



Oregon Alliance to End Violence Against Women

2019 Close-of-Session Legislative Update

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The Alliance is an informal collaboration of survivors, advocates, and multidisciplinary community and system-based service providers, founded in 1999 with the primary purpose of promoting legislation and policy designed to protect and to empower survivors of domestic and sexual violence in Oregon.

This document is a summary of legislation that the Alliance tracked during the 2019 legislative session.

There were so many successes this session!! The Alliance wishes to thank all of our members and allies for the great work, and especially the bi-partisan group of legislators and their staff who helped guide these proposals to success. We particularly wish to thank the many survivors who participated in this process for their courage, strength, and leadership. We are grateful for you all.

** Note: The following is a compilation of brief summaries only, and is not intended to be legal advice. To understand the details of any bill, it is necessary to read the actual language of the bill, which can be found at each of the hyperlinks below.*

Domestic and Sexual Violence Policy Issues

Prison Rape Elimination Act (PREA) Audit Report: [SB 269](#)

This bill requires that the Department of Corrections provide the legislature with a final copy of any audit report required under the federal Prison Rape Elimination Act, no later than the following February 1.

Takes effect January 1, 2020.

No Public Money for Non-Disclosure Agreements: [SB 478](#)

Prohibits campaign moneys and public moneys from being used to make payments in connection with nondisclosure agreements relating to workplace harassment.

Takes effect June 20th, 2019.

Workplace Harassment Policies: [SB 479](#)

Requires public employers to adopt written workplace harassment policies, and establishes specified minimum standards for all policies. Prohibits the use of non-disclosure agreements, extends the statute of limitations for filing claims to 5 years, and prohibits retaliation against those who make a report.

Becomes operative January 1, 2020 (policies) and October 1, 2020 (NDAs).

** Note: see SB 726 for provisions related to protections against harassment in private sector workplaces.*

Protection Against Prosecution for Victims of Violence: [SB 596](#)

Provides that if a person reports a person-felony crime, evidence of prostitution (about the victim or the person reporting the crime) that is obtained as result of making a report may not be used against the person in a prosecution for prostitution or attempted prostitution.

Takes effect January 1, 2020.



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Pseudonyms for Crime Victims in Criminal Proceedings: [SB 597](#)

Authorizes the use of a pseudonym, initials, or other signifier instead of the name of the victim (or witness, if the witness is also the victim) in an indictment, when specified requirements are met.

Takes effect January 1, 2020.

Oregon Workplace Fairness Act: [SB 726](#)

This bill makes several significant changes aimed to address workplace discrimination, harassment, and assault. Highlights include:

- Statute of Limitations - The statute of limitations for employment claims for harassment, assault, or discrimination is extended from one year to five years. *This provision takes effect 9/28/19.*
- Restrictions on Non-Disclosure, Non-Disparagement, & No-Rehire Agreements:
 - The bill prohibits employers from entering into agreements with employees or prospective employees that prevent the employee from disclosing or discussing conduct that constitutes covered discrimination.
 - An employer may enter into a settlement agreement that includes a nondisclosure, non-disparagement, or no-rehire provision only when the employee who is the victim requests to enter into the agreement. In this case, the victim must have at least 7 days to revoke the agreement.
 - *These provisions take effect October 1, 2020.*
- Requires all Oregon employers to adopt a written policy containing procedures and practices to reduce and prevent covered discrimination and sexual assault, and establishes minimum requirements for all policies. The Bureau of Labor and Industries will publish model procedures or policies that employers may use as guidance to establish their own policy. *This provision takes effect October 1, 2020.*

U-Visa Improvements: [SB 962](#)

SB 962 improves and standardizes the process by which an individual who is the victim of a qualifying crime may access the state law enforcement certification necessary to apply for a federal non-immigrant U-Visa certification:

- All law enforcement agencies must have protocols and procedures in place to process certification requests.
- There is a rebuttable presumption that a victim interacting with law enforcement is helpful (a required criteria for visa eligibility.)
- Certification documents must be issued within certain timelines.
- If a certification is denied, the victim is entitled to an explanation of the denial, and a chance to provide supplemental information.
- Certifying agencies must report to the Criminal Justice Commission and the legislature the total number of requests received in the past year, as well as the total number of requests that have been granted, denied, or are pending.

