

# 2024 OREGON LEGISLATION HIGHLIGHTS



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*Many bills passed during the 2024 session  
have special effective dates. These dates are  
noted in the description of each bill.*

*If a special effective date is not proscribed in a  
bill, the bill takes effect on January 1, 2025.*

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OREGON STATE BAR  
CHIEF EXECUTIVE OFFICER

Helen Hierschbiel

2023 OREGON LEGISLATION HIGHLIGHTS  
PRODUCTION STAFF

Matt Shields – *Editor in Chief*  
Susan Evans Grabe  
Dominique Rossi  
Sara Doherty

*The Oregon State Bar would like to thank the following individuals for their contributions and submission to this publication:*

**Michael Grainey:** 1972 New York University School of Law. Oregon State Bar member since 1979.

**Andrea Moore:** 2021 University of Oregon School of Law. Oregon State Bar member since 2021.

**Bob O'Halloran, Jr:** 2013 University of Oregon School of Law. Oregon State Bar member since 2013

**Camille Sakamoto:** Northwestern School of Law.

**Matthew Shields:** 2004 Northwestern School of Law. Oregon State Bar member since 2004.

**Emily Templeton:** 2021 Northwestern School of Law. Oregon State Bar member since 2022.

**Teryn Yazdani:** 2020 Northwestern School of Law. Oregon State Bar member since 2020.

## FORWARD

The annual *Oregon Legislation Highlights* offers a timely and authoritative resource to help lawyers catch up on the latest legislative developments.

This book highlights approximately 30 bills and other measures that were passed by both houses of the legislature. This book does not describe all enacted legislation. *Unless otherwise noted, all legislation takes effect on January 1, 2025.*

The information in this book is organized into chapters by subject. If a bill has a special effective date, that date is noted at the end of the discussion of that bill. Please note that in some cases a bill may have more than one effective date. If in doubt about the effective date of a law, always check the enacting legislation.

Each bill is identified – in the chapter outline and in the text – by its bill number and its 2024 Oregon Laws chapter number. A table of bill numbers and Oregon Laws chapter numbers appears at the end of the book.

The Oregon legislature’s website offers additional information that the reader of this book may find useful. Individual bills are hyperlinked to that bill’s page in the Oregon Legislative Information System, which contains additional information on that bill. This includes measure summaries written by legislative staff, and in some cases supporting documentation submitted during committee hearings. See [www.oregonlegislature.gov](http://www.oregonlegislature.gov) for more information.

We are grateful to all who were involved in preparing this book. We are especially appreciative of the efforts of our volunteer authors, who take time away from their practices to contribute to this publication and without whom this book would not be possible.

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# **2024 Oregon Legislation Highlights**

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# 1

## Commercial, Consumer and Debtor-Creditor Law

- |            |           |                 |
|------------|-----------|-----------------|
| 1. SB 1595 | (Ch. 100) | Debt Collection |
| 2. SB 1596 | (Ch. 69)  | Right to Repair |

*The Oregon State Bar would like to thank OSB member Emily Templeton for her contribution to this chapter.*

## COMMERCIAL, CONSUMER AND DEBTOR-CREDITOR LAW

### 1. [SB 1595](#) (Chapter 100) Debt Collection

SB 1595 was aimed at bolstering consumer protections and easing debt collection for consumers.

The bill, often identified as the Family Financial Protection Act, introduces several key provisions designed to ensure fairness and transparency in debt collection processes. One notable aspect of the law is its emphasis on safeguarding consumers from abusive and harassing debt collection practices.

Several important provisions of the bill include:

- Increasing the amount of wages that are protected from garnishment;
- Protecting \$2,500 in someone's bank account so they can pay for their basic needs, like rent, while paying off debt;
- Increasing protections to prevent Oregonians from losing their homes during debt collections;
- Extending the amount of time consumers have to file a complaint against a debt collector to 3 years from the date of injury;
- Protecting consumers from unfair attorney fees resulting from civil lawsuits for unlawful collections practices.

SB 1595 took effect on April 4, 2024.

### 2. [SB 1596](#) (Chapter 69) Right to Repair

SB 1596 was passed to reduce waste as a component of Oregon's 2050 Vision and Framework for Action.

