

SB 1543 B STAFF MEASURE SUMMARY**Carrier:** Rep. Williamson**House Committee On Judiciary****Action Date:** 02/27/18**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 10-0-1-0**Yeas:** 10 - Barker, Gorsek, Greenlick, Post, Power, Sanchez, Sprenger, Stark, Vial, Williamson**Exc:** 1 - Olson**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Whitney Perez, Counsel**WHAT THE MEASURE DOES:**

Modifies Batterers' Intervention Program (BIP) advisory committee membership. Specifies requirements for BIP standards. 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, designee, or, when the person has absconded from conditional release, community mental health program director, to order the return to the state hospital or other facility of a person found guilty except for insanity and on conditional release. Defines supervising entity. Specifies that the order shall be executed by a peace officer. Requires supervising entity to facilitate reimbursement of reasonable transportation costs of these persons to the agency employing the peace officer. Modifies elements, and exceptions, to crime involving unlawful operation of an unmanned aircraft system. Allows court to vacate conviction for a municipal prostitution ordinance if the conviction resulted from sex trafficking. Prohibits garnishment and similar actions for moneys in an inmate transitional fund. Mandates 30 days incarceration for the offense of initiating a false report when the offense results in deployment of law enforcement special weapons and tactics team and a person dies or suffers serious physical injury because of the deployment. Makes it a general condition of probation to follow reasonable recommendations resulting from a risk and needs assessment. Permits reduction of a Class B felony possession of a controlled substance conviction to a Class A misdemeanor upon successful completion of probation. Allows credit for time served in jail for persons who are revoked from an optional probationary sentence, unless the court orders otherwise. Confers jurisdiction over certain appeals addressing the constitutionality of chapter 673, Oregon Laws 2017 to the Oregon Supreme Court. Clarifies the reporting requirements for a law enforcement agency or prosecuting attorney's office regarding their actions on reports that a person has purchased a firearm despite a prohibition against possessing firearms. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Recent events at a Bend high school relating to threatening a terroristic act and constitutional concerns with this proposed offense
- Need for clarification to House Bill 4145 (2018)
- Amendment allows law enforcement to transport or arrange for other secure transport of patients of the Psychiatric Security Review Board

EFFECT OF AMENDMENT:

Modifies Batterers' Intervention Program (BIP) advisory committee membership. Requires peace officers acting on these orders to cause the person to be transported to the state hospital or other designated facility. Limits effect of

SB 1543 B STAFF MEASURE SUMMARY

this order. Allows credit for time served in jail for persons who are revoked from an optional probationary sentence, unless the court orders otherwise. Confers jurisdiction over certain appeals addressing the constitutionality of chapter 673, Oregon Laws 2017 to the Oregon Supreme Court. Clarifies reporting requirement for a law enforcement agency or prosecuting attorney's office regarding actions taken when a person has purchased a firearm despite a prohibition against possessing firearms. Declares emergency, effective on passage.

BACKGROUND:

The Crime Victims' Services Division within the Oregon Department of Justice hosts the Batterers' Intervention Program (BIP) advisory committee (committee). The committee meets throughout the year and is responsible for 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, BIPs, 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-B requires the committee to include people experienced with certain evidence-based practices and representatives of diverse groups that interact with violence prevention programs and BIPs. It also requires that BIPs have different standards for programs addressing male defendants, female defendants, defendants with same-sex victims, and circumstances in which the defendant or victim is gender nonconforming.

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-B 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-B 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-B 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. SB 1543-B 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, and the design or modification does in fact cause, serious physical injury.

In 2017, legislation was enacted allowing a victim of sex trafficking to request that a court vacate a prostitution conviction, if the sex trafficking occurred at or around the time of the conduct that resulted in the prostitution conviction. SB 1543-B amends this law to allow a court to vacate a conviction for a municipal prostitution ordinance if the conviction involved sex trafficking.

SB 1543 B STAFF MEASURE SUMMARY

In 2017, legislation was enacted creating an inmate transitional fund. This law allows the Department of Corrections to collect a portion of eligible moneys from inmates for a transitional fund to facilitate reentry, up to \$500. SB 1543-B prohibits garnishment and similar actions for these moneys, operational June 30, 2018.

The crime of initiating a false report occurs when a person knowingly initiates a false alarm or report that is transmitted to law enforcement, a fire department, or the like. This offense results in a mandatory sentence of 10 days incarceration if the false report results in the deployment of a law enforcement special weapons and tactics (SWAT) team. SB 1543-B mandates a 30-day sentence of incarceration if this deployment results in death or serious physical injury to another person.

Oregon law specifies conditions of a person's probation following conviction. The law provides several general conditions of probation that are imposed unless the sentencing court decides otherwise, such as not using controlled substances. It also allows the court to impose certain special conditions if these are related to the crime of conviction or the needs of the person on probation, such as residency requirements. It is currently a general condition of probation to take a risk and needs assessment as directed by a supervising officer. SB 1543-B makes it a general condition of probation to follow reasonable recommendations resulting from the risk and needs assessment.

Currently, a person can seek reduction of certain felonies to a Class A misdemeanor. This includes Class C felonies; a Class B felony for possession or delivery of marijuana or marijuana items; or a Class A felony for racketeering. SB 1543-B adds Class B felonies for possession of a controlled substance to the list of offenses that may seek this reduction. It also specifies that a person with a Class C felony may seek this reduction at the time of entry of judgment. In addition, a person can request reduction of any Class C felony and the other specified felonies at any time after the sentence of probation has been completed.

In 2015, House Bill 2310 was enacted. In part, HB 2310 provided credit for time served in jail for persons revoked from a downward departure probation sentence and a presumptive probation sentence. Likewise, SB 1543-B allows credit for time served in jail for persons revoked from an optional probation sentence.

In 2017, House Bill 3078 was enacted. This measure did several things, including reducing presumptive sentences for certain repeat property offenders and making appropriations to the Family Sentencing Alternative Pilot Program, Justice Reinvestment Program, and Domestic and Sexual Violence Services Fund. There is currently litigation addressing the constitutionality of this measure. SB 1543-B confers jurisdiction over certain appeals addressing the constitutionality of this measure upon the Oregon Supreme Court, through July 1, 2023.

House Bill 4145 in the 2018 session expanded the prohibition on possession of firearms and ammunition to include persons in certain domestic violence situations. If HB 4145 is enacted, SB 1543-B makes a technical amendment to the reporting requirements for a law enforcement agency or prosecuting attorney's office regarding their actions after receiving a report that a person purchased a firearm despite a prohibition against possessing firearms.