

# Senate Bill 1543

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Attorney General to include, on batterers' intervention program standards advisory committee, psychologist or psychiatrist with relevant experience. Specifies requirements for program standards.

Specifies requirements for retention of sexual assault forensic evidence kits by law enforcement agencies. Directs Department of Justice to create informational materials for victims of sexual assault describing services payable by Sexual Assault Victims' Emergency Medical Response Fund.

Requires health care providers to, upon request, provide Psychiatric Security Review Board with medical records of person under jurisdiction of board. Modifies procedures by which person found guilty except for insanity and on conditional release may be ordered returned to state hospital or other facility.

Modifies elements of, and exceptions to, crime involving unlawful operation of unmanned aircraft system.

## A BILL FOR AN ACT

1  
2 Relating to public safety; creating new provisions; and amending ORS 147.395, 147.397, 161.336,  
3 161.390, 180.700 and 837.365.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 180.700 is amended to read:

6 180.700. (1) The Attorney General shall appoint an advisory committee composed at least of  
7 representatives from local supervisory authorities, batterers' intervention programs and domestic  
8 violence victims' advocacy groups. **In addition, the advisory committee must include at least**  
9 **one psychologist or psychiatrist with experience working with batterers' intervention pro-**  
10 **grams.**

11 (2) The Attorney General, in consultation with the advisory committee, shall adopt rules that  
12 establish standards for batterers' intervention programs. The rules adopted must include, but are  
13 not limited to:

14 [(1)] (a) Standards for contacts between the defendant and the victim;

15 [(2)] (b) Standards for the dissemination of otherwise confidential medical, mental health and  
16 treatment records;

17 [(3)] (c) Standards that protect to the greatest extent practicable the confidentiality of defend-  
18 ants who are participating in domestic violence deferred sentencing agreements;

19 [(4)] (d) A requirement that the designated batterers' intervention program must report to the  
20 defendant's local supervisory authority any criminal assaults, threats to harm the victim or any  
21 substantial violation of the program's rules by the defendant; and

22 [(5)] (e) Standards for batterers' intervention programs that are most likely to end domestic vi-  
23 olence and increase victims' safety.

24 (3) **The standards established by the rules described in subsection (2) of this section must**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **apply to all genders, be evidence-based and be designed to reduce recidivism.**

2 (4) **As used in this section, “supervisory authority” has the meaning given that term in**  
3 **ORS 144.087.**

4 **SECTION 2.** ORS 147.397 is amended to read:

5 147.397. (1) Subject to the availability of funds from gifts, grants and donations in the Sexual  
6 Assault Victims’ Emergency Medical Response Fund, the Department of Justice shall pay the costs  
7 of:

8 (a) A complete medical assessment obtained by the victim of a sexual assault if the victim ob-  
9 tains the medical assessment no later than 84 hours after the sexual assault.

10 (b) A partial medical assessment obtained by the victim of a sexual assault if the victim obtains  
11 the medical assessment no later than seven days after the sexual assault.

12 (2) The department may not deny payment under this section for any of the following reasons:

13 (a) The victim of a sexual assault has not reported the assault to a law enforcement agency.

14 (b) The identity of a victim of a sexual assault is not readily available to the department because  
15 forensic evidence has been collected from the victim and preserved in a manner intended to protect  
16 the victim’s identity.

17 (3) The department shall develop a form that the victim of a sexual assault must complete if the  
18 victim wants the department to pay for a medical assessment as provided in subsection (1) of this  
19 section. The department shall make copies of the form available to providers of medical assessments.  
20 The form must inform the victim that:

21 (a) A complete or partial medical assessment can be obtained regardless of whether the victim  
22 reports the assault to a law enforcement agency; and

23 (b) A complete or partial medical assessment can be performed and evidence collected in a  
24 manner intended to protect the victim’s identity.

