Many bills passed during the 2023 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, 2024.

This handbook may be cited as:
2023 Oregon Legislation Highlights

This publication is not copyrighted.

Published in the United States of America
OREGON STATE BAR
CHIEF EXECUTIVE OFFICER

Helen Hierschbiel

2023 OREGON LEGISLATION HIGHLIGHTS
PRODUCTION STAFF

Matt Shields – Editor in Chief
Susan Evans Grabe
Amy Zubko
Sara Doherty
The Oregon State Bar would like to thank the following individuals for their contributions and submission to this publication:


Emily Rena-Dozier: 2013 Columbia University School of Law. Oregon State Bar member since 2013


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 approximately 150 bills and other measures that were passed by both houses of the legislature. This book does not describe all enacted legislation. *Unless otherwise noted, all legislation takes effect on January 1, 2024.*

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 the 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 2023 Oregon Laws chapter number. A table of bill numbers and Oregon Laws chapter numbers appears at the end of the book.

The Oregon legislature’s website offers additional information that the reader of this book may find useful. Individual bills are hyperlinked to that bill’s page in the Oregon Legislative Information System, which contains additional information on that bill. This includes measure summaries written by legislative staff, and in some cases supporting documentation submitted during committee hearings. See [www.oregonlegislature.gov](http://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 be possible.

We would also like thank the staff of the Oregon Office of Legislative Counsel, who have for years assisted with this publication as well as supporting the ongoing work of the Oregon State Bar.
# 2023 Oregon Legislation Highlights

## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Category</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>BUSINESS AND INSURANCE REGULATION</td>
<td>1-1</td>
</tr>
<tr>
<td>CIVIL AND APPELLATE LAW</td>
<td>2-1</td>
</tr>
<tr>
<td>LEGISLATIVE CHANGES</td>
<td>2-2</td>
</tr>
<tr>
<td>OREGON RULES OF CIVIL PROCEDURE</td>
<td>2-4</td>
</tr>
<tr>
<td>COMMERCIAL, CONSUMER AND DEBTOR-CREDITOR LAW</td>
<td>3-1</td>
</tr>
<tr>
<td>CRIMINAL LAW</td>
<td>4-1</td>
</tr>
<tr>
<td>ADULTS IN CUSTODY</td>
<td>4-3</td>
</tr>
<tr>
<td>CRIMES AND VIOLATIONS</td>
<td>4-3</td>
</tr>
<tr>
<td>CRIMINAL PROCEDURE</td>
<td>4-8</td>
</tr>
<tr>
<td>OTHER LEGISLATION</td>
<td>4-10</td>
</tr>
<tr>
<td>DOMESTIC RELATIONS AND PROBATE</td>
<td>5-1</td>
</tr>
<tr>
<td>DOMESTIC PARTNERSHIP</td>
<td>5-2</td>
</tr>
<tr>
<td>CHILD SUPPORT</td>
<td>5-4</td>
</tr>
<tr>
<td>PATERNITY</td>
<td>5-6</td>
</tr>
<tr>
<td>DOMESTIC ABUSE</td>
<td>5-6</td>
</tr>
<tr>
<td>AUTHENTICATION REQUIREMENTS</td>
<td>5-7</td>
</tr>
<tr>
<td>ESTATE PLANNING AND ADMINISTRATION</td>
<td>5-7</td>
</tr>
<tr>
<td>GOVERNMENT AND JUDICIAL ADMINISTRATION</td>
<td>6-1</td>
</tr>
<tr>
<td>COURT AND BAR OPERATIONS</td>
<td>6-2</td>
</tr>
<tr>
<td>GOVERNMENT ADMINISTRATION</td>
<td>6-5</td>
</tr>
<tr>
<td>PUBLIC NOTICE, PUBLIC MEETINGS, AND PUBLIC RECORDS</td>
<td>6-7</td>
</tr>
<tr>
<td>HEALTH LAW</td>
<td>7-1</td>
</tr>
<tr>
<td>ACCESS TO CARE</td>
<td>7-4</td>
</tr>
<tr>
<td>BEHAVIORAL HEALTH</td>
<td>7-6</td>
</tr>
<tr>
<td>BOARD MEMBERSHIP</td>
<td>7-6</td>
</tr>
<tr>
<td>HOSPITAL AND MEDICAL OPERATIONS</td>
<td>7-7</td>
</tr>
<tr>
<td>INFORMATION PRIVACY</td>
<td>7-10</td>
</tr>
<tr>
<td>INSURANCE/ALTERNATIVE COVERAGE</td>
<td>7-11</td>
</tr>
<tr>
<td>LICENSING/SCOPE OF PRACTICE</td>
<td>7-16</td>
</tr>
<tr>
<td>OPIOID EPIDEMIC</td>
<td>7-20</td>
</tr>
<tr>
<td>PHARMACY</td>
<td>7-22</td>
</tr>
<tr>
<td>PRESCRIPTION DRUGS</td>
<td>7-23</td>
</tr>
<tr>
<td>MISCELLANEOUS</td>
<td>7-24</td>
</tr>
<tr>
<td>HOUSING AND LAND USE</td>
<td>8-1</td>
</tr>
</tbody>
</table>
1

Business and Insurance Regulation

1. SB 82 (Ch. 67) Wildfires and Insurance Regulation
2. HB 2108 (Ch. 34) Business Filings
3. HB 2982 (Ch. 85) Insurance Payouts Following Natural Disasters
4. HB 3200 (Ch. 57) Credit Unions

Summaries for this chapter were written and compiled by Amy Zubko and Matthew Shields.
1. **SB 82** (Chapter 67) **Wildfires and Insurance Regulation**

SB 82 makes several changes to statutes regulating insurance that covers damage from wildfire.

The bill requires that insurance companies provide additional disclosures to policy holders if a residential insurance policy is cancelled, nonrenewed, or the premium is increased due to wildfire risks. The insurer is required to provide several pieces of information, including property-specific reasons for the decision and an explanation of risk mitigation measures the policy holder could take to help the insurability of the property. The bill also requires that information on mitigation efforts that may decrease risk and improve insurability be made available on the insurer’s website.

Additionally, SB 82 prohibits insurance companies from using the state wildfire risk map as the basis for cancellations, nonrenewals or premium increases.

SB 82 takes effect on January 1, 2024.

2. **HB 2108** (Chapter 34) **Business Filings**

HB 2108 addresses how the Secretary of State addresses business filings that are deficient. The bill removes the existing requirement that the Secretary of State must issue a written notification and wait 20 days before a document submitted for filing. In its place, the bill creates a requirement that the Secretary of State specify the reasons for any document so withdrawn. The bill also provides that any document filed between January 1, 2020, and September 24, 2023 is not invalid because it was filed without the declaration required under ORS 60.004 (2)(b), 63.004 (2)(b) or 65.004 (2)(b).

HB 2108 took effect on September 24, 2023.

3. **HB 2982** (Chapter 85) **Insurance Payouts Following Natural Disasters**

HB 2982 provides that if an individual holds a policy for personal insurance, as defined in ORS 746.600 (33)(b) and (c), and the individual suffers a total loss of the contents of a residence as a result of a major disaster, an insurer must offer the insured a payout of no less than 70% of the coverage the insured previously purchased for the contents of the residence, without requiring the insured to complete an inventory of the loss.

Instead, the insured must provide documentation to the Department of Consumer and Business Services that the residence was furnished, and that the loss was attributable to a major disaster. DCBS may specify the manner in which this is demonstrated by rule. For the purposes of HB 2982, “major disaster” means a state of emergency that the Governor declares pursuant
to ORS 401.165 “that involves or threatens to involve widespread loss of life, injury to persons or property, human suffering or financial loss.”

HB 2982 took effect on September 24, 2023.

4. **HB 3200** *(Chapter 57)* **Credit Unions**

HB 3200 makes several changes to Oregon law related to the organization and operation of credit unions, including repealing specific requirements that were deemed no longer necessary.

The bill repeals an existing requirement that the fiscal year for credit unions end on December 31st. Additionally the bill repeals a requirement that executive officers be elected at a specially held organizational meeting. The bill also clarified that in addition to paying compensation to directors and supervisory committee members, credit unions may pay members of other committees established by the board, or pursuant to the bylaws.

Finally, the bill places some limited restrictions on a credit union’s ability to invest in or lend money to corporations, limited liability companies, and mutual associations. Under the bill the credit union is limited in such investments to an aggregate amount not to exceed five percent of assets, and may only do so if the entity “provides goods or services associated with the routine operations of the credit union, the investment or loan is reasonably related to the credit union’s use or potential use of the goods or services provided, the investment or loan is made in accordance with any rules governing such investments or loans as may be adopted by the Director of the Department of Consumer and Business Services and the credit union receives prior approval for the investment or loan from the director.”

HB 3200 takes effect on January 1, 2024.
Civil and Appellate Law

I. LEGISLATIVE CHANGES
   1. SB 305 (Ch. 71) Uniform Public Expression Protection Act
   2. SB 311 (Ch. 104) Oregon False Claims Act
   3. SB 864 (Ch. 77) Wildfire Immunity
   4. HB 2324 (Ch. 14) Notices of Appeal
   5. HB 2572 (Ch. 312) Injuries as a Results of Paramilitary Activity
   6. HB 3560 (Ch. 555) Psilocybin Immunity

II. OREGON RULES OF CIVIL PROCEDURE
   1. ORCP 7 Summons
   2. ORCP 39 Depositions
   3. ORCP 55 Subpoena
   4. ORCP 57 Jurors
   5. ORCP 58 Trial Procedure
   6. ORCP 69 Default Orders and Judgments

The Oregon State Bar would like to thank OSB members Nadia Dahab and Hon. Mark Peterson for their contributions to this chapter.
I. LEGISLATIVE CHANGES

1. **SB 305** *(Chapter 71)*  
   **Uniform Public Expression Protection Act**

SB 305 modifies Oregon’s Anti-SLAPP and models the new provisions after the Uniform Public Expression Protection Act. This bill was the product of the Oregon Law Commission and the Uniform Laws Commission.

Among the new provisions, the bill provides that an Anti-SLAPP may not be made against a claim against a person primarily engaged in the business of selling or leasing goods or services, if the claim arises out of a communication related to the person’s sale or lease of goods or services.

Under existing law, discovery proceedings are stayed upon the filing of an Anti-SLAPP motion. The new bill clarifies what motions a judge may rule on while the stay is in effect, including that the judge may hear and rule on a motion for reasonable attorney fees.

SB 305 takes effect on January 1, 2024.

2. **SB 311** *(Chapter 104)*  
   **Oregon False Claims Act**

SB 311 makes several changes to Oregon’s False Claims Act. The bill increases the possible financial penalties for violations of the act and extends the statute of limitations for violations from three years to five years.

The bill also creates new provisions requiring that evidence in the possession of the Attorney General must be kept confidential, subject to several exceptions provided in the bill.

SB 311 takes effect on January 1, 2023.

3. **SB 864** *(Chapter 77)*  
   **Wildfire Immunity**

SB 864 amends ORS 477.123 to make individuals voluntarily fighting wildfire on private forestland immune from civil liability for any injury to persons or property resulting from good faith performance of that activity. The existing statute provided this immunity to firefighting on private agricultural land, but not on forestland.

The existing statute defines “voluntarily” to mean that the activity is not undertaken as a condition of employment. The statute also does not apply to members of a volunteer fire department who have been trained in firefighting techniques.
SB 864 takes effect on January 1, 2024.

4. **HB 2324** *(Chapter 14) Notices of Appeal*

House Bill 2324 updates ORS Chapter 19 to clarify the class of delivery and proof of service requirements for the filing of a notice of appeal in order to be consistent with a recent Oregon Supreme Court ruling.

Previously, ORS 19.260 required appellants to use registered or certified mail to satisfy the proof of mailing requirements. However, in State v Chapman (367 Or 388 (2022)), the Oregon Supreme Court found that the use of first-class mail through the U.S. Postal Service could satisfy the proof of mailing requirement in the statute and that registered or certified mail was not necessary. At the oral argument in the Chapman case, however, members of the Supreme Court expressed concern for the logistical challenges that such a rule might present for the Court of Appeals and the Appellate Commissioner.

This bill addresses those concerns by clarifying that first-class mail may be used, and that if it is used the postmarked date on the envelope will serve as the date on which notice was provided. This will alleviate the need for the OJD to come up with a new process for independently tracking dates on which mail filings are derived by the postal service.

HB 2324 takes effect on January 1, 2024.

5. **HB 2572** *(Chapter 312) Injuries as a Results of Paramilitary Activity*

HB 2572 allows that a person injured as a result of paramilitary activity may bring a civil action against the person who persons who engaged in that activity.

The bill provides that a person engages in paramilitary activity if they engage in any of a list of activities on behalf of or in furtherance of the objectives of a private paramilitary organization. The bill provides a list of activities and organizations against whom the bill does not apply, including the Armed Forces of the United States, historical reenactors, the State Department of Fish and Wildlife, educational institutions, and others.

The bill also authorizes the Attorney General to bring a suit for injunctive relief against paramilitary organizations, and to serve investigative demands against persons that may have information regarding paramilitary organizations.

HB 2572 takes effect on January 1, 2024.

6. **HB 3560** *(Chapter 555) Psilocybin Immunity*
CIVIL AND APPELLATE LAW

HB 3560 makes the Higher Education Coordinating Commission, and members of the commission, immune from suit for their performance, or omission to perform, any duty function or power relating to psilocybin products.

HB 3560 took effect on July 31, 2023, and applies to acts or omission that took place on or after the date on which Ballot Measure 109 (2020) became effective under Article IV, section 1 (4)(d) of the Oregon Constitution.

II. OREGON RULES OF CIVIL PROCEDURE

1. ORCP 7

Summons

Rule 7 governs the form and service of the summons. The Council's biennial survey to the bench and bar generated a question as to the reasoning in treating service of the summons and complaint on registered agents, officers, or directors of corporations; registered agents, managers, or members of limited liability companies; and registered agents and general partners of limited partnerships differently depending on whether that person happened to be served in the county in which the action was commenced, or in some other county. See, ORCP 7 D(3)(b), (c), and (d). Some courts were treating personal service of the summons and complaint in a county other than where the action was commenced as the first step in obtaining personal jurisdiction over that defendant by substituted service. The question would arise as to whether service had been completed by a follow up mailing of the summons and complaint, and potential statute of limitations problems that could be raised if the follow up mailing did not occur.

It would seem that a significant percentage of registered agents are located in Marion County or in Multnomah County and that fact would appear to have little bearing on whether a defendant had received proper notice of a pending lawsuit, wherever filed. This venue-like verbiage had been in Rule 7 as originally promulgated and had, likewise, been in the statute (ORS 15.080) that preceded ORCP 7 D(3)(b). Of course, due process requires that the plaintiff serve the defendant in a "manner reasonably calculated, under all the circumstances, to apprise the defendant of the existence and pendency of the action and to afford a reasonable opportunity to appear and defend." ORCP 7 D(1).

A number of amendments (52), modernized the language of Rule 7, changing "upon" to "on," to be consistent with the other ORCP. Finally, parts D(3)(c)(ii)(C) and D(3)(d)(ii)((B) received an added "if any" to be consistent with treatment of corporate entities' registered agents, or lack thereof. The amendments identified in this paragraph are not intended to change the meaning
or operation of the rule. All parts of the published rule received the unanimous vote of the Council to be promulgated.

2. **ORCP 39**  
**Depositions**

Rule 39 relates to the procedures for taking depositions. The COVID-19 pandemic has taught lawyers and courts that many proceedings can be handled remotely, rather than requiring travel to an in-person appearance at a physical location. Rule 39 C(7) authorized depositions to be conducted by telephone by agreement of the parties or by court order. We have come some distance from handling depositions and hearings by telephone and are routinely using WebEx, Zoom, and other platforms for these events. Paragraph C(7) is rewritten to move remote testimony from telephonic testimony to current electronic means. "Remote testimony" is defined. The amended paragraph makes clear that the provisions for such remote testimony must ensure that it is taken accurately and is preserved.

Section A, Subsection C(1), and paragraph I(3) have been reformatted to allow for more precise citation to the specific provisions of the rule, and to standardize citation with the other ORCP. Other amendments to modernize, make uniform, add clarity, or improve grammar include changing "upon" to "on" 15 times; changing the directive "shall" to a more accurate "must" or "will" 47 times and avoiding the word on two occasions; using Arabic numerals on two occasions; and making internal references uniform in five instances. The amendments noted in this paragraph are not intended to change the meaning or operation of the rule. All parts of the published rule received the unanimous vote of the Council to be promulgated.

3. **ORCP 55**  
**Subpoena**

Rule 55 relates to the form, service, and function of subpoenas.

An internal reference to one of the rule's provisions requiring payment of a witness fee and mileage was omitted in error and is added in paragraph A(1)(a)(v). Another use of 'upon" in paragraph B(1)(a) is exorcized. While the first change adds clarity, neither amendment is intended to change the meaning or operation of the rule. These two amendments to Rule 55 received the unanimous vote of the Council to be promulgated.

4. **ORCP 57**  
**Jurors**

Rule 57 governs the selection and use of juries in civil trials and, by operation of ORS 136.230(4), also in criminal trials. There has been an ongoing national debate on how jury selection might be made more fair, with a focus on peremptory challenges. The Oregon Court of Appeals in *State v Curry*, 298 Or App 377 (2019), requested that the Council review Rule 57 D and address concerns as to how objections to peremptory challenges might be handled to allow
trial judges to better determine whether a peremptory challenge is based on impermissible discriminatory grounds. The Council on Court Procedures did not promulgate any changes to the rules in this respect, but did provide recommendations to the legislature regarding future legislation.

Other changes to Rule 57 include replacing "shall" and "may" 27 times with more accurate terms, usually "must" or "will," and avoiding one such usage to improve clarity. Two internal citations are rephrased to make them uniform with the ORCP. Three uses of "upon" are exorcized, as well as four archaic uses of "such." Three sentences are modified to improve grammar or clarity. These other changes, other than the amendments to Section D, are not intended to change the meaning or operation of the rule.

All amendments to Rule 57 received the unanimous vote of the Council to be promulgated.

