

SB 1574 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary**Action Date:** 02/15/24**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 5-0-0-0**Yeas:** 5 - Gelser Blouin, Linthicum, Manning Jr, Prozanski, Thatcher**Fiscal:** Has minimal fiscal impact**Revenue:** Has minimal revenue impact**Prepared By:** Conner Egan, LPRO Analyst**Meeting Dates:** 2/13, 2/15**WHAT THE MEASURE DOES:**

This measure is an omnibus bill relating to public safety. Included topics are the crime of abuse of a corpse, humane special agents, the Commission on Statewide Law Enforcement Standards of Conduct and Discipline, the Parole Board and the Psychiatric Security Review Board, the crime of hit and run, driving while suspended records, and Interest on Lawyer Trust Accounts for the Oregon Public Defense Commission.

Detailed Summary:

Abuse of a corpse in the first degree that involves sexual activity: Designates *abuse of a corpse in the first degree that involves sexual activity* as a sex crime. Operative date of January 1, 2025.

Humane special agents: Clarifies that humane special agents commissioned under ORS 181.345 are “law enforcement officials” for the purpose of receiving driver’s license and identification card photos from the Oregon Department of Transportation (ODOT) and adds humane special agents to those who may request disclosure of personal information from ODOT under ORS 802.179. Permits humane investigative agencies to request a fingerprint-based criminal records check for people who are employed or applying for employment by the agency or who provide services or seek to provide services to the agency as a contractor, vendor, or volunteer. Operative date of January 1, 2025.

Commission on Statewide Law Enforcement Standards of Conduct and Discipline (the Commission) Definitions: Modifies for consistency references for definitions of “law enforcement agency” and “law enforcement officer” as they relate to the Commission. Operative date of January 1, 2025.

State Board of Parole and Post Prison Supervision (Parole Board) and Psychiatric Security Review Board (PSRB) Publishing Exemption: Clarifies that hearings of the Parole Board and hearings of the PSRB are exempt from the requirement that a meeting be published online. Applies to hearings conducted before, on or after the effective date of the Act. Declares an emergency, effective on passage.

Hit and Run: Expands the location of the crime *hit and run of property* to any highway or premises open to the public or any premises adjacent to a highway or premises open to the public. Expands the *crime of hit and run of an injured person* to any location. Clarifies the mental state. At. Replaces the word "accident" with "collision". Operative date of January 1, 2025.

Driving while suspended (DWS) records: Allows data prepared by the Oregon Department of Transportation that details the driver’s record to be admitted into evidence for prosecutions of driving while suspended or revoked offenses. Operative date of January 1, 2025

SB 1574 A STAFF MEASURE SUMMARY

Interest on Lawyer Trust Accounts (IOLTA) for the Oregon Public Defense Commission (OPDC): Establishes the OPDC Lawyer Trust Account in the State Treasury, separate and distinct from the General Fund. Clarifies that OPDC is the proper entity to create any subaccounts. Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- The impact on adults-in-custody and victims of crime when the parole board and PSRB meetings are published online
- Parole board and PSRB hearings would still be available through a public records request
- Background on the Commission on Statewide Law Enforcement Standards of Conduct and Discipline
- *State v. Peterson* (2023)
- Situations where there is no duty to report a collision
- The responsibilities of humane special agents
- The ability to access DMV records for humane special agents is key to identifying suspects of animal welfare offenses
- Consistency of humane investigative agency background checks with “ban the box” law in ORS 659A.360
- Appropriateness of criminal background checks for humane special agents based on their job duties
- Without statutory authority, trial-level state public defenders are unable to open trusts accounts
- Having an IOLTA is necessary to resolve criminal cases through civil compromise

EFFECT OF AMENDMENT:

The combined amendment adds sections regarding driving records in criminal prosecutions for driving while suspended, expands the crime of hit and run, and adds IOLTAs for OPDC. The amendment also clarifies language involving humane special agents.

BACKGROUND:

Abuse of a Corpse in the First Degree That Involves Sexual Activity: While there are exceptions, being convicted of a sex offense typically requires the individual to register as a sex offender. [ORS 163A.010](#). Registration is a lifetime requirement, but depending on the sex offender classification level determined by the Oregon State Parole Board, it can be relieved as early as five years after the supervision of the sex crime is terminated. A sex offense designation can impact expungement eligibility and future sentencing on new criminal convictions.

