

# House Bill 3088

Sponsored by Representative NOSSE

## 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**.

Repeals crimes of prostitution, commercial sexual solicitation and promoting prostitution.  
Takes effect on 91st day following adjournment sine die.

### A BILL FOR AN ACT

1  
2 Relating to prostitution; amending ORS 12.117, 90.396, 131.125, 131.602, 133.724, 133.726, 136.437,  
3 137.076, 137.221, 137.712, 163.413, 163A.005, 163A.115, 166.715, 167.002, 167.027, 167.062, 181A.155,  
4 342.143, 419A.260, 419A.262, 419B.005, 419C.473, 443.004, 687.011 and 809.745; repealing ORS  
5 167.007, 167.008 and 167.012; and prescribing an effective date.

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

7 **SECTION 1. ORS 167.007, 167.008 and 167.012 are repealed.**

8 **SECTION 2.** ORS 12.117 is amended to read:

9 12.117. (1) Notwithstanding ORS 12.110, 12.115 or 12.160, an action based on conduct that con-  
10 stitutes child abuse or conduct knowingly allowing, permitting or encouraging child abuse that oc-  
11 curs while the person is under 18 years of age must be commenced before the person attains 40  
12 years of age, or if the person has not discovered the causal connection between the injury and the  
13 child abuse, nor in the exercise of reasonable care should have discovered the causal connection  
14 between the injury and the child abuse, not more than five years from the date the person discovers  
15 or in the exercise of reasonable care should have discovered the causal connection between the  
16 child abuse and the injury, whichever period is longer.

17 (2) As used in subsection (1) of this section, "child abuse" means any of the following:

18 (a) Intentional conduct by an adult that results in:

19 (A) Any physical injury to a child; or

20 (B) Any mental injury to a child which results in observable and substantial impairment of the  
21 child's mental or psychological ability to function caused by cruelty to the child, with due regard  
22 to the culture of the child;

23 (b) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-  
24 tration and incest, as those acts are defined in ORS chapter 163;

25 (c) Sexual abuse, as defined in ORS chapter 163, when the victim is a child; or

26 (d) Sexual exploitation of a child, including but not limited to:

27 (A) Conduct constituting violation of ORS 163.435 and any other conduct which allows, employs,  
28 authorizes, permits, induces or encourages a child to engage in the performing for people to observe  
29 or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts  
30 sexual conduct or contact; and

31 (B) Allowing, permitting, encouraging or hiring a child to engage in prostitution [*or commercial*

**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 *sexual solicitation,*] as defined in ORS [*chapter 167*] **167.002 or commercial sexual solicitation.**

2 (3) Nothing in this section creates a new cause of action or enlarges any existing cause of  
3 action.

4 **SECTION 3.** ORS 90.396 is amended to read:

5 90.396. (1) Except as provided in subsection (2) of this section, after at least 24 hours' written  
6 notice specifying the acts and omissions constituting the cause and specifying the date and time of  
7 the termination, the landlord may terminate the rental agreement and take possession as provided  
8 in ORS 105.105 to 105.168, if:

9 (a) The tenant, someone in the tenant's control or the tenant's pet seriously threatens to inflict  
10 substantial personal injury, or inflicts any substantial personal injury, upon a person on the prem-  
11 ises other than the tenant;

12 (b) The tenant or someone in the tenant's control recklessly endangers a person on the premises  
13 other than the tenant by creating a serious risk of substantial personal injury;

14 (c) The tenant, someone in the tenant's control or the tenant's pet inflicts any substantial personal  
15 injury upon a neighbor living in the immediate vicinity of the premises;

16 (d) The tenant or someone in the tenant's control intentionally inflicts any substantial damage  
17 to the premises or the tenant's pet inflicts substantial damage to the premises on more than one  
18 occasion;

19 (e)(A) The tenant intentionally provided substantial false information on the application for the  
20 tenancy within the past year;

21 (B) The false information was with regard to a criminal conviction of the tenant that would have  
22 been material to the landlord's acceptance of the application; and

23 (C) The landlord terminates the rental agreement within 30 days after discovering the falsity  
24 of the information; or

25 (f) The tenant, someone in the tenant's control or the tenant's pet commits any act that is out-  
26 rageous in the extreme, on the premises or in the immediate vicinity of the premises. For purposes  
27 of this paragraph, an act is outrageous in the extreme if the act is not described in paragraphs (a)  
28 to (e) of this subsection, but is similar in degree and is one that a reasonable person in that com-  
29 munity would consider to be so offensive as to warrant termination of the tenancy within 24 hours,  
30 considering the seriousness of the act or the risk to others. An act that is outrageous in the extreme  
31 is more extreme or serious than an act that warrants a 30-day termination under ORS 90.392. Acts  
32 that are "outrageous in the extreme" include, but are not limited to, the following acts by a person:

33 [(A) *Prostitution, commercial sexual solicitation or promoting prostitution, as described in ORS*  
34 *167.007, 167.008 and 167.012;*]

35 [(B)] (A) Unlawful manufacture, delivery or possession of a controlled substance, as defined in  
36 ORS 475.005;

37 [(C)] (B) Manufacture of a cannabinoid extract, as defined in ORS 475B.015, unless the person  
38 manufacturing the cannabinoid extract holds a license issued under ORS 475B.090 or is registered  
39 under ORS 475B.840;

40 [(D)] (C) A bias crime, as described in ORS 166.155 and 166.165; or

41 [(E)] (D) Burglary as described in ORS 164.215 and 164.225.

42 (2) If the cause for a termination notice given pursuant to subsection (1) of this section is based  
43 upon the acts of the tenant's pet, the tenant may cure the cause and avoid termination of the  
44 tenancy by removing the pet from the premises prior to the end of the notice period. The notice  
45 must describe the right of the tenant to cure the cause. If the tenant returns the pet to the premises

1 at any time after having cured the violation, the landlord, after at least 24 hours' written notice  
 2 specifying the subsequent presence of the offending pet, may terminate the rental agreement and  
 3 take possession as provided in ORS 105.105 to 105.168. The tenant does not have a right to cure this  
 4 subsequent violation.

5 (3) For purposes of subsection (1) of this section, someone is in the tenant's control if that per-  
 6 son enters or remains on the premises with the tenant's permission or consent after the tenant  
 7 reasonably knows or should know of that person's act or likelihood to commit any act of the type  
 8 described in subsection (1) of this section.

9 (4) An act can be proven to be outrageous in the extreme even if the act is one that does not  
 10 violate a criminal statute. Notwithstanding the references to criminal statutes in subsection (1)(f)  
 11 of this section, the landlord's burden of proof in an action for possession under subsection (1) of this  
 12 section is the civil standard of proof by a preponderance of the evidence.

13 (5) If a good faith effort by a landlord to terminate the tenancy under subsection (1)(f) of this  
 14 section and to recover possession of the rental unit under ORS 105.105 to 105.168 fails by decision  
 15 of the court, the landlord may not be found in violation of any state statute or local ordinance re-  
 16 quiring the landlord to remove that tenant upon threat of fine, abatement or forfeiture as long as  
 17 the landlord continues to make a good faith effort to terminate the tenancy.

18 **SECTION 4.** ORS 131.125 is amended to read:

19 131.125. (1) A prosecution for aggravated murder, murder, attempted murder or aggravated  
 20 murder, conspiracy or solicitation to commit aggravated murder or murder or any degree of  
 21 manslaughter may be commenced at any time after the commission of the attempt, conspiracy or  
 22 solicitation to commit aggravated murder or murder, or the death of the person killed.

23 (2) A prosecution for any of the following felonies may be commenced within 12 years after the  
 24 commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime  
 25 before the victim attains 30 years of age:

- 26 (a) Rape in the first degree under ORS 163.375.
- 27 (b) Sodomy in the first degree under ORS 163.405.
- 28 (c) Unlawful sexual penetration in the first degree under ORS 163.411.
- 29 (d) Sexual abuse in the first degree under ORS 163.427.

30 (3) A prosecution for any of the following felonies may be commenced within six years after the  
 31 commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime  
 32 before the victim attains 30 years of age or within 12 years after the offense is reported to a law  
 33 enforcement agency or the Department of Human Services, whichever occurs first:

- 34 (a) Strangulation under ORS 163.187 (4).
- 35 (b) Criminal mistreatment in the first degree under ORS 163.205.
- 36 (c) Rape in the third degree under ORS 163.355.
- 37 (d) Rape in the second degree under ORS 163.365.
- 38 (e) Sodomy in the third degree under ORS 163.385.
- 39 (f) Sodomy in the second degree under ORS 163.395.
- 40 (g) Unlawful sexual penetration in the second degree under ORS 163.408.
- 41 (h) Sexual abuse in the second degree under ORS 163.425.
- 42 (i) Using a child in a display of sexual conduct under ORS 163.670.
- 43 (j) Encouraging child sexual abuse in the first degree under ORS 163.684.
- 44 (k) Incest under ORS 163.525.