5. ORCP 58

Trial Procedure

Rule 58 pertains to trial procedure. Section F is new and facilitates remote testimony. (See discussion of Rule 39.) The Council promulgated this amendment to make a more uniform provision for the use of remote testimony in appropriate circumstances in hearings and trials as well as in depositions.

Additional amendments to Rule 58 include changing an internal reference to be uniform with the ORCP and avoiding "shall" in eleven instances with more accurate terms, usually "will," "may," or "must." Six sentences are modified to improve grammar or clarity. None of the amendments other than the addition of section F is intended to change the meaning or operation of Rule 58. All amendments to Rule 58 received the unanimous vote of the Council to be promulgated.

6. ORCP 69

Default Orders and Judgments

Rule 69 governs judgments entered by default. The impetus for an amendment to Rule 69 was a reference in the rule to the federal Servicemembers Civil Relief Act. There exists a tension in drafting the rules between inclusion of internal references to other provisions in a rule or to other rules or statutes. If the law to which the reference is made is amended, the reference to that law within the rule may become inaccurate. It is deemed helpful to users of the ORCP to direct them to the provisions of the rules and laws that are required of them by the rule. Accordingly, the reference to the Servicemembers Civil Relief Act is amended to that Act's current citation in the United States Code.

Additionally, as modernization and clean up measures, additional changes were made. Two imprecise uses of "shall" were clarified. One internal reference was made uniform with the
ORCP. Two sentences are modified to improve clarity or grammar. Other than directing users to the federal law requirement contained in the rule, the amendments are not intended to change the meaning or operation of the rule. The amendments to Rule 69 received the unanimous vote of the Council to be promulgated.
Commercial, Consumer and Debtor-Creditor Law

1. SB 307 (Ch. 16) Court Annexed Arbitration
2. SB 310 (Ch. 103) Antitrust Enforcement
3. SB 536 (Ch. 143) Sales of Annuities
4. SB 569 (Ch. 144) Closed Captioning
5. SB 619 (Ch. 369) Data Privacy
6. HB 2052 (Ch. 395) Data Brokers
7. HB 2330 (Ch. 83) Uniform Voidable Transactions Act
8. HB 2426 (Ch. 607) Self Service Gas Stations
9. HB 2759 (Ch. 322) Telephone Solicitations
10. HB 2915 (Ch. 420) Sale of Dogs and Cats

The Oregon State Bar would like to thank OSB members Young Walgenkim, Carl Bjerre, and Tony Kullen for their contributions to this chapter.
1. **SB 307** *(Chapter 16)*  
*Court Annexed Arbitration*

SB 307 addresses the effect of offers of judgment on attorney fees within Oregon’s court-annexed arbitration process.

In Mendoza v Xtreme Truck Sales LLC, 314 Or App 87 (2021), the Court of Appeals held that, based on the language of ORCP 54(E), when a dispute over entitlement to attorney fees or costs arises from an offer of judgment given while the case is in court-annexed arbitration, the arbitrator’s final award—including the attorney fees and costs award, which the arbitrator now makes without knowing about the offer of judgment—must become a final judgment in court before the offer of judgment is disclosed and the effect of the offer of judgment on the attorney fees and costs award is determined.

This ruling created a conflict with ORS 36.425(3), which stated that “If a written notice is not filed under subsection (2)(a) of this section within the 20 days prescribed, the court shall cause to be prepared and entered a judgment based on the arbitration decision and award. A judgment entered under this subsection may not be appealed.”

Essentially Mendoza, required that litigants wait until final judgment before disclosing an offer of judgment and determining the effect of that offer on attorney fees. At the same time the statute held that final judgments were not appealable, meaning that by time the offer of judgment was revealed it could not be considered.

SB 307 addressed this conflict by modifying ORS 36.425(6) and creating a path forward for litigants to follow during arbitration when an ORCP 54(E) offer of judgment might affect fees and costs. The bill allows the party seeking to enforce the offer of judgment to file the offer as an exception to attorney fees within seven days of the arbitrator’s filing of the award.

SB 307 applies to arbitrations commenced on or after January 1, 2024.

2. **SB 310** *(Chapter 103)*  
*Antitrust Enforcement*

SB 310 increases both the civil and the criminal penalties for violation of Oregon’s antitrust statute. (ORS 646.705 to 646.805)

The bill increases the criminal penalty for violation of ORS 646.725 (restraint of trade) and ORS 646.730 (prohibition on monopolies) from a Class A Misdemeanor to a Class B Felony. The bill also increases the civil penalty that the Attorney General may seek for violation of either those two statutes, or other provisions of the law from $250,000 to $1 million.

3. **SB 536** *(Chapter 143)*  
*Sales of Annuities*
SB 536 creates professional standards that an individual who sells annuities must adhere to when selling, or recommending the sale of, an annuity to a consumer. In operative part, the bill requires that “a producer, in making a recommendation of an annuity, shall act in the consumer’s best interest, under the circumstances the producer knows at the time....without placing the producer’s or the insurer’s financial interests ahead of the consumer’s interests.”

The bill also requires the producer to request specific information from a consumer in some circumstances, in order to make a recommendation to the consumer. The bill provides the Department of Business and Consumer Services to enforce provisions of the bill.

SB 536 took effect on September 24, 2023.

4. **SB 569** (Chapter 144) Closed Captioning

SB 569 expands existing requirements regarding the use of closed captioning on televisions at places of public accommodation.

The major change under the bill is that places of public accommodation that have multiple televisions are required to have closed captioning turned activated on at least 50% of the televisions in use. However, the bill includes multiple exceptions to the rule, including that closed captioning need not be used on any screen less than 12 inches, and that business is not required to repair or replace a televisions that does not have the technical capability to display closed captioning.

The bill allows individuals to make complaints to the Bureau of Labor and industries alleging violations of the law, and permits BOLI to impose civil penalties when violations are not appropriately cured.

SB 569 took effect on September 24, 2023.

5. **SB 619** (Chapter 369) Data Privacy

SB 619 defines a “controller” of consumer personal data as “a person that, alone or jointly with another person, determines the purposes and means for processing personal data.” The bill permits consumers to obtain from a controller that processes consumer personal data confirmation as to whether that controller is processing that individual consumer's personal data and what categories of personal data the controller is processing. The bill also requires the controller to disclose a list of specific third parties to whom the controller has disclosed the consumer's personal data and provide a copy of all of consumer's personal data that controller has processed or is processing.
The bill permits consumer to require controller to correct inaccuracies and requires that the controller provide consumers a “reasonably accessible, clear and meaningful privacy notice” that:

- Lists categories of personal data controller processes,
- Describes controller's purpose for processing personal data,
- Describes how consumer may exercise consumer's rights with respect to personal data,
- Lists categories of personal data that controller shares with third parties, and
- Lists all categories of third parties with which controller shares personal data and provides other information.

The bill permits Attorney General to investigate violations to seek civil penalty of not more than $7,500 for each violation. The bill does not provide for a private right of action.

SB 619 takes effect on January 1, 2024.

6. **HB 2052** (Chapter 395) Data Brokers

HB 2052 requires that data brokers who handle the personal information of Oregonians register with Oregon Department of Consumer and Business Services. The bill defines terms that cover what constitutes “brokered personal data” and who is considered a “data broker”. Importantly, consumer reporting agencies and financial institutions are generally not considered data brokers, nor business entities that collect information about the own customers.

The bill provides what steps must be taken to register, and prohibits data brokers collecting, selling or licensing brokered data within Oregon without registering.


7. **HB 2330** (Chapter 83) Uniform Voidable Transactions Act

HB 2330 is the Oregon enactment of the Uniform Voidable Transactions Act (“UVTA”), consisting of an update to the Uniform Fraudulent Transfer Act (“UFTA,” which had been effect since 1985 under Oregon law in ORS chapter 95). The UVTA, like the UFTA before it, provides creditor protections in the form of remedies for certain transactions by a debtor that are unfair to the debtor’s creditors. For example, a remedy is provided to a creditor whose debtor transfers property to a relative or other third party to keep the property out of the creditor’s reach.

The UVTA clarifies the UFTA’s confusing terminology by avoiding the word “fraudulent” in its title and operative provisions, and using “voidable” instead to more accurately describe what
the statutes already provide. It adds a clear choice-of-law provision that offers predictability and reduces costs in connection with transfers or the incurrence of obligations that cross state or national boundaries. It refines the rules for determining a debtor’s insolvency, and addresses modern legal developments such as electronic communications and the treatment of business entities used in some states. Finally, it establishes the burden of proof for each party in a UVTA lawsuit, specifying the “preponderance of the evidence” standard rather than other more heightened standards.

HB 2330 takes effect on January 1, 2024.

8. **HB 2426**

(Chapter 607) Self Service Gas Stations

HB 2426 authorizes retail motor vehicle fueling stations in Oregon to begin allowing self-service fueling in most circumstances.

The bill requires that fueling stations designate at least as many fuel pumps for attended service by staff as are designated for self-service use by the customer. The bill also requires that fueling stations post one or more signs that are clearly visible to drivers that display which fuel pumps are designated for self service and which are designated for attended service. Finally, the bill provides that fueling stations must charge the same prices for self-service and attended service fuel pumps dispensing the same fuel.

HB 2426 took effect on August 4, 2023. However, the State Fire Marshall may only impose civil penalties for violations of major provisions of the act if the conduct occurs after March 1, 2024.

9. **HB 2759**

(Chapter 322) Telephone Solicitations

HB 2759 updates Oregon’s anti-robo-call statutes to cover telemarketing companies that carry traffic that may violate the statute. Specifically, the bill makes a person liable for loss and subject to penalties under the existing statute if they know, or consciously avoid knowing, that another person is engaging in an act that is prohibited by the statute, and nonetheless provide substantial support or assistance for the violation.

The bill makes violation an unlawful practice under the Unlawful Trade Practices Act.

HB 2759 took effect on September 24, 2023.

10. **HB 2915**

(Chapter 420) Sale of Dogs and Cats

HB 2915 generally bans the sale of dogs and cats in retail pet stores in Oregon. The term “retail pet store” does not include animal rescue entities, nor dog and cat breeders who sell only animals they breed or raise, or which are sold for reproduction.
The exception to the ban, is that retail pet stores that sold dogs and cats prior to September 24, 2023 may continue to do so at the same physical address, so long as the store has not had a chance in ownership since September 24, 2023. This exception expires on September 1, 2028, after which no retail pet stores will be permitted to sell dogs and cats.

HB 2915 took effect on September 24, 2023.
Criminal Law

I. ADULTS IN CUSTODY
   1. SB 343 (Ch. 176) Definition of Incarceration
   2. SB 529 (Ch. 108) Treatment for Substance Abuse Disorders
   3. SB 581 (Ch. 75) Reductions in Supervision.
   4. HB 2535 (Ch. 311) Doula Program

II. CRIMES AND VIOLATIONS
   1. SB 326 (Ch. 209) Illegal Cannabis Operations
   2. SB 340 (Ch. 151) Property Crimes
   3. SB 577 (Ch. 27) Use of Force Against Minors
   4. SB 615 (Ch. 158) Speed Racing Events
   5. SB 810 (Ch. 114) Unmanned Aircraft Systems
   6. SB 957 (Ch. 198) Sex Offenses
   7. SB 974 (Ch. 200) Sexual Abuse by Fraudulent Representation
   8. SB 1052 (Ch. 217) Involuntary Servitude
   9. HB 2129 (Ch. 234) Illegally Recorded Telecommunications
  10. HB 2316 (Ch. 498) Driving Under the Influence of Intoxicants
  11. HB 2328 (Ch. 407) Definitions in Sex Crimes
  12. HB 2594 (Ch. 315) Disposing of lighted materials
  13. HB 2645 (Ch. 413) Fentanyl
  14. HB 2772 (Ch. 608) Domestic Terrorism
  15. HB 3443 (Ch. 549) Victims of Bias Crime

III. CRIMINAL PROCEDURE
   1. SB 317 (Ch. 105) Corroborated Evidence
   2. SB 321 (Ch. 368) Post Conviction Relief and Nonunanimous Juries
   3. SB 618 (Ch. 288) Body Armor
   4. SB 867 (Ch. 141) Hearsay Evidence
   5. SB 954 (Ch. 216) Search Warrants
   6. SB 1060 (Ch. 205) Evidence of Physical Injury
   7. HB 3632 (Ch. 265) Statutes of Limitation

The Oregon State Bar would like to thank OSB member Gillian Fischer for contributing this chapter.
CRIMINAL LAW

IV. OTHER LEGISLATION

1. SB 337 (Ch. 281) Public Defense Services
2. SB 519 (Ch. 182) Expungement
3. SB 895 (Ch. 194) No-Passing Zones
4. HB 2005 (Ch. 229) Firearms
5. HB 2095 (Ch. 33) Photo Radar, Speed Limits
I. ADULTS IN CUSTODY

1. **SB 343** (Chapter 176) **Definition of Incarceration**

SB 343 clarifies that “incarceration” means confinement in a Department of Corrections institution for persons who had their driver license suspended or revoked as part of a criminal sentence that included incarceration, as it relates to applications to have their driver license reinstated.

SB 343 takes effect on January 1, 2024.

2. **SB 529** (Chapter 108) **Treatment for Substance Abuse Disorders**

SB 529 amends the alternative incarceration program statutes to allow the Department of Corrections to treat substance use disorders with a range of professional treatment services, recovery activities, engagement with peer mentors, educational and vocational services, and self-help groups.

The bill also modified legislative findings in ORS Chapter 421 related to substance abuse treatment.

SB 529 takes effect on January 1, 2024.

3. **SB 581** (Chapter 75) **Reductions in Supervision**

SB 529 amends the alternative incarceration program statutes to allow the Department of Corrections to treat substance use disorders with a range of professional treatment services, recovery activities, engagement with peer mentors, educational and vocational services, and self-help groups.

The bill also modified legislative findings in ORS Chapter 421 related to substance abuse treatment.

SB 529 takes effect on January 1, 2024.

4. **HB 2535** (Chapter 311) **Doula Program**

For a description of HB 2535 please see the Health Law Chapter.

II. CRIMES AND VIOLATIONS

1. **SB 326** (Chapter 209) **Illegal Cannabis Operations**
CRIMINAL LAW

SB 326 sets higher penalties for illegal cannabis operations that involve large quantities, environmental violations, or certain labor violations.

Specifically, the bill prohibits water use for illegal cannabis operations; permits warrants to authorize surveillance tools for illegal cannabis operation enforcement; requires landowners to clean up sites of illegal cannabis production or manufacture; and permits enforcement of cleanup through public nuisance proceedings, liens for costs of cleanup, and injunctions.

SB 326 took effect on June 12, 2023.

2. **SB 340** (Chapter 151) Property Crimes

SB 340 modifies Oregon law governing property crimes and organized retail theft, and adds the crime of Organized Retail Theft to the repeat property offender statute.

Among the changes, the bill increases the time period in which prosecutors may aggregate the value of the stolen property, modifies the venue provision, allowing for crimes to be charged in more judicial districts, and specifies that a person commits theft in the first degree if the individual creates a risk of serious physical injury during a theft.

SB 340 takes effect on January 1, 2024.

3. **SB 577** (Chapter 27) Use of Force Against Minors

SB 577 modifies use of force law, in order to align provisions related to using force against minors with current law. The bill also deletes language related to using force against incompetent adults. Under the bill,

“A parent or legal guardian of a minor child may use reasonable physical force upon the minor child when and to the extent the person reasonably believes the physical force is necessary to maintain discipline or promote the welfare of the child, unless the physical force constitutes abuse as defined in ORS 418.257 or ORS 419B.005.”

**Practice Tip:** Practitioners should carefully review the definitions of abuse under the above statutes in any situation where SB 577 might apply.

SB 577 took effect on April 26, 2023.

4. **SB 615** (Chapter 158) Speed Racing Events

SB 615 modifies the definition of, and reduces the penalty for, the offense of organizing a speed racing event unless it is a repeat offense. Under the bill, a first offense is a Class A misdemeanor, and a subsequent offence within a 5 year period is a Class C felony.
Under the new law, a person may commit the offense if they obstruct or place a barricade on a highway, or assist another in doing so.

The bill also changes the definition of reckless driving to include conduct associated with speed racing, and adds reckless driving to offenses for which, if convicted, a defendant’s property may be subject to criminal forfeiture.

SB 615 took effect on September 24, 2023.

5. **SB 810 (Chapter 114) Unmanned Aircraft Systems**

SB 810 clarifies that using an unmanned aircraft system to intentionally interfere with an aircraft is a Class A misdemeanor and is elevated to a Class A felony for knowingly, intentionally, or recklessly causing serious physical injury or death with the interference.

SB 810 takes effect on January 1, 2024.

6. **SB 957 (Chapter 198) Sex Offenses**

SB 957 expands the number and types of prior convictions that qualify to enhance the crime of public indecency to a Class C felony. Ordinarily the crime is a Class A misdemeanor.

Additionally, the bill modifies the crime of luring a minor to include engaging in sexual conduct in the immediate presence of the minor to induce the minor to engage in sexual conduct.

SB 957 takes effect on January 1, 2024.

7. **SB 974 (Chapter 200) Sexual Abuse by Fraudulent Representation**

SB 974 creates a new crime of sexual abuse by fraudulent representation. An individual commits the crime if the person is a medical professional and knowingly subjects another individual to sexual contact and falsely or fraudulently represents that the sexual contact serves a legitimate medical purpose.

SB 974 took effect on June 7, 2023.

8. **SB 1052 (Chapter 217) Involuntary Servitude**

SB 1052 significantly expands the crime of Involuntary Servitude to include acts such as forcing another person to continue to engage in service by engaging in any of a number of acts. These include debt bondage, withholding medical care or instilling a fear that medical care will be withheld, controlling access to controlled substances and fraud.
CRIMINAL LAW

The bill defines a number of previously undefined terms and creates limited affirmative defenses.

SB 1052 was a product of a labor trafficking taskforce and was modeled in part on California’s labor trafficking code and work of the Uniform Laws Commission.

SB 1052 takes effect on January 1, 2024.