The bill requires the original manufacturer of electronic equipment (e.g., computers, video game consoles) to make available to an owner or an independent repair provider on fair and reasonable terms any documentation, tool, part or other device or implement that the original equipment manufacturer makes available to an authorized service provider for the purpose of diagnosing, maintaining, repairing or updating consumer electronic equipment that the original equipment manufacturer makes or sells.

For consumer electronic equipment first sold after January 1, 2025, the bill also prohibits a number of practices aimed at making repair more difficult, including acts intended to discourage using replacement parts or components not approved by the manufacturer.

SB 1596 takes effect on January 1, 2025. However, some provisions of the bill have later operative dates.

# 2

## Criminal Law

- |            |          |   |
|------------|----------|---|
| 1. SB 1553 | (Ch. 58) | Interfering With Public Transportation        |
| 2. SB 1574 | (Ch. 63) | Public Safety                                 |
| 3. SB 1580 | (Ch. 66) | Workers Compensation Fraud                    |
| 4. HB 4002 | (Ch. 70) | Ballot Measure 110 Omnibus Bill               |
| 5. HB 4043 | (Ch. 30) | Offences Against Animals                      |
| 6. HB 4146 | (Ch. 42) | Restraining Orders and Unlawful Dissemination |
| 7. HB 4156 | (Ch. 90) | Stalking Orders                               |

*The Oregon State Bar would like to thank OSB member Gillian Fischer for contributing this chapter.*

## CRIMINAL LAW

### 1. [SB 1553](#) (Chapter 58) Interfering With Public Transportation

SB 1553 adds a new set of elements to establish the crime of Interfering with Public Transportation.

Under the bill if a person knowingly ingests, inhales, ignites, injects or otherwise consumes a controlled substance that is not lawfully possessed by the person, while on a public transit vehicle, the person commits the crime of Interfering with Public Transportation. Interfering with Public Transportation in this particular manner constitutes a Class A misdemeanor.

SB 1553 takes effect on January 1, 2025.

### 2. [SB 1574](#) (Chapter 63) Public Safety

SB 1574 was a large omnibus public safety bill that made both changes to substantive criminal law, and changes to administrative requirements of public safety agencies. Some of the major changes include:

#### **Driving While Suspended**

The bill creates a new statute, apart from the Oregon Evidence Code, that requires a court to admit into evidence data prepared or recorded by the Department of Transportation that details the suspension of a person's driving privileges.

#### **Hit and Run**

In general, Oregon's various "hit and run" statutes (properly "Failure to Perform the Duties of a Driver") apply to highways and other "premises open to the public". SB 1574 modified the provisions of these statutes to cover collisions that occur in additional places. For the purposes of ORS 811.700, the bill expands the scope of the statute to include physical area adjacent to highways or premises open to the public. For the purpose of ORS 811.705, the bill makes the statute applicable to any collision caused by the motion of a vehicle that results in injury or death.

#### **Interest on Lawyer Trust Accounts**

The bill also created the Oregon Public Defense Commission (OPDC) Lawyer Trust Account within the State Treasury. Under both statute and the OSB Rules of Professional Conduct, Oregon lawyers who potentially hold client funds are required to keep such funds in a lawyer trust account.

Beginning with the passage of SB 337 in 2023, some trial level public defense providers will be state employees. However, state agencies are required to keep funds within the State Treasury,

and are not permitted to set up ad hoc accounts at traditional banks. Therefore statutory authority was required to allow the OPDC to set up a trust account for these attorneys and allow them to comply with their IOLTA requirements.

SB 1574 took effect on March 27, 2024.

### 3. [SB 1580](#) (Chapter 66) Workers Compensation Fraud

SB 1580 provides that an employer commits a Class A misdemeanor if the employer, with the intent to decrease the employer's premium for coverage under ORS Chapter 656, knowingly submits a false payroll report to the Workers' Compensation Board, the Workers' Compensation Board chairperson, the Director of the Department of Consumer and Business Services, the corporation or an insurer.

The bill applies to conduct occurring on or after March 27, 2024.

### 4. [HB 4002](#) (Chapter 70) Ballot Measure 110 Omnibus Bill

HB 4002 was the legislatures omnibus bill meant to address Oregon's ongoing drug enforcement difficulties in the wake of Ballot Measure 110. The bill rolled back some provisions of BM 110, including re-criminalizing possession of controlled substances, and diverted significant state resources into new drug treatment options.

