date. If in doubt about an effective date of a law, always check the enacting legislation.

Each bill is identified – in the chapter outline and in the text – by its bill number and its 2017 Oregon Laws chapter number. A table of bill numbers and Oregon Laws chapter numbers appears at the end of the book for a quick reference to the discussion in the text. For organizational purposes, some bills may appear in a chapter other than that for which they were originally written.

The legislature's website offers additional information that the reader of this book may find useful. This includes measure summaries written by legislative staff, and in some cases supporting documentation submitted during committee hearings. See www.oregonlegislature.gov for more information.

We are grateful to all who were involved in preparing this book. We are especially appreciative of the efforts of our volunteer authors, who take time away from their practices to contribute to this publication and without whom this book would not exist.

We would also like thank the staff of the Oregon Office of Legislative Counsel, both for their volunteer assistance editing and reviewing this publication, and for their ongoing support of the Oregon State Bar.

2017 Oregon Legislation Highlights

TABLE OF CONTENTS

1

Matt Barber
Judy Parker

Administrative Law

I. LEGISLATION AFFECTING PUBLIC RECORDS

1.	HB 2101	(Ch. 654)	Public Images Disclosures
2.	SB 106	(Ch. 728)	Public Records Advocate
3.	SB 317	(Ch. 483)	Public Meetings in Indian Country
4.	SB 481	(Ch. 456)	Public Records
5.	SB 508	(Ch. 340)	Images of Death

II. LEGISLATION AFFECTING MEDICAL BOARDS AND COMMISSIONS

1.	HB 2123	(Ch. 33)	Oregon State Hospital Advisory Board membership
2.	HB 2328	(Ch. 6)	Psychologists
3.	HB 2931	(Ch. 167)	Behavior Analysis Interventionists
4.	HB 3014	(Ch. 401)	Respiratory Therapists
5.	SB 48	(Ch. 511)	Continuing education for professionals
6.	SB 52	(Ch. 299)	Emergency services
7.	SB 58	(Ch. 441)	Long Term Care Ombudsman
8.	SB 60	(Ch. 230)	Oregon Medical Board
9.	SB 65	(Ch. 442)	Psychiatric Security Review Board
10.	SB 69	(Ch. 127)	Nursing
11.	SB 70	(Ch. 128)	Nursing Licensing Requirements
12.	SB 72	(Ch. 130)	Prescription Drug Dispensing Training Program
13.	SB 73	(Ch. 131)	Prescriptive Privileges
14.	SB 74	(Ch. 132)	Definition of Practice of Nursing
15.	SB 423	(Ch. 335)	Physician assistants
16.	SB 561	(Ch. 342)	Dentistry

III. LEGISLATION AFFFECTING EDUCATION

1.	HB 2457	(Ch. 98)	Student complaints
2.	HB 2972	(Ch. 57)	Student misconduct and discipline

3. SB 205 (Ch. 446) Teachers Standards and Practices Commission

IV. OREGON DEPARTMENT OF EDUCATION

1. SB 303 (Ch. 20) Minor Driving Privileges
2. SB 374 (Ch. 658) The Real ID Act of 2005

V. DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

1. SB 98 (Ch. 636) Residential mortgage loan servicers
2. SB 95 (Ch. 514) Securities law and suspected financial abuse

VI. LEGISLATION AFFECTING THE SECRETARY OF STATE

1. SB 227 (Ch. 518) Agency rulemaking
2. SB 229 (Ch. 749) Election Rules, Special Election Date for 2018
3. HB 2191 (Ch. 705) Shell entity regulation

VII. MISCELLANEOUS LEGISLATION

1. HB 2259 (Ch. 616) Office of Child Care
2. SB 21 (Ch. 224) Board of Accountancy
3. SB 27 (Ch. 226) Aviation registration
4. SB 39 (Ch. 227) Private security providers
5. SB 40 (Ch. 228) Public safety standards
6. SB 44 (Ch. 557) Oregon Government Ethics Commission
7. SB 56 (Ch. 476) Cannabis
8. SB 76 (Ch. 235) Unarmed combat sports
9. SB 83 (Ch. 312) Public Utility Commission administrative procedures
10. SB 90 (Ch. 513) Information technology security
11. SB 92 (Ch. 238) Penalty limits for a violation of occupational safety and health law
12. SB 99 (Ch. 319) State Department of Energy Director
13. SB 268 (Ch. 337) Department of Human Services investigations of child abuse
14. SB 298 (Ch. 325) BOLI
15. SB 336 (Ch. 483) Construction Contractors Board
16. SB 372 (Ch. 330) Wildlife salvage permits

Matthew Barber: 2004 Willamette University School of Law. Member of the Oregon State Bar since 2004.
Judy Parker: 2006 Willamette University School of Law. Member of the Oregon State Bar since 2006.

I. LEGISLATION AFFFECTING PUBLIC RECORDS

The 2017 Legislature focused considerable bill space on public records and how these records are protected or accessible under various grounds.

1. HB 2101 (Ch. 654) Public Images Disclosures

Public records are generally available to the public unless exempt from disclosure. See ORS 192.501 and 192.502. HB 2101 creates a four-member public records subcommittee of the Legislative Counsel Committee and a 15-member Oregon Sunshine Committee to work together to review the public records exemptions by December 31, 2026. The Sunshine Committee must submit a biennial report to the subcommittee recommending retention, amendment or repeal of recently reviewed public records exemptions.

HB 2101 will take effect on October 6, 2017.

2. SB 106 (Ch. 728) Public Records Advocate

SB 106 establishes a Public Records Advocate to facilitate conflicts between those who request and those who hold public records. The advocate must conduct and complete a facilitated dispute resolution between the requestor and the public body within 21 days after a written request by either party. The bill allows requestors to opt out of dispute resolution with state agencies, and provides for discretionary dispute resolution between a requestor and a city -- both must agree to facilitated dispute resolution, and the Advocate must consent. The bill excludes the Oregon Judicial Department entirely.

The bill authorizes the Advocate to make determinations of either party's good faith participation in facilitated dispute resolution and provides for remedies and review by Marion County Circuit Court. The bill further requires the Advocate to memorialize parties' agreements in writing.

The bill creates the Public Records Advisory Council, which must meet at least once every six months. The Council must nominate three Advocate candidates, one of whom is appointed by the Governor subject to Senate confirmation. The Council also must study and make recommendations concerning the Advocate's role, and practices, procedures, exemptions and fees related to public records. The bill sunsets the Council on December 31, 2020.

SB 106 took effect on August 16, 2017.

3. SB 317 (Ch. 483) Public Meetings in Indian Country

This bill amends ORS 192.630 to allow the governing body of a state, county, or city entity to hold meetings within "Indian country," as that term is defined in 18 USC 1151, of a "federally recognized Oregon Indian tribe" that is within the geographic boundaries of the State of Oregon. Previously, the statute seemed to indicate that meetings could only occur on tribal lands when the meeting was with a tribe.

The bill takes effect in Oregon on January 1, 2018.

4. SB 481 (Ch. 456) Public Records

SB 481 amends and adds new sections to Oregon's Public Records Law, including the addition of statutory timelines for responding to requests for public records.

Public bodies must now acknowledge receiving a request to inspect or receive a copy of a public record within five business days of receiving it. Acknowledgement of a request for a public record consists of one of the following: confirming that the public body which received the request does, does not, or isn't sure if it has the requested record.

After acknowledging receipt of a request, the request is not considered complete until the public body has taken one or more of the steps provided in Section 4(2) of the enrolled bill, such as providing the requested records or asserting any applicable exemptions from disclosure. The public body has ten days after acknowledging receipt of a request to complete its response to the request, unless ten days is impracticable. If that response includes notice that the requestor must pay a fee or provide additional information, the requestor must pay the fee or provide the information within 60 days after the public body notified the requestor that it must pay a fee or provide additional information. The public body may close the request if the requestor fails to meet the 60-day deadline.

If a public body fails to meet these deadlines, or a requestor believes that the public body is delaying disclosure or not complying with Section 4 of the enrolled bill, the requestor can seek review of the public body's actions.

SB 481 also directs the Attorney General to maintain and update a catalog of Oregon's statutory exemptions from disclosure, which will be made available to the public at no cost, and the Legislative Counsel to provide the Attorney General with a copy of any bill passed by the legislature that creates an exemption to the disclosure requirement of ORS 192.410 to 192.505. The bill immunizes public bodies from liability for damages stemming from a public body's good faith disclosure of a public record, unless the disclosure was prohibited by state or federal law. Additionally, public bodies which disclose records that are privileged under ORS 40.225 to 40.295 in response to a written request do not waive their right to privilege.
SB 481 takes effect on January 1, 2018.

5. SB 508 (Ch. 340) Images of death

SB 508 amends ORS 192.502 to make images of a dead body, or parts of a dead body, that are part of a law enforcement investigation exempt from disclosure under ORS 192.410 to 192.505 if disclosure would unreasonably invade the privacy of the deceased person's family.
This exemption can be overcome by clear and convincing evidence that the public interest requires disclosure. The party seeking disclosure of these images must show that their disclosure wouldn't constitute an unreasonable invasion of privacy.

The bill will take effect on January 1, 2018.

II. LEGISLATION AFFFECTING MEDICAL BOARDS AND COMMISSIONS

1. HB 2123 (Ch. 33) Oregon State Hospital Advisory Board Membership

The Oregon State Hospital has 16 members on its advisory board. HB 2123 modifies the number of voting members of the Oregon State Hospital Advisory Board serving on ad hoc committees established by board to less than quorum.

This bill takes effect January 1, 2018.

2. HB 2328 (Ch. 6) Oregon Board of Psychology

This innocuous law renames the State Board of Psychologist Examiners to the Oregon Board of Psychology. The change was made because the SBPE appeared cumbersome and confusing to the public.

It will take effect January 1, 2018.

3. HB 2931 (Ch. 167) Behavior Analysis Interventionists

Applied behavior analysis is often used to treat people with autism spectrum disorders. The state's Behavior Analysis Regulatory Board oversees the licensing of such analysts. HB 2931 clarifies the licensing requirements for these analysts.

The bill will take effect January 1, 2018.

4. HB 3014 (Ch. 401) Respiratory Therapists

This law clarifies the licensing process to register as a respiratory therapist, by requiring that an applicant hold an active credential from the National Board for Respiratory Care, or its successor organization.

The bill took effect June 20, 2017.

5. SB 48 (Ch. 511) Continuing education for professionals

SB 48 directs boards which issue licenses to medical professionals, social workers, and school counselors to adopt rules requiring their licensees to complete suicide risk assessment, treatment, and management training as part of the boards' mandatory continuing education requirements. The boards must collect and report to the Oregon Health Authority data regarding licensees who complete the training, and the OHA must in turn issue a report to interim legislative committees related to health care which includes the boards' data and information about initiatives to promote awareness of suicide risk assessment, treatment, and management, and information on how boards are promoting the required continuing education.

The bill also directs the OHA to develop a list of suicide risk assessment, treatment, and management continuing education opportunities and share it with the licensing boards identified in Section 1(1) of the bill. It also makes conforming amendments to statutes for some of the licensing boards which authorize those board to expend funds on this new continuing education requirement.

SB 48 took effect on June 29, 2017, but has a delayed operative date of January 1, 2018, so that the OHA and identified boards can adopt rules and take other action necessary to implement the bill.

6. SB 52 (Ch. 229) Emergency services

This bill authorizes the Oregon Health Authority to adopt rules setting requirements regarding the reporting of patient encounter data by ambulance services, including the types of information the ambulance service must report and the report's procedures and standards.

The bill also makes ORS 682.056 part of ORS chapter 682, amends the statute to flesh out ambulance services' responsibility to transmit patient data to the Oregon Trauma Registry, authorizes the OHA to identify the types of information that will be collected by rule, and sets standards for storing and maintaining this information. All ambulance services must comply by no later than December 31, 2021.

The OHA must make an annual report of this data available on an OHA website as of January 1, 2020.

SB 52's amendments to ORS 431A.100, 682.017, and 682.056 become operative on January 1, 2018, but the OHA may take steps necessary to implement these changes on or after the bill's effective date, June 6, 2017.

7. SB 58 (Ch. 441) Long Term Care Ombudsman

SB 58 creates the position of the Residential Facilities Ombudsman, the Residential Facilities Ombudsman Program, and authorizes the ombudsman to adopt rules to carry out the duties of the office and the program. The Residential Facilities Ombudsman will be appointed by the Long Term Care Ombudsman, in consultation with the Residential Ombudsman and Public Guardianship Advisory Board, for a term of four years, and serves at the pleasure of the Long Term Care Ombudsman.

SB 58 gives the Residential Facilities Ombudsman "private and unimpeded access to residential facilities and residents at any time" the ombudsman considers necessary and reasonable, for the limited purpose of investigating and resolving complaints made by or on behalf of residents, conducting interviews of residents and staff, and providing other services. The ombudsman may also access and review residents' records, including medical records – including over the objections of the resident's legal representative – if the ombudsman has reasonable cause to believe the representative is not acting in the resident's best interest.

As part of the new Residential Facilities Ombudsman Program, residents may file complaints and enjoy the right to participate in planning any post-investigation course of action. The Department of Human Services shall prohibit residential facilities or other entities from retaliating against a resident who files a complaint or provides information to the ombudsman.

SB 58 also makes conforming amendments to ORS 441.402 to 441.419, including removing the term "residential facility" and replacing it with "long term care facility," replacing references to the ""Residential Facilities Advisory Committee" with a "Residential Ombudsman and Public Guardianship Advisory Board."

The composition of the Residential Ombudsman and Public Guardianship Advisory Board is the same as the former Residential Facilities Advisory Committee, and the new advisory board also monitors the Long Term Care Ombudsman.

SB 58 adds ORS 441.418 to the series ORS 441.402 to 441.419, and has an effective date of June 22, 2017.

8. SB 60 (Ch. 230) Oregon Medical Board

This bill amends ORS 677.235 to allow retired physician assistants to serve in the position on the Board reserved for physician assistants. It also changes the composition of the Board by directing the Board's chair to select at least one, but no more than three, former Board members to serve as emeritus board members for a period of up to three years after the members' terms have ended. Emeritus board members are subject to approval by the Governor.

If a Board member is unable to attend a meeting of the Board and provides advance notice of that absence, the emeritus board member who holds the same degree or professional license, or who fulfills the same public capacity, can take the absent member's place until the member returns.

This bill will take effect on January 1, 2018.

9. SB 65 (Ch. 442) Psychiatric Security Review Board

This bill authorizes the Psychiatric Security Review Board to develop a restorative justice program for persons found guilty except for insanity or responsible except for insanity and the victims of those persons' crimes. The Board may contract with nonprofit organizations to administer the program, and adopt rules to implement this program requirement. Documents and communications from the restorative program are confidential and may not be admitted as evidence in any subsequent administrative or judicial proceeding.

Additionally, the bill removes from ORS 161.346 the Oregon Health Authority's (OHA) ability to conduct a hearing under ORS 161.315 to 161.351, and transfers all patients found guilty except for insanity to the Board's exclusive supervision. Because the OHA no longer has supervision of patients found guilty except for insanity of a tier two offense, SB 65 removes the tier categories and their definitions from ORS 161.332.

SB 65 makes numerous conforming amendments to more than 30 statutes and updates statutory citations to several statutes in ORS chapter 181 which were renumbered to ORS chapter 163A, including the definition of "event triggering the obligation to make an initial report" which is now found at ORS 163A.110.

The bill has a delayed operative date of July 1, 2018, but took effect on June 22, 2017, so the Board and OHA can take action to implement the changes made by SB 65.

10. SB 69 (Ch. 127) Nursing

SB 69 amends the State Board of Nursing's responsibilities listed in ORS 678.150 to eliminate the requirement that the Board administer licensing examinations for other states when other states requested the Board do so, because there is now a computerized national licensing exam.

In developing standards governing the administration of noninjectable medication by nursing assistants the Board must currently consult with nurses and only three other types healthcare professionals. SB 69 removes the reference to those three types of healthcare professionals and replaces it with broader language, requiring that the Board involve "other stakeholders appropriate to the context of patient care."

The bill will take effect on January 1, 2018.

11. SB 70 (Ch. 128) Nursing Licensing Requirements

The licensing requirements and procedures for applicants licensed by the State Board of Nursing are found in ORS 678.050. SB 70 updates the statute to reflect modern licensing practices and delete obsolete language. For example, the bill eliminates requirements that the Board provide notice of licensing exams via mail and identify the times and places when those exams are held. The licensure exam is administered and scheduled by a national licensing organization, not the Board. Applicants register online and receive notice regarding their exams electronically.

SB 70 also amends ORS 678.050 to include a reference to ORS 676.308, adopted in 2013, which establishes a process through which military spouses or domestic partners can obtain authorization to practice in Oregon while their spouse or domestic partner is stationed in Oregon.

The bill has an effective date of January 1, 2018.

12. SB 72 (Ch. 130) Prescription Drug Dispensing Training Program

Amends ORS 678.390 to remove the requirement that certified nurse practitioners or certified clinical nurse specialists complete a prescription drug dispensing training program when they apply to the State Board of Nursing for authority to dispense prescription drugs.

The bill will take effect January 1, 2018.

13. SB 73 (Ch. 131) Prescriptive Privileges

Since at least 2015, nurse practitioners, clinical nurse specialists and certified registered nurse anesthetists have enjoyed prescriptive privileges, but only nurse practitioners were required to renew their certificates and prescriptive privileges. SB 73 amends ORS 678.101 to extend these renewal requirements to clinical nurse specialists and certified registered nurse anesthetists.

SB 73 will take effect on January 1, 2018.

14. SB 74 (Ch. 132) Definition of Practice of Nursing

This bill amends the definition of "practice of nursing" in ORS 678.010 to include executing medical orders from a clinical nurse specialist, nurse practitioner, certified registered nurse anesthetist, or other licensed health care provider licensed or certified by Oregon and authorized by the State Board of Nursing to issue orders for medical treatment.

The change to the law will take effect on January 1, 2018.

15. SB 423 (Ch. 335) Physician assistants

This bill amends ORS 677.511, which concerns a physician assistant's authority to dispense drugs specified by the supervising physician or physician organization, to eliminate the prohibition on physician assistants dispensing controlled substances classified in Schedules III and IV of the federal Controlled Substances Act, as modified by ORS 475.035. Physician assistants may now dispense a Schedule III or IV controlled substance, and, if they do, must report dispensing a controlled substance to the Oregon Health Authority in a manner consistent with the prescription monitoring program found in ORS 431A.855 to 431A.900.

Physician assistants are still prohibited from dispensing Schedule I or II controlled substances.

SB 423 takes effect on January 1, 2018.

16. SB 561 (Ch. 342) Dentistry

Previously, ORS 679.025 and 680.020 exempted students enrolled in dentistry or dental hygienist programs from the respective licensure requirements if they performed activities subject to licensure as part of a course of study or required or elective rotation in a clinical setting and under the "direct supervision" of a faculty member.

SB 561 replaces "direct supervision of a faculty member" with "indirect supervision of a faculty member."

The bill took effect on June 14, 2017.

III. LEGISLATION AFFFECTING EDUCATION

1. HB 2457 (Ch. 98) Student complaints

HB 2457 changes the process for resolving student complaints against public schools. The new law allows the Higher Education Coordinating Commission to review complaints relating to state financial aid. This complies with the U.S. Department of Education requirements to establish a complaint process with a state agency authority.

It took effect July 1, 2017.

2. HB 2972 (Ch. 57) Student misconduct and discipline

This law prohibits any public university, community college or Oregon-based private university or college from using the threat or imposition of student discipline or other sanction to influence the decision of victim of alleged incident of sexual assault, domestic violence or

stalking regarding whether to report alleged incident or participate in investigation or adjudication of alleged incident.

The bill will take effect January 1, 2018.

3. SB 205 (Ch. 446) Teachers Standards and Practices Commission

Generally, teachers in Oregon must possess a license issued by the Teachers Standards and Practices Commission. This bill amends ORS 342.125 to include an exception to that requirement. It allows a person whose teaching application is pending before the Commission to teach in an Oregon public school for 90 calendar days from the date the application was submitted if the person passes the Commission's background checks, the employing school district has reviewed the person's employment history, and the person and the district had complied with other applicable requirements established by the Commission.

The bill also repeals subsection (5) from ORS 342.125, which created an expedited process for issuing teaching licenses.

Finally, the bill makes a conforming amendment to ORS 342.173, exempting a district which employs an applicant for a teaching license while the Commission reviews the applicant's application from being sanctioned by the Commission.

The bill takes effect on June 22, 2017.

IV. OREGON DEPARTMENT OF TRANSPORTATION

1. SB 303 (Ch. 20) Minor Driving Privileges

SB 303 attempts to harmonize the minor in possession of alcohol (ORS 471.430) and minor in possession of marijuana (ORS 475B.260) statutes. It amends ORS 475B.260 to prohibit people who are not yet 21 years old (minors, for the purposes of this summary) from possessing, attempting to purchase, or purchasing a marijuana item, and makes it a class A violation for a minor to possess marijuana while operating a motor vehicle. Minors in possession of marijuana will be subject to ORS 809.260 and 809.280, which provide for court-ordered suspension of a minor's driving privileges and establish procedures the Oregon Department of Transportation must follow after a court has ordered the suspension of a minor's driving privileges.

The bill adds a new section to ORS 475B.010 to 475B.395, the Control and Regulation of Marijuana Act, directing courts to require minors who were ordered to undergo assessment and training for purchasing, attempting to purchase, acquiring, or possessing a marijuana item (1) pay the fee described in ORS 813.030, in addition any fines imposed under ORS 475B.260,

(2) complete an examination to determine if the minor has a problem condition involving marijuana as described in ORS 813.040, and (3) complete a treatment program, at the minor's own expense.

It also amends ORS 419C.239, which sets requirements for formal accountability agreements for youth who have been referred to a county juvenile department and a juvenile department counselor has probable cause to believe the youth may be found to be within the juvenile court's jurisdiction, by repealing a similar requirement found in that statute.

SB 303 repeals ORS 419C.443, which established a diversion program for youth offenders who unlawfully delivered or possessed marijuana or a marijuana product.

The bill took effect on April 21, 2017.

2. SB 374 (Ch. 658) The Real ID Act of 2005

SB 374 signals that Oregon's resistance to the federal REAL ID Act of 2005 is coming to an end. First, it repeals three laws enacted in 2009 to protest the Act, including ORS 810.060, which prohibited state agencies from spending state funds to implement the Act, and ORS 801.063, which prohibited the Oregon Department of Transportation from issuing a driver license, driver permit, or identification card which complied with the Act until it had first satisfied certain conditions.

Second, it directs the ODOT to issue Act-compliant driver licenses and permits, and identification cards, if the person requesting one provides the information required by the Act and pays an additional fee on top of the statutory fees listed in ORS 807.370, 807.375, and 807.410. Licenses, permits, and identification cards that are not Act-compliant will still be available.

Third, it authorizes the ODOT to retain digital images of documents provided as part of an applicant's application for an Act-compliant driver license, driver permit, or identification card, prohibits ODOT officers, employees, or contractors from disclosing "identity source" documents collected as part of the application, and authorizes ODOT to collect fingerprints from employees, volunteers, and contractors with access to systems containing information which appears on a driver license, driver permit, or identification card.

It also makes conforming amendments to various statutes within ORS chapter 807. However, Oregon's resistance to the Act isn't completely over. The bill directs the ODOT to develop a program to educate the public about the differences between Act-compliant driver licenses, driver permits, and identification cards and those that aren't, and alternatives to Act-compliant driver licenses, driver permits, or identification cards which are acceptable for gaining access to federal facilities and getting through airport security.

SB 374 took effect on July 7, 2017, but has a delayed operative date of July 1, 2020, so that the department can prepare to exercise the duties, powers, and functions conferred by the bill.

V. DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

1. SB 98 (Ch. 636) Residential mortgage loan servicers

The bill creates the Mortgage Loan Servicer Practices Act, a scheme for regulating mortgage loan servicers. It is an omnibus bill that establishes requirements that persons who service, directly or indirectly, residential mortgages loans must first obtain a license from the Department of Consumer and Business Services (DCBS), and authorizes the Director to establish a license application and process.

The bill authorizes the Director to deny, revoke, or decline to renew a license for certain, specified conduct. The director may not revoke or decline to renew a license without first providing the licensee with notice and an opportunity for a hearing, as provided in ORS chapter 183. The bill specifies that licenses will expire on December 31 of the calendar year in which the license was issued or renewed.

The bill lists required information applicants must submit as part of their applications, unless the director waives that required information by rule. It both authorizes the director to have applicants submit their applications to the Nationwide Mortgage Licensing System and Registry instead of, or in addition to, submitting them to the DCBS and the Director to set, by rule, the amount of any application fee and the corporate surety bond or letter of credit which must be submitted as part of the application.

Certain persons and entities are exempt from this licensing requirement, including attorneys licensed or authorized to practice law in Oregon, who service a residential mortgage ancillary to their representation of a client and don't receive compensation from a residential mortgage loan servicer. The Director of the DCBS may nonetheless require that an exempt person or entity obtain a license before serving a residential mortgage if the director determines that the person or entity has violated state or federal law, or engaged in a course of dealing that is fraudulent, deceptive, or dishonest.

If the Director reasonably believes that a person subject to licensure, or is servicing residential mortgage loans in Oregon without a license, the director may order the person to cease and desist from doing so, or affirmatively perform an act. The Director may also apply to a circuit court to enjoin the person from servicing a residential mortgage. However, the bill additionally authorizes the Director to regulate a mortgage banker or mortgage broker's servicing of a residential mortgage.

Licensees must designate and maintain a principal place of business in this state from which they will service residential mortgages and designate a registered agent. If a licensee

doesn't have a principal place of business in Oregon, the licensee still must have a registered agent. The DCBS will act as the registered agent for any licensee without a registered agent.

The bill establishes requirements for licensees regarding liquidity and operating reserves and authorizes the director to adopt rules fleshing out the financial requirements a licensee must satisfy. It creates an exception for licensees approved by certain federal mortgage associations. The Director may take control or supervision of the licensee's property or business in Oregon until the licensee complies with the applicable financial requirements.

Finally, the bill creates reporting requirements and timelines for licensees, and minimum standards for licensees when dealing with borrowers. It authorizes the Director to receive and investigate complaints regarding persons who service residential mortgages, and pursue administrative action against a person the director determines has violated the Act, up to and including the imposition of civil penalties not to exceed $20,000. The Director may assess the costs of conducting an administrative proceeding against the person subject to a hearing, or add those costs to any civil penalty imposed.

SB 98 has an emergency clause and takes effect on its passage (August 2, 2017), but has a delayed operative date of January 1, 2018. The director is authorized to begin adopting rules and taking other action necessary to enable the Director and DCBS to perform their duties under the Act on its effective date, August 2, 2017.

2. SB 95 (Ch. 514) Securities law and suspected financial abuse

SB 95 adds new provisions to the Oregon Securities Law. New provisions define term "financial exploitation" and establish requirement that "qualified individuals," including persons who serve in a compliance or legal capacity for a broker-dealer or state investment advisor, must notify the Department of Consumer and Business Services (DCBS) when they have reasonable cause to believe that a someone has attempted or is attempting to financially exploit a "vulnerable person", or that a vulnerable person has been financially exploited. In addition to specifying information a qualified individual must include, if known, in a report of financial exploitation, it also requires the DCBS to forward such notices to the Department of Human Services.

In addition, SB 95 authorizes qualified individuals to notify a third party previously designated by a vulnerable person, or another person or entity the qualified individual may notify under state or federal law, of the suspected financial exploitation. However, a qualified individual may not notify the party suspected of attempting or committing the financial exploitation of the vulnerable individual.

The bill authorizes a broker-dealer or state investment advisor to delay, for a specified period of time, disbursement from an account of a vulnerable person if the advisor suspects the disbursement might result in the financial exploitation of a vulnerable person. Furthermore, it authorizes the DCBS to extend the delay for a specified period of time. Finally, the bill creates safe harbor for qualified individuals, broker-dealers, and state investment advisers and amends

ORS 59.995 to authorize the director of the DCBS to issue a civil penalty of up to $1,000 against a person who violates the reporting requirement.

SB 95 takes effect on January 1, 2018.

VI. LEGISLATION AFFECTING THE SECRETARY OF STATE

1. SB 227 (Ch. 518) Agency rulemaking

SB 227 attempts to modernize portions of Oregon's rulemaking process, including moving the Secretary of State's Archives Division away from a printed Oregon Bulletin towards an online Oregon Administrative Rules database.

The bill amends ORS 183.330 to require that agencies which adopt rules must provide the public, upon request, information about the status of the agencies' rules and all certificates and rules the agencies filed with the Secretary of State.

It also amends ORS 183.335 to provide that "clean-up amendments" (ORS 183.335(7)) to administrative rules are not required to be submitted to the Legislative Counsel for review to be valid; moves the requirement that, to be valid, a rule must comply with ORS 183.715 from ORS 183.360(2)(b) to 183.335; and adds a requirement that rules, to be valid, must comply with ORS 183.355 in addition to ORS 183.715.

ORS 183.725, which authorized the Legislative Counsel Committee to review any proposed or adopted agency rule and "report its recommendations in respect to the rule to the agency" is repealed.

ORS 183.355 is amended to give the Secretary of State authority to adopt rules prescribing the form and manner for filing rules adopted, amended, or repealed by agencies, and refuse to accept rules which don't comply with those requirements. (This was previously subsection (2)(b) of ORS 183.360.) The amendments also set a deadline of ten days after an agency files an adopted, amended, or repealed rule for the Secretary of State to electronically transmit the rule to the Legislative Counsel and provide the agency with written confirmation that the rule was transmitted to the Legislative Counsel.

The bill modifies the requirement that agencies review a rule five years after it was adopted to require that the agency provide a report of each five year rule review to the Secretary of State, in addition to the agency's rulemaking advisory committee.

To move towards an electronic administrative rules publication, the reference to the publication of the Bulletin in ORS 183.355 is amended to read as "electronic publication," and ORS 183.362, which required the publication of a printed Oregon Bulletin, has been repealed.

SB 227 takes effect on October 6, 2017.

2. SB 299 (Ch. 749) Election Rules, Special Election Date for 2018

SB 299 makes a large number of mostly technical changes to election law statutes, including allowing certain election documents to be filed by electronic mail and altering the deadlines by which the Secretary of State must verify that a major party has maintained their party status. The bill also makes a number of changes to the signature verification process that is used to determine if chief petitioners have submitted adequate signatures for an initiative, referendum or recall petition.

This bill also designates January 23, 2018 as the date to hold a special election if either of HB 2391 or HB 2017 from the 2017 session are referred to the voters by referendum. The bill also specifies that the ballot title for such a referendum and the explanatory statement used in the voters' pamphlet will be drafted by a special joint legislative committee.

SB 299 took effect on August 18, 2017.

3. HB 2191 (Ch. 705) Shell entity regulation

Money laundering and financial crime has dramatically risen in Oregon – the U.S. Treasury Department lists Oregon as one of the four states in which it is easiest to hide illicit activity. Business applicants can open bank accounts to launder illicit activity. This partly arises because Oregon does not require the beneficial owner or directors to be listed on filings with the Secretary of State.

HB 2191 authorizes the Secretary of State to investigate alleged or potential violations of business entity statutes and to require business entity to provide list of shareholders and respond to interrogatories.

The bill took effect on August 15, 2017, but substantive provisions become operative on January 1, 2018.

VII. MISCELLANEOUS LEGISLATION

1. HB 2259 (Ch. 616) Office of Child Care

The Office of Child Care is part of the Department of Education and provides safe, affordable, and accessible child care. HB 2259 authorizes the Office of Child Care to maintain information in the Central Background Registry about child care staff and individuals who have unsupervised access to children. This bill aligns Oregon law with the federal Child Care and Development Fund requirements.

The bill took effect on August 2, 2017.

2. SB 21 (Ch. 224) Board of Accountancy

ORS 673.170 lays out the Oregon Board of Accountancy's general disciplinary action scheme. It was amended in 2011 to provide that the information collected or developed during the Board's investigation was confidential and not subject to disclosure, unless a contested case hearing was held, or the matter was resolved by board action or a consent order. The Board expressed its concern that the 2011 amendments prohibited it from cooperating with law enforcement and other state and federal regulatory agencies during an investigation.

SB 21 allows the Board to disclose information that is investigatory or confidential to another public entity, if the disclosure is reasonably related to the regulatory or enforcement function of another public entity. The receiving public entity must take reasonable steps to maintain the confidentiality of the information it received.

The bill takes effect on June 6, 2017.

3. SB 27 (Ch. 226) Aviation registration

SB 27 repeals ORS 837.020, 837.025, and 837.035, which established Oregon's pilot registration scheme, and makes conforming amendments to ORS 837.030, which requires all pilots operating within Oregon to present a federal certificate of competency on demand, and 835.060. Conforming amendments are also made to ORS 837.065, as well as an amendment allowing the Oregon Department of Aviation to collect the fee for dishonored checks under ORS 30.701(5), rather than the $25 plus protest fees the statute previously allowed. The amendments to ORS 837.065 first apply on July 1, 2017.

The bill also abolishes the Aviation Search and Rescue Account and transfers moneys remaining in that account on the bill's effective date, July 1, 2017, to the State Aviation Account.

4. SB 39 (Ch. 227) Private security providers

Previously, the Board on Public Safety Standards and Training (Board) was not required to establish standards for suspending licenses for executive managers and supervisory managers of private security services.

SB 39 amends ORS 181A.870 to replace the reference to managers with "a private security provider's certificate or license" and require the Board to establish standards for suspending a private security provider's certificate or license.

The bill takes effect on October 6, 2017, so the Board can establish the required standards before the operative date of January 1, 2018.

5. SB 40 (Ch. 228) Public safety standards

SB 40 is a statutory clean-up and clarification bill from the Department of Public Safety Standards and Training (DPSST) and will take effect on January 1, 2018. Among other things, it:

- Authorizes the Department of State Police (DSP) to retain the fingerprint cards used to conduct a criminal records check of a person who applied for certification or recertification as a public safety officer, or an application or public safety officer under investigation by the DSP.

- Immunizes the DPSST and its employees, when acting within the course of employment, from civil liability for denying an application for certification or licensure, or revoking a certification or licensure, or revoking a certificate or license issued by the DPSST on the basis of a nationwide criminal records check.

- Amends ORS 181A.170 to exempt the DPSST from the requirement to use electronic fingerprint capture technology for the purposes of conducting criminal record checks or other allowed purposes.

6. SB 44 (Ch. 557) Oregon Government Ethics Commission

SB 44 amends ORS 244.310(2) to allow the executive director of the Oregon Government Ethics Commission to designate a commission employee to fulfill any duty or responsibility assigned to the executive director by law or by the commission.

The bill will take effect on January 1, 2018.

7. SB 56 (Ch. 476) Cannabis

SB 56 adds new sections to and amends existing sections of Oregon's Control and Regulation of Marijuana Act, ORS 475B.010 to 475B.395.

Among the new additions to ORS 475B.010 to 475B.395 are sections:

- Authorizing the Oregon Liquor Control Commission to restrict, suspend, or refuse to renew a license issued under ORS 475B.010 to 475B.395 if the Commission has reasonable cause to believe that a licensee has purchased or received a marijuana item from an unlicensed source, or has sold, stored, or transferred a marijuana item in a manner not permitted by the licensee's license.

- Directing the Commission to establish two telephone hotlines cities, counties, the Water Resources Department, and the watermaster of a water district can call to inquire if a certain address has a license issued under ORS 475B.010 to

475B.395, or is a marijuana grow or processing site, or medical marijuana dispensary. (This portion of the bill takes effect on January 1, 2018.)

- Permitting licensed marijuana producers to process marijuana into a cannabinoid concentrate if certain standards are met and conditions are satisfied.

Among the bill's amendments to ORS 475B.010 to 475B.395 are:

- An amendment to ORS 475B.110, as amended by section 4, chapter 24, Oregon Laws 2016, and section 10, chapter 83, Oregon Laws 2016, which creates an exception to the restriction on marijuana deliveries to allow a marijuana retailer to deliver marijuana items to another marijuana retailer, if the other retailer is owned by the same or substantially the same persons.

- Amendments to ORS 471.775, as amended by section 20, chapter 24, Oregon Laws 2016, and section 110, chapter 21, Oregon Laws 2017 (Enrolled Senate Bill 302), to conform with changes made to the commission's authority under ORS 475B.010 to 475B.395 by ch. 183, Or Laws 2017 (Enrolled Senate Bill 1057).

The bill took effect on June 23, 2017.

8. SB 76 (Ch. 235) Unarmed combat sports

Introduced at the request of the Oregon State Police (OSP), SB 76 address structural issues and inconsistencies with ORS chapter 463. First, the bill eliminates the OSP's sport-specific regulatory authority and replaces it with general authority to regulate "unarmed combat sports," a new term which includes those sports the OSP previously regulated (i.e., boxing and mixed martial arts) and is broad enough to include other forms of competition, such as muay thai, which may become popular sports in the future.

Martial arts, such as tae kwon do or judo, when exhibited individually are not included within the definition of "unarmed combat sports." Entertainment wrestling (i.e. WWE) retains its own definition, and entertainment wrestling events, such as cage matches, Summer Slams, or Hulkamanias, are also not included within the definition of "unarmed combat sports."

Second, it authorizes the OSP to approve "amateur athletic organizations" and defer its oversight of unarmed combat sport events to approved amateur athletic organizations.

Third, it authorizes the Superintendent of the OSP to conduct compliance audits of unarmed combat sports and entertainment wrestling and verify compliance with ticketing, gross receipts tax, and other requirements.

Among other changes, the bill authorizes the Superintendent of the OSP to adopt rules:

- For the payment of medical personnel assigned to an unarmed combat sporting event, if the medical personnel aren't employed by the OSP – but not when those medical personnel are supervised by an approved amateur athletic organization;

- Setting reimbursement rates promoters must pay for any medical supplies used at unarmed combat sport events; and

- Setting the rates promoters must pay licensed referees, judges, inspectors, and timekeepers, as well as the reimbursement for mileage and lodging costs they incur.

The bill establishes a minimum age for obtain a promoter's license. Now any jabroni looking to promote an unarmed combat sport or entertainment wrestling event must be at least 18 years of age. And the bill authorizes the Superintendent's representative to temporarily deny, revoke, or suspend an unarmed sports competitor, manager, matchmaker, official, promoter, or second's license.

SB 76 amends ORS 463.320 by adding a cap of $50,000 per event on the gross tax receipts the OSP may collect. It also excludes events between students conducted by educational institutions, or the Oregon National Guard, from the gross receipts tax.

The bill has an effective date of October 6, 2017, and a delayed operative date of January 1, 2018, so the OSP and its Oregon State Athletic Commission can begin adopting rules and taking other actions necessary to implement SB 76.

9. SB 83 (Ch. 312) Public Utility Commission administrative procedures

In 2005, the Legislative Assembly transferred appeals of contested case orders issued by the Public Utility Commission from the Marion County Circuit Court to the Oregon Court of Appeals. The 2005 bill which did so also subjected every PUC order – including orders in other than a contested case – to the judicial review standards applicable to orders in a contested case.

SB 83 attempts to address this by in two ways. First, by removing the requirement in ORS 756.610(1) that the PUC's final orders are subject to judicial review as orders in contested cases. Instead, those final orders will now be subject to review under the applicable provisions of ORS 183.480 to 183.497, which includes the standard of review applicable to orders in other than a contested case, ORS 183.484. Second, it adds a new paragraph (b) to subsection (1) establishing that so-called "binding orders issued under ORS 756.450…" are subject to review as

orders in contested cases. (ORS 756.450 authorizes the PUC to issue a declaratory ruling which is binding between the PUC and the petitioner which requested the ruling.)

The bill also makes conforming amendments to ORS 183.315, 765.450, 757.110, 757.495, 758.020, 758.035, 758.425, 759.390, and 759.455.

SB 83 first applies to administrative proceedings pending or commencing on or after the bill's effective date, January 1, 2018.

10. SB 90 (Ch. 513) Information technology security

SB 90 directs the State Chief Information Officer, a position housed at the Oregon Department of Administrative Services, and state agencies to cooperate on a plan to transfer agencies' information technology security functions, employees, records, and property to the Office of the CIO by no later than January 1, 2018, and consolidate these multiple IT security functions within the CIO's Office. Also authorizes the CIO to enter into agreements related and accept funds to implement the bill's goals.

The CIO shall, in cooperation with state agencies, develop a statewide, agency-by-agency, risk-based IT security assessment and remediation program. State agencies shall comply with the plans, rules, policies, and standards adopted by the CIO regarding the unification of state agency IT security functions, and conduct annual IT security awareness training for their employees.

In addition, it creates the Oregon Cybersecurity Advisory Council within the CIO's Office for the purposes of advising the CIO on cybersecurity issues, providing cybersecurity information and best practices to public and private entities, coordinating cybersecurity information sharing among the public and private sectors, and encouraging the development of a cybersecurity workforce.

Finally, the bill directs the CIO to develop a plan for an Oregon Cybersecurity Center of Excellence and submit it to the appropriate legislative committee by January 1, 2019. The center would provide support for cybersecurity incident responses and cybercrime investigations, coordinate information sharing, liaison with federal agencies, develop an Oregon Cybersecurity Strategy a Cyber Disruption Response Plan.

The bill amends ORS 291.041 to create a State Information Technology Operating Fund. While this bill has a delayed operative date of January 1, 2018, the CIO can, as of July 1, 2017, take any action necessary to implement the bill on January 1, 2018.

11. SB 92 (Ch. 238) Penalty limits for a violation of occupational safety and health law

The bill amends ORS 654.003 and 654.120 to make non-substantive changes, such as replacing "man and woman" with "person," and updating a statutory citation.

It also amends ORS 654.086 to cap the maximum civil penalties for violations of one or more state occupational safety or health statute, or a rule, standard, or order adopted pursuant to a state occupational safety or health statute, to the maximum penalties found under the federal Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.). The director, or the director's representative, must consider those maximum federal penalties when setting maximum penalties for a violation of the state occupational safety or health laws.

SB 92 will take effect on January 1, 2018.

12. SB 99 (Ch. 319) State Department of Energy Director

The Governor's appointment of the Director of the State Department of Energy is currently not subject to confirmation by the Senate. SB 99 (Ch. 319) amends ORS 469.040 and makes the appointment of the director subject to Senate confirmation, as provided in ORS 171.562 and 171.565.

SB 99 will take effect on January 1, 2018.

13. SB 268 (Ch. 337) Department of Human Services investigations of child abuse

This bill amends ORS 419B.035 to require the Department of Human Services make records of child abuse occurring at a school or in an education setting that involves a child with a disability available to Disability Rights Oregon.

The bill has an effective date of January 1, 2018.

14. SB 298 (Ch. 325) BOLI

SB 298 amends sections 3, 6, and 7, chapter 609, Oregon Laws 2015 to update citations to "this 2015 Act" to the appropriate session law citation. It extends the deadline for the Commissioner of the Bureau of Labor and Industries to submit a report to the legislature regarding the resolution of complaints before the Commissioner in the two-year period prior to June 30, 2015, from February 1, 2017, to February 1, 2021, which was initially set in section 3, chapter 609, Oregon Laws 2015, and it extends the sunset clause on that section from October 1, 2017, to October 1, 2021.

The bill took effect on June 14, 2017.

15. SB 336 (Ch. 483) Construction Contractors Board

This bill adds a new section to ORS chapter 701, the Construction Contractors Licensing Act.

If the responsible managing individual for a contractor or business required to have a responsible managing individual under ORS chapter 701 ceases to serve in that role, the contractor or business must notify the Construction Contractors Board in the manner required by ORS 701.144. Additionally, the notification must include the former responsible managing individual's name and the name and address of the qualified employee or individual designated as the contractor's or business's new responsible managing individual or interim responsible managing individual.

Notwithstanding ORS 701.081, 701.084, and 701.091, a contractor or business may operate with a temporary responsible managing individual while awaiting the board's determination that the individual designated as the new responsible managing individual is qualified for the position. The temporary responsible managing individual may serve in that role for the earlier of 14 days after giving notice, or the date when the contractor or business receives notice that the board has approved the individual designated as the new responsible managing individual.

SB 336 takes effect on January 1, 2018, and the Construction Contractors Board must adopt temporary rules to implement it no later than 90 days after the effective date.

16. SB 372 (Ch. 330) Wildlife salvage permits

With the passage of SB 372, Oregon joins about 20 other states which allow salvaging game meat from certain animals accidentally killed as a result of a vehicle collision. Animals killed after colliding with a car are commonly referred to as "roadkill."

The bill adds a new section to Oregon's wildlife laws (ORS chapters 496, 497, 498, and 501) directing the State Fish and Wildlife Commission to adopt rules for the issuance of "wildlife salvage" permits to persons interested in recovering, possessing, using, or transporting deer or elk that have been accidentally killed after colliding with a vehicle for the purpose of salvaging the game meat for human consumption. Wildlife salvage permit holders who recover, use, or transport deer or elk roadkill must surrender the antlers to the Oregon Department of Fish and Wildlife (ODFW).

A wildlife salvage permit may be issued for the recovery, possession, use, or transport of a crippled or helpless deer or elk killed pursuant to ORS 498.016 if the person seeking the permit accidentally crippled the deer or elk, or rendered it helpless, as the driver of the car which collided with the deer or elk.

The State of Oregon is not liable for any losses or damages arising from a permit holder's recovery, possession, use, transport, or consumption of deer or elk roadkill.

SB 372 takes effect on January 1, 2018, and the ODFW must make the first wildlife salvage permits available by no later than January 1, 2019. ODFW must report to the legislature during the 2023 session on the implementation of the bill, which will sunset on January 1, 2024.

2

Jaclyn K. Rudebeck

Animal Law

I. ANIMAL LAW

1.	HB 2266	(Ch. 120)	Fish Hatchery Funding
2.	HB 2576	(Ch. 107)	Wildlife Trafficking Prevention Program Exception
3.	HB 2625	(Ch. 279)	Forfeiture of Impounded Animals
4.	HB 2732	(Ch. 424)	Limits Liability for Entry into Motor Vehicles
5.	HB 2883	(Ch. 293)	Suspension of Outfitters for Unlawfully Taking or Killing Wildlife
6.	HB 3158	(Ch. 174)	Wildlife Law Violation Reporting Incentive Program
7.	HB 3177	(Ch. 276)	Seizure and Forfeiture of Hens and Chicks in Cockfighting Operation
8.	HB 3283	(Ch. 677)	Care and Treatment of Seized and Impounded Animals
9.	SB 372	(Ch. 330)	Wildlife Salvage Permits
10.	SB 927	(Ch. 258)	Limited Liability for Providers of Law Enforcement Dogs

Jaclyn K. Rudebeck: 2005 University of Oregon School of Law. Member of the Oregon State Bar since 2005.

I. ANIMAL LAW

1. HB 2266 (Ch. 120) Fish Hatchery Funding

HB 2266 amends sections 1, 2 and 8, chapter 734, of Oregon Laws 2015, declaring an emergency and allowing unexpended and unobligated balances in the Oregon Hatchery Research Center Fund ("Research Fund") to remain there. The Oregon Hatchery Research Center Fund is comprised of revenue received from angling licenses and *ad valorem* fees set forth in chapter 734, Oregon Laws 2015. Moneys in this fund may be expended only on research projects recommended by the Oregon Hatchery Research Center Board. The previous rule, adopted when the Fund was established in 2015, required any unexpended and unobligated balance in the Research Fund as of July 1 of each year to be transferred to the Hatchery Construction Fund, which funds physical or technological improvements, upgrades, or replacements to existing coastal hatchery facilities. HB 2266 also clarified that the Hatchery Construction Fund could be funded with money received via gift or bequest (no similar provision was included for the Research Fund). Finally, HB 2266 set a repeal date of January 2, 2027 for Section 1 of chapter 734, Oregon Laws 2015 (the section that established the Research Fund), and declared that all revenue remaining in the Research Fund at the time of repeal and any future revenue that would have been deposited there be deposed in the Hatchery Construction Fund, rather than the Fish Endowment Subaccount.

This bill took effect May 22, 2017.