9. **HB 2129** *(Chapter 234)* Illegally Recorded Telecommunications

HB 2129 modifies the prohibitions under ORS 165.540 against obtaining telecommunications illegally.

The bill exempts individuals from prosecution who receive or use an illegally recorded communication about a matter of public concern, but who did not participate in initially obtaining the recording. The bill would not change the law for an individual who recorded such a conversation.

HB 2129 took effect on January 1, 2024.

10. **HB 2316** *(Chapter 498)* Driving Under the Influence of Intoxicants

HB 2316 creates a new definition of the term “intoxicant” within the Oregon Vehicle Code. Under the bill an intoxicant is:

- An intoxicating liquor,
- A controlled substance,
- An inhalant,
- Cannabis,
- Psilocybin, or
- Any drug, as defined in ORS 475.005, that, when used either alone or in combination with one of the above adversely affects a person’s mental or physical faculties to a noticeable or perceptible degree.

The bill creates an affirmative defense when the intoxicating substance is only charged as another drug under ORS 475.005. The affirmative defense may be asserted only if the drug was taken pursuant to a prescription, or if the substance was available without a prescription, and in either case only if the defendant consumed the prescribed or recommended dosage of the drug, and if the defendant then experienced a reaction to the drug that could not have been reasonably anticipated. The defense must provide notice of their intent to use this affirmative defense at least 45 days in advance of trial.
The bill also lowers the statutory fines applicable to a DUII conviction if the current offense was committed while riding a (non-electric) bicycle.

HB 2316 takes effect on January 1, 2024.

11. **HB 2328** (Chapter 407) **Definitions in Sex Crimes**

HB 2328 modifies the definition of “oral or sexual intercourse” for purposes of sex crimes. The bill also expands the crime of using a child in a display of sexually explicit conduct to include when a person knowingly records in a visual recording a child participating or engaging in sexually explicit conduct.

HB 2328 takes effect on January 1, 2014.

12. **HB 2594** (Chapter 315) **Disposing of Lighted Materials**

ORS 476.715 prohibits throwing away of lighted matches, cigarettes or other lighted material in forestland, privates roads, public highways or railroad rights of way.

HB 2594 reduces the penalty from a Class B misdemeanor to a Class A violation unless the offense is committed on applicable land during a fire season, or the offense results in the ignition of a fire, in which case it would remain a Class B misdemeanor.

HB 2594 takes effect on January 1, 2024.

13. **HB 2645** (Chapter 413) **Fentanyl**

HB 2645 establishes a Class A misdemeanor penalty for possession of certain amounts of fentanyl and adds a user unit measurement of fentanyl to calculate the crime category level for certain offenses involving possession, delivery, or manufacture of fentanyl.


14. **HB 2772** (Chapter 608) **Domestic Terrorism**

HB 2772 creates two new crimes of Domestic Terrorism in the first and second degrees. These new crimes are Class B and Class C felonies respectively.

A person commits Domestic Terrorism in the first degree if the person:

- Intentionally destroys or substantially damages critical infrastructure; or
- Intentionally introduces, releases or disperses a toxic substance into widespread contact with human beings.

A person commits Domestic Terrorism in the second degree if the person:
CRIMINAL LAW

- Intentionally possesses a toxic substance with the intent to introduce the substance into widespread contact with human beings;
- Intentionally possesses a destructive device with the intent to destroy or substantially damage critical infrastructure;
- Intentionally attempts to destroy or substantially damage critical infrastructure; or
- Intentionally attempts to introduce, release or disperse a toxic substance into widespread contact with human beings.

HB 2772 takes effect on January 1, 2024.

15. HB 3443  (Chapter 549)  Victims of Bias Crimes

HB 3443 makes several changes to Oregon law in order to protect Oregonians who are the victim of a bias crime. “Bias Crime” is defined in HB 3443 to include a person who is a victim of the crimes of Bias Crime in either the first or second degree (ORS 166.165 and ORS 166.155 respectively.)

Among other changes, the bill amends ORS Chapter 90 to include victims of bias crimes in several provisions that currently protect victims of domestic violence, sexual assault or stalking. These include providing that residential tenants are not responsible for damage to property that results from a bias crime, and prohibiting landlords from terminating or failing to renew a tenancy because the tenant was the victim of a bias crime. The bill also permits a landlord to more easily evict a tenant who is the perpetrator of a bias crime.

HB 3443 takes effect on January 1, 2024.

III.  CRIMINAL PROCEDURE

1. SB 317  (Chapter 105)  Corroboration Evidence

SB 317 amends Rule 803 of the Oregon Evidence Code (ORS 40.460) to state that the rule requiring corroboration evidence for certain hearsay statements to be admitted applies in juvenile delinquency cases.

SB 317 took effect on May 19, 2023.

2. SB 321  (Chapter 368)  Post Conviction Relief and Nonunanimous Juries

SB 321 creates a process that may be used by a person who was convicted or found guilty, except for insanity, by a nonunanimous jury verdict may file a petition for post-conviction relief.
The person must file for post-conviction relief no later than December 30, 2024, and must show by a preponderance of the evidence that the conviction was nonunanimous.

SB 321 took effect on July 18, 2023.

3. **SB 618** (Chapter 288) Body Armor

SB 618 provides that a court shall, when determining aggravating factors at the time of sentencing, consider whether, at the time of committing the crime, the defendant was wearing body armor during and in furtherance of the crime, or to facilitate the immediate flight therefrom.

SB 618 takes effect January 1, 2024.

4. **SB 867** (Chapter 141) Hearsay Evidence

SB 867 amends Rule 804 of the Oregon Evidence Code (ORS 40.465) to permit the proponent of a declarant’s hearsay statement to offer it as substantive evidence if the proponent can show by a preponderance of the evidence that the opposing party caused the declarant to be unavailable and, as a result, the declarant is not present to testify.

SB 867 takes effect January 1, 2024.

5. **SB 954** (Chapter 216) Search Warrants

SB 954 authorizes the issuance of a search warrant in any judicial district where there is interrelated conduct relating to certain controlled substance, psilocybin, or marijuana crimes.

The bill clarifies that a duly authorized senior judge may issue a search warrant, and specifies a non-exclusive list of persons who may accompany law enforcement in the execution of a search warrant.

SB 954 took effect on June 12, 2023.

6. **SB 1060** (Chapter 205) Evidence of Physical Injury

SB 1060 modifies evidence that can be considered to substantiate a "physical injury" under the Oregon Criminal Code, and specifies types of physical injuries that constitute "physical trauma."

Under the bill, evidence of physical injury includes but is not limited to:

- Testimony by the person alleged to have been injured;
- Evidence of physical trauma;
- Testimony from witnesses indicating that the person alleged to have been injured experienced substantial pain or impairment of physical condition; or
Expert testimony addressing the effect of the type and amount of force used by the defendant.

SB 1060 applies to conduct occurring on or after January 1, 2024.

7. **HB 3632** (Chapter 265) Statutes of Limitation

HB 3632 amends ORS 131.125(1) to increase the statute of limitations from 12 years to 20 years for sex abuse offenses in the first degree.

HB 3632 takes effect on January 1, 2024. The measure applies to offenses committed before, on, or after the effective date of the bill, but does not apply to those offenses if the statute of limitations expired before passage of the bill.

### IV. OTHER LEGISLATION

1. **SB 337** (Chapter 281) Public Defense Services

SB 337 creates the Oregon Public Defense Commission (OPDC), initially within the judicial branch, but transferring the Commission to the executive branch on January 1, 2025. The bill abolishes the Public Defense Services Commission (PDSC) transfers the duties of the PDSC to the OPDC.

The bill establishes targets by which specified percentages of trial level appointed counsel must be employees of the Commission.

The bill also required the presiding judges of each judicial district, with the support of the PDSC, to develop a plan by the fall of 2023 to address the immediate unrepresented defendant crisis, and report back to the legislature.

For additional information about SB 337, please see the Government and Judicial Administration Chapter.

SB 337 took effect on July 13, 2023.

2. **SB 519** (Chapter 182) Expungement

SB 519 expands automatic expungement to include records for youths who are within the jurisdiction of juvenile court for acts that, if committed by an adult, would constitute a violation or misdemeanor, and would reduce the number of years a youth must wait before applying for
expungement of records that do not qualify for automatic expungement once the youth is 18 years of age.

SB 519 took effect on September 24, 2023.

3. **SB 895** (Chapter 194) No-Passing Zones

ORS 811.420 describes the offense of passing in a no-passing zone. This offense is classified as a Class B traffic violation. SB 895 clarifies when a person may pass an obstruction while in a no-passing zone.

The creates a definition of “obstruction”, which includes a person riding a bicycle or another vehicle traveling at less than one-half of the posted speed.

Under the bill, it is permissible to pass an obstruction in a no-passing zone provided that the person drives at least five miles under the posted speed limit while in the lane left of the center of the roadway.

SB 895 takes effect on January 1, 2024.

4. **HB 2005** (Chapter 229) Firearms

HB 2005 makes several changes to Oregon law further restricting the purchase or transfer of unfinished or undetectable firearms.

HB 2005 defines an “undetectable firearm” as one that is entirely made of a non-metal substance, including if the firearm had been 3D printed, or one that after disassembly would not generally be readily detectable by a walkthrough metal detector. Practitioners should review the new statute for a complete understanding of the important definitions of “undetectable firearm” and of “unfinished frame or receiver”.

The bill prohibits a person from manufacturing, importing, selling or transferring an undetectable firearm, and classifies violation as a Class B Felony. The bill also makes the possession of an undetectable firearm a Class A misdemeanor.

The bill creates a new Class B Violation prohibiting the sale or transfer of any firearm that has not been imprinted with a serial number by a federally licensed firearm manufacturer. This prohibition does not apply to antique firearms, or to any firearm produced before October 22, 1968. This crime may be treated as a Class A Misdemeanor if the defendant has a prior conviction for an offense under this bill, and as a Class B Felony if the defendant has two or more prior convictions.
The bill similarly makes it a Class B Violation to sell or transfer an unfinished frame or receiver. The bill again permits that this offense may be treated as a Class A Misdemeanor if the defendant has a prior conviction under this bill, or as a Class B Felony if the defendant has two or more prior convictions.

HB 2005 took effect on July 13, 2023. Provisions related to transferring unfinished receivers and provisions related to transferring firearms without a serial number take effect on September 1, 2024.

5. **HB 2095** *(Chapter 33)* **Photo Radar, Speed Limits**

Prior to HB 2095, only ten statutorily named cities were permitted to use photo radar in Oregon. HB 2095 eliminates this restriction and allows photo radar to be used by any city. Additionally, the bill eliminates an existing statute that limited the use of photo radar to four hours per day at any given location.

Separately, HB 2095 allows cities to establish speed limits on highways under their jurisdiction that are up to 10 miles per hour lower than the statutory speed. Such a limit may not be lower than 20 miles per hour and is effective only if appropriate signage is placed on the highway.

HB 2095 will take effect on January 1, 2024.
**Domestic Relations and Probate**

I. **DOMESTIC PARTNERSHIP**
   1. HB 2032 (Ch. 20) Expands eligibility for domestic partnership under Oregon Family Fairness Act to partners of any sex.

II. **CHILD SUPPORT**
   1. SB 184 (Ch. 101) Modifies employer child support reporting requirements to include payments made to independent contractors.
   2. SB 806 (Ch. 139) Obligor Life Insurance Modifications

III. **Paternity**
   1. SB 573 (Ch. 157) Directs Center for Health Statistics to enter name of parent on original record of live birth when paternity or parentage has been determined under certain circumstances

IV. **DOMESTIC ABUSE**
   1. SB 816 (Ch. 140) Modifies duration of Family Abuse Prevention Act Restraining Orders.
   2. SB 901 (Ch. 195) Child Abuse Investigations

V. **AUTHENTICATION REQUIREMENTS**
   1. HB 2329 (Ch. 11) Declaration for Mental Health Treatment

VI. **ESTATE PLANNING AND ADMINISTRATION**
   1. SB 308 (Ch. 17) Simple Estate Affidavit
   2. SB 309 (Ch. 18) Publication of Notice in Estate Proceedings

*The Oregon State Bar would like to thank OSB members Ryan Carty, Christopher Hamilton and June Wyrick-Flores for their contributions to this chapter.*
DOMESTIC RELATIONS AND PROBATE

I. DOMESTIC PARTNERSHIP

1. **HB 2032** (Chapter 20) Expands eligibility for domestic partnership under Oregon Family Fairness Act to partners of any sex.

In short, HB 2032 removed the requirement that a domestic partnership in Oregon be between two persons of the same sex and allows an opposite sex couple to choose a domestic partnership rather than marriage (and to then register to create a registered domestic partnership). On its face this change makes sense through an equality lens, making this legal mechanism available to couples throughout the state of Oregon regardless of sex. But the analysis does not stop there. First, some history behind this bill.

The Oregon Legislature adopted the Oregon Family Fairness Act in 2007 (FFA) — codified as ORS 106.310 — which defined a domestic partnership as a civil contract entered into:

1. In person;
2. Between two individuals of the same sex;
3. Said individuals must be at least 18 years of age and “otherwise capable”, and
4. At least one of the individuals must be a resident of Oregon.

In 2015, the United States Supreme Court ruled in Obergefell v. Hodges that marriage equality was a fundamental right guaranteed to all couples based on the Fourteenth Amendment to the United States Constitution. 576 US 644 (2015). This ruling entitled couples of the same sex to marry to the same extent as couples of the opposite sex.

The following year, in 2016, the Oregon Legislature adopted HB 4127 which established state policy in Oregon that any privilege, immunity, right, benefit, or responsibility governed by law given to a person because of marriage to a person of the opposite sex applies with equal force to a person who is or was married to a person of the same sex. HB 4127 also adopted gender neutral wording in relation to marriage to bring Oregon statutes into conformity with current law.

HB 2032 was requested by the Oregon Association of County Clerks because County Clerks throughout the state were finding that some opposite sex couples wanted the same two choices as same sex couples — some wanting to choose a domestic partnership instead of marriage. Based on existing Oregon law, County Clerks have been unable to legally facilitate those requests.

Some couples, regardless of sex, choose the route of a registered domestic partnership to obtain health insurance through a partner’s employer. This benefit is legally unavailable to same sex couples under existing law but will be once HB 2032 becomes effective on January 1, 2024.

However, it is important to note for Family Law practitioners that HB 2032 may have unintended consequences in the realm of retirement division in the dissolution context. Kevin Olineck,
Oregon PERS Director, testified at a hearing before the Oregon Senate Committee on Rules that as a qualified governmental retirement plan, PERS must comply with specific provisions of federal law to maintain its tax qualified status. Mr. Olineck pointed out that while the Family Fairness Act of 2007 extended all the same rights and privileges of a spouse to a registered domestic partner (RDP), federal law does not recognize domestic partnerships, only marriage. The impact of this distinction is that many provisions and benefits under PERS that are available to a spouse would not be available to an RDP. Examples of these benefits include:

- An RDP cannot elect to delay payment of a pre-retirement death benefit until the member would have been 70;
- An RDP cannot roll over a death benefit payment to a spousal IRA;
- An RDP that is more than ten years younger than the member cannot receive 100% survivor benefit; the member’s benefit would be adjusted accordingly;
- Internal Revenue Code section 415 limits the amount of benefits that may be paid from the pension fund; if the member elects a joint and survivor benefit and names their spouse as their beneficiary, the benefit will be tested based on the joint and survivor benefit amount; if the beneficiary is an RDP, the benefit will be tested on a separate basis; that is, a single life annuity; and
- PERS retiree health insurance is available to an RDP of a retired member only if they are a dependent of the retiree.

These distinctions create pitfalls in the dissolution world because dividing PERS benefits and other retirement plans governed by the Employee Retirement Income Security Act of 1974 (ERISA) means there are different benefits – and potentially significantly different values – to attribute based on whether the couple is married or has a registered domestic partnership. For example, under the federal definition of “alternate payee” only a spouse, former spouse, child, or other dependent can qualify as an alternate payee. Based on the federal definition, an RDP cannot be an alternate payee; therefore, retirement benefits cannot be divided in a dissolution of a registered domestic partnership in the same fashion as they can in a dissolution of marriage. Significant differences include:

- An RDP cannot be awarded a portion of a PERS member’s retirement account or benefits unless they are a dependent of the member;
- A PERS member can elect a survivorship retirement option that allows the member to change their option to a single life benefit if the survivor beneficiary is the member’s spouse and they subsequently divorce; but if the survivor beneficiary is an RDP, the
DOMESTIC RELATIONS AND PROBATE

member will not be eligible to change to a single life benefit in the event the registered
domestic partnership is dissolved;

- If a PERS member has named their RDP as a survivor beneficiary at retirement, they
  will not be able to change that designation upon dissolution of the registered
domestic partnership;

- A PERS member who has an RDP will not be subject to the default retirement option;
  and

- An RDP of a PERS member will not be required to consent to the benefit option
  selection of the member.

These issues between registered domestic partnerships and marriages have existed since
passage of the FFA in 2007, so they are nothing new to QDRO specialists. And legislative
testimony would suggest that since the US Supreme Court’s ruling of marriage equality in
Obergefell was codified in Oregon in 2016, many of the same sex couples that previously opted
to register a domestic partnership have instead chosen marriage. In effect, the number of
registered domestic partnerships in Oregon has been declining and, as a result, the potential
pitfalls in the practice of divorce and family law have been declining.

HB 2032 will expand the pool of individuals to whom a registered domestic partnership is
available which may increase the number of registered domestic partnerships in Oregon. This
would theoretically increase the number of cases involving Oregon PERS and other retirement
benefits covered by ERISA to which these essential federal/state distinctions apply.

Family law practitioner beware – and contact your local QDRO specialist for assistance.

II. CHILD SUPPORT

1. **SB 184** (Chapter 101) **Modifies employer child support reporting requirements to include payments made to independent contractors.**

ORS 25.101(6) defines an “employer” for child support purposes as “any entity or individual who
engages an individual to perform work or services for which compensation is given in periodic
payments or otherwise.” Under current law, employers are required by federal and state law to
report their newly hired employees to state child support programs. However, this requirement
DOMESTIC RELATIONS AND PROBATE

does not extend to employers and businesses reporting independent contractors and non-traditional workers.