#### Intent to Deliver Controlled Substances

Section 24 of the bill is the "*State v Boyd* fix". Prior to this bill, Oregon law defined the delivery of a controlled substance as:

"the actual, constructive or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance." ORS 475.005(8)

The term "attempted transfer" is not defined in Oregon law, but had been governed by the ruling in *State v. Boyd* 92 Or App 51 (1988). In that case the Court of Appeals construed the phrase "attempted transfer" by applying principles of liability for the inchoate crime of attempt, ORS 161.405(1), whereby a person who intentionally takes a "substantial step" toward committing a crime is liable for attempting the crime. Thus, a person who possessed a large enough amount of a controlled substance, combined with other evidence of an intent to transfer could be found to have attempted to transfer the controlled substance.

In *State v Hubbell* (2023), the Oregon Supreme Court affirmed a decision of the Oregon Court of Appeals overturning *Boyd*, and finding that such evidence was insufficient to constitute "delivery".

## **CRIMINAL LAW**

Section 24 of HB 4002 amends the definition of “delivery” to include “possession with an intent to deliver”, essentially codifying the original holding in *Boyd*.

### **Drug Enforcement Misdemeanors**

The bill reclassifies numerous unlawful possession provisions in ORS Chapter 475 from violations to misdemeanors. In addition, the bill creates a new misdemeanor treatment regime which permits sentences of incarceration, but generally favors referring defendants to treatment.

The bill provides that the court may sentence a defendant to up to 180 days in jail, but if the court declines to do so requires that the defendant be sentenced to 18 months of probation. The bill permits structured jail sanctions for violations of probation. Additionally, the bill provides that if probation is revoked, the court may sentence the defendant to up to 180 days in jail with the option of early release to a drug treatment program, for which the defendant would receive day for day credit on their sentence.

### **Deflection**

The bill also encourages law enforcement agencies and district attorneys, in lieu of arrest or prosecution of persons unlawfully in possession of a controlled substance constituting a drug enforcement misdemeanor, to refer or divert a person to a deflection program. The bill defines “deflection program” as a collaborative program between law enforcement and behavioral health systems that assist individuals who may have substances use disorder, another behavioral health disorder, or co-occurring disorders, to create community-based pathways to treatment, recover support services, housing, case management, or other services.

The bill directs the Oregon Criminal Justice Commission to study and develop best practices for deflection programs that can be implemented around the state. To help facilitate the future use of deflection programs, the bill allows citations for the misdemeanor crime of possession of a controlled substance to include the date on which a person is directed to appear in court to be more than 30 days after the date the citation was issued.

### **Other provisions of the bill include:**

- The Chief Justice of the Supreme Court, with input from a criminal justice advisory committee appointed by the Chief Justice, shall reevaluate and update the release guidelines for the pretrial release orders established under ORS 135.233 for persons arrested for or charged with delivery or manufacture of a controlled substance.

- The bill requires the sealing or expungement of records related to a person's conduct constituting a drug enforcement misdemeanor constituting PCS when various conditions are met.

HB 4002 took effect on April 1, 2024. New misdemeanor PCS provisions apply to conduct occurring on or after that date. Other provisions of the bill continue differing operative dates. Practitioners should confirm operative dates when appropriate.

## 5. [HB 4043](#) (Chapter 30) Offences Against Animals

HB 4043 makes several substantive and clarifying changes to existing statutes prohibiting the abuse of animals.

Under prior law, a person convicted of any of several animal abuse statutes was prohibited from possessing an animal of the same genus, or any domestic animal, for up to 15 years. The bill expands this to include a prohibition against residing with such an animal. The bill also modifies the process for filing a motion to terminate such a prohibition, and the standards by which the court may decide to grant such a motion.

The bill also creates a new crime of interfering with an investigation into an offense against an animal as a Class A misdemeanor. A person commits the new crime if the person intentionally or knowingly conceals an animal, transports an animal or takes other action to prevent a peace officer or a licensed veterinarian from examining an animal suspected of being the subject of abuse.

HB 4043 took effect on June 6, 2024.

## 6. [HB 4146](#) (Chapter 42) Restraining Orders and Unlawful Dissemination

HB 4146 address two separate issues.

