

**DEPARTMENT OF HUMAN SERVICES**

**LEGISLATIVE REPORT  
2005**

**SUMMARY OF MAJOR LEGISLATION**

# 2005

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## **DEPARTMENT-WIDE IMPACT**

### **Criminal Records – HB 2157**

This bill consolidates the statutory and executive order authority of various state agencies to conduct statewide and national criminal history checks. The process for obtaining and handling criminal history information that is outlined in the statute is modeled after the process already in place at DHS. The statute preserves the department's authority to conduct criminal background checks in the same manner, and on the same range of individuals, that it has in the past.

### **DHS Appropriation Bill – HB 5148**

This bill funds the majority of the department's programs. (See the budget breakdowns.) This bill also included \$2.5 million set aside in the Emergency Fund to possibly be disbursed at a later date to the department to implement a plan to use more attorneys and paralegals for representation in court. The proposed plan will free up caseworkers' time from some legal responsibilities.

### **OMNIBUS DHS Revenue Bill – SB 1101**

This bill transferred funds from Tobacco Use Reduction Account (TURA), Law Enforcement Medical Liability Account (LEMLA) and the Job Opportunity Basic Skill Individual Education Account (JOBS IEA) to various other DHS programs and funds. Part of the JOBS Plus funding was transferred to the Oregon Student Assistance Commission.

### **Budget Adjustments – HB 5023**

This bill includes additional funds for Abstinence Education, the Domestic Violence and Sexual Assault Victims Programs, Alcohol & Drugs Services, and set aside funds for the additional costs of the Home Worker settlement agreement.

### **Budget Adjustments – HB 5177**

Removed part of the funds granted in HB 5023 for abstinence education and appropriated \$75,000 for a Marion County methamphetamine pilot program.

## **ADMINISTRATIVE SERVICES**

### **Board transfer – HB 2058**

As the bill impacts DHS, the bill transfers the accounting and budgeting services for certain boards from the Department of Human Services to the Department of Administrative Services (DAS). This requires the creation of separate accounts for each board.

### **Independent contractor – SB 323**

Redefines independent contractor to clarify what business conditions and criteria must be met to function as an independent contractor. Establishes criteria based on business location, insurance requirements, risk factors, hiring authority and other business investments. Amends and repeals related Oregon Revised Statutes to ensure consistent interpretation and application across agencies.

### **Provider assessments – HB 2147**

This bill deletes suspense accounts related to provider tax assessments, thus allowing all receipts (provider taxes) to be deposited directly to the appropriate coding structure. It allows long-term care facilities to pay the provider tax electronically.

### **Public works contracts bond – SB 477**

This bill requires a contractor or subcontractor to file a public works bond with the Construction Contractors Board prior to starting work on a public works project. Establishes actions the board may take related to payroll statements, prevailing wages and public record postings. It also establishes exceptions for bond filing.

## **CHILDREN, ADULTS AND FAMILIES**

### **Access to Education and Transportation – HB 3075**

This bill requires action in four specific areas: 1) allows child to continue to attend school attended prior to substitute care placement; 2) requires DHS to provide transportation and/or the cost of providing transportation for the school placement; 3) requires schools to transfer records for children in foster care within five days versus standard ten days; and 4) prior to February 1, 2007, the Department of Human Services shall report to the Legislative Assembly in the manner provided in ORS 192.245 on the implementation of and compliance by the department with ORS 339.133 as amended by section 1 of this 2005 Act.

### **Appointing Guardian ad litem – SB 230**

CAF staff involved in juvenile court proceedings may become involved with a guardian ad litem by the court. This new statute establishes procedures for the court in appointing and clarifying the role of a guardian ad litem. Staff may require assistance through the Attorney General's office in the event a petition is filed for a GAL.

### **Child abuse in schools – SB 755**

This bill requires school boards to adopt rules pertaining to child abuse reporting and to the release of employee records during law enforcement investigation of suspected child abuse.