25 (4) When the victim of a sexual assault completes the form developed by the department under  
26 subsection (3) of this section, the victim shall submit the form to the provider of the medical as-  
27 sessment. The provider shall submit the form with a bill for the medical assessment to the depart-  
28 ment. A provider who submits a bill under this subsection may not bill the victim or the victim’s  
29 insurance carrier for the medical assessment except to the extent that the department is unable to  
30 pay the bill due to lack of funds or declines to pay the bill.

31 (5) Providers of medical assessments that seek reimbursement under this section shall:

32 (a) Maintain records of medical assessments that protect the identity of victims of sexual assault  
33 and keep confidential the identity of victims who have not reported the sexual assault to a law  
34 enforcement agency;

35 (b) Store **sexual assault** forensic evidence [*collection*] kits and transfer custody of the kits to a  
36 law enforcement agency having jurisdiction over the geographic area where the provider is located;  
37 and

38 (c) Cooperate with law enforcement agencies to develop and implement procedures that protect  
39 the identities of victims while allowing retrieval and assessment of **sexual assault forensic** evi-  
40 dence [*collection*] kits and related evidence.

41 (6) Law enforcement agencies that receive evidence [*collection kits*] as provided by subsection  
42 (5) of this section shall preserve [*the kits and any related evidence for at least six months.*]:

43 (a) **A sexual assault forensic evidence kit for no less than 60 years after collection of the**  
44 **evidence; and**

45 (b) **Any related evidence for at least six months.**

1 (7) A provider may not charge the department more for a complete medical assessment or a  
 2 partial medical assessment than the maximum amounts established by the department by rule for the  
 3 assessments.

4 (8) The victim of a sexual assault may obtain a medical assessment and complete and submit a  
 5 form under this section regardless of whether the victim reports the sexual assault to a law  
 6 enforcement agency.

7 (9) This section does not require the department to pay any costs of treatment for injuries re-  
 8 sulting from the sexual assault.

9 **(10) The department shall create, and make available to medical assessment providers,**  
 10 **informational materials describing the services payable by the fund as described in sub-**  
 11 **section (1) of this section. A provider shall ensure that the informational materials are made**  
 12 **available to sexual assault victims.**

13 [(10)] (11) The department may adopt rules necessary to carry out the provisions of this section.

14 **SECTION 3.** ORS 147.395 is amended to read:

15 147.395. As used in ORS 147.397:

16 (1) "Complete medical assessment" means an assessment that consists of:

17 (a) A medical examination;

18 (b) The collection of forensic evidence using an evidence collection kit approved by the De-  
 19 partment of State Police; and

20 (c) The offering and, if requested, provision of emergency contraception, sexually transmitted  
 21 disease prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency  
 22 contraception.

23 (2) "Medical assessment" means a complete or partial medical assessment.

24 (3) "Partial medical assessment" means an assessment that consists of:

25 (a) A medical examination; and

26 (b) The offering and, if requested, provision of emergency contraception, sexually transmitted  
 27 disease prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency  
 28 contraception.

29 **(4) "Sexual assault forensic evidence kit" has the meaning given that term in ORS**  
 30 **181A.323.**

31 **SECTION 4.** ORS 161.390 is amended to read:

32 161.390. (1) The Oregon Health Authority shall adopt rules for the assignment of persons to state  
 33 mental hospitals or secure intensive community inpatient facilities under ORS 161.365 and 161.370  
 34 and for establishing standards for evaluation and treatment of persons committed to a state hospital  
 35 or a secure intensive community inpatient facility or ordered to a community mental health program  
 36 under ORS 161.315 to 161.351.

37 (2) When the Psychiatric Security Review Board requires the preparation of a predischarge or  
 38 preconditional release plan before a hearing or as a condition of granting discharge or conditional  
 39 release for a person committed under ORS 161.315 to 161.351 to a state hospital or a secure inten-  
 40 sive community inpatient facility for custody, care and treatment, the authority is responsible for  
 41 and shall prepare the plan.