45 *[(L) Promoting prostitution under ORS 167.012.]*

1        ~~(m)~~ (L) Compelling prostitution under ORS 167.017.

2        ~~(n)~~ (m) Luring a minor under ORS 167.057.

3        (4) A prosecution for any of the following misdemeanors may be commenced within four years  
4 after the commission of the crime or, if the victim at the time of the crime was under 18 years of  
5 age, anytime before the victim attains 22 years of age or within four years after the offense is re-  
6 ported to a law enforcement agency or the Department of Human Services, whichever occurs first:

7            (a) Strangulation under ORS 163.187 (3).

8            (b) Sexual abuse in the third degree under ORS 163.415.

9            (c) Exhibiting an obscene performance to a minor under ORS 167.075.

10          (d) Displaying obscene materials to minors under ORS 167.080.

11          (5) In the case of crimes described in subsection (3)(i) of this section, the victim is the child  
12 engaged in sexual conduct. In the case of the crime described in subsection (3)(k) of this section,  
13 the victim is the party to the incest other than the party being prosecuted. In the case of crimes  
14 described in subsection (3)(L) ~~and (m)~~ of this section, the victim is the child whose acts of  
15 prostitution are ~~promoted or~~ compelled.

16          (6) A prosecution for arson in any degree may be commenced within six years after the com-  
17 mission of the crime.

18          (7) A prosecution for any of the following felonies may be commenced within six years after the  
19 commission of the crime if the victim at the time of the crime was 65 years of age or older:

20            (a) Theft in the first degree under ORS 164.055.

21            (b) Aggravated theft in the first degree under ORS 164.057.

22            (c) Extortion under ORS 164.075.

23            (d) Robbery in the third degree under ORS 164.395.

24            (e) Robbery in the second degree under ORS 164.405.

25            (f) Robbery in the first degree under ORS 164.415.

26            (g) Forgery in the first degree under ORS 165.013.

27            (h) Fraudulent use of a credit card under ORS 165.055 (4)(b).

28            (i) Identity theft under ORS 165.800.

29          (8) Except as provided in subsection (9) of this section or as otherwise expressly provided by  
30 law, prosecutions for other offenses must be commenced within the following periods of limitations  
31 after their commission:

32            (a) For any other felony, three years.

33            (b) For any misdemeanor, two years.

34            (c) For a violation, six months.

35          (9) If the period prescribed in subsection (8) of this section has expired, a prosecution never-  
36 theless may be commenced as follows:

37            (a) If the offense has as a material element either fraud or the breach of a fiduciary obligation,  
38 prosecution may be commenced within one year after discovery of the offense by an aggrieved party  
39 or by a person who has a legal duty to represent an aggrieved party and who is not a party to the  
40 offense, but in no case shall the period of limitation otherwise applicable be extended by more than  
41 three years;

42            (b) If the offense is based upon misconduct in office by a public officer or employee, prosecution  
43 may be commenced at any time while the defendant is in public office or employment or within two  
44 years thereafter, but in no case shall the period of limitation otherwise applicable be extended by  
45 more than three years; or

1 (c) If the offense is an invasion of personal privacy under ORS 163.700 or 163.701, prosecution  
 2 may be commenced within one year after discovery of the offense by the person aggrieved by the  
 3 offense, by a person who has a legal duty to represent the person aggrieved by the offense or by a  
 4 law enforcement agency, but in no case shall the period of limitation otherwise applicable be ex-  
 5 tended by more than three years.

6 (10) Notwithstanding subsections (2) and (3) of this section, if the defendant is identified after  
 7 the period described in subsection (2) or (3) of this section on the basis of DNA (deoxyribonucleic  
 8 acid) sample comparisons, a prosecution for:

9 (a) Rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first  
 10 degree or sexual abuse in the first degree may be commenced at any time after the commission of  
 11 the crime.

12 (b) Rape in the second degree, sodomy in the second degree or unlawful sexual penetration in  
 13 the second degree may be commenced within 25 years after the commission of the crime.

14 (11) Notwithstanding subsection (10) of this section, if a prosecution for a felony listed in sub-  
 15 section (10) of this section would otherwise be barred by subsection (2) or (3) of this section, the  
 16 prosecution must be commenced within two years of the DNA-based identification of the defendant.

17 (12)(a) Notwithstanding subsection (2) of this section, if a prosecuting attorney obtains corrob-  
 18 orating evidence of the crimes of rape in the first degree, sodomy in the first degree, unlawful sexual  
 19 penetration in the first degree or sexual abuse in the first degree, after the period described in  
 20 subsection (2) of this section, the prosecution may be commenced at any time after the commission  
 21 of the crime.

22 (b) The corroborating evidence described in paragraph (a) of this subsection must consist of one  
 23 of the following:

24 (A) Physical evidence other than a DNA sample, including but not limited to audio, video or  
 25 other electronic recordings, text messages, guest book logs, telephone recordings and photographs.

26 (B) A confession, made by the defendant, to the crime the victim reported.

27 (C) An oral statement, made by the victim to another person in temporal proximity to the com-  
 28 mission of the crime, corroborating the victim's report of the crime to a law enforcement agency.

29 (D) A written statement, created by the victim in temporal proximity to the commission of the  
 30 crime and subsequently delivered to another person or to a law enforcement agency, corroborating  
 31 the victim's report of the crime to a law enforcement agency.

32 (E) A report made by a different victim to a law enforcement agency, made either before or after  
 33 the victim's report, alleging that the defendant committed another crime of the same or similar  
 34 character such that the two crimes could be charged in the same charging instrument under ORS  
 35 132.560.

36 (13)(a) A prosecuting attorney commencing a prosecution pursuant to subsection (12) of this  
 37 section shall present any evidence reasonably tending to negate the guilt of the defendant to the  
 38 grand jury considering the indictment for the offense.

39 (b) The failure to present evidence reasonably tending to negate guilt as required by paragraph  
 40 (a) of this subsection does not affect the validity of an indictment or prosecution.

41 **SECTION 5.** ORS 131.602 is amended to read:

42 131.602. The crimes to which ORS 131.550 (12)(b) applies are:

43 (1) Bribe giving, as defined in ORS 162.015.

44 (2) Bribe receiving, as defined in ORS 162.025.

45 (3) Public investment fraud, as defined in ORS 162.117.

- 1 (4) Bribing a witness, as defined in ORS 162.265.
- 2 (5) Bribe receiving by a witness, as defined in ORS 162.275.
- 3 (6) Simulating legal process, as defined in ORS 162.355.
- 4 (7) Official misconduct in the first degree, as defined in ORS 162.415.
- 5 (8) Assisting another person to commit suicide, as defined in ORS 163.193.
- 6 (9) Custodial interference in the second degree, as defined in ORS 163.245.
- 7 (10) Custodial interference in the first degree, as defined in ORS 163.257.
- 8 (11) Buying or selling a person under 18 years of age, as defined in ORS 163.537.
- 9 (12) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.
- 10 (13) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
- 11 (14) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
- 12 (15) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.
- 13 (16) Possession of materials depicting sexually explicit conduct of a child in the first degree, as  
14 defined in ORS 163.688.
- 15 (17) Possession of materials depicting sexually explicit conduct of a child in the second degree,  
16 as defined in ORS 163.689.
- 17 (18) Theft in the second degree, as defined in ORS 164.045.
- 18 (19) Theft in the first degree, as defined in ORS 164.055.
- 19 (20) Aggravated theft in the first degree, as defined in ORS 164.057.
- 20 (21) Extortion, as defined in ORS 164.075.
- 21 (22) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- 22 (23) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- 23 (24) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- 24 (25) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 25 (26) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- 26 (27) Laundering a monetary instrument, as defined in ORS 164.170.
- 27 (28) Engaging in a financial transaction in property derived from unlawful activity, as defined  
28 in ORS 164.172.
- 29 (29) Burglary in the second degree, as defined in ORS 164.215.
- 30 (30) Burglary in the first degree, as defined in ORS 164.225.
- 31 (31) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 32 (32) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 33 (33) Arson in the second degree, as defined in ORS 164.315.
- 34 (34) Arson in the first degree, as defined in ORS 164.325.
- 35 (35) Computer crime, as defined in ORS 164.377.
- 36 (36) Robbery in the third degree, as defined in ORS 164.395.
- 37 (37) Robbery in the second degree, as defined in ORS 164.405.
- 38 (38) Robbery in the first degree, as defined in ORS 164.415.
- 39 (39) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 40 (40) Unlawful recording of a live performance, as defined in ORS 164.869.
- 41 (41) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 42 (42) A violation of ORS 164.886.
- 43 (43)(a) Endangering aircraft in the first degree, as defined in ORS 164.885.
- 44 (b) Endangering aircraft in the second degree, as defined in ORS 164.885.
- 45 (44) Interference with agricultural operations, as defined in ORS 164.887.

