



Legislative Alliance to End Violence Against Women 2016 Close of Session Update

Note: This session, the Legislative Alliance's key priority was to increase access to housing. We achieved some important accomplishments in that area this session, but as a result were less present in the areas of domestic violence and sexual assault-specific legislation. However, major accomplishments were also achieved in these areas, thanks to agencies, allies, and individuals such as Attorney General Ellen Rosenblum and her staff, the Attorney General's Sexual Assault Task Force, and survivors and advocates Brenda Tracy, the family of Melissa Bittler, and Danielle Tudor.

This summary is intended to alert practitioners generally to areas of substantive change and not to provide in-depth analysis. To access the bills themselves, visit the Legislature's website at <http://www.oregonlegislature.gov/> and click on the appropriate session year and bill number. Unless otherwise noted, bills take effect on January 1 of the following year. For further information or answers to questions, feel free to contact Sybil Hebb at 503-473-8318 or (shebb@oregonlawcenter.org).

Domestic Violence, Sexual Assault, and Stalking:

Criminal Impersonation (SB 1567): This bill creates the new crime of criminal impersonation. The bill was brought forward to address a new form of exploitive behavior that has been perpetrated primarily via social media. The case scenario that provided the impetus for this bill was a case in which an abusive ex-partner impersonated the victim on social media, soliciting non-consensual sexual activity. The impersonation led to a violent assault of the victim, but the impersonating behavior could not be prosecuted under identity theft laws, since those laws are interpreted to address primarily financial fraud. SB 1567 applies when an individual, with the intent to injure, impersonates another person in a communication to a third person without their consent, intending to deceive the third person into believing that they are communicating with the impersonated person, and injury results. Injury is defined as humiliation, harassment, threat or physical harm. The new crime is a Class A misdemeanor. The bill also creates a statutory private cause of action for compensatory damages.

Effective date: January 1, 2017.

Rape Kit Testing Protocols (Melissa's Law) (SB 1571): This bill directs the Department of State Police to adopt rules on prioritization of testing the backlog of untested sexual assault forensic evidence kits and to conduct ongoing testing of new kits. * *Note: Kits the victim has designated as anonymous may not be tested.* * The bill directs the Department to report to interim committees of the Legislative Assembly by January 15th of each year. The report must include information regarding the progress made on the backlog of untested kits, the number of new kits received, the number of kits tested in the previous year, and the number of remaining untested kits in possession of the Department. The Department must report to the legislature regarding the progress of entering test results into CODIS (the national data system) by July 1, 2019. The bill requires the retention of untested anonymous kits for at least 60 years. The bill allows a victim to contact law enforcement at any time to reclassify her kit. The bill also establishes the Task Force on the Testing of Sexual Assault Forensic Evidence Kits, and specifies the membership and charge of the task force.

SB 1571 directs every law enforcement agency in Oregon to adopt procedures regarding collection, testing, retention and destruction of sexual assault forensic evidence kits. These procedures must be in writing and available to the public. Procedures must include a standard for communicating information to victims concerning kits. The bill appropriates \$1,500,000 to the Oregon State Police Forensic Division to add staff capacity to process additional sexual assault forensic evidence kits.

Effective date: The policies and procedures must be in place by January 1, 2017. The other provisions of the bill take effect upon passage.

Confidentiality of Campus Counseling Records ([SB 1558](#)): This bill is a follow-up from discussions in 2015 regarding the confidentiality of college student counseling records. The bill prohibits the disclosure of college or university student health or counseling records to other people, offices, or entities within, affiliated with, or acting on behalf of, the college or university. The bill applies to health centers, mental health center or counseling centers, and health professionals retained by the college or university to provide health care, mental health care or counseling services. Disclosure of these records may not be made without the consent of the patient, to the same extent those records would be protected by non-campus affiliated service providers. The bill also provides that health records, mental health records or counseling records of students may not be considered student records by a college or university, and therefore may not be disclosed under guidelines pertaining to student records.

Effective date: March 3rd, 2016

Statute of Limitations on First Degree Sex Crimes ([SB 1600](#)): This bill eliminates the statute of limitations for prosecution of first degree sex crimes if there is new and corroborating evidence of the crime. Under current law, the statute of limitations for these crimes is 12 years. Current law allows the extension of the SOL when new DNA evidence is present. Under the new law, there are four additional categories of corroborating evidence that may extend the SOL: physical evidence other than DNA; a confession made by the defendant; an oral or written statement provided by the victim to another person at the time of the commission of the crime; or a report made by a different victim alleging that the defendant committed the crime.

Effective date: January 1, 2017.