First, the bill amends the crime of Unlawful Dissemination of an Intimate Image (ORS 163.472) to remove the requirement image of the other person be “identifiable”. The bill also deletes the statutory definition of “identifiable” which was defined to mean that a reasonable person would be able to recognize the individual depicted in the image as the victim. This change was made because in many cases a victim would not be identifiable under a reasonable person standard, but would in fact be identifiable to members of their community based on contextual clues in the photo. This stumbling block was reported to have hindered some prosecutions.

Separately, HB 4146 permits a restraining order to be filed in the county in which the abuse asserted occurred. Under the prior statute, the petition had to be filed in a county in which either the petitioner or responded resided.

## CRIMINAL LAW

HB 4146 took effect on March 27, 2024.

### 7. [HB 4156](#) (Chapter 90) Stalking Orders

Under prior law, the crime of Stalking (ORS 163.732) is a Class A misdemeanor, unless the defendant had a prior conviction for stalking, or for violation of a court's stalking protective order, in which case it is a Class C felony.

HB 4156 expands the circumstances under which stalking is a felony to include situations where the defendant had a prior conviction for an equivalent crime in another jurisdiction, when the defendant is a respondent in an active protection order in another jurisdiction, or when the unwanted contact at issue constitutes the commission of unlawful dissemination of an intimate image, unlawful use of a global positioning system, or any felony.

The bill makes substantially the same changes to the crime of violating a court's stalking protective order. The bill also adds several new categories of behavior to the definition of "contact".

HB 4156 took effect on July 1, 2024.

# 3

## Employment Law

- |            |           |                                    |
|------------|-----------|------------------------------------|
| 1. SB 1515 | (Ch. 20)  | Employment Leave Laws              |
| 2. HB 4004 | (Ch. 1)   | Child Labor Penalties              |
| 3. HB 4045 | (Ch. 101) | Public Employees Retirement System |
| 4. HB 4115 | (Ch. 84)  | Supervisory Employees              |
| 5. HB 4127 | (Ch. 36)  | Warehouse Workers                  |

## EMPLOYMENT LAW

### 1. [SB 1515](#) (Chapter 20) Employment Leave Laws

SB 1515 makes numerous changes to Paid Leave Oregon, the Oregon Family Leave Act (OFLA), and other related statutes. The major purpose of the bill was to better align these statutes, and reduce conflicting or duplicative leave provisions that had proven confusing to both employers and employees.

Among the major changes, the bill:

- Removes the 16 week leave cap per benefit year for leave taken in any combination under both Paid Leave Oregon and Oregon Family Leave Act (OFLA.)
- Removes unpaid, protected leave to care for self or a family member with a serious health condition and unpaid, protected leave to care for an infant or newly adopted or newly placed foster child under OFLA.
- Modifies sick child leave under OFLA to include all illnesses, injuries, or conditions that require home care.
- Specifies that leave taken under OFLA is in addition to leave taken under Paid Leave Oregon.
- Reduces bereavement leave under OFLA to maximum of four weeks in any one-year period.
- Removes additional 12 weeks of sick child leave currently permitted if employee has taken bonding leave.
- Specifies that an employee may begin OFLA leave without prior notice when employee is taking pregnancy disability leave.

Even with the passage of SB 1515, the interaction between various Oregon leave laws remains complex, and practitioners should check the relevant statute when appropriate.

SB 1515 took effect on March 20, 2024.

### 2. [HB 4004](#) (Chapter 1) Child Labor Penalties

HB 4004 increases the maximum civil penalty for violation of child labor laws from \$1000 to \$10,000. In addition, the bill repeals provisions that previously prohibited the Bureau of Labor and Industries from imposing a civil penalty for a violation, if that person has already paid a penalty to the United States Department of Labor for an offense arising out of the same factual circumstances as the matter before the commissioner. Likewise, the bill repeals the

requirement that BOLI refund a previously paid penalty if a penalty is imposed by the US Department of Labor.

HB 4004 took effect on June 6, 2024.

**3. [HB 4045](#) (Chapter 101) Public Employees Retirement System**

HB 4045 makes several changes to the Public Employees Retirement System (PERS) benefits for Police and Firefighters.

The bill adds district attorneys, forensic scientists, and evidence technicians employed by the Department of State Police to definition of “police officer” under PERS. Deputy district attorneys were added to the same category in HB 2054 (2023), but that bill did not include the elected DA in each county.