- 1 (45) Forgery in the second degree, as defined in ORS 165.007.
- 2 (46) Forgery in the first degree, as defined in ORS 165.013.
- 3 (47) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 4 (48) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 5 (49) Criminal possession of a forgery device, as defined in ORS 165.032.
- 6 (50) Criminal simulation, as defined in ORS 165.037.
- 7 (51) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 8 (52) Fraudulent use of a credit card, as defined in ORS 165.055.
- 9 (53) Negotiating a bad check, as defined in ORS 165.065.
- 10 (54) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 11 (55) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 12 (56) Falsifying business records, as defined in ORS 165.080.
- 13 (57) Sports bribery, as defined in ORS 165.085.
- 14 (58) Sports bribe receiving, as defined in ORS 165.090.
- 15 (59) Misapplication of entrusted property, as defined in ORS 165.095.
- 16 (60) Issuing a false financial statement, as defined in ORS 165.100.
- 17 (61) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 18 (62) A violation of ORS 165.543.
- 19 (63) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 20 (64) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 21 (65) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 22 (66) Identity theft, as defined in ORS 165.800.
- 23 (67) A violation of ORS 166.190.
- 24 (68) Unlawful use of a weapon, as defined in ORS 166.220.
- 25 (69) A violation of ORS 166.240.
- 26 (70) Unlawful possession of a firearm, as defined in ORS 166.250.
- 27 (71) A violation of ORS 166.270.
- 28 (72) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or  
29 firearms silencer, as defined in ORS 166.272.
- 30 (73) A violation of ORS 166.275.
- 31 (74) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 32 (75) A violation of ORS 166.370.
- 33 (76) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 34 (77) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 35 (78) Possession of a hoax destructive device, as defined in ORS 166.385.
- 36 (79) A violation of ORS 166.410.
- 37 (80) Providing false information in connection with a transfer of a firearm, as defined in ORS  
38 166.416.
- 39 (81) Improperly transferring a firearm, as defined in ORS 166.418.
- 40 (82) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 41 (83) A violation of ORS 166.429.
- 42 (84) A violation of ORS 166.470.
- 43 (85) A violation of ORS 166.480.
- 44 (86) A violation of ORS 166.635.
- 45 (87) A violation of ORS 166.638.

- 1 (88) Unlawful paramilitary activity, as defined in ORS 166.660.  
2 (89) A violation of ORS 166.720.  
3 [(90) *Prostitution, as defined in ORS 167.007.*]  
4 [(91) *Commercial sexual solicitation, as defined in ORS 167.008.*]  
5 [(92) *Promoting prostitution, as defined in ORS 167.012.*]  
6 [(93)] (90) Compelling prostitution, as defined in ORS 167.017.  
7 [(94)] (91) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.  
8 [(95)] (92) Unlawful gambling in the second degree, as defined in ORS 167.122.  
9 [(96)] (93) Unlawful gambling in the first degree, as defined in ORS 167.127.  
10 [(97)] (94) Possession of gambling records in the second degree, as defined in ORS 167.132.  
11 [(98)] (95) Possession of gambling records in the first degree, as defined in ORS 167.137.  
12 [(99)] (96) Possession of a gambling device, as defined in ORS 167.147.  
13 [(100)] (97) Possession of a gray machine, as defined in ORS 167.164.  
14 [(101)] (98) Cheating, as defined in ORS 167.167.  
15 [(102)] (99) Tampering with drug records, as defined in ORS 167.212.  
16 [(103)] (100) A violation of ORS 167.262.  
17 [(104)] (101) Research and animal interference, as defined in ORS 167.312.  
18 [(105)] (102) Animal abuse in the first degree, as defined in ORS 167.320.  
19 [(106)] (103) Aggravated animal abuse in the first degree, as defined in ORS 167.322.  
20 [(107)] (104) Animal neglect in the first degree, as defined in ORS 167.330.  
21 [(108)] (105) Interfering with an assistance, a search and rescue or a therapy animal, as defined  
22 in ORS 167.352.  
23 [(109)] (106) Involvement in animal fighting, as defined in ORS 167.355.  
24 [(110)] (107) Dogfighting, as defined in ORS 167.365.  
25 [(111)] (108) Participation in dogfighting, as defined in ORS 167.370.  
26 [(112)] (109) Unauthorized use of a livestock animal, as defined in ORS 167.385.  
27 [(113)] (110) Interference with livestock production, as defined in ORS 167.388.  
28 [(114)] (111) A violation of ORS 167.390.  
29 [(115)] (112) Participation in cockfighting, as defined in ORS 167.431.  
30 [(116)] (113) A violation of ORS 471.410.  
31 [(117)] (114) Failure to report missing precursor substances, as defined in ORS 475.955.  
32 [(118)] (115) Illegally selling drug equipment, as defined in ORS 475.960.  
33 [(119)] (116) Providing false information on a precursor substances report, as defined in ORS  
34 475.965.  
35 [(120)] (117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.  
36 [(121)] (118) A violation of ORS 475.752, if it is a felony or a Class A misdemeanor.  
37 [(122)] (119) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.  
38 [(123)] (120) A violation of ORS 475.916.  
39 [(124)] (121) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.  
40 [(125)] (122) A violation of ORS 475.904.  
41 [(126)] (123) A violation of ORS 475B.337, if it is a felony or a Class A misdemeanor.  
42 [(127)] (124) A violation of ORS 475B.341, if it is a felony or a Class A misdemeanor.  
43 [(128)] (125) A violation of ORS 475B.346, if it is a felony or a Class A misdemeanor.  
44 [(129)] (126) A violation of ORS 475B.349, if it is a felony or a Class A misdemeanor.  
45 [(130)] (127) A violation of ORS 475B.227.



- 1        [(131)] (128) Misuse of an identification card, as defined in ORS 807.430.
- 2        [(132)] (129) Unlawful production of identification cards, licenses, permits, forms or camera  
3 cards, as defined in ORS 807.500.
- 4        [(133)] (130) Transfer of documents for the purposes of misrepresentation, as defined in ORS  
5 807.510.
- 6        [(134)] (131) Using an invalid license, as defined in ORS 807.580.
- 7        [(135)] (132) Permitting misuse of a license, as defined in ORS 807.590.
- 8        [(136)] (133) Using another’s license, as defined in ORS 807.600.
- 9        [(137)] (134) Criminal driving while suspended or revoked, as defined in ORS 811.182.
- 10       [(138)] (135) Aggravated driving while suspended or revoked, as defined in ORS 163.196.
- 11       [(139)] (136) Driving while under the influence of intoxicants, as defined in ORS 813.010, when  
12 it is a felony.
- 13       [(140)] (137) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- 14       [(141)] (138) Unlawful distribution of tobacco products, as defined in ORS 323.632.
- 15       [(142)] (139) A violation of ORS 180.440 (2) or 180.486 (2).
- 16       [(143)] (140) A violation described in ORS 475.806 to 475.894, if it is a felony.
- 17       [(144)] (141) Subjecting another person to involuntary servitude in the first degree, as defined  
18 in ORS 163.264.
- 19       [(145)] (142) Subjecting another person to involuntary servitude in the second degree, as defined  
20 in ORS 163.263.
- 21       [(146)] (143) Trafficking in persons, as defined in ORS 163.266.
- 22       [(147)] (144) Luring a minor, as defined in ORS 167.057.
- 23       [(148)] (145) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.
- 24       [(149)] (146) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.
- 25       [(150)] (147) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to  
26 [(149)] (146) of this section if the attempt, conspiracy or solicitation is a felony or a Class A  
27 misdemeanor.
- 28       **SECTION 6.** ORS 133.724 is amended to read:
- 29       133.724. (1) An ex parte order for the interception of wire, electronic or oral communications  
30 may be issued by any circuit court judge upon written application made upon oath or affirmation  
31 of the individual who is the district attorney or a deputy district attorney authorized by the district  
32 attorney for the county in which the order is sought. The application shall include:
- 33       (a) The name of the district attorney or the deputy district attorney making the application and  
34 the authority of the district attorney or the deputy district attorney to make the application;
- 35       (b) The identity of the investigative or law enforcement officer making the application and the  
36 officer authorizing the application;
- 37       (c) A statement demonstrating that there is probable cause to believe that an individual is  
38 committing, has committed or is about to commit:
- 39       (A) A particular felony of murder, kidnapping, arson, robbery, bribery, extortion or other crime  
40 dangerous to life and punishable as a felony;
- 41       (B) A crime punishable as a felony under ORS 163.266 (1)(b) or (c), 163.413, 166.720, [167.012,]  
42 167.017, 475.752, 475.806 to 475.894 or 475.904 to 475.910 [or as a misdemeanor under ORS 167.007  
43 or 167.008]; or
- 44       (C) Any conspiracy to commit any of the foregoing crimes;
- 45       (d) A statement of the details, if known, of the particular crime alleged under paragraph (c) of

1 this subsection;

2 (e) A particular description of the nature and location of the facilities from which or the place  
3 where the wire, electronic or oral communication is to be intercepted, if known;

4 (f) A particular description of the type of wire, electronic or oral communication sought to be  
5 intercepted;

6 (g) The identity of the person, if known, suspected of committing the crime and whose wire,  
7 electronic or oral communications are to be intercepted;

8 (h) A full and complete statement as to whether or not other investigative procedures have been  
9 tried and failed or why other investigative procedures reasonably appear to be unlikely to succeed  
10 if tried or are likely to be too dangerous;

11 (i) A statement of the period of time for which the interception is required to be maintained. If  
12 the nature of the investigation is such that the authorization for interception should not automat-  
13 ically terminate when the described type of wire, electronic or oral communication has been first  
14 obtained, a description of facts establishing probable cause to believe that additional communi-  
15 cations of the same type will occur thereafter;

16 (j) A statement as to whether any prior application has been made to intercept wire, electronic  
17 or oral communications from the same person and, if such prior application exists, a statement of  
18 the current status of that application; and

19 (k) Where the application is for the extension of an existing order, a statement setting forth the  
20 results thus far obtained from the interception, or a reasonable explanation of the failure to obtain  
21 such results.