### **Child abuse reporting law to add “unlawful exposure to a controlled substance” – SB 907**

This bill expanded the crimes of criminal mistreatment and child neglect in the first degree. This bill creates additional crimes and sentencing provisions related to delivery, manufacture, and possession of controlled substances. The bill modifies the child abuse reporting law to include “unlawful exposure to a controlled substance as defined in ORS 475.005 that subjects a child to substantial risk of harm to a child's health and safety.”

### **CPS assessments – HB 2335**

This bill requires DHS to provide information regarding CPS assessment to parent at the time of contact and establishes review process through the district attorney's office when a parent is voluntarily asked to leave the home during the assessment.

**Cross reporting of child abuse reports – SB 94**

This bill requires DHS to adopt rules establishing the process and criteria governing the child abuse reporting system. These rules will clarify the notification process between law enforcement and DHS.

**Disclosure of child abuse records – SB 947**

This bill requires Department of Human Services to make records concerning reports of child abuse available to any person if child dies or suffers serious physical injury due to child abuse. It allows the department to exempt specified information from disclosure. It also allows the department, if it does not have report to record, to disclose that information.

**Fatality review teams – SB 1057**

This bill creates authority for fatality review teams to review records related to domestic violence fatalities for purpose of preventing future fatalities.

**Foster care – SB 1034**

The department will provide to the court a plan and the court will assess if the department has provided case planning pursuant to ORS 419B.343 that addresses the ward’s needs and goals for a successful transition to independent living, including needs and goals relating to housing, physical and mental health, education, employment, community connections and supportive relationships. The court will specifically identify if the ward has safe and stable housing and is unlikely to become homeless as a result of dismissal of commitment of the ward to the department.

CAF policy will be written to reflect the department’s ability to certify foster families for children/youth under the age of 21. Currently it is 18 years of age.

**Foster Parent Bill of Rights and intervener status – SB 815**

This legislation requires two specific changes: 1) Identifies a list of “rights” for foster parents, many of which are currently identified in administrative rule, policy and best practice techniques; and 2) reduces the amount of time a foster parent must have a foster child prior to filing a petition for intervener status. The time is reduced from 12 months to six months.

**Homeless and runaway youth state planning – HB 2202**

This bill directs State Commission on Children and Families to lead a joint process involving commission and certain state agencies and advisory committees to develop a comprehensive and coordinated approach for services and support for runaway and homeless youth and their families. Requires joint process to be completed by January 1, 2007.

**Juvenile Compact Transfer – HB 2561**

This bill transfers responsibility for administration of the Interstate Compact on Juveniles (ICJ) from the Department of Human Services to the Oregon Youth Authority. It also requires DHS to transfer to OYA the funds, records, material resources and employees associated with the program.

**Mediation in juvenile dependency proceedings – HB 2566**

This bill requires that mediation be encouraged in the juvenile dependency proceeding in which a child is taken into protective custody or placed in substitute care.

**Personal Representative Bill – SB 198**

This bill allows a person who is a victim of a person crime to have a personal representative present through all phases of the investigation and prosecution except grand jury proceedings and certain child abuse assessments.

**Reemployment Assistance Program – SB 119**

This bill authorizes the Director of Department of Consumer and Business Services to provide assistance directly to certain injured workers through the Reemployment Assistance Program.

**Respectful Language: “Persons with Disabilities” – HB 3047**

This bill promotes the use of respectful language in regard to persons with disabilities. It applies to state agency rules, policies and communications.

**Rights of Putative Fathers in Juvenile Court – SB 234**

This bill modifies provisions relating to putative fathers in adoption, juvenile court and other court proceedings. It also modifies provisions relating to the establishment of paternity.



## **HEALTH SERVICES**

### **Office of Mental Health and Addiction Services**

#### **Closure of Oregon State Hospital adolescent ward – SB 1059**

This bill creates continuity in statute and reflects current practices with regard to the closure of the adolescent ward of Oregon State Hospital and the development of the secure intensive community inpatient facility. This secure intensive community inpatient facility will serve both youth requiring long-term psychiatric hospitalization and youth determined to be guilty except for insanity and placed under the jurisdiction of the Psychiatric Security Review Board.

