

House Bill 2823

Sponsored by Representative WILLIAMS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Removes kidnapping in the first degree and kidnapping in the second degree from definition of "sex crime" that triggers obligation to report as sex offender.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to sex crimes; amending ORS 163A.005 and 163A.115; and prescribing an effective date.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 163A.005 is amended to read:

5 163A.005. As used in ORS 163A.005 to 163A.235:

6 (1) "Another United States court" means a federal court, a military court, the tribal court of a
7 federally recognized Indian tribe or a court of:

- 8 (a) A state other than Oregon;
9 (b) The District of Columbia;
10 (c) The Commonwealth of Puerto Rico;
11 (d) Guam;
12 (e) American Samoa;
13 (f) The Commonwealth of the Northern Mariana Islands; or
14 (g) The United States Virgin Islands.

15 (2) "Attends" means is enrolled on a full-time or part-time basis.

16 (3)(a) "Correctional facility" means any place used for the confinement of persons:

17 (A) Charged with or convicted of a crime or otherwise confined under a court order.

18 (B) Found to be within the jurisdiction of the juvenile court for having committed an act that
19 if committed by an adult would constitute a crime.

20 (b) "Correctional facility" applies to a state hospital or a secure intensive community inpatient
21 facility only as to persons detained therein charged with or convicted of a crime, or detained therein
22 after being found guilty except for insanity under ORS 161.290 to 161.373 or responsible except for
23 insanity under ORS 419C.411.

24 (4) "Institution of higher education" means a public or private educational institution that pro-
25 vides a program of post-secondary education.

26 (5) "Sex crime" means:

- 27 (a) Rape in any degree;
28 (b) Sodomy in any degree;
29 (c) Unlawful sexual penetration in any degree;
30 (d) Sexual abuse in any degree;
31 (e) Incest with a child victim;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (f) Using a child in a display of sexually explicit conduct;
- 2 (g) Encouraging child sexual abuse in any degree;
- 3 (h) Transporting child pornography into the state;
- 4 (i) Paying for viewing a child’s sexually explicit conduct;
- 5 (j) Compelling prostitution;
- 6 (k) Promoting prostitution;
- 7 [(L) *Kidnapping in the first degree if the victim was under 18 years of age;*]
- 8 [(m)] (L) Contributing to the sexual delinquency of a minor;
- 9 [(n)] (m) Sexual misconduct if the offender is at least 18 years of age;
- 10 [(o)] (n) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- 11 [(p) *Kidnapping in the second degree if the victim was under 18 years of age, except by a parent*
- 12 *or by a person found to be within the jurisdiction of the juvenile court;*]
- 13 [(q)] (o) Online sexual corruption of a child in any degree if the offender reasonably believed the
- 14 child to be more than five years younger than the offender;
- 15 [(r)] (p) Luring a minor, if:
- 16 (A) The offender reasonably believed the minor or, in the case of a police officer or agent of a
- 17 police officer posing as a minor, the purported minor to be more than five years younger than the
- 18 offender or under 16 years of age; and
- 19 (B) The court designates in the judgment that the offense is a sex crime;
- 20 [(s)] (q) Sexual assault of an animal;
- 21 [(t)] (r) Public indecency or private indecency, if the person has a prior conviction for a crime
- 22 listed in this subsection;
- 23 [(u)] (s) Trafficking in persons as described in ORS 163.266 (1)(b) or (c);
- 24 [(v)] (t) Purchasing sex with a minor if the court designates the offense as a sex crime pursuant
- 25 to ORS 163.413 (3)(d), or the offense is the defendant’s second or subsequent conviction under ORS
- 26 163.413 (3)(b)(B);
- 27 [(w)] (u) Invasion of personal privacy in the first degree, if the court designates the offense as
- 28 a sex crime pursuant to ORS 163.701 (3);
- 29 [(x)] (v) Any attempt to commit any of the crimes listed in paragraphs (a) to [(w)] (u) of this
- 30 subsection;
- 31 [(y)] (w) Burglary, when committed with intent to commit any of the offenses listed in para-
- 32 graphs (a) to [(w)] (u) of this subsection; or
- 33 [(z)] (x) Criminal conspiracy if the offender agrees with one or more persons to engage in or
- 34 cause the performance of an offense listed in paragraphs (a) to [(w)] (u) of this subsection.
- 35 (6) “Sex offender” means a person who:
- 36 (a) Has been convicted of a sex crime;
- 37 (b) Has been found guilty except for insanity of a sex crime;
- 38 (c) Has been convicted in another United States court of a crime:
- 39 (A) That would constitute a sex crime if committed in this state; or
- 40 (B) For which the person would have to register as a sex offender in that court’s jurisdiction,
- 41 or as required under federal law, regardless of whether the crime would constitute a sex crime in
- 42 this state; or
- 43 (d) Is described in ORS 163A.025 (1).
- 44 (7) “Works” or “carries on a vocation” means full-time or part-time employment for more than
- 45 14 days within one calendar year whether financially compensated, volunteered or for the purpose

1 of governmental or educational benefit.

2 **SECTION 2.** ORS 163A.115 is amended to read:

3 163A.115. Notwithstanding any other provision of law:

4 (1) A person who is a sexually violent dangerous offender under ORS 137.765:

5 (a) Must be classified as a level three sex offender under ORS 163A.100 (3); and

6 (b) Is not eligible for relief from the obligation to report as a sex offender or reclassification as
7 a level two sex offender under ORS 163A.100 (2), pursuant to a petition filed under ORS 163A.125.

8 (2) A person who has been convicted or found guilty except for insanity of one of the following
9 offenses is not eligible for relief from the obligation to report as a sex offender pursuant to a peti-
10 tion filed under ORS 163A.125 (1):

11 (a) Rape in the first degree;

12 (b) Sodomy in the first degree;

13 (c) Unlawful sexual penetration in the first degree; **or**

14 [(d) Kidnapping in the first degree as described in ORS 163.235 (1)(e) or when the victim is under
15 18 years of age; or]

16 [(e)] (d) Burglary in the first degree when committed with the intent to commit any of the of-
17 fenses listed in ORS 163A.005 (5)(a) to [(w)] (u).

18 (3) A person classified as a level three sex offender under section 7 (2)(b), chapter 708, Oregon
19 Laws 2013, is not eligible for relief from the obligation to report as a sex offender pursuant to a
20 petition filed under ORS 163A.125 (1).

21 **SECTION 3.** This 2021 Act takes effect on the 91st day after the date on which the 2021
22 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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