22 (2) The judge may require the applicant to furnish further testimony or documentary evidence  
23 in support of the application.

24 (3) Upon examination of such application and evidence the judge may enter an ex parte order,  
25 as requested or as modified, authorizing or approving interception of wire, electronic or oral com-  
26 munications within the state if the judge determines on the basis of the facts submitted by the ap-  
27 plicant that:

28 (a) There is probable cause for belief that an individual is committing, has committed or is about  
29 to commit a particular crime described in subsection (1)(c) of this section;

30 (b) There is probable cause for belief that particular communications concerning that crime will  
31 be obtained through such interception;

32 (c) Normal investigative procedures have been tried and have failed or reasonably appear to be  
33 unlikely to succeed if tried or are likely to be too dangerous; and

34 (d) There is probable cause for belief that the facilities from which, or the place where, the wire,  
35 electronic or oral communications to be intercepted are being used, or are about to be used, in  
36 connection with the planning or the commission of that crime are open to the public or are owned  
37 by, leased to, listed in the name of, or commonly used by the individual suspected.

38 (4) Each order authorizing or approving the interception of any wire, electronic or oral com-  
39 munication shall specify:

40 (a) The identity of the person, if known, whose communications are to be intercepted;

41 (b) The nature and location of the communications facilities as to which, or the place where,  
42 authority to intercept is granted;

43 (c) A particular description of the type of communication sought to be intercepted, and a state-  
44 ment of the particular crime to which it relates;

45 (d) The identity of the agency authorized to intercept the communications and of the person

1 authorizing the application;

2 (e) The period of time during which such interception is authorized, including a statement as to  
 3 whether or not the interception shall automatically terminate when the described communication  
 4 has been first obtained; and

5 (f) The name of the applicant, date of issuance, and the signature and title of the issuing judge.

6 (5) An order entered pursuant to this section may not authorize or approve the interception of  
 7 any wire, electronic or oral communication for any period longer than is necessary to achieve the  
 8 objective of authorization and in no event for longer than 30 days. Extensions of any order may be  
 9 granted, but only when application for an extension is made in accordance with subsection (1)(k) of  
 10 this section and the court makes the findings required by subsection (3) of this section. The period  
 11 of extension shall be no longer than the authorizing judge deems necessary to achieve the purpose  
 12 for which it is granted and in no event for longer than 30 days. Every order and extension of that  
 13 order shall contain a provision that the authorization to intercept must be executed as soon as  
 14 practicable, must be conducted in such a way as to minimize the interception of communications not  
 15 otherwise subject to interception, and must terminate upon attainment of the authorized objective,  
 16 or in any event in 30 days.

17 (6) Whenever an order authorizing interception is entered pursuant to this section, the order  
 18 may require reports to be made to the judge who issued the order showing what progress has been  
 19 made toward achievement of the authorized objective and the need for continued interception. Such  
 20 reports shall be made at such intervals as the judge may require.

21 **SECTION 7.** ORS 133.726 is amended to read:

22 133.726. (1) Notwithstanding ORS 133.724, under the circumstances described in this section, a  
 23 law enforcement officer is authorized to intercept an oral communication to which the officer or a  
 24 person under the direct supervision of the officer is a party, without obtaining an order for the in-  
 25 terception of a wire, electronic or oral communication under ORS 133.724.

26 (2) For purposes of this section and ORS 133.736, a person is a party to an oral communication  
 27 if the oral communication is made in the person's immediate presence and is audible to the person  
 28 regardless of whether the communication is specifically directed to the person.

29 (3) An ex parte order for intercepting an oral communication in any county of this state under  
 30 this section may be issued by any judge as defined in ORS 133.525 upon written application made  
 31 upon oath or affirmation of the district attorney or a deputy district attorney authorized by the  
 32 district attorney for the county in which the order is sought or upon the oath or affirmation of any  
 33 peace officer as defined in ORS 133.005. The application shall include:

34 (a) The name of the applicant and the applicant's authority to make the application;

35 (b) A statement demonstrating that there is probable cause to believe that a person whose oral  
 36 communication is to be intercepted is engaged in committing, has committed or is about to commit  
 37 a particular felony, [*or a misdemeanor under ORS 167.007 or 167.008,*] and that intercepting the oral  
 38 communication will yield evidence thereof; and

39 (c) The identity of the person, if known, suspected of committing the crime and whose oral  
 40 communication is to be intercepted.

41 (4) The judge may require the applicant to furnish further testimony or documentary evidence  
 42 in support of the application.

43 (5) Upon examination of the application and evidence, the judge may enter an ex parte order,  
 44 as requested or as modified, authorizing or approving the interception of an oral communication  
 45 within the state if the judge determines on the basis of the facts submitted by the applicant that:

1 (a) There is probable cause to believe that a person is engaged in committing, has committed  
 2 or is about to commit a particular felony[, or a misdemeanor under ORS 167.007 or 167.008]; and

3 (b) There is probable cause to believe that the oral communication to be obtained will contain  
 4 evidence concerning that crime.

5 (6) An order authorizing or approving the interception of an oral communication under this  
 6 section must specify:

7 (a) The identity of the person, if known, whose oral communication is to be intercepted;

8 (b) A statement identifying the particular crime to which the oral communication is expected  
 9 to relate;

10 (c) The agency authorized under the order to intercept the oral communication;

11 (d) The name and office of the applicant and the signature and title of the issuing judge;

12 (e) A period of time after which the order shall expire; and

13 (f) A statement that the order authorizes only the interception of an oral communication to  
 14 which a law enforcement officer or a person under the direct supervision of a law enforcement of-  
 15 ficer is a party.

16 (7) An order under ORS 133.724 or this section is not required when a law enforcement officer  
 17 intercepts an oral communication to which the officer or a person under the direct supervision of  
 18 the officer is a party if the oral communication is made by a person whom the officer has probable  
 19 cause to believe has committed, is engaged in committing or is about to commit:

20 (a) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 or 475.906 [*or as a*  
 21 *misdemeanor under ORS 167.007 or 167.008*]; or

22 (b) Any other crime punishable as a felony if the circumstances at the time the oral communi-  
 23 cation is intercepted are of such exigency that it would be unreasonable to obtain a court order  
 24 under ORS 133.724 or this section.

25 (8) A law enforcement officer who intercepts an oral communication pursuant to this section  
 26 may not intentionally fail to record and preserve the oral communication in its entirety. A law  
 27 enforcement officer, or a person under the direct supervision of the officer, who is authorized under  
 28 this section to intercept an oral communication is not required to exclude from the interception an  
 29 oral communication made by a person for whom probable cause does not exist if the officer or the  
 30 person under the officer's direct supervision is a party to the oral communication.

31 (9) A law enforcement officer may not divulge the contents of an oral communication intercepted  
 32 under this section before a preliminary hearing or trial in which an oral communication is going to  
 33 be introduced as evidence against a person except:

34 (a) To a superior officer or other official with whom the law enforcement officer is cooperating  
 35 in the enforcement of the criminal laws of this state or the United States;

36 (b) To a magistrate;

37 (c) In a presentation to a federal or state grand jury; or

38 (d) In compliance with a court order.

39 (10) A law enforcement officer may intercept an oral communication under this section only  
 40 when acting within the scope of the officer's employment and as a part of assigned duties.

41 (11) As used in this section, "law enforcement officer" means:

42 (a) An officer employed to enforce criminal laws by:

43 (A) The United States, this state or a municipal government within this state;

44 (B) A political subdivision, agency, department or bureau of the governments described in sub-  
 45 paragraph (A) of this paragraph; or

1 (C) A police department established by a university under ORS 352.121 or 353.125;

2 (b) An authorized tribal police officer as defined in ORS 181A.680; or

3 (c) A regulatory specialist as defined in ORS 471.001.

4 (12) Violation of subsection (9) of this section is a Class A misdemeanor.