2. HB 2576 (Ch. 107) Wildlife Trafficking Prevention Program Exception

ORS 498.022, which broadly prohibits the actual or attempted purchase, sale, or exchange of any wildlife or any part of any wildlife, was amended in 2017 by the passage of Ballot Measure 100, the provisions of which are codified at section 2, chapter 3, Oregon Laws 2017. HB 2576 further amends ORS 498.022 to exempt the sale of certain species parts or product from the wildlife trafficking prevention program prohibitions, provided the sale was by or to a bona fide scientific or educational institution and was entered into before July 1, 2017. After that date, the Department of Fish and Wildlife may permit future acquisition of a covered animal part or product by a bona fide scientific or educational institution, provided it was lawfully acquired by the source and appropriate documentation is maintained and provided to the department.

This bill took effect May 18, 2017.

3. HB 2625 (Ch. 279) Forfeiture of Impounded Animals

This bill further strengthens Oregon's statutory penalties for those who have committed offenses against animals. ORS 167.347 already provided for expedited forfeiture of animals impounded pursuant to a charge of criminal abuse, neglect, sexual assault, and/or fighting, thus

allowing for placement or other humane disposition of the animals involved without awaiting resolution of the criminal case. HB 2625 amended ORS 167.347(1), expanding this protection to apply to any animal impounded under 167.345, "regardless of whether that specific animal is the subject of the charge or named in the charging instrument." This allows for termination of ownership of all animals seized in connection with the criminal action without requiring that each be specifically listed in the charge. This expansion may be used to expedite termination of ownership of all seized animals when an individual is charged with an animal crime. However, it remains to be seen whether courts will interpret this amendment to support considering all animals subject to the petition as a group, or whether the petitioner will still be required to demonstrate probable cause for a violation against each animal as an individual in order to prevail on the forfeiture petition, as the language of 167.347(3) was not amended as part of this bill.

This bill is effective January 1, 2018.

4. HB 2732 (Ch. 424) Limits Liability for Entry into Motor Vehicles

HB 2732 extends protections previously available only to members of law enforcement to any person who enters a motor vehicle, by force or otherwise, to protect a child or domestic animal from harm, provided certain conditions are met. In order to be protected from civil or criminal liability, the person must first determine that the vehicle is locked and that the child or animal inside cannot exit without assistance. The person must have a good faith belief that the animal or child is in imminent danger of harm and that entry is necessary, must promptly notify law enforcement, must use no more force than necessary, and must remain with the child or animal in a safe location nearby until law enforcement (or the vehicle owner) arrives. Note, this bill applies to motor vehicles only (as defined by ORS 801.360), and not to dwellings or other premises.

This bill took effect June 22, 2017.

5. HB 2883 (Ch. 293) Suspension of Outfitters for Unlawfully Taking or Killing Wildlife

This bill expands the consequences that may be imposed on a registered outfitter or guide who violates wildlife laws. In addition to other penalties already set forth in ORS 704.040, HB 2883 permits, but does not require, a court to order the Oregon Fish and Wildlife Commission to revoke all licenses, tags and permits issued to a person convicted of unlawfully taking or killing of wildlife with culpable mental state if that person was acting as an outfitter or guide at the time, and prohibits the person from applying for or obtaining another license, tag or permit. This bill further authorizes Oregon State Marine Board to deny outfitter and guide registration for any period of time to an applicant who has been convicted of unlawfully taking or killing wildlife, and increases the length of time registration may be suspended for other reasons from 24 to 60 months.

Because Oregon is a member of the Interstate Wildlife Violator Compact, a reciprocal agreement between nearly every state in the country in which the suspension or revocation of licenses or permits in one state is honored in all compact states, consequences imposed under this bill will apply nationwide.

This bill is effective January 1, 2018.

6. HB 3158 (Ch. 174) Wildlife Law Violation Reporting Incentive Program

This bill adds to ORS 497.112, the statute specifying terms for the issuance of hunting tags, a new provision directing the Oregon Fish and Wildlife Commission to implement a program to encourage reporting of violations of wildlife laws. Incentives will include preference points toward future hunting tags or cash rewards for information leading to citations or arrest for unlawful take, possession or waste of specified wildlife species.

Prior to passage of this bill, Oregon was one of several states that already offered cash rewards for reporting wildlife poachers. The new tag preference incentive is similar to a program offered in Washington State.

This bill is effective January 1, 2018.

7. HB 3177 (Ch. 276) Seizure and Forfeiture of Hens and Chicks in Cockfighting Operation

ORS 167.426 - 439 provide police officers and courts with the authority to seize and seek forfeiture of "fighting birds" associated with a cockfighting operation. Following a criminal conviction, or based on a preponderance of the evidence in a forfeiture proceeding, the ownership of fighting birds may be forfeited and the birds may be humanely disposed of. House Bill 3177 extends these same protections to "source birds," defined as hens and chicks intended to be, or intended to produce, fighting birds.

This bill is effective January 1, 2018.

8. HB 3283 (Ch. 677) Care and Treatment of Seized and Impounded Animals

HB 3283 contains several important clarifications and expansions of existing law.

First, it amends the legislative findings in ORS 167.305, to affirmatively state that an organization caring for impounded animals may mitigate the costs of that care via funding separate from restitution ordered as part of a judgment. ORS 167.350 authorizes a court to order a person convicted of certain animal crimes to repay costs incurred by the agency caring for an animal during the proceeding. HB 3283 amends ORS 167.350 to prohibit courts from

reducing an order to repay costs based on donations or other funding received by a government agency or humane investigation agency for the animal's care. As these cases can be lengthy and the expenses associated with proper ongoing care for the animals involved can be significant, this bill allows the agency providing care to ensure sufficient funding is in place pending the outcome, without affecting the court's ability to impose punishment on the offender when the case concludes.

Second, this bill amends ORS 167.310(8) to classify parrots as domestic animals, rather than livestock, for purposes of animal neglect and abuse statutes.

Third, it amends ORS 167.332 to increase the length of time a person convicted of felony animal neglect is prohibited from possessing certain animals. ORS 167.332 prohibits a person convicted of certain animal crimes from possessing certain animals for a period of five or 15 years, depending on the conviction. HB 3283 increases the length of the prohibition for defendants convicted of felony animal neglect in the first or second degree from five to 15 years, and also expands the prohibition to forbid possession of any domestic animal, not just animals of the same genus against which the offense was committed. This bill also allows the court to reduce this 15-year period if the defendant successfully completes approved mental health treatment.

Finally, HB 3283 amends the Insurance Code's definition of "insurance" in ORS 731.102 to expressly exclude contracts under which an animal is rented or leased, when the owner of the animal retains an obligation to provide for veterinary care or other needs of the animal.

This bill took effect August 8, 2017.

9. **SB 372** **(Ch. 330)** **Wildlife Salvage Permits**

With the passage of SB 372, Oregon joins about 20 other states which allow salvaging game meat from certain animals accidentally killed as a result of a vehicle collision. Animals killed after colliding with a car are commonly referred to as "roadkill."

The bill adds a new section to Oregon's wildlife laws (ORS chapters 496, 497, 498, and 501) directing the State Fish and Wildlife Commission to adopt rules for the issuance of "wildlife salvage" permits to persons interested in recovering, possessing, using, or transporting deer or elk that have been accidentally killed after colliding with a vehicle for the purpose of salvaging the game meat for human consumption. Wildlife salvage permit holders who recover, use, or transport deer or elk roadkill must surrender the antlers to the Oregon Department of Fish and Wildlife (ODFW).

A wildlife salvage permit may be issued for the recovery, possession, use, or transport of a crippled or helpless deer or elk killed pursuant to ORS 498.016 if the person seeking the permit accidentally crippled the deer or elk, or rendered it helpless, as the driver of the car which collided with the deer or elk.

The State of Oregon is not liable for any losses or damages arising from a permit holder's recovery, possession, use, transport, or consumption of deer or elk roadkill.

SB 372 takes effect on January 1, 2018, and the ODFW must make the first wildlife salvage permits available by no later than January 1, 2019. ODFW must report to the legislature during the 2023 session on the implementation of the bill, which will sunset on January 1, 2024.

10. SB 927 (Ch. 258) Limited Liability for Providers of Law Enforcement Dogs

SB 927 provides sellers and lessors of law enforcement dogs with immunity under ORS 30.920 (product liability) for injuries caused by their dogs. Note, remedies may still be available to an injured individual via workers' compensation or suit against the dog's handler. SB 927 defines a law enforcement dog as one that is purchased or leased by law enforcement with the intention that the dog will receive the training required to be qualified as a law enforcement animal under ORS 167.310(7). The immunity provision takes effect once the dog starts an approved training program.

This bill is effective January 1, 2018.

3

Mark Peterson
Channa Newell

Civil Procedure and Litigation

I. INTRODUCTION

II. OREGON LEGISLATION

1.	SB 131	(Ch. 240)	Remote Location Testimony
2.	SB 261	(Ch. 321)	Evidence of Past Sexual Behavior
3.	SB 327	(Ch. 449)	Recreational Immunity
4.	SB 512	(Ch. 651)	Changing Term “Paternity” to “Parentage”
5.	SB 899	(Ch. 358)	Oregon Receivership Code
6.	HB 2601	(Ch. 17)	Reviser’s Bill
7.	HB 2986	(Ch. 169)	Probate Modernization

III. CHANGES TO THE OREGON RULES OF CIVIL PROCEDURE BY ORCP CHAPTER

1.	ORCP 4	Jurisdiction (Personal)
2.	ORCP 9	Service and Filing of Pleadings
3.	ORCP 22	Counterclaims, Cross-claims, and Third Party Claims
4.	ORCP 27	Minor and Incapacitated Parties
5.	ORCP 36	General Provisions Governing Discovery
6.	ORCP 43	Production of Documents
7.	ORCP 45	Requests for Admission
8.	ORCP 47	Summary Judgment
9.	ORCP 57	Jurors
10.	ORCP 69	Default Orders and Judgments
11.	ORCP 80	Receivers

IV. CHANGES TO THE UNIFORM TRIAL COURT RULES

Mark Peterson: 1976 University of Toledo School of Law. Member of the Oregon State Bar since 1982.
Channa Newell: 2010 University of Oregon School of Law. Member of the Oregon State Bar since 2010.

I. INTRODUCTION

This chapter contains Oregon legislation that made changes to either the Oregon Rules of Civil Procedure (ORCP), or otherwise impacted civil practice in Oregon. Additionally, this chapter includes changes to the ORCP that were promulgated by the Council on Court Procedures, as well as changes to the Uniform Trial Court Rules. All changes to the ORCP promulgated by the Council will go into effect on January 1, 2018. Changes to the Uniform Trial Court Rules took effect on August 1, 2017. Effective dates for all legislation are indicated with the bill.

II. OREGON LEGISLATION

1. SB 131 (Ch. 240) Remote Location Testimony

SB 131 revises the rules for the use of what was previously referred to as "telephone testimony." Remote location (formerly telephone) testimony from parties and witnesses in hearings and trials in civil cases and in actions under ORS chapter 419B continues to be available if requested by motion at least 30 days (or less for good cause shown) prior to the trial or hearing. However, ORS 45.400 has been reorganized and updated with some small changes. There seems to be a preference for testimony that allows the party or witness to be viewed, as opposed to merely heard, as is the case in a telephone connection. See, section 1 of SB 131 (new ORS 45.400(4) and new ORS 45.400(8)(b)(C)).

Other changes include the omission of the previous ORS 45.400(3)(f)'s "substantial prejudice" as a reason to allow remote location testimony; however, the court is given discretion in granting or denying the motion, and the other enumerated factors and "other circumstances" as a catch-all in ORS 45.400(3)(b)(E) may still include substantial prejudice. Additionally, the previous ORS 45.400(3)(c) provision suggesting consideration of an ORCP 39 I perpetuation deposition as an alternative to remote location testimony is expanded in the new ORS 45.400(3)(b)(D) to include the perpetuation deposition as well as "another alternative."

The takeaway is that testimony from a party or a witness who is not physically present at the hearing or trial remains an option if the party requiring this accommodation files a timely motion, the facilities for remote location testimony exist, and the party requesting the remote location testimony pays (and absorbs) all associated costs. A compelling need to allow remote location testimony continues to be required if the testimony is in a jury trial (ORS 45.400(4), now ORS 45.400(5)).

SB 131 went into effect on June 6, 2017.

2. SB 261 (Ch. 321) Evidence of Past Sexual Behavior

SB 261 will be added to ORS 40.010 to 40.585. The bill makes evidence to prove that an alleged victim "engaged in other sexual behavior" or an alleged victim's "sexual predisposition" inadmissible in a civil proceeding unless the alleged victim "has placed the evidence in controversy and the court determines that the probative value of the evidence substantially outweighs the danger of harm to any victim and of unfair prejudice to any party."

Any party intending to offer such evidence must file a motion at least 15 days (unless the court for good cause sets a different time) prior to the date scheduled for the proceeding at which the evidence is to be offered. The motion must state in the caption that it is a confidential motion. The motion must specifically describe the evidence and state the purpose for which it is being offered, be served on all parties, and provide notice to the alleged victim or that person's representative. Prior to admitting such evidence, the court must conduct an in camera hearing and afford the alleged victim and the parties a right to be present and to be heard. Unless the court orders otherwise, the motion, related materials, and the record of the hearing are confidential.

SB 261 went into effect on June 14, 2017.

3. SB 327 (Ch. 449) Recreational Immunity

In 1995, the Oregon Legislature established the Oregon Public Use of Lands Act. See ORS 105.672-105.696. This policy encourages public and private landowners to open their land for public recreation and, in exchange, provides immunity to the landowner from claims arising from injury or death due to recreation on the land. The landowner is subject to liability for intentional injury or damage. In Johnson v. Gibson, 358 Or 624 (2016), the Oregon Supreme Court found that the statute was not intended to cover employees or agents of the landowner. The Oregon Tort Claims Act requires a public body to indemnify employees, agents, and officers from claims arising from acts or omissions that occurred in the performance of duties. ORS 30.285(1). Because the Johnson decision found no liability protections for the employees of landowners, and public bodies are required under the Oregon Tort Claims Act to indemnify employees, liability for torts of public employees adhered to the parent public body. As a result, many cities, counties, and organizations began closing their lands to public recreation.

Senate Bill 327 adds officers, employees, volunteers or agents acting within the scope of assigned duties and business entity members to the definition of "owner" within the Public Use of Lands Act, thereby extending liability protection to those individuals.

SB 327 took effect on June 22, 2017.

4. SB 512 (Ch. 651) Changing Term "Paternity" to "Parentage"

In numerous statutes found in chapters 25, 107, 109, 112, 163, 180, 192, 416, 416A, 416B, and 432, SB 512 changed the word "paternity" to "parentage" and amended numerous laws to render them more gender neutral.

For additional information please see the Domestic Relations Chapter. Note also that SB 512 made changes to ORCP 4 K. See Section III, subsection 1 of this chapter.

SB 512 goes into effect on January 1, 2018.

5. SB 899 (Ch. 358) Oregon Receivership Code

Courtesy of the Oregon Law Commission, Oregon has adopted a new comprehensive Oregon Receivership Code. The Oregon Receivership Code will apply to proceedings involving ORS 60.667, 62.702, 65.667, 86.752, 93.915, 94.642, 100.418, and 465.255.

Please note that SB 899 also makes changes to ORCP 80 A. See Section III, subsection 11 of this chapter. For additional information on SB 899, see the Consumer, Commercial and Debtor-Creditor Chapter.

SB 899 goes into effect on January 1, 2018.

6. HB 2601 (Ch. 17) Reviser's Bill

The Legislative Assembly as a matter of policy reviews and revises statutes to correct erroneous material and to improve uniformity. HB 2601 made such a correction to ORCP 69 C. See Section III, subsection 10 of this chapter.

HB 2601 goes into effect on January 1, 2018.

7. HB 2986 (Ch. 169) Probate Modernization

This bill is a wide-ranging amendment of numerous statutes; most notably in ORS chapters 111, 113, 114, 115, and 116; but also statutes scattered in seven additional chapters.

Specific changes to be noted here include a grant of personal jurisdiction (outside of ORCP 4) over distributees of an estate administered in Oregon if the distributee accepts a distribution. See section 2 of the bill to be found at ORS 111.085(2). Also, procedures related to bonds now specifically refer to a surety qualified under ORCP 82 D to G. See sections 4 and 15 of the bill for amendments that will be found at ORS 113.005(2)(a) and 113.105 (1)(a), respectively.

Finally, section 37 of the bill amends ORS 116.183 by adding new language found at 116.183(2)(c) to exempt requests for attorney fees under that statute from the procedures specified in ORCP 68. The timing ORCP 68 imposes on requests for attorney fees does not mesh

well with the settling of a final account of an estate and, indeed, ORCP 68 C(1)(c) allows for different procedures when a statute refers to the rule but specifies different procedures.

For additional information about this bill, please see the Elder Law and Estate Administration Chapter.

HB 2986 goes into effect on January 1, 2018.

III. CHANGES TO THE OREGON RULES OF CIVIL PROCEDURE BY ORCP CHAPTER

1. ORCP 4 Jurisdiction (Personal)

The Legislature passed SB 512 (above), changing the word "paternity" to "parentage" in Rule 4 K. SB 512 goes into effect on January 1, 2018.

2. ORCP 9 Service and Filing of Pleadings

Rule 9 was amended to facilitate the ability of parties in litigation to serve post-summons and complaint documents on one another by e-mail. With the implementation of eCourt and a trend toward more paperless office environments, e-mail is an increasingly common method of service. The amendment takes into consideration the concerns of practitioners who are not comfortable with service by e-mail by continuing to require a confirmation of receipt of the document by parties who have not consented to service by e-mail. The amendment also clarifies the requirements for completing a certificate of service for each of the authorized methods of service of documents.

Practice tip: the Council observed that many certificates of service for service by e-mail, as filed, do not comply with the current section C's requirement that the certificate recite that the person served confirmed receipt of the e-mail. With the Council's amendment to ORCP 9, effective January 1, 2018, if the opposing party has consented to e-mail service, the certificate of service need only state that service was made by e-mail. With consent to e-mail service, service is complete upon transmission of the e-mail. If the opposing party has not consented to service by e-mail, the serving party will continue to be required in the certificate of service to recite that the person served confirmed to the sender receipt of the e-mail. In addition, in cases where there is no consent to e-mail service, service is not effective until receipt of confirmation. See ORCP 9 C(3) and G.

This amendment contains additional technical modifications to aid the transformation from a paper-based court system to eCourt. Numerous improvements are made to improve clarity and readability.

Additionally, HB 2826 in 2007, a bill intending to authorize sheriffs to receive documents by facsimile for service, seemingly also authorized sheriffs to serve documents by facsimile. The Oregon Sheriff's Association did not realize that service by facsimile was authorized, does not utilize facsimile service, and had no interest in utilizing facsimile as a means of serving documents. Therefore, the Council deleted "or sheriffs" in section C.

Council promulgation goes into effect January 1, 2018.

3. ORCP 22 Counterclaims, Cross-claims, and Third Party Claims

Rule 22 C was amended to incrementally increase the scope of third-party practice by allowing any party to bring a claim against a third-party defendant who is brought in as an additional party in a lawsuit. The existing rule appears to allow (and some trial courts have held) only the plaintiff to assert a claim against a third-party defendant.

To the extent that third-party practice can potentially contribute to judicial economy by allowing all claims arising out of the same transaction or occurrence to be litigated in one case and, further, to avoid the potential of inconsistent judgments if the cases are litigated in separate trials, it seems appropriate to allow any party, i.e., parties in addition to the original plaintiff, to be able to resolve their related claims against third party defendants in one lawsuit. Additional modifications were also made in sections A, B, D, and E to improve grammar, clarity, and consistency.

Council promulgation goes into effect January 1, 2018.

4. ORCP 27 Minor and Incapacitated Parties

Rule 27 was amended after subsection B(3) to add the disjunctive conjunction, "or," that had been omitted in error in the last biennium's re-write of the rule. The conjunction connects the last subsection contained in section B and brings the rule into consistency with other rules and statutes.

Council promulgation goes into effect January 1, 2018.

5. ORCP 36 General Provisions Governing Discovery

Rule 36 was the subject of significant discussion relating to the proportionality of discovery but, ultimately, was amended only to improve clarity, grammar, and consistency with other rules.

Council promulgation goes into effect January 1, 2018.

6. ORCP 43 Production of Documents

Rule 43 E was amended in recognition of the increasing volume of electronically stored information ("ESI") that creates a challenge in an increasing percentage of civil cases. The Council amended the rule effective in 2012 in light of the impact of ESI and its potential to increase the cost of litigation.

The current amendment authorizes any party to a lawsuit, or the court, to obtain a meeting of the parties early in the lawsuit, after the parties have appeared or served an ORCP 69 B(1) notice of intent to appear, and if the discovery of ESI is anticipated, in order to confer regarding the scope of ESI that is anticipated. Within 21 days of a request, the parties must meet. The amendment also provides a non-exclusive list of seven additional topics, e.g., cost of production of the information, to be discussed. It is expected that one or more meetings early in the case will assist the parties in seeking, and in producing, ESI that more accurately represents what ESI is in fact available and should make the production of documents better meet the parties' abilities and expectations, thereby reducing the time and expense involved in discovery practice. Additional modifications of the rule were made to improve grammar, clarity, and consistency with other rules.

Council promulgation goes into effect January 1, 2018.

7. ORCP 45 Requests for Admission

Rule 45 relates to the discovery practice of requesting admissions as to facts that will be relevant in a case. Section F of the current rule limits a party's right, absent a motion and order to the contrary, to 30 specific requests. The amendment creates a new class of requests and allows a party to request that another party admit to the authenticity and admissibility of a "reasonable number" of business records. The Council expects that this change will reduce the time and expense of subpoenaing and obtaining the testimony of custodians of records to gain admission of many documents when authenticity is not disputed. Additional modifications of the rule were made to improve grammar, clarity, and readability.

Council promulgation goes into effect January 1, 2018.

8. ORCP 47 Summary Judgment

Rule 47 authorizes parties to utilize a motion for summary judgment to eliminate claims in a lawsuit, thereby terminating or reducing the scope of the litigation where there is no genuine issue of material facts and the moving party is entitled to judgment as a matter of law. Judicial economy is served and the financial and other costs of litigation may be reduced in summary judgment practice.

However, the language contained in sections A and B of the current rule does not specifically allow a party to use the motion to defeat an affirmative defense and some trial courts have restricted the use of the summary judgment motion to attack claims asserted by an opposing party. The Council expects that the amendment to allow specifically a summary

judgment motion to be directed against any claim or any defense will serve the rule's mandate to contribute to the just, speedy, and inexpensive determination of civil actions.

In section G, the promulgated amendment continues to require the trial court to impose sanctions on a party found to have, in bad faith, presented an affidavit or declaration in support of or in opposition to a motion for summary judgment but no longer requires that the sanction be imposed "forthwith," allowing the court to utilize its discretion to impose a sanction when the court can evaluate the nature and scope of the alleged bad faith. Additional modifications of the rule were made to improve grammar and clarity.

Council promulgation goes into effect January 1, 2018.

9. ORCP 57 Jurors

Rule 57 is modified in subsection F(3) to remove internal lettered headings that are inconsistent with Council format.

Council promulgation goes into effect January 1, 2018.

10. ORCP 69 Default Orders and Judgments

The Legislative Assembly as a matter of policy reviews and revises statutes to correct erroneous material and to improve uniformity. There is no intent to alter the legislative intent or purpose of the laws that are thus corrected except as the amendments or repeals specifically require.

For litigators, ORCP 69 C was amended to make uniform the citation to the Servicemembers Civil Relief Act and to add a missing disjunctive connection between two paragraphs in the section.

HB 2601 goes into effect on January 1, 2018.

11. ORCP 80 Receivers

Courtesy of the Oregon Law Commission Oregon adopted SB 899, a new comprehensive Oregon Receivership Code that substantially expands (and replaces) the procedures specified in ORCP 80 A.

SB 899 goes into effect on January 1, 2018.

IV. CHANGES TO THE UNIFORM TRIAL COURT RULES

The 2017 Uniform Trial Court Rules (UTCR) took effect on August 1, 2017. You can find the complete rules: http://www.courts.oregon.gov/programs/utcr/Pages/currentrules.aspx.

Some important changes of special note are included below. As always, attorneys should consult the full text of the rule if any of these changes appear relevant to your cases.

- **3.170 – Association of Out-of-State Counsel (Pro Hac Vice)**
  - This rule was amended to create an exception for certain cases subject to the Indian Child Welfare Act.
- **4.110 – Defendant Motion for Reimbursement**
  - This change was adopted out-of-cycle (see Chief Justice Order 17-039) in response to Nelson v. Colorado, 581 US __, 137 S Ct 1249, 197 L Ed 2d 611 (April 19, 2017) in order to establish a uniform, statewide process for a defendant to seek a refund.
- **5.100 – Submission of Proposed Orders or Judgments**
  - This change was adopted in order to clarify the existing requirements of the rule and to modify the exception to service requirement.
- **5.170 – Limited Scope Representation**
  - Adopted a new rule to expand limited scope representation beyond family law cases (Additionally this change repealed 8.110).
- **8.120 – Informal Domestic Relations Trials**
  - Adopted a new rule and form (UTCR Form 8.120.1) authorizing informal domestic relations trials.
- **11.100 – Submission of Proposed Orders or Judgments in Dependency and Termination of Parental Rights Cases**
  - Adopted a new rule requiring certificate of readiness in juvenile proceedings.
- **13.120 – Compensation of Arbitrator**
  - This rule was amended to allow an arbitrator to preclude a non-paying party from appearing or participating in arbitration.
- **19.020 – Initiating Instrument Requirements and Maximum Sanctions**
  - This rule was amended out-of-cycle (SCO 17-028) in response to Senate Bill 489 (2017) and to make the rule consistent with amended ORS 33.055 and with current electronic court processes.

In addition to the rule changes above, there were additional changes requested by the Oregon eCourt Law and Policy Work Group to accommodate the Odyssey system:

- **Form 2.010.7 – Certificate of Document Preparation**
  - This form was amended to include additional options. Please review the new form before filing.
- **2.020 – Certificate of Service**

- This rule was amended to require certificate to include information related to manner of service.

- **21.040 – Format of Documents to Be Filed Electronically**
  - This rule was amended to require that electronically filed documents allow copying and pasting, when practicable.

4

Andrew Gibson
Justin Monahan
Gary Christensen

Construction Law

I. CONSTRUCTION LAW

1.	HB 2022	(Ch. 539)	Definition of "Fixed Load Vehicle"
2.	HB 2162	(Ch. 416)	Public Entity Jobs Performed Partially by Apprentices
3.	HB 2246 and SB 5516	(Ch. 615) (Ch. 590)	Career Readiness Fund Established under Ballot Measure 98 for Construction Trade Training
4.	HB 2296	(Ch. 623)	Fees and Bond amounts for Persons Drilling Wells
5.	HB 2377	(Ch. 624)	Property Tax Exemption for Affordable Rental Housing
6.	HB 2737	(Ch. 394)	Construction Standards for "Small Homes"
7.	HB 3060	(Ch. 212)	Certification of Sexual Harassment Policies.
8.	HB 3203	(Ch. 715)	Limitation on Self-Performed Work by a Public Contracting Agency
9.	HB 3264	(Ch. 216)	ODOT Pilot Prompt Payment Program for Small Businesses
10.	HB 3458	(Ch. 685)	Defining "workweek" and overtime provisions.
11.	SB 336	(Ch. 483)	Temporary Responsible Managing Individuals
12.	SB 850	(Ch. 355)	Study to Investigate Effects of Major Earthquake or Tsunami

Andrew Gibson: 2005 Santa Clara University School of Law. Member of the Oregon State Bar since 2011.
Justin Monahan: 2006 Wayne State University School of Law. Member of the Oregon State Bar since 2006.
Gary Christensen: 1988 Brigham Young University School of Law. Member of the Oregon State Bar since 1988.

I. CONSTRUCTION LAW

1. HB 2022 (Ch. 539) Definition of "Fixed Load Vehicle"

Current law regulates and levies certain *ad valorem* property taxation on fixed load vehicles, which are generally defined as those that support or move a permanent load, such as in the form of equipment constructed as part of or permanently attached to the body of the vehicle. Traditionally, cement mixers have been exempt from the definition of fixed load vehicles.

A volumetric mixer is a more recently developed type of cement mixer that contains concrete ingredient materials and water to be mixed at the job site to produce the exact amount of concrete needed. Consistent with the treatment of traditional cement mixers, this Bill amends ORS 801.285 to exclude volumetric mixers from the definition of a "fixed load vehicle." The bill has no expected expenditure impact on state or local government, however there is a minimal expected loss in property tax revenue resulting from the exemption.

This bill takes effect on January 1, 2018.

2. HB 2162 (Ch. 416) Public Entity Jobs Performed Partially by Apprentices

House Bill 2162 amends ORS 279C. The legislation requires that public improvement contracts with a value exceeding $5 Million must require that apprentices perform 10 percent of the work hours that workers in apprenticeable occupations perform. The legislation also requires the same of each subcontract which exceeds the lesser of $1 Million or 25 percent of the price of the contract. The general contractor may satisfy this requirement through subcontractors.

The bill becomes effective for work noticed on or after January 1, 2018. On or after January 1, 2022, the Bill includes a built in amendment which reduces the threshold price to $3 Million, and increases the threshold amount of apprentice labor to 12 percent.

3. HB 2246 and SB 5516 (Ch. 615) (Ch. 590) Career Readiness Fund Established under Ballot Measure 98 for Construction Trade Training

SB 5516, among other appropriations, allocates $170 million from the General Fund for deposit in the High School Graduation and College and Career Readiness Fund (the "Fund").

HB 2246 revises Ballot Measure 98 (2016), which governs the Fund. Specifically, HB 2246 allows the Department of Education to solicit and accept private and public monies to supplement the amount allocated to the Fund. HB 2246 also expands the entities that are

eligible to receive monies from the Fund, and allows school districts to determine the purposes for which school districts will use the funding.

In order to receive funding, however, a school district must present a biennial plan that includes an assessment of how the school district will establish or expand career and technical education programs. The plan must demonstrate that it will cooperate or act jointly with other educational institutions, nonprofits, and other community-based organization to maximize the benefits from the Fund.

4. HB 2296 (Ch. 623) Fees and Bond amounts for Persons Drilling Wells

According to state records there are over 250,000 known wells in Oregon, with several thousand new wells drilled every year. The Water Resources Department sets well construction standards, licenses well drillers, approves landowner permits, and inspects wells.

HB 2296 increases the application fees for a property owner seeking a permit to construct, alter, abandon, or convert a well on his/her property without being a licensed water well constructor from $25 to $500. The Bill also increases the required bond amounts from $5,000 to $20,000 for a property owner and from $10,000 to $20,000 for persons who contract to drill wells.

This bill takes effect on January 1, 2018.

5. HB 2377 (Ch. 624) Property Tax Exemption for Affordable Rental Housing

This Bill allows cities and counties to adopt ordinances to grant property tax exemptions for up to ten years to newly rehabilitated or constructed projects that include affordable rental housing.

The public entities must also establish schedules regulating the number of years of exemptions tied to the percentage of affordable units. Additionally the entities must establish monitoring programs to ensure compliance. The bill requires repayment of taxes if the county assessor determines at any point that the eligible property does not meet the requirements of the ordinance or resolution.

This bill takes effect on October 6, 2017.

6. HB 2737 (Ch. 394) Construction Standards for "Small Homes"

House Bill 2737 amends ORS Chapter 455. The legislation defines a "small home" as one that is not more than 600 square feet in size. The legislation directs the Department of Consumer and Business Services to adopt construction standards for small homes into the

building code, including allowing sleeping lofts and ladders or alternatives for egress from a sleeping loft.

The bill takes effect October 6, 2017, and requires the adoption of initial standards no later than January 1, 2018.

7. HB 3060 (Ch. 212) Certification of Sexual Harassment Policies.

House Bill 3060 supplements ORS Chapter 279A. The legislation requires that public agencies with an anticipated contract price for work of $150,000 or more require of bidding contractors that the contractors certify in writing that they have a policy and practice of preventing sexual harassment, sexual assault, and discrimination of employees who are members of a protected class. The legislation sets forth requirements for the certifications.

The bill takes effect on January 1, 2018.

8. HB 3203 (Ch. 715) Limitation on Self-Performed Work by a Public Contracting Agency

HB 3203 amends ORS 279C.305 by requiring any public agency that intends to self-perform a public improvement that is expected to exceed $200,000 to perform a cost analysis on the project. The analysis, which requires a detailed comparison of the anticipated cost to use the agency's own equipment or personnel versus a hiring private contractor, must be filed with the Commissioner of Bureau of Labor and Industries (the "Bureau"). If the agency proceeds to self-perform the work, it must keep an accurate accounting of all the actual costs incurred. Every four years, the Bureau must review the methodology for calculating costs and the threshold amount at which contracting agency must prepare specifications and cost estimates for public improvements.

Finally, HB 3203 provides standing to private contractors and trade associations to challenge a public agency's decision to self-perform public improvement projects. A private contractor or trade association whose members are otherwise eligible to perform the work can file a complaint with the commissioner of the Bureau. The Bureau, after receiving a complaint, must investigate and determine whether the public agency failed to substantially comply with the statute. If the commissioner finds a first-time violation, the public agency receives a warning. After a second violation within a five year period, the public agency must negotiate with the private contractor or trade association to remedy the violation and prevent future violations. Breach of that agreement can result in civil penalties and other remedies to the private contractor or trade association.

This bill takes effect on October 6, 2017.

9. HB 3264 (Ch. 216) ODOT Pilot Prompt Payment Program for Small Businesses

HB 3264 directs the Oregon Department of Transportation ("ODOT") to establish a pilot program requiring prompt payment of certain construction contracts. The program requires ODOT to pay small business (less than 50 employees) for construction services within 15 days after receipt of invoice or due date for payment, whichever is later. Failure to make timely payment will result in accrued interest at a rate of 12 percent per annum. ODOT is further required to report back to the legislature in March 2019 on the results of the program.

This bill takes effect on October 6, 2017.

10. HB 3458 (Ch. 685) Defining "workweek" and overtime provisions.

House Bill 2987 amends ORS Chapter 652, 653, and 659A. The legislation defines a "workweek" as a successive, 7-day period, and connects overtime payments to the amounts identified for particular trades, or 40 hours. The legislation then defines various trades, and provides various specific requirements and exceptions, and provides an "undue hardship" exemption for employers in certain situations.

Finally, the legislation also creates a private cause of action for employees whose employers do not follow the law, and a right in certain cases for a complaint with the Commissioner of the Bureau of Labor and Industries. For additional information about this bill please see the Employment and Labor chapter.

This bill took effect on August 8, 2017.

11. SB 336 (Ch. 483) Temporary Responsible Managing Individuals

After the responsible managing individual (RMI) for a construction contractor ceases his or her employment with that contractor, SB 336 allows the contractor to operate with a temporary RMI for up to fourteen (14) days thereafter. The bill requires the contractor to immediately notify the Construction Contractors Board (CCB) of the name and address of the person serving as the temporary RMI.

This bill takes effect on January 1, 2018.

12. SB 850 (Ch. 355) Study to Investigate Effects of Major Earthquake or Tsunami

SB 850 requires the Oregon Seismic Safety Policy Advisory Commission ("OSSPAC") to immediately establish a volunteer committee or committees to review policy options, prepare a summary of existing state agency reports and studies, and prepare recommendations for policy

measures regarding life and property protection following a major earthquake or tsunami event.

Specifically, OSSPAC's committees are directed to investigate (1) issues pertaining to insurance related to earthquakes and tsunami events, such as best practices for making residential homeowners aware of the need for earthquake and tsunami insurance and potential state alternatives to private earthquake and tsunami insurance; and (2) policy options for addressing mass displacement due to a major earthquake or tsunami, such as best practices for providing temporary shelter, emergency services, and adequate food and water.

The bill took effect on June 14, 2017. The OSSPAC must submit the committees' findings and recommendations no later than September 30, 2018.

5

Kelly Harpster
Eva Novick

Consumer, Commercial and Debtor-Creditor Law

I. DEBT COLLECTION PRACTICES

1.	HB 2356	(Ch. 625)	Regulation of Debt Buyers and Debt Collection Practices

II. MORTGAGES AND FORECLOSURES

1.	HB 2359	(Ch. 154)	Notices Relating to Foreclosure Avoidance Measures
2.	HB 2562	(Ch. 161)	Annual Disclosure for Reverse Mortgages
3.	HB 2920	(Ch. 270)	Satisfaction of Money Awards After Judicial Foreclosure
4.	SB 98	(Ch. 636)	Licensing of Mortgage Loan Servicers
5.	SB 381	(Ch. 251)	Foreclosure Notices

III. PAYDAY AND TITLE LOANS

1.	HB 3184	(Ch. 215)	Counseling for Payday and Title Loan Borrowers

IV. STUDENT LOANS

1.	SB 253	(Ch. 320)	Mandatory Student Loan Disclosures

V. MOTOR VEHICLES

1.	SB 134	(Ch. 241)	Sale of Retail Installment Contract to Lender
2.	SB 338	(Ch. 451)	GAP Waiver
3.	SB 974	(Ch. 530)	Motor Vehicle Dealer Bond and Issuance of Vehicle Certificate

VI. TOWING

1.	SB 117	(Ch. 480)	Unlawfully Parked Vehicles, Abandoned Vehicles and Involuntary Use of Vehicles
2.	SB 488	(Ch. 523)	Stolen Vehicles

VII. PRIVACY

1. HB 2090 (Ch. 145) Privacy Policy

VIII. LONG-TERM CARE FACILITIES

1. HB 2661 (Ch. 656) Long Term Care Referrals

IX. OTHER LEGISLATION

1. HB 2191 (Ch. 705) Secretary of State
2. SB 899 (Ch. 358) Receiverships

Kelly Harpster: 2006 Northwestern School of Law. Member of the Oregon State Bar since 2006.
Eva Novick: 2004 University of North Carolina School of Law. Member of the Oregon State Bar since 2004.

I. DEBT COLLECTION PRACTICES

1. HB 2356 (Ch. 625) Regulation of Debt Buyers and Debt Collection Practices

HB 2356 creates new requirements for debt collection actions filed by or on behalf of a debt buyer, including small claim actions. Initial pleadings must include specific information about the original creditor, debt owner, and the account. A court may not enter judgment in favor of a debt buyer that fails to comply, and a judgment wrongly entered may be set aside. The bill makes it an unlawful debt collection practice for a debt buyer, or debt collector acting on behalf of a debt buyer, to bring a legal action without possessing certain authenticated documents, including proof of ownership and a copy of the debtor's agreement with the original creditor. The debt buyer or debt collector must provide copies of the authenticated documents to a debtor within 30 days after receiving a request. After receiving a request, the debt buyer or debt collector may not attempt to collect the debt until the documents are provided.

The bill also amends ORS 646.639, adding and revising key definitions and creating several new unlawful debt collection practices. Subject to an exception, a debt collector may not attempt to collect any debt that the debt collector knows or reasonably should know arises from medical expenses qualified for reimbursement under the Oregon Health Plan or Medicaid. In an attempt to overturn the Supreme Court decision in *Porter v. Hill*, the bill prohibits knowingly collecting any amount not expressly authorized by the agreement creating the debt or other law. Debt buyers and debt collectors are prohibited from filing any legal action to collect a debt if the debt buyer or debt collector knows or reasonably should know that a statute of limitation bars collection. Debt buyers, and debt collectors acting on their behalf, also must provide a receipt if payment is in cash or a receipt is requested.

Finally, the bill requires any person engaged in debt buying in Oregon to obtain a license from the Department of Consumer and Business Services. Financial institutions, mortgage bankers and brokers, consumer finance lenders, trust companies, debt management service providers, and attorneys engaged in debt buying incidentally to the practice of law are exempt.

The bill takes effect on October 6, 2017, however most provisions of the bill become operative on January 1, 2018. Certain provisions relating to debt buyers apply only to debts sold or resold on or after January 1, 2018. Check the bill to be certain you are applying the correct date in your case.

II. MORTGAGES AND FORECLOSURES

1. HB 2359 (Ch. 154) Notices Relating to Foreclosure Avoidance Measures

HB 2359 eliminates the requirement in ORS 86.748 that the beneficiary of a residential trust deed send to the Attorney General a copy of a notice that the grantor is not eligible for, or has failed to comply with the terms of, a foreclosure avoidance measure (*e.g.*, a loan modification). Beneficiaries still must mail the required notice to grantors.

The bill takes effect on January 1, 2018.

2. HB 2562 (Ch. 161) Annual Disclosure for Reverse Mortgages

HB 2562 amends ORS 86A.196, relating to reverse mortgages. The bill requires a reverse mortgage lender to send an annual notice that the borrower remains responsible for property taxes, insurance, and maintenance until the property is sold or transferred and that failure to pay may result in acceleration of the loan, imposition of a tax lien, or foreclosure. The lender must send the notice to the borrower or, if taxes and insurance are paid from an escrow account, the escrow agent or title insurance company, at least 60 days before property taxes come due.

Financial institutions and consumer finance lenders are exempt from the notice requirement. The bill also eliminates an exemption from the advertising requirements for mortgage bankers and mortgage brokers.

The bill takes effect on January 1, 2018.

3. HB 2920 (Ch. 270) Satisfaction of Money Awards After Judicial Foreclosure

HB 2920 adds new requirements to ORS 18.950 relating to the satisfaction of money awards after a judicial foreclosure of real property. The bill requires the judgment creditor to file a satisfaction of money award upon receipt of the proceeds of the sheriff's sale. If the judgment creditor fails to file a satisfaction within 10 days after receiving a written request from the judgment debtor or another person with an interest in the property, then the judgment debtor or person may file a motion in court to satisfy the money award. The judgment debtor or person filing the motion is entitled to an award of reasonable attorney fees unless the judgment creditor proves lack of fault.

The bill applies to satisfactions filed or requested on or after the effective date of January 1, 2018.

4. SB 98 (Ch. 636) Licensing of Mortgage Loan Servicers

SB 98 requires non-depository, non-governmental mortgage loan servicers that service at least 5,000 residential mortgage loans for another person to obtain a license from the Department of Consumer Business Services (DCBS) before servicing residential mortgage loans in Oregon. Licensees must comply with certain requirements, including a requirement that licensees maintain sufficient liquidity, operating reserves, and tangible net worth. The bill gives the Director general supervisory authority over licensees and persons required to obtain a license, including the authority to conduct examinations and investigations and to participate in multistate examinations.

The bill also creates new consumer protections. Servicers must assess fees on consumers within 45 days after the fee is incurred and must explain the basis for the fee in a written notice mailed to the consumer within 30 days. If a servicer does not credit a payment, then within ten days after receipt of the payment the servicer must mail to the consumer a written notice explaining the reason the payment was not credited. Under the bill, servicers must promptly correct errors and refund fees assessed in error. Servicers must respond to requests for information within 15 days and include specific information in the response. Servicers must also send consumers an annual statement that contains specific information about the loan. Upon request, a consumer is entitled to receive one complete account history each year at no charge. Servicers are also prohibited from engaging in fraudulent acts, including making fraudulent representations or omissions.

Additionally the bill requires that servicers respond within 30 days to consumer complaints forwarded by the Department. The Director of DCBS is authorized to investigate a consumer complaint, and, if the Director determines that a servicer violated the Act, the Director may order the servicer to cease and desist from the wrongful act, to refund fees paid by the consumer, and/or to pay the consumer damages. Additionally, the Director may impose civil penalties of up to $5,000 per violation and up to $20,000 for continuous violations.

The bill also requires persons who provide a residential mortgage loan modification service for compensation to make certain disclosures. The bill prohibits such persons from charging a fee before providing the service, charging an unreasonable fee, and from requiring or encouraging borrowers to waive certain rights as a condition of modifying a residential mortgage loan.

SB 98 took effect on August 2, 2017, and most provisions of the bill become operative on January 1, 2018.

5. SB 381 (Ch. 251) Foreclosure Notices

SB 381 amends various provisions in ORS 86 to include post office boxes as a required mailing address. According to the sponsor, the intent of the bill was to ensure that persons who use a post office box would receive a copy of a required notice at that address. In rural areas,

the postal service may not deliver mail to the property address, necessitating use of a post office box to receive mail.

The bill amends ORS 86.157 to require that lenders mail amended payoff statements to borrowers at all addresses on file with the lender, including post office boxes. The bill amends ORS 86.720 to require that title insurance companies mail notices of intent to record a release of trust deed to all interested parties at their last-known addresses, including post office boxes. The bill amends ORS 86.729 to require that the service provider for the Oregon Foreclosure Avoidance program mail a notice of resolution conference to all addresses on file, including post office boxes. The bill amends ORS 86.748 to require residential trust deed beneficiaries to mail a notice relating to the grantor's eligibility for or noncompliance with a foreclosure avoidance measure to all addresses on file, including post office boxes. The bill amends ORS 86.756 to require the sender of a notice of sale to mail the "danger" notice to the grantor, or the occupant, at all addresses on file, including post office boxes. The bill amends ORS 86.764 to require a trustee to mail notices of sale to all addresses on file, including post office boxes, for each person entitled to notice.

The bill applies to notices mailed on or after the bill's effective date of January 1, 2018.

III. PAYDAY AND TITLE LOANS

1. HB 3184 (Ch. 215) Counseling for Payday and Title Loan Borrowers

ORS 725A.090, enacted in 2010, authorized the Director of the Department of Consumer and Business Services to contract with a vendor to develop a system to track payday and title loans made in Oregon. HB 3184 authorizes the Director to expand the system to allow licensees to provide loan counseling to payday and title loan borrowers according to standards adopted by the Director. Licensees are prohibited from attempting to recover from borrowers any fees charged by the vendor to use or access the system.

The bill applies to payday and title loans made on or after July 1, 2018.

IV. STUDENT LOANS

1. SB 253 (Ch. 320) Mandatory Student Loan Disclosures

SB 253 requires institutions of higher education to make mandatory annual disclosures to all enrolled students who take out federal education loans. The disclosures must be in plain language and include total amount borrowed, cumulative tuition and fees paid, potential payoff, estimated monthly payment, percentage of borrowing limits reached, and a statement that the amounts do not include private loans or credit card debt.

The bill takes effect on January 1, 2018, and disclosures are required beginning with the 2018-2019 academic year.

V. MOTOR VEHICLES

1. SB 134 (Ch. 241) Sale of Retail Installment Contract to Lender

SB 134 has "clean up" language to accurately describe the transaction between a motor vehicle dealer and the company to which it sells a retail installment contract or lease. The bill adds the option for a dealer to provide a required notice to the vehicle's buyer by written electronic communication. The dealer must retain proof of the date on which it sent the notice to the vehicle's buyer.

The bill also changes the mileage calculation that a dealer may charge the vehicle buyer. If, within 14 days after the date on which the buyer took possession of the motor vehicle, the dealer sent notice to the buyer that a lender has not agreed to purchase the retail installment contract or lease agreement, the dealer may charge for all mileage accrued on the vehicle from the time the buyer took possession of the vehicle. However, if the buyer made a reasonable attempt to return the vehicle within five days after the dealer sent the notice, the dealer may not charge the buyer for any mileage.

The bill applies to retail installment contracts or lease agreements into which a seller and buyer enter on or after January 1, 2018.

2. SB 338 (Ch. 451) Gap Waiver

SB 338 provides that Sections 1 to 7, chapter 523, Oregon Laws 2015 (added unnumbered to ORS 646A) do not apply to an addendum to a motor vehicle finance agreement that is sold or assigned to a licensee (under ORS 725.010) in which the creditor agrees to waive the creditor's right to collect all or part of an amount due from a borrower under the terms of the finance agreement or release the borrower from an obligation to pay if the motor vehicle is a total loss or is stolen and not recovered. The bill makes clear that such an addendum is not insurance and is not subject to the Insurance Code.

The bill takes effect on January 1, 2018.

3. SB 974 (Ch. 530) Motor Vehicle Dealer Bond and Issuance of Vehicle Certificate

SB 974 increases the required bond for motorcycle, moped, Class I all-terrain vehicle, or snowmobile dealers to $10,000. However, the bond limits payment of claims to retail

customers. The bill also prohibits the Oregon Department of Transportation from issuing a new dealer certificate to a person to deal exclusively in motorcycles, mopeds, Class I all-terrain vehicles or snowmobiles.

The bill also increases the required bond for other motor vehicle dealers to $50,000. Additionally, it lowers the amount of the bond available for payment of claims by non-retail customers to $10,000.

The bill takes effect on January 1, 2018.

VI. TOWING

1. SB 117 (Ch. 480) Unlawfully Parked Vehicles, Abandoned Vehicles and Involuntary Use of Vehicles

SB 117 includes a number of technical drafting edits and moves existing language to different statutes and deletes redundant language. The bill also adds a definition of when a "hookup" is complete.

