

SB 1543 -1, -3, -4, -6, -7, -10, -12, -13, -15, -16, -20 STAFF

MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Whitney Perez, Counsel

Meeting Dates: 2/8, 2/15

WHAT THE MEASURE DOES:

Requires Advisory Committee on Batters' Intervention Programs to include at least one psychologist or psychiatrist with experience in batterers' intervention programs as a member. Requires Batters' Intervention Program standards to apply to all genders, be evidence-based, and designed to reduce recidivism. Requires law enforcement agencies to preserve sexual assault forensic evidence kits for at least 60 years. Directs the Department of Justice to create, and provide to medical assessment providers, informational materials describing services payable by the Sexual Assault Victims' Emergency Medical Response Fund. Requires providers to make informational materials available to sexual assault victims. Requires a state hospital, community mental health program, and any other health care service provider to provide the Psychiatric Security Review Board (board) with all medical records pertaining to a person committed to the jurisdiction of the board, upon request. Allows supervising entity or designee to order return of person found guilty except for insanity and on conditional release to be returned to state hospital or other facility. Defines supervising entity. Specifies that the order shall be executed by a peace officer, unless the order provides otherwise. Specifies that all laws applicable to warrants and arrests apply to this order. Exempts peace officer complying with these provisions from civil and criminal liability. Modifies elements, and exceptions to, crime involving unlawful operation of an unmanned aircraft system.

ISSUES DISCUSSED:

- Batterer Intervention Program standards and need for change
- Need to address
- Differences between general and special conditions of probation
- Use of the word "reasonable" for a probationer to follow recommendations following risk and needs assessment

EFFECT OF AMENDMENT:

-1 Prohibits garnishment and the like for moneys in an inmate's transitional fund while the money is in the custody and control of the Department of Corrections. Effective June 30, 2018.

-3 Imposes mandatory minimum 60 day sentence of incarceration for Initiating a False Report when that offense results in deployment of a law enforcement special weapons and tactics team (SWAT), and that deployment results in death or serious physical injury to another person. Applies to offenses committed on or after effective date.

-4 Allows a court to vacate a judgment for conviction of a municipal prostitution ordinance when the person was a victim of sex trafficking at or near the time of the offense. Defines municipal prostitution ordinance.

-6 Imposes mandatory minimum 30 day sentence of incarceration for Initiating a False Report when that offense results in deployment of a law enforcement special weapons and tactics team (SWAT), and that deployment results in death or serious physical injury to another person. Applies to offenses committed on or after effective date.

-7 Makes it a general condition of probation to follow reasonable recommendations resulting from a risk and needs assessment. Removes provision allowing supervising officer of probationer to propose modifications to special conditions of probation.

-10 Requires causation between firing of bullet or projectile from an unmanned aircraft system (UAS) and resulting serious physical injury to another person for Class B felony level offense. Requires causation between the UAS's design or modification to cause serious physical injury and the resulting serious physical injury to another person, for Class B felony level offense.

-12 Modifies Batterers' Intervention Program advisory committee membership. Specifies requirements for BIP standards.

-13 Permits reduction of a Class B felony possession of a controlled substance conviction to a Class A misdemeanor upon successful completion of probation. Makes conforming amendment.

-15 Makes it a general condition of probation to follow reasonable recommendations resulting from a risk and needs assessment.

-16 Permits reduction of a Class B felony possession of a controlled substance conviction to a Class A misdemeanor upon successful completion of probation. Allows reduction of any Class C felony, a Class A racketeering felony, or Class B felony involving possession of a controlled substance or possession or delivery of marijuana or marijuana item to occur at any time after the sentence of probation has been completed. Makes conforming amendment.

-20 Replaces section 5. Allows supervising entity or designee of supervising entity to order return of person found guilty except for insanity and on conditional release to be returned to state hospital or other facility. Allows community mental health program director to order return of these persons when the person has absconded from conditional release. Defines supervising entity. Specifies circumstances for when this order may be issued. Specifies that the order shall be executed by a peace officer, unless the order provides otherwise. Specifies that all laws applicable to warrants and arrests apply to this order. Requires supervising entity to facilitate reimbursement of reasonable transportation costs of these persons to the agency employing the peace officer, when the order is issued by the supervising entity.

BACKGROUND:

The Crime Victims' Services Division within the Oregon Department of Justice hosts the Batterer Intervention Program (BIP) advisory committee (committee). The committee meets throughout the year and is responsible for This Summary has not been adopted or officially endorsed by action of the committee.

making changes to administrative rules and approving pilot projects. There are currently 11 members on the committee. Current law, specifies that membership for the committee include representatives from local supervisory authorities, BIP's, and domestic violence victims' advocacy groups. Current rule defines "batterer" as an adult male who batters a woman or a minor male convicted as an adult for battering a woman. Senate Bill 1543 requires the committee to include as a member a psychologist or psychiatrist with experience in BIP's. It also requires standards for BIP's to apply to all genders.

In 2016, Melissa's Law was enacted. This law required sexual assault forensic evidences kits to be retained for at least 60 years. SB 1543 makes this conforming amendment within the statute governing payment of costs associated with sexual assault forensic evidence kits from the Sexual Assault Victims' Emergency Medical Response Fund (fund). It also directs the Department of Justice to create informational materials describing the services payable from the fund.

Oregon law governs release plans required by the Psychiatric Security Review Board (board) for persons committed to a state hospital or secure intensive community inpatient facility for custody and treatment. The board is required to maintain and keep current the medical, social, and criminal history of all persons committed to its custody. The board is also responsible for the confidentiality of these records. SB 1543 requires a state hospital, community mental health program, and any other health care service provider to provide the board with records pertaining to a person under the board's jurisdiction, upon request.

Oregon law also governs the conditional release of persons found guilty except for insanity, including the conditions of the release, such as treatment requirements. The law also specifies procedures for revocation of conditional release, including procedures for the arrest of the committed person. SB 1543 modifies the procedures surrounding the arrest or return of these persons to the state hospital or other facility when the person is on conditional release.

In 2016, the crime involving the unlawful operation of an unmanned aircraft system (UAS) was enacted. This offense was a Class A misdemeanor and applied to persons operating a UAS that was capable of firing a bullet or projectile, or who otherwise operated the UAS as a dangerous weapon. In 2017, this law was amended to elevate the offense to a Class C felony when the person operating the UAS fires a bullet or projectile from the UAS or otherwise causes it to function as a dangerous weapon. This latter action is further elevated to a Class B felony if it results in serious physical injury. HB 1543 removes the elements pertaining to operating the UAS as a dangerous weapon. It also specifies that this offense is a Class B felony when the UAS is specifically designed or modified to cause serious physical injury and causes serious physical injury. Applies to offenses committed on or after the effective date.