5 **SECTION 8.** ORS 136.437 is amended to read:

6 136.437. (1) If a person contacts an emergency communications system or a law enforcement  
7 agency to report the commission of a person felony, any statements or other evidence relating to  
8 [the crime of] prostitution [under ORS 167.007] **as defined in ORS 167.002** obtained as a result of  
9 the person making the report may not be used in the prosecution of the person for **violation of a**  
10 **municipal ordinance prohibiting** prostitution or attempted prostitution.

11 (2) The prohibition on the use of statements or other evidence described in this section does not  
12 apply to evidence relating to [a criminal offense] **conduct** other than prostitution, or to the prose-  
13 cution of an offense other than **violation of a municipal ordinance prohibiting** prostitution or at-  
14 tempted prostitution.

15 (3) As used in this section:

16 (a) "Emergency communications system" has the meaning given that term in ORS 403.105.

17 (b) "Person felony" has the meaning given that term in the rules of the Oregon Criminal Justice  
18 Commission.

19 **SECTION 9.** ORS 137.221 is amended to read:

20 137.221. (1) Notwithstanding ORS 138.540, a court may vacate a judgment of conviction for [the  
21 crime of] prostitution [under ORS 167.007] **as defined in ORS 167.002, committed before the ef-**  
22 **fective date of this 2021 Act**, or for violating a municipal prostitution ordinance as described in  
23 this section.

24 (2)(a) A person may request vacation of a judgment of conviction for prostitution by filing a  
25 motion in the county of conviction. The motion may be filed at least 21 days after the judgment of  
26 conviction is entered.

27 (b) A copy of the motion shall be served on the district attorney.

28 (c) The motion must contain an explanation of facts supporting a claim that the person was the  
29 victim of sex trafficking at or around the time of the conduct giving rise to the prostitution con-  
30 viction. The motion must further contain an explanation of why those facts were not presented to  
31 the trial court.

32 (3) Upon receiving the motion described in subsection (2) of this section, the court shall hold a  
33 hearing. At the hearing, the person has the burden of proof and may present evidence that, at or  
34 around the time of the conduct giving rise to the prostitution conviction, the person was the victim  
35 of sex trafficking. The court shall consider any evidence the court deems of sufficient credibility and  
36 probative value in determining whether the person was a victim of sex trafficking. The evidence  
37 may include, but is not limited to:

38 (a) Certified records of a state or federal court proceeding demonstrating that the person was  
39 a victim of sex trafficking;

40 (b) Certified records from federal immigration proceedings recognizing the person as a victim  
41 of sex trafficking; and

42 (c) A sworn statement from a trained professional staff member of a victim services organization,  
43 an attorney, a member of the clergy or a medical or other professional, certifying that the person  
44 has sought assistance addressing trauma associated with being a sex trafficking victim.

45 (4) If the court finds, by clear and convincing evidence, that the person was the victim of sex

1 trafficking at or around the time of the conduct giving rise to the prostitution conviction, the court  
 2 shall grant the motion.

3 (5) If the court grants a motion under this section, the court shall vacate the judgment of con-  
 4 viction for prostitution and may make other orders as the court considers appropriate.

5 (6) If the court grants a motion under this section while an appeal of the judgment of conviction  
 6 is pending, the court shall immediately forward a copy of the vacation order to the appellate court.

7 (7) As used in this section:

8 (a) "Municipal prostitution ordinance" means a municipal ordinance prohibiting a person from  
 9 engaging in, or offering or agreeing to engage in, sexual conduct or sexual contact in return for a  
 10 fee.

11 (b) "Sex trafficking" means the use of force, intimidation, fraud or coercion to cause a person  
 12 to engage, or attempt to engage, in a commercial sex act.

13 **SECTION 10.** ORS 137.712 is amended to read:

14 137.712. (1)(a) Notwithstanding ORS 137.700 and 137.707, when a person is convicted of  
 15 manslaughter in the second degree as defined in ORS 163.125, assault in the second degree as de-  
 16 fined in ORS 163.175 (1)(b), kidnapping in the second degree as defined in ORS 163.225, rape in the  
 17 second degree as defined in ORS 163.365, sodomy in the second degree as defined in ORS 163.395,  
 18 unlawful sexual penetration in the second degree as defined in ORS 163.408, sexual abuse in the first  
 19 degree as defined in ORS 163.427 (1)(a)(A) or robbery in the second degree as defined in ORS  
 20 164.405, the court may impose a sentence according to the rules of the Oregon Criminal Justice  
 21 Commission that is less than the minimum sentence that otherwise may be required by ORS 137.700  
 22 or 137.707 if the court, on the record at sentencing, makes the findings set forth in subsection (2)  
 23 of this section and finds that a substantial and compelling reason under the rules of the Oregon  
 24 Criminal Justice Commission justifies the lesser sentence. When the court imposes a sentence under  
 25 this subsection, the person is eligible for a reduction in the sentence as provided in ORS 421.121 and  
 26 any other statute and is eligible for a hearing and conditional release under ORS 420A.203 and  
 27 420A.206.

28 (b) In order to make a dispositional departure under this section, the court must make the fol-  
 29 lowing additional findings on the record:

30 (A) There exists a substantial and compelling reason not relied upon in paragraph (a) of this  
 31 subsection;

32 (B) A sentence of probation will be more effective than a prison term in reducing the risk of  
 33 offender recidivism; and

34 (C) A sentence of probation will better serve to protect society.

35 (2) A conviction is subject to subsection (1) of this section only if the sentencing court finds on  
 36 the record by a preponderance of the evidence:

37 (a) If the conviction is for manslaughter in the second degree:

38 (A) That the victim was a dependent person as defined in ORS 163.205 who was at least 18 years  
 39 of age;

40 (B) That the defendant is the mother or father of the victim;

41 (C) That the death of the victim was the result of an injury or illness that was not caused by  
 42 the defendant;

43 (D) That the defendant treated the injury or illness solely by spiritual treatment in accordance  
 44 with the religious beliefs or practices of the defendant and based on a good faith belief that spiritual  
 45 treatment would bring about the victim's recovery from the injury or illness;

1 (E) That no other person previously under the defendant's care has died or sustained significant  
2 physical injury as a result of or despite the use of spiritual treatment, regardless of whether the  
3 spiritual treatment was used alone or in conjunction with medical care; and

4 (F) That the defendant does not have a previous conviction for a crime listed in subsection (4)  
5 of this section or for criminal mistreatment in the second degree.

6 (b) If the conviction is for assault in the second degree:

7 (A) That the victim was not physically injured by means of a deadly weapon;

8 (B) That the victim did not suffer a significant physical injury; and

9 (C) That the defendant does not have a previous conviction for a crime listed in subsection (4)  
10 of this section.

11 (c) If the conviction is for kidnapping in the second degree:

12 (A) That the victim was at least 12 years of age at the time the crime was committed; and

13 (B) That the defendant does not have a previous conviction for a crime listed in subsection (4)  
14 of this section.

15 (d) If the conviction is for robbery in the second degree:

16 (A) That the victim did not suffer a significant physical injury;

17 (B) That, if the defendant represented by words or conduct that the defendant was armed with  
18 a dangerous weapon, the representation did not reasonably put the victim in fear of imminent sig-  
19 nificant physical injury;

20 (C) That, if the defendant represented by words or conduct that the defendant was armed with  
21 a deadly weapon, the representation did not reasonably put the victim in fear of imminent physical  
22 injury; and

23 (D) That the defendant does not have a previous conviction for a crime listed in subsection (4)  
24 of this section.

25 (e) If the conviction is for rape in the second degree, sodomy in the second degree or sexual  
26 abuse in the first degree:

27 (A) That the victim was at least 12 years of age, but under 14 years of age, at the time of the  
28 offense;

29 (B) That the defendant does not have a prior conviction for a crime listed in subsection (4) of  
30 this section;

31 (C) That the defendant has not been previously found to be within the jurisdiction of a juvenile  
32 court for an act that would have been a felony sexual offense if the act had been committed by an  
33 adult;

34 (D) That the defendant was no more than five years older than the victim at the time of the  
35 offense;

36 (E) That the offense did not involve sexual contact with any minor other than the victim; and

37 (F) That the victim's lack of consent was due solely to incapacity to consent by reason of being  
38 under 18 years of age at the time of the offense.

39 (f) If the conviction is for unlawful sexual penetration in the second degree:

40 (A) That the victim was 12 years of age or older at the time of the offense;

41 (B) That the defendant does not have a prior conviction for a crime listed in subsection (4) of  
42 this section;

43 (C) That the defendant has not been previously found to be within the jurisdiction of a juvenile  
44 court for an act that would have been a felony sexual offense if the act had been committed by an  
45 adult;

1 (D) That the defendant was no more than five years older than the victim at the time of the  
2 offense;

3 (E) That the offense did not involve sexual contact with any minor other than the victim;

4 (F) That the victim's lack of consent was due solely to incapacity to consent by reason of being  
5 under 18 years of age at the time of the offense; and

6 (G) That the object used to commit the unlawful sexual penetration was the hand or any part  
7 thereof of the defendant.