The bill requires a tower to get written consent from the owner of a parking facility prior to towing a vehicle, unless the vehicle blocks access by emergency vehicles, the entrance, a parked motor vehicle or is parked in certain types of apartment complexes. The tower must maintain the signed authorization for a minimum of two years and provide a copy of the signed authorization to the vehicle owner, upon request, at no additional charge. The tower must also provide a copy of a photograph showing the vehicle as it was parked prior to being towed to the vehicle owner, upon request, at no additional charge.

The bill also requires a tower to tow a vehicle to the tower's nearest storage facility in the same county from where the vehicle was towed.

The bill adds additional causes of action under ORS 646.608, including a prohibition from towing a vehicle without the vehicle owner's consent from a parking facility unless there is a sign displayed in plain view that uses clear and conspicuous language to prohibit or restrict public parking at the parking facility.

The bill takes effect on January 1, 2018.

2. SB 488 (Ch. 523) Stolen Vehicles

SB 488 requires law enforcement to share contact information from a stolen vehicle report with a tower, when the tower tows a motor vehicle reported as stolen. The tower may only use the contact information to provide notice to the owner of the stolen vehicle that the

vehicle has been recovered and the location where it is currently being stored. The tower's storage fees may not begin accruing until after the tower attempts to notify the owner of the stolen vehicle.

The bill also permits a vehicle owner who does not have applicable insurance coverage to transfer title to the tower in lieu of paying the towing and storage fees. If the vehicle owner transfers title within 14 days of receiving notice that the tower is in possession of the vehicle, the tower may not attempt to collect any additional amounts from the vehicle owner for towing, caring for or storing the vehicle.

Unrelated to stolen vehicles, the bill adds hearing aids to the list of "personal property of an emergency nature" in ORS 98.858.

The bill takes effect on January 1, 2018.

VII. PRIVACY

1. HB 2090 (Ch. 145) Privacy Policy

HB 2090 adds a new unlawful trade practice to ORS 646.607. A person may not publish on its corporate website or in a consumer agreement a statement or representation of fact in which the person asserts that it will use, disclose, collect, maintain, delete or dispose of information that the person requests, requires or receives from a consumer in a manner that is materially inconsistent with any statement or representation the person made as to the manner or purpose of the use, disclosure, collection, maintenance, deletion or disposal of the information.

The bill takes effect on January 1, 2018.

VIII. LONG TERM CARE FACILITIES

1. HB 2661 (Ch. 656) Long Term Care Referrals

Under HB 2661, a person that receives compensation for making a referral to a long term care facility, a residential care facility, an adult foster home, or a continuing care retirement community must provide its clients with certain written disclosures. The disclosures must include a description of the referral to be made, the person's contact information, the person's privacy policy, a statement as to whether the person only makes referrals to facilities with which it has a contract and a statement as to whether the facility will pay the person's fees.

A referral agent must get affirmative consent from its client prior to sharing or selling any information it collects from the client, such as name, email address, phone number, zip code, medical history, information about necessary assistance for activities of daily living, or the reasons for seeking long term care for the client or an individual the client is seeking to place in a facility.

The bill provides further restrictions and requirements on actions the referral agent may take, such as when a client uses a different referral agent to move to a different facility.

Referral agents must be registered with the Department of Human Services.

A violation of Section 2 of the bill is a violation of ORS 646.608.

HB 2661 took effect on August 8, 2017. The bill applies to contracts entered into between a referral agent and a facility or between a referral agent and a client on or after July 1, 2018. The Department of Human Services may take certain action before July 1, 2018.

IX. OTHER LEGISLATION

1. HB 2191 (Ch. 705) Corporate Formation

HB 2191 gives the Secretary of State certain investigatory and enforcement authority relating to the formation of a corporation and authorization to transact business in Oregon. The Department of Revenue may recommend to the Secretary of State that the Secretary of State administratively dissolve a corporation for failure to comply with Oregon's tax laws.

The bill also provides that an officer, director, employee or agent of a shell entity may be liable for damages to a person that suffers an ascertainable loss of money or property as a result of certain conduct by the officer, director, employee or agent. Such conduct includes making known false statements about the shell entity's financial health or business operations, causing another person to falsify information in a shell entity's books, or removing information from a shell entity's books with the intent to deceive another person.

Under the bill articles of incorporation must include a physical street address and contact information for at least one individual. The bill adds a prohibition that a registered agent cannot be at a mail forwarding company or a virtual office.

This bill took effect on August 15, 2017. Most provisions of the bill become operative on January 1, 2018. The Secretary of State and the Director of the Department of Revenue may take certain action before January 1, 2018.

2. SB 899 (Ch. 358) Receiverships

SB 899 is the product of an Oregon Law Commission work group that began meeting in March of 2016. This bill creates an Oregon Receivership Code, substantially revising and clarifying law around receiverships which had previously varied from jurisdiction to jurisdiction.

The bill specifies the powers and duties of a receiver in Oregon, and creates statutory definitions for a number of terms including "receivership," "residential property," "executory contract," "foreign action," "insolvency," "affiliate", and "owner."

The bill specifies the process for the appointment of a receiver, drawing in part on the previous language in ORCP 80B. The bill also specifies who is eligible to serve as a receiver, and requires disclosure of certain conflicts of interest which would render a person ineligible to serve as a receiver.

Additionally the bill provides for the automatic stay of certain proceedings effective upon entry of the order appointing the receiver. This provision is intended to prevent interference with the receiver's possession and management of estate property and the performance of the receiver's duties.

SB 899 applies to receiverships in which the receiver is appointed after January 1, 2018.

6

Eric Deitrick
Aaron Lopez-Huskey

Criminal Law

I. ALCOHOL AND CONTROLLED SUBSTANCES

1.	HB 2355	(Ch. 198)	Profiling/Possession of Controlled Substance/Misdemeanor
2.	HB 3030	(Ch. 402)	Unlawful Sale or Delivery of Nitrous Oxide
3.	SB 302	(Ch. 21)	Marijuana Criminal Offenses
4.	SB 303	(Ch. 20)	Minor In Possession of Marijuana
5.	SB 323	(Ch. 248)	Arson Incident to the Manufacture of a Controlled Substance
6.	SB 1041	(Ch. 698)	Alcohol and Drug Treatment

II. DRIVING OFFENSES

1.	HB 2403	(Ch. 75)	Failure to Perform the Duties of a Driver
2.	HB 2409	(Ch. 288)	Speeding/Red Light Cameras
3.	HB 2597	(Ch. 629)	Motor Vehicles and Mobile Communication Devices
4.	HB 2598	(Ch. 388)	Vehicular Assault
5.	HB 2638	(Ch. 655)	Ignition Interlock Devices
6.	HB 2721	(Ch. 658)	Assault/Highway Flagger or Worker
7.	HB 3446	(Ch. 439)	Driving While Suspended
8.	SB 35	(Ch. 189)	Motor Vehicle Accident Report
9.	SB 252	(Ch. 319)	Hardship Permits
10.	SB 493	(Ch. 337)	Assault/Motor Vehicle
11.	SB 961	(Ch. 491)	DUII Diversion

III. CRIMES AGAINST INDIVIDUALS

1.	HB 2740	(Ch. 395)	Trafficking of Persons
2.	HB 2988	(Ch. 430)	Harassment of Family and Household Members
3.	SB 247	(Ch. 318)	Deviate Sexual Intercourse
4.	SB 249	(Ch. 245)	Motion to Vacate Conviction for Prostitution
5.	SB 250	(Ch. 246)	Affirmative Defense to Prostitution

IV. OTHER CRIMES

1.	HB 2987	(Ch. 99)	Providing False Information to Police
2.	HB 3047	(Ch. 502)	Drones
3.	SB 257	(Ch. 519)	Official Misconduct in the First Degree
4.	SB 357	(Ch. 454)	Interfering with Public Transportation
5.	SB 483	(Ch. 649)	Unlawful Use of a Global Positioning System

V. JUVENILE OFFENDERS

1.	HB 2579	(Ch. 79)	Reentry Services for Youth Offenders
2.	HB 2616	(Ch. 389)	Juvenile Waiver of Counsel
3.	HB 3242	(Ch. 431)	Recording of Custodial Interviews of Youth
4.	SB 82	(Ch. 194)	Youth in Solitary Confinement
5.	SB 762	(Ch. 347)	Minor in Possession of Alcohol/Immunity

VI. CRIME VICTIMS

1.	HB 2621	(Ch. 108)	Crime Victim Compensation
2.	HB 2972	(Ch. 57)	Crime Victim Rights
3.	HB 3077	(Ch. 171)	Crime Victims
4.	SB 26	(Ch. 225)	Local Public Safety Coordinating Council
5.	SB 795	(Ch. 349)	Crime Victim/Advocate

VII. CRIMINAL PROCEDURE AND ADMINISTRATION OF THE JUSTICE SYSTEM

1.	HB 2238	(Ch. 614)	Public Safety Task Force
2.	HB 2249	(Ch. 150)	Department of Corrections Supplemental Funding
3.	HB 2251	(Ch. 134)	Department of Corrections Age Requirements
4.	HB 2594	(Ch. 53)	Compact of Free Association
5.	HB 2797	(Ch. 712)	Fines for Violation Offenses
6.	SB 131	(Ch. 240)	Telephonic Testimony
7.	SB 497	(Ch. 338)	Motions to Set Aside
8.	SB 505	(Ch. 650)	Recordation of Grand Jury Proceedings
9.	SB 507	(Ch. 339)	Motions to Set Aside
10.	SB 719	(Ch. 719)	Extreme Risk Protection Order
11.	SB 896	(Ch. 529)	Direct Criminal Appeals
12.	SB 931	(Ch. 359)	Alternative Jurors
13.	SB 960	(Ch. 361)	Sexual Assault Forensic Evidence Kits

VIII. SENTENCING AND CUSTODY

1.	HB 2360	(Ch. 418)	Sex Offender Registration Obligations
2.	HB 3078	(Ch. 673)	Felony Sentencing

3.	HB 3176	(Ch. 123)	Domestic Abuse as a Mitigating Factor
4.	HB 3438	(Ch. 438)	Department of Corrections/Transitional Housing
5.	SB 360	(Ch. 522)	Community Service Exchanges
6.	SB 690	(Ch. 526)	Certificates of Good Standing
7.	SB 714	(Ch. 689)	Stalking/Residency Restrictions
8.	SB 767	(Ch. 488)	Sex Offender Registry
9.	SB 844	(Ch. 692)	Inmate Trust Accounts
10.	SB 1050	(Ch. 699)	Sex Offender Sentencing

IX. MENTAL HEALTH

1.	HB 2307	(Ch. 48)	Guilty Except for Insanity Evaluations
2.	HB 2308	(Ch. 628)	Guilty Except for Insanity Evaluations
3.	HB 2309	(Ch. 49)	Fitness to Proceed/Progress Reports
4.	SB 63	(Ch. 232)	Guilty Except for Insanity Jurisdiction
5.	SB 64	(Ch. 634)	"Mental Disease or Defect"
6.	SB 65	(Ch. 442)	Psychiatric Security Review Board
7.	SB 66	(Ch. 233)	Notifications for Persons with Mental Illness

Eric Deitrick: 2005 Northwestern School of Law. Member of the Oregon State Bar since 2005.
Aaron Lopez-Huskey: 2016 Willamette University School of Law, Member of the Oregon State Bar since 2017

I. ALCOHOL AND CONTROLLED SUBSTANCES

1. HB 2355 (Ch. 198) Profiling/Possession of Controlled Substance/Misdemeanor

HB 2355 is an omnibus bill arising from the Attorney General's Task Force on the Prevention of Profiling by Law Enforcement. The bill contains the Task Force's recommendations to the legislature, and the final content generally falls into three categories – (1) law enforcement profiling practices, (2) the criminal penalties for those who possess controlled substances, and (3) the definition of a misdemeanor.

- Profiling – The bill addresses concerns regarding law enforcement profiling practices. It requires law enforcement agencies to collect data on the subjects of officer-involved pedestrian and traffic stops. That data would be forwarded to the Criminal Justice Commission (CJC). The CJC would work with law enforcement agencies on methods to gather data. The CJC would analyze the data and report annually to the legislature and the Department of Public Safety Standards and Training, beginning July 1, 2020. In addition, law enforcement would adopt educational programs and training to reduce profiling.

- Possession of Controlled Substances – The bill reduces the criminal penalties for Possession of Controlled Substance ("PCS") offenses. Currently, PCS is a class B or C felony, depending upon the specific controlled substance. The sentencing guidelines rank PCS as a level 1 offense, which is the least serious felony offense. However, the penalty is elevated if the PCS case involves a substantial quantity or qualifies as a commercial drug offense.

This bill amends various statutes in chapter 475 and changes the presumptive classification for PCS cases to a class A misdemeanor, unless the offense involves a substantial quantity or qualifies as a commercial drug offense. Those offenses would remain class B or C felonies. Additionally, the offense is elevated to a felony if the person possesses a "usable amount," (the bill defines usable amount) and:

1) the person already has a felony conviction,
2) the person has two or more convictions for PCS involving a usable amount, or
3) the offense involves 1/5 or more of the statutorily defined substantial quantity amounts.

The bill amends ORS 423.478 to continue existing supervision and community correction funding for PCS offenders on probation or post-prison supervision. The bill requires

the Criminal Justice Commission to submit a report to the legislature regarding the impact of these changes by September 15, 2018.

- Misdemeanor Definition – Currently, ORS 161.615 establishes the maximum penalty for class A misdemeanors as 1 year of jail. Other jurisdictions define "misdemeanor" as an offense punishable by less than 1 year of jail, with a felony defined as an offense punishable by 1 year of jail or more. This bill reduces the penalties for a class A misdemeanor to 364 days to match those jurisdictions, and will preclude certain collateral consequences from attaching to Oregon's misdemeanor convictions.

HB 2355 took effect August 15, 2017.

2. HB 3030 (Ch. 402) Unlawful Sale or Delivery of Nitrous Oxide

HB 3030 creates a new offense, which prohibits a person or employee from selling or delivering nitrous oxide to person under the age of 18, if the business makes retail sales of nitrous oxide canisters from which an individual may directly inhale nitrous oxide. The penalty would be a class A violation for the first offense, and a class C misdemeanor for a second or subsequent offense. The measure creates exceptions and clarifies the types of identification that be used prior to sale or delivery.

HB 3030 takes effect January 1, 2018.

3. SB 302 (Ch.21) Marijuana Criminal Offenses

SB 302 removes marijuana from the Oregon Controlled Substances Act ("CSA"), and makes changes to the criminal penalties associated with marijuana offenses. Sections 1 through 21 contain increases in penalties, decreases in penalties, and other changes to the treatment of marijuana. Section 22 removes marijuana from the Oregon Controlled Substances Act. Sections 23 through 126 are amendments to address the removal of marijuana from the CSA and conforming amendments. Some highlights from sections 1 through 22 include:

1. The "Within 1,000 Feet of a School" sentencing enhancement for the unlawful delivery or manufacturing of marijuana is eliminated.

2. Similar to SB 323, this bill creates new arson crimes relating to fires and explosions arising from the unlawful manufacturing of marijuana. The requisite conduct, mental states, and penalties mirror those in SB 323.

3. The unlawful import/export offenses in ORS 475B.185 are amended. Unlawful import/export is a class C felony, which renders an attempted export a class A misdemeanor. This provision redefines "export" to include placing the marijuana in luggage, mail, etc.

4. Recreational marijuana licensees are provided an affirmative defense to marijuana criminal offenses if the person has an objectively reasonable belief that their license was not lapsed, suspended, or revoked at the time of the incident.

5. The criminal penalties for marijuana offenses are modified and tiered. A new class C felony is created for those who possess 8 pounds of usable marijuana in public place.

SB 302 took effect April 21, 2017

4. SB 303 (Ch. 20) Minor In Possession of Marijuana

SB 303 modifies language and penalties for those minors who violate ORS 471.430 or 475B.260, which establishes the penalties for those who unlawfully possess alcohol or marijuana. The bill creates consistent terms and penalties.

A minor commits a class B violation if they possess, attempt to purchase, or purchase marijuana. The offense is a class A violation if committed when the person is operating a motor vehicle. The bill eliminates the discretionary driver's license suspension and makes the suspension mandatory. The court may order a marijuana assessment and require treatment for a first offense, and is required to order the assessment and treatment for a second or subsequent offense.

SB 303 took effect April 21, 2017.

5. SB 323 (Ch. 248) Arson Incident to the Manufacture of a Controlled Substance

SB 323 creates new arson crimes relating to fires and explosions arising from the manufacturing of controlled substances. Pursuant to ORS 164.315 (Arson 1) and 164.325 (Arson 2), a person commits an offense of arson if the person causes an explosion or fire with a certain mental state under particular circumstances. Fires or explosions arising from the manufacturing of methamphetamine are covered by Arson 1 and Arson 2. Fires or explosions arising from the manufacturing of other controlled substances are not covered by the current arson statutes. Currently, fires or explosions arising from the manufacturing of controlled substances are prosecuted as reckless burning, a class A misdemeanor.

ORS 164.315 (Arson 1) is subject to the mandatory minimum penalties of ORS 137.707. Rather than amend ORS 164.315 (and being subject to the penalties associated with ORS 137.707), SB 323 creates new arson statutes to address fires or explosions arising from the manufacturing of controlled substances.

A person commits the crime of arson incident to the manufacture of controlled substance in the second degree, a class C felony, if by knowingly engaging in the manufacture of a controlled substance, the person causes a fire or explosion that damages any building that is not protected property, or any proper of another in which the damages exceed $750.

A person commits the crime of arson incident to the manufacture of controlled substance in the first degree, a class A felony, if by knowingly engaging in the manufacture of a controlled substance, the person causes a fire or explosion that damages (1) protected property; (2) any property if the fire or explosion recklessly places a person in danger of physical injury or protected property in danger of damage; or (3) any property, if the fire or explosion recklessly causes serious physical injury to a firefighter or peace officer acting in the line of duty.

SB 323 takes effect January 1, 2018.

6. SB 1041 (Ch. 698) Alcohol and Drug Treatment

Alcohol and drug treatment programs exist all over the state. At the same time, the state lacks detailed information about which programs exist where, whether the programs offered match the needs of particular regions, and the efficacy of these programs.

SB 1041 requires the Criminal Justice Commission to study, track, and account for all public monies appropriated to alcohol and drug treatment, whether provided by state agencies, public entities, or private entities utilizing public funds. The Commission shall also study the outcomes of each type of treatment, and the effect of those outcomes on the criminal justice system. The Commission shall report their findings to the Legislative Assembly by September 15, 2019.

SB 1041 took effect August 8, 2017.

II. DRIVING OFFENSES

1. HB 2403 (Ch. 75) Failure to Perform the Duties of a Driver

ORS 811.700 and 811.705 establish the obligations of a driver when persons or property are injured or damaged. These obligations vary depending upon whether the property damaged is an attended vehicle, an unattended vehicle, or other property. The obligations include providing information about the driver's name, address, and vehicle registration number.

HB 2403 adds a requirement to both statutes that the driver provide the name of their insurance carrier and policy number.

The bill takes effect January 1, 2018.

2. HB 2409 (Ch. 288) Speeding/Red Light Cameras

HB 2409 authorizes cities to place cameras, technology, and sensors in public places to take the photo of the driver, and measure the speed of vehicles not within the presence of a police officer. The bill establishes requirements, such as posting signs, to use the technology.

The registered owner of the vehicle is the presumptive driver of the vehicle for purposes of issuing the citation. The person may respond by filing a certificate of innocence. The penalties for speeding are the same as currently provided for by statute. The bill precludes a citation from being issued unless the person exceeds the designated speed by 11 mph or greater.

HB 2409 took effect August 7, 2017.

3. HB 2597 (Ch. 629) Motor Vehicles and Mobile Communication Devices

HB 2597 modifies ORS 811.507, which prohibits the operation of a motor vehicle while using a mobile communication device. Currently, the offense is a class C traffic violation, subject to a fine and potential consequences on a person's driving privileges.

In *State v. Rabanales-Ramos*, 273 Or App 228 (2015), the Oregon Court of Appeals issued an opinion regarding what constitutes probable cause for law enforcement to initiate a traffic stop. The court concluded it was not objectively reasonable to believe the person "used" their phone within the meaning of ORS 811.507, when the person operated the motor vehicle and held the phone near their head for ten seconds.

HB 2597 amends ORS 811.507 in response to the *Rabanales-Ramos* opinion and provides that a person violates the statute by merely holding an electronic device in their hands while operating a motor vehicle upon a public highway. The bill defines terms, and it contains exemptions and affirmative defenses.

Additionally, the bill increases the penalties for violations of ORS 811.507. A person's first offense is a class B traffic violation, unless the offense resulted in an accident, at which point it would be elevated to a class A violation. The fine for a person's first conviction may be suspended if the person attends a distracted driving course. A person's second offense is a class A violation. A person's third offense is a class B misdemeanor, with a mandatory minimum fine of $2,000.

The bill took effect October 1, 2018.

4. HB 2598 (Ch. 388) Vehicular Assault

ORS 811.060 defines the offense of vehicular assault, a class A misdemeanor, which applies to persons who recklessly operate a vehicle upon a highway in a manner that results in contact between the person's vehicle and a bicycle or pedestrian. HB 2598 expands the statute to include contact with operators or passengers of motorcycles.

The bill takes effect January 1, 2018.

5. HB 2638 (Ch. 655) Ignition Interlock Devices

HB 2638 sets new standards and procedures regarding ignition interlock devices. The bill establishes standards for those who provide ignition interlock device services. It requires these service centers to be certified by the Department of Transportation, until July 1, 2019, at which point the certification obligation is transferred to the Oregon State Police. The bill requires employees of service centers receive criminal background checks. It requires service centers provider fees, sufficient to cover the costs of administering the program. It establishes a complaint process regarding service providers. Additionally, it establishes an ignition interlock fund, separate from the general fund, that shall consist of fees obtained from issuance and renewal of service center certificates.

The bill requires the service center document by GPS the location of the ignition interlock device at the time of a negative report. It requires service centers to notify the court, the district attorney, and the Oregon State Police, when a customer produces a negative report. It authorizes courts to order additional participation in drug and alcohol treatment if a person produces at least two negative reports during the diversion agreement.

HB 2638 took effect on October 6, 2017. However, Sections 1 through 15 becomes operable on July 1, 2018. The remaining sections become operable on July 1, 2019.

6. HB 2721 (Ch. 658) Assault/Highway Flagger or Worker

ORS 163.165 defines the offense of assault in the third degree. Certain behavior constituting assault in the fourth degree is elevated to assault in the third degree depending upon the location of the assault, the circumstances surrounding the assault, or the status of the victim.

HB 2721 adds highway workers and flaggers, working in their official duties, to the list of victims triggering the elevation to assault in the third degree.

The bill took effect August 8, 2017.

7. HB 3446 (Ch. 439) Driving While Suspended

ORS 161.705 authorizes trial courts to reduce class C felonies to class A misdemeanors, either at the time of conviction, or following a successful completion of probation. A few other class A and B felonies may be reduced to a class A misdemeanor, but only after the successful completion of probation. Prior to September 1, 1999, driving while suspended or revoked could be prosecuted as a class B felony if the person was a habitual offender, and those offenses cannot be reduced to a misdemeanor.

Similar to ORS 161.705, HB 3446 allows the court to reduce driving while suspended or revoked offenses to a class A misdemeanor if:

1) the suspension or revocation resulted from a habitual offender designation,
2) the person successfully completed probation, and
3) the court finds that, considering the nature and circumstances of the crime and the history and character of the person, it would be unduly harsh for the person to continue to have a felony conviction.

HB 3446 takes effect January 1, 2018.

8. SB 35 (Ch. 189) Motor Vehicle Accident Report

ORS 811.720 and 811.745 establish when a person, involved in an accident occurring on a highway or premises open to the public, must submit a motor vehicle accident report. Currently, a report is required if the accident (1) results in injury or death or (2) results in damage to property of more than $1,500. SB 35 increases that amount, so that a report is required only if the damage to property is $2,500 or more.

SB 35 takes effect January 1, 2018.

9. SB 252 (Ch. 319) Hardship Permits

When a person has their driving privileges suspended or revoked, they may receive a hardship permit, which grants authority to qualifying persons to drive for specific purposes. SB 252 modifies several statutes – ORS 807.240, 807.250, 807.252, 813.500, and 813.510 – which establish rules for the issuance of hardship permits. The measure adds "gambling addiction treatment" to the list of purposes for which a hardship permit may be issued.

The measure takes effect January 1, 2018.

10. SB 493 (Ch. 337) Assault/Motor Vehicle

SB 493 amends ORS 163.160, which defines the crime of assault in the fourth degree, a class A misdemeanor that can be elevated to a class C felony in certain circumstances.

Currently, the statute contains two separate provisions. First, a person commits the crime if the person intentionally, knowingly, or recklessly causes physical injury to another person. Second, a person commits the crime if the person, with criminal negligence, causes physical injury to another by means of a deadly weapon. Per ORS 161.015, a motor vehicle is not a deadly weapon.

SB 493 adds a third provision by expanding the offense to includes persons who, with criminal negligence, cause serious physical injury to a vulnerable user of a public way by means for motor vehicle. Vulnerable road user is defined by ORS 801.608, and includes pedestrians, bicyclists, and highway workers, amongst others. Unlike sections 1(a) and 1(b) of the existing statute, this new provision cannot be elevated to a class C felony.

SB 493 takes effect January 1, 2018.

11. SB 961 (Ch. 491) DUII Diversion

SB 961 modifies ORS 813.210, which establishes the timeline and filing requirements in DUII diversion cases. Entering a DUII diversion program requires the person accused to forego their right to trial and enter a plea of guilty or not contest. Currently, a person has 30 days from their first appearance in court to file a petition with the court requesting their DUII offense be diverted.

In many cases, the person quickly receives all of the evidence needed to assess whether they should enter a plea rather than having a trial. In some case, however, the evidence of impairment is not readily available, as it is awaiting processing at a laboratory. The court can extend the 30 day time period for good cause, but is not required to.

SB 961 provides certainty to those cases in which (1) evidence is still being processed at a laboratory and (2) the defendant has not been notified what the blood alcohol content was at the time of the event. In those cases, the defendant has 14 days following receipt of the laboratory notes or test results to file the DUII diversion petition.

SB 961 takes effect January 1, 2018.

III. CRIMES AGAINST INDIVIDUALS

1. HB 2740 (Ch. 395) Trafficking of Persons

ORS 163.266 establishes the offense of trafficking in persons, a class A felony, which applies to those who knowingly recruit, entice, harbor, transport, provide, or obtain by any means another person and the person knowing or recklessly disregards the fact that the other person is under 15 years of age and will be used in a commercial sex act.

HB 2740 modifies the age requirement for victims and extends the application of the statute to victims under the age of 18, rather than 15.

HB 2740 takes effect January 1, 2018.

2. HB 2988 (Ch. 430) Harassment of Family and Household Members

HB 2988 modifies ORS 166.065, which establishes the offense of harassment. A person commits the offense in several ways, including the intentional harassment or annoyance of another person by subjecting the person to offensive physical contact. Currently, that offense is a class B misdemeanor.

HB 2988 reclassifies the offense as a class A misdemeanor when the victim is a family or household member, and the offense is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child, stepchild, or a minor child residing within the household of the person or victim. The bill also directs the Oregon Criminal Justice Commission to classify the offense as a person class A misdemeanor for criminal history calculations. This version differs from House Bill 2988 by clarifying that the offense is reclassified only if the victim is a family or household member.

HB 2988 takes effect January 1, 2018.

3. SB 247 (Ch. 318) Deviate Sexual Intercourse

Currently, the definition of certain sex offenses includes the term "deviate sexual intercourse," which is defined by ORS 163.305 as "sexual conduct between persons consisting of contact between the sex organs of one person and the mouth or anus of another." SB 247 maintains that definition, but renames the term "oral or anal sexual intercourse.

SB 247 takes effect January 1, 2018.

4. SB 249 (Ch. 245) Motion to Vacate Conviction for Prostitution

SB 249 establishes a new procedure for those convicted of prostitution to file a motion to vacate the judgment of conviction. A person commits the offense of prostitution if the person engages in, or offers or agrees to engage in, sexual conduct or sexual contact in return for a fee.

The measure allows those convicted to seek relief and have the judgment of conviction vacated if the person can establish they were the victim of sex trafficking at or around the time of the offense. The process is triggered by filing a motion with the court, and the court would be required to conduct an evidentiary hearing. The court would be required to grant the

motion to vacate if the person provided clear and convincing evidence they were a victim of sex trafficking at or around the time of the offense.

SB 249 takes effect January 1, 2018.

5. SB 250 (Ch. 246) Affirmative Defense to Prostitution

SB 250 amends ORS 167.007, which establishes the offense of prostitution, a class A misdemeanor. A person commits the offense if the person engages in, or offers or agrees to engage in, sexual conduct or sexual contact in return for a fee.

SB 250 creates an affirmative defense to a prosecution for prostitution. Those who, at the time of the alleged offense, were a victim of human trafficking as defined in ORS 163.266(1)(b) or (c), would not be criminally responsible for violations of ORS 167.007. The defendant carries the burden of proving the affirmative defense by a preponderance of the evidence.

SB 250 takes effect January 1, 2018.

IV. OTHER CRIMES

1. HB 2987 (Ch. 99) Providing False Information to Police

HB 2987 amends ORS 162.385, which currently defines the offense of giving false information to a peace officer ("furnishing false information"), a class A misdemeanor. Under the statute prior to HB 2987, a person commits the offense if the person knowingly uses or gives a false or fictitious name, address, or date of birth to any peace officer for the purpose of (1) the officer's issuing or serving a citation, or (2) the officer's arresting the person on a warrant.

In State v. Moresco, 250 Or App 405 (2012), the Oregon Court of Appeals held that the prosecution must establish proof at trial of the person's purpose for providing false information to law enforcement. It's not sufficient to show that the person provided false information. Rather, the prosecution must establish that the peace officer requested the person's information for a specific purpose.

HB 2987 eliminates the specific purpose requirement in ORS 162.385 and expands criminal liability to those who provide false information and have an outstanding warrant, regardless of whether the peace officer's purpose is to execute a warrant at the time of the offense.

HB 2987 takes effect January 1, 2018.

2. HB 3047 (Ch. 502) Drones

HB 3047 modifies and establishes law relating to unmanned aircraft systems, commonly referred to as "drones." Currently, ORS 837.365 establishes a class A misdemeanor offense for those who intentionally, knowingly, or recklessly operate a drone that is capable of firing a bullet, a projectile, or functioning as a dangerous weapon.

Section 1 of the measure adds a tiered approach. Pursuant to (2)(a), violations of the statute would presumptively remain a class A misdemeanor. However, pursuant to (2)(b), a violation of the statute involving the actual firing of a bullet or projectile would became a class C felony. Additionally, (2)(c) states that violations of the statute that causes the drone to function as a dangerous weapon and causes serious physical injury would be a class B felony. The measure provides exemptions from criminal liability.

Section 2 adds "accident scene" to the list of permissible spaces where law enforcements can use drones.

Section 4 creates a new offense for those who operates drones over the boundaries of privately owned premises, and intentionally, knowingly, or recklessly harass or annoy the owner or occupant of the premises. The first and second offenses are violation level offenses, and the third offense would become a class B misdemeanor.

HB 3047 took effect June 29, 2017

3. SB 257 (Ch. 519) Official Misconduct in the First Degree

SB 257 modifies ORS 162.415, which defines the offense of official misconduct in the first degree, a class A misdemeanor. Currently, the offense is established if a public servant (as defined in ORS 162.005), with the intent to obtain a benefit or harm another person, (a) knowingly fails to perform a duty imposed on the public servant, or (b) knowingly performs an unauthorized act.

SB 257 elevates certain cases of official misconduct in the second degree to official misconduct in the first degree. Public servants who commit official misconduct in the second degree, and also are aware of, and consciously disregard, certain risks to vulnerable persons, would be subject to the elevated penalty. Those risks include the risk of physical injury to a vulnerable person; (b) the risk of a sex crime against a vulnerable person, or (c) the risk of withholding necessary and adequate food, physical care, or medical attention from a vulnerable person.

SB 257 takes effect January 1, 2018.

4. SB 357 (Ch. 454) Interfering with Public Transportation

SB 357 modifies ORS 166.116, which establishes the offense of interfering with public transportation. The offense can be committed in four ways, with each being a class A misdemeanor.

ORS 166.116(1)(a) provides that a person commits the offense if the person intentionally or knowingly enters or remains in or on a public transit vehicle or station. ORS 164.245 defines the offense of criminal trespass in the second degree, a class C misdemeanor, which applies to those who enter or remain unlawfully in a motor vehicle or upon premises. Accordingly, the penalties for those who trespass property belonging to public transit are more severe than those who trespass other property.

SB 357 aligns those penalties, and reduces the penalty for violation of ORS 166.116(1)(a) to a class C misdemeanor for the first three offenses. The fourth offense would elevate to a class A misdemeanor.

SB 357 takes effect January 1, 2018.

5. SB 483 (Ch. 649) Unlawful Use of a Global Positioning System

SB 483 creates a new crime for those who unlawfully use a global positioning system (GPS) device. A person commits the offense if the person knowingly affixed a GPS device to a motor vehicle without the consent of the owner. A police officer affixing a GPS device to a motor vehicle pursuant to a warrant or court order is exempt from the statute, as is a person attaching a GPS device to a motor carrier, as defined by ORS 825.005.

The offense is class A misdemeanor, but is elevated to a class C felony if, at the time of the offense, the person:

1) has a prior conviction for stalking or violating court's stalking order,
2) has received a citation for a stalking protective order, or
3) is subject to other court protective orders.

SB 483 takes effect January 1, 2018.

V. JUVENILE OFFENDERS

1. HB 2579 (Ch. 79) Reentry Services for Youth Offenders

Currently, a person sentenced in adult court is subject to incarceration and supervision by the Oregon Youth Authority ("OYA") if the person is (1) a minor at the time of the offense and (2) sentenced prior to the age of 20. The person may remain in OYA custody until the age of 25, at which point the Department of Corrections assumes authority. HB 2579 authorizes

OYA to help integrate persons into the community by providing reentry support and services. Those services may be offered until the person reaches the age of 25, or the person's sentence is complete, whichever is earlier.

The bill takes effect January 1, 2018.

2. HB 2616 (Ch. 389) Juvenile Waiver of Counsel

HB 2616 requires the court to appoint counsel for a youth who is the subject of a juvenile delinquency petition when the youth is alleged:

1) to have committed an offense which is classified as a crime;
2) at any proceeding concerning a probation violation; and
3) in any case in which the youth would be entitled to court appointed counsel if the youth were an adult charged with the same offense.

Appointment of counsel is conditioned on the court's determination that the youth qualifies for court appointed counsel at state expense.

The youth may not waive counsel unless:

1. The youth is 16 or over;
2. The youth has consulted with counsel regarding their right to counsel;
3. A written waiver is filed with the court; and
4. A hearing is held where the youth appears with their attorney and the court finds the waiver to be knowingly, voluntarily and intelligently made.

Youth may waive counsel in diversion cases, also known as formal accountability agreements under ORS 419C.230, provided the youth has been informed, in writing of their right to counsel and the waiver of counsel is in writing, signed by the youth, and presented to the youth's juvenile department counselor.

HB 2616 goes into effect on January 1, 2018.

3. HB 3242 (Ch. 431) Recording of Custodial Interviews of Youth

HB 3242 requires that certain custodial interviews of youth be electronically recorded. Currently, ORS 133.400 requires the electronic recordation of custodial interviews when a peace officer interviews a person at a law enforcement facility, in connection with an investigation into aggravated murder or a crime listed in ORS 137.700 or 137.707 (typically referred to as "Measure 11 crimes"). If the state seeks to introduce a statement at trial that should have been electronically recorded, but was not, the defendant can request a special jury instruction be provided on the superiority of electronic recording. The court does not have authority to exclude the statement for violation of the statute.

HB 3242 adds custodial interviews of youth to the requirements of ORS 133.400. The custodial interview of a youth by a peace officer at a law enforcement facility would need to be electronically recorded if the interview was made in connection to any felony. The court would continue to lack authority to exclude a statement that was erroneously unrecorded. However, the court shall consider the superior reliability of electronic recordings in determining the evidentiary value of the evidence. The measure requires the electronic recordings be disclosed to the defendant as part of discovery.

HB 3242 takes effect January 1, 2018.

4. SB 82 (Ch. 194) Youth in Solitary Confinement

SB 82 amends ORS 420A.108, which establishes principles governing the regulation and treatment of youth in the custody of the Oregon Youth Authority. The bill states that sanctions and punishment of youth may not include placing a youth alone in a locked room.

SB 82 takes effect January 1, 2018.

5. SB 762 (Ch. 347) Minor in Possession of Alcohol/Immunity

SB 762 grants immunity from prosecution to certain minors who violate ORS 471.430, which generally prohibits minors from acquiring, purchasing, or attempting to purchase alcohol. Currently, ORS 471.430 contains an immunity provision, commonly referred to as a "good Samaritan" law, which grants immunity to those who contact or receive emergency medical services due to alcohol consumption, and the evidence was obtained as a result of the contact for emergency medical services. The purpose of this immunity is to ensure minors seek help for alcohol related medical emergencies without fear of prosecution.

This measure has a similar purpose, and it grants immunity for violations of ORS 471.430 to those who contact emergency medical services or law enforcement because they are the victim of a sexual assault, or those who seek to obtain medical or law enforcement assistance for a victim of a sexual assault. The immunity only attaches to prosecutions under ORS 471.430, and it does not authorize the suppression of evidence for any other criminal offense.

SB 762 takes effect January 1, 2018.

VI. CRIME VICTIMS

1. HB 2621 (Ch. 108) Crime Victim Compensation

HB 2621 makes several changes to Oregon's statutes regarding crime victim compensation, which is administered by the Department of Justice.

Section 1 modifies ORS 147.015, which establishes eligibility for a crime victim award of compensation. Currently, eligibility requires law enforcement to be notified within 72 hours of the crime, unless good cause exists. Being subjected to sexual exploitation is prima facie evidence of good cause. This section expands the number of offenses that constitute prima facie evidence of good cause to include domestic violence as defined by ORS 135.230, sexual abuse as defined by ORS 163.760, and stalking as defined by ORS 163.732. Additionally, the section further defines what satisfies the obligation to notify law enforcement.

Section 2 increases the rate for which a crime victim can be compensated for loss of earnings, and loss of support to the dependents of the victims, from $400 per week to $600 per week. It also authorizes an award of up to $1,500 for prescription medication associated with counseling.

Section 3 amends ORS 147.145 and authorizes the Department of Justice to extend the 30-day time period to review an award decision, but only with the permission of the award applicant.

Sections 4 and 5 authorize the Department of Justice to request and obtain police reports and records from the Department of Human Services in order to assess the issuance of a crime victim compensation award.

Section 6 establishes the forensic interview related to child abuse as a compensable expense.

HB 2621 takes effect January 1, 2018.

2. HB 2972 (Ch. 57) Crime Victim Rights

HB 2972 prohibits a public university, community college, or private university or college, from imposing or threatening to impose discipline, to influence the decision of a victim of sexual assault, domestic violence, or stalking will report or participate in the investigation of the alleged incident.

HB 2972 takes effect January 1, 2018.

3. HB 3077 (Ch. 171) Crime Victims

HB 3077 amends two statutes relating to crime victims.

Section 1 amends ORS 135.815, which governs the discovery obligations in criminal cases. ORS 135.815(5) precludes an attorney, or an agent of the attorney, from disclosing certain personal information to the defendant in a criminal case unless certain findings are made by the court. The personal information includes the address, telephone number, Social

Security number, date of birth, and financial account information of a witness or victim. This measure adds the victim's email address and social media account information to the list of information that cannot be disclosed to the defendant.

Section 2 amends ORS 147.417, which establishes the obligations of law enforcement agencies to notify victims in criminal cases. Currently, law enforcement agencies must notify a person who reasonably appears to be a victim of a criminal case as soon as practicable regarding their rights pursuant to section 42, Article I of the Oregon Constitution. The notification can be written or oral. This measure clarifies that the notice may be provided electronically, and that the notice may be sent to the cell phone number or email address of the victim.

HB 3077 takes effect January 1, 2018.

4. SB 26 (Ch. 225) Local Public Safety Coordinating Council

ORS 423.560 requires each county's board of commissioners to establish a local public safety coordinating council which is responsible for (1) developing plans regarding the allocation of criminal justice resources and (2) developing criminal justice policy, at the local level. The statute establishes a non-inclusive list of criminal justice stakeholders to serve on the LPSCC.

SB 26 adds a representative of a community-based nonprofit organization to the list of stakeholders required to serve on the LPSCC.

SB takes effect January 1, 2018.

5. SB 795 (Ch. 349) Crime Victim/Advocate

When a sexual assault victim elects to participate in a medical assessment, SB 795 requires the provider of a medical assessment (or a law enforcement officer) to contact a victim advocate and take steps to ensure the presence of the victim advocate at the medical assessment. The victim advocate is prohibited from impeding the medical assessment, and the advocate must inform the victim that that the victim may decline the services of the advocate.

SB 795 takes effect January 1, 2018.

VII. CRIMINAL PROCEDURE AND ADMINISTRATION OF THE JUSTICE SYSTEM

1. HB 2238 (Ch. 614) Public Safety Task Force

HB 2238 re-establishes the Public Safety Task Force, which consists of 13 members appointed to two-year terms. The task force will

1) study security release, bail, and pretrial detention;
2) study the impact of criminal fines and fees; and
3) review the implementation of the Justice Reinvestment Program.

The task force will submit their findings and recommendation to the Legislative Assembly and the Governor by September 15, 2018.

Additionally, the bill modifies the procedures for obtaining a racial and ethnic impact statement ("statement") on proposed legislation. For legislation affecting criminal law, the bill requires that a legislator from each major political party make a request to initiate a statement, and the Criminal Justice Commission will prepare the statement. For legislation affecting human services, the Department of Human Services temporarily assumed this responsibility, but as of January 1, 2018 they will be prepared by the Criminal Justice Commission.

The bill took effect on July 3, 2017.

2. HB 2249 (Ch. 150) Department of Corrections Supplemental Funding

HB 2249 authorizes the Department of Corrections to provide additional reentry funding and services for offenders released from before the age of 25.

The bill takes effect January 1, 2018.

3. HB 2251 (Ch. 134) Department of Corrections Age Requirements

HB 2251 precludes any person under the age of 18 from being incarcerated at a Department of Corrections' institution.

The bill takes effect January 1, 2018.

4. HB 2594 (Ch. 53) Compact of Free Association

HB 2594, Section 1 amends ORS 181A.055 to allow nonimmigrants legally admitted to the U.S. under a Compact of Free Association to become a member of the state police. The term "state police" under HB 2594 includes police officers, certified reserve officers, corrections

officers, or parole and probation officers. Nonimmigrants legally admitted to the U.S. must still comply with the other requirements for a person to be appointed a member of the state police.

HB 2594, Section 2 amends ORS 181A.490 to apply to nonimmigrants legally admitted to the U.S. under a Compact of Free Association, the same requirements for being allowed to be employed as a police officer, or utilized as a certified reserve officer for more than 18 months that apply to citizens. This section also applies the requirements in regard to training and the same rules in regard to delays of training to nonimmigrants legally admitted in the U.S. as are applied to citizens employed as police officers or certified reserve officers by a law enforcement unit. The bill makes similar changes in Sections 3 and 4 applying to corrections officers and to parole and probation officers respectively.

HB 2594 takes effect on January 1, 2018.

5. HB 2797 (Ch. 712) Fines for Violation Offenses

ORS 153.019, 153.020, 153.021, and 153.633 establish presumptive fines for violation level offenses. HB 2797 increases the presumptive fines for these offenses by five dollars. For additional information about this bill, please see the Judicial Administration chapter.

HB 2797 took effect on August 15, 2017

6. SB 131 (Ch. 240) Telephonic Testimony

SB 131 modifies ORS 45.400, which governs the use of telephonic or other two-way electronic testimony in civil proceedings and proceedings under ORS 419B. Currently, ORS 45.400 permits telephone testimony in these proceedings under certain circumstances and a showing of good cause. However, telephonic testimony is not permitted if doing so triggers one of the factors in ORS 45.400(3).

SB 131 continues to authorize trial courts to receive telephonic or other two-way electronic testimony. But rather than a flat prohibition under certain circumstances, the measure affords a court more discretion in determining admissibility. The measure defines "remote location testimony," and states a trial court may allow remote location testimony, unless the court determines that the use of remote location testimony would result in prejudice to the nonmoving party and the prejudice outweighs the good cause for allowing the remote location testimony. The measure lists factors that a court may consider in determining good cause and prejudice, and requires courts give due consideration to a person's liberty interests and parental interests.

SB 131 took effect June 6, 2017.

7. SB 497 (Ch. 338) Motions to Set Aside

SB 497 modifies the definition of "arrest" in ORS 137.225, commonly referred to as Oregon's expungement statute. Any time someone is arrested or cited into court, a permanent record is created. Timelines exist that determine when a person may file a motion to set aside a record of arrest. Currently, there is some ambiguity regarding the meaning of the term "record of arrest." Some jurisdictions limit motions to set aside to cases where the person was formally arrested and taken into custody, and do not authorize the motion when the person received a less restrictive citation to appear in court.

SB 497 resolves the ambiguity and clarifies that the issuance of a criminal citation or criminal charge are events subject to a motion to set aside.

SB 497 takes effect January 1, 2018.

8. SB 505 (Ch. 650) Recordation of Grand Jury Proceedings

A felony prosecution can be initiated in two ways – a preliminary hearing or a grand jury proceeding. ORS 135.070 to 135.173 establish the procedures for preliminary hearings, and ORS 135.145 requires the recordation of testimony in preliminary hearings. No such rule exists for grand jury proceedings.

SB 505 requires the recording of testimony in grand jury proceedings. The bill provides for a phased-in implementation of the recordation requirement. The bill requires recordation effective March 1, 2018 in judicial districts with a population between 150,000 and 300,000 or over 700,000, which include Deschutes, Jackson, and Multnomah counties. The requirement applies to all counties effective July 1, 2019.

The bill requires the district attorney of each county to ensure grand jury proceedings are electronically recorded. The Oregon Judicial Department is responsible for maintaining the recording equipment and purchasing new equipment as needed. The district attorney is responsible for storing and maintaining the recordings.

The district attorney shall delegate the recording requirement to one grand juror already serving on the grand jury. The inadvertent failure on the part of the recording equipment, or the grand juror, to accurately record the proceedings does not affect the validity of any prosecution or indictment. The recordation requirement would apply to the case name and number, the name of each witness, and each question asked of, and each response provided by, a witness appearing before the grand jury. The deliberations of the grand jury would not be subject to recordation.

When a grand jury returns an indictment endorsed as a "true bill," and following the arraignment of the defendant, the prosecuting attorney and a defense attorney representing the defendant may obtain a copy of the audio recording of the grand jury proceedings. The bill

provides that unless a court orders otherwise, the defense attorney shall not disclose to the defendant information from the grand jury recording concerning the address, phone number, date of birth, driver license or vehicle registration information of a victim, witness or grand juror.

A defendant not represented by counsel may request a copy of the recording or transcript from the court, which may set conditions on the release of the recording. In resolving these motions, the court is required to appoint counsel for the limited purpose of reviewing the audio recording.

The bill prohibits the release of recordings, transcripts, and notes unless a grand jury returns a "true bill" concerning the matter under review, except that upon certain findings a court may order the release when a grand jury inquires into the conduct of a public servant.

The bill provides that the prosecuting attorney, the victim, or a witness may file a motion for a protective order that would deny, restrict, or defer access by the defense attorney or defendant to the recording or transcript of grand jury proceedings. The court may grant such a motion upon a showing of substantial and compelling circumstances that the order is need for the protection of witnesses and others from harm, or as required for effective investigation of criminal activity, or to protect information made confidential by law, or for any other relevant considerations.

Unless a court orders otherwise, the prosecuting attorney and the defense attorney may not copy or release the recording or transcript of the grand jury proceedings, except to provide agents of the attorneys a copy for the limited purpose of case preparation. The bill provides that the recording or transcript may not be used for purposes of challenging the validity of an indictment or prosecution that led to an indictment. The recording or transcript may be used as evidence in subsequent proceedings as permitted by specific provisions of the Oregon Evidence Code.