#### **Controlled Substances/Drug Courts – HB 2485**

Oregon will become the first state in the nation to require a prescription for pseudoephedrine, used in drugs such as Sudafed. These have been available over-the-counter. This bill also supports and expands drug courts, which have been shown to reduce crime and save taxpayer dollars by integrating alcohol and other drug treatment services with the justice system.

#### **Cremated Remains – SB 1097**

Permits the Department of Human Services (DHS), for the purpose of interment or creation of a memorial, to release the name, date of birth and date of death of persons whose remains are still in possession of the state.

The state is currently in possession of approximately 3,500 cremains of individuals who died between 1914 and 1971 at Columbia Park Hospital, Dammasch State Hospital, Fairview Training Center, Oregon State Hospital, Oregon State Penitentiary and Oregon State Tuberculosis Hospital. In May, the Oregon State Hospital master plan recommended the state create a memorial for the dignified, perpetual care of the cremains, and DHS created a fund for people wanting to contribute to the memorial.

### **Department of Corrections and Oregon Youth Authority patient transfers – HB 2141**

Currently, there are statutory limitations placed on how long an inmate from the Department of Corrections (DOC) or a youth offender from the Oregon Youth Authority (OYA) can be transferred to the Oregon State Hospital (OSH). This bill also gives the OYA the ability to place adolescents in a community secure adolescent inpatient program. This is important because the Oregon State Hospital no longer has an adolescent ward and youths needing urgent psychiatric treatment would otherwise need to be placed temporarily in the adult ward.

### **Juvenile Forensic Mental Health System – SB 232**

This bill creates a mechanism for treatment and supervision of youth who commit a crime but are found “responsible except for insanity” by the court in a manner similar to the adult system. This bill provides a framework to establish a juvenile forensic mental health system.

Under Oregon law, juveniles alleged to have committed a delinquent act have the right to raise a defense of mental disease or defect. However, the juvenile code is silent as to the disposition of youths who successfully assert the defense. This measure establishes the procedure and standards for the defense and a dispositional system for those who are found Responsible Except for Insanity.

The measure changes the make-up of the PSRB by creating a five-member adult panel and a five-member juvenile panel. The juvenile panel is charged with conducting review hearings and hearings for discharge or conditional release. A case may be transferred to the adult panel once the youth reaches age 18. (See also SPD)

### **Mandatory Overtime Rules for Nurses – HB 2800**

Changes mandatory overtime rules for registered nurses, licensed practical nurses or certified nursing assistants. According to the Oregon Nurses Association (ONA), research on nurse staffing and shift length indicates that the risk of making errors is significantly increased when work shifts are longer than 12 hours. HB 2800 is the result of the collaborative efforts between the ONA, the Oregon Association of Hospitals & Health Systems, and the Oregon State Hospital. The bill prohibits an employer from requiring a nurse to work more than 12 hours in a day and limits the number of mandatory hours that nurses can work in a week to 48 hours.

### **Mental Health Bill of Parity – SB 1**

Prohibits group health insurers from imposing financial or treatment limitations on coverage for mental health and chemical dependency treatment services unless similar limitations are imposed on coverage of other medical conditions. Applies Act to group health insurance policies issued or renewed on or after January 1, 2007.

This bill will help patients with mental and addictive disorders to receive appropriate treatment as they would with any other significant illness. Thirty-five other states have parity laws of varying scope and coverage.

### **Mental Health Housing Definitions – SB 222**

An estimated 12,146 adults receiving mental health services need affordable housing, and 2,567 need supportive or structured housing. There are an estimated 2,522 adults with severe and persistent mental illness in Oregon who are homeless and about two-thirds of those enrolled in mental health services that are at a risk of homelessness. The previous statute limited housing options for people with severe and persistent mental illness to certain types of housing units.

This bill expands housing options for people with serious mental illness by changing definitions of community housing. It also allows care providers of residents with chronic mental illness to occupy community housing. Finally, it allows the Department of Human Services (DHS) to sell or otherwise dispose of community housing when it is no longer deemed suitable for use as housing.