For helpful background and a more complete summary, see this document:

<https://olis.leg.state.or.us/liz/2019R1/Downloads/CommitteeMeetingDocument/176216>

Takes effect January 1, 2020.



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Sexual Abuse Protection Order (SAPO) Improvements: [SB 995](#)

SB 995 was the focus of highly effective survivor advocate advocacy, and makes significant improvements to Oregon's SAPO process:

- Removes the requirement that a sexual abuse protection order (SAPO) be filed within 180 days of a sexual assault. This ensures that relief is available when a survivor is able to come forward.
- Provides that a SAPO shall be effective for a period of five years or, if the petitioner is under 18 years of age at the time of entry, until the person attains 19 years of age, whichever occurs later.
- Provides that the order be a permanent restraining order in certain circumstances:
 - The court *shall* enter a permanent order if, at the time of the petition or renewal of the order, the respondent has been convicted of a crime described in ORS 163.355 to 163.445 committed against the petitioner.
 - The court *may* enter a permanent order if the court finds that the passage of time or a change in circumstances would not dissipate the petitioner's objectively reasonable fear for their physical safety. In making the finding, the court shall consider any information offered, including whether the respondent has a history of engaging in sexual abuse or domestic violence; if the petitioner is a minor, the fact that the respondent is related to the petitioner by blood or marriage; or any vulnerability of the petitioner that is not likely to change over time.
- Provides that a court may order service by an alternative method in accordance with ORCP 7D(6)(a) on proof of the petitioner's due diligence in attempting to effect service.
- *Takes effect January 1, 2020*

Paid Family and DVSA Safe Leave: [HB 2005](#)

HB 2005 creates a paid family and medical leave insurance (FAMLI) program, to be administered by the Oregon Employment Department, to provide employees compensated time off from work to care for and bond with a child during the first year of the child's birth or arrival through adoption or foster care; to provide care for a family member who has a serious health condition; to recover from their own serious health condition; and to take leave related to domestic violence, stalking, sexual assault, or harassment (safe leave) as defined in ORS 659A.272¹. The bill applies to all employers, and to employees who earn at least \$1,000 in a base year.

The bill establishes several implementation stages over the next three years, with benefits payable starting in January, 2023.

¹ 659A.272 allows leave for survivors or family members of survivors for these purposes: for obtaining law enforcement or legal assistance, medical treatment, counseling, victim advocacy, relocation.



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Domestic Violence Firearms Bill: [HB 2013](#)

Section One: Expanded Firearm Prohibitions

- This section amends ORS 166.255 (state dv-firearms prohibition statute) to expand state gun prohibitions. Under the new law, prohibitions will apply not only to qualifying protection orders that are upheld after a hearing, but also to any qualifying protection order that is confirmed by operation of law (if the respondent does not request a hearing, or requests a hearing and then withdraws the request.) *This provision took effect 6/4/2019.*

Sections Two through Five: Dispossession Requirements

- Requires a prohibited person (DV offender or Protection Order Respondent) to transfer any firearms or ammunition to a law enforcement agency, a gun dealer, or a qualified third party within 24 hours of being subject to the prohibition.
- Requires defendant or respondent to provide the court and the DA with a declaration w/in 48 hours that: 1) they didn't possess firearms/ammunition when they became subject to the disqualification; or 2) any firearms/ammunition they had have been transferred; or 3) they assert their right not to self-incriminate. If the guns are being held by a qualified third party, that person has to sign a declaration saying they know their responsibilities, which must be submitted along with the R/D's declaration. DA can initiate contempt proceedings if declaration not filed.
- Requires law enforcement, a gun dealer, or a qualified third party, before returning a firearm, to do a background check to confirm that the person receiving the firearm is the lawful owner of the firearm and may legally possess firearms under state and federal law.
- Requires law enforcement to notify the Department of Justice of any request for return of a firearm for purposes of notifying the victim, and to hold any firearm for 72 hours after receiving a request for return.
- *Sections Two through Five of the bill become operative on January 1, 2020.*

Sexual Assault Response Team (SART) Membership: [HB 2375](#)

This bill amends ORS 147.401 to require that the district attorney include a sexual assault nurse examiner or a hospital representative in a local sexual assault response team, to improve sexual assault patient access to medical forensic care. *Takes effect January 1, 2020.*

