

February 2008 Supplemental Legislative Session  
Bills of Interest to OCDLA

Bill #	Summary	Status/ Effective Date
SB 1070A	Requires Legislative Assembly to provide funding for statutes created or amended by initiative petition. Additional provisions addressing situation if funding measure is referred by people and defeated. Emergency clause. <b>Not Enacted</b>	<b>Not Enacted</b> In Ways & Means at adjournment (dead)
SB 1072A	Modifies crime of Participation in Dogfighting and enhances the crime from a Class A misdemeanor to a Class C felony. Enhances crime of Possessing Dogfighting Paraphernalia from a Class A misdemeanor to a Class C felony. Expands definition of "dogfighting paraphernalia." Emergency clause.	Passed <b>Effective March 11, 2008</b>
SB 1086B	Allows public safety officer to prevent disclosure of home address and home telephone number contained in records of Department of Public Safety Standards and Training. (Technical fix to 2007 legislation (HB 3407) that added DA, deputy DA and assistant attorney generals to opt-out statutes. DPSST records were inadvertently left out). Unrelated provision re: county clerks and land use regulation. Emergency clause.	Passed <b>Effective March 11, 2008</b>
SB 1087B	<p>Provides mandatory minimum sentences (no optional probation or downward departures) for "drug trafficking" and DCS to a minor crimes (both excluding marijuana) and for Aggravated Theft I if the victim is 65 years of age or older and the value of the theft is \$10,000 or more. Persons sentenced are eligible to receive 20 percent earned time reduction. Crime category 10 (58-130 months) for MCS/DCS of 500 or more grams of meth or cocaine, or 100 or more grams of heroin or ecstasy. Crime category 9 (34-72 months) for MCS/DCS of 100 or more grams of meth or cocaine, or 50 or more grams of heroin or ecstasy. Crime category 9 for delivery of meth, cocaine, heroin or ecstasy to a minor, except for a person who is less than three years older than the minor, unless the person previously was convicted of delivery to a minor of one of the four drugs. Crime category 8 (16-45 months) for Aggravated Theft I if the victim is 65 years of age or older and the value of the theft is \$10,000 or more.</p> <p>Provides that a judge may not impose a sentence of optional probation or grant a downward dispositional or durational departure for a person convicted of certain MCS/DCS offenses if a person previously has been convicted of certain MCS/DCS offenses (excluding marijuana).</p> <p>Amends Repeat Property Offender law in many ways, including: 1) Current 13-month presumptive sentence is increased to 18 months; 2) Current 19-month presumptive sentence is increased to 24 months; 3) Decreases four previous conviction predicates to: a) two previous conviction predicates; or b) one previous conviction predicate if the current crime was committed less than three years after the date the defendant completed supervision resulting from the previous conviction; 4) Adds Robbery III and Identity Theft to the new 24-month presumptive sentence provision; 5) Adds Mail Theft, Fraudulent Use of a Credit Card and Criminal Possession of a Forged Instrument to the new 18-month presumptive sentence provision; and 6) Adds Mail Theft and Attempted ORS 137.717(2) crimes to the ORS 137.717(2) (RPO) predicates.</p> <p>Provides increased prison sentence of two months for each additional previous property offense conviction not used as a predicate, with a cap of 12 months increased sentence on top of the 18 or 24 month sentence. Restricts the court's ability to depart downward to probation or a shorter prison sentence unless the parties stipulate otherwise or the court makes certain findings.</p> <p>Requires DOC to provide treatment to offenders and to administer a grant program to provide supplemental funding to local governments for jail beds, treatment for drug-addicted persons on probation, parole or post-prison supervision and intensive supervision of drug-addicted persons. Requires the Criminal Justice Commission to provide grants to counties for the purpose of providing supplemental funding for drug courts, including treatment costs and incarceration for those who violate the terms and conditions of a drug court.</p> <p>Requires court or supervising authority to impose swift and certain punishment, including jail, for persons on probation, parole or post-prison supervision who are required to complete drug or alcohol treatment, if the person refuses or otherwise fails to successfully complete the treatment program. (Continued on next page)</p>	<p>Passed</p> <p><b>Referred to voters</b> as an alternative to Mannix' IP 40 at the 11/4/08 election</p> <p>Effective only if this referral receives a majority of "yes" votes and receives more "yes" votes than IP 40 receives</p> <p>Applies to crimes committed on or after 1/109</p> <p>Treatment funding and grant programs are operative 7/1/09</p> <p>Governor agrees to include \$40 million additional funding in his 2009-11 Governor's Budget for treatment and other grant programs</p>