With the rise of the gig economy, more workers in Oregon (and nationwide) are working as independent contractors or in other non-traditional formats that might not qualify them under existing law as a “newly hired employee.” This places the Oregon Child Support Program in a difficult position as it has greater difficulty learning about and collecting child support from some parents who fall outside the “newly hired employee” definition. This impact trickles down to obligee parents who then might have their support payments disrupted or even stopped due to a lack of information about where the obligor parent is receiving wages from.

SB 184 amends ORS 25.790 and 25.793 to require that, in addition to new employees, employers must also report to the Oregon Child Support Program any independent contractors with whom they engage. This change is designed to increase opportunities for the Oregon Child Support Program to collect child support from independent contractors. Without receiving reports from employers, the Oregon Child Support Program is unlikely to know when an obligor parent is working as an independent contractor and has the ability to pay their child support obligation but simply chooses not to.

2. **SB 806** (Chapter 139) Obligor Life Insurance Modifications

Oregon law provides that a court may order a child support obligor to maintain life insurance to secure their support obligation. In general, modification of a child support obligation requires a showing of a substantial change in economic circumstances of a party or some other substantial change to one of the factors relied on to calculate the award (e.g., parenting time, childcare costs, etc.). SB 806 creates additional avenues for modification of the obligor’s obligation to maintain or purchase life insurance, including:

- When the obligor retires;

- Once every five years after the date the obligor attains 60 years of age;

- If the lowest available life insurance monthly premium for the required life insurance policy costs more than 50 percent of the monthly amount of child support due under the judgment;

- If the life insurance benefits that would be received by the life insurance beneficiary would exceed more than twice the amount of the total remaining support payments due under the child support judgment; or

- If the obligor has established a trust to ensure that upon the obligor’s death the beneficiary of the life insurance will receive at least 125% of the total amount of child
support payments that would have been due between the time of the obligor’s death and the date the child support payments under the judgment are scheduled to terminate.

These avenues for modification are sufficient to bring the matter before the court, at which point the court has all the authority it normally has available to maintain, modify, or terminate the life insurance obligation based on the existing circumstances of the case.

This bill became effective May 30, 2023.

III. PATERNITY

1. SB 573 (Chapter 157) Directs Center for Health Statistics to enter name of parent on original record of live birth when paternity or parentage has been determined under certain circumstances.

Since 1999, Oregon has allowed adult adopted individuals who are at least 21 years of age to request copies of their own original (i.e., pre-adoption) birth certificates. Additionally, Oregon law allows adult adopted individuals who are at least 18 years of age to request and obtain copies of nearly all of their adoption court records. However, under current law there is no process for the adult adopted individual to correct an incorrect name of a biological parent if paternity or parentage is later determined. SB 573 creates such a process.

This issue comes up from adult adopted individuals who seek to correct incorrect information on their original (i.e., pre-adoptive) birth certificates or to add a missing parent (presuming that parentage can be shown through sufficient evidence such as a DNA test result). An incorrect birth certificate can have generational impacts, as the adult adoptee’s descendants continue to receive or rely on the incorrect information.

Oregon law already provides an avenue for non-adopted individuals to amend or correct their birth records related to parentage. The enactment of SB 573 puts adopted and non-adopted people in similar positions when it comes to correcting their birth records in this fashion.

IV. DOMESTIC ABUSE

1. SB 816 (Chapter 140) Modifies duration of Family Abuse Prevention Act
Under current law, a Family Abuse Prevention Act (FAPA) protection order that is initially granted or renewed pursuant to ORS 107.710, et. seq. will remain in effect for a period of one year from the date of issuance or until the order is withdrawn, amended, or dismissed. SB 816 extends the duration of FAPA protection orders from one year from the date of issuance or renewal to two years.

SB 816 takes effect on January 1, 2024.

2. **SB 901** (Chapter 195) Child Abuse Investigations

SB 901 allows the Director of Human Services to subpoena documents and records in connection with child abuse investigations, including audio records, video records, photographs, and student records.

SB 901 takes effect on June 7, 2023.

V. AUTHENTICATION REQUIREMENTS

1. **HB 2329** (Chapter 11) Declaration for Mental Health Treatment

House Bill 2329 updates two statutory forms – the Declaration for Mental Health Treatment in ORS Chapter 127 and the Appointment of Person to Make Decisions Concerning Dispossession of Remains in ORS Chapter 97.

In both cases, existing law required the form to be signed by two qualified witnesses, providing no alternative for authentication. HB 2329 updates the statutes to allow the principal the option of having the forms notarized, in addition to retaining the option for having them signed by two qualified witnesses.

This change makes the authentication requirement consistent with the Advance Directive for Health Care.

This bill takes effect on January 1, 2014.

VI. ESTATE PLANNING AND ADMINISTRATION
DOMESTIC RELATIONS AND PROBATE

1. **SB 308** (Chapter 17)  **Simple Estate Affidavit**

   SB 308 renames the Small Estate Affidavit as the Simple Estate Affidavit and clarifies when and how it may be used.

   Under the bill, the Simple Estate Affidavit may be used when:

   - Not more than $75,000 of the fair market value of the estate is attributable to personal property and not more than $200,000 of the fair market value of the estate is attributable to real property, **OR**
   - The decedent died testate and:
     - Not more than $75,000 of the fair market value of the estate is attributable to specifically devised personal property;
     - Not more than $200,000 of the fair market value of the estate is attributable to specifically devised real property; and
     - The balance of the fair market value of the estate is attributable to property that is devised to the trustee of a trust of which the decedent was the settlor and which came into existence before the decedent’s date of death.

   The bill does not require a “revokable trust”. The trust may be an irrevocable trust that was created before the decedent’s date of death.

   The bill does not change who may file the affidavit – the trustee of a trust that is the beneficiary of decedent’s will may file the affidavit. Likewise the bill does not change the timing for filing the affidavit.

   SB 308 amends ORS 238.390(2) and (5) to provide that if a PERS member dies before retiring, did not name a beneficiary or named a beneficiary who predeceased the member or died before the distribution is made, and a simple estate affidavit has been filed, then PERS may pay the amount to the affiant if the decedent’s estate remains within the $75,000 limit after consideration of the amount of money credited at the time of death to the member’s account or the estate meets the requirements for the distribution to the trust.

   SB 308 takes effect on January 1, 2024.

2. **SB 309** (Chapter 18)  **Publication of Notice in Estate Proceedings**

   SB 309 amends ORS 113.155 which specifies the manner of publishing notice to interested persons of the initiation of estate proceedings.

   Under the bill, notice must be published a single time in either:

   - a newspaper published in the county in which the estate proceed is pending; or
• if no newspaper is published in the county in which estate proceeding is pending, a newspaper designated by the court.

Prior law required publication on three separate dates. The bill also updates statutory provisions that refer to the “first date of publication” to simply the “date of publication”, since only a single publication is now required.

Practice Tip: Note that the definition of “newspaper” is modified by HB 3167.

SB 309 takes effect on January 1, 2024.
Government and Judicial Administration

I. COURT AND BAR OPERATIONS

1. SB 234 (Ch. 133) Court, OSB Data Collection
2. SB 306 (Ch. 72) OSB Membership, Licensed Paralegals
3. SB 807 (Ch. 289) Disqualification of Judges
4. SB 5506 (Ch. 605) Courthouse Funding
5. SB 5512 (Ch. 380) Oregon Judicial Department Budget
6. HB 2225 (Ch. 302) Oregon Judicial Department Omnibus
7. HB 2325 (Ch. 5) OSB Board of Governors
8. HB 3141 (Ch. 52) Chief Administrative Law Judge

II. GOVERNMENT ADMINISTRATION

1. SB 168 (Ch. 268) Political Activity by Public Employees
2. SB 337 (Ch. 281) Oregon Public Defense Commission
3. SB 994 (Ch. 121) Assistant State Judge Advocates
4. SB 1033 (Ch. 122) Active Service in the Organized Militia

III. PUBLIC NOTICE, PUBLIC MEETINGS, AND PUBLIC RECORDS

1. SB 207 (Ch. 68) Executive Sessions
2. SB 309 (Ch. 18) Publication of Notice in Estate Proceedings
3. HB 2112 (Ch. 35) Public Records Retention
4. HB 2805 (Ch. 417) Public Meetings Definitions, Training Requirements
5. HB 2806 (Ch. 252) Executive Sessions
6. HB 3111 (Ch. 50) Records of Retirees
7. HB 3167 (Ch. 257) Notice by Newspaper

Summaries for this chapter were written and compiled by Amy Zubko and Matthew Shields.
GOVERNMENT AND JUDICIAL ADMINISTRATION

I. COURT AND BAR OPERATIONS

1. **SB 234** *(Chapter 133)* Court, OSB Data Collection

SB 234 allows both the Oregon Judicial Department and the Oregon State Bar to make rules related to “gathering demographic information or identifying and evaluating disparities and impacts in the justice system in Oregon.”

The Chief Justice has the authority to make rules for the courts. State bar rules are formulated by the OSB Board of Governors, but are subject to review and approval by the Oregon Supreme Court.

In both cases, the rules may require that the entity collecting the data to maintain data confidentiality, so long as federal law does not require disclosure. Rules may allow that data be released in an aggregate manner that does not identify an individual person.

SB 234 takes effect on January 1, 2024.

2. **SB 306** *(Chapter 72)* OSB Membership, Licensed Paralegals

SB 306 revises language throughout ORS Chapter 9 in order to distinguish between “attorneys” or “lawyers” and “members of the bar.”

In 2024, the Oregon State Bar will enact a new Licensed Paralegal program. This program was approved by the Oregon Supreme Court in 2022. Licensed Paralegals will be members of the Oregon State Bar, but will not be attorneys, and unlike attorneys will only be permitted to practice law within a limited scope. The changes contained within SB 306 make clear when the statute is referring to members of the bar generally, and when it is specifically referring to attorneys.

The bill provides that for the purposes of “ORS 25.501 to 25.556 and ORS chapters 25, 107 and 109 and any other statutes providing for support payments or support enforcement procedures” the term “attorney” includes licensed paralegals who are practicing law within the LP’s licensed scope of practice.

Likewise, the bill provides that for the purposes of ORS 105.105 through ORS 105.168 (Forcible Entry and Wrongful Detainer) as well as for ORS chapter 90, the term “attorney” includes licensed paralegals who are practicing law within the LP’s licensed scope of practice.

SB 306 takes effect on January 1, 2024.

3. **SB 807** *(Chapter 289)* Disqualification of Judges

6-2
SB 807 is an attempt to address situations where a party seeks to remove a judge from criminal or juvenile proceedings generally.

Under the bill, if a “party, attorney, law firm, district attorney’s office, defense consortium or public defender’s office” files a motion or a series of motions against an elected circuit court judge under ORS 14.260 or ORS 14.270 that effectively deny the judge assignment to a criminal or juvenile delinquency docket, the judge moved against may request a hearing before a disinterested judge.

The disinterested judge is then directed to inquire as to:

- Whether the motion or series of motions effectively denies the judge assignment to a criminal or juvenile delinquency docket in any county within the judge’s judicial district; and
- Whether there is a reasonable good faith belief that the judge lacks fairness or impartiality.

If the inquiry by the disinterested judge establishes that the motion or series of motions effectively denies the judge assignment to a criminal or juvenile delinquency docket and does not establish a reasonable good faith belief that the judge lacks fairness or impartiality, then the motion to disqualify that judge shall be denied.

SB 807 takes effect on January 1, 2024.

4. **SB 5506** (Ch. 605) **Courthouse Funding**

SB 5506 was an omnibus budget bill that provided funding and bonding authority for a variety of purposes. Significantly for the Oregon Judicial Department, four courthouses received bonding authority to replace their existing courthouses.

The four courthouses are located in Clackamas, Morrow, Curry, and Benton Counties. In addition, two courthouses, in Deschutes and Columbia Counties, received bonding authority for renovations. For each of these courthouses, the county will provide matching funds to support the cost of the project.

In addition to the state bonding authority, three counties received one-time federal funding from the American Rescue Plan Act for renovations or replacement planning. The three counties are Harney, Umatilla, and Hood River.

SB 5506 took effect on August 4, 2023.

5. **SB 5512** (Chapter 380) **Oregon Judicial Department Budget**

SB 5512 was the primary budget bill for the Oregon Judicial Department. The bill includes funding for court staff, court operations, and a variety of court related programs.
GOVERNMENT AND JUDICIAL ADMINISTRATION

The bill included funding for several special appropriations including continued funding for Family Treatment Courts and the Fresh Start Expunction Program, which was originally created with one-time federal funding. The bill also included additional funding to facilitate the increased use of remote proceedings and significant additional funding for the Statewide Pretrial Release Program.

SB 5512 took effect on July 18, 2023

6. **HB 2225 (Chapter 302) Oregon Judicial Department Omnibus**

HB 2225 was an Oregon Judicial Department omnibus bill that addressed several issues related to the management and functioning of Oregon courts.

The bill increased the per-page transcriber fee from $3 to $4.25, and provides the OJD with the authority to raise the fee periodically without legislative approval.

The bill clarifies that the Chief Justice or their designee has the authority to appoint senior judges, rather than “the Supreme Court.” The bill also provides that a senior judge appointed to serve in the circuit court may be appointed to serve in one or more counties or judicial districts during their appointment. Additionally, the bill provides that senior judges assigned to serve in a circuit court, who have approval of the presiding judge of that court, may authorize the execution of search warrants.

Finally, the bill makes a number of changes to remedial contempt proceedings, including creating a new filing fee, provides that documents electronically filed with the court are not subject to public disclosure until those documents are reviewed and accepted by court staff, and the bill corrects out of date citations to the ORCP.

HB 2225 took effect on July 18, 2023. Many provisions have separate operative dates. Practitioners should confirm operative dates that may applicable to their individual situations.

7. **HB 2325 (Chapter 5) OSB Board of Governors**

The Oregon State Bar Board of Governors is composed of 15 attorney-members, who are elected by the OSB membership, and 4 public members who are selected by the Board. All of the members serve staggard four-year terms, and the OSB President is selected by the Board.

SB 2325 eliminates the requirement that the OSB President must be selected from among the attorney-members, and permits the BOG to select any of it’s members to serve as President.

SB 2325 takes effect on January 1, 2024.

8. **HB 3141 (Chapter 52) Chief Administrative Law Judge**
HB 3141 makes the appointment of Oregon’s Chief Administrative Law Judge subject to confirmation by the Oregon Senate, and modifies the requirements for appointment to include a requirement that the nominee must have at least one year of employment experience in administrative law or administrative hearings.

The bill adds new requirement that the Governor’s office provide notice of vacancies or expected vacancies to the Office of Administrative Hearings Oversight Committee and to the Oregon State Bar, and clarifies that the Office of Administrative Hearings Oversight Committee shall make recommendations to the Governor regarding the appointment or reappointment of the Chief ALJ.

Finally, the bill clarifies that while the Governor may only remove the Chief ALJ for cause, the Governor may decline to reappoint the Chief ALJ at the end of their four year term without cause.

HB 3141 takes effect on January 1, 2024.

II. GOVERNMENT ADMINISTRATION

1. **SB 168** (Chapter 268) Political Activity by Public Employees

SB 168 makes a number of changes to ORS 260.432 to make explicit that a public employee may not, while acting in their official capacity as a public employee, engage in any of a list of political activities. These activities include promoting or opposing the appointment, nomination or election of a person to public office, the filing of initiatives, the gathering of signatures, the adoption of measure, or the recall of a public official.

Most of these prohibitions existed in law prior to SB 168, but the bill reorganizes the section to make the restrictions more clear, and provides limited exceptions.

SB 168 takes effect on January 1, 2024.

2. **SB 337** (Chapter 281) Oregon Public Defense Commission

SB 337 creates the Oregon Public Defense Commission (OPDC) and abolishes the Public Defense Services Commission (PDSC). The OPDC is created initially within the judicial branch, but the bill transfers the Commission to the executive branch on January 1, 2025.

The makeup of the Commission has several changes from that of the PDSC. Under the bill, the Governor will appoint 9 voting and 4 non-voting members of the Commission. (Prior to 2025,
GOVERNMENT AND JUDICIAL ADMINISTRATION

appointment authority remains with the Chief Justice.) The voting members of the commission include:

- One voting member who has been represented by a public defense provider, and two additional voting members, at least one of whom has experience in juvenile delinquency or dependency cases,
- From persons recommended by the Chief Justice, one voting member who is a retired judge, and two additional voting members at least one of whom has experience as a public defense provider in criminal cases,
- From persons recommended by the President of the Oregon Senate, one voting member who is a current dean or faculty member at an Oregon law school,
- From persons recommended by the Speaker of the Oregon House, one voting member who has expertise in juvenile law and criminal defense, or who is a juvenile justice or criminal justice reform advocate.
- One additional voting member from persons jointly recommended by the President of the Senate and the Speaker of the House.

The commission will also include four non-voting members. Two are to be individuals currently employed as public defense providers in Oregon, one in a rural and one in an urban area. The final two are to be one member of the Senate and one member of the House, appointed by the President and the Speaker respectively.

Under the bill, prosecuting attorneys, currently serving judges, employees of law enforcement agencies, and employees of the Department of Human Services may not serve on the commission. Persons primarily engaged in providing public defense services may not serve as voting members of the commission.

The bill begins the process of making some trial level public defense providers state employees rather than contracted providers. The bill requires that at least 20% of counsel appointed at the trial level must be employees of the OPDC by 2031, increasing to 30% by 2035.

The bill also took steps to address the immediate unrepresented defendant crisis by requiring the presiding judges of each judicial district, with the support of the PDSC, to develop plans by the fall of 2023 to reduce the number of unrepresented defendants in their individual districts, and report back to the legislature.

SB 337 took effect on July 13, 2023.

3.  **SB 994**  (Chapter 121)  Assistant State Judge Advocates
SB 994 modifies who the Adjutant General may appoint as a temporary Assistant State Judge Advocate. The new statute provides that the Adjutant General may appoint a member of the organized militia who is a member in good standing of the Oregon State Bar. Previously the statute permitted the appointment of any officer in the organized militia.