The bill also amends ORS 132.320, which specifies the types of evidence that a grand jury may receive. Current law provides that a grand jury shall receive only evidence that would be admissible in a trial of the person charged with the crime in question, except for certain specified reports, affidavits, and the testimony of one police officer about information from an official report of another police officer involved in the criminal investigation of the matter before the grand jury. The bill expands the existing hearsay exceptions for grand jury testimony of police officers to include statements of witnesses who cannot readily understand the proceedings or who cannot communicate in the proceedings because of a physical or developmental disability, and of victims less than 18 years of age.

9. SB 507 (Ch. 339) Motions to Set Aside

SB 507 is a technical amendment to clarify that certain motions to set aside pursuant to ORS 137.225, commonly referred to as "expungement," may be filed for both misdemeanor

offenses and class C felony offenses. Prior to a revision of the statute by the 2015 Legislative Assembly, the language authorized motions to set aside for any offense punishable as a misdemeanor. Pursuant to ORS 161.705, class C felonies are capable of reduction to a class A misdemeanor.

The new language in SB 507 takes effect January 1, 2018.

10. SB 719 (Ch. 737) Extreme Risk Protection Order

SB 719 creates a process for an individual to petition the court for an extreme risk protection order enjoining an individual from possessing a dangerous weapon, including a firearm.

Under the bill, violation of an extreme risk protection order is a Class A misdemeanor. Likewise, petitioning for such an order with the intention to harass the respondent or filing a petition containing information the petitioner knows to be false is also a Class A misdemeanor.

For more information about SB 719, see the Domestic Relations Chapter. This bill takes effect on January 1, 2018.

11. SB 896 (Ch. 529) Direct Criminal Appeals

SB 896 is the product of a work group, established through the Oregon Law Commission, which engaged in a comprehensive review of chapter 138 of Oregon Revised Statutes, which governs appeals in criminal cases. The work group included stakeholders from the Oregon Judicial Department, the Department of Justice, the Office of Public Defense Services, the Oregon State Bar, the Oregon District Attorney's Association, and the Oregon Criminal Defense Lawyers Association. Senate Bill 896 is the product of that review and contains consensus revisions, some technical, and some substantive, of chapter 138.

The measure clarifies concepts related to "appealability" (which establishes which orders and judgments can be appealed to an appellate court), and "reviewability" (which establishes which of those appealed orders and judgment can actually be reviewed by the appellate courts). In addition, it establishes in statute what specific types of judgements and orders and can be appealed, by whom they can be appealed, and when they can be appealed. It reorganizes certain appellate procedures, and revises provisions concerning the filing and service of a notice of appeal.

The measure expressly provides for appellate review of misdemeanor sentences and merger issues. It defines what intermediate court orders are subject to appellate review, clarifies the trial court's authority to enter certain corrected judgment during the pendency of an appeal, and clarifies and defines the dispositional authority of the appellate courts.

SB 896 takes effect January 1, 2018.

12. SB 931 (Ch. 359) Alternate Jurors

SB 931 makes modifications to statutes regarding the use of alternate jurors in criminal cases. The bill amends ORS 136.260, and provides the trial court with more flexibility in selecting alternate jurors. Additionally, it amends ORS 136.280 and allows an alternate juror to replace a juror after deliberations have begun, if the juror is unable to deliberate because of death, sickness, or other sufficient cause. This provision requires the existence of an alternate juror, and an agreement to the substitution prior to the beginning of trial. It applies to a trial regarding sentencing enhancement facts as well. When an alternate juror substitutes on to the jury, the court shall instruct the jury to begin deliberations anew.

SB 931 takes effect January 1, 2018.

13. SB 960 (Ch. 361) Sexual Assault Forensic Evidence Kits

SB 960 amends legislation originally passed in 2016 which established policies regarding the retention and testing of sexual assault forensic evidence kits. It requires the reclassification of a kit from anonymous to non-anonymous when a victim who previously did not participate in the creation of a sexual assault report subsequently does participate. The bill then requires the kit be sent to the Oregon State Police for testing within 14 days of being reclassified as non-anonymous.

SB 960 takes effect January 1, 2018.

VIII. SENTENCING AND CUSTODY

1. HB 2360 (Ch. 418) Sex Offender Registration Obligations

HB 2360 amends ORS 163A.040, which establishes penalties for those who fail to register as a sex offender. In 2009, the obligation that a sex offender register "following a change in residence," was changed to "moves to a new residence and fails to report the move." In State v. Hiner, 269 Or App 447 (2015), the Oregon Court of Appeals interpreted the change to require proof that the defendant both (1) left his former residence and (2) acquired a new residence. This bill returns the pre-2009 language and no longer requires proof that the defendant acquired a new residence.

The bill took effect July 13, 2017 and sunsets January 1, 2022.

2. HB 3078 (Ch. 673) Felony Sentencing

HB 3078 contains three concepts relating to felony sentencing.

- Family Sentencing Alternative Pilot Program – Section 2 modifies eligibility for the Family Sentencing Alternative Pilot Program (FSAPP). FSAPP offers funds for probation services in several counties for people with children facing prison sentences. The funds provide wraparound services and allow community corrections to coordinate with DHS in services and supervision. There are certain offenses, both past and current, that disqualify a person from eligibility. This measure does three things to FSAPP. It modifies eligibility by expanding the program to a person who is pregnant at the time of sentence. It eliminates certain disqualifying past convictions. And it makes eligibility for the program a mitigating factor that can support a departure sentence under the rules of the Criminal Justice Commission (CJC).

- Short-Term Transitional Leave – Section 4 amends ORS 421.168, which governs the short-term transitional leave, and authorizes the Department of Corrections (DOC) to transition a person from prison to the community prior to the person's DOC discharge date. Currently, a person may receive up to 90 days of short-term transitional leave. This measure expands that to 120 days.

- Sentencing for Identity Theft/Theft 1 – Section 5 amends ORS 137.717, which governs the sentencing of repeat felony offenders. ORS 137.717 was enacted in 1996, in response to the sentencing practices established by the rules of the CJC. The statute required prison sentences of either 13 months or 19 months, depending upon the specific property offense being sentenced, and the number of prior property offenses. The sentences pursuant to the statute were presumptive sentences, and allowed the court to depart from those sentencing if substantial and compelling reasons exist.

In 2008, the voters of Oregon passed Ballot Measure 57, which amended ORS 137.717. It increased the length of prison sentences for property offenses, reduced the number of predicate convictions that triggered a prison sentence, and eliminated most judicial discretion. Section 5 removes the penalties for two property offenses – identity theft and theft in the first degree – and reinstates the previous penalties. It maintains the Ballot Measure 57 penalties for the other qualifying felony property offenses.

HB 3078 takes effect January 1, 2018.

3. HB 3176 (Ch. 123) Domestic Abuse as a Mitigating Factor

ORS 137.090 establishes procedures for the trial court to consider mitigating and aggravating factors in imposing a sentence. Currently, the statute authorizes the court to consider the defendant's status as a service member as a mitigating factor.

HB 3176 authorizes the court to consider, as a mitigating factor, whether the defendant committed the crime while under duress, compulsion, direction, or pressure of domestic abuse or violence from another person.

HB 3176 takes effect January 1, 2018.

4. HB 3438 (Ch. 438) Department of Corrections/Transitional Housing

HB 3438 requires the Department of Corrections (DOC) to include a transitional housing or treatment plan for which the offender has been accepted as a part of the offender's release plan.

Additionally, ORS 144.102 requires a released offender reside in the county in which the person resided at the time of the offense, for the first six months following release, if the offender was not on supervision at the time of the offense. Section 3 of the bill requires the Board of Parole and Post-Prison Supervision to consider eligibility for transitional housing and residential treatment programs when determining whether to waive that residency requirement. Section 4 requires the DOC and the Board of Parole and Post-Prison Supervision to determine annually (1) the number of offenders considered for waiver, and (2) the number who received a waiver.

HB 3438 takes effect January 1, 2018.

5. SB 360 (Ch. 522) Community Service Exchanges

SB 360 directs counties to establish community service exchanges programs that would allow certain offenders to complete community service in lieu of paying outstanding fines and fees, such as fees for supervision and court-appointed counsel. Certain fees and fines, such as restitution, child support, and traffic fines, are excluded. The bill defines community-based organization as any non-profit organization, or local or county government, and it requires the community-based organization to monitor the offender's participation.

SB 360 takes effect 91 days after sine die. Sections 1 and 2 take effect January 1, 2018.

6. SB 690 (Ch. 526) Certificates of Good Standing

SB 690 establishes procedures for the issuance of a Certificate of Good Standing ("Certificate"). A person convicted of a nonperson felony or class A misdemeanor may apply for a Certificate from a circuit court. The court may grant the Certificate if the court determines, by a preponderance of evidence, that the person:

1) has fully complied with the requirements of the person's sentence;
2) is not in violation of any conditions of the sentence;
3) is compliant with the financial obligations of the sentence;
4) has no criminal charges pending;
5) is engaged in, or seeking, a lawful occupation or activity, such as training, education, or rehabilitation.

The procedures established by the bill require that a person obtain from the supervising authority a written statement verifying the person has completed supervision and is eligible for a Certificate. If eligible, the person would file a petition with the circuit court, using a form prepared by the State Court Administrator. The county District Attorney shall be served with the petition and have an opportunity to object. The court can issue the Certificate without a hearing if the District Attorney does not object. If the court issues the Certificate, the Department of State Police shall enter its existence into the Law Enforcement Date System (LEDS) and ensure that the results of any subsequent criminal records check include the existence of the Certificate. If the court denies the issuance of the Certificate, that fact shall also be entered into LEDS.

The bill prohibits a District Attorney from conditioning a plea offer on eligibility, present or future, for a Certificate. The court shall revoke a Certificate if the person is subsequently convicted of a class A or B misdemeanor or a felony, or is found to have made a material misrepresentation in the petition for the Certificate. The bill creates a violation offense if a person knowingly presents, or attempts to present, a revoked or otherwise invalid Certificate. In a claim for negligent hiring, there is a rebuttable presumption that an employer was not negligent if the employer had notice at the time of hiring that the employee was the subject of a valid Certificate.

SB 690 takes effect January 1, 2018.

7. SB 714 (Ch. 689) Stalking/Residency Restrictions

ORS 137.540 establishes what conditions the court may impose upon a probationer. ORS 144.102 establishes what conditions the Board of Parole and Post-Prison Supervision ("Board") may impose on an offender subject to its jurisdiction.

SB 714 amends both statutes and authorizes reasonable residency restrictions on persons convicted of stalking or violating a stalking protective order. However, neither the court nor the Board may require the offender to change residence, if the victim moves to a location that causes the offender to be in violation of the condition.

SB 714 takes effect January 1, 2018.

8. SB 767 (Ch. 488) Sex Offender Registry

SB 767 is a result of Oregon's shift to a three-tiered sex offender registration system based on validated risk assessments. The bill extends the time the Board of Parole and Post-Prison Supervision ("Board") has to assess and classify offenders from December 1, 2018, until December 1, 2022, for those offenders who had a registration obligation prior to January 1, 2014. It extends the time period the Board or the Psychiatric Security Review Board has to

classify offenders released from its custody, from 60 days to 90 days. It eliminates the role of the Oregon Health Authority in the classification system.

SB 767 authorizes reclassification based on a factual mistake. Additionally, the bill establishes a procedure in which a person can challenge their classification, but only if they receive a level two or three classification. If an offender refuses to participate in the classification process, they will be assigned a level three classification.

SB 767 takes effect January 1, 2018.

9. SB 844 (Ch. 692) Inmate Trust Accounts

SB 844 authorizes the Department of Corrections (DOC) to collect money from a DOC inmate's trust account. It establishes which money is eligible for collection, and how that money may be dispersed, based on a tiered priority system. Additionally, the bill requires the Department of Justice (DOJ) and the Oregon Judicial Department (OJD) to provide DOC with an accounting of each inmate's court-ordered financial obligations, and requires DOJ and OJD to apply money received from DOC to these obligations.

SB 844 took effect August 8, 2017.

10. SB 1050 (Ch. 699) Sex Offender Sentencing

Currently, there are several statutes governing sentencing for felony sex crimes. Each felony sex offense is classified and subject to the sentencing guidelines of the Criminal Justice Commission. However, additional sentences exist for felony sex offenses. ORS 137.707 establishes mandatory minimum sentences for certain felony offenses. ORS 137.635 establishes determinate sentences for certain sex offenses when they have a requisite prior conviction. ORS 137.690 establishes a mandatory minimum penalty of 25 years prison for persons convicted of a major felony sex crime, and who have a prior conviction of a major felony sex crime. And ORS 137.719 establishes a presumptive life sentence without the possibility of parole for a person's third felony sex crime.

SB 1050 establishes a presumptive life sentence without the possibility of parole for a person's second felony sex crime, but only applies the penalty to certain felony sex offenses. Specifically, the penalty applies to a person convicted of rape in the first degree, sodomy in the first degree, or unlawful sexual penetration in the first degree, if at the time of the offense, the person has a prior conviction for one of those offenses, or an equivalent offense from another state. The court would have authority to depart from that sentence if it made findings that substantial and compelling reasons support a departure sentence.

SB 1050 takes effect January 1, 2018.

IX. MENTAL HEALTH

1. HB 2307 (Ch. 48) Guilty Except for Insanity Evaluations

HB 2307 addresses the obligations of certified evaluators assessing guilt except for insanity pursuant to ORS 161.309 and 161.315. The bill states that evaluators are not required to additionally assess the defendant's fitness to proceed, unless the issue is drawn into question during the evaluation.

The bill takes effect January 1, 2018.

2. HB 2308 (Ch. 628) Guilty Except for Insanity Evaluations

ORS 161.370 governs the procedures regarding "fitness to proceed" in criminal cases. It establishes the process for determining fitness to proceed, the process for restoring a defendant's fitness, and the limitations in fitness restoration. One limitation is the amount of time expended on restoration. Currently, the maximum period of commitment for restoration purposes is the longer of (1) the maximum sentence the court could impose, or (2) three years.

There are cases where a defendant is committed for restoration, returned to jail as fit to proceed, and then re-committed for restoration. ORS 161.370 provides that the defendant shall receive credit for each day the defendant is committed. HB 2308 amends ORS 161.370 by requiring the defendant also receive credit for each day in jail (unless the defendant is charged with aggravated murder).

The bill takes effect January 1, 2018.

3. HB 2309 (Ch. 49) Fitness to Proceed/Progress Reports

ORS 161.370 governs the procedures regarding "fitness to proceed" in criminal cases. It establishes the process for determining fitness to proceed, the process for restoring a defendant's fitness, and the limitations in fitness restoration. When a defendant is committed for restoration, the superintendent or director must submit a progress report to court at least every 180 days.

HB 2309 provides that the progress reports do not require an additional evaluation to be completed and submitted to the court. Rather, the report may simply contain updates to the original evaluation.

The bill takes effect January 1, 2018.

4. SB 63 (Ch. 232) Guilty Except for Insanity Juridiction

A person adjudicated as guilty except for insanity (GEI) is subject to the jurisdiction of the Psychiatric Security Review Board or the Oregon Health Authority. A hearing is held when either agency takes certain actions, such as transferring the person to a different facility, releasing the person from a facility, or discharging a person from care. Currently, either agency must notify the court that adjudicated the person prior to the hearing.

SB 63 eliminates the requirement that the agency notify the committing court prior to the hearings. Additionally, it extends the time period, from 15 to 30 days, for which the agency must produce the youth with written notice of the agency's order.

SB 63 takes effect January 1, 2018.

5. SB 64 (Ch. 634) "Mental Disease or Defect"

The legal term "mental disease or defect" is used in many contexts in Oregon's criminal code, as mental health issues often arise in criminal cases. Whether a person has a mental disease or defect impacts whether that person is fit to proceed, or qualifies for a defense such as diminished capacity or guilty except for insanity.

SB 64 simply replaces the term mental disease or defect with "qualifying mental disorder." The measure includes a preamble clarifying that the change is one of terminology only, and it is not intended to create a substantive change in law.

SB 64 takes effect January 1, 2018

6. SB 65 (Ch. 442) Psychiatric Security Review Board

SB 65 makes two changes affecting the Psychiatric Security Review Board (PSRB). Currently, the PSRB has authority to supervise tier one offenders, while the Oregon Health Authority supervises tier two offenders. SB 65 removes jurisdiction from the Oregon Health Authority and establishes jurisdiction for all people adjudicated as guilty except for insanity under the supervision of the PSRB.

Additionally, the bill expressly authorizes the PSRB to establish restorative justice programs, which are programs in which an offender's rehabilitation involves meeting with community members and victims.

SB 65 took effect June 22, 2017.

7. SB 66 (Ch. 233) Notifications for Persons with Mental Illness

SB 66 requires notice be provided to persons with mental illness following certain legal proceedings. First, it requires the court to notify persons, who are adjudicated guilty except for insanity for a sex crime, of their obligations to register as a sex offender. Second, it requires court to notify persons, who are involuntarily committed as a result of a mental disorder, that they are prohibited from purchasing or possessing firearms under federal state law unless they obtain relief from the Psychiatric Security Review Board. Finally, it requires the court to notify persons, found unfit to proceed in a criminal prosecution, that they are prohibited from purchasing or possessing firearms under federal law.

SB 66 takes effect January 1, 2018.

7

Channa Newell
Whitney Perez

Domestic Relations

I. DOMESTIC RELATIONS

1.	SB 102	(Ch. 637)	Adoption Education Fund
2.	SB 241	(Ch. 447)	Children of Incarcerated Parents
3.	SB 492	(Ch. 457)	Exchange of Financial Information in Spousal Support Proceedings
4.	SB 510	(Ch. 486)	Department of Justice Data Sharing
5.	SB 511	(Ch. 459)	Liquidated Debt
6.	SB 512	(Ch. 651)	Parentage
7.	SB 513	(Ch. 460)	Child Support Notices
8.	SB 514	(Ch. 461)	Obligee Notification
9.	SB 516	(Ch. 462)	Child Support Due Dates
10.	SB 517	(Ch. 463)	Credits on Child Support
11.	SB 522	(Ch. 341)	Life Insurance Recovery
12.	SB 682	(Ch. 464)	Suspension of Child Support Orders
13.	SB 719	(Ch. 737)	Extreme Risk Protection Order
14.	SB 751	(Ch. 466)	Marriage License Forms
15.	SB 765	(Ch. 467)	Child Support Enforcement Updates
16.	SB 830	(Ch. 351)	Definition of Current Caretaker
17.	SB 1055	(Ch. 534)	Deployed Parents Visitation

Channa Newell: 2010 University of Oregon Law School. Member of the Oregon State Bar since 2010.
Whitney Perez: 2007 Northwestern School of Law. Member of the Oregon State Bar since 2007.

I. DOMESTIC RELATIONS

1. SB 102 (Ch. 637) Adoption Education Fund

Federal funding for child welfare services come primarily from Title IV-E and IV-B of the Social Security Act. Recently, the federal government expanded the programs to allow reimbursement of state expenses in adoption assistance programs. The federal law requires that state money saved because of the increase in federal reimbursement must be reinvested in programs providing additional services to foster care and adoption assistance to families and must not be used to displace other state or federal funds. Federal reimbursements are claimed prior to the calculation of savings, leading to a situation in which the savings must be carried forward into the next biennium.

Without compliance and an approved Title IV-E State Plan, the state would be unable to receive Title IV-E funds.

Senate Bill 102 creates the Adoption Applicable Child Savings Fund, separate and distinct from the General Fund, for deposit of applicable federal child savings from adoption assistance payments.

This bill took effect on August 2, 2017.

2. SB 241 (Ch. 447) Children of Incarcerated Parents

SB 241 establishes certain essential rights for children of incarcerated parents, known as a "Bill of Rights of children of incarcerated parents". These rights include:

- to be protected from additional trauma at the time of parental arrest;
- to be informed of an arrest in an age-appropriate manner;
- to be heard and respected by decision makers when decisions are made about the child;
- to be considered when decisions are made about the child's parent;
- to be cared for in the absence of the child's parent in a manner that prioritizes the child's physical, mental, and emotional needs;
- to speak with, see, and touch the incarcerated parent;
- to be informed about local services and programs that can provide support to the child;
- to not be judged, labeled, or blamed for the parent's incarceration; and,
- to have a lifelong relationship with the incarcerated parent.

The Department of Corrections (DOC) is directed to develop guidelines based on these rights for use in policy and procedure decisions that impact incarcerated individuals with children and develop policy and funding recommendations with partners that follow these guidelines. SB 241 requires DOC to cooperate with an existing public body for implementation of this bill of rights. It is anticipated that DOC will work with the Governor's Reentry Council's Family and Community Connections & Engagement Team.

The bill takes effect on January 1, 2018.

3. SB 492 (Ch. 457) Exchange of Financial Information in Spousal Support Proceedings

Senate Bill 492 provides a post-judgment, out-of-court process for parties subject to a spousal support award to exchange financial documents.

In order to review the other party's financial documents, the requesting party must send his or her own financial documents with the request. Requests must be in writing and may only be made once every two years. The documents that can be requested include the first and second page of the most recent state and federal income tax returns or, if no tax returns were filed, all records of income for the prior calendar year.

The parties may redact all identifying contact information, including addresses, employer addresses, and account numbers, but must provide their name on the documents. If the request is properly made and the requesting party's documentation is provided, the other party must provide the requested documents.

SB 492 will take effect January 1, 2018.

4. SB 510 (Ch. 486) Department of Justice Data Sharing

Senate Bill 510 expands the Division of Child Support's access to information on delinquent obligors. Currently, financial institutions automatically share certain information, such as names and social security numbers, of obligors with past due accounts with the Division of Child Support. Most insurance companies voluntarily provide information on obligors receiving benefits or payments from the company through the federal Office of Child Support Enforcement. A few do not, however, because state law lacked a requirement to provide such information.

Senate Bill 510 clarifies that an "account" for purposes of data matching includes those receiving insurance benefits or payments of more than $500 under a liability or noninsured motorist policy, thus capturing those receiving or entitled to substantial insurance payments in the data matching requirement. The measure specifically excludes payments or benefits relating to property damage claims.

Additionally, SB 510 allows the Department of Justice to adopt rules for direct data sharing and allows companies to comply with the statute through compliance with the rules. The measure also requires companies to provide three days' written notice to the Division of Child Support prior to disbursement of a benefit or payment if information sharing on a delinquent obligor has not already been established.

SB 510 will take effect on January 1, 2018.

5. SB 511 (Ch. 459) Liquidated Debt

The Division of Child Support within the Oregon Department of Justice may create an overpayment in favor of the state when it sends money from an obligor to an obligee and the amount of the payment or the person paid is incorrect. For example, an obligor may send a check to the Division to process. The Division must process that payment and send money to the obligee within two days of receipt of the payment. If there are not sufficient funds to cover the written check, the Division is left with an overpayment to the obligee and may begin recovery attempts. Currently, the Division may only create an account receivable if the recovery is against the obligee and there is limited ability for the Division to develop a repayment plan.

Senate Bill 511 creates a process for creating accounts receivable for moneys paid out in error to any person or entity and allows collection efforts against the person or entity that sent the payment. Additionally, the measure gives the Division and the person 90 days to either pay in full or begin payment under a plan before the account receivable becomes delinquent.

SB 511 will take effect on January 1, 2018.

6. SB 512 (Ch. 651) Parentage

Oregon law includes a series of rebuttable presumptions for determining the paternity of a person. For example, ORS 109.070(1)(a) says, "A man is rebuttably presumed to be the father of a child born to a woman if he and the woman were married to each other at the time of the child's birth, without a judgment of separation, regardless of whether the marriage is void." Gender specific language in the paternity statutes excludes same-sex couples from the duties and obligations of being a parent to children. See *Shineovich and Kemp*, 229 Or. App. 670 (2009).

SB 512 creates a gender-neutral list for establishing when a person is a parent of a child. A person is considered a parent to a child if: a) the person gave birth to the child; b) an unrebutted presumption of parentage under ORS 109.070 is established; c) the person's maternity or paternity is adjudicated; d) the child is adopted by the person; e) the person makes an effective acknowledgement of paternity under ORS 109.070 or pursuant to the laws of another state; f) paternity is established by an administrative order issued pursuant to ORS chapter 416; g) filiation proceedings determine parentage; or h) parentage is established or declared by another provision of law. See Ch 651, Sect 2, Or Laws 2017.

The measure updates language by replacing "paternity" with "parentage," and "husband and wife" with "spouses." Additionally, the measure updates language on establishing parentage of children conceived by artificial insemination to more broadly encompass children conceived through assisted reproduction, which includes donated eggs and embryos, as well as other reproductive technologies. The effect of SB 512 is to include same sex parents in the duties and obligations of opposite sex parents under Oregon law, including child support orders, benefit eligibility determinations, and juvenile dependency and delinquency proceedings.

SB 512 takes effect on January 1, 2018.

7. SB 513 (Ch. 460) Child Support Notices

The Division of Child Support within the Oregon Department of Justice must follow state and federal guidelines for processing child support, including the federal Fair Credit Reporting Act, which previously required 10 days' notice to a person when requesting the person's consumer report. A consumer report provides the Division with information about a parent who owes child support, including income and location. In 2015, the Fair Credit Reporting Act was revised, removing the 10 days' notice requirement and allowing for the use of consumer reports for enforcement of a child support order.

Senate Bill 513 removes the current requirement that the Division notify an obligor or obligee when it requests a consumer credit report in child support cases and allows the Division to request reports to enforce a support order.

SB 513 takes effect on January 1, 2018.

8. SB 514 (Ch. 461) Obligee Notification

The Division of Child Support within the Oregon Department of Justice is required to give notice to an obligee of certain actions the Division is taking against an obligor. In many of these cases, the information in the notice is heavily redacted and may create confusion for the individual receiving the notice. Currently, the Division must provide such a notice when it issues an order for withholding, intends to refer a case to the Department of Revenue for the purposes of collecting tax returns, intends to report information on the obligor's payments to a credit reporting agency, or intends to place a lien on the obligor's property. In these instances, the obligee is entitled to information but has no ability to object to the Division's actions.

Senate Bill 514 removes the notice requirements to obligees for these four Division actions. It does not affect the notice requirements for the obligor or any other required entity.

SB 514 takes effect on January 1, 2018.

9. SB 516 (Ch. 462) Child Support Due Dates

Senate Bill 516 requires all orders for child or spousal support processed through the Oregon Department of Justice's Division of Child Support to have payment due on the first day of the month. The bill also specifies that for enforcement purposes, income withholding will be on first day of month, even if the due date is another day, and allows for a monthly average for alternative payment structures.

SB 516 specifies liens and actions to which this requirement does not apply, and specifies when support payments become delinquent.

SB 516 takes effect on January 1, 2008.

10. SB 517 (Ch. 463) Credits on Child Support

The Oregon Department of Justice's Division of Child Support is responsible for processing over $1 million each day in medical and child support of children. Occasionally, payments are made from one party to another outside of the Division's disbursement unit. In some instances, one party may owe money to the State for services, such as Temporary Assistance for Needy Families. Current law requires the Division to credit outside payments to the amounts owed the State if the parties make sworn statements that the payments were made and substantial evidence corroborates the statements. If money is not owed to the State, the outside payment is credited to the account of the obligee, even if there are no arrears or outstanding balance owed by the obligor. The Division identified this process as inefficient internally, and susceptible to fraud, externally.

Senate Bill 517 removes the requirement to credit an outside child support payment to moneys owed to the State. Additionally, the measure limits the amount of credit on payments owed to the obligee to the current balance of the account. The measure also allows the Division to adopt rules relating to crediting payments to accounts.

SB 517 takes effect on January 1, 2018.

11. SB 522 (Ch. 341) Life Insurance Recovery

In a family law proceeding in which a spousal or child support order is created, the court may also require the obligor to maintain or purchase a life insurance policy to guarantee continued support in the event of the obligor's death. Typically the life insurance must be maintained until the end of the support obligation.

In some instances, such as an obligor changing employment and changing life insurance policies, the obligor's policy may not reflect the court-ordered beneficiary to a policy. In those circumstances in which a third party is designated as a beneficiary and receives the proceeds of

a life-insurance policy, the court-ordered beneficiary must bring a claim against the third party beneficiary for unjust enrichment in order to recover the support obligation. That action requires proving that the third party beneficiary had notice of the obligor's obligation to the court-ordered beneficiary prior to receiving the money.

Senate Bill 522 provides a mechanism for a court-ordered beneficiary of a life insurance policy in a family law proceeding to bring an action against a third-party beneficiary. The measure specifies that entry of the judgment constitutes notice to third-party beneficiaries of the obligation.

SB 522 limits the court-ordered beneficiary to recovery of no more than the support obligation amount or arrears and provides a defense for third-party beneficiaries who purchase the policy against which a claim is made.

SB 522 takes effect on January 1, 2018.

12. SB 682 (Ch. 464) Suspension of Child Support Orders

SB 682 adds new provisions to support enforcement laws that create a rebuttable presumption that an obligor incarcerated for 180 or more consecutive days is unable to pay child support and suspends accrual of the child support obligation during incarceration. This presumption may be rebutted. The suspended child support order will be atomically reinstated at 50 percent of the previously ordered amount on the first day of the month following the 120th day of the obligor's release from incarceration. Within 60 days of this reinstatement the administrator will review the support order for possible modification.

SB 682 mandates that an obligor's incarceration for at least 180 consecutive days or the obligor's release from incarceration is a substantial change of circumstances for child support modification proceedings. Proof of this incarceration is also sufficient for a credit and satisfaction against support arrearages for each month of incarceration and the 120 days following release from incarceration.

SB 682 also makes conforming amendments within ORS 416.425, which governs motions to modify support orders when support enforcement services are being provided. It eliminates the provision reinstating support obligations on the 61st day following an obligor's release from incarceration.

The bill takes effect on January 1, 2018. However, support orders modified to zero prior to January 1, 2018 remain in force with reinstatement at the full amount ordered 61 days after release from incarceration.

13. SB 719 (Ch. 737) Extreme Risk Protection Order

SB 719 allows a family or household member to petition the court for an "extreme risk protection order" enjoining a person from possessing a deadly weapon. Under the bill, "deadly weapon" is defined as a firearm or any other instrument specifically designed to and presently capable of causing death or serious physical injury.

The petitioner has the burden of proof at the initial ex part hearing, which must be held within one judicial day of the day the petition is filed. In order to issue the order, the court must find by clear and convincing evidence, that the respondent presents a risk in the near future of suicide or of causing physical injury to another person. If the order is issued, the respondent must be personally served with a copy of the order and a hearing request form. The respondent has 30 days within which to request a hearing challenging the order.

The bill specifies that violation of an extreme risk protection order is a Class A misdemeanor, as is petitioning for an order with the intent to harass or doing so knowing that the information in the petition is false.

SB 719 takes effect on January 1, 2018.

14. SB 751 (Ch. 466) Marriage License Forms

SB 751 amendments ORS 106.041, which governs marriage licenses. SB 751 prohibits forms for the application, license, and record of marriage from requiring the address of any religious organization or congregation authorized to solemnize marriages pursuant to ORS 106.120.

The bill takes effect on January 1, 2018.

15. SB 765 (Ch. 467) Child Support Enforcement Updates

SB 765 makes amendments to support enforcement laws. Changes to federal rules, published as the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs, took effect on January 19, 2017. States are required to comply with these provisions. One of these changes amended 45 CFR 303.31 to eliminate the distinction between private and public health care coverage. SB 765 amends ORS 25.323 to eliminate this distinction, allowing parent(s) to provide public or private health insurance coverage for a child.

The 2017 federal rules change also amended 45 CFR 302.38 to require support payments be made directly to the resident parent, legal guardian, or the like. SB 765 complies with this change by amending ORS 25.020 to remove requirements for the Department of Justice to disburse child support payments to private collection agencies when requested by the obligee.

The bill took effect on June 22, 2017.

16. SB 830 (Ch. 351) Definition of Current Caretaker

In 2015 the legislature passed SB 741, which required administrative rules that govern home studies and placement reports to provide greater weight to a child's relatives and current caretaker seeking to adopt the child than others. It also defined "current caretaker" as a foster parent who has cared for a ward or sibling of a ward for the previous 12 consecutive months. SB 830 modifies this definition to cover a caretaker who has cared for the ward, or a sibling of the ward, for 12 cumulative months.

The bill takes effect on January 1, 2018.

17. SB 1055 (Ch. 534) Deployed Parents Visitation

The 2011 legislature passed HB 3162. That bill created new provisions prohibiting courts from changing parenting and support orders involving deployed parents, but permitted modifications to accommodate a parent's active military service, so long as they are in a child's best interest.

SB 1055 adds a new provision to these visitation laws to allow a deployed parent to petition the court for visitation, during deployment, between the child of the deployed parent and a stepparent, grandparent, or other family member related to the child. The bill also directs the court to consider whether visitation will facilitate contact between the child and the deployed parent, the best interests of the child, and the third-party visitation factors in ORS 109.119.

The bill takes effect on January 1, 2018.

8

Anastasia Meisner

Elder Law and Estate Administration

I. ELDER LAW

1.	HB 2393	(Ch. 135)	Withdrawal of life-sustaining procedures
2.	HB 2630	(Ch. 391)	Guardianships
3.	SB 57	(Ch. 310)	Office of the Public Guardian and Conservator
4.	SB 59	(Ch. 633)	Long Term Care Ombudsman
5.	SB 95	(Ch. 514)	Financial Exploitation of a Vulnerable Person
6.	SB 760	(Ch. 346)	Abuse Reporting by Public or Private Officials
7.	SB 834	(Ch. 353)	Independent Human Rights Commission

II. ESTATE ADMINISTRATION

1.	HB 2608	(Ch. 54)	Uniform Trust Code
2.	HB 2986	(Ch. 169)	Probate Modernization

Anastasia Meisner: 1997 Willamette University School of Law. Member of the Oregon State Bar since 1998.

I. ELDER LAW

1. HB 2393 (Ch. 135) Withdrawal of life-sustaining procedures

HB 2393 applies in situations in which a person who is incapable, does not have an appointed health care representative or applicable valid advance directive, and may have life-sustaining procedures withheld or withdrawn.

The bill creates a new ORS 127.635(4)(b) to require a case manager for the Department of Human Services to provide any information related to the values, beliefs and preferences of the person who is incapable with respect to the withholding or withdrawing of life-sustaining procedures.

This bill takes effect on January 1, 2018.

2. HB 2630 (Ch. 391) Guardianships

HB 2630 makes several changes to guardianship laws and is intended to increase the notification, awareness, and protection of a protected person's interest.

ORS 125.055 (petitions in protective proceedings)

Now when petitioning for an appointment of a fiduciary in a protective proceeding, in addition to pleading the factual information to support the petition, the petitioner is required to plead the less restrictive alternatives to the appointment of a fiduciary that were considered, and why the alternatives were determined to be inadequate. ORS 125.055(2)(g).

The bill also adds a new subsection (k) to ORS 125.055(2). The petitioner will now need to plead whether he or she is seeking that the fiduciary has plenary authority or only specific limited authority. However, the amendment does not define "plenary authority."

ORS 125.060 (who must be given notice)

Also as part of the notice requirements for the appointment of a guardian, entry of other protective orders in a guardian matter, motion to terminate a guardianship, motion for removal of a guardian, motion for modification of a guardian's power or authority, motion for approval of a guardian's actions, or motion for protective orders, ORS 125.060(8) now requires the person seeking one of the above referenced motions to provide to persons identified in ORS 125.060(8)(a), (b), and (c), the protected person's address, telephone number, and other contact information. The amendment does not provide a disclosure exception when it is in the best interest of the protected person. When it is in the best interest of the protected person, disclosure of the protected person's address may be restricted. *State v. Symon (in re Symons)*, 264 Or.App. 769, 333 P.3d 1170 (Or.App. 2014).

ORS 125.075 (presentation of objections)

Prior to HB 2630, ORS 125.075(2) objections to a motion in a protective proceeding were required to be in writing. Now, a protected person may object in writing, orally in person, or by other means that are intended to convey the protected person's objection. Any person, other than the protected person, objecting to a motion in a protective proceeding must still do so in writing. Further, amended ORS 125.075(2) requires the court to designate the manner in which an oral objection may be made that "ensures that a protected person will have the protected person's objection presented in the court."

ORS 125.225 (removal of fiduciary)

Currently a court may remove a guardian if the guardian places the protected person in a mental health treatment facility, nursing home, or residential facility. Now, in addition, the court may remove the guardian if the guardian changes the adult protected person's abode.

ORS 125.320 (limitation on guardian)

In addition to an intention to change the adult protected person's placement at a mental health treatment facility, a nursing home, or other residential facility, an intention to change an abode requires the guardian to notify the court by filing and serving a statement declaring the guardian's intent.

The statement must be filed and served pursuant ORS 125.065 to those persons specified in ORS 125.060 (3) and (8) at least 15 days prior to each change of abode or placement. However, if the guardian determines that the change of abode or placement must occur in less than 15 days to protect the immediate health, welfare, or safety of the protected person, the statement to the court shall declare that the change of abode or placement must occur in less than 15 days for the reasons stated above. The statement must be filed and served with as much advance notice as possible. However, the statement must be filed no later than two judicial days after the change of abode or placement. And the guardian may make the change of abode or placement prior to the objection hearing.

ORS 125.325 (guardian report)

The guardian's report has been amended to require facts that support the conclusion that the protected person is incapacitated.

HB 2630 takes effect on January 1, 2018.

3. SB 57 (Ch. 310) Office of the Public Guardian and Conservator

In 2014 the statewide Office of Public Guardian and Conservator (OPGC) was created. SB 57 makes several changes to the OPGC including amending ORS 125.678 (4) to eliminate the Long Term Care Ombudsman's supervision of the OPGC.

The bill also clarifies that the court must appoint the OPGC as a fiduciary, rather than an individual deputy with the OPGC. ORS 125.678 (5)(b).

The OPGC is now required to consult with the Oregon Department of Administrative Services to determine the bond amount for filing. Gifts, grants, and donations to the OPGC are no longer to be deposited into the Long Term Care Ombudsman Account. They are now to be deposited into the newly established OPGC Fund. ORS 125.678 (6). In addition to the OPGC Fund, OPGC Protected Person Trust Account ("Account") has also been created. This Account consists of money received on behalf of a protected person; administered by the OPGC; and for the benefit of the protected person and in accordance with the statute or court order.

ORS 125.683 (2) has been revised to require nursing homes, residential facilities, and public agencies to provide, as reasonably necessary to prevent or lessen a serious and imminent threat to the health or safety of a person, a minimum amount of information about the person for whom the needs assessment for OPGC services is being conducted. This includes protected health information and financial information.

The bill also authorizes the OPGC to require criminal background checks of OPGC employees, applicants, volunteers, and contractors. And finally the bill provides that the OPGC is exempt from provisions related to professional fiduciaries and conflicts of interest.

SB 57 takes effect on January 1, 2018.

4. SB 59 (Ch. 633) Long Term Care Ombudsman

This bill amends ORS 125.085 and allows the Office of Long Term Care Ombudsman to appear in existing protective proceedings, to move to remove a fiduciary, to move for a modification of the powers or authority of a fiduciary, and to move for termination a protective proceeding.

Under the bill, any protected information disclosed to the court by the Office of Long Term Care Ombudsman shall remain confidential, subject only to inspection by the parties to the proceeding, and not subject to inspection by members of the public expect by court order after a showing of good cause.

This bill took effect on August 2, 2017.

5. SB 95 (Ch. 514) Financial Exploitation of a Vulnerable Person

SB 95 adds sections to ORS 59.005 to ORS 59.451 and provides that certain securities professionals are now required to be mandatory elder financial abuse reporters. This new act specifically requires that "qualified individuals" are required to report financial exploitation of a vulnerable individual with whom they have contact.

A qualified individual is: a salesperson, an investment adviser representative; or a person who serves in a supervisory, compliance or legal capacity for a broker-dealer or state investment adviser, or who is otherwise identified in the written supervisory procedures of a broker-dealer or state investment adviser

Financial exploitation means: wrongfully taking assets, funds or property belonging to or intended for the use of another person; alarming another person by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out; misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by another person; or using the income or assets of another person for purposes other than the support and maintenance of the person without the person's consent.

Excluded from the definition of financial exploitation is the transfer of money or property that is made for the purpose of qualifying a person for Medicaid benefits or for any other state or federal assistance program, or the holding and exercise of control over money or property after such a transfer.

When a qualified individual who has reasonable cause to believe that financial exploitation of a vulnerable person with whom they have come into contact has occurred, has been attempted, or is being attempted, as soon as practicable that qualified individual must notify the Department of Consumer and Business Services. The new act lists the type of information that must be provided in the notice.

Notice may also be provided to a third party who has previously been designed by the vulnerable person to receive information, which otherwise would be private.

A broker-dealer or a state investment advisor may also delay a disbursement if there is a reasonable belief that the disbursement might result in financial exploitation, and within two business days of the request for disbursement, provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, except to any party that is suspected to have engaged in actual or attempted financial exploitation of the vulnerable person; within two business days of the request for disbursement, notifies the Department of Consumer and Business Services and the Department of Human Services of the delay and the reason for the delay; and conducts an internal review of the suspected financial exploitation and reports the results of the review to the Department of Consumer and Business Services and the Department of Human Services.

A delay of a disbursement under this section may not extend beyond the earlier of: fifteen business days after the date on which the broker-dealer or state investment adviser first delayed disbursement of the funds; or the date on which a determination is made by the broker-dealer or state investment adviser that the disbursement will not result in financial exploitation of the vulnerable person.

Upon a request by Department of Consumer and Business Services, a delay of a disbursement under this section may extend beyond 15 business days after the date on which the broker-dealer or state investment adviser first delayed disbursement of the funds, but not beyond the earliest of: twenty-five business days after the date on which the broker-dealer or state investment adviser first delayed disbursement of the funds; the date on which an order terminating the delay is entered by a court of competent jurisdiction; or the date on which the department issues an order terminating the delay.

The Department of Consumer and Business Services or a broker-dealer or state investment adviser that initiated a delay of a disbursement under this section may petition a court of competent jurisdiction for an order delaying or enjoining a disbursement of funds or for other protective relief on the grounds that financial exploitation of a vulnerable person is otherwise likely to occur.

Any person who violates these reporting requirements; or who procures, aids or abets in the violation, may be subject to a penalty of not more than $1,000 for every violation. However, a qualified individual, a broker-dealer, and state investment advisers are not liable for following these provisions if they are performed in good faith with reasonable cause, and with the exercise of reasonable care.

SB 95 takes effect on January 1, 2018.

6. SB 760 (Ch. 346) Abuse Reporting by Public or Private Officials

SB 760 amends ORS 441.640 and ORS 430.765 (1) by removing the requirement that any public or private official having reasonable cause to believe that any resident in a long term care facility with whom the official comes in contact has been abused must report the abuse when it becomes known while acting in an official capacity.

Under the revised law, reporting is required whether or not the mandatory reporter is acting in an official capacity. In other words, any contact between the mandatory reporter and the suspected abused person or abuser requires reporting to the Department of Human Services.

SB 760 takes effect on January 1, 2018.

7. SB 834 (Ch. 353) Independent Human Rights Commission

SB 834 requires the Department of Human Services to develop a proposal for establishing an independent human rights commission to safeguard the dignity and human rights of individuals with intellectual or development disabilities, and report findings and the proposal to the Legislative Assembly by December 1, 2017.

The bill enumerates, but does not limit, the right of individuals to: choose their friends and visitors; select their own entertainment; tend to their own personal hygiene; choose their intimate partners; and have access to food when they choose to eat.

The Department of Human Services shall consult with the state protection and advocacy system described in ORS 192.517, the Oregon Council on Developmental Disabilities and the Oregon Self Advocacy Coalition.

The proposal must include: any legislative changes needed to create and empower the commission; the cost of administering the commission; a recommendation for whether the commission should be an independent entity or housed within another state agency; how to guarantee the independence of the commission from influence by service providers and the department; a comparison of similar commissions operating in other states; and an enumeration of the basic human rights to be safeguarded by the commission.

SB 834 took effect on June 14, 2017.

II. ESTATE ADMINISTRATION

1. HB 2608 (Ch. 54) Uniform Trust Code

HB 2608 corrects an oversight in HB 2331, passed during the 2015 session. That bill made several major changes to ORS Chapter 130, Oregon's Uniform Trust Code (UTC). As drafted, HB 2331 applied only to trust executed after that bill went into effect. HB 2608 addresses this problem by specifying that the changes to the UTC apply to all trust proceedings that are commenced after HB 2608 goes into effect, as well as to all trusts executed after HB 2331 took effect.

HB 2608 took effect on May 15, 2017.

2. HB 2986 (Ch. 169) Probate Modernization

HB 2986 was the product of the Probate Modernization Work Group of the Oregon Law Commission. The workgroup was tasked with updating and modernizing Oregon's Probate Code, and has proposed several improvements including those found in HB 2986.

The bill makes a large number of changes to ORS Chapters 111, 113, 114, 115, and 116; including expanding the definition of 'estate' in Chapter 111.

The bill expands on the process for the appointment of a special administrator in Chapter 113, and provides the court with guidance on setting the amount of the bond in order to balance the need for a bond to protect persons interested in an estate with the concern that in some situations a bond can create an unnecessary expense.

The bill also creates an alternative compensation scheme for personal representatives in ORS Chapter 113. This change is intended to address circumstances where an estate has modest assets but complicated property issues. In such cases, if no family member is willing to serve as PR, professional fiduciaries may be unwilling to serve as well due to the low compensation provided under the previous statute. The new provisions allow a PR to request alternative means of determining compensation, presumably on a hourly basis. The bill also makes changes to the priority order for the naming of a personal representative.

Among the many other changes made in HB 2986, the bill adds requirements that individuals filing a will contest must provide notice to heirs and devisees identified in the petition for probate.

HB 2986 will take effect on January 1, 2018.

9

Richard Meneghello
Stephen Scott

Employment & Labor Law

I. INTRODUCTION

II. LEGISLATION AFFECTING EMPLOYERS

1.	HB 2005	(Ch. 197)	Pay Equity Law
2.	HB 3008	(Ch. 211)	False Employment Records
3.	HB 3170	(Ch. 553)	Collective Bargaining Rights for Public University for Faculty Members
4.	HB 3458	(Ch. 685)	Manufacturing Employers Overtime Calculation
5.	SB 214	(Ch. 569)	Public Employees' Retirement System Eligibility
6.	SB 299	(Ch. 520)	Sick Leave Accrual
7.	SB 398	(Ch. 333)	Earned Income Tax Credit
8.	SB 416	(Ch. 334)	Regulating Prevailing Rate of Wage
9.	SB 828	(Ch. 691)	Predictive Scheduling
10.	SB 949	(Ch. 360)	Home Care Workers' Noncompetition Agreements
11.	SB 1040	(Ch. 369)	Union Security Agreements

Richard Meneghello: 1996 Georgia State University College of Law. Member of the Oregon State Bar since 1996.
Stephen Scott: 2013 Willamette University School of Law. Member of the Oregon State Bar since 2013.

I. INTRODUCTION

Unlike years past, the 2017 legislative session in Oregon did not produce a great number of new employment and labor laws. However, several of them will have significant consequences for employers and employees in the state, including two massive new pieces of legislation that will have a meaningful impact on many workplaces. Specifically, with HB 2005 (Pay Equity), Oregon joins the growing numbers of states and local jurisdictions that are aiming to eradicate the pay disparity between the genders, and with SB 828 (Secured Scheduling), Oregon becomes the first state in the nation to mandate a predictive scheduling model for large retailers, food service, and hospitality businesses.

II. LEGISLATION AFFECTING EMPLOYERS

1. HB 2005 (Ch. 197) Pay Equity Law

HB 2005 expands the protections of equal pay found in ORS 652.220. HB 2005 will explicitly prohibit employers from paying people less based not only on gender, but also on race, color, religion, sexual orientation, national origin, marital status, disability, or age – in other words, it will aim to eradicate a number of alleged unfair pay practices.

Employers must ensure wage levels for comparable work are equivalent no matter the employee's protected class status. However, pay disparities can exist when there is a bona fide reason for such a disparity. These bona fide reasons include "seniority, merit, production-related metrics, workplace locations, travel needs, education, training, or experience."