Bill #	Summary	Status/ Effective Date
SB 1087B  (cont.)	Enhances Mail Theft or Receipt or Stolen Mail (ORS 164.162) from a Class A misdemeanor to a Class C felony.  Refers SB 1087B to the people for their approval or rejection at the next regular general election (11/4/08). Provides that if both this referral and Mannix' IP 40 receive a majority of affirmative votes, the measure that receives the fewer affirmative votes is repealed; i.e., winner takes all. Companion bill to HB 3615 and HB 3638.	See above
SB 1088A	Requires juvenile court to suspend or revoke driving privileges of youth offenders adjudicated for traffic offenses that have suspension or revocation penalties for adult traffic offenders. Provides that order finding youth offender within the jurisdiction of the juvenile court for a traffic offense that has suspension or revocation penalties for adult offenders is ground for suspension or revocation. Applies to juvenile court orders entered on or after January 1, 2004. Effective on passage. This is a technical fix to address a drafting error in SB 245 (2003). Passage of this bill will not result in any new license suspensions. The bill "fixes" suspensions that were previously made.	Passed  <b>Effective March 11, 2008</b>
SB 1092B	Requires DA or other person filing juvenile delinquency petition to notify school authorities when student of school is the subject of the petition alleging certain, limited criminal acts. Requires school administrator to notify necessary school personnel of petition. Permits expungement of information relating to notice maintained by school. Authorizes school districts to promulgate rules for notification of personnel. Requires school personnel to keep information in notice confidential. Provides that information in notice may be used for disciplinary purposes under certain, limited circumstances. Limits liability for failure to comply with notification and confidentiality provisions. Reduces from 15 to five days period for notification of school of criminal charges against student pending in adult court.  Directs Oregon Law Commission to study policies requiring notice to school authorities of students who are subjects of juvenile delinquency petition and make recommendations to the 2009 Legislative Assembly.	Passed  <b>Effective January 1, 2009</b>
SB 1094A	Permits police officer to confiscate registration card and to mark registration plate with sticker if driver is arrested or issued a citation for Driving While Suspended or Revoked where the suspension or revocation is under ORS 811.182 only or Vehicle Operating Without Driving Privileges. Creates new Class C violation of Removal of Special Stickers. Operative January 1, 2011. <b>Not Enacted</b>	<b>Not Enacted</b>  In Ways & Means at adjournment (dead)
SB 1095A	Requires court to impose minimum \$500,000 security release amount for persons charged with MCS/DCS methamphetamine under certain circumstances. Burden and standard are similar to ORS 135.240. Authorizes court to reduce security release amount to \$50,000 after hearing. "As applied" <i>State v. Sutherland</i> , 329 Or 359 (1999), challenges to \$50,000 minimum security amount allowed.	Passed  <b>Effective January 1, 2009</b>
HB 3615A	Provides ballot title for Drug and Property Offense legislative referral to the voters (SB 1087) – alternative to Mannix' Initiative Petition 40 (both on November 4, 2008 general election ballot). Effective on passage.	Passed  <b>Effective March 11, 2008</b>