Among other changes, the bill also creates a new class of “hazardous positions” under the Oregon Public Service Retirement Plan, who are entitled to higher final benefits.

HB 4045 takes effect on January 1, 2025.

**4. [HB 4115](#) (Chapter 84) Supervisory Employees**

HB 4115 makes several changes to the definition of “supervisory employee” that effects public employees in several public safety professions. The bill specifically addresses employees at correctional institutions, the state mental hospital, members of law enforcement, and employees of the Criminal Justice Division at the Oregon Department of Justice.

HB 4115 took effect on April 4, 2024.

**5. [HB 4127](#) (Chapter 36) Warehouse Workers**

HB 4127 addresses quotas on work performed by warehouse workers. The bill creates a new definition of “quota” in ORS Chapter 653 that the employee is “required to perform at a specified productivity or speed, perform a quantified number of tasks or handle or produce a quantified number of materials, within a defined time period”.

The bill creates new requirements that employers provide employees with written documentation summarizing any quota to which the employee is subject. This information must include both the nature of the quota itself and the potential consequences the employee could face for failure to meet the quota. The written documentation must be provided in the language that the employer regularly uses to communicate with the employee.

HB 4127 takes effect on January 1, 2025.

# 4

## Energy and Environment

- |            |          |  |
|------------|----------|--|
| 1. HB 4015 | (Ch. 25) | Battery Energy Storage Systems                       |
| 2. HB 4080 | (Ch. 31) | Offshore Wind Energy Development and Labor Standards |
| 3. HB 4083 | (Ch. 79) | Coal Divestiture                                     |

*The Oregon State Bar would like to thank OSB members Teryn Yazdani and Andrea Moore for their contributions to this chapter.*

## ENERGY AND ENVIRONMENT

### 1. [HB 4015](#) (Chapter 25) Battery Energy Storage Systems

HB 4015 adds flexibility to siting stand-alone battery energy storage systems. It will permit a developer of a facility or the governing body of a local government, after consulting with the developer, to elect to defer regulatory authority to the Energy Facility Siting Council (EFSC) for the siting of a battery energy storage system. This bill also permits a person who wants to build a battery storage system to choose to use the EFSC for the siting and permits a battery energy storage system to be built and run without its own site certificate if the system is subject to another energy facility's site certificate.

HB 4015 takes effect on June 6, 2024.

### 2. [HB 4080](#) (Chapter 31) Offshore Wind Energy Development and Labor Standards

HB 4080 provides labor standards on wind development projects in Oregon, while offering a collaborative framework for local participation in the federal approval processing for wind projects.

The law directs the Department of Land Conservation and Development to create a roadmap that defines a uniform standard for wind energy development processes in conformity with the state's policies and industry labor and supply chain standards. The new standards require that contractors either be an Oregon Bureau of Labor & Industries (BOLI) registered training agent, in addition to other specific requirements, or sign a project labor agreement and labor peace agreement.

This roadmap must define standards that must be considered in the development of offshore wind and include important considerations to support:

- Effective engagement with stakeholders;
- Local coastal communities, and regional communities;
- Creating economic opportunities and sustaining local and regional economies;
- Creating an offshore wind energy workforce;
- Protecting tribal cultural and archaeological resources, culturally significant viewsheds, and other tribal interests;
- Protection of the environment and marine species; and
- Achieving state energy and policy objectives. This bill also highlights strong labor requirements for renewable energy projects.

HB 4080 took effect on March 27, 2024.

**3. [HB 4083](#) (Chapter 79) Coal Divestiture**

HB 4083 directs the Oregon Investment Council and the State Treasurer to make efforts to eliminate certain investments in thermal coal companies and remove thermal coal from the Treasury's investment portfolio. It states that divestments must be accomplished without monetary loss to investment funds and that investments may be retained in a thermal coal company that is transitioning to clean energy.

HB 4083 takes effect on January 1, 2025.