HB 2005 provides a safe harbor for employers who have conducted a pay analysis within three years of any lawsuit, and can show a reasonable effort based on that analysis to eliminate wage disparities that violate HB 2005. Employers who trigger the safe harbor provision are able to file a motion to disallow an award of compensatory and punitive damages. However, employers are prohibited from cutting other workers' pay in order to even out the compensation levels.

HB 2005 also bars employers from using salary history when determining new workers' pay. Thus, job applications that ask for prior salary history are now prohibited by law.

Although a majority of HB 2005 goes into effect on January 1, 2019, the prohibition on inquiring into salary history goes into effect October 6, 2017.

2. HB 3008 (Ch. 211) False Employment Records

HB 3008 prohibits employers from compelling, coercing, or otherwise inducing or attempting to induce an employee to create, file, or sign documents, which the employer

knows are false in regards to hours worked or compensation received. It provides a private cause of action for falsifying these time cards, and allows for either an award of actual damages or $1,000 for each violation, including attorneys' fees and costs.

The bill goes into effect on January 1, 2018.

3. HB 3170 (Ch. 553) Collective Bargaining Rights for Public University for Faculty Members

HB 3170 extends collective bargaining rights to certain public university faculty members whose duties consist of an academic rather than administrative focus. Previously these faculty members were prevented from joining or forming a union.

The bill goes into effect on January 1, 2018.

4. HB 3458 (Ch. 685) Manufacturing Employers Overtime Calculation

HB 3458 amends ORS 652.020 and 653.265 to clarify an issue regarding how manufacturing employers calculate overtime. In doing so, the bill essentially rejects the Oregon Bureau of Labor and Industries' (BOLI's) interpretation concerning overtime entitlements. The new law requires manufacturing employers who owe daily and weekly overtime to calculate the two amounts and then pay out the greater of the two to their employees.

The law also caps weekly manufacturing hours at 55, although employees can voluntarily request or agree to up to five more hours as a permissible overage. For manufacturers dealing with perishable products, the bill allows the cap to be raised to 80 hours per week for up to 21 weeks so long as the employer files for and gets an undue hardship notice approved by BOLI. Within that 21-week period, the new law allows the cap to be raised to 84 hours per week for four weeks (again, upon approval of an additional undue hardship notice).

The punishment for violating this portion of the law will be a slate of possible civil penalties. Specifically, employees claiming they were required or coerced to work beyond 13 hours in a day, or 55 hours in a week, may recover $3,000 for each violation, plus liquidated damages equal to twice the employee's overtime wages earned during the period of non-compliance.

Although the bill took effect on August 8, 2017, the portion of the law regarding the new private right of action becomes effective January 1, 2018.

5. SB 214 (Ch. 569) Public Employees' Retirement System Eligibility

SB 214 will exempt post-doctoral scholars for public universities and the Oregon Health and Science University from the Oregon Public Employees Retirement System and provide them with an alternative retirement plan after it takes effect.

The effective date of this bill is January 1, 2018.

6. SB 299 (Ch. 520) Sick Leave Accrual

SB 299 amends ORS 653.606 to expressly permit an accrual cap on sick leave. Starting January 1, 2018, employers can limit the accrual of both paid and unpaid sick time to 40 hours per year. As originally written, the law specifically allowed employers to limit the amount of carryover of sick hours from one year to the next, but it was unclear whether an employer could limit sick time accrual within a single year. Now, the legislature has clarified that employees can have a maximum sick leave bank of 80 hours, but only if they have 40 hours from a prior year and 40 hours from the current year.

The bill took effect on August 8, 2017.

7. SB 398 (Ch. 333) Earned Income Tax Credit

SB 398 requires employers to provide employees written notice that they are able to receive both federal and state Earned Income Tax Credits. The notice must:

1. be in English and in the language the employer uses when speaking with employees;
2. be sent annually with the W-2 forms; and
3. provide website addresses for the Internal Revenue Service and the Department of Revenue where the employee can find information about state and federal earned income tax credits.

The bill also requires the Bureau of Labor and Industries to provide notice to employees in state minimum wage posters about the earned income tax credit. The legislature enacted this law because over 75% of Oregonians who qualify for this credit do not claim it.

SB 398 takes effect in October 2017.

8. SB 416 (Ch. 334) Regulating Prevailing Rate of Wage

SB 416 modifies the prevailing wage rate for projects that are divided into multiple contracts. The new statutory language added to ORS 279C.827 essentially closes a loophole that enabled contractors to avoid prevailing wage rate laws. It now prohibits anyone – not just

public agencies – from dividing public works projects into more than one contract in order to avoid prevailing wage rate laws.

Also, new statutory language added to ORS 279C.836 provides that disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses owned by service-disabled veterans, and emerging small businesses must post bond if they fail to pay workers the prevailing wage rate. Further, the bill amended ORS 279C.865 to establish that the failure to pay fringe benefits and the failure to pay prevailing wage rate are separate violations.

SB 416 took effect on June 14, 2017.

9. SB 828 (Ch. 691) Predictive Scheduling

SB 828 creates new obligations for certain employers (those retail, food service, and hospitality businesses with 500 or more employees worldwide) to post schedules seven days in advance. Enforcement of this provision does not begin until January 1, 2019. Beginning January 1, 2020, however, schedules must be posted 14 days in advance. Employers with collective bargaining agreements are not exempt from SB 828's requirements.

SB 828 also requires employers to provide employees with a written, good faith estimate of the worker's schedule at the time of hire. Employers must be mindful when providing this estimate that they are no longer allowed to schedule employees within 10 hours of their last shift. This effectively eliminates the common practice of "clopenings" (scheduling employees to work a closing shift at the end of one day, and then the opening shift the following day).

If an employer needs to change the work schedule after the date that advance notice is required, the employer must meet several requirements to satisfy the new law and will likely have to pay a premium to the employee impacted by the change. Furthermore, an employer cannot require the employee to work shifts that were not on their written work schedules.

To alleviate some of the burden on employers, SB 828 allows for the creation of voluntary standby lists. This will help employers deal with unexpected absences or last-second changes to their work needs. This list includes employees who have requested or agreed in writing to be available to cover the business need or absence. An employer cannot require an employee on this list to take the shift. Further, if an employee does accept the extra hours, they are not eligible for the premium compensation that an employee is now entitled to when an employer makes a schedule change with inadequate notice.

Initially, the law includes a narrow private right of action against employers for retaliation. As of January 1, 2019, employees may pursue private, civil causes of action for discrimination and retaliation claims under this law. The Bureau of Labor and Industries will also have the power to seek penalties for each violation.

SB 828 took effect on August 8, 2017.

10. SB 949 (Ch. 360) Home Care Workers' Noncompetition Agreements

SB 949 makes noncompetition and non-solicitation agreements in employment contracts for home care workers voidable by the worker. Further, SB 949 makes these agreements unenforceable in Oregon courts.

The bill takes effect on January 1, 2018

11. SB 1040 (Ch. 369) Union Security Agreements

SB 1040 is a response to the decision in *United Automobile Workers v Hardin County (KY) 842 F.3d 407*, a recent decision by the Sixth Circuit Court of Appeals that appeared to recognize a right of some local governments to ban union security agreements. This bill establishes a statewide policy permitting an employer or labor organization in this state to have an agreement requiring membership in a labor organization as a condition of employment to the full extent allowed by federal law.

The bill took effect on June 14, 2017.

10

Ken Sherman

Financial Institutions

I. FINANCIAL INSTITUTIONS

1.	HB 2161	(Ch. 35)	Credit Union Governance
2.	HB 2346	(Ch. 51)	Distributions from a Decedent's Account
3.	HB 2610	(Ch. 55)	Oregon Business Corporations Act
4.	HB 2622	(Ch. 290)	Financial Exploitation
5.	HB 2624	(Ch. 209)	Financial Institutions Not Organized in Oregon
6.	SB 254	(Ch. 644)	Data Match System

Ken Sherman: 1974 Gonzaga University School of Law. Member of the Oregon State Bar since 1974.

I. FINANCIAL INSTITUTIONS

1. HB 2161 (Ch. 35) Credit Union Governance

This bill was introduced at the request of the Northwest Credit Union Association. It makes several technical amendments to ORS chapter 723, which governs credit unions chartered by the state of Oregon.

ORS 723.022 provides for amendments to the articles of incorporation and the bylaws of a credit union. The current statute provides that amendments are to be submitted to the Director of the Department of Consumer and Business Services for approval or disapproval, and that the Director must approve or disapprove within 30 days. HB 2161 eliminates the requirement that the Director act within 30 days.

The current statute also provides that amendments to either the articles or the bylaws become effective upon approval by the Director. HB 2161 retains that provision for amendments to the articles, but provides that amendments to bylaws become effective 30 days after submission, unless the Director within that time notifies the submitter that the Director either disapproves the amendments or requires additional information. If the Director requires additional information, the amendments will become effective 30 days after it is submitted, unless the Director disapproves the amendment within that time.

HB 2161 amends ORS 723.202 by adding an additional basis upon which a credit union may expel a member: where the member creates an undue risk of loss to the credit union, as determined in accordance with the credit union's bylaws.

ORS 723.292 currently requires that credit union boards meet at least 10 different times in 10 different months during each calendar year. HB 2161 replaces that statutory requirement with a requirement that a credit union board hold regular meetings, and permits the DCBS director to issue a rule specifying the minimum frequency of meetings.

ORS 723.156 permits Oregon chartered credit unions to exercise certain powers available to federal credit unions as of January 1, 2013. HB 2161 updates this date to January 1, 2017.

HB 2161 takes effect on January 1, 2018.

2. HB 2346 (Ch. 51) Distributions from a Decedent's Account

ORS 708A.430 within the Oregon Bank Act and ORS 723.466 in the credit union statute provide a means for distribution of the balance remaining in a decedent's bank or credit union account upon the filing of an affidavit by one of the persons listed in the statutes. Under current law, the Department of Human Services (DHS) and the Oregon Health Authority (OHA)

may file such an affidavit under limited circumstances where DHS or OHA has a preferred claim against the decedent's estate.

House Bill 2346, introduced at the request of the DHS, makes several changes to these statutes.

DHS and OHA are second in line (behind a surviving spouse) to claim the funds in the decedent's account. Others in line to file claims under these statutes (in descending order of priority) are the decedent's surviving adult children, parents and adult siblings. To give a spouse time to claim the funds in the account, DHS and OHA are not permitted to file their claims until the 46th day following the decedent's death, and the claim must be filed within 75 days after the decedent's death. To give DHS and OHA time to perfect their claim, HB 2346 clarifies that the financial institution may not pay the proceeds of the decedent's account out to the decedent's children, parents or siblings sooner than 46 days after the decedent's death, and may only pay the proceeds to such relatives prior to 76 days after the decedent's death if the institution gets prior verbal or written authorization from the OHA and DHS.

Under the current law, DHS and OHA may only claim funds in the decedent's account by filing the affidavit described in ORS 708A.430 and 723.466. HB 2346 creates a second pathway for these agencies. In lieu of filing the affidavit, DHS and OHA may submit a declaration made under penalty of perjury. The contents of the declaration must mirror those of the affidavit, and must include a specific declaration of authorization.

HB 2346 will take effect on January 1, 2018.

3. HB 2610 (Ch. 55) Oregon Business Corporation Act

HB 2610 makes several changes to the Oregon Business Corporation Act to address the use of certain electronic technology by incorporating terminology and concepts from the Uniform Electronic Transmissions Act (UETA) and the federal Electronic Signatures in Global and National Commerce Act (E-Sign). The bill is primarily intended to facilitate the use of electronic transmission and signature of corporate documents and creates a number of new provisions to this effect.

HB 2610 will take effect on January 1, 2018.

4. HB 2622 (Ch. 290) Financial Exploitation

This measure, introduced at the request of the Oregon Bankers Association, creates specific statutory authority for banks, trust companies and credit unions to take certain protective actions with respect to the accounts of "vulnerable persons" (as defined in ORS 124.100).

FINANCIAL INSTITUTIONS

Institutions, in the exercise of their discretion, may (but are not required to) take action when the institution reasonably believes, or has received information from the Department of Human Services, a law enforcement agency or a district attorney's office demonstrating that it is reasonable to believe, that "financial exploitation" (as defined in ORS 124.050) of a vulnerable person may have occurred, may have been attempted, or is being attempted.

The actions that the institution is authorized to take are:

a. To refuse a transaction with or involving the vulnerable person;

b. To refuse to permit the withdrawal or disbursement of funds contained in a vulnerable person's account;

c. To prevent a change in ownership of a vulnerable person's account;

d. To prevent a transfer of funds from a vulnerable person's account to an account owned wholly or partially by another person; or

e. To refuse to comply with instructions given to the financial institution by an agent or attorney-in-fact under a power of attorney signed or purported to have been signed by the vulnerable person.

The institution's authority to limit access to the vulnerable person's account is temporary, to give the institution and law enforcement agencies time to investigate the suspected financial exploitation. The institution's authority to limit access expires on the sooner of:

a. 15 days after the institution first limited access; or

b. When the institution is satisfied that the transaction or act in question will not result in financial exploitation; or

c. Upon termination by court order.

However, unless a court orders otherwise, the institution may extend the access limitation based upon reasonable belief that financial exploitation of a vulnerable person may have occurred, may have been attempted, or may continue to occur or be attempted.

Generally, institutions that limit account access under HB 2622 must make a reasonable effort to notify, orally or in writing, all parties currently authorized to transact business on the account concerning the institution's action. However, such notice is not required when the institution in its discretion determines that providing notice could compromise an investigation of or response to the suspected exploitation.

HB 2622 provided that a financial institution and its employees are immune from criminal, civil and administrative liability for actions taken in good faith under the bill.

Many financial institutions have language in their deposit account contracts allowing the institution to take actions of the type described in HB 2622. Therefore, HB 2622 provides that its provisions are in addition to and not in lieu of any right the institution may have under its contract and that HB 2622 does not restrict the institution's rights to take or refuse to take any action pursuant to its contract, and does not require the institution to comply with the provisions of HB 2622 when the institution acts pursuant to the provisions of its contract.

HB 2622 takes effect October 1, 2017.

5. HB 2624 (Ch. 209) Financial Institutions Not Organized in Oregon

This bill, introduced at the request of the Oregon Bankers Association, amends ORS chapter 713 within the Oregon Bank Act to eliminate a duplication of administrative requirements for certain out-of-state banks (banks having a home state other than Oregon) extranational institutions (entities organized under the laws of another country that engage in banking business) and foreign associations (corporations organized to transact savings and loan business under federal law or the law of another state) operating in Oregon.

Under ORS 713.160, out-of-state banks and extranational institutions may apply for and receive a certificate of authority authorizing them to conduct a general banking business in Oregon, including making real estate loans.

Under ORS 713.300, out-of-state banks, extranational institutions, and foreign associations that have not obtained a certificate of authority under ORS 713.160 may get limited authority to make real estate loans in this state by filing a notice with the Department of Consumer and Business Services.

House Bill 2624 clarifies that an out-of-state bank, extranational institution, or foreign association that has obtained a certificate of authority under ORS 713.160 need not file the ORS 713.300 notice in order to make real estate loans.

HB 2624 takes effect on January 1, 2018.

6. SB 254 (Ch. 644) Data Match System

SB 254 mandates that "financial institutions" (banks and credit unions doing business in Oregon) participate in a new "data match system" (a system for the exchange of information between financial institutions and the Oregon Department of Revenue (ODR), using automated data exchanges to the maximum extent possible) under which the institutions would periodically (not more often than quarterly) receive a list of the names and Social Security or

TIN numbers of "delinquent debtors" (persons for whom a warrant has been issued by the ODR) and compare the ODR list against the institution's list of persons holding accounts at the institution. The bill does not prescribe a time frame within which institutions must report back any matches.

The ODR is required to pay a quarterly fee to each financial institution participating in the system. The first quarterly fee will be in the amount of the costs incurred by the institution in that quarter in conducting the data match, but may not exceed $2,500. In subsequent quarters, the fee may not exceed the lesser of $150 or the institution's actual costs of compliance. To offset the expense of these outgoing fees, ODR is permitted to assess fees against delinquent debtors, provided it first gives them notice of the existence of the debt and the maximum amount of the fee that may be added. Such fees may not exceed the data match costs incurred by ODR in that quarter, divided by the average number of delinquent debtor over the preceding four quarters.

ODR may temporarily exempt a financial institution from participation in the data match system if it determines that the institution's participation would not be cost-effective for the department or would be unduly burdensome for the institution, or if the institution provides written notice from its supervisory authority that the institution has been determined to be undercapitalized.

The bill shields financial institutions and their affiliates from liability under Oregon law for any disclosure of information to ODR, for encumbering or surrendering assets held by the institution in response to an ODR notice of lien or levy, and for any other action taken in good faith to comply with SB 254.

The bill provides that if the ODR through use of the data match system determines that a delinquent debtor is also delinquent in child support payments, ODR must wait 30 days before it issues a garnishment to the institution to collect the debt for which the warrant was issued. The bill does not require ODR to report the results of the data match to child support collection authorities. The bill adds a new section to ORS chapter 25, permitting (with limitations) DOJ's Division of Child Support to make agreements with ODR and other divisions within the DOJ for the provision of information reported to the Division of Child Support by an employer pursuant to ORS 25.790 regarding the hiring or rehiring of individuals in Oregon. The bill provides that this information may be used for purposes other than paternity establishment or child support enforcement, including but not limited to debt collection.

SB 254 provides that, except as otherwise permitted by law, a person may not:

a. disclose to a delinquent debtor that information relating to the debtor was transmitted using the data match system within the 45-day period prior to the disclosure; or

b. knowingly use or disclose information relating to the debtor that was transmitted to or from the ODR through the data match system for any purpose except the collection of debts by the department or purposes that are reasonably necessary for the functioning of the system. This prohibition does not apply to information that is in the person's control or possession prior to the transmission to or from the department, or to information that enters a person's control or possession through means unrelated to the data match system.

To give force and effect to the mandates and prohibitions listed above, SB 254 authorizes the ODR to impose civil penalties: a) upon financial institutions for failure to participate in the data match system or to comply with department rules; and b) upon any person who violates the prohibitions against disclosing information to delinquent debtors or using or disclosing information obtained through the data match system for an unpermitted purpose.

A penalty against a financial institution can only be levied if the institution failed to remedy its noncompliance within 30 days after the department provided notice of the noncompliance, and only if the noncompliance made the department unable to identify a delinquent debtor. The initial penalty for a non-compliant financial institution may be up to $1,000, and additional penalties of up to $1,000 each may be levied if the institution continues to be noncompliant.

Penalties on persons (including financial institutions) that violate the limitations on disclosure and use of information obtained through the data match system range from up to $1,000 for knowingly using or disclosing information on a delinquent debtor to up to $2,500 for disclosing to a delinquent debtor that information relating to the debtor is being transmitted through the data match system.

It is important to note that these limitations on use or disclosure of information obtained through the data match system only apply where the use or disclosure is not "otherwise permitted by law." For example, a financial institution may be permitted, or even required, by other law to take into account any information it has obtained on a delinquent debtor to determine whether to extend credit to that debtor. Similarly, if a financial institution denies an extension of consumer credit, it is required by other law to disclose to the credit applicant the reason for the denial. These types of uses and disclosures will not trigger the penalties provided for in SB 254.

The bill further provides that any violation by an officer or employee of the State of Oregon of the act's prohibition against knowingly using or disclosing delinquent debtor information is a Class C felony, and that a state officer or employee who violates this prohibition "shall be dismissed from office and may not hold any public office" in Oregon for five years.

FINANCIAL INSTITUTIONS

The bill directs ODR to adopt rules necessary for the administration of the act, after consulting with representatives of the banking and credit union industries and the Department of Consumer and Business Services. Among other things, these rules must establish a procedure for financial institutions that lack the technical ability to participate in the data match system, allowing such institutions to transmit lists of all the names and social security numbers or TINs to the ODR.

The ODR rules must be adopted not later than July 1, 2018, which is also the date on which the act becomes operative.

11

Megan Lane
Deanna Laidler
Eric Neiman
Bryce Hanks

Health Law

I. BEHAVIORAL HEALTH

1.	HB 2175 and HB 2176	(Ch. 203) (Ch. 204)	Registered sobering facilities
2.	HB 2300	(Ch. 619)	Prescription drug coverage for medical assistance Recipients
3.	HB 2302	(Ch. 65)	Benefits sign-up for patients
4.	HB 2307	(Ch. 48)	Insanity evaluations
5.	HB 2319	(Ch. 104)	Creates Mental Health Regulatory Agency
6.	HB 2328	(Ch. 6)	Renaming the State Board of Psychologist Examiners to the Oregon Board of Psychology
7.	HB 2684	(Ch. 707)	Increasing funding of services
8.	HB 2931	(Ch. 167)	Applied Behavior Analysis Interventionist
9.	HB 3063	(Ch. 671)	Housing for individuals with mental illness
10.	HB 3090	(Ch. 272)	Hospital discharge procedures following a behavioral health crisis
11.	HB 3091	(Ch. 273)	Emergency behavioral health services
12.	HB 3262	(Ch. 503)	Prescription of psychotropic medications
13.	HB 3340	(Ch. 683)	Opioid Addiction
14.	SB 48	(Ch. 511)	Suicide Prevention Continuing Education
15.	SB 64	(Ch. 634)	Qualifying mental disorders
16.	SB 129	(Ch. 481)	Task force on post-traumatic stress disorder
17.	SB 231	(Ch. 643)	Task force on student mental health support in higher education
18.	SB 944	(Ch. 695)	Call center for placements for children and adolescents needing high acuity behavioral health Services
19.	SB 948	(Ch. 378)	Employees of Residential Training Homes and Facilities

II. COMMUNITY HEALTH

1.	HB 2310	(Ch. 627)	OHA Accountability Metrics
2.	HB 2393	(Ch. 135)	Withdrawal of Life-Sustaining Procedures
3.	HB 2402	(Ch. 540)	Grants for Homeless Individuals
4.	HB 2644	(Ch. 162)	Vitamin K
5.	HB 2660	(Ch. 163)	Insurance Coverage Following a Mastectomy
6.	HB 2661	(Ch. 656)	Long Term Care Referrals
7.	HB 2675	(Ch. 82)	Integrating Health Care Services
8.	HB 2754	(Ch. 426)	Newborn Hearing Screening Tests
9.	HB 2839	(Ch. 369)	Organ Transplants for Disabled Individuals
10.	HB 3261	(Ch. 718)	Assessment of Health Care Workforce
11.	HB 3353	(Ch. 407)	Dental Screenings in Schools
12.	HB 3405	(Ch. 220)	Supplemental Nutrition Assistance Program
13.	SB 52	(Ch. 229)	Patient Encounter Data
14.	SB 104	(Ch. 239)	Registry of Care Facility Employee
15.	SB 147	(Ch. 243)	Oral Health for Individuals from COFA Nations
16.	SB 243	(Ch. 733)	Definition of “Child In Care”
17.	SB 244	(Ch. 448)	Abuse in a Child Caring Agency
18.	SB 245	(Ch. 244)	Definition of “Child Caring Agency”
19.	SB 367	(Ch. 484)	Inmate Health Information

III. GUARDIANSHIP AND RESIDENTIAL CARE

1.	HB 2630	(Ch. 391)	Changes to Abode of Protected Person
2.	HB 3359	(Ch. 679)	Residential Care Quality Measurement Program
3.	SB 57	(Ch. 310)	Oregon Public Guardian
4.	SB 58	(Ch. 441)	Residential Facilities Ombudsman
5.	SB 59	(Ch. 633)	Long Term Care Ombudsman

IV. HUMAN RESOURCES

1.	HB 2005	(Ch. 197)	Pay Equity Requirements
2.	HB 3008	(Ch. 211)	False Employment Records
3.	SB 299	(Ch. 520)	Sick Leave Accrual
4.	SB 398	(Ch. 333)	Earned Income Tax Credit

V. HEALTH INSURANCE

1.	HB 2339	(Ch. 417)	Out of Network Billing Practices

2. HB 2340	(Ch. 206)	Insurer Reentry Into the Oregon Market
3. HB 2341	(Ch. 152)	Oregon Insurance Code
4. HB 2342	(Ch. 626)	Rules Not In Compliance With the Insurance Code
5. HB 2391	(Ch. 538)	Health Provider Tax; Oregon Reinsurance Program
6. HB 3276	(Ch. 719)	Heal Plan Coverage during a Disease Outbreak
7. HB 3391	(Ch. 721)	Coverage for Reproductive Health Care
8. HB 3398	(Ch. 477)	Oregon Medical Insurance Pool Funds
9. SB 46	(Ch. 309)	Plans Offered by PEBB and OEBB
10. SB 97	(Ch. 479)	Internationally Active Insurance Groups
11. SB 153	(Ch. 316)	Insurance Company Taxation
12. SB 271	(Ch. 142)	Definition of Small Employer

VI. OTHER LEGISLATION

1. HB 2015	(Ch. 281)	Doula Reimbursement
2. HB 2103	(Ch. 381)	Nurse practitioners to perform vasectomies
3. HB 2114	(Ch. 146)	Oregon Opioid Prescribing guidelines
4. HB 2267	(Ch. 13)	Medical Imaging Licensure
5. HB 2301	(Ch. 101)	Health Licensing Board Office
6. HB 2303	(Ch. 384)	CCO Primary Care Spending Reporting
7. HB 2304	(Ch. 618)	Traditional health workforce
8. HB 2388	(Ch. 73)	DCBS oversight of Pharmacy Benefit Managers
9. HB 2397	(Ch. 106)	Pharmacy Formulary Advisory Committee
10. HB 2398	(Ch. 287)	Provider billing of Medicaid recipients
11. HB 2432	(Ch. 155)	Licensure of Art Therapists
12. HB 2503	(Ch. 499)	Licensure of lactation professionals
13. HB 2527	(Ch. 289)	Contraceptive prescription and administration by Pharmacists
14. HB 2882	(Ch. 429)	Dental care organizations
15. HB 3014	(Ch. 401)	Respiratory Therapy licensing requirements
16. HB 3363	(Ch. 409)	Osteopathic physicians
17. HB 3439	(Ch. 179)	Professional Corporations
18. SB 53	(Ch. 559)	In-home care agency and hospice program licensing fees
19. SB 69	(Ch. 127)	Oregon State Board of Nursing duties
20. SB 70	(Ch. 128)	Oregon State Board of Nursing licensure process
21. SB 73	(Ch. 131)	Oregon State Board of Nursing licensure requirements for nurse practitioners, clinical

		nurse specialists and certified nurse anesthetists.
22. SB 269	(Ch. 247)	Nursing license exemptions
23. SB 419	(Ch. 648)	Task Force on Health Care Cost Review
24. SB 485	(Ch. 336)	Exemption for Professional Corporations organized for purposes of practicing medicine
25. SB 743	(Ch. 345)	Sale of Dextromethorphan (DXM) to minors
26. SB 769	(Ch. 254)	Disposal of documents containing social security number
27. SB 934	(Ch. 489)	Primary care payments
28. SB 949	(Ch. 360)	Home health worker noncompetition agreements
29. SB 966	(Ch. 362)	Dental autoclave sterilization requirements
30. SB 1025	(Ch. 696)	Testing for transmission of disease in law enforcement and public safety personnel
31. SB 71	(Ch. 129)	Administration of noninjectable medication in long term care facilities
32. SB 72	(Ch. 130)	Prescriptive authority for nurse practitioners or certified nurse specialists
33. SB 74	(Ch. 132)	Permission to execute medical treatment orders
34. SB 423	(Ch. 335)	Physician assistants permitted to dispense Schedule III and IV controlled substances
35. SB 561	(Ch. 342)	Indirect supervision of students of dentistry, dental hygiene and expanded practice dental hygiene
36. SB 786	(Ch. 348)	Use of telehealth by dental providers
37. SB 831	(Ch. 352)	Definition of supervising physician
38. SB 856	(Ch. 259)	Physician assistant hospital privileges

Megan Lane: 2010 Northwestern School of Law. Member of the Oregon State Bar since 2010.
Deanna Laidler: 1992 Depaul University School of Law. Member of the Oregon State Bar since 2000.
Eric Neiman: 1982 University of Oregon School of Law. Member of the Oregon State Bar since 1982.
Bryce Hanks: 2014 Northwestern School of Law. Member of the Oregon State Bar since 2014.

I. BEHAVIORAL HEALTH

1. HB 2175 and HB 2176 (Ch. 203) (Ch. 204) Registered sobering facilities

These two bills amend provisions of ORS chapter 430. HB 2175 eliminates the cap on the number of sobering facilities that the Oregon Health Authority authorizes around the state. HB 2176 authorizes use of funds for these facilities.

This bill takes effect on January 1, 2018

2. HB 2300 (Ch. 619) Prescription drug coverage for medical assistance recipients

HB 2300 creates a Mental Health Clinical Advisory Group within the Oregon Health Authority. The Group is tasked with developing voluntary evidence-based algorithms for mental health drug treatment of medical assistance clients who have mental health disorders. The treatment algorithms are to be based on:

1. the efficacy of the drug;
2. the cost of the drug;
3. potential side effects of the drug;
4. a patient's profile; and
5. a patient's history with the drug.

When developing the treatment algorithms, the Group must consider all of the following:

1. peer-reviewed medical literature;
2. observational studies;
3. studies of health economics;
4. input from patients and physicians; and
5. any other information that the group deems appropriate.

This bill took effect on August 2, 2017.

3. HB 2302 (Ch. 65) Benefits sign-up for patients

HB 2302 amends ORS 426.300, to allow Oregon Health Authority staff to apply for additional state or federal benefits on behalf of Oregon State Hospital patients who will be discharged.

Before HB 2302, ORS 426.300 only allowed Oregon State Hospital staff to apply for Medicaid on behalf of the patients. After HB 2302 took effect, OHA staff can apply for additional benefits, including: Social Security Disability Insurance, Supplemental Security Income, Supplemental Nutrition Assistance Program, and other state and federal benefits available.

HB 2302 helps to ensure continuity of care as patients begin their transition back into their communities.

This bill took effect on May 17, 2017.

4. HB 2307 (Ch. 48) Insanity evaluations

HB 2307 amends ORS 161.309 and 161.315 and addresses the mental health of criminal defendants. Criminal prosecution of incompetent defendants is prohibited by the due process clause of the United States Constitution. Under ORS 161.360, the question for Oregon courts is whether the defendant is unable to "aid and assist" in his or her defense, as a result of a mental illness. The defendant's ability to "aid and assist" is a precondition to him or her asserting the insanity defense. The defendant's mental health at the time of trial is the focus of the inquiry, not the defendant's mental health at the time the crime was committed. Instead, a guilty except for insanity plea focuses on the defendant's mental health at the time of the crime, and requires a competent defendant at the time of trial.

HB 2307 provides clarification regarding this process. After HB 2307 takes effect, an evaluation for a guilty except for insanity plea does not need to also evaluate the defendant's ability to "aid and assist," unless, during the evaluation, it is determined by the evaluator that the defendant's ability to proceed is questionable.

This bill takes effect on January 1, 2018.

5. HB 2319 (Ch. 104) Creates Mental Health Regulatory Agency

HB 2319 creates the Mental Health Regulatory Agency. The Agency will oversee the Oregon Board of Licensed Professional Counselors and Therapists and the State Board of Psychologist Examiners. One director will provide the regulatory and administrative oversight to these two Boards. The director will be appointed by both the Oregon Board of Licensed Professional Counselors and Therapists and the State Board of Psychologist Examiners.

The Agency becomes operative on January 1, 2018, but the bill took effect on May 18, 2017.

6. HB 2328 (Ch. 6) Renaming the State Board of Psychologist Examiners to the Oregon Board of Psychology

HB 2328 renames the State Board of Psychologist Examiners to the Oregon Board of Psychology. The Board found its current name too cumbersome and confusing. Furthermore, the Board's current functions are more broad than simply examining and licensing. The new name better reflects their broader goals.

This bill takes effect on January 1, 2018.

7. HB 2684 (Ch. 707) Increasing funding of services

HB 2684 adds new provisions and amends ORS 127.646, 443.400, 443.415, 443.425, 443.735, and 456.559.

HB 2684 requires that when the Legislative Assembly approves increases in funding for services provided by residential training facilities or residential training homes, the wages and benefits paid to the direct support professionals must increased at a comparable rate.

HB 2684 also requires all licensed residential training facilities or residential training homes licensed by the Department of Human Services, to gather and submit annual staffing data to a nationally standardized reporting survey organization specified by the Department.

This bill takes effect on January 1, 2018.

8. HB 2931 (Ch. 167) Applied Behavior Analysis Interventionist

HB 2931 clarifies the educational requirements to be certified as a behavior analysis interventionist in Oregon.

This bill takes effect on January 1, 2018.

9. HB 3063 (Ch. 671) Housing for individuals with mental illness

In 2015, the Oregon Legislature committed $20 million in lottery bonds to the Oregon Housing and Community Services Department (HCSD) Housing for Mental Health Fund.

HB 3063 now directs the Housing and Community Services Department to work with the Oregon Health Authority to disburse money in the Housing for Mental Health Fund for the development of community-based housing and for crisis interventions services, rental subsidies and other housing-related services for individuals with mental illness and individuals with substance use disorders.

This bill took effect on August 8, 2017.

10. HB 3090 (Ch. 272) Hospital discharge procedures following a behavioral health crisis

HB 3090 adds definitions for "behavioral health crisis" and "lethal means counseling" to ORS 441.015 and 441.063. "Behavioral health crisis" is defined as "a disruption in an individual's mental or emotional stability or functioning resulting in an urgent need for immediate treatment to prevent a serious deterioration in the individual's mental or physical health." Lethal means counseling is defined as "counseling strategies designed to reduce the access by a patient who is at risk for suicide to lethal means, including but not limited to firearms." This bill extends discharge planning responsibilities of hospital inpatient units to emergency departments.

HB 3090 also directs hospitals to provide the discharge policy to the Oregon Health Authority. The OHA will then to compile and study the information and report to the appropriate Legislative Assembly interim committees before January 1, 2018.

This bill takes effect on October 6, 2017.

11. HB 3091 (Ch. 273) Emergency behavioral health services

HB 3091 creates new provisions and amends ORS 414.025, 414.625, 414.736, 414.740, 743A.012, and 743A.168. HB 3091 requires coordinated care organizations and private health plans to cover behavioral health assessments during a behavioral health crisis. In addition to behavioral health assessments, CCOs and health plans must also cover both the services determined by a behavioral health clinician to be necessary and the follow-up care after the crisis.

HB 3091 also adds definitions for behavioral health assessment, behavioral health clinician, and behavioral health crisis to ORS 743A.012.

This bill takes effect on January 1, 2018.

12. HB 3262 (Ch. 503) Prescription of psychotropic medications

HB 3262 directs the Department of Human Services (DHS) to develop rules for the use of psychotropic medications for elderly persons or persons with disabilities living in an adult foster home, residential care, or long term care facility. This expands on DHS's previous requirement to develop rules for the use of psychotropic medications for children placed in foster care.

HB 3262 includes specific rule requirements. These requirements include: review of multiple psychotropic medicines; engagement in other interventions prior to prescription of psychotropic medication; and, continued intervention in conjunction with prescribed psychotropic medication.

This bill took effect on June 29, 2017.

13. HB 3340 (Ch. 683) Opioid Addiction

HB 3440 is part of Oregon's response to the national opioid crisis. According to the Oregon Health Authority, Oregon has one of the highest rates of prescription opioid misuse in the nation, which includes overdose deaths. HB 3440 includes a number of provisions regarding prescription and monitoring of opioids and other medications.

Naloxone is a medication which reverses opioid overdoses. HB 3440 expands access to Naloxone by permitting a pharmacist, pharmacy, health care professional, or any person designated by State Board of Pharmacy to administer naloxone and distribute necessary medical supplies to administer naloxone. It provides legal immunity to individuals who administer or distribute Naloxone in good faith.

HB 3440 has additional provisions prohibiting health insurers and plans from requiring prior authorization of payment for initial use of Naloxone, protecting access to drug courts for individuals involved in medication-assisted treatment for substance abuse, requiring the Oregon Health Authority to publicize information about available drug treatment options, requiring OHA to track opioid related events, and expanding functions of the Prescription Monitoring Program.

This bill takes effect on October 6, 2017.

14. SB 48 (Ch. 511) Suicide Prevention Continuing Education

Suicide has been identified as a significant public health issue for the state of Oregon. SB 48 directs state licensing boards for certain medical and non-medical professions to work with the Oregon Health Authority (OHA) to adopt rules requiring licensees to report, as part of reauthorization to practice, the completion of suicide prevention continuing education. The Oregon Health Authority is required to develop a list of educational opportunities related to suicide risk assessment, treatment, and management. Additionally, the OHA and the licensing boards are given data collection and reporting requirements.

This bill took effect on June 29, 2017

15. SB 64 (Ch. 634) Qualifying mental disorders

The purpose of SB 64 is to replace language originating in the mid-nineteenth century with language that carries less of a negative connotation while preserving the validity of all previous court decisions construing the prior language. The term "mental disease or defect" is replaced with "qualifying mental disorder" in many statutes.

This bill takes effect on January 1, 2018.

16. **SB 129** **(Ch. 481)** **Task force on post-traumatic stress disorder**

SB 129 requires the Advisory Committee to the Department of Veterans Affairs to consider the merits of creating a task force to study improvements in the diagnosis and treatment of post-traumatic stress disorder, particularly for veterans, and report to the Legislature on findings by February 1, 2018.

This bill takes effect on October 6, 2017

17. **SB 231** **(Ch. 643)** **Task force on student mental health support in higher education**

SB 231 establishes an 11 member task force to investigate how mental health issues and substance abuse disorders impact college students. The task force is to report to the Legislature by November 1, 2018 and sunsets on December 31, 2018.

This bill takes effect on October 6, 2017

18. **SB 944** **(Ch. 695)** **Call center for placements for children and adolescents needing high acuity behavioral health services**

SB 944 is intended to address challenges for high needs children and adolescents to access needed services. It directs the Oregon Health Authority to contract with an Oregon non-profit for a 24-hour call center related to placement of youths needing high acuity behavioral health services.

This bill took effect on August 8, 2017

19. **SB 948** **(Ch. 378)** **Employees of Residential Training Homes and Facilities**

SB 948 prohibits residential training homes and facilities receiving public funds (ORS chapter 443) from employing individuals who have engaged in acts of abuse substantiated by the Department of Human Services. Those individuals are not entitled to seek a fitness determination under ORS 181A.195.

This bill takes effect on January 1, 2018

II. COMMUNITY HEALTH

1. HB 2310 (Ch. 627) OHA Accountability Metrics

HB 2310 amends ORS 431.115 et seq., regarding the duties of the Oregon Health Authority (OHA). It requires the OHA to use accountability metrics to track the usage of public health services by local public health authorities, and the progress of the OHA and local public health authorities in achieving state goals The bill also requires OHA to make recommendations to the Oregon Health Policy Board on the use of these accountability metrics.

The bill alters how the OHA distributes funds to local public health authorities. It adds that the OHA must take into account the health status of the local community and the ability of the local community to invest in local public health activities and services. In addition, when the OHA submits its formula for distributing funds to the state, it must also provide an estimate of the amount of money necessary to fund the foundational capabilities and programs under ORS 431.131 and ORS 431.141. Further, if there are insufficient funds for these programs and capabilities on a statewide basis, the OHA can fund them on an individual basis based on need, competitive grant, or contract process.

The bill also stipulates that the Oregon Health Policy Board includes an individual who is a member or representative of a federally recognized Indian tribe within the state.

This bill takes effect on October 6, 2018.

2. HB 2393 (Ch. 135) Withdrawal of Life-Sustaining Procedures

HB 2393 adds a new provision to ORS 127.635. This states that where a case manager receives notice that life-sustaining procedures may be withheld or withdrawn, the case manager is to inform the person giving notice of the principal's values, beliefs, and preferences regarding life-sustaining procedures.

This bill will take effect on January 1, 2018.

3. HB 2402 (Ch. 540) Grants for Homeless Individuals

HB 2402 adds new provisions to ORS 432.435 directing the Oregon Health Authority to create a grant program for persons experiencing homelessness to obtain a certified copy of their birth records. The bill requires that the Oregon Health Authority create criteria for receiving a grant. It also creates a separate fund of $50,000 to provide for these grants, created out of the General Fund.

This bill takes effect on October 6, 2017.

4. HB 2644 (Ch. 162) Vitamin K

HB 2644 amends ORS 433.306 and ORS 433.312 to allow more leeway for the administration of vitamin K within the first 24 hours after birth. Instead of limiting administration by injection or orally, it permits the physician to administer the vitamin by "the most effective means." It also limits the parents' objections to the administration of vitamin K to conflicts with religious tenets and practices.

This bill takes effect on January 1, 2018.

5. HB 2660 (Ch. 163) Insurance Coverage Following a Mastectomy

HB 2660 requires the Oregon Health Authority and the Department of Consumer and Business Services to post material on their websites educating breast cancer patients about insurance coverage for breast reconstruction surgery following a mastectomy.

This bill takes effect on January 1, 2018.

6. HB 2661 (Ch. 656) Long Term Care Referrals

HB 2661 amends ORS 124.050 and ORS 646.608. The bill regulates those who provide referrals—referred to as agents—to long care facilities. An agent must be registered with the Department of Human Services to make such referrals. In addition, the agent is now a mandatory reporter of elder abuse, and violations of certain provisions constitute an unfair trade practice.

The bill requires agents who refer clients to a long term care facility to disclose in writing or taped audio any contracts that agent has with a facility, what referral fees the agent will be paid by the facility, whether the agent only refers to facilities with which the agent has a contract, and other information. The agent is prevented from selling the client's placement information without affirmative consent from the client, referring the client to a facility where the agent or a family member has ownership, or contacting a client who has made a written request for contact to cease. Further, the agent is only allowed to collect a fee on the placement that they are involved in, as opposed to subsequent placements.

This bill took effect on August 8, 2017.

7. HB 2675 (Ch. 82) Integrating Health Care Services

HB 2675 amends ORS 414.627 to add language requiring Coordinated Care Organizations and Community Advisory Councils to include a plan and strategy for integrating physical, behavioral, and oral health care services.

This bill takes effect on January 1, 2018.

8. HB 2754 (Ch. 426) Newborn Hearing Screening Tests

HB 2754 amends ORS 414.627 to require hospitals, after conducting newborn hearing screening tests, to provide parents with references in the community who also provide newborn hearing screening tests. In addition, the Oregon Health Authority is required to provide a recommended schedule for conducting newborn hearing screening tests and for referring parents to providers with the purpose of diagnosing congenital cytomegalovirus within 21 days of the child's birth. The Oregon Health Authority is also required to compile information on the transmission of congenital cytomegalovirus, as well as its signs, symptoms, complications, and treatment.

This bill takes effect on January 1, 2018.

9. HB 2839 (Ch. 369) Organ Transplants for Disabled Individuals

HB 2839 prohibits entities from discriminating against disabled individuals with respect to practices related to and coverage of an organ transplant. This includes eligibility to receive an organ transplant, placement on an organ transplant list, treatment related to the transplant, evaluations for a potential transplant, or refusal of individual insurance coverage for any procedure associated with an organ transplant. Nevertheless, an entity may consider the disability when making treatment decisions or recommendations that are medically significant to the receipt of the organ transplant. This exception does not apply, where the patient has necessary support networks, services, or funding to assist in complying with post-transplantation medical requirements.

Covered entities must change their policies, practices and procedures to comply with these requirements. The bill also provides for the process of judicial review and what relief the court may grant.

This bill took effect on June 20, 2017.

10. HB 3261 (Ch. 718) Assessment of Health Care Workforce

HB 3621 creates new provisions requiring the Oregon Health Policy Board (the Board), in consultation with Oregon Health Sciences University and the Office of Rural Health, to conduct annual assessments of health care workforce needs in Oregon. The assessments will evaluate the continued expansion in health care coverage, health disparities in underserved populations, and the need for health care in rural communities. The assessments must be used to evaluate the financial incentive programs offered to providers in Oregon and for establishing new incentive programs and programs to address unmet health needs in communities.

The bill also removes the sunset on the Scholars for a Healthy Oregon program.

This bill takes effect on October 6, 2017.

11. HB 3353 (Ch. 407) Dental Screenings in Schools

HB 3353 creates new provisions regarding dental screenings in schools. The bill requires the school district to provide written notice of the screening to each student and gives the student the opportunity to not participate.

This bill takes effect on October 6, 2017.

12. HB 3405 (Ch. 220) Supplemental Nutrition Assistance Program

HB 3405 directs the Department of Human Services to seek a waiver of federal requirements for the Supplemental Nutrition Assistance Program to exclude advance payments of the tax credit available for dependent care when determining eligibility for Supplemental Nutrition Assistance.

This bill takes effect on October 6, 2017.

13. SB 52 (Ch. 229) Patient Encounter Data

SB 52 amends ORS 431A.100, 682.017, and 682.056 requiring ambulance services to report patient encounter data to an electronic data system managed by the Oregon Health Authority. The Oregon Health Authority will specify what data elements will be required to be recorded and will establish procedures for transferring this data.

In addition, non-transporting prehospital care providers may also report patient encounter data to the electronic data system.

This bill took effect on June 6, 2017.

14. SB 104 (Ch. 239) Registry of Care Facility Employees

SB 104 amends ORS 443.006 and requires the Department of Human Services to adopt rules designating people who may be listed on a registry of all persons who work or are seeking to work to provide care in a long term care facility, residential care facility, or adult foster home.

This bill took effect on June 6, 2017.

15. SB 147 (Ch. 243) Oral Health for Individuals from COFA Nations

SB 147 creates new provisions directing the Department of Consumer and Business Services to develop recommendations for a program that would reimburse the costs of oral health care for low-income individuals who entered the US under a Compact of Free Association treaty.

This bill took effect on June 6, 2017.

16. SB 243 (Ch. 733) Definition of "Child In Care"

SB 243 legislation passed during the 2016 session to expand the definition of a "child in care" to include children receiving care from foster homes and developmental disabilities residential facilities. This in turn impacts the burden on those entities to refrain from abuse, involuntary seclusion, and other protections afforded such children under the aforementioned sections.

This bill took effect on August 15, 2017.

17. SB 244 (Ch. 448) Abuse in a Child Caring Agency

SB 244 amends ORS 418.205 and 418.260, to provide that where the Department of Human Services learns of abuse in a child-caring agency, they are to notify appropriate personnel within the department without undue delay. Notification must be made to the Oregon Youth Authority, county juvenile departments, or developmental disabilities services when applicable. In addition, the case manager, attorney, special advocate, and parents must also be notified.

This bill took effect on June 22. 2017.

18. SB 245 (Ch. 244) Definition of "Child-Caring Agency"

SB 245 amends ORS 418.205, which relates to child-caring agencies, to limit the definition of a child to persons residing in or receiving care from a child-caring agency. It also excludes from the definition of "child-caring agency" facilities that exclusively serve individuals older than 18, or one that requires that all children to be accompanied by a guardian.

This bill took effect on June 6, 2017.

19. SB 367 (Ch. 484) Inmate Health Information

SB 367 amends ORS 192.558 to permit health care providers to disclose protected health information concerning inmates to physicians of employees in the Oregon Corrections Enterprises under certain conditions.

Under the bill, such information may be disclosed, without authorization from the inmate, if the employee was exposed to the bodily fluids of the inmate; and the inmate has tested positive for HIV, Hepatitis B or C, or other communicable diseases.

This bill will take effect on January 1, 2018.

III. GUARDIANSHIPS AND RESIDENTIAL CARE

1. HB 2630 (Ch. 391) Changes to Abode of Protected Person

HB 2630 amends several sections of Oregon's guardianship statutes. Among these changes, the bill requires that in a petition for the appointment of a fiduciary, the petitioner must plead which less restrictive alternatives to the appointment were considered, and the reason those alternatives were inadequate.

The bill also expands the power of the court to remove a guardian, if that guardian changes the abode of an adult protected person without notifying the court or complying with appropriate statutory laws.

This bill takes effect on January 1, 2018. For additional information on HB 2630, see the Elder Law Chapter.

2. HB 3359 (Ch. 679) Residential Care Quality Measurement Program

HB 3359 establishes the Residential Care Quality Measurement Program (RCQMP) within the Department of Human Services (DHS) and requires the department to provide an annual report that provides information related to residential facility quality and performance including regulatory violations. It requires residential care facilities to report on quality metrics to the Quality Measurement Council by January 31st of every year. HB 3359 also outlines a variety of policy changes for DHS and long-term care facilities that include:

- Establishing a process for a long-term care facility to convert to a residential care facility,
- Development of a technology-based, acuity-based staffing tool for DHS to assess residential care staffing needs,
- Dementia care training for all residential care facility direct care staff and adult foster home caregivers,
- DHS permitted to revoke or suspend residential care facility license and residential care facility may content the suspension,
- Residential care facilities and adult foster homes required to take measures to reduce error in tracking and administering prescription drugs,
- Change name from "Alzheimer's care unit" to "endorsed memory care community," and

- Adult foster homes required to meet all state and local building, sanitation, utility and fire standards.