Unlawful Dissemination of an Intimate Image: [HB 2393](#)

In 2015, the legislature passed SB 188, which created the crime of unlawful dissemination of an identifiable intimate image. This bill updates the provisions of SB 188, in the following ways:

- Eliminates redundancy with the crime of harassment thru dissemination of an intimate image;
- Removes the requirement that the image have been shared via an internet website, so that images shared via text or other means will also be covered;
- Clarifies the meaning of *identifiable*;
- Provides for a civil cause of action against a perpetrator for general, specific, statutory, and punitive damages (caps on damages against minors.)

Takes effect January 1, 2020.



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Sexual Offense Treatment Board Updates: [HB 2472](#)

This bill was brought by the Oregon Attorney General's Sexual Assault Task Force to expand capacity and access to treatment services by establishing an offender treatment intern track, to increase opportunities for those who wish to enter the field. In addition, the bill expands oversight of treatment providers by requiring that only those holding certification under the OHA-SOTB, can practice sex offense specific treatment services. Finally, the bill updates terminology and changes the name from the Sex Offender Treatment Board to the Sexual Offense Treatment Board.

Takes effect 91 days after Sine Die.

Interpreter Hearsay Exception: [HB 2480](#)

This bill is a response to a 2012 Court of Appeals ruling (*State v. Montoya-Franco*, 250 Ore. App. 665, (2012)) that disallowed the admission into evidence of certain translations of out-of-court statements made by a third party. This bill provides that a translated statement is not hearsay if the statement is otherwise admissible, and the interpreter is present at trial and subject to cross-examination.

Takes effect June 11th, 2019. Applies to communications made on or after the effective date.

Refugee Resettlement Services: [HB 2508](#)

This bill provides funding to expand access to certain refugee resettlement services for recently arrived refugees. Federal dollars for these services have been cut in recent years, and this bill would allocate additional state funding and expand the types of services offered. Funding is allocated to DHS, for contracting with refugee settlement agencies as defined by the bill. Refugees, including victims of trafficking, would be eligible for up to 2 years of services, including housing assistance, landlord assistance, domestic violence assistance, counseling, transportation, interpreter services, assistance with applications for health care, SNAP, and other public benefits, and more. *Takes effect July 1, 2019.*

Protection Against Discrimination on the Basis of Sexual Orientation: [HB 2589](#)

This bill amends ORS 659A.118 and 659A.130 to remove offensive and out-dated language from our anti-discrimination statutes, and closes a prior loophole in protection for individuals who identify as transgender.

Takes effect May 6th, 2019.

Missing and Murdered Indigenous Women: [HB 2625](#)

This bill is a response to the fact that murder is the third leading cause of death among Native American and Alaskan Native women. The bill directs the Oregon Department of State Police to consult with the Commission on Indian Services and the U.S. Department of Justice to study how best to increase and improve criminal justice resources and responses relating to these issues and cases. The Department must report back to the Legislative Assembly no later than September 15, 2020.

Takes effect May 14th, 2019.



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Re-Entry Legal Services for Women Who Are Incarcerated: [HB 2631](#)

This bill allocates \$800,000 for a pilot program established by the Department of Corrections and the Criminal Justice Commission for the provision of legal services for women who are incarcerated at Coffee Creek Correctional Facility. The funds will be allocated to the Oregon Justice Resource Center, and legal services provided through the program will be designed to reduce the vulnerability to domestic violence and to obtain employment, housing services and other benefits.

Takes effect on passage.

Accountability and Equity Act: [HB 3064](#)

The Accountability and Equity Act will update Oregon's Justice Reinvestment efforts to ensure that funds are being distributed equitably to the communities that need them most. The bill will:

- Increase race, ethnicity, and gender reporting for counties to receive funds;
- Require the Criminal Justice Commission to consider how each county is reducing racial and ethnic disparities when awarding grant funds; and
- Add two members from historically underserved communities to the Justice Reinvestment Grant Review Committee.

Takes effect January 1, 2020.

Sexual Harassment Policies in K-12 Schools: [HB 3077](#)

The bill expands the definition of sexual harassment, clarifies the process for reporting harassment, and improves access to resources for students who report experiencing sexual harassment.

