

SB 261 A STAFF MEASURE SUMMARY

Carrier: Sen. Gelser

Senate Committee On Judiciary

Action Date: 04/18/17

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 5-0-0-0

Yeas: 5 - Dembrow, Linthicum, Manning Jr, Prozanski, Thatcher

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Josh Nasbe, Counsel

WHAT THE MEASURE DOES:

Provides that evidence in civil proceeding involving sexual misconduct is inadmissible if offered to prove alleged victim's sexual predisposition or past sexual behavior. Creates exception if alleged victim places evidence in controversy and probative value of evidence substantially outweighs danger of harm and unfair prejudice. Establishes in camera procedure for court to determine whether to admit evidence.

ISSUES DISCUSSED:

- Federal government and 17 states protect victims in civil proceedings
- Prevalence of sexual assault
- Justice in civil proceedings is empowering; victim has control

EFFECT OF AMENDMENT:

Modifies language to provide that court records are confidential and to require party filing motion to note confidentiality in caption.

BACKGROUND:

ORS 40.210 is Oregon's "rape shield" statute. The statute applies in a criminal prosecution for a sex crime and regulates the admissibility of the victim's past sexual behavior and manner of dress. Pursuant to this statute, a court may admit this evidence only if, after an in camera hearing, the court determines that the evidence is relevant and that the probative value of the evidence outweighs the danger of unfair prejudice. Senate Bill 261-A creates a similar rule applicable in civil proceedings involving alleged sexual misconduct.