The statute continues to allow 12 months from the date of appointment for the temporary appointee to meet all of the qualifications for permanent appointment under the Uniform Code of Military Justice.

SB 994 takes effect on January 1, 2024.

4. **SB 1033** (Chapter 122) Active Service in the Organized Militia

SB 1033 expands the authority of the Adjutant General, acting with the approval of the Governor, to order members of the organized militia into active service of the state. In doing so, the bill creates new definitions of terms such as “active service,” “active service of the state,” and “state active duty.”

SB 1033 takes effect on January 1, 2024.

**III. PUBLIC NOTICE, PUBLIC MEETINGS, AND PUBLIC RECORDS**

1. **SB 207** (Chapter 68) Executive Sessions

SB 207 allows the Oregon Government Ethics Commission to review and investigate if the OGEC has reason to believe that a public body conducted meetings in executive session in a manner that violated the executive session provisions of public meeting law. The bill permits the OGEC to conduct such an investigation on its own motion, without having received a specific complaint.

SB 207 takes effect on January 1, 2024.

2. **SB 309** (Chapter 18) Publication of Notice in Estate Proceedings

SB 309 amends ORS 113.155 which specifies the manner of publishing notice to interested persons of the initiation of estate proceedings.

Under the bill, notice must be published a single time in either:

- A newspaper published in the county in which the estate proceed is pending; or
GOVERNMENT AND JUDICIAL ADMINISTRATION

- If no newspaper is published in the county in which estate proceeding is pending, a newspaper designated by the court.

Prior law required publication on three separate dates. The bill also updates statutory provisions that refer to the “first date of publication” to simply the “date of publication,” since only a single publication is now required.

Practice Tip: Note that the definition of “newspaper” is modified by HB 3167, described later in this chapter.

SB 309 takes effect on January 1, 2024.

3. **HB 2112** *(Chapter 35)* Public Records Retention

HB 2112 updates several statutes to encourage the retention of documents or records of value for "legal, administrative, fiscal, tribal cultural, historical or research purposes." Prior statutes used different and inconsistent descriptions, which are standardized under HB 2112.

The bill also updates statutes to do away with obsolete language distinguishing between analog and digital recordings.

HB 2112 takes effect on January 1, 2024.

4. **HB 2805** *(Chapter 417)* Public Meetings Definitions, Training Requirements

HB 2805 creates two new definitions that affect when a public meeting exists and is subject to public meetings law. The bill defines “deliberation” to mean “discussion or communication that is part of a decision-making process”. The bill defines “convening” to mean:

- Gathering in a physical location;
- Using electronic, video or telephonic technology to be able to communicate contemporaneously among participants;
- Using serial electronic written communication among participants; or
- Using an intermediary to communicate among participants.

The addition of serial communication and the use of intermediaries, functions to expand the definition of what constitutes the gathering of at least a quorum of a public body, and thus would make these communications subject to public meetings law.
The bill also requires the Oregon Government Ethics Commission to prepare trainings on public meetings requirements, and requires all members of governing bodies of public bodies, other than governing bodies of state government, to complete the training at least once per term.

HB 2805 took effect on September 24, 2023.

5. **HB 2806** (Chapter 252) Executive Sessions

HB 2806 adds to the list of circumstances in which the governing body of a public body may meet in executive session.

Under the bill a governing body may meet in executive session to discuss:

- To consider matters relating to the safety of the governing body and of public body staff and volunteers and the security of public body facilities and meeting spaces.
- To consider matters relating to cyber security infrastructure and responses to cyber security threats.

HB 2806 took effect on July 13, 2023.

6. **HB 3111** (Chapter 50) Records of Retirees

HB 3111 makes the personal information of employees and retirees maintained by retirement systems operated by public bodies exempt from disclosure under Oregon Public Records Law (ORS Chapter 192). Previously, this information was exempt from disclosure with respect to the Oregon Public Employees Retirement System, but the exemption did not clearly apply to other local pension systems in Oregon.

HB 3111 took effect on May 8, 2023.

7. **HB 3167** (Chapter 257) Notice by Newspaper

HB 3167 makes several important changes to the definition of “newspaper” in ORS Chapter 193. This definition is relevant in many situations where legal notices may or must be published in newspapers. The bill also creates a new definition of “digital newspaper.”

Under the new definition, a “digital newspaper” is an online newspaper delivered in an electronic form, that is formatted similarly to a printed newspaper, and that is produced in an archivable format.

The new definition of “newspaper” now explicitly includes both printed and digital format publications. The new definition also provides that to qualify as a newspaper under the definition, the newspaper “conducts consistent, regular coverage of local news and in which at
least 25 percent of the total news content is locally and originally composed by the newspaper, regardless of whether the newspaper is produced or printed in the local area”.

The bill amends the definition of “bona fide subscriber” to include subscribers to digital format newspapers. In addition, the bill modifies the existing requirement that more than half of a newspaper’s distribution be to bona fide subscribers. Under the modified requirement, all printed newspapers, as well as “paid-for digital newspapers” count as distributed for determination of the 50% threshold.

Finally, the bill includes new provisions that come into play when an existing newspaper goes out of business, and which loosen the definition of newspapers in that area for the following 12 months.

HB 3167 took effect on July 13, 2023.
Health Law

I. ACCESS TO CARE
   1. SB 490 (Ch. 574) Distribution of funds to Area Health Education Program at Oregon Health and Science University
   2. HB 2002 (Ch. 228) Protecting access to reproductive healthcare and gender affirming healthcare
   3. HB 2535 (Ch. 311) Pregnancy and postpartum care for adults in custody
   4. HB 2045 (Ch. 393) Health Care Cost Growth Target Program

II. BEHAVIORAL HEALTH
   1. HB 2235 (Ch. 493) Improving conditions for behavioral health workforce
   2. HB 2421 (Ch. 500) Applied behavioral analysis guidelines

III. BOARD MEMBERSHIP
   1. SB 607 (Ch. 183) Pain Management Commission membership
   2. SB 629 (Ch. 92) Oregon State Hospital Advisory Board membership
   3. HB 2627 (Ch. 335) Oregon Medical Board membership

IV. HOSPITAL AND MEDICAL OPERATIONS
   1. SB 189 (Ch. 269) Release of human pathological waste
   2. SB 411 (Ch. 91) Disposal of covered drugs
   3. SB 966 (Ch. 584) Data collection standards
   4. HB 2574 (Ch. 411) Post-HIV-exposure prophylaxis
   5. HB 2697 (Ch. 507) Staffing plans for health provider entities
   6. HB 2921 (Ch. 421) Hospital workforce demographic reports
   7. HB 3396 (Ch. 441) Joint Task Force on Hospital Discharge Challenges

V. INFORMATION PRIVACY
   1. SB 216 (Ch. 69) Disclosure of individually identifiable data
   2. SB 619 (Ch. 369) Personal data protection
   3. HB 2052 (Ch. 395) Data broker registration
   4. HB 2490 (Ch. 307) Public records disclosure exemptions

The Oregon State Bar would like to thank OSB members Tania Manners, Jennifer Baker, Aly Sneider and Emma Singer for their contributions to this chapter.
VI. INSURANCE/ALTERNATIVE COVERAGE
1. SB 31 (Ch. 66) Solvency of Paid Family and Medical Leave Insurance Fund
2. SB 91 (Ch. 367) Health Insurance Regulatory Requirements and APAC Access
3. SB 376 (Ch. 152) Health care service contractor annual reports
4. SB 463 (Ch. 106) Utilization review requirements for proton beam therapy
5. SB 628 (Ch. 111) Health benefit plan coverage of pediatric autoimmune neuropsychiatric disorders
6. SB 797 (Ch. 113) Prosthetic and orthotic devices insurance coverage
7. SB 912 (Ch. 120) Erroneous Family and Medical Leave Insurance Program payments
8. SB 972 (Ch. 585) Insurance marketplace
9. SB 1041 (Ch. 468) Breast examination cost-sharing
10. SB 1089 (Ch. 613) Universal Health Plan Governance Board
11. HB 2282 (Ch. 42) Coverage of preventive health services
12. HB 2446 (Ch. 247) Extension of OHA/CCO contract
13. HB 2994 (Ch. 424) Insurance coverage of hearing-related items and services
14. HB 3008 (Ch. 425) Reimbursement of dental claims; primary care Copayments
15. HB 3320 (Ch. 263) Hospital financial assistance

VII. LICENSING/ SCOPE OF PRACTICE
1. SB 226 (Ch. 275) Execution of medical directives from out-of-state physicians; removal of certain notification requirements
2. SB 227 (Ch. 276) Out-of-state nurses and nursing assistants
3. SB 232 (Ch. 147) Care by out-of-state physician or physician assistant
4. SB 410 (Ch. 90) Pharmacy technician temporary licenses
5. HB 2584 (Ch. 314) Physician assistant rights and duties
6. HB 2665 (Ch. 506) Civil penalties for abuse and neglect by agency personnel
7. HB 2696 (Ch. 414) Requirements for sign language interpreters
8. HB 2817 (Ch. 418) Podiatry definition
9. HB 3223 (Ch. 436) Dental assistant certification
10. HB 3300 (Ch. 439) Issuance of limited permits by Oregon Board of Licensed Professional Counselors and Therapists
11. HB 3412 (Ch. 87) Physician assistants’ and nurse practitioners’ service in workers' compensation claims
12. HB 3425 (Ch. 346) Certified registered nurse anesthetists
13. HB 3596 (Ch. 447) Surgical technology apprenticeships

7-2
VIII. OPIOID EPIDEMIC
1. SB 238 (Ch. 134)  Drug curricula
2. SB 1043 (Ch. 297)  Opioid reversal medication upon discharge from substance use disorder treatment
3. HB 2395 (Ch. 593)  Short-acting opioid antagonists

IX. PHARMACY
1. SB 970 (Ch. 93)  Pharmacy definitions
2. HB 2278 (Ch. 240)  Administering flu shot to those 6 months or older
3. HB 2486 (Ch. 306)  Administration of vaccines by pharmacists and supervised pharmacy techs
4. HB 3258 (Ch. 438)  Reporting of dispensation of controlled substances

X. PRESCRIPTION DRUGS
1. SB 192 (Ch. 466)  Pharmacy benefit manager annual reports; cost limits on drugs
2. SB 608 (Ch. 184)  Pharmacy dispensing costs
3. HB 2725 (Ch. 509)  Pharmacy benefit claim payments

XI. MISCELLANEOUS
1. SB 229 (Ch. 89)  “Adverse event” definition
2. SB 303 (Ch. 150)  Psilocybin service center data
3. SB 418 (Ch. 142)  Temporary disability benefits
4. SB 420 (Ch. 573)  Community college nursing degrees
5. SB 523 (Ch. 287)  DCBS Study of Hormone Replacement Drug Costs
6. SB 558 (Ch. 109)  Hearing aid regulation
7. SB 573 (Ch. 157)  Modification of birth records
8. SB 965 (Ch. 199)  Off-site investigation of hospice programs; hemodialysis technician certificate requirements; Oregon Health Advisory Board membership
9. HB 2128 (Ch. 401)  Tobacco product manufacturer regulations
10. HB 2279 (Ch. 241)  Repeal of Death with Dignity residency Requirement
11. HB 2286 (Ch. 244)  Enhanced federal match to Indian healthcare Providers
12. HB 2447 (Ch. 84)  Declarations of deceased depositors
13. HB 3626 (Ch. 561)  Infant safe surrender period
I. ACCESS TO CARE

1. **SB 490** (Chapter 574)  
   Distribution of funds to Area Health Education Program at Oregon Health and Science University

   The bill directs the Higher Education Coordinating Commission to distribute funds to Area Health Education Center programs for the purpose of supporting the Oregon Academy of Family Physicians.

   The bill appropriates $1,500,000 to the Higher Education Coordinating Commission.

   SB 490 takes effect on September 24, 2023

2. **HB 2002** (Chapter 228)  
   Reproductive health rights and gender-affirming care

   Introduced in response to Dobbs, HB 2002 further protects access to reproductive health services in Oregon, including creating an enforceable right to make decisions about one’s own reproductive health. It modifies an existing prohibition on public-body interference with pregnancy termination to create a prohibition on public-body interference with the exercise of an individual’s reproductive health rights. It also adds prohibitions on criminal or civil liability based on the exercise of an individual’s reproductive health rights or on the provision of assistance to another individual in exercising their own reproductive health rights.

   The bill clarifies that a minor who is fifteen years old or younger can obtain an abortion without parental consent if their health care provider judges that involving the minor’s parent or guardian may result in the abuse or neglect of the minor or would not be in the minor’s best interest.

   HB 2002 also provides that a health care provider may not be prohibited from providing reproductive health care information and services to a consenting individual, and that an individual who receives or declines such information and services shall not be subject to the loss of any privilege, immunity, or public benefit.

   The bill prohibits health benefit plans from excluding coverage of medically necessary gender-affirming treatments and requires plans and coordinated care organizations to meet network-adequacy standards related to gender-affirming treatment providers. It also requires inclusion of gender-affirming treatment in the Oregon Health Plan.

   HB 2002 requires the Department of Consumer and Business Services to report to the legislature regarding implementation of insurance coverage requirements for access to gender-affirming treatment providers and services by December 31, 2026 and to conduct a target market examination of all carriers to ensure compliance with requirements by January 2, 2027.
The bill prohibits adverse actions by malpractice insurers against health care providers for providing lawful reproductive or gender-affirming health care.

Finally, HB 2002 creates a right of action for a person or health care facility aggrieved by interference with a health care facility.


3. **HB 2535** (Chapter 311) Pregnancy and postpartum care for adults in custody

HB 2535 was enacted in response to the effect of the criminal justice system on the health of incarcerated adults and their children.

This bill requires the Department of Corrections to establish a doula program for pregnant and postpartum adults in custody at Coffee Creek Correctional Facility. The program must provide doula services to adults in custody who are pregnant or who have given birth in the last year.

The bill prohibits mechanical restraint of adults in custody during labor, childbirth, or postpartum recovery in the hospital unless the supervising officer determines that the restraints are reasonably necessary and the attending physician determines that the restraints do not present a medical risk to the adult in custody.

Any mechanical restraints may not interfere with the adult’s ability to hold the infant, nurse the infant, establish milk supply, or receive other postpartum recovery care from hospital staff. Any mechanical restraints must be used in the least restrictive manner possible.

The bill requires medically appropriate and least restrictive means to be used when transporting an adult in custody who gave birth at a hospital.

HB 2535 takes effect on September 24, 2023.

4. **HB 2045** (Chapter 393) Health Care Cost Growth Target Program

The Health Care Cost Growth Target Program was established in 2019 (via SB 889) as a means of controlling the growth of health care expenditures. The health care cost growth target, which applies to insurance companies, hospitals, and health care providers, is a target for the annual per capita rate of growth of total health care spending in the state. The program’s goal is to keep health care costs in line with the growth of wages and the economy. The Oregon Health Authority may hold payers and providers accountable by imposing performance improvement plans on those who fail to meet the cost growth target and/or by imposing financial penalties for failing to report cost growth data or failing to meet the target in multiple years. In 2021 (via HB 2081), the
legislature required that OHA adopt criteria for imposing financial penalties and clarified that penalties cannot be imposed until 2026 for performance between 2021 and 2025.

This bill exempts growth resulting from total compensation to frontline workers from the accountability provisions of the Health Care Cost Growth Target Program. It also requires health care providers to annually report to OHA the aggregate amount of compensation paid to frontline workers as wages, benefits, salaries, bonuses, and incentive payments.

HB 2045 takes effect on January 1, 2024.

II. BEHAVIORAL HEALTH

1. **HB 2235** (Chapter 493) Improving conditions for behavioral health workforce

HB 2235 requires the Oregon Health Authority to convene a work group to develop recommendations to improve recruitment and retention of, reduce administrative burdens on, increase reimbursement and pay for, and foster diversity within the behavioral health workforce.

The work group must report their initial findings to the Joint Committee on Ways and Means by January 15, 2025. The work group must submit a final report by December 15, 2025.

HB 2235 took effect on July 31, 2023.

2. **HB 2421** (Chapter 500) Applied behavioral analysis guidelines

The bill requires the Health Licensing Office to establish guidelines for the professional methods and procedures used by behavioral analysis professionals.

The bill permits minors 14 and older to obtain outpatient applied behavioral analysis without parental consent.

The bill prohibits applied behavioral analysis professionals from practicing conversion therapy.

HB 2421 takes effect on September 24, 2023.

III. BOARD MEMBERSHIP

1. **SB 607** (Chapter 183) Pain Management Commission membership
The bill requires the Oregon Health Authority to submit a report including recommendations for legislative changes to the membership of the Pain Management Commission no later than September 15, 2024.

SB 607 takes effect on January 1, 2024.

2. **SB 629** (Chapter 92) **Oregon State Hospital Advisory Board membership**

This bill modifies the membership of the Oregon State Hospital Advisory Board to include two voting members who advocate for individuals with mental illness, two voting members who are health care professionals with experience working with individuals with mental illness, three voting members who are or have been consumers or mental health services, and two voting members each of whom is a family member of a consumer of mental health services.

SB 629 takes effect on January 1, 2024.

3. **HB 2627** (Chapter 335) **Oregon Medical Board membership**

This bill removes one doctor and adds one physician assistant to the Oregon Medical Board.

HB 2627 takes effect on September 24, 2023.

### IV. HOSPITAL & MEDICAL OPERATIONS

1. **SB 189** (Chapter 269) **Release of human pathological waste**

The bill permits health care facilities to release placenta and pathological waste to the donor of the waste or an authorized representative of that donor when the waste is intended for cremation, interment, or other final disposition.

SB 189 takes effect on September 24, 2023.

2. **SB 411** (Chapter 91) **Disposal of covered drugs**

The bill declares a public peace, health, and safety emergency.

The bill permits disposal of covered drugs at hospital, medical, and infectious waste incinerators.

SB 411 took effect on May 16, 2023.

3. **SB 966** (Chapter 584) **Data collection standards**
The bill requires the Oregon Health Authority to adopt standards for all payers and claims databases for data collection regarding the social determinants of health that are consistent with standards adopted for collection of data on race, ethnicity, language, disability, sexual orientation, and gender identity.