# 5

## Housing and Construction

- |            |           |   |
|------------|-----------|---|
| 1. SB 1537 | (Ch. 110) | Housing Supply                          |
| 2. SB 1575 | (Ch. 112) | Duty to Defend for Design Professionals |
| 3. HB 4006 | (Ch. 2)   | Retainage                               |
| 4. HB 4026 | (Ch. 10)  | Urban Growth Boundary                   |
| 5. HB 4063 | (Ch. 102) | Residential Housing                     |

*The Oregon State Bar would like to thank OSB member Bob O'Halloran and Camille Sakamoto for their contributions to this chapter.*

## HOUSING AND CONSTRUCTION LAW

### 1. [SB 1537](#) (Chapter 110) Housing Supply

SB 1537 launches new programs and makes numerous changes to existing law with the aim of increasing the residential housing supply in Oregon.

Among the important provisions of the bill, it creates a new Housing Accountability and Production Office, and directs the office to investigate housing law violations. The bill addresses the process for enforcement orders and allowable actions cities may take to address the basis for an enforcement order.

The bill creates an opt in process when housing regulations are amended – allowing applicants to proceed under either the rules in place when the application was made, or under more favorable rules if adopted after the application is filed. The bill allows awards of attorney fees in Land Use Board of Appeals cases, for prevailing applicants for the development of affordable housing.

HB 1537 took effect on June 6, 2024, but different sections of the bill may have other operative dates.

### 2. [SB 1575](#) (Chapter 112) Duty to Defend for Design Professionals

Following long term negotiations between design professionals, local governments, and construction industry groups over multiple legislative sessions, stakeholder reached a compromise for limiting the “duty-to defend” for design professionals on construction projects.

Limited only to state public works projects where the design professional is in privity with the public agency, the bill removes the contractual risk of design firms from being required to defend against third-party claims unless the liability or fault of the designer is first established. Public bodies are now proscribed from contractually requiring that a person or entity providing architectural, engineering, photogrammetric mapping, transportation planning, land surveying services or related services defend the public body against a claim for professional negligence and relating to the professional services provided by the design professional. The act does not apply, to federal or private projects.

SB 1575 takes effect on January 1, 2025.

### 3. [HB 4006](#) (Chapter 2) Retainage

This bill makes a “fix” to the interest-bearing escrow account requirement passed by the legislature in 2019. The bill requires owners and agencies to accept surety bonds in lieu of retainage for large commercial or public improvement contracts akin to the State of Washington’s law.

HB 4006 includes a “good cause” exception to the general rule, but the owner or agency must make written findings that are based on “unique project circumstances,” rather than general preferences for escrow accounts. This bill further extends to subcontractors and suppliers who submit surety bonds in lieu of retainage to any prime contractor already approved to deposit surety bonds in lieu of retainage.

Finally, the bill also repeals the requirement that a public or private contracting party place retainage in an interest-bearing escrow account when the contract price exceeds \$500,000, but rather maintains the option for contractors who do not deposit a surety bond in lieu of retainage to request that cash retainage be deposited into an interest-bearing account or accumulate interest at the specified rate of 2.5%.

HB 4006 took effect on March 7, 2024.

**4. [HB 4026](#) (Chapter 10) Urban Growth Boundary**

SB 1069 amends ORS 90.155 and related statutes to permit residential landlords and tenants to serve notices by email, if the parties agree to do so by separate written addendum to the rental agreement.

SB 1069 also allows landlords to return funds to tenants, including security deposits and rent refunds, by electronic means, if the parties have agreed to such electronic delivery in a written agreement. Significantly, however, notices terminating a tenancy, if served by email, must also be served by first class mail.

SB 1069 takes effect on January 1, 2024.

**5. [HB 4063](#) (Chapter 102) Residential Housing**

HB 4063 is one of several bills passed during the 2024 legislative session aimed at increasing the supply of housing in Oregon. Among the changes in this bill, it expands the scope of the Oregon Housing Needs Analysis to apply to unincorporated lands within the Metro urban growth boundary. That framework was established in HB 2001 in 2023.

The bill also addresses a circumstance whereby a local government adopts development standards that are less stringent or otherwise more favorable to developers, after an application has been made for a residential development project. Previously an applicant would have to reapply under the new rules to receive such a benefit. Under HB 4063, the applicant can “opt-in” to the amended local standards, without the need to reapply.