Humane Special Agents: Oregon law allows the Department of State Police to designate employees of humane investigative agencies as humane special agents to cooperate with law enforcement agencies in enforcing and investigating violations of animal welfare laws. [ORS 181A.340–345](#). The Department of Motor Vehicles (DMV) may disclose certain personal information to be disclosed to a variety of entities, including private investigators, researchers, insurers, and government agencies. [ORS 802.179](#). The DMV may disclose driver license photos and signatures only to “law enforcement officials” and DMV employees. [ORS 807.115](#). Humane investigative agencies, in addition to employing humane special agents, employ staff who care for animals related to animal cruelty investigations. Various agencies, including both state and local governmental agencies and some private entities, are currently able to request fingerprint-based background checks for employment or licensing purposes under [ORS 181A.190–.255](#).

Commission on Statewide Law Enforcement Standards of Conduct (the Commission) and Discipline Definitions:

During the 2023 session, the Legislative Assembly passed [SB 808](#), which modified the definitions of “law enforcement officer” (LEO) and “law enforcement agency” (LEA) for purposes of the Commission. In SB 808, LEO means corrections officers, parole and probation officers, police officers, certified reserve officers, and reserve officers. Within the statutes that govern the commission, there remain references to definitions for LEO and LEA

SB 1574 A STAFF MEASURE SUMMARY

that are narrower than the definition created in SB 808. This amendment would correct which definitions are referred to as it relates to the Commission.

State Board of Parole and Post Prison Supervision (Parole Board) and Psychiatric Security Review Board (PSRB)

SRB Publishing Exemption: During the 2023 session, the Legislative Assembly passed [SB 11](#), which required state boards or commissions that conduct public meetings to record and promptly publish meeting recordings online, with certain exceptions. ORS 192.690(1) currently exempts the deliberations of both the Parole Board and PSRB from public meetings laws. This measure would also exempt the Parole Board and the PSRB from the SB 11 publishing requirements for meetings.

Hit and Run: In Oregon, every failure to perform duties of a driver case (more commonly known as a hit and run) requires the prosecutor to prove that the offense occurred on premises open to the public. [ORS 801.400](#) defines "premises open to the public" by stating it includes "any premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises." The terms "premises" and "general public" are not defined in the Oregon Vehicle Code.

A recent court case, *State v Peterson*, 329 Or App 76 (2023), overturned previous case law and decided that an individual who stole a car, ran through a stop sign, hit a vehicle in a driveway adjacent to the road, hit a tree that fell onto a home, provided false information to the owner of the vehicle and home, and then left the scene, did not perform a failure to perform duties of a driver because the location of the collisions were not proven to be a premises open to the public.

Driving While Suspended (DWS) Records: Driving while suspended or revoked is a violation, misdemeanor, or felony offense. [ORS 811.175](#) and [811.182](#). In order for the prosecutor or police officer to prove the driving while suspended or revoked, they must provide official documentation from ODOT to show that the defendant's license was suspended or revoked at the time of the offense. Typically, these documents are brought into evidence through a business records hearsay exception. However, some courts have questioned if they do in fact meet the standards of the business records exception due to the documents being made for the purpose of litigation. The language for this section mirrors language of other statutory specific hearsay exceptions. [ORS 813.322](#).

Interest on Lawyer Trust Accounts (IOLTA) for the Oregon Public Defense Commission (OPDC): During the 2023 session, the Legislative Assembly passed [SB 337](#), which modified the makeup, location, and duties of the Oregon Public Defense Commission (OPDC), including requiring the agency to employ trial-level criminal defense attorneys. Defense attorneys may try to resolve cases with a civil compromise. The normal process requires the client to bring cash or a money order to their attorney. That money would then be deposited in a lawyer trust account. The attorney would then provide a check from that account to the investigator to deliver to the injured person. OPDC worked with the Treasury to open a trust account for its trial division (which is required by the Oregon Supreme Court for attorneys handling client funds), but OPDC has no statutory authority to open the accounts. The measure would allow OPDC to open an Interest on Lawyer Trust Account (IOTLA). The DOJ has a similar account for its lawyers.