Human Trafficking ([HB 4082](#)): This bill closes a loop hole in the crime of promoting prostitution, ORS 167.012. Under current law, the statute prohibits the promotion of prostitution for money or other property. The law does not currently prohibit the promotion of prostitution in exchange for goods, services, or other non-monetary forms of compensation. Many traffickers have developed practices to exploit this loophole. HB 4082 will close this loophole and provide greater accountability for traffickers. The bill does not apply to acts of prostitution, or to individuals engaged in prostitution, but rather applies to traffickers and pimps.

Effective date: January 1, 2017.

Family Law:

Updating Marriage Statutes ([HB 4127](#)) This bill sets out a formal state policy that all of the privileges, immunities, rights, benefits and responsibilities controlled by the law that apply to married persons, apply equally to married persons of the same or opposite sex. The bill also updates statutes pertaining to marriage with gender neutral language.

Effective date: Effective upon Governor's signature, which is pending.

Affordable Housing, Landlord-Tenant, and Related Matters:

Housing issues were a significant focus of this session's work. Our job was to ensure that the needs of vulnerable low-income Oregonians were prioritized in these discussions. While we were able to accomplish far less than is ultimately necessary, the strides taken this session were important steps forward and laid a strong foundation for future good work.

Housing Resources: All of these expenditures are one-time expenditures, for use thru the end of the biennium. We will need continued focus and work to ensure adequate funding levels in coming sessions.

- **\$10 million** in Emergency Housing Assistance in the Oregon Department of Housing and Community Services budget. \$8 million to the Emergency Housing Account, and \$2 million to the State Homeless Assistance Program;

- **\$2.5 million** in lottery-backed bonds for the preservation of affordable housing (subsidized housing projects at risk of prepayment and manufactured home parks at risk of closing);
- **\$2.73 million to continue** the foreclosure legal assistance program, and the network of foreclosure housing counselors across the state;
- **\$200,000** for housing-related legal assistance.

Housing Policy:

Inclusionary zoning and construction excise tax ([SB 1533](#)):

Inclusionary zoning: After 17 years, Oregon’s total ban on inclusionary zoning (IZ) was repealed with this bill, which allows local governments to mandate that developers set aside a portion of new units for sale or for rent as affordable. Mandates may apply only to developments of 20 units or more. The development must be of multi-family structures, defined as having three or more contiguous units. Ordinances may require that up to 20% of the units be affordable, to households with 80% of area median income or above. IZ mandates must be prospective and may not impact developments that are already in the queue at the time of enactment. Ordinances must provide developers who are subject to the mandate the option of making an in-lieu payment, and must offer additional incentives to accompany the mandate. The bill specifies that local governments may offer additional incentives in order to increase the supply of affordable units or to “buy down” to greater affordability. While the parameters of this bill were not as broad as advocates had hoped, the repeal of the ban is a big step forward, and many local governments felt that this bill will provide an effective tool to create more affordable housing.

Construction Excise Tax: Significantly, SB 1533 also repealed the ban on cities’ and counties’ ability to create a construction excise tax (CET). This allows these local governments an important new revenue source for affordable housing. Ordinances may tax residential development at up to 1% of permitted value, and 100% of revenue must go toward affordable housing. There is no cap on the tax allowed on commercial or industrial development. Half of the proceeds from a commercial or industrial CET must also be allocated for affordable housing.

Effective date: A local government may not adopt an inclusionary zoning regulation until November 29, 2016. The rest of the bill takes effect June 2, 2016.

Tenant protections ([HB 4143](#)): Under HB 4143, month-to-month tenants in Oregon will now be protected from rent increases during the first year of tenancy. This bill also protects tenants from sudden increases in their rent by requiring 90 days’ notice (up from the current 30 days’ notice) for any rent increases. As part of the compromise necessary to move the bill forward, HB 4143 also amends current law to increase the possible fine for a second violation of a non-smoking policy from \$50 to \$250. In addition, the bill makes a technical amendment to the 2015 coalition-negotiated law requiring landlords to ensure that all rooms rented as bedrooms are in compliance with local building codes for fire safety/egress purposes. **Effective date:** March 15th, 2016.

Local Innovation and Fast Track (LIFT) housing program parameters ([SB 1582](#)): Last year, the LIFT program received \$40 million to develop affordable housing, a historic sum that will help meet Oregon’s housing needs. This bill sets parameters for the program and provides funds to administer it that will allow the program to begin creating more affordable housing as quickly as possible. The Housing and Community Services Department is directed to work with the Oregon Housing Stability Council in crafting criteria for the program that provide the greatest number of affordable housing units for the amount of funding provided and ensure the longest possible use of the qualified property as affordable housing units.

Effective date: March 15th, 2016