### **Suspending Medical Assistance while in Public Institution – SB 913**

This bill directs the Department of Human Services (DHS) to suspend, as opposed to terminate, medical assistance for persons with serious mental illness who become inmates in a public institution.

Currently, when such a person becomes an inmate, his or her medical assistance is terminated. Upon release, the person must go through the often-lengthy process of re-applying for benefits that takes 90 days or more in some instances. In the case of individuals with serious mental illnesses, this can mean a significant period of time off medications that may result in decompensation and/or a return to custody. Upon notice that the person is no longer an inmate, DHS will be directed to reinstate medical assistance if the person is otherwise eligible. The measure does not extend eligibility for medical assistance if matching federal funds are not available to pay for medical assistance.

## **Office of Medical Assistance Programs**

### **Balancing the Oregon Health Plan Budget – HB 3108**

This bill was necessary to balance the Oregon Health Plan (OHP) budget. It directs DHS to adopt rules to adjust OHP services in order to align with the 2005-2007 Legislatively Adopted Budget. The Legislative Emergency Board reviewed proposed reductions on October 27 and 28. The federal Centers for Medicare and Medicaid Services (CMS) must approve all reductions.

This bill also resolves issues with the federal center for Medicare and Medicaid Services (CMS) concerning Type A and B hospital (small rural hospitals) reimbursement, and it allows DHS to adopt rules to modify the timeline and execution of managed care contracts.

### **Medicare Modernization Act – SB 1088**

This bill allows the Department of Human Services to effectively implement the Medicare Modernization and Improvement Act of 2003. The federal act creates the new Medicare prescription drug program and transfers prescription drug payment responsibility for individuals with both Medicare and Medicaid (dual eligibles) to the Medicare program. It also requires the state to pay the federal government the amount that the state normally would have spent on drugs for this population, i.e., the “phased down state contribution.”

The law allows DHS the flexibility to design, in rule, a revised benefit package for the dual eligible clients. As of January 2, 2006, DHS will no longer cover most prescriptions for the dual eligible clients. The law also allows DHS to recover the amount paid to the federal government on behalf of dual eligible clients from the estates of those dual eligible clients. (See also SPD)

### **OHP Premium Policy – SB 782**

This bill exempts OHP Standard clients from paying premiums if their family income is no more than 10 percent of the federal poverty level. For those still required to pay premiums, this bill allows a grace period for premium payments of up to six months, and it requires clients to pay overdue premiums to be eligible to reapply. This bill eliminates the six-month disqualification period when someone fails to pay premiums. The bill requires DHS to notify clients whom we terminate from public assistance that they may reapply if their circumstances change. Finally, it allows DHS to pay for brand name drugs when those drugs are equal to or less than the cost of generic drugs after discount prices and rebates.

Federal approval is required before the premium changes requested in this bill are implemented.

## **Public Health**

### **Direct Reporting of Laboratory Analysis of Water – SB 1080**

This bill implements a specific recommendation to the Legislature contained in the 2001 Secretary of State drinking water audit report. Public drinking water suppliers regularly test for arsenic, lead, mercury, bacteria, and other contaminants. A national evaluation of drinking water protection efforts indicates that Oregon's current practice is weak in assuring safe drinking water.

SB 1080 allows Oregon's public health officials to be quickly notified when drinking water contamination levels exceed the established health standards. Local and state public health experts can promptly and effectively work with the water supplier to address the problem and protect the public's health.

### **Farmers' Market – SB 289**

This bill appropriates \$49,000 of General Fund to the Department of Human Services (DHS) for the purpose of providing fresh, Oregon-grown fruits and vegetables from farmers' markets to eligible persons in the Women, Infants and Children (WIC) Program. It declares an emergency effective July 1, 2005.

The WIC Farmers' Market Nutrition Program, administered by DHS, provides coupons to WIC participants to be used at local farmers' markets and farm stands. The program's focus is to encourage participants to purchase fresh fruits and vegetables. Oregon currently has 62 farmers' markets operating from June through October. The WIC Farmers' Market Nutrition Program has been in operation for nine years and requires a match of five percent of state funds before federal funds can be leveraged to cover the additional 95% of program costs.

