

### What Does HB 3242-A do?

- HB 3242 expands Oregon’s current recording statute in ORS 133.400 by requiring the electronic recording of a youth when subjected to a custodial interview at a law enforcement facility.

### Why is HB 3242-A Necessary?

- **Electronic Recording of Interviews with Youths is a Nationally Recognized Best Practice:**
  - Rules requiring electronic recording of interrogations exist in 16 states and D.C., and “nearly every other state is currently considering legislation.”<sup>1</sup>
  - “More than 450 police departments in all 50 states have voluntarily adopted electronic recording Policies.”<sup>2</sup>
  - Feedback from law enforcement in states that record is consistently positive.<sup>3</sup>
- **Recording Interviews of Youths is Best Practice because Electronic Recording:**
  - Increases transparency and procedural due process in the juvenile justice system;
  - Increases the public’s trust in law enforcement thereby increasing public safety;
  - Allows fact-finders, prosecutors, and defense attorneys alike to objectively assess a confession for compliance with Miranda, reliability, and voluntariness;
  - Allows claims of coercion to be objectively considered and disposed of when merited; and
  - Reduces frequency and duration of costly evidence suppression litigation.<sup>4</sup>
- **Youth are two to three times more likely to *falsely* confess during interrogations than adults:**
  - Studies have shown that youth exonerated by DNA evidence falsely confessed at a rate of 31.1% compared to exonerated adults at 17.8%.<sup>5</sup> Other studies have shown that of 340 exonerations by DNA, 42% of juveniles has falsely confessed compared to only 13% of adults.<sup>6</sup>
  - False confessions are very high among youth. The prefrontal cortex is responsible for judgment, problem-solving and decision-making, yet isn’t fully developed until a person reaches their early twenties. Youth are at risk to falsely confess for the same reasons they are at risk for dangerous or illegal behavior:
    - ✓ **Impulsivity:** Youth have difficulty weighing and assessing risks (“*This can’t be that big of a deal.*”)
    - ✓ **Vulnerability to pressure and suggestibility:** Youth are vulnerable to external pressure, which can result in suggestibility and negative decision-making when surrounded by pressured interrogation.
    - ✓ **Motivated by short-term rewards:** Youth place emphasis on immediate rewards rather than long-term consequences (“*I’ll just say what they obviously want me to say so I can get out of here and go home.*”)

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<sup>1</sup> International Association of Chiefs of Police, “Reducing Risks: An Executive’s Guide to Effective Juvenile Interview and Interrogation,” 2012 at 12 citing Grant Fredericks, “Electronic Recording of Interrogations: A Need for Standards and Education for Local & State Law Enforcement Agencies” (Proposal to the International Association of Chiefs of Police, 2012).

<sup>2</sup> Id.

<sup>3</sup> Joshua Tepfer, Laura Nirider & Lynda Tricarico, “Arresting Development: Convictions of Innocent Youth,” Rutgers Law Review 62, no. 4 (2010) at 916-917; and supra note 1 at 12.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Samuel Gross, et al, “Exonerations in the United States 1989 through 2003,” Journal of Criminal Law and Criminology, 95 no. 2 (2005) at 545.