Takes effect July 1, 2020.

FAPA Contested Hearing Standard: [HB 3117](#)

This bill amends ORS 107.716 to remove the requirement that a court must find that the petitioner is in "imminent danger of further abuse" to continue an order. Instead, the victim must show that they have a reasonable fear for their physical safety. The bill provides that a court may continue a protective order at a contested hearing if the court finds that:

- 1) The abuse has occurred within 180 days;
- 2) The petitioner reasonably fears for the petitioner's physical safety; and
- 3) The respondent represents a credible threat to the physical safety of the petitioner or the petitioner's child.

Note: The bill does not amend ORS 107.718, which contains the standard by which a court determines whether or not to issue an emergency *ex parte* protective order. ORS 107.718 continues to require a showing that the petitioner is in "imminent danger of further abuse" at the time that the court issues the initial order.

Takes effect May 22nd, 2019.

Unemployment Insurance for Victims of Intimidation/Hate Crimes: [HB 3120](#)

HB 3120 specifies that a victim of the crime of intimidation as defined by ORS 166.165 or 166.155 or by rule may not be disqualified from unemployment benefits if they or their immediate family member was forced to leave work or unable to apply for work because of the crime.

Takes effect May 24th, 2019.



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Extension of Civil Statute of Limitations for Adult Survivors of Sexual Assault: [HB 3293](#)

HB 3293 extends the statute of limitations in civil lawsuits related to sexual assault from 2 years to 5 years from the date the victim discovers, or in the exercise of reasonable care should have discovered, the causal relationship between the assault and the injury.

Takes effect June 20th, 2019 and applies to cases brought on or after the effective date.

Campus Sexual Assault Response: [HB 3415](#)

This bill requires institutions of higher education to adopt written policies concerning sexual harassment, sexual assault, domestic violence, dating violence, and stalking. The bill requires policies to include a definition of sexual harassment, addresses violations that occur on as well as off campus, mandates the provision of information about resources, and mandates training for campus personnel.

Applies to the 2020-21 academic year.

Family Law Issues

Parenting Time Decisions: [SB 318](#)

The introduced bill proposed to add a 50/50 parenting time presumption, that could only be rebutted by clear and convincing evidence. As amended and passed by the legislature, the final bill makes two small changes to current statute. The bill makes it explicit that, when in the best interests of children, a 50/50 parenting time order is allowed. While this authority currently exists in statute, the bill will provide clarity on this point for un-represented parties who may be reading the statute or accessing the court system without assistance. In addition, the bill provides that when a court denies a request for 50/50 parenting time, the court must state in writing why the request is denied. The standard for making parenting time determinations –the best interests of the child(ren) and the safety of the parties - remains unchanged.

Takes effect January 1, 2020.

Detailed Parenting Plan Provisions: [SB 356](#)

This bill amends ORS 107.102 to provide that a detailed parenting plan may include a requirement that the custodial parent notify the noncustodial parent regarding specified matters concerning the child, and/or that the custodial parent provide the noncustodial parent with an opportunity to comment regarding specified matters concerning the child.

Takes effect January 1, 2020.

Custody or Parenting Time Alternative Dispute Resolution Conferences: [SB 385](#)

Allows presiding judge of each judicial district to establish alternative dispute resolution conference procedure for custody and parenting time modifications and enforcement proceedings. Sets certain minimum criteria for such a procedure, including that any conference officers have training in domestic violence, mediation, and child development, and that conference officers be employees of the Judicial Department or trained attorneys or mediators. Disallows the use of conferences in FAPA proceedings.

Takes effect January 1, 2020.



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Spousal Support Modification in Cases of Attempted or Conspired Murder: [SB 1011](#)

Provides that an obligee spouse's conviction for attempted murder or conspiracy to commit murder of the obligor spouse is a change of circumstances for purposes of spousal support modification.

Takes effect January 1, 2020.

CASA Study: [HB 2568](#)

Directs Oregon Department of Administrative Services to conduct review of CASA Volunteer Programs and report results of review and make recommendations for legislation.

Takes effect January 1, 2020.

Housing Policy Highlights

Because the need for safe, stable, affordable housing was the highest identified priority identified in the Alliance Statewide Priority Survey, the Alliance engaged in several key housing legislative proposals this session.