The bill requires the metrics and scoring subcommittee of the Health Plan Quality Metrics Committee to select, based on specified criteria, downstream health outcome and quality measures for coordinated care organizations from sets of core quality measures published by the Centers for Medicare and Medicaid Services and at least four upstream health outcome and quality measures that focus on social determinants of health.

The bill requires the Oregon Health Authority to annually update health outcome and quality measures if necessary to conform to the latest sets of core quality measures published by the Centers for Medicare and Medicaid Services.

The bill authorizes members of the Public Health Benefit Purchasers Committee, Health Care Workforce Committee, Health Plan Quality Metrics Committee, Behavioral Health Committee, and metrics and scoring subcommittee who are not members of the Oregon Health Policy Board to receive compensation as prescribed by Oregon Health Authority by rule.

The bill repeals the requirement that an initial assessment by a coordinated care organization of a child in the custody of Department of Human Services be performed in accordance with metrics established by the metrics and scoring subcommittee.

The bill appropriates $522,854 to the Oregon Health Authority to carry out this act.

SB 966 took effect on July 31, 2023.

4. **HB 2574 (Chapter 411)** Post-HIV-exposure prophylaxis

This bill requires hospitals to adopt a policy for dispensing post-HIV-exposure prophylactic drugs or therapies and have procedures in place to ensure that hospital staff dispense to a patient at least a five-day supply of the prophylaxis following exposure.

The bill requires the Oregon Health Authority to provide rural hospitals, at no cost to the hospitals, one 30-day supply of post-HIV-exposure prophylactic drugs or therapies.

The bill prohibits insurers from requiring a deductible, copayment, coinsurance, or any cost-sharing for the coverage of post-HIV-exposure prophylactic drugs or therapies.

The bill increases the General Fund appropriation to the Oregon Health Authority by $259,052 for post-HIV-exposure prophylactic drug procurement and distribution.
HB 2574 takes effect on January 1, 2024.

5. **HB 2697 (Chapter 507)**  **Staffing plans for health provider entities**

This bill requires hospitals to establish professional and technical staffing committees and service staffing committees, each consisting of equal numbers of managers and staff. Staffing committees must develop written staffing plans considering certain criteria, including the hospital’s census, location of the patients, patient types and acuity, applicable national standards, hospital size, patient access to care, and staff feedback. These committees must be established by December 31, 2024.

The bill also sets parameters for nurse staffing plans by identifying direct care registered nurse: patient ratios by unit, such as a 1:2 ratio in the intensive care unit and a 1:4 ratio in the oncology unit. These criteria must be adopted by hospitals by June 1, 2024.

HB 2697 took effect on September 1, 2023.

6. **HB 2921 (Chapter 421)**  **Hospital workforce demographic reports**

This bill requires hospitals to file demographic reports required by the United States Equal Employment Opportunity Commission or the Department of Education with the Oregon Bureau of Labor and Industries. Failure to comply with this requirement will result in civil penalties not to exceed $500 per day of noncompliance.

HB 2921 takes effect on January 1, 2024.

7. **HB 3396 (Chapter 441)**  **Joint Task Force on Hospital Discharge Challenges**

The bill establishes a Joint Task Force on Hospital Discharge Challenges to develop recommendations to address the challenges faced by hospitals in discharging patients to appropriate post-acute care settings. The report should include recommendations related to reducing barriers to training, education, and licensure of nurses, and facilitating the timely discharge of patients from hospitals to appropriate placements.

The bill requires the Joint Task Force on Hospital Discharge Challenges to provide recommendations to the Legislative Assembly no later than December 15, 2023. The Joint Task Force on Hospital Discharge Challenges must submit the final report by November 15, 2024.

The bill requires the Oregon Health Authority to provide grants as follows:

- $15,000,000 to support clinical education at hospitals and health care facilities;
HEALTH LAW

- $5,000,000 for employers participating in labor-management training trust to expand on-the-job training and apprenticeship opportunities for health care professionals;
- $5,000,000 to the Oregon Center for Nursing to work with Oregon’s public nursing education programs; and
- $1,517,041 to support the Joint Task Force on Hospital Discharge Challenges.


V. INFORMATION PRIVACY

1. **SB 216** (Chapter 69) Disclosure of individually identifiable data

This bill prohibits disclosure of individually identifiable data collected by the Oregon Health Authority on race, ethnicity, preferred spoken and written languages, disability status, sexual orientation and gender identity.

SB 216 takes effect on September 24, 2023.

2. **SB 619** (Chapter 369) Personal data protection

This bill permits consumers to obtain certain information about their personal data from a controller that processes such information. It also requires controllers to provide consumers with privacy notices that meet specified requirements.

The bill exempts personal health information processed in accordance with HIPAA or the Gramm-Leach-Billey Act, as well as information that is indistinguishable from or intermingled with information processed in the manner required by HIPAA or GLBA.

SB 619 takes effect on January 1, 2024.

3. **HB 2052** (Chapter 395) Data broker registration

This bill provides that a data broker may not collect, sell, or license brokered personal data in Oregon unless they first register with the Department of Consumer and Business Services. It also provides civil penalties for violations.


4. **HB 2490** (Chapter 307) Public records disclosure exemptions

This bill exempts certain cybersecurity documents, records, and protection plans from public records disclosure.
HB 2490 takes effect on January 1, 2024.

VI. INSURANCE/ALTERNATIVE COVERAGE

1. **SB 31**  
   (Chapter 66)  
   Solvency of Paid Family and Medical Leave Insurance Fund

This bill directs the Director of the Employment Department to determine whether the Paid Family and Medical Leave Insurance Fund is solvent. If it is solvent, the director shall commence paying benefits and any grant awards. If it is insolvent, the director shall delay the start of benefit payments until December 3, 2023.

If the director determines that the fund is insolvent, the bill requires the director to continue making quarterly determinations of the solvency of the fund until it is solvent.

SB 31 took effect on May 8, 2023.

2. **SB 91**  
   (Chapter 367)  
   Provision of direct care services by parents to minor children

This bill directs the Department of Human Services to administer a program to provide attendant care services to the parents’ minor children who have been assessed by the department to have very high medical or behavioral needs. Parents must be paid overtime at the same rate and under the same circumstances as direct support professionals.

The bill also prohibits agencies from paying providers (including parents) for services to a minor child during school hours unless the child is temporarily at home recovering from surgery or illness and such absence is recommended by the child’s healthcare provider. Additionally, the bill prohibits agencies from paying parent providers for care if the child is homeschooled or attends a shortened school day. However, the bill permits school districts or other entities to compensate parents for providing support for educational activities that would otherwise be the entity’s responsibility.

SB 91 took effect on July 18, 2023.

3. **SB 376**  
   (Chapter 152)  
   Health care service contractor annual reports

This bill adds accreditation standards for individual insurance companies that write more than $500 million in annual premiums and insurance company holding groups that as a whole write
more than $1 billion in annual premiums to provisions applicable to health care service contractors in ORS 750.055.

The bill also allows DCBS to require health service contractors to file annual NAIC own risk and solvency assessment (ORSA) summary reports and corporate governance annual disclosure reports.

SB 376 takes effect on September 24, 2023.

4. **SB 463** (Chapter 106) Utilization review requirements for proton beam therapy

This bill prohibits health benefit plans from imposing prior authorization or other utilization review requirements on coverage of proton beam therapy that do not apply to coverage of radiation therapy.

SB 463 takes effect on January 1, 2024.

5. **SB 628** (Chapter 111) Health benefit plan coverage of pediatric autoimmune neuropsychiatric disorders

This bill requires health benefit plans to cover the cost of up to three monthly courses of immunoglobulin therapy for treatment of pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome when (a) clinically appropriate trials were not effective, were not tolerated, or did not result in a sustained improvement in symptoms; and (b) a subspecialist was consulted and recommended the treatment, in agreement with the patient’s primary care provider.

SB 628 takes effect on January 1, 2024.

6. **SB 797** (Chapter 113) Prosthetic and orthotic devices insurance coverage

This bill requires individual and group health insurance policies to provide coverage for prosthetic and orthotic devices that are medically necessary to restore or maintain the ability to complete activities of daily life or essential job-related activities and that are not solely for comfort or convenience. The coverage includes all services and supplies including design, fabrication, material, measurements, filling, alignment, patient instruction in use of the device, repair, and replacement.

SB 797 takes effect on January 1, 2024.

7. **SB 912** (Chapter 120) Erroneous Family and Medical Leave
Insurance Program payments

The bill authorizes the director of the Employment Department to deduct any payments made in error or overpayments from future benefits otherwise payable to the covered individual.

The bill states that the director shall waive recovery if the benefits are only recoverable due to a change in state law.

The bill prohibits individuals who have been convicted of fraud from obtaining benefits in the calendar quarter in which the person was convicted. Those individuals are ineligible for benefits until the individual has reimbursed the Paid Family and Medical Leave Insurance Fund.

The bill provides civil penalties against employers who violate the requirements of the Paid Family and Medical Leave Insurance Fund.

SB 912 takes effect on September 24, 2023.

8. SB 972 (Chapter 585) Insurance marketplace

This bill requires the Oregon Health Authority to transition from healthcare.gov to state-based marketplace by November 1, 2026.

SB 972 took effect on July 31, 2023.

9. SB 1041 (Chapter 468) Breast examination cost-sharing

This bill prohibits insurance carriers from imposing deductibles, coinsurance, copayment, or any other out-of-pocket expenses on insureds’ diagnostic or supplemental breast examinations.

SB 1041 takes effect on January 1, 2024.

10. SB 1089 (Chapter 613) Universal Health Plan Governance Board

This bill establishes the Universal Health Plan Governance Board in the Department of Consumer and Business Services. The Universal Health Plan Governance Board must consist of nine members, each appointed by the Governor.

The bill requires the Universal Health Plan Governance Board to create a comprehensive plan to administer a Universal Health Plan that is responsive to the needs and expectations of Oregon residents.

The bill requires the Universal Health Plan Governance Board to create a plan for a Universal Health Plan Trust Fund.
HEALTH LAW

The bill requires the Universal Health Plan Governance Board to provide a status report no later than December 1 of each year.

The bill appropriates $1,442,576 for establishing the Universal Health Plan Governance Board.

SB 1089 took effect on August 4, 2023.

11. **HB 2282** (Chapter 42) **Coverage of preventive health services; independent review organization contracts**

This bill requires certain health benefit plans to comply with federal rules regarding coverage of preventive health services in effect on January 1, 2023.

This bill allows the director of the Department of Consumer and Business Services to contract with more than five independent review organizations at one time.

HB 2282 takes effect on January 1, 2024.

12. **HB 2446** (Chapter 247) **Extension of contract**

This bill requires an extension of the contract between the Oregon Health Authority and coordinated care organizations to no later than December 31, 2026.

HB 2446 took effect on July 13, 2023.

13. **HB 2994** (Chapter 424) **Insurance coverage of hearing-related items and services**

This bill requires coordinated care organizations and the Oregon Health Authority to provide to medical assistance recipients who are age 18 or younger cochlear implants, hearing aids, and hearing assistive technology systems in specified circumstances.

It also requires health benefit plans to reimburse for the costs of fitting implants and devices, and to reimburse for physician-prescribed devices and services even if available over the counter. Additionally, it requires health benefit plans to cover ear molds as medically necessary, to cover hearing device components, and to cover the costs of necessary hearing aid repair and replacement parts if not covered by warranty. It prohibits making coverage subject to deductible.

The bill clarifies the notice requirements for adverse determinations related to claims for coverage of assistive listening devices and services. Finally, it extends implant and device coverage requirements to coverage provided by the Public Employees’ Benefit Board and the Oregon Educators’ Benefit Board.

HB 2994 takes effect on January 1, 2024.
14. **HB 3008** (Chapter 425)  
**Reimbursement of dental claims; primary care copayments**

This bill permits dental insurers to pay claims for reimbursement using a credit card or electronic funds transfer that imposes a fee on the provider if the insurer notifies the provider in advance, offers the provider an alternative payment method, and the provider elects to accept the payment of claim using the credit card or electronic funds transfer.

The bill permits dental insurers to enter into a third-party network contract to provide access to the dental care services and discounted rates of a dental care provider under a provider network contract.

The bill permits the Department of Consumer and Business Services to adopt rules to allow an individual or group policy or certificate of health insurance to impose a copayment of not more than $5 for a primary care visit if necessary to comply with the requirements of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

HB 3008 takes effect on September 24, 2023.

15. **HB 3320** (Chapter 263)  
**Hospital financial assistance**

This bill requires hospitals to screen patients for presumptive eligibility for financial assistance if the patient is uninsured, enrolled in the state medical assistance program, or owes the hospital more than $500.

The bill requires the Oregon Health Authority to develop a process to screen patients for presumptive financial assistance. The process must prohibit the hospital from requiring a patient to provide documentation, must not have a negative impact on a patient’s credit score, and require the hospital to notify a patient if they have been screened.

Patients may apply for financial assistance if they were found not eligible for presumptive financial assistance or disagree with the amount of financial assistance offered.

If a patient is found to be eligible for financial assistance after having paid for services, the hospital must refund the amount of financial assistance for which the patient qualifies.

The bill requires hospitals to have a written financial assistance policy and provide application forms to apply for financial assistance to a patient on request. Hospitals must include a prominently displayed notice of the availability of financial assistance on the hospital’s website home page and on any page where the patient accesses information about their account.

The bill establishes reporting requirements for hospitals regarding applications and outcomes of applications for financial assistance.
HB 3320 takes effect on January 1, 2024.

VII. LICENSING/ SCOPE OF PRACTICE

1. **SB 226**  (Chapter 275)  Execution of medical directives from out-of-state physicians; removal of certain notification requirements

   This bill permits registered nurses employed by a long-term care facility or in-home care agency to execute medical directives from an out-of-state physician when the directive is related to the care or treatment of an individual who has been a client, patient, or resident of the long-term care facility or in-home care agency for not more than 90 days.

   The bill removes the requirement that The Oregon State Board of Nursing provide immediate notice to the State Board of Pharmacy upon approving an application submitted by a nurse practitioner or clinical nurse specialist to dispense prescription drugs.

   SB 226 takes effect on September 24, 2023.

2. **SB 227**  (Chapter 276)  Out-of-state nurses and nursing assistants

   This bill increases the number of days for which a temporary nursing assignment for an out-of-state nurse may be extended from 30 days to 90 days.

   The bill permits licensure by indorsement to nurses licensed in other jurisdictions during a state of emergency.

   The bill permits issuance of limited certificates to nursing assistants authorized in another jurisdiction during a state of emergency.

   SB 227 takes effect on September 24, 2023.

3. **SB 232**  (Chapter 147)  Care by out-of-state physician or physician assistant

   The bill permits out-of-state physicians who have established provider-patient relationships with patients located in Oregon to provide temporary or intermittent follow-up care.

   The bill clarifies that the practice of medicine using telemedicine occurs where the patient is physically located.

   SB 232 takes effect on September 24, 2023.
4. **SB 410** (Chapter 90) Pharmacy technician temporary licenses

This bill allows the State Board of Pharmacy to adopt rules to issue temporary licenses to perform the duties of a pharmacy technician.

SB 410 takes effect on September 24, 2023.

5. **HB 2584** (Chapter 314) Physician assistant rights and duties

This bill requires physician assistants to use the degree of care, skill, and diligence that is used by ordinarily careful physician assistants in the same or similar circumstances.

The bill allows physician assistants to write prescriptions, including for controlled substances.

HB 2584 takes effect on September 24, 2023.

6. **HB 2665** (Chapter 506) Civil penalties for abuse and neglect by agency personnel

This bill grants the Health Licensing Office the authority to impose civil penalties on temporary staffing agencies if personnel of the staffing agency abuse, neglect, or exploit a patient or client; engage in dangerous conduct that threatens the health, safety, or welfare of others; or do not meet the qualifications for the position.

The bill requires temporary staffing agencies to ensure that all personnel meet any professional authorization or qualifications; meet any state or federal criminal record requirements; complete any required training or continuing education; possess the necessary skills, knowledge, and experience; and comply with any relevant requirements regarding to the health of staff.

The bill requires the Health Licensing Office to adopt rules to establish the maximum rates a temporary staffing agency may charge or receive from an entity that engages the agency. The Health Licensing Office will also establish a process through which a temporary staffing agency may apply for a waiver of the maximum rate.

HB 2665 takes effect on September 24, 2023.

7. **HB 2696** (Chapter 414) Requirements for sign language interpreters

This bill declares a public peace, health, and safety emergency.

The bill establishes requirements for sign language interpreter licensing, as well as specialized requirements for supervisory, provisional, educational, medical, and legal sign language
interpreter licensing. All licensed sign language interpreters must be at least 18 years of age, demonstrate compliance with national codes of conduct, and meet any other requirements established by the State Board of Sign Language Interpreters. Specific requirements and restrictions include:

- Supervisory sign language interpreters must have three years of qualifying experience.
- Sign language interpreter licenses may be renewed twice.
- Provisionally licensed sign language interpreters may only provide sign language interpretation services under the supervision of a licensed supervisory sign language interpreter.
- Educational sign language interpreters must meet any requirements established by the Department of Education related to sign language interpreters serving in schools. Only licensed educational sign language interpreters may provide sign language interpretation services in educational settings.
- Medical sign language interpreters must be licensed supervisory sign language interpreters or licensed sign language interpreters. Only licensed medical sign language interpreters may provide sign language interpretation services in medical settings.
- Legal sign language interpreters must be licensed supervisory sign language interpreters or licensed sign language interpreters. Only licensed legal sign language interpreters may provide sign language interpretation services in legal settings.

In emergency circumstances or other extenuating circumstances, a person who is not a licensed sign language interpreter may provide sign language interpretation services.

The bill establishes the State Board of Sign Language Interpreters, with members to be appointed by the Governor. The term of office for each member is three years. The Board of Sign Language Interpreters shall advise the Health Licensing Office on licensing rules.

Violation of the licensing provisions of the bill is a Class C misdemeanor.


