

SB 1060 A STAFF MEASURE SUMMARY

Carrier: Rep. Tran

House Committee On Judiciary

Action Date: 05/16/23

Action: Do Pass the A-Eng bill.

Vote: 9-1-0-0

Yeas: 9 - Andersen, Bynum, Chaichi, Conrad, Kropf, Lewis, Reynolds, Tran, Wallan

Nays: 1 - Morgan

Fiscal: Has minimal fiscal impact

Revenue: Has minimal revenue impact

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Meeting Dates: 5/11, 5/16

WHAT THE MEASURE DOES:

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.

ISSUES DISCUSSED:

- Access to justice for nonverbal victims of assault
- People with disabilities up to 10 times more likely to be victims of violent crimes, and perpetrators are less likely to be convicted
- Assault in the fourth degree and criminal mistreatment require verbal articulation of physical injury or pain
- Definition of harassment versus assault
- Measure allows for expanded evidence of impairment or pain, but does not change material evidence or burden of proof
- Abuse investigations also rely on the current criminal definition of physical injury
- *State of Oregon v. Wright*, 253 Or. App. 401 (2012)
- "Substantial pain" defined by intensity and duration of pain

EFFECT OF AMENDMENT:

No amendment.

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 nonverbal.

Senate Bill 1060 A modifies the evidence that can be considered to substantiate a "physical injury" under the Oregon Criminal Code, and specifies types of physical injuries that constitute "physical trauma." The measure applies to conduct occurring on or after the effective date of the measure.