8 (3) In making the findings required by subsections (1) and (2) of this section, the court may  
9 consider any evidence presented at trial and may receive and consider any additional relevant in-  
10 formation offered by either party at sentencing.

11 (4) The crimes to which subsection (2)(a)(F), (b)(C), (c)(B), (d)(D), (e)(B) and (f)(B) of this section  
12 refer are:

13 (a) A crime listed in ORS 137.700 (2) or 137.707 (4);

14 (b) Escape in the first degree, as defined in ORS 162.165;

15 (c) Aggravated murder, as defined in ORS 163.095;

16 (d) Criminally negligent homicide, as defined in ORS 163.145;

17 (e) Assault in the third degree, as defined in ORS 163.165;

18 (f) Criminal mistreatment in the first degree, as defined in ORS 163.205 (1)(b)(A);

19 (g) Rape in the third degree, as defined in ORS 163.355;

20 (h) Sodomy in the third degree, as defined in ORS 163.385;

21 (i) Sexual abuse in the second degree, as defined in ORS 163.425;

22 (j) Stalking, as defined in ORS 163.732;

23 (k) Burglary in the first degree, as defined in ORS 164.225, when it is classified as a person  
24 felony under the rules of the Oregon Criminal Justice Commission;

25 (L) Arson in the first degree, as defined in ORS 164.325;

26 (m) Robbery in the third degree, as defined in ORS 164.395;

27 (n) A bias crime in the first degree, as defined in ORS 166.165; **and**

28 [*o*] *Promoting prostitution, as defined in ORS 167.012; and*

29 [*p*] (o) An attempt or solicitation to commit any Class A or B felony listed in paragraphs (a)  
30 to (L) of this subsection.

31 (5) Notwithstanding ORS 137.545 (5)(b), if a person sentenced to probation under this section  
32 violates a condition of probation by committing a new crime, the court shall revoke the probation  
33 and impose the presumptive sentence of imprisonment under the rules of the Oregon Criminal Jus-  
34 tice Commission.

35 (6) As used in this section:

36 (a) "Conviction" includes, but is not limited to:

37 (A) A juvenile court adjudication finding a person within the court's jurisdiction under ORS  
38 419C.005, if the person was at least 15 years of age at the time the person committed the offense  
39 that brought the person within the jurisdiction of the juvenile court. "Conviction" does not include  
40 a juvenile court adjudication described in this subparagraph if the person successfully asserted the  
41 defense set forth in ORS 419C.522.

42 (B) A conviction in another jurisdiction for a crime that if committed in this state would con-  
43 stitute a crime listed in subsection (4) of this section.

44 (b) "Previous conviction" means a conviction that was entered prior to imposing sentence on the  
45 current crime provided that the prior conviction is based on a crime committed in a separate crim-



1 inal episode. “Previous conviction” does not include a conviction for a Class C felony, including an  
 2 attempt or solicitation to commit a Class B felony, or a misdemeanor, unless the conviction was  
 3 entered within the 10-year period immediately preceding the date on which the current crime was  
 4 committed.

5 (c) “Significant physical injury” means a physical injury that:

- 6 (A) Creates a risk of death that is not a remote risk;
- 7 (B) Causes a serious and temporary disfigurement;
- 8 (C) Causes a protracted disfigurement; or
- 9 (D) Causes a prolonged impairment of health or the function of any bodily organ.

10 **SECTION 11.** ORS 163A.005 is amended to read:

11 163A.005. As used in ORS 163A.005 to 163A.235:

12 (1) “Another United States court” means a federal court, a military court, the tribal court of a  
 13 federally recognized Indian tribe or a court of:

- 14 (a) A state other than Oregon;
- 15 (b) The District of Columbia;
- 16 (c) The Commonwealth of Puerto Rico;
- 17 (d) Guam;
- 18 (e) American Samoa;
- 19 (f) The Commonwealth of the Northern Mariana Islands; or
- 20 (g) The United States Virgin Islands.

21 (2) “Attends” means is enrolled on a full-time or part-time basis.

22 (3)(a) “Correctional facility” means any place used for the confinement of persons:

- 23 (A) Charged with or convicted of a crime or otherwise confined under a court order.
- 24 (B) Found to be within the jurisdiction of the juvenile court for having committed an act that  
 25 if committed by an adult would constitute a crime.

26 (b) “Correctional facility” applies to a state hospital or a secure intensive community inpatient  
 27 facility only as to persons detained therein charged with or convicted of a crime, or detained therein  
 28 after being found guilty except for insanity under ORS 161.290 to 161.373 or responsible except for  
 29 insanity under ORS 419C.411.

30 (4) “Institution of higher education” means a public or private educational institution that pro-  
 31 vides a program of post-secondary education.

32 (5) “Sex crime” means:

- 33 (a) Rape in any degree;
- 34 (b) Sodomy in any degree;
- 35 (c) Unlawful sexual penetration in any degree;
- 36 (d) Sexual abuse in any degree;
- 37 (e) Incest with a child victim;
- 38 (f) Using a child in a display of sexually explicit conduct;
- 39 (g) Encouraging child sexual abuse in any degree;
- 40 (h) Transporting child pornography into the state;
- 41 (i) Paying for viewing a child’s sexually explicit conduct;
- 42 (j) Compelling prostitution;
- 43 [(k) *Promoting prostitution;*]
- 44 [(L)] (k) Kidnapping in the first degree if the victim was under 18 years of age;
- 45 [(m)] (L) Contributing to the sexual delinquency of a minor;

- 1        [(n)] (m) Sexual misconduct if the offender is at least 18 years of age;
- 2        [(o)] (n) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- 3        [(p)] (o) Kidnapping in the second degree if the victim was under 18 years of age, except by a
- 4        parent or by a person found to be within the jurisdiction of the juvenile court;
- 5        [(q)] (p) Online sexual corruption of a child in any degree if the offender reasonably believed the
- 6        child to be more than five years younger than the offender;
- 7        [(r)] (q) Luring a minor, if:
- 8        (A) The offender reasonably believed the minor or, in the case of a police officer or agent of a
- 9        police officer posing as a minor, the purported minor to be more than five years younger than the
- 10       offender or under 16 years of age; and
- 11       (B) The court designates in the judgment that the offense is a sex crime;
- 12       [(s)] (r) Sexual assault of an animal;
- 13       [(t)] (s) Public indecency or private indecency, if the person has a prior conviction for a crime
- 14       listed in this subsection;
- 15       [(u)] (t) Trafficking in persons as described in ORS 163.266 (1)(b) or (c);
- 16       [(v)] (u) Purchasing sex with a minor if the court designates the offense as a sex crime pursuant
- 17       to ORS 163.413 (3)(d), or the offense is the defendant's second or subsequent conviction under ORS
- 18       163.413 (3)(b)(B);
- 19       [(w)] (v) Invasion of personal privacy in the first degree, if the court designates the offense as
- 20       a sex crime pursuant to ORS 163.701 (3);
- 21       [(x)] (w) Any attempt to commit any of the crimes listed in paragraphs (a) to [(w)] (v) of this
- 22       subsection;
- 23       [(y)] (x) Burglary, when committed with intent to commit any of the offenses listed in paragraphs
- 24       (a) to [(w)] (v) of this subsection; or
- 25       [(z)] (y) Criminal conspiracy if the offender agrees with one or more persons to engage in or
- 26       cause the performance of an offense listed in paragraphs (a) to [(w)] (v) of this subsection.
- 27       (6) "Sex offender" means a person who:
- 28       (a) Has been convicted of a sex crime;
- 29       (b) Has been found guilty except for insanity of a sex crime;
- 30       (c) Has been convicted in another United States court of a crime:
- 31       (A) That would constitute a sex crime if committed in this state; or
- 32       (B) For which the person would have to register as a sex offender in that court's jurisdiction,
- 33       or as required under federal law, regardless of whether the crime would constitute a sex crime in
- 34       this state; or
- 35       (d) Is described in ORS 163A.025 (1).
- 36       (7) "Works" or "carries on a vocation" means full-time or part-time employment for more than
- 37       14 days within one calendar year whether financially compensated, volunteered or for the purpose
- 38       of governmental or educational benefit.
- 39       **SECTION 12.** ORS 166.715 is amended to read:
- 40       166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:
- 41       (1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart,
- 42       photograph, phonograph record, magnetic tape, computer printout, other data compilation from
- 43       which information can be obtained or from which information can be translated into usable form,
- 44       or other tangible item.
- 45       (2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business

1 trust or other profit or nonprofit legal entity, and includes any union, association or group of indi-  
2 viduals associated in fact although not a legal entity, and both illicit and licit enterprises and gov-  
3 ernmental and nongovernmental entities.

4 (3) "Investigative agency" means the Department of Justice or any district attorney.