HB 4063 also deletes provisions of ORS 696.805(7) that were found to be unconstitutional by the US District Court. In 2021, the Oregon Legislature passed HB 2550, which prohibited so-

## **HOUSING AND CONSTRUCTION LAW**

called “Love Letters” where purchasers would sometimes choose to submit to sellers of residential property when making an offer to purchase, in an effort to persuade the seller to choose their offer among others. The language prohibiting these “nontraditional communications” had remained in statute, but was not enforceable.

HB 4063 took effect on June 6, 2024.

# 6

## Litigation and Judicial Administration

### I. Legislation

- |            |          |                                      |
|------------|----------|--------------------------------------|
| 1. SB 1541 | (Ch. 57) | New Circuit Court Judgeships         |
| 2. SB 1576 | (Ch. 64) | Recreational Immunity, Court Records |
| 3. HB 4001 | (Ch. 23) | Task Force on Specialty Courts       |
| 4. HB 4020 | (Ch. 27) | Notaries Public                      |
| 5. HB 4056 | (Ch. 77) | Tyler v. Hennepin Fix                |

### II. Uniform Trial Court Rules Changes

- |               |  |
|---------------|--|
| 1. UTCR 1.210 | Application Of UTCRs To Licensed Paralegals  |
| 2. UTCR 2.090 | Filings For Consolidated Cases               |
| 3. UTCR 5.070 | Motion For Leave To Amend Pleading           |
| 4. UTCR 5.140 | Foreign Discovery                            |
| 5. UTCR 7.100 | Disqualification Motions Under ORS 14.260(7) |

## I. LEGISLATION

### 1. [SB 1541](#) (Chapter 57) New Circuit Court Judgeships

SB 1541 created three new judgeships in the Oregon Circuit Court. Two of these positions, one each in Jackson County and Washington County take effect in July of 2024. The third position is in Clackamas County and takes effect in July of 2025. The Clackamas County position was delayed because the county is still in the process of building a new courthouse.

The number of judges in each county is set in statute, requiring the Oregon Legislature to regularly create new positions as county populations grow.

SB 1541 took effect on July 1, 2024.

### 2. [SB 1576](#) (Chapter 64) Recreational Immunity, Court Records

SB 1576 was a bill supported by the Oregon Department of Justice, and ultimately addressed three separate issues.

First, the bill clarifies that the Attorney General may disclose material obtained during investigations of consumer data privacy violations to persons employed by the Attorney General. Previously the statute permitted disclosure to “employees” of the Attorney General, but it was unclear whether this term applied to investigators working under contract.

Second, the bill creates a new statute addressing the confidentiality of court records related to the settlement of a minor’s claim. The new provision provides that

A court record relating to the settlement of a minor’s claim approved under ORCP 27 I is confidential and may not be disclosed, except pursuant to a court order issued for good cause shown. Good cause for purposes of this section includes, but is not limited to, a showing that the claimant is no longer a minor.

Finally, the bill creates stopgap rules addressing “Recreational Immunity” that will apply until January 2, 2026.

Oregon’s Recreational Immunity laws (ORS 105.672 to 105.696) generally provide immunity to landowners, including local governments, from claims of personal injury or property damage when the landowner has made the land available to the public for recreational purposes without a fee, and the claim arises from a person’s use of the land for the principal purpose of recreation. However, the Oregon Court of Appeals recently found that this immunity does not apply to improved trails that are not used for recreation themselves, but are instead used to

access other lands that the person intends to use for recreational purposes. This decision has resulted in some local governments and other landowners closing some trails.

SB 1576 allows all local governments to opt into ORS 105.668, which instead limits liability from ordinary negligence claims arising from the use of trails or structures on public easements or unimproved rights of way by foot, horse, bicycle or other nonmotorized means. The bill further adds immunity to ORS 105.688 for improved paths, trails, roads and other rights of way that are used to access land for recreational purposes, and makes other changes.

However, the new provisions only apply to actions commenced between March 27, 2024 (the effective date of the bill) and January 2, 2026, after which the new provisions will sunset. It is anticipated that the Legislature will consider more permanent changes to the Recreational Immunity statutes during the 2025 Legislative Session.

SB 1576 took effect on March 27, 2024.

### **3. [HB 4001](#) (Chapter 23) Task Force on Specialty Courts**

HB 4001 created a Task Force on Specialty Courts, and directed the task force to report back to the legislature with any recommendations by November 15, 2024. Specialty courts have become relatively common in Oregon, but their use is somewhat ad hoc, and how specialty courts function varies from county to county.