### **HIV Testing for Pregnant Women – HB 2706**

There have been three cases of HIV transmission from mother-to-child reported in Oregon. These might have been prevented by a prenatal HIV test. Early detection of HIV infection and antiviral treatment can dramatically reduce the transmission from mother to baby from 25 percent to two percent or less.

Rule changes will make it much more likely that pregnant women are tested for HIV as part of their first obstetrical visit, while still allowing them the option of refusal.

### **Immunization and Vaccine Administration – SB 490**

This bill allows pharmacists to administer vaccines and immunizations to persons who are at least 18 years of age and influenza vaccines to persons who are at least 15 years of age.

Previously, pharmacists were not allowed to administer flu vaccines to children under the age of 18.

### **Immunizations – SB 225**

An outbreak of measles in Benton County prompted the need to require college students here on non-immigrant visas to meet Oregon’s immunization requirements. This bill has several key components but one stands out: the Department and its advisory groups now have the flexibility to add new vaccines to the school entry requirements by rule, instead of statute. New vaccines come onto the market all the time. Now Oregon health officials can make decisions based on the best science available instead of waiting for a legislative opportunity every two years.

### **Medical Marijuana – SB 1085**

The Oregon Medical Marijuana Act was passed by Oregon voters and went into effect in 1998. DHS registers patients and caregivers. To qualify for the program, the physician must attest that the patient has a condition or symptom such as severe pain, glaucoma, persistent muscle spasms, cancer, or nausea. The patient must be an Oregon resident, the physician must be licensed to practice in Oregon and the patient and physician must have an established patient/doctor relationship. This bill clarifies the number of plants and amount of marijuana that may be legally possessed. It limits the number of plants at “multiple patient” grow sites; mandates possession of a registration card when transporting medical marijuana; enables but doesn’t mandate health care providers to assist in the administration of medical marijuana; and removes the affirmative defense for possession of medical marijuana in excess of allowable amounts.

### **Special Morbidity and Mortality Studies – SB 221**

A law protecting the confidentiality of information in special studies has been on the books for over 20 years. With limited exceptions, DHS has no authority to compel physicians, hospitals and others to provide data needed for public health investigation; they must provide it voluntarily.

In a 2004 court case involving a DHS investigation into the transmission of hepatitis C, a judge ruled that if a plaintiff wanted these records to make his case, DHS was compelled to turn them over and reveal the sources of the information. The passage of this bill will further clarify the confidentiality provision of the Special Studies statute and facilitate critical public health investigations without judicial delay.

### **Tribal Contracts – SB 855**

This bill allows DHS to contract directly with federally recognized Indian tribes' governing councils to provide maternal and child public health services requested under the federal Title V Maternal and Child Health Services Block Grant. In addition, this bill will allow DHS to contract with tribal councils for the provision of other public health services and programs. Tribes must provide services that are comparable with the services provided by the local public health authority and tribes must comply with any state or federal requirements with which a local public health authority providing the same services must comply.



## **SENIORS AND PEOPLE WITH DISABILITIES**

### **Adult Foster Home Licensing – SB 98**

This bill allows the Department to delegate licensing of adult foster homes to type B Area Agencies on Aging. This means that a trained licenser from a local office has the responsibility and authority to screen, orient and train potential foster home providers, conduct annual licensing inspections, investigate licensing complaints and recommend appropriate corrective action. Local coordination of foster homes helps assure appropriate placements and services to residents.

### **Adult Protective Services – SB 106**

This bill adds to the requirements of mandatory reporting of elder abuse in two ways: Firefighters and emergency medical technicians are added to the categories of people who are mandatory reporters; and all categories of mandatory reporters will now additionally be required to report instances of suspected sexual abuse and financial abuse of people over 65. All reporters of elder abuse, whether mandatory or voluntary, will now be free from civil or criminal liability as long as they have reported in good faith and with good cause.