This bill is effective January 1, 2018. The first reporting period is January 21, 2020 for residential facilities and July 1, 2020 for Quality Measurement Council.

3. SB 57 (Ch. 310) Oregon Public Guardian

SB 57 amends ORS 125.242, 125.675, 125.678, 125.683, 125.685, 125.687, 441.406 and 441.419 to prohibit courts from appointing the deputy public guardian and conservator as a fiduciary in proceedings, but will instead appoint the Oregon public guardian and conservator as a fiduciary. Further, the Oregon Public Guardian and Conservator will have access to residents of nursing homes, and any other public agency providing care or services to that person will disclose upon request a minimum amount of information about that person to prevent or lessen threats to the health or safety of that person.

This bill takes effect on January 1, 2018. For additional information about SB 58 see the Elder Law Chapter.

4. SB 58 (Ch. 441) Residential Facilities Ombudsman

SB 58 creates a new Residential Facilities Ombudsman position, separate from the Long Term Care Ombudsman. The Residential Facilities Ombudsman will, among other tasks, investigate claims by residents of residential facilities about administrative actions, represent interests of residents before government agencies, and provide services to residents to assist them in protecting their health, safety, and rights. The Long Term Care Ombudsman retains responsibility for nursing homes and long term care facilities.

This bill took effect on June 22, 2017.

5. SB 59 (Ch. 633) Long Term Care Ombudsman

SB 59 amends ORS 125.085 authorizing the court to remove a fiduciary or modify their powers on motion from the Long Term Care Ombudsman. For additional information about SB 59, please see the Elder Law Chapter.

This bill took effect on August 2, 2017.

IV. HUMAN RESOURCES

1. HB 2005 (Ch. 197) Pay Equity Requirements

HB 2005 amends ORS 652.210, 652.220, 652.230, 659A.820, 659A.870, 659A.875 and 659A.885, relating to definitions for pay equity provisions. It makes it unlawful for employers to screen job applicants based on current or past compensation or to determine compensation based on current or past compensation of the employee. It further makes it unlawful for a prospective employer to seek the salary history of an applicant.

The bill makes it unlawful for an employer to pay employees different wages for work of a comparable character, without basing that compensation on one of the bona fide factors listed in the bill, such as seniority, education, training, or experience. If the commissioner issues a final order in favor of the complainant, the employer will be required to pay an award of back pay for up to two years.

The bill also permits, in employment actions, an employer to file a motion to disallow punitive and compensatory damages where the employer establishes that they completed an equal-pay analysis within three years of the lawsuit being filed, and showing that the employer subsequently eliminated wage differentials for the plaintiff and the protected class asserted. For additional information about this bill please see the Employment and Labor Law Chapter.

Some provisions of the bill took effect on October 6, 2017, however many provisions of the new requirements do not become operative until January 1, 2019.

2. HB 3008 (Ch. 211) False Employment Records

HB 3008 creates a new provision preventing employers from inducing or attempting to induce employees to create, file, or sign documents that contain false information as to the hours worked or compensation received by the employee. The bill provides a private cause of action for the employee for violations of these requirements. For additional information about this bill please see the Employment and Labor Law Chapter.

This bill will take effect on January 1, 2018.

3. SB 299 (Ch. 520) Sick Leave Accrual

SB 299 amends ORS 653.601, 653.606 and 653.611. The bill permits employers to limit the number of paid sick time that employees may accrue to 40 hours per year. For additional information about this bill please see the Employment and Labor Law Chapter.

This bill took effect on August 8, 2017.

4. SB 398 (Ch. 333) Earned Income Tax Credit

SB 398 mandates that the Bureau of Labor and Industries require employers to provide employees written notice about state and federal earned income tax credits. This notice must be sent with the employee's W-2. For additional information about this bill please see the Employment and Labor Law Chapter.

This bill took effect on August 8, 2017.

V. HEALTH INSURANCE

1. HB 2339 (Ch. 417) Out of Network Billing Practices

HB 2339 amends ORS 750.055 and sections of the Oregon Insurance Code prohibit out-of-network providers from balance billing health plan members for emergency services or for other inpatient or outpatient services provided at an in-network health care facility unless the patient chooses to receive services from the out-of-network provider. This bill is in response to concerns from health plan members who obtained services at an in-network facility and later received unexpected bills from out-of-network providers rendering a portion of the services at the facility. This limitation on billing by out-of-network providers does not apply to coinsurance, copayments or deductible amounts or non-emergency services elected by the member. If a member chooses to receive services from an out-of-network provider, the provider must advise the member of their financial responsibility for such services.

While earlier versions of the bill sought to set a cap the reimbursement rates of out-of-network providers, the final bill instead requires the Department of Consumer and Business Services (DCBS) to convene an advisory group comprised of health care providers, insurers and consumer advocates to develop recommendations for the reimbursement of services provided to health plan members by out-of-network providers at in-network health care facilities. The advisory group will submit its recommendation to the Director of DCBS who will, in turn, report back to the Legislative Assembly by December 31, 2017 of any legislative changes needed to implement the recommendations of the advisory group.

While the bill itself took effect on June 22, 2017, the substantive prohibitions on balance billing by out-of-network providers do not become operative until March 1, 2018.

2. HB 2340 (Ch. 206) Insurer Reentry Into the Oregon Market

Prior to the enactment of HB 2340, Oregon's Insurance Code required a five-year ban on market reentry for insurers who discontinued offering or renewing all health plans within a specific market in the state. This ban served as a disincentive for plans to leave a certain market, while also affording protection to consumers. HB 2340 allows the Department of Consumer and Business Services (DCBS)to shorten the length of the ban on reentry when necessary to ensure a competitive health insurance market, afford insurance consumers an

adequate selection of plans, and to provide adequate protection for consumers who purchased coverage. DCBS is required to adopt rules to describe the procedural requirements to follow and factors to consider when determining whether to shorten the length of the ban for a health plan. HB 2340 made additional technical changes to the Insurance Code.

HB 2340 takes effect on January 1, 2018.

3. HB 2341 (Ch. 152) Oregon Insurance Code

HB 2341 implements several changes to the Insurance Code, both to align the code with provisions of the Affordable Care Act and to remove gender-specific terms utilized in association with certain health care procedures. Specifically, HB 2341 modified the definition of short term health insurance policy from policies with a duration of six months to policies with a duration of three months. HB 2341 also eliminated gender-based distinctions on coverage for certain services including mammograms, pelvic examinations, Pap smear examinations, and comprehensive breast examinations, delating references to women (and related terms) and replacing with "individual."

While maintaining alignment with federal law, HB 2341 amended the definition of "small employer" in ORS 743B.250 to contain a comprehensive definition of the term, rather than simply referring back to the corresponding federal definition. (See SB 271 for more information.) In addition, HB 2341 provided additional procedures for providers seeking to prescribe clinically appropriate drugs that are not on the health plan's approved formulary and factors a to be considered by independent review organizations in determine whether an exception to the health plan's prescription drug formulary should be granted.

HB 2341 took effect on May 25, 2017.

4. HB 2342 (Ch. 626) Rules Not In Compliance With the Insurance Code

HB 2342 allows the Department of Consumer and Business Services (DCBS) to adopt rules that are not in compliance with the Insurance Code in response to changes in federal laws or decisions by certain federal agencies that have the potential to destabilize the health insurance market and pose a threat to the life and health of Oregon residents. DCBS may adopt temporary or permanent rules, but no permanent rule adopted pursuant to this authority may remain in effect for more than six months unless ratified by the Legislative Assembly.

If DCBS adopts any rules pursuant to the authority granted under HB 2342, DCBS must immediately report to certain legislative entities the action taken by DCBS and the reason for such action. Each quarter thereafter, DCBS must report on the consumer and carrier impact of such rules. DCBS may not adopt rules that fail to comply with provisions of the Insurance Code governing essential health benefits, preexisting conditions, or reimbursements for certain providers, items, or services. HB 2342 will be repealed on July 1, 2019.

HB 2342 took effect on August 2, 2017.

5. HB 2391 (Ch. 538) Health Provider Tax; Oregon Reinsurance Program

HB 2391 has three main components. First, the Act created a Health System Fund within the State Treasury which is appropriated to the Department of Consumer and Business Services for the purposes of administering the newly created Oregon Reinsurance Program and to transfer funds to the Oregon Health Authority (OHA) for costs associated with the medical assistance program, refunds owed to managed care organizations under the terms of the Act, and to pay administrative costs associated with OHA's administration of the managed care organization assessment process. The Health System Fund is comprised of assessments paid by the Public Employees Benefit Board, commercial insurers, and managed care organizations participating in the Oregon Health Plan. Failure to pay an assessment may result in the imposition of a penalty of up to $500 per day of delinquency.

The second part of HB 2391 is the creation of the Oregon Reinsurance Program, which is intended to create greater stability in the Oregon individual health plan market. Health benefit plans are eligible to receive reinsurance payments once the claims for a reinsurance eligible individual exceed a specified threshold.

HB 2391 also includes an assessment of 0.7 percent on the net revenue of hospitals, excluding certain specialized facilities and public hospitals. The assessments received may be used for various purposes, including payments to coordinated care organizations to provide additional reimbursement to type A (small and remote hospitals with 50 or fewer beds that are more than 30 miles from another acute inpatient care facility) and type B hospitals (small and rural hospitals with 50 or fewer beds that are 30 miles or less from another acute inpatient care facility) to improve and access to Medicaid recipients.

HB 2391 has an effective date of October 6, 2017. However, a petition has been filed to refer many of the provisions of HB 2391 to the voters. In order to refer the measure, chief petitioners must return the requisite signatures to the Secretary of State by October 5, 2017. If the measure is referred to the voters, a special statewide election will be held on January 23, 2018 (per the requirements of SB 229) for the voters to approve or disapprove of the measure.

6. HB 3276 (Ch. 719) Heal Plan Coverage during a Disease Outbreak

Under HB 3276, if the Director of Public Health determines that a disease outbreak, epidemic, or other public health condition of certain severity exists within a specific geographic area or statewide, health plans are required to cover the cost of necessary antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies, or other prophylactic measures approved by the Food and Drug Administration that are necessary to prevent the spread of the disease, epidemic, or other public health condition. Health plans may not restrict coverage for such services by requiring the provision of services by in-network providers, imposing cost-sharing requirements that are greater than those

applicable to similar covered services, requiring prior authorization or implementing other utilization controls, or limiting coverage in any way that prevents members of the health plan from accessing the necessary services.

HB 3276 also requires the Public Health Director to convene a task force consisting of representatives from public universities and other key stakeholders to recommend legislative changes to:

1. student health insurance coverage;
2. public health policies regarding vaccines; and
3. delivery of and payment for vaccines during a public health emergency.

By October 31, 2017, the Director will report to the Legislative Assembly on the findings and recommendations of the task force. The portion of HB 3276 creating the task force will be repealed on December 31, 2017.

HB 3276 took effect on August 15, 2017.

7. HB 3391 (Ch. 721) Coverage for Reproductive Health Care

HB 3391 implemented broad protections for contraceptive coverage. Under HB 3391, health benefit plans issued, renewed, modified, or extended on or after January 1, 2019, must provide coverage for certain services, including: well-woman care; counseling and screening for sexually transmitted infections; screening for various conditions including anemia, urinary tract infections, pregnancy, breast cancer, and cervical cancer; abortion; and contraceptive drugs, devices, or products approved by the US Food and Drug Administration. Health plans may not require prior authorization or other utilization controls for contraceptives. In addition, health plans may not impose deductibles, coinsurance, copayment or other cost-sharing mechanisms on coverage required by the bill.

Health plans are not required to cover abortion if the insurer excluded coverage for abortion in all of its individual, small employer, and large employer groups in 2017. In addition, health plans offered to religious employers are not required to include coverage for abortion and contraceptives; however, the insurer must notify all employees eligible for enrollment in the employer's plan of the contraceptives and procedures the employer refuses to cover on religious grounds. The Oregon Health Authority (OHA) must, in consultation with the Department of Consumer and Business Services (DCBS), design a program to provide statewide abortion access to individuals whose health benefit plans are not required to include abortion based upon the above classifications.

DCBS is required to monitor health compliance with the coverage requirements and must report back to the Legislative Assembly of the degree of compliance and actions taken to enforce compliance with the required coverages. Such report must be made to the Legislative Assembly on or before September 15, 2019.

HB 3391 requires OHA to administer a program to cover these same services to individuals who can become pregnant and who would otherwise be eligible for medical assistance but for their status as aliens or qualified aliens as defined under federal law.

HB 3391 took effect on August 15, 2017.

8. HB 3398 (Ch. 477) Oregon Medical Insurance Pool Funds

The Oregon Medical Insurance Pool (OMIP) was established to provide medical insurance coverage for Oregon residents who were unable to obtain medical insurance because of health conditions. After OMIP was abolished, funds remained in the OMIP Account in excess of what was needed to pay outstanding claims. HB 2391 (ch. 538) transferred the funds to the Health System Fund to be used for the Oregon Reinsurance Program and the medical assistance program. (See description above.)

HB 3398 took effect on June 27, 2017.

9. SB 46 (Ch. 309) Plans Offered by PEBB and OEBB

SB 46 modified various provisions of the Insurance Code to exclude plans offered by the Public Employees' Benefit Board (PEBB) and the Oregon Educators Benefit Board (OEBB) from the definition of health benefit plan. However, PEBB and OEBB remain subject to portions of the Insurance Code governing telemedicine, prescription drug synchronization, and workers' compensation.

SB 46 takes effect on January 1, 2018.

10. SB 97 (Ch. 479) Internationally Active Insurance Groups

As defined under SB 97, "internationally active insurance groups" means an insurance holding company system that includes an Oregon-licensed insurer and that writes premiums in three or more countries, writes at least ten percent of the system's total gross written premiums outside of the United States, and has $50 billion or more intotal assets or $10 billion or more of total gross written premiums on a rolling three-year average.

SB 97 recognizes the jurisdictional challenges that may arise within such systems. Accordingly, SB 97 authorizes the Department of Consumer and Business Services (DCBS) to act as the group-wide supervisor for internationally active insurance groups, or to acknowledge another entity as the group-wide supervisor when:

1. the insurance group does not have substantial operations in the United States;
2. the group has substantial operations in the United States but not in Oregon; or

3. despite the group's substantial operations in Oregon, the Director of DCBS determines that another regulatory official is the appropriate group-wide supervisor.

Insurers and insurance groups are required to submit information to DCBS to enable DCBS to determine whether it is appropriate for DCBS or another regulatory official to act as the group-wide supervisor. Insurers must also submit a corporate governance annual disclosure to DCBS or to another regulatory entity in the lead state in accordance with timelines established by rule.

If an Oregon insurer is placed under supervision, liquidation, or rehabilitation, DCBS has authority over its operations, despite the appointment of another regulatory entity as the group-wide supervisor.

SB 97 took effect on June 27, 2017.

11. SB 153 (Ch. 316) Insurance Company Taxation

Insurance companies that are members of a consolidated group for purposes of filing federal income taxes are required to file a separate tax return for Oregon. SB 153 amends Oregon tax laws to clarify that when determining taxable income for corporate excise tax purposes, taxpayers may deduct 100 percent of dividend payments made by insurer member of an affiliated group to the parent company. SB 153 applies to all tax years for which a return is subject to audit or adjustment, appeal, clam or refund after the effective date of the act.

SB 153 takes effect on October 6, 2017.

12. SB 271 (Ch. 142) Definition of Small Employer

SB 271 amends the definition of "small employer" within the Insurance Code to contain a substantive definition of the term rather than a simple reference to the definition as set forth within federal law. The definition within the Insurance Code aligns with the definition of small employer in the Affordable Care Act as amended on October 7, 2015.

The operative provisions of SB 271 were later incorporated into HB 2341, in order to conform the language of the two bills. The above provisions take effect on January 1, 2018.

VI. OTHER LEGISLATION

1. HB 2015 (Ch. 281) Doula Reimbursement

HB 2015 directs the Oregon Health Authority (OHA), in coordination with Traditional Health Workers Commission, to biennially review, and revise if necessary, any reimbursement

rates for doulas. The bill requires the OHA to report annually to the Oregon Health Policy Board and the Oregon Public Health Advisory Board on doulas.

This bill is effective January 1, 2018.

2. HB 2103 (Ch. 381) Nurse practitioners to perform vasectomies

HB 2103 permits licensed nurse practitioners to perform vasectomies.

This bill takes effect January 1, 2018.

3. HB 2114 (Ch. 146) Oregon Opioid Prescribing guidelines

HB 2114 directs the Oregon Medical Board, Oregon State Board of Nursing, Oregon Board of Dentistry, and Oregon Board of Naturopathic Medicine to each provide notice to their own licensees who are authorized to prescribe opioids or opiates of the "*Oregon Opioid Prescribing Guidelines: Recommendations for the Safe Use of Opioid Medications*" no later than January 1, 2018.

This bill takes effect October 6, 2017.

4. HB 2267 (Ch. 13) Medical Imaging Licensure

HB 2267 exempts ophthalmic sonographers from the requirement to obtain an imaging license from the Oregon Board of Medical Imaging. The bill authorizes the Board of Medical Imaging to impose a maximum $100 fine on a permit holder or licensee for administrative or clerical violations that do not create risk of harm to the public.

Separately, the bill authorizes the Board of Medical Imaging to issue a limited or temporary permit in bone densitometry to a qualified applicant.

This bill took effect on April 4, 2017.

5. HB 2301 (Ch. 101) Health Licensing Board Office

HB 2301 makes a number of changes related to the powers and duties of the Oregon Health Licensing Office (HLO). Among these changes, the bill separates the HLO into two groups: health-related professions and trade professions. The bill specifies circumstances under which the HLO is required or permitted to disclose information obtained during investigations of certain professions and creates different standards for health-related professions and trade professions.

HB 2301 also modifies the membership composition and requirements of the State Trauma Advisory Board, area trauma advisory boards, State Emergency Medical Services

Committee and Health Care Acquired Infection Advisory Committee; and changes the Oregon Health Authority (OHA) Director to the Director's designee for purposes of appointing members to the Advisory Committee on Physician Credentialing.

The bill repeals voluntary managed health insurance organizations consortium established by OHA. Adds Cancer Centers to the definition of health care facilities for the required data reporting to the Oregon State Cancer Registry. Modifies programs for treating allergic response, adrenal insufficiency and hypoglycemia. Allows physician assistants to treat allergic responses.

This bill takes effect on January 1, 2018.

6. HB 2303 (Ch. 384) CCO Primary Care Spending Reporting

HB 2303 changes the date that coordinated care organizations are required to report to the Oregon Health Authority (OHA) on the percentage of medical spending allocated to primary care each year from December 31 to October 1. The bill also removes obsolete references to Office for Oregon Health Policy and Research and community-based health care initiatives.

This bill is effective January 1, 2018.

7. HB 2304 (Ch. 618) Traditional health workforce

HB 2304 expands Oregon's traditional health workforce by recognizing peer, family and youth support specialists as members of the Traditional Health Workers Commission. The bill authorizes the Oregon Health Authority (OHA) to adopt qualification criteria for traditional health workers utilized by coordinated care organizations (CCOs) and requires CCOs to ensure that members have access to peer support specialists. HB 2304 also requires the Attorney General and OHA to develop and implement a plan for incorporating sexual and domestic abuse survivor advocates into the traditional health workforce to increase access to advocate services.

This bill takes effect on January 1, 2018.

8. HB 2388 (Ch. 73) DCBS oversight of Pharmacy Benefit Managers

HB 2388 provides the Department of Consumer and Business Services (DCBS) with the authority to deny, revoke or suspend a pharmacy benefit manager (PBM) registration and specifies conditions by which registration can be revoked, denied or suspended. The bill directs DCBS to adopt rules to implement measure, including rules related to the process by which a complaint can be filed against a PBM.

This bill took effect May 17, 2017.

9. HB 2397 (Ch. 106) Pharmacy Formulary Advisory Committee

HB 2397 changes the name of the Public Health Advisory Committee to the Public Health and Pharmacy Formulary Advisory Committee and changes the composition of the committee by adding two additional seats to be filled by licensed pharmacists. The bill limits the terms of committee members to two years, and directs the Committee to make formulary recommendations regarding drugs and devices that pharmacists may prescribe and dispense to patients. Directs the State Board of Pharmacy to establish by rule the formulary of specific drugs, devices and laboratory tests that pharmacists may prescribe and dispense.

This bill took effect May 18, 2017.

10. HB 2398 (Ch. 287) Provider billing of Medicaid recipients

HB 2398 prohibits health care providers from billing Medicaid recipients except as permitted by the Oregon Health Authority (OHA) through rulemaking. The bill requires health care providers to wait 90 days for payment and to check with the OHA to confirm an individual's eligibility for Medicaid before assigning a claim for collection.

The bill also prohibits a provider from submitting a claim to a collection agency if an individual was eligible for Medicaid at the time services were rendered.

This bill is effective January 1, 2018.

11. HB 2432 (Ch. 155) Licensure of Art Therapists

HB 2432 directs Oregon Health Authority's (OHA) Health Licensing Office (HLO) to issue licenses to qualified art therapists to practice art therapy in Oregon. The bill provides license requirements and directs OHA to adopt rules to implement this measure.

This bill takes effect on May 25, 2017.

12. HB 2503 (Ch. 499) Licensure of lactation professionals

HB 2503 directs Oregon Health Authority's (OHA) Health Licensing Office (HLO) to establish a new board and program for licensing and regulating the practice of lactation consultants. Directs HLO to adopt rules to implement measure. The bill exempts providers who contract with OHA to promote or support breastfeeding through the Women, Infants and Children Program from licensing requirements.

This bill took effect on June 29, 2017, and the licensing requirements become operative January 1, 2018.

13. HB 2527 (Ch. 289) Contraceptive prescription and administration by Pharmacists

HB 2527 allows pharmacists to prescribe self-administered hormonal contraceptives and administer injectable hormonal contraceptives. The bill also requires prescription drug benefit plans to cover pharmacist consultations as a benefit.

This bill takes effect June 14, 2017.

14. HB 2882 (Ch. 429) Dental care organizations

HB 2882 amends ORS 414.625 to require a coordinated care organization (CCO) governing body to include a representative from at least one dental care organization that serves the members of that CCO.

This bill is effective June 22, 2017.

15. HB 3014 (Ch. 401) Respiratory Therapy licensing requirements

HB 3014 clarifies Oregon's respiratory therapy licensing process and requires individuals applying for a license to practice respiratory therapy to hold a credential as a Registered Respiratory Therapist.

This bill takes effect June 20, 2017.

16. HB 3363 (Ch. 409) Osteopathic physicians

HB 3363 amends existing state law to change the term "osteopath" to "osteopathic physician". This change is intended to clarify that doctors of osteopathic medicine practice as physicians.

This bill takes effect on January 1, 2018.

17. HB 3439 (Ch. 179) Professional Corporations

HB 3436 expands current law to allow physician assistants (PA) and nurse practitioners (NP) to have equal or majority ownership in professional corporations organized for the purpose of practicing medicine (currently limited to physicians). The bill allows PAs or NPs to establish new or purchase existing clinics, and prohibits an individual who is employed by or owns an interest in the professional corporation from directing the medical judgment of a physician, physician assistant or nurse practitioner.

This bill is effective January 1, 2018.

18. SB 53 (Ch. 559) In-home care agency and hospice program licensing fees

SB 53 increases licensing fees of in-home care agencies and hospice programs. The new statute now specifies a range of fees depending on the specific nature of the licensure.

This bill takes effect on January 1, 2018.

19. SB 69 (Ch. 127) Oregon State Board of Nursing duties

SB 69 clarifies duties relating to standards for the delegation of patient care tasks and modifies the categories of stakeholders that the Board will engage with during the rulemaking process that governs the administration of noninjectable medication to include all appropriate stakeholders.

This bill takes effect on January 1, 2018.

20. SB 70 (Ch. 128) Oregon State Board of Nursing licensure process

SB 70 clarifies and updates the nursing licensure application and issuance process for the Oregon State Board of Nursing.

This bill takes effect on January 1, 2018.

21. SB 73 (Ch. 131) Oregon State Board of Nursing licensure requirements for nurse practitioners, clinical nurse specialists, and certified nurse anesthetists.

SB 73 directs the Oregon State Board of Nursing to adopt rules related to the license and certificate renewal process for nurse practitioners, clinical nurse specialist,s and certified nurse anesthetists.

This bill takes effect on January 1, 2018.

22. SB 269 (Ch. 247) Nursing license exemptions

SB 269 amends ORS 678.031 to permit nonresident nurses to practice in Oregon if participating in a school-sponsored event.

This bill takes effect on January 1, 2018.

23. SB 419 (Ch. 648) Task Force on Health Care Cost Review

SB 419 establishes the Task Force on Health Care Cost Review to study the feasibility of creating a rate-setting process similar to the process used by the Health Services Cost Review Commission in Maryland. The bill requires the task force to submit a report to interim committees of Legislative Assembly related to health by September 15, 2018. Task force sunsets on December 31, 2018.

This bill takes effect October 6, 2017.

24. SB 485 (Ch. 336) Exemption for Professional Corporations organized for purposes of practicing medicine

Oregon law requires that professional corporations organized for the purpose of practicing medicine be controlled by licensed physicians by holding the majority of voting stock, shares or comprise the majority of directors (ORS 58.375). SB 485 amends ORS 58.375 to exempt nonprofit corporations from this requirement if they meet federal certification requirements and provide services to migrant, rural, homeless or other medically underserved populations. It also exempts for-profit and non-profit business entities if operating solely as a rural health clinic.

This bill takes effect January 1, 2018.

25. SB 743 (Ch. 345) Sale of Dextromethorphan (DXM) to minors

SB 743 restricts the sale of DXM to minors under the age of 18 without a valid prescription. The bill requires a trade association that represents manufacturers of over the counter products that contain DXM to provide a list of products containing DXM marketed by their members to businesses that sell products containing DXM upon request.

This bill takes effect January 1, 2018.

26. SB 769 (Ch. 254) Disposal of documents containing social security number

SB 769 adds specific provisions to Oregon's Consumer Identity Theft Protection Act that prohibit a person from disposing of, or transferring to another person for disposal, documents that contain a consumer's social security number unless the number has been redacted or made unreadable prior to disposal.

This bill takes effect January 1, 2018.

27. SB 934 (Ch. 489) Primary care payments

SB 934 requires coordinated care organizations (CCOs), the Public Employees' Benefit Board (PEBB) the Oregon Educators Benefit Board (OEBB), and commercial insurers offering

health benefit plans to spend at least 12 percent of total medical expenditures excluding prescription drug, vison, and dental care expenditures on primary care by January 1, 2023. The bill further requires insurers to report to DCBs on or before October 1 annually and PEBB and OEBB to report annually to the Legislative Assembly. The bill grants the Oregon Health Authority and the Department of Consumer and Business Services rulemaking authority to implement measure.

This bill takes effect January 1, 2018.

28. SB 949 (Ch. 360) Home health worker noncompetition agreements

SB 949 makes noncompetition agreements between employers and home care workers voidable by the home care worker and unenforceable by Oregon courts.

This bill takes effect January 1, 2018.

29. SB 966 (Ch. 362) Dental autoclave sterilization requirements

ORS 679.535 requires dentists to test autoclaves or other heat sterilization devices at least once per week. SB 966 amends ORS 679.535 to extend to any dental professional licensed by Oregon Board of Dentistry.

This bill takes effect January 1, 2018.

30. SB 1025 (Ch. 696) Testing for transmission of disease in law enforcement and public safety personnel

SB 1025 authorizes a process by which specified law enforcement and public safety personnel may petition the court to compel testing of another person for a communicable disease if exposed to blood, bodily fluid, or other potentially infectious materials in the performance of official duties.

Upon a showing of circumstances that create probable cause to conclude that the petitioner's contact with the individual created exposure to blood, bodily fluids or other potentially infectious materials the court may order testing. The bill requires confidentiality of test results and prohibits subsequent use of test material in a civil or criminal investigation or proceeding.

This bill takes effect October 6, 2017.

31. SB 71 (Ch. 129) Administration of noninjectable medication in long term care facilities

SB 71 amends ORS 678.445 to clarify that the Oregon State Board of Nursing will adopt rules that set standards that allow a nursing assistant to administer noninjectable medication under the supervision of a registered nurse in a long term care facility.

This bill takes effect on January 1, 2018.

32. SB 72 (Ch. 130) Prescriptive authority for nurse practitioners or certified nurse specialists

SB 72 amends ORS 678.390 to remove an outdated application requirement for nurse practitioners and certified nurse specialists seeking authority to dispense prescription drugs. The bill directs the Oregon State Board of Nursing to collect any information required by rule.

This bill takes effect on January 1, 2018.

33. SB 74 (Ch. 132) Permission to execute medical treatment orders

SB 74 amends ORS 678.010 to allow registered nurses and licensed practical nurses to execute medical treatment orders from clinical nurse specialists, nurse practitioners, and certified registered nurse anesthetists.

This bill takes effect January 1, 2018.

34. SB 423 (Ch. 335) Physician Assistants permitted to dispense Schedule III and IV controlled substances

SB 423 amends ORS 677.511 to permit Physician Assistants to dispense controlled substances in Schedules III and IV under federal Controlled Substances Act. The bill requires a Physician Assistant who is dispensing a controlled substance to report the dispensing information to the Prescription Drug Monitoring Program.

This bill takes effect January 1, 2018.

35. SB 561 (Ch. 342) Indirect supervision of students of dentistry, dental hygiene and expanded practice dental hygiene

SB 561 amends ORS 679.025 and 680.020 to allow students of dentistry, dental hygiene, and expanded practice dental hygiene to perform under indirect supervision by faculty in specific community-based or clinical settings. The statute previously required direct supervision.

This bill took effect June 14, 2017.

36. SB 786 (Ch. 348) Use of telehealth by dental providers

SB 786 allows dental care providers to use telehealth if doing so is within the provider's scope of practice and determined to be appropriate by the provider. The bill requires the Oregon Board of Dentistry to treat dental care services equally regardless of the method of delivery.

This bill takes effect January 1, 2018.

37. SB 831 (Ch. 352) Definition of supervising physician

SB 831 amends ORS 677.495 to expand the definition of "supervising physician" to include persons licensed to practice podiatric medicine for purposes of supervising Physician Assistants.

This bill takes effect January 1, 2018

38. SB 856 (Ch. 259) Physician assistant hospital privileges

SB 964 amends ORS 441.064 to allow hospitals to grant, suspend, terminate, or refuse hospital privileges to Physician Assistants seeking to use hospital facilities to provide patient care.

This bill is effective January 1, 2018.

12

Amy Zubko
Amber Hollister

Judicial Administration

I. INTRODUCTION

II. COURT FEES, RECORDS, AND PROCEDURES

1. HB 2605 (Ch. 631) New Judgships
2. HB 2795 (Ch. 663) Oregon eCourt, Filing Fee Increases
3. HB 2797 (Ch. 712) Oregon eCourt, Criminal Fines and Assessments
4. HB 3470 (Ch. 725) Program Change
5. HB 5006 (Ch. 702) Budget Reconciliation
6. SB 5505 (Ch. 570) Bonding Limits and Courthouse Construction
7. SB 5529 (Ch. 598) Lottery Allocation

III. OREGON STATE BAR GOVERNANCE AND OPERATIONS

1. SB 490 (Ch. 94) Oregon State Bar Governance
2. SB 491 (Ch. 524) OSB Disciplinary System

Amy Zubko: 2007 University of Oregon School of Law. Member of the Oregon State Bar since 2007.
Amber Hollister: 2003 University of Washington School of Law. Member of the Oregon State Bar since 2003.

I. INTRODUCTION

This chapter addresses legislation related to the operation of the Oregon Judicial Department and to the court system in general, as well as legislation affecting the Oregon State Bar. In 2017, the legislature passed budgets for the Oregon Judicial Department (HB 5013) and the Public Defense Services Commission (HB 5033) as well as significant legislation addressing such issues as the funding of Oregon eCourt, increasing the number of circuit court judges, and continued funding for courthouse renovation and construction.

II. COURT FEES, RECORDS, AND PROCEDURES

1. HB 2605 (Ch. 631) New Judgeships

HB 2605 was proposed by the Oregon Judicial Department. The bill establishes two new circuit court judgeships and six new staff positions, one judge each in Washington and Josephine counties. The two judicial positions will be elected and subsequently begin in January of 2019.

HB 2605 took effect on August 2, 2017.

2. HB 2795 (Ch. 663) Oregon eCourt, Filing Fee Increases

HB 2795 was proposed by the Oregon Judicial Department. The bill – in conjunction with HB 2797 and with an increase in document access fees – will raise funds to pay for the ongoing maintenance costs of the Oregon eCourt system.

The measure increased most filing fees charged by courts for filings, motions, settlements and trial fees by five percent. Further, HB 2795 increased the percentage of revenue passed on to the State Court Technology Fund from 4.75 to 8.85 percent. Additional discussion of the State Court Technology Fund can be found in HB 2797, HB 3470, and SB 5529.

In addition, HB 2795 increases prevailing party fees and reduces the filing fee for foreign judgments.

HB 2795 took effect on August, 8, 2017.

3. HB 2797 (Ch. 712) Oregon eCourt, Criminal Fines and Assessments

HB 2797 was proposed by the Oregon Judicial Department. The bill – in conjunction with HB 2795 and an increase in document access fees – will raise funds to pay for the ongoing maintenance costs of the Oregon eCourt system.

The measure increased presumptive fines for certain violations, generally by five dollars, to be deposited in the Criminal Fines Account. In addition, the bill allows funds from the Criminal Fines Account to be transferred to the State Court Technology Fund. The statutory language allowing for the allocation of funds from the Criminal Fines Account to the State Court Technology Fund can be found in SB 5529. Additional discussion of the State Court Technology Fund can be found in HB 2795, HB 3470, and SB 5529.

HB 2797 took effect on August 15, 2017.

4. HB 3470 (Ch. 725) Program Change

HB 3470 implements statutory changes necessary to support the 2017 – 2019 biennial budget. Statutory changes affecting the Oregon Judicial Department, the Department of Justice, county courts, and the Department of Human Services, among others, were made in in the bill. For additional information on these issues see HB 5006.

Conciliation and Mediation Services

Section 19 of the bill allows counties to reallocate up to one-half of the General Funds appropriated for county law libraries to conciliation and mediation services in circuit courts.

Juvenile Dependency Representation

In Section 5 of the bill, the sunset on the provision which allowed Department of Human Services' caseworkers to appear as a party in juvenile court proceedings without representation by the Oregon Attorney General was extended to June 30, 2020 from June 30, 2018. For additional information, see HB 5006.

State Court Technology Fund

Section 19a of the bill allows the new transfer of funds established in HB 2795 to the State Court Technology Fund beginning on July 1, 2017. Additional discussion of the State Court Technology Fund can be found in HB 2795, HB 2797, and SB 5529.

HB 3470 took effect on August 15, 2017

5. HB 5006 (Ch. 702) Budget Reconciliation

HB 5006 is the omnibus General Fund budget reconciliation bill for the 2017 legislative session. Funding for projects and programs within the Oregon Judicial Department and the Department of Justice were appropriated in this bill. For additional information on these issues see the text of HB 3470 and SB 5505.

Courthouse Construction

In support of Clackamas County's plan to replace their county courthouse, the legislature established a $1,200,000 General Fund appropriation for planning costs. The General Fund appropriation does not establish a commitment or expectation of any additional state financial support for the replacement of the courthouse. Clackamas County is required to match the appropriation.

In addition to the bonding authority in SB 5505 for the replacement of the Lane County Courthouse, an additional $5 million will be provided for planning and development of the project. Similar to the Clackamas County project, the General Fund appropriation does not establish a commitment or expectation of any additional state financial support for the replacement of the courthouse. Lane County is required to match the appropriation.

Grand Juries

SB 505, which requires grand jury proceedings to be recorded, was passed during the 2017 legislative session. The Oregon Judicial Department budget was increased by $600,000 in HB 5006 to cover the costs, in part, of four new full-time positions, in addition to the $1.5 million General Fund appropriation contained in SB 505. Grand jury recording is expected to spur an increased number of preliminary hearings which will require greater staff involvement. For more information on Grand Jury recording requirements, see SB 505 in the Criminal Law Chapter.

Juvenile Dependency Representation

The Child Advocacy Section of the Department of Justice provides court representation and legal advice to the Department of Human Services Child Welfare program. In 2015, the legislature passed SB 222, creating the Task Force on Legal Representation for Childhood Dependency which issued a final report in the fall of 2016. Due to limited state resources, the legislature was able to fund some but not all of the recommendations.

HB 5006 approved $6,916,041 and 35 permanent full-time positions for the Civil Enforcement Division – Child Advocacy section. Funding and staff will be used to represent Child Welfare caseworkers in court and provide full access to legal representation, counsel, advice, litigation support, and training. While the funding can be found in SB 5526, the Oregon Department of Human Resources' budget, the agency will be billed by the Department of Justice to provide these services. Representation will be phased-in by county beginning January 1, 2018 and completed by January 1, 2019. As a result, the sunset on the provision allowing the Department of Human Services' caseworkers to appear as a party in juvenile court proceedings without representation by the Oregon Attorney General was extended to June 30, 2020. See HB 3470 for more information.

In addition, the Department of Justice received $123,932 for one part-time Assistant Attorney-General position focused on child advocacy.

SB 5006 took effect on August 15, 2017.

6. SB 5505 (Ch. 570) Bonding Limits and Courthouse Construction

SB 5505 establishes the bonding limits for the 2017 – 2019 biennium. The bill addresses a number of projects, including the Oregon Supreme Court, the Lane County Courthouse, and the Multnomah County Courthouse. The bill provides for $6,125,000 in bonding authority for the renovation and seismic upgrades to the Oregon Supreme Court building. In addition, SB 5505 provides for $5,115,000 towards the replacement of the Lane County Courthouse and $101,500,000 to finance the completion of the Multnomah County Courthouse. An additional $8,900,000 was authorized for purchasing state-owned furnishings and equipment. For additional information on these issues see HB 5006.

SB 5505 took effect on July 19, 2017.

7. SB 5529 (Ch. 598) Lottery Allocation

SB 5529 makes and adjusts a number of allocations of the net proceeds of the Oregon State Lottery, the Criminal Fines Account, and the Oregon Marijuana Account.

Security and Emergency Preparedness for State and County Courts

Section 20 allocates $3,588,745 for state court security and emergency preparedness from the Criminal Fine Account. This is a 4.1 percent increase from the last biennium. In addition, section 20 allocates $2,824,208 for county court security from the Criminal Fine Account. This is a 31.9 percent decrease from the last biennium.

State Court Technology Fund

In Section 21, $3,110,000 is allocated from the Criminal Fine Account to the State Court Technology Fund. Additional discussion of the State Court Technology Fund can be found in HB 2795, HB 2797 and HB 3470.

SB 5529 took effect on July 19, 2017.

III. OREGON STATE BAR GOVERNANCE AND OPERATIONS

1. SB 490 (Ch. 94) Oregon State Bar Governance

SB 490 made several minor changes to the governance of the Oregon State Bar.

The bill renames the position of bar "executive director" of the bar as the "chief executive officer" of the bar. The bill eliminated references in the statute to two vice president positions which the Board of Governors no longer utilizes, and provides that the outgoing OSB President becomes the "immediate past president" and serves as a non-voting member of the board for one year.

Additionally, the bill added language to ORS 9.200 to allow the Board of Governors to assess late payment penalties against a member delinquent in the payment of membership fees.

Finally, the bill clarified sections of statutes relating to the distribution of ballots for elections to the Board of Governors and House of Delegates by using terminology reflecting that elections are largely held electronically and do not normally involve the use of paper ballots distributed to the members at large.

SB 490 took effect on May 17, 2017.

2. SB 491 (Ch. 524) Oregon State Bar Disciplinary System

SB 491 made several changes relating to process of investigating attorneys accused of misconduct. The bill provides explicit statutory authority for the bar to employ one or more professional adjudicators to preside over disciplinary hearings, subject to rules promulgated by the Supreme Court and the OSB bylaws.

The bill eliminated the Local Professional Responsibility Committees (LPRCs), as these committees are rarely used in modern investigations. The bill also shifted the responsibility to appoint the State Professional Responsibility Board (SPRB) from the Board of Governors to the Oregon Supreme Court in order to ensure greater independence of the SPRB from the bar itself. Finally, the bill extends statutory immunity to disciplinary monitors and new lawyer mentors who help the bar fulfill its regulatory function.

SB 491 took effect on June 29, 2017.

13

Joanne Southey
Inge Wells

Juvenile Law

I. JUVENILE DEPENDENCY

1.	HB 2216	(Ch. 36)	Foster Children's Sibling Bill of Rights
2.	HB 2259	(Ch. 616)	Office of Child Care Central Background Registry
3.	HB 2344	(Ch. 30)	Independent Living Programs
4.	HB 2600	(Ch. 630)	CASA volunteers and programs
5.	HB 2673	(Ch. 100)	Birth Certificates
6.	HB 2903	(Ch. 138)	Licensing of Child-Caring Agencies
7.	SB 101	(Ch. 515)	Child Abuse Investigations in school settings
8.	SB 241	(Ch. 447)	Bill of rights of children of incarcerated parents
9.	SB 243	(Ch. 733)	Abuse reporting for children in care
10.	SB 268	(Ch. 377)	Reports of child abuse be made available to Disability Rights Oregon
11.	SB 512	(Ch. 651)	Relating to Parentage
12.	SB 819	(Ch. 469)	Critical Incident Response Teams
13.	SB 830	(Ch. 351)	Expanding definition of current caretaker
14.	SB 942	(Ch. 740)	Requiring findings in child abuse investigations

II. JUVENILE DELINQUENCY

1.	HB 2616	(Ch. 389)	Right to Counsel
2.	HB 3242	(Ch. 431)	Recording custodial interviews
3.	SB 49	(Ch. 558)	Juvenile fitness to proceed
4.	SB 846	(Ch. 257)	Physical Restraints

Joanne Southey: 1997 Willamette School of Law. Member of the Oregon State Bar since 1997.
Inge Wells: 1987 University of Washington School of Law. Member of the Oregon State Bar since 1988.

I. JUVENILE DEPENDENCY

1. HB 2216 (Ch. 36) Foster Children's Sibling Bill of Rights

HB 2216 creates new provisions establishing the Oregon Foster Children's Sibling Bill of Rights. The bill provides that siblings who are foster children have certain rights, which include the right to obtain substitute care placement together, the right to maintain contact and visits with siblings, and an age-appropriate explanation for why contact with a sibling has been denied or prohibited. These rights apply regardless of whether the parental rights of one or more of the foster child's parents have been terminated. The Department of Human Services is required to adopt rules establishing the Foster Children's Sibling Bill of Rights.

The bill goes into effect on January 1, 2018.

2. HB 2259 (Ch. 616) Office of Child Care Central Background Registry

HB 2259 amends ORS 329A.030 to require the Office of Child Care to conduct a child abuse and neglect records check and a foster care certification and adult protective services check—in addition to a criminal records check—upon receiving an application for enrollment in the Central Background Registry.

The bill also amends ORS 419B.035(1)(j) to permit the Office of Child Care to use child abuse reports and records for purposes of ORS 329A.030(10)(g), (h) and (i). The bill applies to initial or renewed enrollments occurring before, on or after the effective date of the Act.

This bill went into effect on August 2, 2017.

3. HB 2344 (Ch. 30) Independent Living Programs

HB 2344 amends ORS 418.475 which specifies the rules the Department of Human Services must apply in providing independent living program services and grants. Under the bill, independent residence facilities are available to unmarried persons between the ages of 16 and 20, whom the department has determined "possess the skills and level of responsibility required for the transition to adulthood."

The bill goes into effect on January 1, 2018.

4. HB 2600 (Ch. 630) CASA volunteers and programs

HB 2600 transfers authority over Court Appointed Special Advocates (CASA) and CASA Volunteer Programs from the Oregon Volunteers Commission for Voluntary Action and Service to the Oregon Department of Administrative Services (DAS). This bill:

1. Requires DAS to contract with all CASA Volunteer Programs to recruit, train and supervise CASAs. DAS may delegate that authority to a nongovernmental entity which must be a member of the National CASA Association and will serve as a "statewide coordinating entity" for the provision of CASA services throughout the state.
2. Requires DAS to oversee and monitor CASA Volunteer Program standards, with assistance from the statewide coordinating entity described above, to recruit, train and supervise CASAs.
3. Requires DAS, with the assistance of the statewide coordinating entity described above, to adopt policies, procedures and standards for CASAs, develop and provide training for CASAs, and identify statewide outcomes and performance measures for CASA programs.
4. Requires each CASA program to report biannually to the Legislature about the provision of CASA services.
5. Establishes a CASA fund.

This bill went into effect on August 2, 2017.

5. HB 2673 (Ch. 100) Birth Certificates

HB 2673 amends ORS 33.420, 33.460, 109.360, 432.235 and 432.245 to allow for an amended birth certificate under certain circumstances. The bill allows a person to request amendment of a record of live birth to change the person's name or sex if the reason for the change is to affirm the gender identity of the person.

An applicant must be 18 or an emancipated minor, or if the person whose name or sex is to be changed is a minor, the parent, legal guardian or legal representative of the minor.

The bill requires the applicant to provide either:

1. A certified copy of a court order, or
2. A form request, sufficient documentation to allow the state registrar to confirm the identity of the applicant and identify the correct record of live birth to be amended, and a statement signed by the applicant attesting that the purpose of the request is to affirm the applicant's gender identity.

This provision of the bill takes effect on January 1, 2018. Other amendments to the vital statistics statutes took effect October 6, 2017

6. HB 2903 (Ch. 138) Licensing of Child-Caring Agencies

HB 2903 makes several changes to ORS 418.240, concerning licensing criteria for private child-caring agencies.

The bill allows the Department of Human Services (DHS) to immediately place conditions on the license of a child-caring agency if: 1) DHS is moving to revoke or suspend a license because of the death of a child; sexual or physical abuse of a child that was known to the child-caring agency and the child-caring agency did not take immediate steps to report the abuse or neglect or ensure the child's safety; the child-caring agency failed to cooperate with a local, state or federal regulatory entity investigation; or the child-caring agency failed to provide required financial statements; and 2) DHS finds that there is a serious danger to the public health or safety.

If DHS has taken action to revoke or suspend a license for the reasons identified above, DHS may rescind the notice to revoke or suspend if the Director determines that concerns regarding the health and safety of children have been ameliorated and conditions placed on the license have been resolved. A decision to rescind:

1. Requires the agreement of DHS, the Oregon Youth Authority, and, if the child-caring agency is licensed to provide medical or psychiatric services, the Oregon Health Authority. (This requirement will be repealed on January 1, 2021.)
2. Requires written notice of the intent to rescind be provided to the Governor 14 days prior to rescinding the notice of intent to suspend or revoke. The written notice must include the circumstances that led to the notice of intent to suspend or revoke; actions taken by child-caring agency, DHS, the Attorney General, OYA and OHA; any penalties, fees or charges levied against the child-caring agency; and a description of changes made at the child-caring agency and the reasons for concluding that the concerns for health and safety of children have been ameliorated or conditions placed on the license have been resolved. Copies of the notice of intent to rescind must be provided to the Governor and the legislative committees related to child welfare. The notice of intent to rescind is a public document, open to inspection by any person.
3. Must be based solely on the health or safety of children and may not be based on the system-wide capacity of the child welfare system.

The bill also requires that for a period of three years after a notice of intent to suspend or revoke is rescinded, the child-caring agency must apply for renewal of its license every year. During the investigation of abuse to a child in care, DHS may not refer to the person that is the subject of the investigation as an alleged perpetrator, but must refer to the person as the respondent.

DHS shall report to the legislative committees on child welfare no later than September 15, 2018, on how to establish a "deemed status" determination for a child-caring agency that has been accredited and is in good standing with a national accrediting program, body or organization approved by DHS. (This section is repealed on January 2, 2019.)

This bill took effect on May 24, 2017.