5 (4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering  
6 activity that have the same or similar intents, results, accomplices, victims or methods of commis-  
7 sion or otherwise are interrelated by distinguishing characteristics, including a nexus to the same  
8 enterprise, and are not isolated incidents, provided at least one of such incidents occurred after  
9 November 1, 1981, and that the last of such incidents occurred within five years after a prior inci-  
10 dent of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other  
11 provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct  
12 that constitutes an incident of racketeering activity may be used to establish a pattern of  
13 racketeering activity without regard to whether the conduct previously has been the subject of a  
14 criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted  
15 in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within  
16 the jurisdiction of the juvenile court.

17 (5) "Person" means any individual or entity capable of holding a legal or beneficial interest in  
18 real or personal property.

19 (6) "Racketeering activity" includes conduct of a person committed both before and after the  
20 person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to  
21 commit, or to solicit, coerce or intimidate another person to commit:

22 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following  
23 provisions of the Oregon Revised Statutes:

24 (A) ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, relating to securities;

25 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

26 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing  
27 governmental administration;

28 (D) ORS 162.405 to 162.425, relating to abuse of public office;

29 (E) ORS 162.455, relating to interference with legislative operation;

30 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

31 (G) ORS 163.160 to 163.205, relating to assault and related offenses;

32 (H) ORS 163.225 and 163.235, relating to kidnapping;

33 (I) ORS 163.275, relating to coercion;

34 (J) ORS 163.665 to 163.693, relating to sexual conduct of children;

35 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135,  
36 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and  
37 related offenses;

38 (L) ORS 164.315 to 164.335, relating to arson and related offenses;

39 (M) ORS 164.345 to 164.365, relating to criminal mischief;

40 (N) ORS 164.395 to 164.415, relating to robbery;

41 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a  
42 recording;

43 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and  
44 related offenses;

45 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

- 1 (R) ORS 165.540 and 165.555, relating to communication crimes;
- 2 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating
- 3 to firearms and other weapons;
- 4 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), [*167.007 to 167.017*] **167.002**
- 5 **to 167.027**, 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212,
- 6 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexual
- 7 conduct, gambling, computer crimes involving the Oregon State Lottery, animal fighting, forcible
- 8 recovery of a fighting bird and related offenses;
- 9 (U) ORS 171.990, relating to legislative witnesses;
- 10 (V) ORS 260.575 and 260.665, relating to election offenses;
- 11 (W) ORS 314.075, relating to income tax;
- 12 (X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco
- 13 products taxes and the directories developed under ORS 180.425 and 180.477;
- 14 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments or medical
- 15 assistance benefits, and ORS 411.990 (2) and (3);
- 16 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;
- 17 (AA) ORS 463.995, relating to entertainment wrestling and unarmed combat sports, as defined
- 18 in ORS 463.015;
- 19 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445,
- 20 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS
- 21 chapter 471 relating to licenses issued under the Liquor Control Act;
- 22 (CC) ORS 475B.010 to 475B.545, relating to marijuana items as defined in ORS 475B.015;
- 23 (DD) ORS 475.005 to 475.285 and 475.752 to 475.980, relating to controlled substances;
- 24 (EE) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;
- 25 (FF) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;
- 26 (GG) ORS 658.452 or 658.991 (2) to (4), relating to labor contractors;
- 27 (HH) ORS chapter 706, relating to banking law administration;
- 28 (II) ORS chapter 714, relating to branch banking;
- 29 (JJ) ORS chapter 716, relating to mutual savings banks;
- 30 (KK) ORS chapter 723, relating to credit unions;
- 31 (LL) ORS chapter 726, relating to pawnbrokers;
- 32 (MM) ORS 166.382 and 166.384, relating to destructive devices;
- 33 (NN) ORS 165.074;
- 34 (OO) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;
- 35 (PP) ORS chapter 496, 497 or 498, relating to wildlife;
- 36 (QQ) ORS 163.355 to 163.427, relating to sexual offenses;
- 37 (RR) ORS 166.015, relating to riot;
- 38 (SS) ORS 166.155 and 166.165, relating to bias crimes;
- 39 (TT) ORS chapter 696, relating to real estate and escrow;
- 40 (UU) ORS chapter 704, relating to outfitters and guides;
- 41 (VV) ORS 165.692, relating to making a false claim for health care payment;
- 42 (WW) ORS 162.117, relating to public investment fraud;
- 43 (XX) ORS 164.170 or 164.172;
- 44 (YY) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;
- 45 (ZZ) ORS 164.886;

1 (AAA) ORS 167.312 and 167.388;

2 (BBB) ORS 164.889;

3 (CCC) ORS 165.800; or

4 (DDD) ORS 163.263, 163.264 or 163.266.

5 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

6 (7) “Unlawful debt” means any money or other thing of value constituting principal or interest  
7 of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred  
8 or contracted:

9 (a) In violation of any one of the following:

10 (A) ORS chapter 462, relating to racing;

11 (B) ORS 167.108 to 167.164, relating to gambling; or

12 (C) ORS 82.010 to 82.170, relating to interest and usury.

13 (b) In gambling activity in violation of federal law or in the business of lending money at a rate  
14 usurious under federal or state law.

15 (8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute  
16 in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions  
17 from what the statute was when this section was enacted, the reference shall extend to and include  
18 amendments to the statute.

19 **SECTION 13.** ORS 167.002 is amended to read:

20 167.002. As used in ORS 167.002 to 167.027, unless the context requires otherwise:

21 [(1) “Place of prostitution” means any place where prostitution is practiced.]

22 [(2) “Prostitute” means a male or female person who engages in sexual conduct or sexual contact  
23 for a fee.]

24 [(3) “Prostitution enterprise” means an arrangement whereby two or more prostitutes are organized  
25 to conduct prostitution activities.]

26 (1) **“Prostitution” means the engagement by a person in sexual conduct or sexual contact  
27 with another person in return for a fee.**

28 [(4)] (2) “Sexual conduct” means sexual intercourse or oral or anal sexual intercourse.

29 [(5)] (3) “Sexual contact” means any touching of the sexual organs or other intimate parts of a  
30 person not married to the actor for the purpose of arousing or gratifying the sexual desire of either  
31 party.

32 **SECTION 14.** ORS 167.027 is amended to read:

33 167.027. [(1) *On the issue of whether a place is a place of prostitution as defined in ORS 167.002,*  
34 *its general repute and repute of persons who reside in or frequent the place shall be competent*  
35 *evidence.*]

36 [(2)] Notwithstanding ORS 136.655, in any prosecution under ORS [167.012 and] 167.017, spouses  
37 are competent and compellable witnesses for or against either party.

38 **SECTION 15.** ORS 167.062 is amended to read:

39 167.062. (1) It is unlawful for any person to knowingly engage in sadomasochistic abuse or sex-  
40 ual conduct in a live public show.

41 (2) Violation of subsection (1) of this section is a Class A misdemeanor.

42 (3) It is unlawful for any person to knowingly direct, manage, finance or present a live public  
43 show in which the participants engage in sadomasochistic abuse or sexual conduct.

44 (4) Violation of subsection (3) of this section is a Class C felony.

45 (5) As used in [ORS 167.002, 167.007 and] this section, unless the context requires otherwise:

1 (a) "Live public show" means a public show in which human beings, animals, or both appear  
2 bodily before spectators or customers.

3 (b) "Public show" means any entertainment or exhibition advertised or in some other fashion  
4 held out to be accessible to the public or member of a club, whether or not an admission or other  
5 charge is levied or collected and whether or not minors are admitted or excluded.

6 **SECTION 16.** ORS 181A.155 is amended to read:

7 181A.155. (1) The Department of State Police is authorized to:

8 (a) Store blood and buccal samples received under authority of this section, ORS 137.076, 161.325  
9 and 419C.473 (1) and section 2, chapter 852, Oregon Laws 2001, and other physical evidence obtained  
10 from analysis of such samples;

11 (b) Analyze such samples for the purpose of establishing the genetic profile of the donor or  
12 otherwise determining the identity of persons or contract with other qualified public or private  
13 laboratories to conduct that analysis;

14 (c) Maintain a criminal identification database containing information derived from blood and  
15 buccal analyses;

16 (d) Utilize such samples to create statistical population frequency databases, provided that ge-  
17 netic profiles or other such information in a population frequency database shall not be identified  
18 with specific individuals; and

19 (e) Adopt rules establishing procedures for obtaining, transmitting and analyzing blood and  
20 buccal samples and for storing and destroying blood and buccal samples and other physical evidence  
21 and criminal identification information obtained from such analysis. Procedures for blood and buccal  
22 analyses may include all techniques which the department determines are accurate and reliable in  
23 establishing identity, including but not limited to, analysis of DNA (deoxyribonucleic acid), antigen  
24 antibodies, polymorphic enzymes or polymorphic proteins.

