

# 2017 LEGISLATION ALERTS

## Criminal Law

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### **HB 3077 (Ch. 171) Crime Victims**

HB 3077 amends a statute relating to crime victims. Section 1 amends ORS 135.815, which governs the discovery obligations in criminal cases. ORS 135.815(5) precludes an attorney, or an agent of the attorney, from disclosing certain personal information to the defendant in a criminal case unless certain findings are made by the court. The personal information includes the address, telephone number, Social Security number, date of birth, and financial account information of a witness or victim. This measure adds the victim's email address and social media account information to the list of information that cannot be disclosed to the defendant.

HB 3077 takes effect on January 1, 2018.

### **SB 505 (Ch. 650) Grand Jury Proceedings**

SB 505 requires the recording of testimony in grand jury proceedings. The bill provides for a phased-in implementation of the recordation requirement. The bill requires recordation effective March 1, 2018, in judicial districts with a population between 150,000 and 300,000 or over 700,000, which include Deschutes, Jackson, and Multnomah counties. The requirement applies to all counties effective July 1, 2019.

### **SB 719 (Ch. 737) Extreme Risk Protection Order**

SB 719 creates a process for an individual to petition the court for an extreme risk protection order enjoining an individual from possessing a dangerous weapon, including a firearm.

Under the bill, violation of an extreme risk protection order is a Class A misdemeanor. Likewise, petitioning for such an order with the intention to harass the respondent or filing a petition containing information the petitioner knows to be false is also a Class A misdemeanor.

For more information about SB 719, see the Domestic Relations chapter. SB 719 takes effect on January 1, 2018.

### **SB 896 (Ch. 529) Direct Criminal Appeals**

SB 896 clarifies concepts related to "appealability" (which establishes which orders and judgments can be appealed to an appellate court) and "reviewability" (which establishes which of those appealed orders and judgments can actually be reviewed by the appellate courts). In addition, the bill establishes in statute what specific types of judgments and orders can be appealed, by whom they can be appealed, and when they can be appealed. It reorganizes certain appellate procedures, and revises provisions concerning the filing and service of a notice of appeal.

The bill expressly provides for appellate review of misdemeanor sentences and merger issues. It defines what intermediate court orders are subject to appellate review, clarifies the trial court's authority to enter certain corrected judgment during the pendency of an appeal, and clarifies and defines the dispositional authority of the appellate courts.

SB 896 takes effect on January 1, 2018.

#### **SB 931 (Ch. 359) Alternate Jurors**

SB 931 makes modifications to statutes regarding the use of alternate jurors in criminal cases. The bill amends ORS 136.260 and provides the trial court with more flexibility in selecting alternate jurors. Additionally, it amends ORS 136.280 and allows an alternate juror to replace a juror after deliberations have begun if the juror is unable to deliberate because of death, sickness, or other sufficient cause. This provision requires the existence of an alternate juror and an agreement to the substitution prior to the beginning of trial. It applies to a trial regarding sentencing enhancement facts as well. When an alternate juror substitutes on to the jury, the court shall instruct the jury to begin deliberations anew.

SB 931 takes effect on January 1, 2018.

#### **HB 3176 (Ch. 123) Domestic Abuse as a Mitigating Factor**

ORS 137.090 establishes procedures for the trial court to consider mitigating and aggravating factors in imposing a sentence. Currently, the statute authorizes the court to consider the defendant's status as a service member as a mitigating factor.

HB 3176 authorizes the court to consider as a mitigating factor whether the defendant committed the crime while under duress, compulsion, direction, or pressure of domestic abuse or violence from another person.

HB 3176 takes effect on January 1, 2018.

#### **SB 714 (Ch. 689) Stalking/ Residency Restrictions**

ORS 137.540 establishes what conditions the court may impose upon a probationer. ORS 144.102 establishes what conditions the Board of Parole and Post-Prison Supervision (Board) may impose on an offender subject to its jurisdiction.

SB 714 amends both statutes and authorizes reasonable residency restrictions on persons convicted of stalking or violating a stalking protective order. However, neither the court nor the Board may require the offender to change residence if the victim moves to a location that causes the offender to be in violation of the condition.

SB 714 takes effect on January 1, 2018.