

2009 LEGISLATION ALERTS

CRIMINAL LAW

CONTENT OF PLEA AGREEMENTS ORS 135.390

2009 OR LAWS CH 356 (HB 2262)

HB 2262 requires plea agreements involving the dismissal of charges to include a written provision that indicates whether a court is required to reinstate dismissed charges if that the plea is later withdrawn or the resulting conviction is later vacated, reversed, or set aside. The court may not accept a plea agreement without that provision. If the plea agreement does contain a provision requiring the reinstatement of dismissed charges under those circumstances, the defendant must also execute a written waiver of the statute of limitations and any statutory or constitutional speedy trial or double jeopardy rights applicable to the dismissed charges.

Effective date: January 1, 2010

The amendments apply to pleas of guilty or no contest tendered on or after the effective date.

OBJECTIONS TO ANALYTICAL REPORTS ORS 475.235

2009 OR LAWS CH 610 (HB 2285)

HB 2285 makes permanent the changes to ORS 475.235 made by 2007 Or Laws, ch 636, § 2. Those changes provide that if a criminal defendant intends to object at trial to the admission of a certified copy of an analytical report, he or she must file a written notice of objection with the court and serve a copy of the

notice on the district attorney at least 15 days before trial.

Effective date: January 1, 2010

PROPERTY OFFENSES ORS 164.043 – 164.365

2009 OR LAWS CH 16 (HB 2323)

HB 2323 amends the criminal statutes relating to the value threshold for property offenses to adjust for inflation. The affected statutes are: ORS 164.043 (Theft III), 164.045 (Theft II), 164.055 (Theft I), 164.125 (Theft of Services), 164.354 (Criminal Mischief II), 164.365 (Criminal Mischief I), and 165.055 (Fraudulent Use of a Credit Card).

Effective date: January 1, 2010

The amendments apply to conduct occurring on or after the effective date.

SERVICE OF PROCESS OUTSIDE OF OREGON ORS 131.588, 133.575, 136.595

2009 OR LAWS CH 617 (HB 2502)

HB 2502 authorizes service of an Oregon subpoena duces tecum or other criminal process for the seizure or production of documents outside the State of Oregon. Service outside the state is allowed as long as the criminal matter is triable in Oregon and the exercise of jurisdiction over the recipient does not violate the United States or Oregon constitutions.

Effective date: June 26, 2009

DISCLAIMER

IN BRIEF includes claim prevention information that helps you to minimize the likelihood of being sued for legal malpractice. The material presented does not establish, report, or create the standard of care for attorneys. The articles do not represent a complete analysis of the topics presented, and readers should conduct their own appropriate research.

JUVENILE ADJUDICATION / FELONY DUII
ORS 813.010 – 813.328
2009 OR LAWS CH 525 (HB 3194)

This bill amends ORS 813.010(5)(a) to provide that juvenile adjudications will serve as predicate offenses giving rise to Felony Driving Under the Influence of Intoxicants (Class C Felony). The bill requires that the current offense be committed in a motor vehicle and the person must have at least three times in the 10 years prior to the date of the current offense, been convicted or adjudicated of offenses described in ORS 813.010(5)(a).

Juvenile adjudications are added to the provisions of ORS 813.010(5)(b) that exempt as qualifying offenses convictions for driving offenses in another jurisdiction that are based solely on a person's status of being under 21 years of age and having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person over 21 years old.

Practice Tip: Those representing youth should carefully advise their clients as to the future implications of relevant juvenile adjudications to felony enhancements as a result of HB 3194.

Effective date: January 1, 2010

The amendments apply to offenses committed on or after the effective date.

ESTABLISHING PRIOR OFFENSES
ORS 132.540
2009 OR LAWS CH 180 (SB 242)

SB 242 provides a procedure for pleading and proving prior offenses if those prior offenses constitute a material element of the current charged offense. The bill provides procedures for the defendant to stipulate to the prior offense and provides that the stipulation will be presented to the jury when the prior offense is a material element of the current charge. This bill was meant to codify appellate court decisions in *State v. Reynolds*, 183 Or App 249, rev den 335 Or 90 (2002), *State v. Hess*, 342 Or 647 (2007), *State v. Probst*, 339 Or 612 (2005), and *State v. Jacob*, 344 Or 181 (2008).

Effective date: January 1, 2010

The bill applies to prosecutions for offenses committed on or after the effective date.

MOTIONS IN ARREST OF JUDGMENT
ORS 136.535
2009 OR LAWS CH 112 (SB 243)

SB 243 applies Oregon Rule of Civil Procedure 64 F (motions for new trial) to motions in arrest of judgment in criminal actions. This has the effect of reinstating a "deemed denied" date for motions in arrest of judgment.

Effective date: January 1, 2010

The amendments apply only to motions in arrest of judgment in criminal actions filed on or after the effective date.

DISCLOSURE OF PERSONAL INFORMATION OF
VICTIMS AND WITNESSES
ORS 419C.276
2009 OR LAWS CH 113 (SB 248)

SB 248 amends ORS 419C.276 regarding protection of information about victims, witnesses, or both in delinquency proceedings. The prior statute required the victim or witness to request nondisclosure of addresses and telephone numbers to a youth or youth offender. The bill prevents attorneys from disclosing personal identifiers of a victim or witness to their youth or youth offender client unless authorized by the court. Personal identifiers are defined as a person's address, telephone number, Social Security number, and date of birth and bank account or credit card numbers. The court must order disclosure of the information to the youth if the court finds that: (1) the attorney for the youth or youth offender has requested the district attorney or juvenile department to disclose the information to the youth or youth offender; (2) the district attorney or the juvenile department has refused to do so; and (3) the need for the information cannot reasonably be met by other means.

SB 248 aligns ORS 419C.276(1) with comparable provisions in the criminal code at ORS 135.815.

Effective date: January 1, 2010

The amendments apply to juvenile proceedings commenced on or after the effective date.

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