42 (3) In carrying out a conditional release plan prepared under subsection (2) of this section, the  
 43 authority may contract with a community mental health program, other public agency or private  
 44 corporation or an individual to provide supervision and treatment for the conditionally released  
 45 person.

1 (4)(a) The board shall maintain and keep current the medical, social and criminal history of all  
 2 persons committed to its jurisdiction. The confidentiality of records maintained by the board shall  
 3 be determined pursuant to ORS 192.338, 192.345 and 192.355.

4 (b) **Except as otherwise provided by law, upon request of the board, a state hospital, a  
 5 community mental health program and any other health care service provider shall provide  
 6 the board with all medical records pertaining to a person committed to the jurisdiction of  
 7 the board.**

8 (5) The evidentiary phase of a hearing conducted by the board under ORS 161.315 to 161.351 is  
 9 not a deliberation for purposes of ORS 192.690.

10 **SECTION 5.** ORS 161.336 is amended to read:

11 161.336. (1)(a) When a person is conditionally released under ORS 161.315 to 161.351, the person  
 12 is subject to those supervisory orders of the Psychiatric Security Review Board as are in the best  
 13 interests of justice, the protection of society and the welfare of the person.

14 (b) An order of conditional release entered by the board may designate any person or state,  
 15 county or local agency capable of supervising the person upon release, subject to the conditions  
 16 described in the order of conditional release.

17 (c) Prior to the designation, the board shall notify the person or state, county or local agency  
 18 to whom conditional release is contemplated and provide the person or state, county or local agency  
 19 an opportunity to be heard.

20 (d) After receiving an order entered under this section, the person or state, county or local  
 21 agency designated in the order shall assume supervision of the person in accordance with the con-  
 22 ditions described in the order and any modifications of the conditions ordered by the board.

23 (2) Conditions of release contained in orders entered under this section may be modified from  
 24 time to time and conditional releases may be terminated as provided in ORS 161.351.

25 (3)(a) As a condition of release, the person may be required to report to any state or local  
 26 mental health facility for evaluation. Whenever medical, psychiatric or psychological treatment is  
 27 recommended, the order may require the person, as a condition of release, to cooperate with and  
 28 accept the treatment from the facility.

29 (b) The facility to which the person has been referred for evaluation shall perform the evalu-  
 30 ation and submit a written report of its findings to the board. If the facility finds that treatment of  
 31 the person is appropriate, it shall include its recommendations for treatment in the report to the  
 32 board.

33 (c) Whenever treatment is provided by the facility, it shall furnish reports to the board on a  
 34 regular basis concerning the progress of the person.

35 (d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the  
 36 person and the person's counsel. The confidentiality of these reports is determined pursuant to ORS  
 37 192.338, 192.345 and 192.355.

38 (e) The facility shall comply with the conditional release order and any modifications of the  
 39 conditions ordered by the board.

40 (4)(a) *[If at any time while the person is under the jurisdiction of the board it appears to the board  
 41 or its chairperson that the person has violated the terms of the conditional release or that the mental  
 42 health of the individual has changed, the board or its chairperson may order the person returned for  
 43 evaluation or treatment to a state hospital or, if the person is under 18 years of age, to a secure in-  
 44 tentive community inpatient facility. A written order of the board, or its chairperson on behalf of the  
 45 board, is sufficient warrant for any law enforcement officer to take into custody such person and*