7. SB 101 (Ch. 515) Child Abuse Investigations in school settings

SB 101 amends ORS 419B.045 regarding child abuse investigations in school settings. This bill:

1. Ensures that child abuse investigations may take place in both public and private school settings.
2. Provides that the Department of Human Services and law enforcement agencies do not have to disclose information about the investigation to the school in order to be able to conduct the assessment at the school.
3. Prohibits school staff and administration from notifying the child's parents or guardians about the investigation or sharing information about the investigation with the parents or guardians.
4. Provides that school staff and administration may not be held liable for complying with the notice and disclosure provisions of the statute.
5. Limits child welfare investigations in school settings to interviews of the child victim or witnesses and clarifies that it does not include interviews of alleged perpetrators.

This bill took effect June 29, 2017.

8. SB 241 (Ch. 447) Bill of Rights of Children of Incarcerated Parents

SB 241 creates new provisions requiring the Department of Corrections (DOC) develop guidelines for making decisions that impact incarcerated individuals with children using the Bill of Rights of Children of Incarcerated Parents, established by the bill. Also requires DOC to develop policy and funding recommendations with partners that adhere to the guidelines.

For additional information about this bill, see the Domestic Relations chapter. This bill takes effect on January 1, 2018.

9. SB 243 (Ch. 733) Abuse reporting for children in care

SB 243 amends 2016 Oregon Laws, chapter 106, §§36-38 (SB 1515) to add children in certified foster homes to the provisions on abuse to a child in care.

The bill amends the definitions in §36 (SB 1515) of "child in care", "certified foster home" and "involuntary seclusion," and requires the Department of Human Services take specific action when it becomes aware of a report of suspected child abuse of a child residing in or receiving services in a certified foster home. The bill also places new conditions on the ability of DHS to issue or renew a foster home certificate.

SB 243 requires that interference or hindering an investigation of abuse of a child in care may constitute grounds for revocation, suspension, or placing of conditions on the certificate of

the foster home. This may include but is not limited to intimidation of witnesses, falsification of records, or denial or limitation of interviews with the child or with witnesses.

The bill places restrictions on interviewing a child in care who is the subject of the report of abuse or neglect and establishes notice requirements, and requires an investigation of abuse to a child in care must result in one of the following findings: substantiated, unsubstantiated, or inconclusive.

The amendments to sections 36, 37 and 38 of Oregon Laws 2016, chapter 106 by sections 1-3 of SB 243 become operative on January 1, 2018. Section 4 of SB 243 is effective immediately on passage to permit the Director of DHS to take any action necessary to enable the Director to exercise the duties, powers, and functions conferred on the Director by the Act.

SB 243 took effect on August 15, 2017.

10. SB 268 (Ch. 377) Reports of child abuse be made available to Disability Rights Oregon

SB 268 amends ORS 419B.035(1) by adding Disability Rights Oregon (DRO) to the list of individuals and organizations that are entitled to reports and records compiled under the child abuse reporting statutes. Under the bill DRO is entitled to these records if the abuse occurred 1) at a school or an educational setting, and 2) involves a child with a disability.

This bill goes into effect on January 1, 2018 and applies to reports or records compiled on or after that date.

11. SB 512 (Ch. 651) Relating to Parentage

SB 512 amends the definition of "parent" in ORS 419A.004 and amends ORS 419B.395 to authorize the juvenile court to enter paternity judgments when the court determines the child has "fewer than two legal parents" or that parentage is disputed.

For additional information about SB 512, see the Domestic Relations chapter. This bill goes into effect on January 1, 2018.

12. SB 819 (Ch. 469) Critical Incident Response Teams

SB 819 amends ORS 419B.024, the statute requiring the Department of Human Services to assign a Critical Incident Response Team (CIRT) in cases involving a child fatality that was likely the result of child abuse or neglect.

The bill requires that the department assign a CIRT when it "becomes aware" of a child fatality within timelines established by rule and expands the circumstances under which a CIRT must be assigned. It designates persons who shall be members of the CIRT and persons who

may be assigned to a CIRT. Additionally, the bill specifies the information and records to be made available to the CIRT, the process by which the CIRT's review should be conducted, and the contents of the final report.

The bill went into effect on June 22, 2017, and applies to CIRTs assigned on or after that date.

13. SB 830 (Ch. 351) Expanding definition of current caretaker

SB 830 expands the definition of "current caretaker" under ORS 419A.004 to include a foster parent caring for a ward in Department of Human Services custody who has cared for the ward or ward's sibling for any 12 cumulative months. The law previously required the 12 months immediately preceding the child's placement in care.

This bill goes into effect on January 1, 2018.

14. SB 942 (Ch. 740) Requiring findings in child abuse investigations

SB 942 requires child abuse investigations conducted pursuant to ORS 419B.020 to conclude with a finding of "founded," "unfounded," or "cannot be determined" until several specific criteria are met. Among these criteria are that departments complete investigations within mandated timelines and conduct in-person contacts with children who are the subject of reports of abuse in at least 90% of cases.

This bill took effect on August 15, 2017.

II. JUVENILE DELINQUENCY

1. HB 2616 (Ch. 389) Right to Counsel

HB 2616 amends ORS 419C.200 to provide that when a petition is filed under ORS 419C.050, the court, following a determination that a youth is indigent:

1. Shall appoint counsel to represent the youth at all stages of the proceeding if the offense alleged in the petition is classified as a crime.
2. Shall appoint counsel at any proceeding concerning an order of probation.
3. Shall appoint counsel in any case in which the youth would be entitled to appointed counsel if the youth were an adult charged with the same offense.
4. May appoint counsel in any other proceeding under ORS 419C.005.

HB 2616 also provides that the court may not accept a waiver of counsel by a youth except under the following circumstances:

1. The youth is at least 16 years of age, and
2. The youth has met with either appointed or retained counsel and been advised regarding the right to counsel, and
3. A written waiver is filed with the court, and
4. A hearing is held to determine whether the waiver was knowingly, intelligently, and voluntarily made and not unduly influenced by the interests of others, including the youth's parents or guardians.

These requirements do not apply to a youth entering into a formal accountability agreement under ORS 419C.230.

HB 2616 also amends ORS 419C.245 to require that a juvenile department counselor inform a youth and the youth's parents or guardians of the right to court-appointed counsel, and that a youth may waive the right to counsel before entering into a formal accountability agreement only if the youth has been advised in writing of the right to counsel, and the youth waives that right in writing.

This bill goes into effect January 1, 2018.

2. HB 3242 (Ch. 431) Recording custodial interviews

HB 3242 amends ORS 133.400 to provide that a custodial interview conducted by a peace officer in a law enforcement facility shall be electronically recorded if the interview is conducted "with a person under 18 years of age in connection with an investigation into a felony, or an allegation that the person being interviewed committed an act that, if committed by an adult, would constitute a felony."

HB 3242 further provides that if the state offers an unrecorded statement in a juvenile delinquency proceeding and none of the exceptions in the statute apply, the court "shall consider the superior reliability of electronic recordings when compared with testimony about what was said and done when determining the evidentiary value of the statement."

This bill goes into effect January 1, 2018.

3. SB 49 (Ch. 558) Juvenile fitness to proceed

SB 49 amends ORS 419C.380 to provide that when a youth is ordered to participate in a fitness-to-proceed evaluation, the youth may not be removed from his or her current placement for the purpose of the evaluation unless the youth has been placed in a detention or youth correctional facility.

The bill also amends ORS 419C.396 and 419C.398 to provide that if a youth is removed from his or her current placement for the purpose of receiving restorative services, the youth must be returned to that placement upon the completion of services unless the youth has been

placed in a detention or youth correctional facility. The Oregon Health Authority must continue to provide restorative services wherever a youth is placed.

This bill goes into effect January 1, 2018.

4. SB 846 (Ch. 257) Physical Restraints

SB 846 prohibits instruments of physical restraint from being used during a juvenile court proceeding regarding a youth, youth offender, or young person unless the court finds the use of restraints is necessary due to an immediate and serious risk of dangerous or disruptive behavior and there are no less restrictive alternatives that will alleviate the risk.

An instrument of physical restraint includes handcuff, chains, iron, straitjackets, cloth restraints, leather restraints, plastic restraints, and other similar items. In determining whether an immediate and serious risk of dangerous or disruptive behavior exists, the court may consider:

1. A history of dangerous or disruptive behavior that has placed the person or others in potentially harmful situations, as evidenced by recent behavior;
2. Whether the youth, youth offender or young person presents a substantial risk of inflicting physical harm on himself or others; and
3. Whether the youth, youth offender or young person presents a substantial risk of flight from the courtroom or premises.

A request to use restraints must be made in writing and presented to the court and parties before the youth, youth offender, or young person's appearance in the courtroom.

SB 846 also prohibits using instruments of physical restraint during transportation of a youth, youth offender, young person, ward or child by the Department of Human Services (DHS), the Oregon Health Authority (OHA) or an agent of DHS or OHA unless one of the following exceptions applies:

1. The transportation is secure transportation to a detention facility, youth correction facility, secure hospital, secure intensive community inpatient facility, or other secure facility; or
2. Restraints are necessary due to an immediate and serious risk of dangerous or disruptive behavior and there are no less restrictive alternatives that will alleviate the immediate and serious risk

The bill requires a transportation safety plan before restraints may be used and only trained staff may use and apply restraints during transportation.

The bill goes into effect on January 1, 2018.

14

Pat Ihnat
Rich Bailey
Alan Brickley
John Gibbon
Kyle Grant
Rob Lowe
Marisol McAllister
Tim Zimmerman
Channa Newell

Real Estate, Real Property, and Land Use

I. TAXATION OF PROPERTY

1.	HB 2277	(Ch. 27)	Property Tax Refunds
2.	HB 2281	(Ch. 25)	Disqualification of Forestland
3.	HB 2562	(Ch. 161)	Tax Notices for Reverse Mortgages
4.	HB 3171	(Ch. 275)	Abatement of Taxes on Leased Public Property
5.	SB 311	(Ch. 537)	Property Tax Exemption

II. LIENS AND FORECLOSURES

1.	HB 2359	(Ch. 154)	Nonjudicial Foreclosure
2.	HB 2920	(Ch. 270)	Satisfactions Following Foreclosure Sales
3.	HB 3056	(Ch. 110)	Homeowners Association Liens
4.	SB 79	(Ch. 236)	Foreclosure of Trust Deeds by the Department of Veterans Affairs

III. PLANNED COMMUNITIES

1.	HB 2111	(Ch. 282)	Solar Panels in Planned Communities
2.	HB 2722	(Ch. 423)	Irrigation Requirements in Planned Communities and Condominiums
3.	HB 3057	(Ch. 111)	Planned Community Reserve Accounts
4.	HB 3447	(Ch. 221)	Child Care Facilities in Planned Communities
5.	HB 3059	(Ch. 112)	Special Declarant Rights

IV. LICENSURE AND OVERSIGHT

1.	HB 2279	(Ch. 44)	Property Appraiser Licensing
2.	SB 67	(Ch. 234)	Real Estate Agency Omnibus Bill
3.	SB 98	(Ch. 636)	Licensure of Residential Mortgage Loan Servicers
4.	SB 106	(Ch. 728)	Public Records Advocate

V. CIVIL ACTIONS

1.	HB 2189	(Ch. 143)	Limitations on Actions Arising from Real Estate Appraisals
2.	SB 327	(Ch. 449)	Recreational Immunity

VI. OTHER LEGISLATION

1.	HB 2008	(Ch. 198)	Manufactured Dwellings
2.	HB 2510	(Ch. 386)	Electrical Vehicle Charging Stations
3.	HB 2511	(Ch. 387)	Electrical Vehicle Charging Stations
4.	HB 2855	(Ch. 164)	Non-judicial Transfer of Title
5.	HB 3055	(Ch. 109)	Property Line Adjustments
6.	SB 277	(Ch. 324)	Manufactured and Floating Homes
7.	SB 381	(Ch. 251)	Mailing of Notices Related to Real Estate Loans
8.	SB 812	(Ch. 255)	Septic System Financing
9.	SB 838	(Ch. 354)	Timeshares
10.	SB 865	(Ch. 357)	Approval of Plats by Special Districts
11.	SB 871	(Ch. 739)	Demolitions and Hazardous Material Removal

Pat Ihnat: 1981 University of Arizona School of Law. Member of the Oregon State Bar since 2004.
Richard Bailey: 1998 Northwestern School of Law. Member of the Oregon State Bar since 2006.
Alan Brickley: 1970 Northwestern School of Law. Member of the Oregon State Bar since 1970.
John Gibbon: 1978 Northwestern School of Law. Member of the Oregon State Bar since 1979.
Kyle Grant: 2012 Brigham Young University School of Law. Member of the Oregon State Bar since 2012.
Rob Lowe: 194 Golden Gate School of Law. Member of the Oregon State Bar since 1975.
Marisol McAllister: 2002 Willamette University School of Law. Member of the Oregon State Bar since 2002.
Tim Zimmerman: 1987 Northwestern School of Law. Member of the Oregon State Bar since 1987.
Channa Newell: 2010 University of Oregon School of Law. Member of the Oregon State Bar since 2010.

I. TAXATION OF PROPERTY

1. HB 2277 (Ch. 27) Property Tax Refunds

HB 2277 requires a county governing body to credit property tax refunds first to the total tax liability account of the person to whom the refund is owed. Upon the request of the owner, and with approval of tax collector, a county governing body may instead authorize the credit of refund to total tax liability of account of the requester and, in instances where refund credit remains, allow the remaining refund to be credited to total tax liability of any other account.

HB 2277 applies to refunds payable on or after October 6, 2017.

2. HB 2281 (Ch. 25) Disqualification of Forestland

Under current law, the timing of land disqualified as forestland due to discovery by a county assessor that the land is no longer forestland occurs as of the January 1 assessment date for the tax year in which the assessor discovers the land is no longer forestland.

HB 2281 changes the timing of disqualification to occur as of the January 1 assessment date of the assessment year in which the discovery occurs. The disqualification process is not changed. County assessor must mail notice of disqualification prior to August 15 of the tax year.

HB 2281 applies to land disqualified as forestland on or after January 1, 2018.

3. HB 2562 (Ch. 161) Tax Notices for Reverse Mortgages

HB 2562 requires that the lender under a reverse mortgage must send annual notices to the borrower or to any servicer paying property taxes from escrow. The notice must be sent at least 60 days before property taxes are due and payable to inform the borrower that the borrower retains title to the property and that the borrower is responsible for paying property taxes, insurance, maintenance and related taxes, and that failure to pay the taxes and fees may cause the reverse mortgage to become due immediately.

Notice is not required for a reverse mortgage that includes a reserve account for taxes. Under existing law, financial institutions as defined in ORS 706.008, consumer finance brokers/facilitators, and licensed mortgage bankers and mortgage brokers are exempt from the notice requirement. This amendment removes the exemption for mortgage brokers and mortgage bankers.

HB 2562 will take effect on January 1, 2018.

4. HB 3171 (Ch. 275) Abatement of Taxes on Leased Public Property

HB 3171 modifies the statute governing when additional taxes are not imposed upon leased public property which has been disqualified from special assessment, when reason for disqualification is the termination of a lease under which the land was assessed. The bill clarifies that time of disqualification means the date on which the lease was terminated.

HB 3171 will take effect on January 1, 2018.

5. SB 311 (Ch. 537) Property Tax Exemption

SB 311 authorizes a city or county to adopt an ordinance or resolution providing an exemption or partial exemption from *ad valorem* property taxation for eligible property that will be seismically retrofitted. The bill requires the adopted ordinance or resolution to state the percentage of the exemption to be applied to the real market value of the eligible property, and provides that exemption eligibility ends at earlier of a specified period of years or the date on which the dollar amount of the tax benefit equals the eligible costs for the seismic work.

The bill defines eligible property as improvements built before January 1, 1993 that constitute a commercial, industrial, or multifamily building that is not centrally assessed or state appraised industrial property. Eligible costs are defined as costs directly related to the work necessary to seismically retrofit eligible property and incurred after an application relating to retrofit has been approved. The bill identifies exempted costs, and reduces the amount of eligible costs by the amount of other government incentives received.

The bill requires rates of taxation of the taxing districts located within the territory of the city or county, when combined with city/county rate of taxation, to equal or exceed 75 percent of the total combined rate of taxation within the territory of the city or county. Requires taxing district governing bodies agreeing to the exemption or partial exemption to impose a limit on the total amount of exemptions and partial exemptions that may be approved, and specifies administrative and filing responsibilities of a city/county, county assessor, and property owner. The bill provides authority to a city/county to further restrict eligible property by property type, impose any other non-conflicting conditions, and impose an application fee. Requires fee to be paid to assessor to compensate assessor for specified duties. The bill requires proposed seismic retrofitting to meet specified performance standards, and requires back taxes to be imposed and collected if property is disqualified from exemption.

The bill sunsets the initial application for exemption on January 2, 2028 with eligible property granted an exemption prior to the sunset date allowed to qualify for exemption for duration of qualification period.

SB 311 will take effect on October 6, 2017

II. LIENS AND FORECLOSURES

1. HB 2359 (Ch. 154) Nonjudicial Foreclosure

ORS 86.748 requires that a beneficiary must send to a homeowner a notice informing them that they are ineligible for a foreclosure avoidance measure, or that they have not complied with the terms of a foreclosure avoidance measure within 10 days of making such a determination.

HB 2359 eliminates the requirement that a copy of this notice must also be sent to the Attorney General.

HB 2359 takes effect on January 1, 2018.

2. HB 2920 (Ch. 270) Satisfactions Following Foreclosure Sales

HB 2920 provides that if a judgment of foreclosure results in an execution sale of real property, the judgment creditor must file a full or partial satisfaction upon receipt of the execution sale proceeds. Upon failure of the judgment creditor to file the satisfaction, the judgment debtor or other interested person may send a written request that the judgment creditor file the satisfaction within 10 days. If the satisfaction is not timely filed, the debtor may file a motion to compel satisfaction under ORS 18.235.

If the court grants the request and if the judgment creditor does not show that failure to file the satisfaction was not the fault of the creditor, the court may enter a supplemental judgment for attorney fees in favor of the judgment debtor. The judgment debtor is not required to show that the creditor's failure to file a satisfaction was willful as normally would be required under ORS 18.235. The burden appears to shift to the judgment creditor to establish the failure to file the satisfaction was not the creditor's fault.

HB 2920 will take effect January 1, 2018.

3. HB 3056 (Ch. 110) Homeowners Association Liens

HB 3056 Oregon law provides that when a homeowners association in a planned community or a condominium levies an assessment, that assessment is a lien against the real property to which the assessment applies. Several remedies exist for the association: bring an action to obtain a money judgment; foreclose its association lien; or accept a deed in lieu of foreclosure from the owner.

HB 3056 amends ORS 90.709 of the Planned Community Act and ORS 100.450 of the Oregon Condominium Act to clarify that an association may obtain a money judgment for unpaid assessments without extinguishing its lien, that a partial satisfaction of the money

judgment does not extinguish the lien, and that a full satisfaction of the money judgment does not extinguish any portion of the association's lien that is unrelated to the amounts awarded in the judgment. Payment of the judgment will extinguish the lien, or portion of the lien, but only to the extent of the amount received.

HB 3056 takes effect January 1, 2018.

4. SB 79 (Ch. 236) Foreclosure of Trust Deeds by the Department of Veterans Affairs

SB 79 modifies the prerequisites for judicial and non-judicial foreclosures of residential trust deeds with respect to loans in which the Director of Veterans' Affairs is a beneficiary under ORS 407.125. Instead of having to record or attach to a complaint a certificate of compliance with the resolution conference requirements, or an exemption from such requirements, the Director of Veterans' Affairs may record or attach to a complaint the Director's signed affidavit stating that the Department of Veterans Affairs, in the department's capacity as a beneficiary of loans made under ORS 407.125, is exempt from the requirement under ORS 86.726 to request or participate in a resolution conference. DVA may adopt rules prior to the operative date.

SB 79 took effect on June 6, 2017.

III. PLANNED COMMUNITIES

1. HB 2111 (Ch. 282) Solar Panels in Planned Communities

HB 2111 prohibits a planned community from banning the installation and use of solar panels in its declaration or bylaws. Additionally, the bill allows an owner of a home in the community to petition for removal of any such provisions from existing documents as provided in ORS 93.272. However, the bill authorizes homeowners associations to adopt and enforce provisions that impose reasonable size, placement, and aesthetic requirements for installation or use of solar panels.

HB 2111 takes January 1, 2018.

2. HB 2722 (Ch. 423) Irrigation Requirements in Planned Communities and Condominiums

HB 2722 makes void and unenforceable any provision in condominium or planned community governing documents that impose irrigation requirements on unit owners or on the association if:

- The Governor has issued a declaration that drought exists or is likely or occur;
- The Water Resources Commission has found that severe or continuing drought exists or is likely to occur;
- The governing body of political subdivision requires conservation or curtailment of water use; or
- The association adopts a rule to reduce or eliminate irrigation water use.

The bill also authorizes a planned community or condominium association to adopt rules that require the reduction or elimination of irrigation on any portion of the planned community and permit or require the replacement of turf or other landscape vegetation with xeriscape. Authorizes association to require prior review and approval by association of any plans by unit owner to replace landscape vegetation with xeriscape and requires the use of best practices and industry standards to reduce landscaped areas.

HB 2722 also amended provisions of HB 3447 relating to the prohibition of association bans on use of a dwelling as family child care provider. (See HB 3447)

HB 2722 took effect on June 22, 2017.

3. HB 3057 (Ch. 111) Planned Community Reserve Accounts

Relating to homeowners association finances; amending ORS 94.595, 94.670, 100.175 and 100.480

HB 3057 requires homeowners and condominium association boards to consider several factors when conducting an annual review of their reserve account, including current balances, estimated expenses, the rate of inflation, and actual returns on investments. The bill extends from 180 to 300 days the time within which an association must deliver its financial statement for review by an accountant Under the bill the timeline is now 300 days after the end of the fiscal year for large associations, and 300 days after receipt of a petition signed by a majority of the homeowners for smaller associations.

HB 3057 took effect on January 1, 2018.

4. HB 3447 (Ch. 221) Child Care Facilities in Planned Communities

HB 3447 prohibits real estate conveyance instruments and governing documents of planned communities and condominiums from including provisions that restrict the use of the property as a certified or registered child care home or as an exempt family child care provider receiving certain subsidies. Homeowners associations may restrict a registered or certified family care home from sharing a common surface with another unit, but an exempt family care provider is permitted even when it shares a wall, floor, or ceiling with another unit. The

prohibition does not apply to condominiums or planned communities that provide "housing to older persons" as defined by ORS 659A.421(7)(b).

Homeowners association may adopt reasonable rules that govern parking, noise, odors, nuisance, or the use of common spaces so long as the rules do not have the effect of restricting the use of properties as exempt child care providers or as certified or registered family child care homes.

These restrictions apply to instruments conveying fee title executed on or after January 1, 2018, and to association governing documents and guidelines adopted on or after January 1, 2018.

HB 3447 also prohibits associations in planned communities from imposing irrigation requirements when a local drought exists or is likely to occur. (See HB 2722 for additional information).

HB 3447 takes effect on January 1, 2018.

5. HB 3059 (Ch. 112) Special Declarant Rights

A declarant of a condominium or planned community generally will create special declarant rights in addition to the rights normally held by homeowners. These rights include weighted voting, exemptions from architectural review, the ability to appoint interim directors, the ability to add or withdraw property, and the right to control the association before turnover to the homeowners. In many cases, the declarant will transfer its special declarant rights to a successor.

HB 3059 clarifies that any rights held by the original declarant are extinguished when the special declarant rights are transferred; the rights cannot be revived automatically; and the rights may be recovered only by an instrument evidencing an intent to convey the special declarant rights back to the original declarant.

HB 3059 takes effect on January 1, 2018.

IV. LICENSURE AND OVERSIGHT

1. HB 2279 (Ch. 44) Property Appraiser Licensing

HB 2279 establishes that the Department of Revenue ("DOR") has sole responsibility for setting education and experience requirements for applicants seeking to take the appraisal exam; as well as for administering the exam, registering (licensing) appraisers, establishing continuing education requirements, and revoking appraiser registration.

The bill allows the DOR to revoke an appraiser's registration for fraud and deceit in appraising or in securing a license, and for incompetence. The bill also consolidates Property Appraiser I, II and III classifications into a single classification.

HB 2279 will take effect on January 1, 2018.

2. SB 67 (Ch. 234) Real Estate Agency Omnibus Bill

SB 67 includes numerous technical fixes, language updates, and reorganizations of materials in ORS Chapter 696, which provides for licensing and regulation of real estate brokers, property managers, and escrow agents by the Oregon Real Estate Agency.

The bill removes the requirement that a principal real estate broker or real estate broker create a client trust account when the broker does not deposit clients' funds into the broker's trust account but merely acts as a courier in delivery of a client's check to the payee. It also clarifies language related to registration of business names with the agency and renewals of business name registrations. It exempts certain checks from the requirement to deposit funds into clients' trust accounts, and requires real estate licensees to notify the agency of certain activities related to clients' trust accounts. The bill prohibits certain individuals from sharing compensation paid to a real estate licensee, and provides that a licensed property manager may not solicit a potential tenant unless the licensee has a written property management agreement with the landlord.

SB 67 will take effect on January 1, 2018.

3. SB 98 (Ch. 636) Licensure of Residential Mortgage Loan Servicers

SB 98 creates a new Mortgage Loan Servicer Practices Act (Act) comprised of comprehensive statutes authorizing the Department of Consumer and Business Services (DCBS) to license and regulate residential mortgage loan servicing. The bill prohibits any individual or business entity from directly or indirectly servicing a residential mortgage loan without first obtaining a license under the new Act, and it requires that individuals or entities holding a different license from DCBS obtain a separate license as a residential mortgage loan servicer.

Applicability: SB 98 applies to servicing of a "residential mortgage loan" which means a loan secured by a mortgage, deed of trust or an equivalent consensual security interest in one-to-four family real property. "Servicing" activities include:

1. receiving a scheduled periodic payment from a borrower under the terms of a residential mortgage loan, including escrow payments in accordance with the RESPA,
2. paying principal, interest or other amounts to a lender or other person in accordance with a servicing agreement, and

3. paying an amount to a borrower, if the residential mortgage loan is a reverse mortgage.

With certain exceptions, the new licensing requirement will not apply to:

1. A person, or an affiliate of the person, that in all operations within the United States during the calendar year services fewer than 5,000 residential mortgage loans, excluding loans that the person or the person's affiliate originates or owns.
2. A financial institution, as defined in ORS 706.008.
3. A person that has obtained a license under ORS 725.140 (consumer finance).
4. A financial holding company or bank holding company, if the financial holding company or bank holding company does not do more than control an affiliate or a subsidiary, as defined in 12 U.S.C. 1841(d), and does not engage in business as a residential mortgage loan servicer.
5. An attorney who is licensed or otherwise authorized to practice law in this state if the attorney services the loan as an ancillary matter while representing a client, and does not receive compensation from a residential mortgage loan servicer.
6. An agency or instrumentality of Oregon or the United States.
7. A housing finance agency, as defined in 24 C.F.R. 266.5.
8. An institution that the Farm Credit Administration regulates.
9. A person that the DCBS designates by rule or order as exempt, including but not limited to a nonprofit organization that promotes affordable housing or financing.

License: Licenses must be renewed annually. Licensee may not service a residential mortgage loan during a period in which the licensee has applied to reinstate a license unless DCBS has given conditional approval to the licensee.

Financial requirements: Licensee must maintain sufficient liquidity, operating reserves and tangible net worth. DCBS may specify by rule the financial adequacy requirements. Approval of a licensee by Fannie Mae, Freddie Mac or Ginnie Mae, and compliance with liquidity, operating reserve, and tangible net worth requirements of Freddie, Fannie or Ginnie constitutes compliance with Oregon financial adequacy requirements.

Duties to Borrowers, Recordkeeping: The Act specifies numerous actions that must be taken by licensees within specified time periods and recordkeeping requirements.

DCBS Authority: The Act gives DCBS broad authority and powers over licensed individuals and entities. DCBS also has power to issue cease and desist orders or request court order enjoining non-licensed servicing activities. DCBS is authorized to examine a licensee at any time and may charge and collect costs incurred in conducting the exam. Books, accounts, papers, records, files, correspondence, contracts and agreements, disclosures, documentation

and other information, material or evidence DCBS obtains in an examination are confidential and subject to the provisions of ORS 705.137, except that a borrower may request to inspect material related to the borrower's residential mortgage loan that DCBS by rule specifies is available for inspection.

DCBS may take possession of a licensee's property, business and assets located in Oregon if the licensee fails to meet the financial adequacy requirements, until the licensee returns to compliance with those standards. DCBS may apply to the court for an order appointing a receiver to take possession of, operate or liquidate the licensee's assets. The court may appoint the director of DCBS as the receiver.

DCBS is authorized to investigate complaints against servicers at the servicer's cost, order that the licensee cease and desist, pay damages to the borrower, and pay to the borrower any amounts received from the borrower as compensation while engaging in any action that constituted a violation of the Act. DCBS may impose a civil penalty under ORS 183.745 in an amount of not more than $5,000 for each violation. Each instance is a separate violation and each day in which a licensee engages in a continuous violation constitutes a separate violation. DCBS may not impose a penalty that exceeds $20,000 for a continuous violation.

The Act contains numerous other provisions governing residential mortgage loan servicing.

SB 98 took effect on August 2, 2017 and applies to servicing for residential mortgage loans that occur on or after January 1, 2018.

4. SB 106 (Ch. 728) Public Records Advocate

SB 106 establishes a Public Records Advocate to facilitate conflicts between those who request and those who hold public records. The advocate must conduct and complete a facilitated dispute resolution between the requestor and the public body within 21 days after a written request by either party. The bill allows requestors to opt out of dispute resolution with state agencies, and provides for discretionary dispute resolution between a requestor and a city -- both must agree to facilitated dispute resolution, and the Advocate must consent. The bill excludes the Oregon Judicial Department entirely.

The bill authorizes the Advocate to make determinations of either party's good faith participation in facilitated dispute resolution and provides for remedies and review by Marion County Circuit Court. The bill further requires the Advocate to memorialize parties' agreements in writing.

The bill creates the Public Records Advisory Council, which must meet at least once every six months. The Council must nominate three Advocate candidates, one of whom is appointed by the Governor subject to Senate confirmation. The Council also must study and

make recommendations concerning the Advocate's role, and practices, procedures, exemptions and fees related to public records. The bill sunsets the Council on December 31, 2020.

SB 106 took effect on August 16, 2017.

V. CIVIL ACTIONS

1. HB 2189 (Ch. 143) Limitations on Actions Arising from Real Estate Appraisals

HB 2189 provides that an action arising out of real estate appraisal activity must be commenced before the earlier of the applicable period of limitation otherwise established by law or six years after the date of the act or omission. The six-year limitation period does not apply to actions based on fraud or misrepresentation, which continue to be subject to the two-year discovery rule set forth in ORS 112.110(1).

HB 2198 takes effect on January 1, 2018.

2. SB 327 (Ch. 449) Recreational Immunity

In 1995, the Oregon Legislature established the Oregon Public Use of Lands Act. (See ORS 105.672-105.696.) This policy encourages public and private landowners to open their land for public recreation and, in exchange, provides immunity to the landowner from claims arising from injury or death due to recreation on the land. The landowner is subject to liability for intentional injury or damage. In *Johnson v. Gibson*, 358 Or 624 (2016), the Oregon Supreme Court found that the statute was not intended to cover employees or agents of the landowner. The Oregon Tort Claims Act requires a public body to indemnify employees, agents, and officers from claims arising from acts or omissions that occurred in the performance of duties. ORS 30.285(1). Because the *Johnson* decision found no liability protections for the employees of landowners, and public bodies are required under the Oregon Tort Claims Act to indemnify employees, liability for torts of public employees adhered to the parent public body. As a result, many cities, counties, and organizations began closing their lands to public recreation.

Senate Bill 327 adds officers, employees, volunteers or agents acting within the scope of assigned duties and business entity members to the definition of “owner” within the Public Use of Lands Act, thereby extending liability protection to those individuals.

SB 327 took effect on June 22, 2017.

VI. OTHER LEGISLATION

1. HB 2008 (Ch. 198) Manufactured Dwellings

House Bill 2008 increases the termination fees that a landlord of a manufactured home park must pay to a tenant upon closure of park or the conversion of the part to another use.

The bill provides that the Office of Manufactured Dwelling Park Community Relations (MCRC) must recalculate these amounts annually, and requires the owner of a manufactured home park to notify the MCRC of certain information upon sale, transfer, or exchange of manufactured home park, including the number of vacant spaces and homes, the date of transfer, the final sale price, and the contact information for the new owner. The bill also specifies requirements for transferring a manufactured home from a member of a manufactured dwelling park nonprofit cooperative.

HB 2008 took effect on June 6, 2017.

2. HB 2510 (Ch. 386) Electrical Vehicle Charging Stations

HB 2510 allows a commercial tenant to install an electric vehicle charging station for use by tenant, tenant's employees, or customers of tenant. A landlord may prohibit installation or use of a charging station only if the premises do not have at least one parking space per rental unit.

The tenant must submit an application to landlord, And the landlord may impose requirements including landlord's written approval of the installer; that the station be a certified electrical product as defined in ORS 479.530; that the installer post a payment and performance bond equal to 125 percent of the cost of work; that the tenant maintain renter's liability insurance of at least $1 million with landlord as beneficiary and right to notice of policy modification or cancellation, or reimburse landlord for coverage if tenant is unable to insure; that the station must meet the architectural standards of the premises.

The station must be installed by an electrician licensed at a minimum as a journeyman electrician. Unless otherwise agreed by landlord and tenant, tenant must pay all costs of installation, use, and removal. The charging station is tenant's personal property unless a different arrangement is agreed to between tenant and landlord.

HB 2510 took effect on June 20, 2017.

3. HB 2511 (Ch. 387) Electrical Vehicle Charging Stations

HB 2511 authorizes a residential tenant to install and use an electric vehicle charging station on the premises for personal, noncommercial use. A landlord may prohibit installation of charging station only if the premises do not have at least one parking space per dwelling unit. If additional infrastructure improvements are required to provide electrical service for charging stations, landlord may assess expense to each tenant who installs a station. The bill lists multiple requirements that may be imposed on tenant.

The charging station is owned by tenant as personal property unless otherwise negotiated between the tenant and landlord. HB 2511 does not apply to tenants in manufactured dwellings and floating homes.

HB 2511 took effect on June 20, 2017.

4. HB 2855 (Ch. 164) Non-judicial Transfer of Title

HB 2855 adds new sections to ORS chapter 93 that provide for a non-judicial method of transferring a seller's/vendor's title in the limited instance where a contract of sale (land sale contract) has been fully paid, but the seller has failed to provide a fulfillment deed.

The bill requires service of buyer's/vendee's notice of intent to enforce the contract on the seller and other interested parties pursuant to ORCP 7 D(2) and 7 D(3), as well as by first class mail certified with return receipt. The bill requires that certain information must be contained in the notice, and provides procedures if an objection to the notice is received within 30 days. If no objection is received, the seller's interest in the real property will be transferred by publishing the required notice and recording an affidavit of compliance within 15 days following the last publication date.

HB 2855 took effect on January 1, 2018.

5. HB 3055 (Ch. 109) Property Line Adjustments

HB 3055 is intended to address differing county interpretations and unintended consequences of Chapter 423, 2015 Oregon Laws (2015 Regular Session House Bill 2831), which restricted the use of property line adjustments on high-value farm and forestlands or within a ground water restricted area where a unit of land resulted from a partition or subdivision authorized by a waiver (under Ballot Measure 49).

The new bill clarifies that a land owner may seek a property line adjustment on the larger remnant of land that was previously adjusted, but the smaller two- and five-acre units cannot be expanded using the property line adjustment process. For two-acre units of land, the unit size before the adjustment must be two acres or smaller. For five-acre units of land, the unit size before the adjustment must be five acres or smaller. By specifying that the Measure 49 parcels had to remain as two- or five-acre parcels after the lot line adjustment process, the legislature confirmed the owner of the large remainder parcel may adjust the size of that parcel in a transaction with an adjoining large parcel owner.

HB 3055 takes effect on January 1, 2018.

6. SB 277 (Ch. 324) Manufactured and Floating Homes

SB 277 increases the notice period from 30 to 60 days for a landlord to terminate a month-to-month or fixed-term rental agreement and require the removal of a deteriorating manufactured dwelling or floating home. Deterioration includes collapsing or failing staircase or

railing, one or more holes in wall or roof, inadequately supported window air conditioning unit, falling gutters, siding or skirting, peeling or fading paint, other conditions of disrepair or that create a safety hazard.

The bill also allows a landlord to terminate rental agreement with 30 days' written notice to tenant if manufactured dwelling or floating home creates a risk of serious or imminent harm. The notice must include specific information regarding the disrepair or deterioration including risk of harm. The bill requires that a landlord give a prospective purchaser as a tenant of manufactured dwelling or floating home copies of termination documents outlining maintenance, disrepair and deterioration issues and potential liability for repairs. The bill allows a landlord to terminate the rental agreement within six months of new tenant occupation after proper notice if a tenant fails to complete repairs.

SB 277 took effect on June 14, 2017.

7. SB 381 (Ch. 251) Mailing of Notices Related to Real Estate Loans

Many documents related to real estate loans are required to be mailed to borrowers in hard copy, including payoff statements, requests for resolution conferences, notices of noncompliance with, or ineligibility for, foreclosure avoidance measures, notices of default, and notices of trustees sale. Existing law specifies the documents are to be mailed to the address on file.

SB 381 specifies that the documents must be mailed to a post office box if that is the address on file for the borrower, and requires that certain notices relating to real estate loans be mailed to all addresses on file for the recipient, including post office boxes.

SB 381 takes effect on January 1, 2018.

8. SB 812 (Ch. 255) Septic System Financing

SB 812 requires that septic system loan funds may be used to conduct a regional evaluation of community on-site septic systems to determine whether repair or replacement is necessary. The bill requires a grant agreement stipulating that funds must be used for sewer connection and septic tank decommission if sewer is available and the home or business is required to connect, and allows loans for less than 100 percent of costs upon borrower request and consent.

SB 812 took effect on June 6, 2017.

9. SB 838 (Ch. 354) Timeshares

SB 838 excludes persons who are not developers of timeshares from compliance requirements for provisions governing timeshares. Modifies definition of "developer" to

provide that it includes persons who create a timeshare plan, succeed to the interest of a person that created a timeshare plan, or purchase a timeshare from either of the former categories of persons for the primary purpose of resale of the timeshare.

SB 838 will take effect on January 1, 2018.

10. SB 865 (Ch. 357) Approval of Plats by Special Districts

SB 865 requires a city or county to notify an irrigation, water control, or water improvement district of a tentative plan for a proposed subdivision or partition plat if the proposed plat is located in whole or in part within the boundaries, easement, or right-of-way of a district. The bill requires a district to submit to city or county, within 15 days after receiving notice, any information or recommended conditions.

The bill requires a district to base information and recommended conditions on district rules and regulations, and allows a city or county to include district conditions in the final decision on proposed plat. The bill requires districts to submit a report to city or county detailing the locations of district boundaries, easements, rights-of-way, and facilities and to provide notice of any changes to this information within 90 days of change. The bill requires the first report to be submitted on or before January 1, 2019.

SB 865 takes effect on January 1, 2018.

11. SB 871 (Ch. 739) Demolitions and Hazardous Material Removal

Relating to demolitions and hazardous materials

SB 871 authorizes a city to establish a program for the demolition of residences or residential buildings, and establishes requirements for such a program. The bill requires the Oregon Health Authority to establish a lead containment certification program for the purpose of certifying contractors to perform demolitions of residences or residential buildings built before 1978 in cities with a demolition program.

The bill also requires the Environmental Quality Commission to establish procedures for conducting asbestos surveys under ORS 468A.757.

SB 871 will take effect on January 1, 2018.

15

Robert Manicke

Taxation

I. INCOME TAX GENERAL AND ADMINISTRATIVE PROVISIONS

1.	HB 2156	(Ch. 611)	New Hotline for C and S Corporations Tax Practitioner Priority Assistance Program
2.	HB 2285	(Ch. 23)	Tax Not Paid with a Return Is Considered Assessed on Later of Original Due Date or Date Filed
3.	SB 29	(Ch. 304)	Updated Cross-Reference to Bankruptcy Code
4.	SB 33	(Ch. 278)	Interest Computation
5.	SB 254	(Ch. 644)	Financial Institutions Data Match
6.	SB 701	(Ch. 527)	Reconnection to the Internal Revenue Code

II. PERSONAL INCOME TAX

1.	HB 2283	(Ch. 24)	Change to Effective Date of Application of Overpayment
2.	HB 2284	(Ch. 22)	Expansion of Rules Governing Conflicting Taxpayer Claims
3.	SB 251	(Ch. 19)	Lottery Withholding

III. BUSINESS TAXATION

1.	HB 2273	(Ch. 622)	Repeal of the Functional Test for UDITPA Apportionment
2.	HB 2275	(Ch. 43)	Adoption of New MTC “Apportionable Income” Terminology
3.	SB 28	(Ch. 549)	Market-Based Sourcing for Sales of Services and Intangible Property
4.	SB 30	(Ch. 181)	Determination of a Unitary Group
5.	SB 153	(Ch. 316)	100 Percent Dividends-Received Deduction for Dividends Paid by Insurance Subsidiary

TAXATION

IV. INCOME TAX CREDITS AND INCENTIVES

1.	HB 2066	(Ch. 610)	Omnibus Tax Credit Extension/Modification Bill
2.	HB 2066	(Ch. 610)	Credits Cannot Be Used To Pay the Corporate Minimum Tax
3.	HB 2066	(Ch. 610)	New Tax Credit for Employee Training in Klamath County
4.	HB 2315	(Ch. 284)	Affordable Housing Tax Credit for Lending Institutions
5.	SB 162	(Ch. 638)	Working Family Dependent Care Credit
6.	SB 398	(Ch. 333)	Earned Income Credit: Enhanced Publicity Requirements for Employers

V. PROPERTY TAX GENERAL AND ADMINISTRATIVE PROVISIONS

1.	HB 2088	(Ch. 414)	Certain Cities Authorized to Define "Area" for Changed Property Ratio Purposes
2.	HB 2407	(Ch. 541)	Deferred Billing Credits
3.	HB 2573	(Ch. 420)	Paperwork Reduction for Avoidance of Tax on Low-Dollar Personal Property

VI. PROPERTY TAX EXEMPTIONS AND INCENTIVES

1.	HB 2066	(Ch. 610)	Enterprise Zone Wage Requirements
2.	HB 2281	(Ch. 25)	Forestland
3.	HB 2377	(Ch. 624)	Opt-in Affordable Housing Exemption
4.	HB 2760	(Ch. 542)	Alternative Energy Systems Property Tax Exemption
5.	HB 2833	(Ch. 83)	Enterprise Zone Technical Amendments
6.	HB 3171	(Ch. 275)	No Tax on Publicly Owned Property Leased to Taxable Lessee and Disqualified from Special Assessment
7.	SB 149	(Ch. 445)	Exemption for Property of LLC Owned by Nonprofits or Public Bodies
8.	SB 311	(Ch. 537)	New Local Opt-in Exemption for Seismically Retrofitted Property
9.	SB 936	(Ch. 490)	Strategic Investment Programs

VII. ESTATE TAX

1.	SB 32	(Ch. 182)	Failure to File and Failure to Pay

VIII. EXCISE TAXES

1. HB 2017	(Ch. 750)	Tax Implications of Transportation Funding Bill
2. HB 2400	(Ch. 74)	Transient Lodging Taxes
3. HB 3180	(Ch. 89)	Transient Lodging Taxes--Intergovernmental Disclosure of Taxpayer Information

Robert Manicke: 1992 University of Illinois School of Law. Member of the Oregon State Bar since 1995.

Editor's Note On Operative and Effective Dates

Throughout this publication, we have generally included the date on which bills legally take effect, and only occasionally also included dates upon which individual sections of bills become operative. The Taxation Chapter instead generally provides operative dates of legislation, including tax years to which new legislation applies and dates upon which new rules apply to filings, both of which frequently differ from the technical effective date for the legislation. In general, measures effecting taxation take effect 91 days after *Sine Die*, in this case October 6, 2017, even though the operative provisions often do not apply until the following tax year.

I. INCOME TAX GENERAL AND ADMINISTRATIVE PROVISIONS

1. HB 2156 (Ch. 611) New Hotline for C and S Corporations

This new law requires the Department of Revenue to establish a program for representatives of C corporations and S corporations to contact the Department by dedicated phone and other electronic means to resolve issues and ask questions concerning Oregon corporate income and excise tax laws in an expedited manner. The Department is required to clearly list the dedicated telephone number and means on any notice or letter the department sends to a business customer and is required to track customer satisfaction with the program.

This bill takes effect on January 1, 2018.

Tax Practitioner Priority Assistance Program

The bill requires the Department to give priority to certified public accountants and other tax practitioners who "have questions about or wish to resolve issues concerning Oregon tax laws and the application of Oregon tax laws to personal income tax accounts." The program must:

1. serve as the first point of contact for tax practitioners;
2. dedicate trained employees, a telephone number, and other electronic means of communication exclusively for the tax practitioners' use; and
3. provide resources that are sufficient to answer questions and resolve issues in an expedited manner.

The department must make the program available to tax practitioners who provide tax advice, prepare income taxes, or act on an individual taxpayer's behalf with respect to an issue related to the taxpayer's account with the department. Minimum areas of assistance are:

1. locating and applying payments;
2. understanding Department communications, including notices and letters;

3. receiving general procedural guidance and estimates of the length of time that a procedure will take;
4. making account adjustments;
5. securing taxpayer income verifications; and
6. receiving transcripts of taxpayer accounts.

The Department is required to track customer satisfaction with the program. This bill takes effect on January 1, 2018.

2. HB 2285 (Ch. 23) Tax Not Paid with a Return Is Considered Assessed on Later of Original Due Date or Date Filed

This new law changes the date when underpaid tax is considered assessed, in the case of a taxpayer who submits a return with payment of less than the amount due. Existing law treats the underpaid amount as assessed on the extended due date or the date of actual filing, whichever is later. The new law treats the underpaid amount as assessed on the original due date, without regard to extensions, or the date of actual filing, whichever is later. The effect of the law change is to prevent a taxpayer from delaying the commencement of collection procedures, and the imposition of "Tier II" interest, by obtaining an extension to file the return.

The bill applies to returns originally due on or after January 1, 2018.

3. SB 29 (Ch. 304) Updated Cross-Reference to Bankruptcy Code

Existing law addressing exclusion of discharge-of-indebtedness income refers to the federal bankruptcy code as in effect on April 15, 1995. As of October 6, 2017 this law updates that reference to December 31, 2016.

4. SB 33 (Ch. 278) Interest Computation

This new law replaces the monthly or partial monthly method for computing interest rate with an annual percentage rate computed daily. The new method applies to deficiencies and to refunds. It is intended to conform to generally accepted accounting principles. This method will apply to income taxes, estate tax, and most other tax programs administered by the Department of Revenue, except property tax. This change applies to tax deficiencies or refunds owing as of January 1, 2018.

5. SB 254 (Ch. 644) Financial Institutions Data Match

This law requires financial institutions to participate in a "data match" program, including by transmitting data to the Department of Revenue quarterly. The law is intended to enable the Department to more easily locate a debtor's accounts for collection purposes, without first conducting and paying for a search among multiple financial institutions where the debtor might have an account.

The bill takes effect on October 6, 2017, but most provisions become operative July 1, 2018.

6. SB 701 (Ch. 527) Reconnection to the Internal Revenue Code

Oregon generally is a "rolling reconnect" state, incorporating the Internal Revenue Code, including future amendments, for purposes of defining taxable income. For a variety of other purposes, however, this reconnection law generally updates Oregon's connection to the Internal Revenue Code, as of October 6, 2017, from December 31, 2015 to December 31, 2016.

II. PERSONAL INCOME TAX

1. HB 2283 (Ch. 24) Change to Effective Date of Application of Overpayment

This law changes the date an overpayment of tax is credited as payment of the estimated income tax under ORS 316.583 to the later of the first date prescribed for payment of the estimated tax or the date that the taxpayer actually made the overpayment. Prior to the change in law, the overpayment was credited to the date of the first estimated tax payment due date. The change in law means the Department of Revenue may charge interest on a late estimated tax payment when the taxpayer makes the overpayment that the taxpayer applies to estimated tax payments after the due date of the estimated tax payment. Applies to estimated tax payments made in tax years beginning on or after January 1, 2018.