HB 3633A	Legislative implementation for HJR 49 and HJR 50 Oregon constitutional amendments to Article I, sections 42 and 43, allowing crime victims enforcement of existing constitutional rights. Effective only if HJR 49 or HJR 50 are approved by the voters at the May 20, 2008 primary election.  Creates procedures for crime victims to assert constitutional rights in pending criminal, probation violation/revocation and juvenile delinquency proceedings, including procedures authorizing expedited appeal, automatic suspension of criminal or juvenile proceeding on appeal and Attorney General intervention on behalf of State of Oregon. Places time and other limitations on enforcement provisions.  Creates task force to review implementation of procedures. Authorizes Attorney General to adopt rules to create a non-judicial process to effectuate crime victims' rights independent of proposed constitutional amendments (effective regardless of whether HJR 49 or HJR 50 is approved by the voters). <b>Not Enacted</b>	<b>Not Enacted</b>  In Ways & Means at adjournment (dead)

Bill #	Summary	Status/ Effective Date
HB 3638A	<p>Limits eligibility for participation in an Alternative Incarceration Program where the offender is eligible to receive early release on post-prison supervision under new ORS 421.508(4) (AIP/early release). An offender may otherwise be considered for and included within an AIP by DOC, but without the incentive of early release for successful completion of the AIP.</p> <p>Prohibits release of an offender on AIP/early release for defendants sentenced for a crime listed in ORS 137.700 and 137.707 (generally, Measure 11), Aggravated Murder and ORS 181.594 (sex crimes for which sex offender registration is required). This is a total prohibition; i.e., parties may not stipulate to AIP/early release for these offenses.</p> <p>Allows release of an offender on AIP/early release for defendants sentenced for Criminally Negligent Homicide, Assault III (where there is serious physical injury), Incest or Felony Hit &amp; Run, <b>only if</b> the parties stipulate and the court accepts the stipulation.</p> <p>Reverses the current presumption that an offender is eligible for AIP/early release. To be eligible, the defendant must request the court determine the person is eligible. Requires the court to make findings, after a hearing, that an offender may be considered for AIP/early release. A person is eligible for AIP/early release only if, after hearing, the court makes the following findings:</p> <ol style="list-style-type: none"> <li>1) the offender was not on supervision for an offense listed in ORS 137.712(4) (violent offense) or Felony Hit &amp; Run when the crime was committed;</li> <li>2) the offender has not previously been released early on post-prison supervision under an AIP/early release program;</li> <li>3) the harm or loss caused by the crime is not greater than usual for the type of crime;</li> <li>4) the crime was not part of an organized criminal operation; and</li> <li>5) the person's successful completion of the program will: <ol style="list-style-type: none"> <li>a) increase public safety;</li> <li>b) enhance the likelihood of rehabilitation; and</li> <li>c) not unduly reduce the appropriate punishment.</li> </ol> </li> </ol> <p>Further restricts persons eligible for AIP to exclude those convicted of Aggravated Murder, a Measure 11 offense, felony Hit &amp; Run, an offense requiring sex offender registration and those convicted of a crime that has death or serious physical injury as an element of the crime.</p> <p>Provides limitations on AIP, including no re-entry into AIP during the same incarceration period. An offender must serve at least 12 months from the beginning of pre-trial jail incarceration to the end of his/her 90-day "non-prison leave" (which is the new term for "transitional leave.") An offender may receive only a 20 percent reduction in sentence for AIP in addition to the 20 percent reduction for earned time. Offenders with detainers may not participate in AIP.</p> <p>Unrelated to AIP, HB 3638: 1) provides that a felony offender who is incarcerated in prison or jail (including on a probation violation sanction or revocation) can not vote; 2) requires counties, with state reimbursement of costs, to conduct a national criminal history check for persons incarcerated in county facilities; and 3) provides SB 1087 treatment grant implementation requirements.</p> <p>Companion bill to SB 1087 referral to the voters as an alternative to Mannix' IP 40 and HB 3615 (ballot title for SB 1087 referral).</p>	<p>Passed</p> <p><b>Effective January 1, 2009</b></p> <p>AIP provisions apply to persons sentenced for crimes committed on or after January 1, 2009</p> <p>No vote and criminal history checks at intake provisions apply to persons incarcerated on or after January 1, 2009</p> <p>Section 8, 9 and 10 provisions related to treatment are repealed if SB 1087 referral is not enacted</p>