1 transport the person accordingly. A sheriff, municipal police officer, constable, parole and probation  
 2 officer, prison official or other peace officer shall execute the order, and the person shall be returned  
 3 as soon as practicable to the state hospital or secure intensive community inpatient facility designated  
 4 in the order.] **A supervising entity may, in the manner described in this paragraph, issue a**  
 5 **written or electronic order for the return of a person on conditional release to a state hos-**  
 6 **pital or other facility designated by the supervising entity or, if the person is under 18 years**  
 7 **of age, to a secure intensive community inpatient facility. The order may instead be issued**  
 8 **by a person designated by the supervising entity if the designation is made as part of a**  
 9 **written policy. The order may be issued if the supervising entity or designee determines that**  
 10 **the person has violated the terms of conditional release, or if the mental health of the person**  
 11 **has changed such that the supervising entity or designee reasonably believes that the person**  
 12 **may no longer be fit for conditional release. Unless the order provides otherwise, the order**  
 13 **shall be executed by a peace officer. The order constitutes full authority for the arrest and**  
 14 **detention of the person and all laws applicable to warrants and arrests apply to the order.**

15 (b) *[The community mental health program director]* **A peace officer**, the director of the facility  
 16 providing treatment to a person on conditional release[, *any peace officer*] or any person responsible  
 17 for the supervision of a person on conditional release may take a person on conditional release into  
 18 custody, or request that the person be taken into custody, if there is reasonable cause to believe  
 19 the person is a substantial danger to others because of a *[qualifying]* mental disorder and that the  
 20 person is in need of immediate care, custody or treatment. *[Any person taken into custody pursuant*  
 21 *to this subsection shall be transported as soon as practicable to a state hospital or, if the person is*  
 22 *under 18 years of age, to a secure intensive community inpatient facility.]*

23 (c) **When a person is taken into custody by a peace officer under this subsection, the**  
 24 **agency employing the peace officer shall transport the person as soon as practicable to a**  
 25 **state hospital or other facility designated by the supervising entity. The person may be de-**  
 26 **tained in jail only so long as is necessary to secure appropriate transportation to a state**  
 27 **hospital or other designated facility. A peace officer may not be held civilly or criminally li-**  
 28 **able for taking a person into lawful custody under this subsection.**

29 *[(c)]* (d) Within 20 days following the return of the person to a state hospital or secure intensive  
 30 community inpatient facility under this subsection, the board shall conduct a hearing. The board  
 31 shall provide notice of the hearing to the person, the attorney representing the person and the At-  
 32 torney General. The state must prove by a preponderance of the evidence the person's unfitness for  
 33 conditional release. The hearing shall be conducted in accordance with ORS 161.346.

34 (e) **As used in this subsection, "supervising entity" means the board, the chairperson or**  
 35 **executive director of the board or the community mental health program director.**

36 (5)(a) Any person conditionally released under this section may apply to the board for discharge  
 37 from or modification of an order of conditional release on the ground that the person is no longer  
 38 affected by a qualifying mental disorder or, if still so affected, no longer presents a substantial  
 39 danger to others and no longer requires supervision, medication, care or treatment. Notice of the  
 40 hearing on an application for discharge or modification of an order of conditional release shall be  
 41 made to the Attorney General. The applicant, at the hearing pursuant to this subsection, must prove  
 42 by a preponderance of the evidence the applicant's fitness for discharge or modification of the order  
 43 of conditional release. Applications by the person for discharge or modification of conditional re-  
 44 lease may not be filed more often than once every six months.

45 (b) Upon application by any person or agency responsible for supervision or treatment pursuant

1 to an order of conditional release, the board shall conduct a hearing to determine if the conditions  
 2 of release shall be continued, modified or terminated. The application shall be accompanied by a  
 3 report setting forth the facts supporting the application.

4 (6) A person who has spent five years on conditional release shall be brought before the board  
 5 for hearing within 30 days before the expiration of the five-year period. The board shall review the  
 6 person's status and determine whether the person should be discharged from the jurisdiction of the  
 7 board.