2. HB 2284 (Ch. 22) Expansion of Rules Governing Conflicting Taxpayer Claims

Existing law requires the Department of Revenue to arrange a meeting among taxpayers (typically parents) filing conflicting claims for the same dependent. The new law broadens the "joint determination" requirement to apply to "conflicting returns or reports addressing an item of income, deduction or credit under the personal income tax laws." This bill applies to tax years beginning on or after January 1, 2018.

3. SB 251 (Ch. 19) Lottery Withholding

The new law lowers the threshold above which personal income tax is required to be withheld from an Oregon Lottery payment, from $5,000 to $1,500, applicable on January 1, 2018.

III. BUSINESS TAXATION

1. HB 2273 (Ch. 622) Repeal of the Functional Test for UDITPA Apportionment

Conforming to an MTC change, this new law amends the definition of "sales" by including only transactional test apportionable income. Accordingly, sales resulting in apportionable income solely because of the functional test are not included in the numerator or denominator of the Oregon sales factor. The change conforms the ORS 314.610(7) definition to the longstanding definition in the Department of Revenue's administrative rule, OAR 150-314-0425(1). In a related change, the law also repeals the special "anti-churning" rules in ORS 314.665(6)(a) and (b) for sales of intangible property and the exclusion for receipts from occasional sales – these special rules are no longer necessary because sales are limited to sales giving rise to transactional test apportionable income. This bill applies to tax years beginning on or after January 1, 2018.

2. HB 2275 (Ch. 43) Adoption of New MTC "Apportionable Income" Terminology

This new law conforms Oregon law to the 2015 amendment made by the Multistate Tax Commission to Article IV, § 1 of the Multistate Tax Compact by replacing "business income" and "nonbusiness income" with "apportionable income" and "non-apportionable income" and by broadening the definition of apportionable income, among other things replacing the "integral part" requirement with a "related to" standard. Applies to tax years beginning on or after January 1, 2018.

3. SB 28 (Ch. 549) Market-Based Sourcing for Sales of Services and Intangible Property

As widely anticipated, Oregon has adopted a market-based sourcing rule governing sales of services and intangible property, which applies to tax years beginning on or after January 1, 2018. An Oregon administrative rule already purports to require a market-based result in the case of certain intangible property, but existing law applies a cost-of-performance rule for services. The Department of Revenue has issued draft administrative rules that would implement the change by adopting a modified version of the Multistate Tax Commission's model regulations, as of February 24, 2017, under Article IV, Section 17 of the Multistate Tax Compact.

4. SB 30 (Ch. 181) Determination of a Unitary Group

This law expands the scope of inquiry for purposes of determining whether two or more corporations that are included in the same consolidated federal return are also engaged in the same unitary business. Prior law generally prohibited a non-U.S. corporation from being considered, for example when determining whether two of its subsidiaries were unitary with

each other. The new law allows any corporation owned or controlled by the same interests to be considered in an effort to determine whether two or more related corporations are unitary with each other. Applies to tax years beginning on or after January 1, 2018.

5. SB 153 (Ch. 316) 100 Percent Dividends-Received Deduction for Dividends Paid by Insurance Subsidiary

The Oregon Tax Court decided in 2012 that dividends paid by an insurance subsidiary that are eliminated by the federal consolidated return rules remain eliminated for Oregon tax purposes even though the insurance payer and the non-insurance recipient are required to file separate Oregon returns due to their different apportionment factors. See *StanCorp Financial Group, Inc. v. Dep't of Revenue*, TC-RD 5039 (Aug 2, 2012). The new law amends ORS 317.715 to undo the federal elimination of the dividend. However, the law also amends ORS 317.267 to provide the non-insurance recipient of the dividend with a 100 percent Oregon dividends-received deduction. Accordingly, although the new law changes the statutory provision at issue in StanCorp, the overall result of StanCorp (no Oregon tax on the dividend) remains the same. The bill took effect October 6, 2017, and the change applies to tax years open to audit or under appeal or a claim of refund.

IV. INCOME TAX CREDITS AND INCENTIVES

1. HB 2066 (Ch. 610) Omnibus Tax Credit Extension/Modification Bill

The legislature periodically reviews each income tax credit statute, generally reexamining one-third of the credits every odd-numbered year. Most credits have a sunset date that is consistent with this six-year review cycle. In addition to changes covered elsewhere in this chapter, this year's biennial omnibus statute extends, modifies, sunsets or adds the following credits:

1. Credit for project in a reservation enterprise zone (ORS 285C.309). Credit may not be claimed for tax years beginning on or after January 1, 2028.

2. Affordable housing lenders (ORS 317.097). Certificate may not be issued to lender on or after January 1, 2026. The law also raises the statewide cap on total credits on outstanding loans from $17 million to $25 million for tax years beginning on or after January 1, 2018.

3. New bovine manure credit (to be added to ORS ch 315). Allows credit of $3.50 per wet ton of bovine manure in Oregon used, in Oregon, as biofuel or to produce biofuel. Credit to be certified by Oregon Department of Agriculture. Credit is transferable; rules similar to existing biomass credit apply. A $5 million statewide cap on all credits applies. Credit applies to tax years beginning on or after January 1, 2018 and before January 1, 2022.

4. Existing biomass tax credit (ORS 315.141, 315.144) applies to tax years beginning before January 1, 2018.

5. Rural medical providers (ORS 315.613). Credit generally may not be claimed for tax years beginning on or after January 1, 2022. Saving clauses and other modifications apply. Note that , for tax years beginning on or after January 1, 2018, the credit is modified to impose a cap on the adjusted gross income of the physician of $300,000 for the tax year, except for general practitioners and certain obstetricians.

6. Fish screening (ORS 315.138). The Department of Fish and Wildlife may not issue a preliminary certificate of approval after January 1, 2024.

2. HB 2066 (Ch. 610) Credits Cannot Be Used To Pay the Corporate Minimum Tax

Sections 16 and 17 of HB 2066 permanently deny corporate taxpayers the ability to apply credits against Oregon's gross receipts-based minimum tax, which ranges in amount up to $100,000. Taxpayers and the Department of Revenue have disputed this issue for at least the past seven years, resulting in an Oregon Supreme Court case that was later overturned by legislation. See *Con-way, Inc. v. Department of Revenue*, 353 Or 616 (2013); ORS 317.090, as amended by Or Laws ch 701 (2015). The 2015 change applied to tax years January 1, 2015 to January 1, 2021.

The 2017 change removes the sunset date, making the restriction permanent for tax years beginning on or after January 1, 2015.

3. HB 2066 (Ch. 610) New Tax Credit for Employee Training in Klamath County

Sections 18 through 20 of this law create a new employee training tax credit for taxpayers that implement an employee training program in a qualifying county and in collaboration with a local community college. A qualifying county means a county with a population greater than 60,000 but less than 80,000 that meets certain requirements, including, among others, having an annual economic development budget of $500,000 or greater and having an unemployment rate at least 1.5 percentage points greater than the state average.

The credit (originally proposed in HB 3206) is intended to benefit Klamath County. Applies to tax years beginning on or after January 1, 2017.

4. HB 2244 (Ch. 38) Extension of Film Production Labor Rebate

The Greenlight Oregon Rebate Labor Fund generally offers qualifying film and video productions a cash rebate of up to the specially determined 6.2 percent Oregon personal income tax withholding that applies to certain film producers pursuant to ORS 316.229. Originally enacted in 2005, the program was scheduled to expire in 2018. The law also allows the state to reduce the rebate to recover certain additional administrative costs.

The new law extends the sunset date to January 1, 2024.

5. HB 2315 (Ch. 284) Affordable Housing Tax Credit for Lending Institutions

Generally, ORS 317.097 provides a credit to lending institutions with respect to loans for construction, acquisition, and rehabilitation of multi-family rental housing development projects if the lending institution provides a reduced interest rate on loans to affordable housing developers or owners, with the benefit passed on to tenants in the form of reduced rent.

This bill amends ORS 317.097 to ensure that the credit is available when a portion of the housing is occupied by tenants receiving housing vouchers.

The change applies to tax years beginning on or after January 1, 2018.

6. SB 162 (Ch. 638) Working Family Dependent Care Credit

The 2015 legislature created the Working Family Dependent Care credit, as codified in ORS 315.264. At the time, the legislature sought to "merge" two prior credits, the Working Family Child Care credit and the Dependent Care credit. The new 2017 law is intended to make both technical and policy clarifications to the resulting merged credit, including extending the tax credit to non-married taxpayers seeking work or going to school.

The changes apply to tax years beginning on or after January 1, 2018.

7. SB 398 (Ch. 333) Earned Income Credit: Enhanced Publicity Requirements for Employers

This new law requires each employer to include with an employee's IRS Form W 2 a notice alerting employees to the existence of the federal and state earned income credit. The law also requires the Bureau of Labor and Industries to update employer-required posters to include such a notice, and the law requires the Oregon Employment Department to provide information about the credits to individuals receiving unemployment insurance benefits. The bill takes effect on October 6, 2017.

V. PROPERTY TAX GENERAL AND ADMINISTRATIVE PROVISIONS

1. HB 2088 (Ch. 414) Certain Cities Authorized to Define "Area" for Changed Property Ratio Purposes

An Oregon constitutional provision generally referred to as Measure 50 limits the assessed value of property to the lesser of the property's real market value ("RMV") or maximum assessed value ("MAV"). Subject to certain exception events, the MAV can increase by only 3 percent per year. One of the exception events is the addition of new property. The initial MAV of new property equals the product of the RMV of the property and the applicable "changed property ratio" – generally, the ratio of the average MAV of property of a certain class (e.g., residential) in an area to the average RMV of property in the same class and the same area.

Except for centrally assessed property, the applicable "area" is the county. This creates disparities if the average RMV or MAV in a city differs from the average RMV or MAV in another city in the same county.

The new law authorizes a city, by ordinance or resolution, to define "area" to mean the city for purposes of computing the maximum assessed value of property. The law limits the authorization only to a city of which a majority of the population resides in a county with a population greater than 700,000. Currently, Multnomah County is the only county that satisfies this population threshold, and the change generally is intended to benefit the City of Gresham. Applicable to assessment years beginning on or after January 1, 2018, with the written consent of the assessor of the county in which the city adopting the definition is located, or to assessment years beginning on or after January 1, 2019 without assessor consent.

2. HB 2407 (Ch. 541) Deferred Billing Credits

A 2011 law allowed a county assessor to apply a credit with respect to property that is the subject of a large tax appeal (a dispute involving more than $1 million in tax). This so-called "deferred billing credit" allowed the taxpayer to either not pay the credited amount in the first place, or to receive a refund of tax already paid for the tax year. This prevented the county from owing interest at the statutory rate of 12 percent per year to the extent the applicable tribunal determined the taxpayer had been overassessed.

The new law eliminates the "deferred billing credit" and replaces it with a "potential refund credit." Unlike a deferred billing credit, the new potential refund credit is not actually paid out to the taxpayer. The taxpayer must still pay the entire tax assessed by the regular due date or dates in the annual property tax cycle. If the assessor declares a potential refund credit, the county treasurer is required to "withhold" the cash amount of the credit, but the treasurer is free to commingle the withheld amount with other county moneys as long as it is accounted for separately. The new law limits the interest to the actual amount paid on the account.

3. HB 2573 (Ch. 420) Paperwork Reduction for Avoidance of Tax on Low-Dollar Personal Property

Existing law eliminates tax on personal property with an assessed value less than $12,500 (subject to indexing), but the taxpayer is required to file an annual statement to claim the exclusion. Instead of an annual filing, the new law allows the assessor to send the taxpayer a notice asking the taxpayer to file a report only if the taxpayer has added or removed taxable personal property since the prior year.

A specific nontaxable threshold applies to manufactured structures. That specific threshold generally is $12,500, but the new law increases that specific threshold to $25,000 for manufactured structures in Multnomah County or Washington County.

VI. PROPERTY TAX EXEMPTIONS AND INCENTIVES

1. HB 2066 (Ch. 610) Enterprise Zone Wage Requirements

Existing law applies a minimum "compensation" standard for employees added at a facility for which enterprise zone property tax exemption is sought. This new law lowers the minimum "compensation" (including benefits) required in certain rural counties to 130 percent of the county annual average wage. The same law imposes a new "wage for wage" requirement that the minimum "wage" (excluding benefits) paid to the new employees must equal or exceed the county annual average wage.

Note that the same changes apply to the rarely used discretionary income tax credit for rural facilities. Applies to agreements/exemptions on or after October 6, 2017.

2. HB 2281 (Ch. 25) Forestland

This law clarifies that disqualification is deemed to occur as of January 1 if the land is discovered to have become ineligible for special assessment anytime during the year. As under current law, however, an override applies: The assessor must mail notice of disqualification before August 15 in order for disqualification to occur. Applies to disqualifications on or after January 1, 2018.

3. HB 2377 (Ch. 624) Opt-in Affordable Housing Exemption

This new law adds a seventh form of low-income multi-unit housing exemption that a city or a county can adopt by ordinance. This program generally provides an exemption for a period determined by ordinance, with a longer exemption period if the owner rents more units to households at or below 120 percent of the area median income. This bill took effect on October 6, 2017 and is repealed January 2, 2027.

4. HB 2760 (Ch. 542) Alternative Energy Systems Property Tax Exemption

ORS 307.175 provides a property tax exemption for certain alternative energy property, including solar, wind, methane and other facilities. The new law extends the sunset so that the property tax exemption will not be allowed for tax years beginning on or after July 1, 2023.

5. HB 2833 (Ch. 83) Enterprise Zone Technical Amendments

This law makes technical and administrative changes to Oregon's Enterprise Zone Act, primarily for administration of the regular three- to five-year exemption program. The bill takes effect on October 6, 2017.

6. HB 3171 (Ch. 275) No Tax on Publicly Owned Property Leased to Taxable Lessee and Disqualified from Special Assessment

This new law resolves the way so-called "roll-back penalties" apply when land is disqualified from farm use or other special assessment, but the land is owned by the public. The law provides that no roll-back penalty will apply in that circumstance. Applies to property tax years beginning on or after July 1, 2017.

7. SB 149 (Ch. 445) Exemption for Property of LLC Owned by Nonprofits or Public Bodies

ORS 307.022, enacted in 2005 in response to a Magistrate Division opinion, allows a limited liability company ("LLC") to claim property tax exemption despite the fact that most exemptions are available only to nonprofit corporations, public bodies, or other specified entities. Existing law requires the LLC to be wholly owned by one or more nonprofit corporations. The new law broadens the relief so that an LLC owned in part by at least one nonprofit corporation and at least one public body also is eligible, but the exemption applies only to the least extent that exemption would apply if the property were owned only by the nonprofit LLC members directly. Applies to tax years beginning on or after July 1, 2017.

8. SB 311 (Ch. 537) New Local Opt-in Exemption for Seismically Retrofitted Property

This new law authorizes a city or county to adopt an ordinance or resolution to provide for a full or partial property tax exemption for eligible property that will undergo structural seismic retrofitting. "Eligible property" means improvements built before January 1, 1993, that constitute a commercial, industrial, or multifamily building that is not centrally assessed or state-assessed industrial property. The exemption period may be a maximum of 15 years.

The new law provides numerous safeguards and limitations. Among other things, notwithstanding the exemption period, the exemption ends when the tax benefit of the exemption equals the eligible costs for structural seismic retrofitting, upon the discovery by the city or county that the qualified property does not comply the requirements of the law, or upon the discovery of misleading or false documentation related to the tax exemption. The law includes a clawback provision if the property is disqualified because it does not comply with the law or misleading or false documentation was filed. The city or county may impose further limitations and conditions by ordinance. The law's sunset provision requires applications for exemption to be submitted before January 2, 2028.

9. SB 936 (Ch. 490) Strategic Investment Programs

Oregon has a variety of property tax abatement programs to encourage investment in large projects. These include the strategic investment program ("SIP"), which generally provides a fifteen-year exemption for a portion of the property in exchange for an annual community service fee and other locally imposed requirements. The real market value of the project up to a capped amount remains taxable.

This new law increases the capped taxable portion of a project located in a rural area from $25 million to $50 million if the total cost is greater than $500 million, and to $100 million if the total cost is greater than $1 billion. The law also increases the cap on the community service fee from $2 million for urban projects and $500,000 for rural projects to $2.5 million for both urban and rural projects. Applies to projects approved by the state Economic Development Commission on or after October 6, 2017.

VII. ESTATE TAX

1. SB 32 (Ch. 182) Failure to File and Failure to Pay

For estate tax returns due on or after January 1, 2018, this law eliminates the possibility that two of the 5 percent penalties (failure to timely pay and initial failure to timely file) would apply. If the failure to file continues more than three months after the due date, the 20 percent penalty in ORS 118.260(2) is added to one of the 5 percent penalties, but not both, so that the cumulative penalty will not exceed 25 percent.

VIII. EXCISE TAXES

1. HB 2017 (Ch. 750) Tax Implications of Transportation Funding Bill

New 0.1% Gross Wages Tax

This omnibus transportation funding bill includes a new 0.1% tax on the wages of Oregon residents and the wages of nonresidents for services performed in Oregon. The entire tax amount will be withheld from employee wages, and there is no provision to collect from

employees, except that a resident employee whose employer is not doing business in Oregon will be required to report and pay as determined by administrative rule.

In contrast to regular wage withholding, the new law includes no cross-reference between the new wage tax (starting at section 122a of the bill) and ORS 316.187; therefore, the new tax functions as an independent excise tax and not as a credit against the employee's personal income tax liability. There is no employer-paid component to this tax. The new law imposes a penalty of $250 per employee (up to $25,000) if an employer knowingly fails to deduct and withhold the tax.

The new wage tax applies to tax periods beginning on or after July 1, 2018.

New 0.1% Tax on "Periodic Payments"

HB 2017 also requires every payer of a periodic payment from an employer deferred compensation plan (such as a qualified retirement plan), an individual retirement plan (such as an individual retirement account or individual retirement annuity) or a commercial annuity (including life insurance contracts) to withhold and remit 0.1% (one-tenth of one percent) of each gross periodic payment. (For example, if the gross payment is $2,000, the tax withheld will be $2.)

The new withholding tax will be mandatory. Unlike the regular income tax withholding rules that permit the recipient to elect to have no income taxes withheld from such periodic payments, the recipient will not be allowed to elect to have no withholding apply to this new payroll tax.

The entire tax amount will be withheld from the periodic payment. There is no separate, additional tax on the payer. The new law makes a payer directly liable for any tax that the payer fails to withhold and remit. The bill does not include any mechanism for the state to recover tax from the recipient if the payer fails to withhold.

The Department of Revenue is seeking advice regarding whether the new tax is an "income tax" within the meaning of 4 USC § 114, which prohibits a state from imposing its income tax on the "retirement income" of a nonresident. (See also ORS 316.127(9).) In contrast to the new wage tax, the tax on periodic payments incorporates ORS 316.189, which incorporates the general wage withholding provisions, including the provision that treats withheld amounts as in payment of personal income tax. In the meantime, the first draft of administrative rules released by the Department would not apply the new periodic payments tax to payments to nonresidents, to the extent the payments constitute "retirement income."

The new law does not explicitly impose any new penalties on a payer of a periodic payment.

Payers will need to start withholding on periodic payments made on or after July 1, 2018.

Privilege and Use Tax on New Vehicles

Oregon has a long history of opposition to a general sales tax but in 2015 created a 17 percent sales tax on the sale of marijuana and cannabis products as part of the legalization of such products.

Although it would be premature to call the marijuana tax a "gateway" to a broader sales tax, HB 2017 imposes a tax on Oregon vehicle dealers equal to 0.5% of the retail sales price of a taxable motor vehicle (generally, automobiles, pickup trucks, campers, electric assisted bicycles, and motorcycles). Although labeled a "privilege tax," the tax is measured by the retail sales price and the seller can collect it from the purchaser. Accordingly, it has substantive features of a sales tax. Further, the law imposes a corresponding 0.5% use tax on the purchaser for the storage, use, or other consumption in Oregon, with a reduction for any privilege, excise, sales or use tax imposed by any other jurisdiction.

In addition, the law imposes a $15 excise tax on the sale of a new bicycle in Oregon if the sale price is $200 or more and the bicycle has wheels of at least 26 inches in diameter. The tax is imposed on the purchaser, but a seller engaged in the business of selling bicycles is required to collect and remit the tax.

The vehicle and bicycle taxes apply to a sale or use on or after January 1, 2018.

2. HB 2400 (Ch. 74) Transient Lodging Taxes

Both the state of Oregon and numerous cities and counties impose and collect transient lodging taxes. Effective October 6, 2017, this law amends ORS 305.620 to add local lodging taxes to the list of taxes that the Department of Revenue can agree to administer and/or collect.

3. HB 3180 (Ch. 89) Transient Lodging Taxes--Intergovernmental Disclosure of Taxpayer Information

This new law governs the type of information that a local lodging tax authority and the Department of Revenue may disclose to each other and provides procedures governing confidentiality of the exchanged information.

The bill takes effect on October 6, 2017.

BILL INDEX

The chapter number in the parenthetical (Ch. XX) refers to the 2017 Oregon Laws chapter number, and not to the Oregon Revised Statutes.

SB 268	(Ch. 377)	13-6
SB 269	(Ch. 247)	11-29
SB 271	(Ch. 142)	11-24
SB 277	(Ch. 324)	14-14
SB 298	(Ch. 325)	1-22
SB 299	(Ch. 749)	1-16
SB 299	(Ch. 520)	9-4
SB 299	(Ch. 520)	11-18
SB 302	(Ch. 21)	6-5
SB 303	(Ch. 20)	1-10
SB 303	(Ch. 20)	6-6
SB 311	(Ch. 537)	14-4
SB 311	(Ch. 537)	15-13
SB 317	(Ch. 483)	1-4
SB 323	(Ch. 248)	6-6
SB 327	(Ch. 449)	3-3
SB 327	(Ch. 449)	14-12
SB 336	(Ch. 483)	1-23
SB 336	(Ch. 483)	4-5
SB 338	(Ch. 451)	5-7
SB 357	(Ch. 454)	6-15
SB 360	(Ch. 522)	6-27
SB 367	(Ch. 484)	11-15
SB 372	(Ch. 330)	1-23
SB 372	(Ch. 330)	2-5
SB 374	(Ch. 658)	1-12
SB 381	(Ch. 251)	5-5
SB 381	(Ch. 251)	14-15
SB 398	(Ch. 333)	9-4
SB 398	(Ch. 333)	11-19
SB 398	(Ch. 333)	15-10
SB 416	(Ch. 334)	9-4
SB 419	(Ch. 648)	11-30
SB 423	(Ch. 335)	1-10
SB 423	(Ch. 335)	11-32
SB 481	(Ch. 456)	1-4
SB 483	(Ch. 649)	6-15
SB 485	(Ch. 336)	11-30
SB 488	(Ch. 523)	5-8
SB 490	(Ch. 94)	12-5
SB 491	(Ch. 524)	12-6
SB 492	(Ch. 457)	7-3
SB 493	(Ch. 337)	6-10
SB 497	(Ch. 338)	6-22
SB 505	(Ch. 650)	6-22
SB 507	(Ch. 339)	6-23
SB 508	(Ch. 340)	1-5
SB 510	(Ch. 486)	7-3
SB 511	(Ch. 459)	7-4
SB 512	(Ch. 651)	3-4
SB 512	(Ch. 651)	7-4
SB 512	(Ch. 651)	13-6
SB 513	(Ch. 460)	7-5
SB 514	(Ch. 461)	7-5
SB 516	(Ch. 462)	7-6
SB 517	(Ch. 463)	7-6
SB 522	(Ch. 341)	7-6
SB 531	(Ch. 342)	1-10
SB 561	(Ch. 342)	11-32
SB 682	(Ch. 464)	7-7
SB 690	(Ch. 526)	6-27
SB 701	(Ch. 527)	15-6
SB 714	(Ch. 689)	6-28
SB 719	(Ch. 737)	6-24
SB 719	(Ch. 737)	7-8
SB 743	(Ch. 345)	11-30
SB 751	(Ch. 466)	7-8
SB 760	(Ch. 346)	8-6
SB 762	(Ch. 347)	6-17
SB 765	(Ch. 467)	7-8
SB 767	(Ch. 488)	6-28
SB 769	(Ch. 254)	11-30
SB 786	(Ch. 348)	11-33
SB 795	(Ch. 349)	6-19
SB 812	(Ch. 255)	14-15
SB 819	(Ch. 469)	13-6
SB 828	(Ch. 691)	9-5
SB 830	(Ch. 351)	7-9
SB 830	(Ch. 351)	13-7
SB 831	(Ch. 352)	11-33
SB 834	(Ch. 353)	8-6
SB 838	(Ch. 354)	14-15
SB 844	(Ch. 692)	6-29
SB 846	(Ch. 257)	13-9
SB 850	(Ch. 355)	4-5
SB 856	(Ch. 259)	11-33
SB 865	(Ch. 357)	14-16
SB 871	(Ch. 739)	14-16
SB 896	(Ch. 529)	6-24
SB 899	(Ch. 358)	3-4
SB 899	(Ch. 358)	5-11
SB 927	(Ch. 258)	2-6
SB 931	(Ch. 359)	6-25
SB 934	(Ch. 489)	11-31
SB 936	(Ch. 490)	15-14
SB 942	(Ch. 740)	13-7
SB 944	(Ch. 695)	11-10
SB 948	(Ch. 378)	11-10
SB 949	(Ch. 360)	9-6
SB 949	(Ch. 360)	11-31

SB 960	(Ch. 361)	6-25
SB 961	(Ch. 491)	6-11
SB 966	(Ch. 362)	11-31
SB 974	(Ch. 530)	5-7
SB 1025	(Ch. 696)	11-31
SB 1040	(Ch. 369)	9-6
SB 1041	(Ch. 698)	6-7
SB 1050	(Ch. 699)	6-29
SB 1055	(Ch. 534)	7-9
HB 2005	(Ch. 197)	9-2
HB 2005	(Ch. 197)	11-18
HB 2008	(Ch. 198)	14-12
HB 2015	(Ch. 281)	11-24
HB 2017	(Ch. 750)	15-14
HB 2022	(Ch. 539)	4-2
HB 2066	(Ch. 610)	15-8
HB 2066	(Ch. 610)	15-9
HB 2066	(Ch. 610)	15-12
HB 2088	(Ch. 414)	15-11
HB 2090	(Ch. 145)	5-9
HB 2101	(Ch. 654)	1-3
HB 2103	(Ch. 381)	11-25
HB 2111	(Ch. 282)	14-6
HB 2114	(Ch. 146)	11-25
HB 2123	(Ch. 33)	1-5
HB 2156	(Ch. 611)	15-4
HB 2161	(Ch. 35)	10-2
HB 2162	(Ch. 416)	4-2
HB 2175	(Ch. 203)	11-5
HB 2176	(Ch. 204)	11-5
HB 2189	(Ch. 143)	14-12
HB 2191	(Ch. 705)	1-16
HB 2191	(Ch. 705)	5-10
HB 2216	(Ch. 36)	13-2
HB 2238	(Ch. 614)	6-20
HB 2244	(Ch. 38)	15-10
HB 2246	(Ch. 615)	4-2
HB 2249	(Ch. 150)	6-20
HB 2251	(Ch. 134)	6-20
HB 2259	(Ch. 616)	1-16
HB 2259	(Ch. 616)	13-2
HB 2266	(Ch. 120)	2-2
HB 2267	(Ch. 13)	11-25
HB 2273	(Ch. 622)	15-7
HB 2275	(Ch. 43)	15-7
HB 2277	(Ch. 27)	14-3
HB 2279	(Ch. 44)	14-8
HB 2281	(Ch. 25)	14-3
HB 2281	(Ch. 25)	15-12
HB 2283	(Ch. 24)	15-6
HB 2284	(Ch. 22)	15-6
HB 2285	(Ch. 23)	15-5
HB 2296	(Ch. 623)	4-3
HB 2300	(Ch. 619)	11-5
HB 2301	(Ch. 101)	11-25
HB 2302	(Ch. 65)	11-5
HB 2303	(Ch. 384)	11-26
HB 2304	(Ch. 618)	11-26
HB 2307	(Ch. 48)	6-30
HB 2307	(Ch. 48)	11-6
HB 2308	(Ch. 628)	6-30
HB 2309	(Ch. 49)	6-30
HB 2310	(Ch. 627)	11-11
HB 2315	(Ch. 284)	15-10
HB 2319	(Ch. 104)	11-6
HB 2328	(Ch. 6)	1-5
HB 2328	(Ch. 6)	11-7
HB 2339	(Ch. 417)	11-19
HB 2340	(Ch. 206)	11-19
HB 2341	(Ch. 152)	11-20
HB 2342	(Ch. 626)	11-20
HB 2344	(Ch. 30)	13-2
HB 2346	(Ch. 51)	10-2
HB 2355	(Ch. 198)	6-4
HB 2356	(Ch. 625)	5-3
HB 2359	(Ch. 154)	5-4
HB 2359	(Ch. 154)	14-5
HB 2360	(Ch. 418)	6-25
HB 2377	(Ch. 624)	4-3
HB 2377	(Ch. 624)	15-12
HB 2388	(Ch. 73)	11-26
HB 2391	(Ch. 538)	11-21
HB 2393	(Ch. 135)	8-2
HB 2393	(Ch. 135)	11-11
HB 2397	(Ch. 106)	11-27
HB 2398	(Ch. 287)	11-27
HB 2400	(Ch. 74)	15-16
HB 2402	(Ch. 540)	11-11
HB 2403	(Ch. 75)	6-7
HB 2407	(Ch. 541)	15-11
HB 2409	(Ch. 288)	6-8
HB 2432	(Ch. 155)	11-27
HB 2457	(Ch. 98)	1-10
HB 2503	(Ch. 499)	11-27
HB 2510	(Ch. 386)	14-13
HB 2511	(Ch. 387)	14-13
HB 2527	(Ch. 289)	11-28
HB 2562	(Ch. 161)	5-4
HB 2562	(Ch. 161)	14-3
HB 2573	(Ch. 420)	15-12

HB 2576	(Ch. 107)	2-2
HB 2579	(Ch. 79)	6-15
HB 2594	(Ch. 53)	6-20
HB 2597	(Ch. 629)	6-8
HB 2598	(Ch. 388)	6-9
HB 2600	(Ch. 630)	13-2
HB 2601	(Ch. 17)	3-4
HB 2605	(Ch. 631)	12-2
HB 2608	(Ch. 54)	8-7
HB 2610	(Ch. 55)	10-3
HB 2616	(Ch. 389)	6-16
HB 2616	(Ch. 389)	13-7
HB 2621	(Ch. 108)	6-17
HB 2622	(Ch. 290)	10-3
HB 2624	(Ch. 209)	10-5
HB 2625	(Ch. 279)	2-2
HB 2630	(Ch. 391)	8-2
HB 2630	(Ch. 391)	11-16
HB 2638	(Ch. 655)	6-9
HB 2644	(Ch. 162)	11-12
HB 2660	(Ch. 163)	11-12
HB 2661	(Ch. 656)	5-9
HB 2661	(Ch. 656)	11-12
HB 2673	(Ch. 100)	13-3
HB 2675	(Ch. 82)	11-12
HB 2684	(Ch. 707)	11-7
HB 2721	(Ch. 658)	6-9
HB 2722	(Ch. 423)	14-6
HB 2732	(Ch. 424)	2-3
HB 2737	(Ch. 394)	4-3
HB 2740	(Ch. 395)	6-11
HB 2754	(Ch. 426)	11-13
HB 2760	(Ch. 542)	15-13
HB 2795	(Ch. 663)	12-2
HB 2797	(Ch. 712)	6-21
HB 2797	(Ch. 712)	12-2
HB 2833	(Ch. 83)	15-13
HB 2839	(Ch. 369)	11-13
HB 2855	(Ch. 164)	14-14
HB 2882	(Ch. 429)	11-28
HB 2883	(Ch. 293)	2-3
HB 2903	(Ch. 138)	13-3
HB 2920	(Ch. 270)	5-4
HB 2920	(Ch. 270)	14-5
HB 2931	(Ch. 167)	1-5
HB 2931	(Ch. 167)	11-7
HB 2972	(Ch. 57)	1-10
HB 2972	(Ch. 57)	6-18
HB 2986	(Ch. 169)	3-4
HB 2986	(Ch. 169)	8-7
HB 2987	(Ch. 99)	6-13
HB 2988	(Ch. 430)	6-12
HB 3008	(Ch. 211)	9-2
HB 3008	(Ch. 211)	11-18
HB 3014	(Ch. 401)	1-5
HB 3014	(Ch. 401)	11-28
HB 3030	(Ch. 402)	6-5
HB 3047	(Ch. 502)	6-14
HB 3055	(Ch. 109)	14-14
HB 3057	(Ch. 111)	14-7
HB 3059	(Ch. 112)	14-8
HB 3060	(Ch. 212)	4-4
HB 3063	(Ch. 671)	11-7
HB 3065	(Ch. 110)	14-5
HB 3077	(Ch. 171)	6-18
HB 3078	(Ch. 673)	6-25
HB 3090	(Ch. 272)	11-8
HB 3091	(Ch. 273)	11-8
HB 3158	(Ch. 174)	2-4
HB 3170	(Ch. 553)	9-3
HB 3171	(Ch. 275)	14-4
HB 3171	(Ch. 275)	15-13
HB 3176	(Ch. 123)	6-26
HB 3177	(Ch. 276)	2-4
HB 3180	(Ch. 89)	15-16
HB 3184	(Ch. 215)	5-6
HB 3203	(Ch. 715)	4-4
HB 3242	(Ch. 431)	6-16
HB 3242	(Ch. 431)	13-8
HB 3261	(Ch. 718)	11-13
HB 3262	(Ch. 503)	11-8
HB 3264	(Ch. 216)	4-5
HB 3276	(Ch. 719)	11-21
HB 3283	(Ch. 677)	2-4
HB 3340	(Ch. 683)	11-9
HB 3353	(Ch. 407)	11-14
HB 3359	(Ch. 679)	11-16
HB 3363	(Ch. 409)	11-28
HB 3391	(Ch. 721)	11-22
HB 3398	(Ch. 477)	11-23
HB 3405	(Ch. 220)	11-14
HB 3438	(Ch. 438)	6-27
HB 3439	(Ch. 179)	11-28
HB 3446	(Ch. 439)	6-10
HB 3447	(Ch. 221)	14-7
HB 3458	(Ch. 685)	4-5
HB 3458	(Ch. 685)	9-3
HB 3470	(Ch. 725)	12-3
HB 5006	(Ch. 702)	12-3
SB 5505	(Ch. 570)	12-5

CHAPTER INDEX

The chapter number in the parenthetical (Ch. XX) refers to the 2017 Oregon Laws chapter number, and not to the Oregon Revised Statutes.

(Ch. 194)	SB 82	6-17
(Ch. 197)	HB 2005	9-2
(Ch. 197)	HB 2005	11-18
(Ch. 198)	HB 2008	14-12
(Ch. 198)	HB 2355	6-4
(Ch. 203)	HB 2175	11-5
(Ch. 204)	HB 2176	11-5
(Ch. 206)	HB 2340	11-19
(Ch. 209)	HB 2624	10-5
(Ch. 211)	HB 3008	9-2
(Ch. 211)	HB 3008	11-18
(Ch. 212)	HB 3060	4-4
(Ch. 215)	HB 3184	5-6
(Ch. 216)	HB 3264	4-5
(Ch. 220)	HB 3405	11-14
(Ch. 221)	HB 3447	14-7
(Ch. 224)	SB 21	1-17
(Ch. 225)	SB 26	6-19
(Ch. 226)	SB 27	1-17
(Ch. 227)	SB 39	1-17
(Ch. 228)	SB 40	1-18
(Ch. 229)	SB 52	1-6
(Ch. 229)	SB 52	11-14
(Ch. 230)	SB 60	1-7
(Ch. 232)	SB 63	6-31
(Ch. 233)	SB 66	6-32
(Ch. 234)	SB 67	14-9
(Ch. 235)	SB 76	1-19
(Ch. 236)	SB 79	14-6
(Ch. 238)	SB 92	1-22
(Ch. 239)	SB 104	11-14
(Ch. 240)	SB 131	3-2
(Ch. 240)	SB 131	6-21
(Ch. 241)	SB 134	5-7
(Ch. 243)	SB 147	11-15
(Ch. 244)	SB 245	11-15
(Ch. 245)	SB 249	6-12
(Ch. 246)	SB 250	6-13
(Ch. 247)	SB 269	11-29
(Ch. 248)	SB 323	6-6
(Ch. 251)	SB 381	5-5
(Ch. 251)	SB 381	14-15
(Ch. 254)	SB 769	11-30
(Ch. 255)	SB 812	14-15
(Ch. 257)	SB 846	13-9
(Ch. 258)	SB 927	2-6
(Ch. 259)	SB 856	11-33
(Ch. 270)	HB 2920	5-4
(Ch. 270)	HB 2920	14-5
(Ch. 272)	HB 3090	11-8
(Ch. 273)	HB 3091	11-8
(Ch. 275)	HB 3171	14-4
(Ch. 275)	HB 3171	15-13
(Ch. 276)	HB 3177	2-4
(Ch. 278)	SB 33	15-5
(Ch. 279)	HB 2625	2-2
(Ch. 281)	HB 2015	11-24
(Ch. 282)	HB 2111	14-6
(Ch. 284)	HB 2315	15-10
(Ch. 287)	HB 2398	11-27
(Ch. 288)	HB 2409	6-8
(Ch. 289)	HB 2527	11-28
(Ch. 290)	HB 2622	10-3
(Ch. 293)	HB 2883	2-3
(Ch. 304)	SB 29	15-5
(Ch. 309)	SB 46	11-23
(Ch. 310)	SB 57	8-3
(Ch. 310)	SB 57	11-16
(Ch. 312)	SB 83	1-20
(Ch. 316)	SB 153	11-24
(Ch. 316)	SB 153	15-8
(Ch. 318)	SB 247	6-12
(Ch. 319)	SB 99	1-22
(Ch. 319)	SB 252	6-10
(Ch. 320)	SB 253	5-6
(Ch. 321)	SB 261	3-2
(Ch. 324)	SB 277	14-14
(Ch. 325)	SB 298	1-22
(Ch. 330)	SB 372	1-23
(Ch. 330)	SB 372	2-5
(Ch. 333)	SB 398	9-4
(Ch. 333)	SB 398	11-19
(Ch. 333)	SB 398	15-10
(Ch. 334)	SB 416	9-4
(Ch. 335)	SB 423	1-10
(Ch. 335)	SB 423	11-32
(Ch. 336)	SB 485	11-30
(Ch. 337)	SB 268	1-22
(Ch. 337)	SB 493	6-10
(Ch. 338)	SB 497	6-22
(Ch. 339)	SB 507	6-23
(Ch. 340)	SB 508	1-5
(Ch. 341)	SB 522	7-6
(Ch. 342)	SB 531	1-10
(Ch. 342)	SB 561	11-32
(Ch. 345)	SB 743	11-30
(Ch. 346)	SB 760	8-6
(Ch. 347)	SB 762	6-17
(Ch. 348)	SB 786	11-33
(Ch. 349)	SB 795	6-19

(Ch. 351)	SB 830	7-9
(Ch. 351)	SB 830	13-7
(Ch. 352)	SB 831	11-33
(Ch. 353)	SB 834	8-6
(Ch. 354)	SB 838	14-15
(Ch. 355)	SB 850	4-5
(Ch. 357)	SB 865	14-16
(Ch. 358)	SB 899	3-4
(Ch. 358)	SB 899	5-11
(Ch. 359)	SB 931	6-25
(Ch. 360)	SB 949	9-6
(Ch. 360)	SB 949	11-31
(Ch. 361)	SB 960	6-25
(Ch. 362)	SB 966	11-31
(Ch. 369)	SB 1040	9-6
(Ch. 369)	HB 2839	11-13
(Ch. 377)	SB 268	13-6
(Ch. 378)	SB 948	11-10
(Ch. 381)	HB 2103	11-25
(Ch. 384)	HB 2303	11-26
(Ch. 386)	HB 2510	14-13
(Ch. 387)	HB 2511	14-13
(Ch. 388)	HB 2598	6-9
(Ch. 389)	HB 2616	6-16
(Ch. 389)	HB 2616	13-7
(Ch. 391)	HB 2630	8-2
(Ch. 391)	HB 2630	11-16
(Ch. 394)	HB 2737	4-3
(Ch. 395)	HB 2740	6-11
(Ch. 401)	HB 3014	1-5
(Ch. 401)	HB 3014	11-28
(Ch. 402)	HB 3030	6-5
(Ch. 407)	HB 3353	11-14
(Ch. 409)	HB 3363	11-28
(Ch. 414)	HB 2088	15-11
(Ch. 416)	HB 2162	4-2
(Ch. 417)	HB 2339	11-19
(Ch. 418)	HB 2360	6-25
(Ch. 420)	HB 2573	15-12
(Ch. 423)	HB 2722	14-6
(Ch. 424)	HB 2732	2-3
(Ch. 426)	HB 2754	11-13
(Ch. 429)	HB 2882	11-28
(Ch. 430)	HB 2988	6-12
(Ch. 431)	HB 3242	6-16
(Ch. 431)	HB 3242	13-8
(Ch. 438)	HB 3438	6-27
(Ch. 439)	HB 3446	6-10
(Ch. 441)	SB 58	1-7
(Ch. 441)	SB 58	11-17
(Ch. 442)	SB 65	1-8
(Ch. 442)	SB 65	6-31
(Ch. 445)	SB 149	15-13
(Ch. 446)	SB 205	1-11
(Ch. 447)	SB 241	7-2
(Ch. 447)	SB 241	13-5
(Ch. 448)	SB 244	11-15
(Ch. 449)	SB 327	3-3
(Ch. 449)	SB 327	14-12
(Ch. 451)	SB 338	5-7
(Ch. 454)	SB 357	6-15
(Ch. 456)	SB 481	1-4
(Ch. 457)	SB 492	7-3
(Ch. 459)	SB 511	7-4
(Ch. 460)	SB 513	7-5
(Ch. 461)	SB 514	7-5
(Ch. 462)	SB 516	7-6
(Ch. 463)	SB 517	7-6
(Ch. 464)	SB 682	7-7
(Ch. 466)	SB 751	7-8
(Ch. 467)	SB 765	7-8
(Ch. 469)	SB 819	13-6
(Ch. 476)	SB 56	1-18
(Ch. 477)	HB 3398	11-23
(Ch. 479)	SB 97	11-23
(Ch. 480)	SB 117	5-8
(Ch. 481)	SB 129	11-10
(Ch. 483)	SB 317	1-4
(Ch. 483)	SB 336	1-23
(Ch. 483)	SB 336	4-5
(Ch. 484)	SB 367	11-15
(Ch. 486)	SB 510	7-3
(Ch. 488)	SB 767	6-28
(Ch. 489)	SB 934	11-31
(Ch. 490)	SB 936	15-14
(Ch. 491)	SB 961	6-11
(Ch. 499)	HB 2503	11-27
(Ch. 502)	HB 3047	6-14
(Ch. 503)	HB 3262	11-8
(Ch. 511)	SB 48	1-6
(Ch. 511)	SB 48	11-9
(Ch. 513)	SB 90	1-21
(Ch. 514)	SB 95	1-14
(Ch. 514)	SB 95	8-4
(Ch. 515)	SB 101	13-5
(Ch. 518)	SB 227	1-15
(Ch. 519)	SB 257	6-14
(Ch. 520)	SB 299	9-4
(Ch. 520)	SB 299	11-18
(Ch. 522)	SB 360	6-27

(Ch. 523)	SB 488	5-8
(Ch. 524)	SB 491	12-6
(Ch. 526)	SB 690	6-27
(Ch. 527)	SB 701	15-6
(Ch. 529)	SB 896	6-24
(Ch. 530)	SB 974	5-7
(Ch. 534)	SB 1055	7-9
(Ch. 537)	SB 311	14-4
(Ch. 537)	SB 311	15-13
(Ch. 538)	HB 2391	11-21
(Ch. 539)	HB 2022	4-2
(Ch. 540)	HB 2402	11-11
(Ch. 541)	HB 2407	15-11
(Ch. 542)	HB 2760	15-13
(Ch. 549)	SB 28	15-7
(Ch. 553)	HB 3170	9-3
(Ch. 557)	SB 44	1-18
(Ch. 558)	SB 49	13-8
(Ch. 559)	SB 53	11-29
(Ch. 569)	SB 214	9-4
(Ch. 570)	SB 5505	12-5
(Ch. 590)	SB 5516	4-2
(Ch. 598)	SB 5529	12-5
(Ch. 610)	HB 2066	15-8
(Ch. 610)	HB 2066	15-9
(Ch. 610)	HB 2066	15-12
(Ch. 611)	HB 2156	15-4
(Ch. 614)	HB 2238	6-20
(Ch. 615)	HB 2246	4-2
(Ch. 616)	HB 2259	1-16
(Ch. 616)	HB 2259	13-2
(Ch. 618)	HB 2304	11-26
(Ch. 619)	HB 2300	11-5
(Ch. 622)	HB 2273	15-7
(Ch. 623)	HB 2296	4-3
(Ch. 624)	HB 2377	4-3
(Ch. 624)	HB 2377	15-12
(Ch. 625)	HB 2356	5-3
(Ch. 626)	HB 2342	11-20
(Ch. 627)	HB 2310	11-11
(Ch. 628)	HB 2308	6-30
(Ch. 629)	HB 2597	6-8
(Ch. 630)	HB 2600	13-2
(Ch. 631)	HB 2605	12-2
(Ch. 633)	SB 59	8-4
(Ch. 633)	SB 59	11-17
(Ch. 634)	SB 64	6-31
(Ch. 634)	SB 64	11-9
(Ch. 636)	SB 98	1-13
(Ch. 636)	SB 98	5-5
(Ch. 636)	SB 98	14-9
(Ch. 637)	SB 102	7-2
(Ch. 638)	SB 162	15-10
(Ch. 643)	SB 231	11-10
(Ch. 644)	SB 254	10-5
(Ch. 644)	SB 254	15-5
(Ch. 648)	SB 419	11-30
(Ch. 649)	SB 483	6-15
(Ch. 650)	SB 505	6-22
(Ch. 651)	SB 512	3-4
(Ch. 651)	SB 512	7-4
(Ch. 651)	SB 512	13-6
(Ch. 654)	HB 2101	1-3
(Ch. 655)	HB 2638	6-9
(Ch. 656)	HB 2661	5-9
(Ch. 656)	HB 2661	11-12
(Ch. 658)	SB 374	1-12
(Ch. 658)	HB 2721	6-9
(Ch. 663)	HB 2795	12-2
(Ch. 671)	HB 3063	11-7
(Ch. 673)	HB 3078	6-25
(Ch. 677)	HB 3283	2-4
(Ch. 679)	HB 3359	11-16
(Ch. 683)	HB 3340	11-9
(Ch. 685)	HB 3458	4-5
(Ch. 685)	HB 3458	9-3
(Ch. 689)	SB 714	6-28
(Ch. 691)	SB 828	9-5
(Ch. 692)	SB 844	6-29
(Ch. 695)	SB 944	11-10
(Ch. 696)	SB 1025	11-31
(Ch. 698)	SB 1041	6-7
(Ch. 699)	SB 1050	6-29
(Ch. 702)	HB 5006	12-3
(Ch. 705)	HB 2191	1-16
(Ch. 705)	HB 2191	5-10
(Ch. 707)	HB 2684	11-7
(Ch. 712)	HB 2797	6-21
(Ch. 712)	HB 2797	12-2
(Ch. 715)	HB 3203	4-4
(Ch. 718)	HB 3261	11-13
(Ch. 719)	HB 3276	11-21
(Ch. 721)	HB 3391	11-22
(Ch. 725)	HB 3470	12-3
(Ch. 728)	SB 106	1-3
(Ch. 728)	SB 106	14-11
(Ch. 733)	SB 243	11-15
(Ch. 733)	SB 243	13-5
(Ch. 737)	SB 719	6-24
(Ch. 737)	SB 719	7-8

(Ch. 739)	SB 871	14-16
(Ch. 740)	SB 942	13-7
(Ch. 749)	SB 299	1-16
(Ch. 750)	HB 2017	15-14