



DEPARTMENT OF JUSTICE
ATTORNEY GENERAL'S OFFICE

MEMORANDUM

DATE: February 8, 2018

TO: Honorable Floyd Prozanski, Chair
Senate Committee on Judiciary

FROM: Aaron Knott, Legislative Director
Oregon Attorney General's Office

SUBJECT: Senate Bill 1543 – Public Safety Omnibus Bill

This testimony is presented on Senate Bill 1543, which contains multiple discrete concepts pertinent to the bill's relating clause. The Department of Justice has an interest in multiple aspects of this bill, as detailed below.

SECTION 1: BATTERERS' INTERVENTION PROGRAMS (RELATED: - 12 AMENDMENTS)

Under ORS 180.700, the Attorney General is required to appoint an advisory committee to assist in the adoption of administrative rules (OARs) governing batterers' intervention programs (BIPs). BIPs are a treatment option for the perpetrators of domestic violence. BIPs exist in all 50 states, and are governed by a structure of OARs designed to promote demonstrated best practices, limit practices known to be ineffective, and encourage consistency across differing jurisdictions. Current OAR language is written specifically for intervention services provided to male batterers who engage in battering against women, and include a statement recognizing that the rules do not address programs for all offenders, reflecting the overwhelming majority of battering as committed by men against women.

Sec. 1 of SB 1543 would modify the composition of the committee itself by requiring the inclusion of a psychiatrist or psychologist, and would require the rules promulgated to apply to all genders, be evidence-based and be designed to reduce recidivism. While a recognition that domestic violence can also be committed by women against men and within same sex relationships is appropriate, best practices reflect a differentiated treatment approach between genders. As such, the Department of Justice endorses the language contained within the -12 amendments which would require the creation of separate standards for programs that address male, female, same-sex and gender nonconforming defendants. This preserves the desire of Sec. 1 to clarify that not only men are capable of committing acts of battery while maintaining the integrity of the treatment itself.

SECTION 2-3: SEXUAL ASSAULT VICTIMS' EMERGENCY RESPONSE FUND

SB 1543 Sec. 2(10) requires the Department of Justice to create and make available to medical assessment providers informational materials describing the services available to be paid from the Sexual Assault Victims' Emergency Medical Response Fund, a fund which allows for the payment of medical assessment costs under certain circumstances. The Department of Justice has already developed materials responsive to this requirement, and could satisfy the proposed statutory requirement within existing resources. Responsive materials are available on OLIS.

SECTION 6: DRONES/UNMANNED AIRCRAFT SYSTEM (UAS) (RELATED: -10 AMENDMENTS)

HB 3047 (2017) created a structure to govern the use of UAS that would otherwise be considered a deadly weapon capable of firing a projectile by allowing these devices to be used for the purpose of animal husbandry/vaccination, research, and other legitimate purposes not connected with using the use of a UAS to inflict harm on persons or animals. This bill raised but did not conclusively answer the question of what should happen to individuals who knowingly weaponize a UAS through the deliberate modification of the UAS' components to make the device more dangerous, by adding the ability to fire projectiles, deliver harmful substances or otherwise inflict harm beyond the inherent dangerousness of operating a UAS.

SB 1543 answers this question by establishing a framework for the regulation of criminal penalties applicable to an individual who deliberately weaponizes a UAS. SB 1543 specifies that operating a drone which has been modified to cause injury is a Class A misdemeanor, that discharging a projectile from a drone without the protection of any of the exceptions contained in ORS 837.365(3) is a Class C felony, and that actually causing a serious physical injury with a drone modified to cause such an injury is a Class B felony.

The Department of Justice served as an active participant in the UAS workgroup which developed the underlying statutory structure and believes that the changes contained in SB 1543 further codify the work of that group.

The -10 Amendments specify that the projectile fired must be the instrument of causing a serious physical injury in order for the Class B felony to occur. This prevents a limited loophole wherein a drone capable of firing a projectile falls out of the sky and causes a serious physical injury not related to its capacity for firing projectiles.

The Department of Justice supports Sec. 6 with the -10 Amendments.

-1 AMENDMENTS: GARNISHMENT OF INMATE TRUST ACCOUNTS

SB 844 (2017) was the result of the Inmate Financial Accountability Workgroup, of which the Department of Justice was a member. This bill improved the ability of the Department of Corrections to gather information regarding the outstanding financial obligations of inmates and

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facilitate the prompt repayment of outstanding obligations including restitution, compensatory fines and fees, and court fines. In addition, SB 844 authorized the creation of re-entry savings accounts which would help inmates make the transition back to society upon their release from custody. It was the intent of this workgroup that these trust accounts would be shielded from garnishment orders but that intent was not reflected in the final legislation. The -1 Amendments to SB 1543 would make this technical correction.

-7 AMENDMENTS: GENERAL CONDITIONS OF PROBATION

ORS 137.540 governs the general terms of probation that can be ordered by a defendant without additional findings being made by the judge. This distinction between special and general conditions can serve to limit what both judges and other supervisory officials can ask a defendant to do during their period of probation. Under existing law, a judge may order a risk and needs assessment as a general condition of probation but cannot necessarily order a defendant to comply with the recommendations of that assessment. This is believed to be a technical oversight with the current language of the statute. The -7 Amendments to SB 1543 will clarify that a judge may not simply order a defendant to undergo a needs assessment but can actually follow the recommendation returned by that assessment. The Department of Justice supports this fix.

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