8 **SECTION 6.** ORS 837.365 is amended to read:

9 837.365. (1) Except as provided in subsection [(2)] **(3)** of this section, a person may not inten-  
 10 tionally, knowingly or recklessly operate or cause to be operated an unmanned aircraft system that  
 11 is:

12 (a) Capable of firing a bullet or projectile; or

13 **(b) Specifically designed or modified to cause, and is presently capable of causing, serious**  
 14 **physical injury as defined in ORS 161.015.** [*otherwise operate or cause to be operated an unmanned*  
 15 *aircraft system in a manner that causes the system to function as a dangerous weapon as defined in*  
 16 *ORS 161.015.*]

17 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, violation of subsection (1)  
 18 of this section is a Class A misdemeanor.

19 (b) **Violation of subsection (1) of this section is a Class C felony** if the person intentionally,  
 20 knowingly or recklessly operates an unmanned aircraft system [*to fire*] **and the unmanned aircraft**  
 21 **system fires** a bullet or projectile. [*or otherwise operates an unmanned aircraft system in a manner*  
 22 *that causes the system to function as a dangerous weapon as defined in ORS 161.015, violation of*  
 23 *subsection (1) of this section is a Class C felony.*]

24 (c) **Violation of subsection (1) of this section is a Class B felony** if the person intentionally,  
 25 knowingly or recklessly operates an unmanned aircraft system [*to fire*] **and the unmanned aircraft**  
 26 **system:**

27 **(A)(i) Fires** a bullet or projectile; or

28 **(ii) Is specifically designed or modified to cause, and is presently capable of causing, se-**  
 29 **rious physical injury as defined in ORS 161.015; and**

30 **(B) Causes serious physical injury, as defined in ORS 161.015, to another person.** [*or oth-*  
 31 *erwise operates an unmanned aircraft system in a manner that causes the system to function as a*  
 32 *dangerous weapon as defined in ORS 161.015, and the operation of the unmanned aircraft system*  
 33 *causes serious physical injury to another person as both terms are defined in ORS 161.015, violation*  
 34 *of subsection (1) of this section is a Class B felony.*]

35 (3) Subsection (1) of this section does not apply if:

36 (a) The person uses the unmanned aircraft system to release, discharge, propel or eject a non-  
 37 lethal projectile for purposes other than to injure or kill persons or animals;

38 (b) The person uses the unmanned aircraft system for nonrecreational purposes in compliance  
 39 with specific authorization from the Federal Aviation Administration;

40 (c) The person notifies the Oregon Department of Aviation, the Oregon State Police and any  
 41 other agency that issues a permit or license for the activity requiring the use of the unmanned  
 42 aircraft system of the time and location at which the person intends to use an unmanned aircraft  
 43 system that is capable of releasing, discharging, propelling or ejecting a projectile at least five days  
 44 before the person uses the system;

45 (d) If the person intends to use an unmanned aircraft system that is capable of releasing, dis-

1 charging, propelling or ejecting a projectile in an area open to the public, the person provides rea-  
2 sonable notice to the public of the time and location at which the person intends to use the  
3 unmanned aircraft system; and

4 (e) The person maintains a liability insurance policy in an amount not less than \$1 million that  
5 covers injury resulting from use of the unmanned aircraft system.

6 (4) The notification requirement of subsection (3)(c) of this section does not apply to:

7 (a) A career school licensed under ORS 345.010 to 345.450;

8 (b) A community college as defined in ORS 341.005;

9 (c) [*An education service district as defined in ORS 334.003*] **A school**;

10 (d) The Oregon Health and Science University;

11 (e) A public university listed in ORS 352.002; or

12 (f) An institution that is exempt from ORS 348.594 to 348.615 under ORS 348.597 (2).

13 (5) Notwithstanding subsection (3) of this section, a person may not use an unmanned aircraft  
14 system that is capable of releasing, discharging, propelling or ejecting a projectile for purposes of  
15 crowd management.

16 **(6) As used in this section, “school” means a public or private institution of learning**  
17 **providing instruction at levels kindergarten through grade 12, or their equivalents.**

18 **SECTION 7. The amendments to ORS 837.365 by section 6 of this 2018 Act apply to of-**  
19 **fenses committed on or after the effective date of this 2018 Act.**

20