Both older adults and people with disabilities may now also obtain restraining orders based on sexual or financial abuse, and the bill specifies the types of relief a court can order in a restraining order based on financial abuse. Lastly, the bill requires certain state and local agencies or officials to notify a long-term or residential care facility if a person who wants to be admitted is on probation, parole or post-prison supervision after being convicted of a sex crime.

### **Expanded Mental Health / Developmental Disabilities Services for Seniors – SB 781**

This bill directs community mental health and developmental disabilities programs to provide specific services for older adults. It also directs the Department of Human Services to facilitate the formation of local community partnerships between specified entities by supporting the development of program approaches to provide certain services to seniors, people with disabilities, and people who are members of ethnic minority groups. It also addresses the dispensing of brand name prescriptions under certain circumstances for people who are committed to institutions.

### **Juvenile Forensic DD System – SB 232**

This bill creates a mechanism for treatment and supervision of youth who commit a crime but are found “responsible except for insanity” by the court in a manner similar to the adult system. This bill provides a framework to establish a juvenile forensic mental health system.

Under Oregon law, juveniles alleged to have committed a delinquent act have the right to raise a defense of mental disease or defect. However, the juvenile code is silent as to the disposition of youths who successfully assert the defense. This measure establishes the procedure and standards for the defense and a dispositional system for those who are found Responsible Except for Insanity.

The measure changes the make-up of the PSRB by creating a five-member adult panel and a five-member juvenile panel. The juvenile panel is charged with conducting review hearings and hearings for discharge or conditional release. A case may be transferred to the adult panel once the youth reaches age 18. (See also OMAP)

### **Medicare Modernization Act – SB 1088**

This bill allows the Department of Human Services to effectively implement the Medicare Modernization and Improvement Act of 2003. The federal act creates the new Medicare prescription drug program and transfers prescription drug payment responsibility for individuals with both Medicare and Medicaid (dual eligibles) to the Medicare program. It also requires the state to pay the federal government the amount that the state normally would have spent on drugs for this population, i.e., the “phased down state contribution.”

The law allows DHS the flexibility to design, in rule, a revised benefit package for the dual eligible clients. As of January 2, 2006, DHS will no longer cover most prescriptions for the dual eligible clients. The law also allows DHS to recover the amount paid to the federal government on behalf of dual eligible clients from the estates of those dual eligible clients. (See also OMAP)

### **Molly's Bill – SB 1064**

Over the years, the whereabouts of many people who lived at Fairview Training Center, or other programs for people with developmental disabilities, were lost by their family members, including siblings who might not have known until many years later that a brother or sister lived in the institution. Molly's bill, named after a person who was found by her relatives, establishes the right of a person receiving developmental disability services to know that a family member has contacted DHS trying to find him or her. DHS will develop a process for trying to locate these people who had received services, letting them know that a family member would like to reach them, and following the person's wishes regarding whether that contact will be completed.

### **Oregon Disabilities Commission – HB 3230**

This bill transfers the Oregon Disabilities Commission (ODC) into the Department of Human Services. In addition, the Oregon Deaf and Hard-of-Hearing Services Program (ODHHSP) is established within DHS, replacing the Deaf and Hard of Hearing Access Project that was previously a part of ODC. The DHS Director has appointed an Advisory Committee for ODHHSP. Any public agency may contract with DHS for coordination and provision of sign language interpreter services. This bill also directs the State Board of Education to adopt, by rule, standards for sign language interpreters in public schools.

### **Oregon Project Independence – SB 870**

This bill establishes a specific fund using money from the Senior Tax Deferral Revolving Account, and appropriates the interest from this fund to be used for Oregon Project Independence. This will expand services available to older adults and will also, as funds permit, make Oregon Project Independence services available to people with disabilities.

### **Staley Settlement – HB 2797**

This bill relates to the Support Services for Adults with Developmental Disabilities, provided through Support Service Brokerages under contract with the Department of Human Services, Seniors and People with Disabilities. This bill directs the Department to use any savings generated from the approved budget for the Staley Settlement implementation plan to serve additional adults with developmental disabilities who are eligible and waiting for support services.