8. **HB 2817**  
(Chapter 418)  
Podiatry definition

This bill defines “Podiatry” as the treatment of skin, skin-related structures and subcutaneous masses, and wounds involving skin, skin-related structures and subcutaneous masses, on the human leg no further proximal than the tibial tubercle.

HB 2817 takes effect on January 1, 2024.

9. **HB 3223**  
(Chapter 436)  
Dental assistant certification
The bill permits the Oregon Board of Dentistry to require dental assistants to pass a written examination. The examination must be offered in English, Spanish, and Vietnamese.

The bill requires the Oregon Board of Dentistry to convene an advisory committee of at least seven members to study the dental assistant workforce shortage and to review the requirements for dental assistant certification in other states.

HB 3223 takes effect on September 24, 2023.

10. HB 3300  (Chapter 439)  Issuance of limited permits by Oregon Board of Licensed Professional Counselors and Therapists

The bill allows the Oregon Board of Licensed Professional Counselors and Therapists to issue limited permits to applicants who complete an application and provide proof that the applicant is authorized to practice professional counseling or marriage and family therapy in another state where the requirements for authorization are substantially equivalent to the Oregon requirements for licensure. The limited permit may be valid for up to 30 days in a 12-month period.

The bill removes the requirement that licenses be annually renewed.

HB 3300 takes effect on September 24, 2023.

11. HB 3412  (Chapter 87)  Physician assistants’ and nurse practitioners’ service in workers’ compensation claims

The bill permits physician assistants to provide compensable medical service to an injured worker for a cumulative total of 180 days.

The bill permits nurse practitioners and physician assistants to provide the same level of services as a primary care physician if the nurse practitioner or physician assistant maintains the injured worker’s medical records, has a documented history of treatment with the worker, agrees to refer the worker to the managed care organization for specialized treatment, and agrees to comply with all the rules, terms and conditions regarding services performed by the managed care organization.

HB 3412 takes effect on January 1, 2024.

12. HB 3425  (Chapter 346)  Certified registered nurse anesthetists
HEALTH LAW

The bill requires the Oregon State Board of Nursing to issue licenses to practice as a certified registered nurse anesthetist to qualified applicants. Certified registered nurse anesthetists may prescribe prescription drugs.

The bill prohibits certified registered nurse anesthetists from using the title “anesthesiologist.”

HB 3425 takes effect on September 24, 2023.

13. HB 3596 (Chapter 447) Surgical technology apprenticeships

The bill permits a person who has completed and is certified by a registered apprenticeship program to practice surgical technology at a health care facility.


VIII. OPIOID EPIDEMIC

1. SB 238 (Chapter 134) Drug curricula

This bill directs the Oregon Health Authority, the State Board of Education, and the Alcohol and Drug Policy Commission to develop curricula regarding the dangers of synthetic opioids, including fentanyl, and regarding laws that provide immunity or protection for people who report drug or alcohol use or seek treatment for drug or alcohol overdoses for themselves or others.

SB 238 takes effect on January 1, 2024.

2. SB 1043 (Chapter 297) Opioid reversal medication upon discharge from substance use disorder treatment

This bill requires hospitals, long term care facilities, sobering facilities, residential care facilities, residential treatment facilities, and residential treatment homes that provide treatment for opioid use disorder to provide patients with at least two doses of an opioid overdose reversal medication upon the patient’s discharge or transfer.

The bill prevents the imposition of civil liability when the provider of the opioid overdose reversal medication is acting in good faith and the act does not constitute wanton misconduct.

The requirements of the bill do not apply if a patient leaves the hospital against medical advice.

The bill requires the Oregon Health Authority to facilitate access to opioid overdose reversal medications to the aforementioned facilities.
SB 1043 takes effect on January 1, 2024.

3. **HB 2395** (Chapter 593) **Short-acting opioid antagonists**

This bill is a response to the opioid crisis and declares a peace, health, and safety emergency.

This bill redefines “opioid” as a “natural, synthetic, or semisynthetic chemical that interacts with opioid receptors on nerve cells in the body and brain to reduce the intensity of pain signals and feelings of pain.” The new definition eliminates the previous definition, which defined opioids based on their chemical components.

The bill defines “[s]hort-acting opioid antagonist” as “any short-acting drug approved by the United States Food and Drug Administration for the complete or partial reversal of an opioid overdose.” “Short-acting opioid antagonist” replaces all references to “dose of naloxone” in the bill.

The bill permits law enforcement officers, firefighters, and emergency medical services providers to distribute and administer short-acting opioid antagonists. Multiple kits containing the same may be distributed to an individual who is likely to experience an opioid overdose, family members of an individual who is likely to experience an opioid overdose, and any individual who requests one or more kits.

The bill requires school district boards to provide parents and legal guardians of minor students with information regarding short-acting opioid antagonists. The bill requires school district boards to immediately notify parents or legal guardians of a minor student when a short-acting opioid antagonist is administered to that student while they are at school, on school property, or at any activity under the jurisdiction of the school district.

The bill permits school employees to administer short-acting opioid antagonists to a student experiencing an opioid overdose without written permission of the student’s parents or guardians.

The bill allows a cause of action for the grossly negligent administration of a short-acting opioid antagonist by a school employee, the school district, or a member of the district school board. No other actions may be maintained for injury, death, or loss resulting from acts or omissions of school district employees during the administration of a short-acting opioid antagonist.

The bill permits mental health care providers to provide minors under 15 years of age with single-use drug test strips or tools intended to limit the transmission of infectious diseases or prevent injury, infection, or overdose. The bill provides immunity from civil liability to persons acting in
good faith for any act or omission committed during the course of distributing the aforementioned items.

The bill requires the Oregon Health Authority to provide guidance to local mental health authorities to improve notifications and information sharing when an individual under 24 years old dies and the presumed cause of death is suspected overdose.

HB 2395 took effect on August 4, 2023.

IX. PHARMACY

1. **SB 970** (Chapter 93) Pharmacy definitions

   The bill redefines “nonprescription drug outlet” as a business or other establishment that is open to the general public for the sale or nonprofit distribution of nonprescription drugs and is registered under ORS 689.305.

   The bill redefines “third-party logistics provider” as an entity that (a) provides or coordinates warehousing of, or other logistics services for, a product in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the product; and (b) does not take ownership of, or have responsibility to direct the sale or disposition of, the product.

   SB 970 takes effect on September 24, 2023.

2. **HB 2278** (Chapter 240) Administering flu shot to those 6 months or older

   This bill authorizes pharmacists to administer the influenza vaccine to persons six months of age or older.

   HB 2278 takes effect on September 24, 2023.

3. **HB 2486** (Chapter 306) Vaccine administration

   The bill permits pharmacists, or pharmacy technicians under the supervision of a pharmacist, to administer vaccines.

   HB 2486 took effect on July 18, 2023.

4. **HB 3258** (Chapter 438) Reporting of dispensation of controlled substances
This bill requires pharmacies to report dispensation of prescription drugs classified in schedules II through V under the federal Controlled Substances Act to an electronic system established for monitoring and reporting prescription drugs when any such drug is prescribed and dispensed to an individual.

The bill permits pharmacists to receive prescription drug monitoring information when dispensing prescription drugs for which reporting is required.

The bill requires the Oregon Health Authority to contract an IT services vendor to ensure the interoperability of the electronic monitoring system.

Short-acting opioid antagonists are not subject to the prescription monitoring program.

HB 3258 takes effect on September 24, 2023.

X. PERSCRIPTION DRUGS

1. **SB 192** *(Chapter 466)* Pharmacy benefit manager annual reports; cost limits on drugs

The bill requires pharmacy benefit managers to file a report containing the aggregated dollar amount of rebates, fees, price protection payments, and other payments received from prescription drug manufacturers. Information submitted under this section is confidential and not subject to disclosure, except for an annual aggregate report published on the website of the Department of Consumer and Business Services.

The bill requires the Prescription Drug Affordability Board to develop a plan for establishing upper payment limits on drugs sold in Oregon. The Prescription Drug Affordability Board must report to the Legislative Assembly by September 15, 2024.

SB 192 takes effect on September 24, 2023.

2. **SB 608** *(Chapter 184)* Pharmacy dispensing costs

The bill requires the Oregon Health Authority to conduct a survey of retail pharmacies enrolled as Medicaid providers to determine the costs of dispensing prescriptions. If the survey indicates a change is needed, the Oregon Health Authority is required to submit a request for state plan amendment to the Centers for Medicare and Medicaid Services.

SB 608 took effect on June 7, 2023.

3. **HB 2725** *(Chapter 509)* Pharmacy benefit claim payments
This bill prohibits a pharmacy benefit manager from retroactively denying or reducing payment on a claim after adjudication unless the pharmacy and pharmacy benefit manager agree that payment was incorrect due to clerical error.

The bill requires notice to a pharmacy for any claim for reimbursement that is reduced or denied. The notice must identify the specific claim and a detailed explanation for why the specific claim was reduced or denied.

HB 2725 takes effect on July 31, 2023.

XI. MISCELLANEOUS

1. **SB 229** *(Chapter 89)*  “Adverse event” definition

The bill defines “adverse event” as an objective and definable negative consequence of patient care, or the risk of an objective and definable negative consequence of patient care, that: (a) is unanticipated and usually preventable; and (b) results in or presents a risk of resulting in physical injury to the patient.

SB 229 takes effect on January 1, 2024.

2. **SB 303** *(Chapter 150)*  Psilocybin service center data

The bill requires psilocybin service centers to collect data including client demographics, reasons for which a client requested psilocybin services, number of clients served, number of sessions provided, number of individuals to whom the service center denied psilocybin, and the number and severity of adverse behavioral and medical reactions.

The bill requires the service center to submit the data to the Oregon Health Authority. The Oregon Health Authority will aggregate and submit the data to Oregon Health and Science University to evaluate the outcomes of psilocybin services.

SB 303 takes effect on September 24, 2023.

3. **SB 418** *(Chapter 142)*  Temporary disability benefits

Prior to the passage of this bill, an injured worker was required to leave work for at least four hours for the purpose of receiving compensable medical services before eligibility for temporary disability benefits. The bill removes the minimum absence requirement.

SB 418 took effect on June 1, 2023.
4. **SB 420** (Chapter 573) **“Brain injury” definition; Brain Injury Advisory Committee**

This bill defines “brain injury” as damage to the brain from an internal or external source that results in total or partial impairment in critical functions, including but not limited to attention, memory, reasoning, problem solving, processing speed, decision-making, learning, perception, sensing, speech and language, or motor and physical function or psychosocial behavior, and that is of sufficient severity to produce partial or total disability. The bill requires the Department of Human Services to provide service coordination, resource navigation, advocacy, and options counseling to individuals with brain injuries.

The bill also requires the Department of Human Services to convene a Brain Injury Advisory Committee to advise on the development of brain injury programs and services.

The bill declares a state of emergency.

SB 420 took effect on July 31, 2023.

5. **SB 523** (Chapter 287) **Community college nursing degrees**

This bill authorizes community colleges to offer Bachelor of Science in nursing degrees.

SB 523 takes effect on January 1, 2024.

6. **SB 558** (Chapter 109) **Hearing aid regulation**

The bill exempts over-the-counter hearing aids from regulation by the Advisory Council on Hearing Aids and Health Licensing Office and permits the sale of hearing aids by direct mail.

This bill declares a state of emergency.

SB 558 took effect on May 19, 2023.

7. **SB 573** (Chapter 157) **Modification of birth records**

This bill permits a person, who is age 21 or older and whose original record of live birth was sealed under ORS 432.245 and was later opened under ORS 432.250, to apply to the Center for Health Statistics to add or change the name of a biological parent on the original record of live birth when paternity or parentage has been determined by DNA or other means.

The bill requires that the person seeking to add or change the name of a biological parent include in their application evidence of a DNA test or other evidence that shows the person to be added is the biological parent of the applicant as well as an affidavit attesting that the person is the
biological parent of the applicant. If the biological parent of the applicant is deceased, the applicant must submit an affidavit from the personal representative or relative of the deceased.

If the name of a biological parent is entered under this section, only a noncertified copy of the record of live birth may be obtained. A notation indicating that the record was amended must be shown on all copies of the record.

The bill requires the Center for Health Statistics to adopt rules regarding the application process, evidentiary requirements, collection of fees, and the registration and issuance of noncertified copies of the amended record of live birth.

SB 573 takes effect on January 1, 2024.

8. **SB 965** (Chapter 199) Off-site investigation of hospice programs; hemodialysis technician certificate requirements; Oregon Health Advisory Board membership

The bill requires the Oregon Health Authority to conduct off-site investigations of hospice programs within 60 days of receiving a complaint.

The bill permits the Oregon Health Authority to require the fingerprints of a person who is applying for a hemodialysis technician certificate. The Oregon Health Authority may issue a hemodialysis technician a certificate by reciprocity.

The bill modifies the membership of the Oregon Health Advisory Board to include 18 members.

SB 965 takes effect on January 1, 2024.

9. **HB 2128** (Chapter 401) Tobacco product manufacturer payments

On November 23, 1998, Oregon and 45 other states (the “Settling States”) ended a four-year legal battle with the four largest domestic tobacco manufacturers (Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation, and Lorillard Tobacco Company). The executed Tobacco Master Settlement Agreement settled all past, present, and future smoking-related claims made by the settling states.

This bill requires tobacco product manufacturers who have not entered into the Master Settlement Agreement with the State of Oregon to pay the state an amount intended to prevent the tobacco product manufacturers from deriving large short-term profits and then becoming judgment proof. The bill is intended to increase the retail prices of cigarettes sold by manufacturers and to serve as partial compensation for the financial burdens imposed on the state by cigarette smoking.
More specifically, the bill requires tobacco manufacturers who have not entered into the Master Settlement Agreement to pay $0.0188482 per unit sold between 2007-2023. The funds assigned to the State are to be deposited in the Oregon Health Authority Fund established under ORS 413.101 and used for the expenses of the Oregon Health Plan.

Tobacco manufacturers who have not entered into the Master Settlement Agreement as participating manufacturers are liable for an equity assessment for units sold within the State of Oregon after January 1, 2024 at a rate of $0.0188482 per unit sold. These manufacturers must annually certify to the Attorney General that they are in compliance and submit the required equity assessment by April 15 of the year following the sales year at issue.

Failure to comply may result in imposition of civil penalties in an amount not to exceed 15% of the amount improperly withheld per day of the violation, and in total not to exceed 300% of the original amount improperly withheld. The amount of civil penalty assessed will depend on whether the violation was knowing. In the case of a second knowing violation, the manufacturer will be prohibited from selling cigarettes to consumers within the state for a period not to exceed two years.

Importers are jointly and severally liable with tobacco product manufacturers for the equity assessments and may be sued to the same extent as tobacco product manufacturers.

HB 2128 takes effect on January 1, 2024.

10. **HB 2279**  (Chapter 241) **Repeal of Death with Dignity residency requirement**

On October 27, 1997, Oregon enacted the Death with Dignity Act, which allows terminally ill individuals to end their lives through the voluntary self-administration of lethal medications expressly prescribed by a physician for that purpose.

HB 2279 repeals the Oregon residency requirement that was enacted as part of the original Oregon Death with Dignity Act.

HB 2279 took effect on July 13, 2023.

11. **HB 2286**  (Chapter 244) **Enhanced federal match to Indian health care providers**

This bill requires the Oregon Health Authority to maintain a process for identifying eligible claims for an enhanced federal match for items or services provided by a nontribal provider who has a written care coordination agreement with an Indian health care provider. It requires the OHA to establish a mechanism to return a portion of the enhanced federal match to the
HEALTH LAW

Indian health care provider who has a written care coordination agreement with the nontribal provider.

HB 2286 takes effect on January 1, 2024.

12. **HB 2447** *(Chapter 84) Declarations of deceased depositors*

This bill requires the Department of Human Services and Oregon Health Authority to provide declarations of deceased depositors to financial institutions between 46–76 days after the death of the depositor.

HB 2447 takes effect on January 1, 2024.

13. **HB 3626** *(Chapter 561) Infant safe surrender period*

This bill extends the safe surrender period for anonymously leaving an infant at an authorized facility to 60 days from the infant's date of birth. Authorized facilities must post and maintain signage outside of the facility notifying the public of the facility’s safe surrender program.

HB 3626 takes effect on January 1, 2024.
Housing and Land Use

1. SB 611 (Ch. 226) Rent Increases
2. SB 718 (Ch. 185) Forfeiture of Water Rights
3. SB 1013 (Ch. 295) RV siting
4. SB 1069 (Ch. 296) Notice by Email
5. HB 2001 (Ch. 13) Evictions
6. HB 2634 (Ch. 250) RV Tenancies
7. HB 2680 (Ch. 319) Applicant Screening Charges
8. HB 2898 (Ch. 327) RV siting
9. HB 3294 (Ch. 342) Redactions in Recorded Instruments
10. HB 3443 (Ch. 549) Victims of Bias Crimes

The Oregon State Bar would like to thank OSB members Kevin Mehrens Emily Rena-Dozier, Brian Cox, and Tony Kullen for their contributions to this chapter.
1. **SB 611** *(Chapter 226)* **Rent Increases**

SB 611 amends the cap on rent increases in residential tenancies to limit price hikes during high-inflation periods. Previously, Oregon law capped rent increases at 7% plus the annual consumer price index (CPI). Because the CPI in 2022-23 was so high, annual rent increases of up to 14.6% were permitted.

To prevent similar increases in future, SB 611 amends ORS 90.323, 90.324, and 90.600 to limit rent increases to the lesser of 7% plus CPI (the current cap) or 10%. In other words, in high-inflation years, the maximum rent increase for residential tenancies is 10%. In years with lower inflation, the maximum increase would be lower. This change adds predictability for landlords and tenants, who now know what the maximum annual rent increase can be and can budget accordingly. SB 611 also limits rent increases to once in any 12-month period.

SB 611 does not change existing provisions exempting from the rent-increase cap residential landlords who rent units that have certificates of occupancy less than 15 years old, or units that are subsidized and the increase either does not increase the tenant’s portion of the rent or is required by the terms of the subsidy program.

SB 611 took effect on July 6, 2023, and applies to all notices of rent increase issued on or after that date.