The Alliance and DVSA Advocates successfully weighed in on two key housing policy proposals:

Tenant Protections: [SB 608](#)

This bill was a 2019 Alliance priority, because victims of violence who are displaced by extreme rent increases or no-cause evictions are made more vulnerable to an abuser's power and control. In addition, people who are forced into homelessness or housing insecurity are more likely to experience sexual assault. The bill made two significant changes to Oregon's landlord-tenant laws:

- **Limits no-cause evictions.** Tenants who have been in their home for a year or more can no longer be evicted without a reason. Exceptions apply.
- **Limits how much landlords can increase the rent each year.** The new laws limit rent increases to 7% plus the average amount of inflation over the past twelve months, as published in the prior September. For 2019, landlords cannot raise rent more than **10.3%** in a year. Limit only applies to buildings that are 15 years old or older.

Took effect February 28th, 2019.

See <https://oregonlawhelp.org/resource/about-just-cause-eviction-and-rent-increase-protections> for more information, or check out this 3 minute video:

<https://www.youtube.com/embed/U3Az76EH7mk?rel=0>

Zoning to Allow “Missing Middle” Housing: [HB 2001](#)

This bill allows duplexes, triplexes, quads, and cottage clusters in cities of a certain size, where there was otherwise only single-family zoning. The goal is to increase housing options for changing needs in communities. Historically, single-family only zoning has been used to exclude people who rent their homes and people of color. This bill will help facilitate access to neighborhoods of opportunity throughout the state.

Takes effect on passage, with substantive provisions effective January 1, 2020.



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Selected Budget Items

Oregon Domestic Violence and Sexual Assault Services (ODSVS) Fund:

Advocates sought \$10 million in additional funding for the ODSVS fund to support the capacity of confidential community-based programs to meet the increasing need for survivor services such as shelter, counseling, safety planning, and support. Unfortunately, there were no general ODSVS increases this session. *However, see HB 2006, below.*

Housing Services for Survivors: [HB 2006](#)

HB 2006 allocated \$3 million to the ODSVS fund for the specific use of meeting the housing and shelter needs of survivors of domestic or sexual violence. These are one-time funds allocated for the 2019-21 biennium, but we hope to use them well, document their success, and seek ongoing funding in future sessions, as the need demands.

- These funds will be allocated by the Department of Justice Crime Victim Survivor Services Division (CVSSD) of DOJ.
- The funds are to assist victims of domestic violence and sexual assault with housing needs, including homelessness prevention, housing search assistance, tenant education and funding for rent, utilities, moving costs, deposits, application fees, or safe emergency housing.
- The funds will be distributed to tribal domestic and sexual violence programs and non-profit, non-governmental domestic and sexual violence service agencies in a manner consistent with distributions of funds from the Oregon Domestic and Sexual Violence Services (ODSVS) fund unless the ODSVS/CVSSD Advisory Committee determines that a different distribution formula is necessary to achieve the stated purposes of the bill.

See the budget note at:

<https://olis.leg.state.or.us/liz/2019R1/Downloads/CommitteeMeetingDocument/204521>

Emergency Housing Account and State Homelessness Assistance Program: [SB 5512](#)

These funds support a statewide system to distribute emergency rent assistance, rapid re-housing resources, and emergency shelter support to meet the needs of people experiencing housing instability. *The final allocation for the 2019-21 biennium was \$40 million in ongoing funding and \$10 million in one-time funds.*

Housing Pilot Program for Families with Children Experiencing Housing Instability: [HB 2032](#)

This is a joint pilot program with the Oregon Department of Housing and Community Services and the Oregon Department of Human Services to provide housing supports for TANF families. The project will provide grants to local housing service providers for up to four pilot projects in at least one rural and at least one urban area, to provide housing stabilization services. *\$10.5 million is allocated for the 2019-21 biennium.*

Title IX Coordinator, Department of Education Budget: [HB 5015](#)

The Department of Education budget authorizes a full time Title IX Coordinator, which is an increase over current capacity. For more information, see page 4 of 39 in the Legislative Fiscal Office's report. <https://olis.leg.state.or.us/liz/2019R1/Downloads/CommitteeMeetingDocument/203680>