

SB 1060 -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/21, 4/4

WHAT THE MEASURE DOES:

Modifies the definition of "physical injury" under the Oregon Criminal Code, to include physical trauma. Defines "physical trauma" as including but not limited to fractures, cuts, punctures, bruises, burns or other wounds. Specifies that a physical injury may be proven by: 1) testimony by the person alleged to have been injured; 2) evidence of physical trauma; 3) witness testimony that the person experienced substantial pain or impairment of physical condition; 4) expert testimony addressing the type and amount of force used by the defendant; or 5) reasonable inferences based on the type and amount of force used by the defendant. Expands the crime of criminal mistreatment in the first degree to include subjecting a dependent person or an elderly person, intentionally or knowingly to offensive physical contact. States that the measure applies to conduct occurring on or after the effective date of the measure.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Replaces the measure. Modifies the evidence that can be considered to substantiate a "physical injury" under the Oregon Criminal Code to include: 1) testimony from alleged injured person; 2) evidence of physical trauma; 3) testimony from a witness indicating that the victim experienced substantial pain or impairment of physical condition; or 4) expert testimony. States that "physical trauma" includes, but is not limited to fractures, cuts, punctures, bruises, burns or other observable effects.

BACKGROUND:

"Physical injury" under the criminal code means impairment of physical condition or substantial pain. Under current law it can be a challenge to prosecute cases that involve victims who are unable to speak, who may not be able to verbalize substantial pain. This includes infants, toddlers, those with severe disabilities and elderly people who are non-verbal.

Senate Bill 1060 would expand the definition of physical injury to include "physical trauma" and specifies how physical trauma may be proven; it would expand the crime of criminal mistreatment in the first degree to include subjecting a dependent or elderly person to offensive physical contact. Criminal mistreatment in the first degree is a Class C felony, and is punishable by maximum of five years' imprisonment, \$125,000 fine or both. The measure would apply to conduct occurring on or after the effective date of the measure.