2. **SB 718** *(Chapter 185)* **Forfeiture of Water Rights**

Ordinarily if a water right holder fails to use part or all of the water right for a period of five years, that nonuse establishes a rebuttable presumption of forfeiture of part or all of the water right.

SB 718 provides that if the Governor declares that a drought exists, or is likely to exist, in the county, then that year does not count toward the time for forfeiture of that water right.

SB 718 takes effect on January 1, 2024.

3. **SB 1013** *(Chapter 295)* **RV Siting**

SB 1013 allows a county government to permit an owner of a lot or parcel in a rural area to site a single recreational vehicle on the property for residential use.

The term “Rural area” is defined to include either an “an area zoned for rural residential use as defined in ORS 215.501” (which applies only to land outside an urban growth boundary) or “land that is within the urban growth boundary of a metropolitan service district, but not within the jurisdiction of any city, and zoned for residential use.”
Under SB 1013, the RV siting is permissible only if several criteria are met, including that the primary single-family dwelling on the property is the primary residence of the property owner, and that no portion of the primary residence be rented as a residential tenancy. Additionally, the RV itself must be owned or leased by the tenant.

SB 1013 takes effect on January 1, 2024.

4. **SB 1069** *(Chapter 296)*  **Notice by Email**

SB 1069 amends ORS 90.155 and related statutes to permit residential landlords and tenants to serve notices by email, if the parties agree to do so by separate written addendum to the rental agreement.

SB 1069 also allows landlords to return funds to tenants, including security deposits and rent refunds, by electronic means, if the parties have agreed to such electronic delivery in a written agreement. Significantly, however, notices terminating a tenancy, if served by email, must also be served by first class mail.

SB 1069 takes effect on January 1, 2024.

5. **HB 2001** *(Chapter 13)*  **Evictions**

HB 2001 modifies the rights and obligations of landlords and tenants in Oregon. The bill expands the protections afforded to tenants under the Oregon Residential Landlord Tenant Act (ORLTA) and has several effects.

First, the bill allows a tenant to pay any past-due rent to a landlord at any time during an eviction case for non-payment of rent in order to dismiss the case. This functions as a redemption right for the tenant. If it is the day before an eviction trial, the tenant can tender past due rent to the landlord and the case will be dismissed. If this happens, the tenant will not be allowed to recover their attorney fees or costs and the landlord can recover their filing fees. As a practical matter, a dismissal after a tenant tenders past-due rent means neither party will be considered the prevailing party for the purpose of attorney fees and costs under ORS 90.225. This gives Oregon tenants extra time, if they fell behind on rent for whatever reason, to get back on track and avoid being saddled with an eviction on their record.

Second, the bill extends the time periods for the right to cure a past-due rent under ORS 90.394. The statute is modified to allow either 10 days or 13 days to cure unpaid rent before an eviction can be filed. Previously, a landlord could issue a 72-hour notice of unpaid rent on the eighth day of the rental period or a 144-hour notice on the fifth day of the rental period. Both are functionally identical in that they require the tenant to cure the unpaid rent by the eleventh day of the rental period.
Under HB 2001, the landlord can give 10 days’ notice on the eighth day of the rental period or 13 days’ notice on the fifth day of the rental period. This means the tenant can cure unpaid rent up to the 19th day of the rental period. This gives a tenant who falls behind on rent an additional eight days to pay the rent without the landlord being able to file an eviction case.

Third, the bill imposes additional inquiry requirements by the court prior to entering a default judgement against a tenant who declined to appear at an eviction hearing first appearance. Previously, if a tenant did not appear at the initial hearing in an eviction case, the landlord was automatically granted a default judgment for possession. Under the new standard, the court is required to make an independent finding that the complaint complies with certain procedural and technical requirements imposed by law. These technical and procedural requirements are frequently some of the most effective defenses a tenant has to eviction, but without a lawyer to identify and explain them, very few tenants would recognize they have such a defense. In addition, the landlord is required to submit an affidavit swearing under oath that the tenant is still in possession of the premises prior to obtaining a default.

Finally, the bill sets up a system for the court to automatically set aside old eviction convictions. The court is required to annually conduct an internal, independent inquiry as to what eviction judgements have been satisfied and seal those records. Qualifying judgments are those where (1) any money award has expired or been satisfied or discharged, and (2) at least five years have passed from the date of judgement, or the judgement was by stipulation of the parties and twelve months have passed from the date of judgement. If an eviction is set aside, any prospective tenant when asked the question, “have you ever had an eviction entered against you?” can truthfully and legally answer, “no.”

HB 2001 took effect on March 29, 2023.

6. **HB 2634** (Chapter 250) **RV Tenancies**

HB 2634 creates a definition of “Recreational Vehicle Park” under the Oregon Residential Landlord Tenant Act (ORTLA) that cross-references to the definition in ORS 197.492. The bill provides that provisions of ORTLA relating to manufactured dwelling facilities do not apply to RV parks.

The bill additionally expands the definition of “Vacation Occupancy” under the Act to include rental of space in Recreational Vehicle Parks when the occupancy is for less than 90 days, the occupancy is for vacation purpose only, the occupant has a primary residence, and notification provisions are met. Under current law, vacation occupancies are generally exempt from the Oregon Residential Landlord Tenant Act.
Finally, the bill permits a landlord to dispose of abandoned recreational vehicles if the value is less than $4000.

HB 2634 takes effect on January 1, 2024.

7. **HB 2680** (Chapter 319) **Applicant Screening Charges**

HB 2680 makes several changes to statutes related to landlords accepting applicant screening fees.

First, the bill requires that a landlord provide the applicant with a confirmation that a screening by either a tenant screening company or a credit report agency has occurred, including sending the tenant a copy of a receipt from the screening entity.

Second, the bill provides that a landlord must refund the screening charge within 30 days, if the applicant is not screened.

8. **HB 2898** (Chapter 327) **RV Siting**

HB 2898 extends the time period that an RV may be sited and occupied as a dwelling on the lot of a single family home or of a manufactured home that was damaged in a natural disaster.

In 2021, the legislature passed HB 2809, which allowed an RV to be used as a dwelling for up to 24 months following a natural disaster that made the primary dwelling uninhabitable. HB 2898 extends this time period to five years.

HB 2898 takes effect on January 1, 2024.

9. **HB 3294** (Chapter 342) **Redaction in Recorded Instruments**

HB 3294 provides for the redaction of discriminatory language in historical conveyance instruments. Under the bill:

“The owner of the property or the owner of any portion of the property subject to the provision may cause the provision to be stricken from the public records described in ORS 205.130 by filing a petition in the circuit court for the county in which the property is located.”

This is an In rem declaratory relief action filed by owner; no other necessary parties need be named. Under the bill the order must include a redacted copy of the instrument itself. If approved by the court, the county clerk shall record the order and redacted instrument, and index to the redacted instrument. The original, un-redacted instrument is maintained for archival purposes.
10. **HB 3443** (Chapter 549) 

**Victims of Bias Crimes**

HB 3443 makes several changes to Oregon law in order to protect Oregonians who are the victim of a bias crime. “Bias Crime” is defined in HB 3443 to include a person who is a victim of the crimes of Bias Crime in either the first or second degree (ORS 166.165 and ORS 166.155 respectively.)

Among other changes, the bill amends ORS Chapter 90 to include victims of bias crimes in several provisions that currently protect victims of domestic violence, sexual assault or stalking. These include providing that residential tenants are not responsible for damage to property that results from a bias crime, and prohibiting landlords from terminating or failing to renew a tenancy because the tenant was the victim of a bias crime. The bill also permits a landlord to more easily evict a tenant who is the perpetrator of a bias crime.

HB 3443 takes effect on January 1, 2024.
**BILL INDEX**

The chapter number in the parenthetical (Ch. XX) refers to the 2023 Oregon Laws chapter number.

| SB 31  | (Ch. 66) | 7-11 | SB 326 | (Ch. 209) | 4-3 |
| SB 82  | (Ch. 67) | 1-2  | SB 337  | (Ch. 281) | 4-10, 6-5 |
| SB 91  | (Ch. 367) | 7-11 | SB 340  | (Ch. 151) | 4-4 |
| SB 168 | (Ch. 268) | 6-5  | SB 343  | (Ch. 176) | 4-3 |
| SB 184 | (Ch. 101) | 5-4  | SB 376  | (Ch. 152) | 7-11 |
| SB 189 | (Ch. 269) | 7-7  | SB 410  | (Ch. 90)  | 7-17 |
| SB 192 | (Ch. 466) | 7-23 | SB 411  | (Ch. 91)  | 7-7 |
| SB 207 | (Ch. 68) | 6-7  | SB 418  | (Ch. 142) | 7-24 |
| SB 216 | (Ch. 69) | 7-10 | SB 420  | (Ch. 573) | 7-25 |
| SB 226 | (Ch. 275) | 7-16 | SB 463  | (Ch. 106) | 7-12 |
| SB 227 | (Ch. 276) | 7-16 | SB 490  | (Ch. 574) | 7-4 |
| SB 229 | (Ch. 89) | 7-24 | SB 519  | (Ch. 182) | 4-10 |
| SB 232 | (Ch. 147) | 7-16 | SB 523  | (Ch. 287) | 7-25 |
| SB 234 | (Ch. 133) | 6-2  | SB 529  | (Ch. 108) | 4-3 |
| SB 238 | (Ch. 134) | 7-20 | SB 536  | (Ch. 143) | 3-2 |
| SB 303 | (Ch. 150) | 7-24 | SB 558  | (Ch. 109) | 7-25 |
| SB 305 | (Ch. 71) | 2-2  | SB 569  | (Ch. 144) | 3-3 |
| SB 306 | (Ch. 72) | 6-2  | SB 573  | (Ch. 157) | 5-6, 7-25 |
| SB 307 | (Ch. 16) | 3-2  | SB 577  | (Ch. 27)  | 4-4 |
| SB 308 | (Ch. 17) | 5-7  | SB 581  | (Ch. 75)  | 4-3 |
| SB 309 | (Ch. 18) | 5-8, 6-7 | SB 607 | (Ch. 183) | 7-6 |
| SB 310 | (Ch. 103) | 3-2  | SB 608  | (Ch. 184) | 7-23 |
| SB 311 | (Ch. 104) | 2-2  | SB 611  | (Ch. 226) | 8-2 |
| SB 317 | (Ch. 105) | 4-8  | SB 615  | (Ch. 158) | 4-4 |
| SB 321 | (Ch. 368) | 4-8  | SB 618  | (Ch. 288) | 4-9 |
| INDEXES |
|------------------|-------------------|-------------------|
| SB 619 (Ch. 369) | 3-3, 7-10         | SB 1069 (Ch. 296) | 8-3   |
| SB 628 (Ch. 111) | 7-12              | SB 1089 (Ch. 613) | 7-13  |
| SB 629 (Ch. 92)  | 7-7               | SB 5506 (Ch. 605) | 6-3   |
| SB 797 (Ch. 113) | 7-12              | SB 5512 (Ch. 380) | 6-3   |
| SB 806 (Ch. 139) | 5-5               | HB 2001 (Ch. 13)  | 8-3   |
| SB 807 (Ch. 289) | 6-2               | HB 2002 (Ch. 228) | 7-4   |
| SB 810 (Ch. 114) | 4-5               | HB 2005 (Ch. 229) | 4-11  |
| SB 816 (Ch. 140) | 5-6               | HB 2032 (Ch. 20)  | 5-2   |
| SB 864 (Ch. 77)  | 2-2               | HB 2045 (Ch. 393) | 7-5   |
| SB 867 (Ch. 141) | 4-9               | HB 2052 (Ch. 395) | 3-4, 7-10 |
| SB 895 (Ch. 194) | 4-11              | HB 2095 (Ch. 33)  | 4-12  |
| SB 901 (Ch. 195) | 5-7               | HB 2108 (Ch. 34)  | 1-2   |
| SB 912 (Ch. 120) | 7-12              | HB 2112 (Ch. 35)  | 6-8   |
| SB 954 (Ch. 216) | 4-9               | HB 2128 (Ch. 401) | 7-26  |
| SB 957 (Ch. 198) | 4-5               | HB 2129 (Ch. 234) | 4-6   |
| SB 965 (Ch. 199) | 7-26              | HB 2225 (Ch. 302) | 6-4   |
| SB 966 (Ch. 584) | 7-7               | HB 2235 (Ch. 493) | 7-6   |
| SB 970 (Ch. 93)  | 7-22              | HB 2278 (Ch. 240) | 7-22  |
| SB 972 (Ch. 585) | 7-13              | HB 2279 (Ch. 241) | 7-27  |
| SB 974 (Ch. 200) | 4-5               | HB 2282 (Ch. 42)  | 7-14  |
| SB 994 (Ch. 121) | 6-6               | HB 2286 (Ch. 244) | 7-27  |
| SB 1013 (Ch. 295) | 8-2             | HB 2316 (Ch. 498) | 4-6   |
| SB 1033 (Ch. 122) | 6-7             | HB 2324 (Ch. 14)  | 2-3   |
| SB 1041 (Ch. 468) | 7-13          | HB 2325 (Ch. 5)   | 6-4   |
| SB 1043 (Ch. 297) | 7-20           | HB 2328 (Ch. 407) | 4-7   |
| SB 1052 (Ch. 217) | 4-5            | HB 2329 (Ch. 11)  | 5-7   |
| SB 1060 (Ch. 205) | 4-9            | HB 2330 (Ch. 83)  | 3-4   |

INDEX - 2
<table>
<thead>
<tr>
<th>Index</th>
<th>(Ch.)</th>
<th>Pages</th>
<th>Index</th>
<th>(Ch.)</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>HB 2395</td>
<td>593</td>
<td>7-21</td>
<td>HB 2921</td>
<td>421</td>
<td>7-9</td>
</tr>
<tr>
<td>HB 2421</td>
<td>500</td>
<td>7-6</td>
<td>HB 2982</td>
<td>85</td>
<td>1-2</td>
</tr>
<tr>
<td>HB 2426</td>
<td>607</td>
<td>3-5</td>
<td>HB 2994</td>
<td>424</td>
<td>7-14</td>
</tr>
<tr>
<td>HB 2446</td>
<td>247</td>
<td>7-14</td>
<td>HB 3008</td>
<td>425</td>
<td>7-15</td>
</tr>
<tr>
<td>HB 2447</td>
<td>84</td>
<td>7-28</td>
<td>HB 3111</td>
<td>50</td>
<td>6-9</td>
</tr>
<tr>
<td>HB 2486</td>
<td>306</td>
<td>7-22</td>
<td>HB 3141</td>
<td>52</td>
<td>6-4</td>
</tr>
<tr>
<td>HB 2490</td>
<td>307</td>
<td>7-10</td>
<td>HB 3167</td>
<td>257</td>
<td>6-9</td>
</tr>
<tr>
<td>HB 2535</td>
<td>311</td>
<td>4-3, 7-5</td>
<td>HB 3200</td>
<td>57</td>
<td>1-3</td>
</tr>
<tr>
<td>HB 2572</td>
<td>312</td>
<td>2-3</td>
<td>HB 3223</td>
<td>436</td>
<td>7-18</td>
</tr>
<tr>
<td>HB 2574</td>
<td>411</td>
<td>7-8</td>
<td>HB 3258</td>
<td>438</td>
<td>7-22</td>
</tr>
<tr>
<td>HB 2584</td>
<td>314</td>
<td>7-17</td>
<td>HB 3294</td>
<td>342</td>
<td>8-5</td>
</tr>
<tr>
<td>HB 2594</td>
<td>315</td>
<td>4-7</td>
<td>HB 3300</td>
<td>439</td>
<td>7-19</td>
</tr>
<tr>
<td>HB 2627</td>
<td>335</td>
<td>7-7</td>
<td>HB 3320</td>
<td>263</td>
<td>7-15</td>
</tr>
<tr>
<td>HB 2634</td>
<td>250</td>
<td>8-4</td>
<td>HB 3396</td>
<td>441</td>
<td>7-9</td>
</tr>
<tr>
<td>HB 2645</td>
<td>413</td>
<td>4-7</td>
<td>HB 3412</td>
<td>87</td>
<td>7-19</td>
</tr>
<tr>
<td>HB 2665</td>
<td>506</td>
<td>7-17</td>
<td>HB 3425</td>
<td>346</td>
<td>7-19</td>
</tr>
<tr>
<td>HB 2680</td>
<td>319</td>
<td>8-5</td>
<td>HB 3443</td>
<td>549</td>
<td>4-8, 8-6</td>
</tr>
<tr>
<td>HB 2696</td>
<td>414</td>
<td>7-17</td>
<td>HB 3560</td>
<td>555</td>
<td>2-3</td>
</tr>
<tr>
<td>HB 2697</td>
<td>507</td>
<td>7-9</td>
<td>HB 3596</td>
<td>447</td>
<td>7-20</td>
</tr>
<tr>
<td>HB 2725</td>
<td>509</td>
<td>7-23</td>
<td>HB 3626</td>
<td>561</td>
<td>7-28</td>
</tr>
<tr>
<td>HB 2759</td>
<td>322</td>
<td>3-5</td>
<td>HB 3632</td>
<td>265</td>
<td>4-10</td>
</tr>
<tr>
<td>HB 2772</td>
<td>608</td>
<td>4-7</td>
<td>ORCP 7</td>
<td></td>
<td>2-4</td>
</tr>
<tr>
<td>HB 2805</td>
<td>417</td>
<td>6-8</td>
<td>ORCP 39</td>
<td></td>
<td>2-5</td>
</tr>
<tr>
<td>HB 2806</td>
<td>252</td>
<td>6-9</td>
<td>ORCP 55</td>
<td></td>
<td>2-5</td>
</tr>
<tr>
<td>HB 2817</td>
<td>418</td>
<td>7-18</td>
<td>ORCP 57</td>
<td></td>
<td>2-5</td>
</tr>
<tr>
<td>HB 2898</td>
<td>327</td>
<td>8-5</td>
<td>ORCP 58</td>
<td></td>
<td>2-6</td>
</tr>
<tr>
<td>HB 2915</td>
<td>420</td>
<td>3-5</td>
<td>ORCP 69</td>
<td></td>
<td>2-6</td>
</tr>
</tbody>
</table>