The bill directed the task force to study four related issues:

- Identification of the most appropriate funding mechanism to ensure long-term stability of specialty courts within this state.
- Determining the administrative and funding balance between the Oregon Criminal Justice Commission and the Judicial Department.
- Determining whether specialty courts currently use the right eligibility metrics, including whether current metrics are accurately capturing those individuals who would benefit from a drug court program.
- Identification of the appropriate accountability mechanism to ensure that specialty courts are operating according to the standards of the commission.

The bill took effect upon March 27, 2024 and will sunset on December 31, 2024.

### **4. [HB 4020](#) (Ch. 27) Courthouse Funding**

HB 4020 makes a small but important modification to the statute that governs who may be required to take a course for a commission as a notary public.

## LITIGATION AND JUDICIAL ADMINISTRATION

Currently the Secretary of State only has the authority to require that the course be taken by a person who does not currently hold a commission in Oregon. This means that if a person reapplies for a license while currently licensed, taking the course is voluntary. HB 4020 will allow the Secretary of State to make such courses mandatory for current notaries public.

HB 4020 takes effect on January 1, 2025.

### 5. [HB 4056](#) (Chapter 77) Tyler v. Hennepin Fix

HB 4056 was the Oregon Legislature's response to the United States Supreme Court ruling in *Tyler v. Hennepin County, Minnesota*, 598 U.S. 631 (2023). In that case the court ruled that an individual property owner has a property right to surplus proceeds from the sale of property that was foreclosed upon after a property tax lien was imposed by the government. In Oregon, as in many states, it had been the practice of some local governments to keep such surplus proceeds from these sales.

HB 4056 requires counties to establish a uniform process to determine when surplus proceeds exist, to provide appropriate notice to interested parties, and to ultimately return the funds to the appropriate individuals. The bill also requires the Department of Revenue to work with counties to develop this uniform statewide process.

HB 4056 is essentially prospective only. The bill as passed does not address current litigation regarding surplus proceeds from past sales that are potentially owned to former property owners.

HB 4056 took effect on June 6, 2024.

## II. Uniform Trial Court Rules Changes

A number of new UTCR changes took effect during 2024. Most of these changes went into effect on August 1, 2024, but some had earlier effective dates. Below are some of the more significant changes.

### 1. UTCR 1.210 Application Of UTCRs To Licensed Paralegals

UTCR 1.210 is a new rule that provides that when the UTCRs refer to an "attorney", unless the context requires otherwise, the rule will also apply to a licensed paralegal who is representing a party within the scope of the Oregon Supreme Court Rules for Licensing Paralegals.

As part of the adoption of this rule, minor conforming changes were made to approximately a dozen other UTCRs.

**2. UTCR 2.090 Filings For Consolidated Cases**

This rule was amended to remove the requirement that a filing party provide the court with additional copies when a filing in a consolidated case is not electronically filed. This portion of the rule was no longer necessary as the court's current business practice is for the court staff to scan a conventionally filed document into Odyssey, meaning that additional copies are no longer necessary.

**3. UTCR 5.070 Motion For Leave To Amend Pleading**

This rule was amended to permit a filer, when submitting the text of a proposed amended pleading, to display the proposed changes using a word processing software's redlining features. This is an additional option for displaying the changes, along with the prior method of bolding and underlining additions and bracketing and italicizing deletions.

**4. UTCR 5.140 Foreign Discovery**

A new subsection has been added to this UTCR in order to comply with the requirements of HB 2002 (Oregon Laws 2023, Chapter 228). One provision of that bill, Section 48, related to subpoenas sought in the state of Oregon in connection with out-of-state lawsuits and requires a person seeking a foreign subpoena to make specific declarations to ensure that the foreign subpoena is not used to advance outcomes that are prohibited under the bill.

**5. UTCR 7.100 Disqualification Motions Under ORS 14.260(7)**

This new UTCR has been created in order to comply with the requirements of SB 807 (Oregon Laws 2023, Chapter 289). That bill was passed in order to address situations where a disqualification motion, or a series of disqualification motions, effectively denies an elected judge assignment to a criminal or juvenile delinquency docket.

The new rule permits a challenged judge to request a hearing before a disinterested judge who will be assigned by the Office of the State Court Administrator.

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