25 (2) If the department is unable to analyze all samples due to lack of funds, the department shall  
26 analyze samples in the following order:

27 (a) The department shall first analyze samples from persons convicted of:

28 (A) Rape, sodomy, unlawful sexual penetration, sexual abuse, public indecency, incest or using  
29 a child in a display of sexually explicit conduct, as those offenses are defined in ORS 163.355 to  
30 163.427, 163.465 (1)(d), 163.525 and 163.670;

31 (B) Burglary in the second degree, as defined in ORS 164.215;

32 (C) *[Promoting or]* Compelling prostitution, as defined in ORS *[167.012 and]* 167.017;

33 (D) Burglary in the first degree, as defined in ORS 164.225;

34 (E) Assault in the first, second or third degree, as defined in ORS 163.165, 163.175 and 163.185;

35 (F) Kidnapping in the first or second degree, as defined in ORS 163.225 and 163.235;

36 (G) Stalking, as defined in ORS 163.732;

37 (H) Robbery in the first, second or third degree, as defined in ORS 164.395, 164.405 and 164.415;

38 (I) Manslaughter in the first or second degree, as defined in ORS 163.118 and 163.125;

39 (J) Criminally negligent homicide, as defined in ORS 163.145;

40 (K) Aggravated vehicular homicide, as defined in ORS 163.149;

41 (L) Conspiracy or attempt to commit any felony listed in subparagraphs (A) to (J) of this para-  
42 graph; or

43 (M) Murder, aggravated murder or an attempt to commit murder or aggravated murder.

44 (b) After analyzing samples from persons described in paragraph (a) of this subsection, the de-  
45 partment shall analyze samples from persons convicted of a felony under ORS 475.752, 475.806 to

1 475.894, 475.904, 475.906 or 475.914.

2 (c) After analyzing samples from persons described in paragraphs (a) and (b) of this subsection,  
3 the department shall analyze samples from persons convicted of any other felony.

4 (3) Notwithstanding subsection (2) of this section, the department may analyze a sample from a  
5 lower priority before all samples in higher priorities are analyzed if required in a particular case  
6 for law enforcement purposes.

7 (4) The department may not transfer or disclose any sample, physical evidence or criminal  
8 identification information obtained, stored or maintained under authority of this section, ORS  
9 137.076, 161.325 or 419C.473 (1) except:

10 (a) To a law enforcement agency as defined in ORS 181A.010, a district attorney or the Criminal  
11 Justice Division of the Department of Justice for the purpose of establishing the identity of a person  
12 in the course of a criminal investigation or proceeding;

13 (b) To a party in a criminal prosecution or juvenile proceeding pursuant to ORS 419C.005 if  
14 discovery or disclosure is required by a separate statutory or constitutional provision; or

15 (c) To a court or grand jury in response to a lawful subpoena or court order when the evidence  
16 is not otherwise privileged and is necessary for criminal justice purposes.

17 (5) The department may not transfer or disclose any sample, physical evidence or criminal  
18 identification information under subsection (4) of this section unless the public agency or person  
19 receiving the sample, physical evidence or criminal identification information agrees to destroy the  
20 sample, physical evidence or criminal identification information if notified by the department that  
21 a court has reversed the conviction, judgment or order that created the obligation to provide the  
22 blood or buccal sample.

23 (6) Any public agency that receives a sample, physical evidence or criminal identification in-  
24 formation under authority of subsection (4) of this section may not disclose it except as provided in  
25 subsection (4) of this section.

26 (7) Notwithstanding subsections (4) and (6) of this section, any person who is the subject of a  
27 record within a criminal identification database maintained under the authority of this section may,  
28 upon request, inspect that information at a time and location designated by the department. The  
29 department may deny inspection if it determines that there is a reasonable likelihood that such in-  
30 spection would prejudice a pending criminal investigation. In any case, the department is not re-  
31 quired to allow the person or anyone acting on the person's behalf to test any blood or buccal  
32 sample or other physical evidence. The department shall adopt procedures governing the inspection  
33 of records and samples and challenges to the accuracy of records. The procedures shall accommo-  
34 date the need to preserve the materials from contamination and destruction.

35 (8)(a) Whenever a court reverses the conviction, judgment or order that created an obligation  
36 to provide a blood or buccal sample under ORS 137.076 (2), 161.325 or 419C.473 (1), the person who  
37 provided the sample may request destruction of the sample and any criminal identification record  
38 created in connection with that sample.

39 (b) Upon receipt of a written request for destruction pursuant to this section and a certified  
40 copy of the court order reversing the conviction, judgment or order, the department shall destroy  
41 any sample received from the person, any physical evidence obtained from that sample and any  
42 criminal identification records pertaining to the person, unless the department determines that the  
43 person has otherwise become obligated to submit a blood or buccal sample as a result of a separate  
44 conviction, juvenile adjudication or finding of guilty except for insanity for an offense listed in ORS  
45 137.076 (1). When the department destroys a sample, physical evidence or criminal identification

1 record under this paragraph, the department shall notify any public agency or person to whom the  
 2 sample, physical evidence or criminal identification information was transferred or disclosed under  
 3 subsection (4) of this section of the reversal of the conviction, judgment or order.

4 (c) The department is not required to destroy an item of physical evidence obtained from a blood  
 5 or buccal sample if evidence relating to another person subject to the provisions of ORS 137.076,  
 6 161.325, 419A.260 and 419C.473 (1) and this section would thereby be destroyed. Notwithstanding this  
 7 subsection, no sample, physical evidence or criminal identification record is affected by an order to  
 8 set aside a conviction under ORS 137.225.

9 (9) As used in this section, “convicted” includes a juvenile court finding of jurisdiction based  
 10 on ORS 419C.005.

11 **SECTION 17.** ORS 342.143 is amended to read:

12 342.143. (1) A teaching, personnel service or administrative license, or public charter school  
 13 registration, may not be issued to any person until the person has attained the age of 18 years and  
 14 has furnished satisfactory evidence of proper educational training.

15 (2) The Teacher Standards and Practices Commission may require an applicant for a teaching,  
 16 personnel service or administrative license or for registration as a public charter school teacher or  
 17 administrator to furnish evidence satisfactory to the commission of good moral character, mental  
 18 and physical health, and such other evidence as the commission may deem necessary to establish  
 19 the applicant’s fitness to serve as a teacher or administrator.

20 (3) Without limiting the powers of the Teacher Standards and Practices Commission under sub-  
 21 section (2) of this section:

22 (a) A teaching, personnel service or administrative license, or a public charter school registra-  
 23 tion, may not be issued to any person who:

24 (A) Has been convicted of a crime listed in ORS 163.095, 163.107, 163.115, 163.185, 163.235,  
 25 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432,  
 26 163.433, 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replace-  
 27 ment Part), 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415,  
 28 166.005, 166.087, [167.007, 167.008, 167.012,] 167.017, 167.057, 167.062, 167.075, 167.080, 167.090,  
 29 475.808, 475.810, 475.812, 475.818, 475.820, 475.822, 475.828, 475.830, 475.832, 475.848, 475.852, 475.868,  
 30 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904 or 475.906.

31 (B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in  
 32 subparagraph (A) of this paragraph.

33 (C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as  
 34 defined by rule, to any of the crimes listed in subparagraphs (A) and (B) of this paragraph.

35 (D) Has had a teaching, personnel service or administrative license, or a public charter school  
 36 registration, revoked in another jurisdiction for a reason that is substantially equivalent, as defined  
 37 by rule, to a reason described in ORS 342.175 and the revocation is not subject to further appeal.  
 38 A person whose right to apply for a license or registration is denied under this subparagraph may  
 39 apply for reinstatement of the right as provided in ORS 342.175 (4).

40 (b) The Teacher Standards and Practices Commission may refuse to issue a license or registra-  
 41 tion to any person who has been convicted of:

42 (A) A crime involving the illegal use, sale or possession of controlled substances; or

43 (B) A crime described in ORS 475B.010 to 475B.545.

44 (4) In denying the issuance of a license or registration under this section, the commission shall  
 45 follow the procedure set forth in ORS 342.176 and 342.177.



1       **SECTION 18.** ORS 419A.260 is amended to read:

2       419A.260. (1) As used in this section and ORS 419A.262:

3       (a) “Contact” means any instance in which a person’s act or behavior, or alleged act or behav-  
4       ior, which could result in a juvenile court’s assumption of jurisdiction under ORS 419B.100 (1)(a) to  
5       (c) and (f) or 419C.005 comes to the attention of an agency specified in paragraph (d) of this sub-  
6       section.

7       (b) “Expunction” means:

8       (A) The removal and destruction or sealing of a judgment or order related to a contact and all  
9       records and references; and

10       (B) Where a record is kept by the Department of Human Services or the Oregon Youth Au-  
11       thority, either the sealing of such record by the department or the Oregon Youth Authority or, in  
12       a multiperson file, the affixing to the front of the file, by the department or the youth authority, a  
13       stamp or statement identifying the name of the individual, the date of expunction and instruction  
14       that no further reference shall be made to the material that is subject to the expunction order ex-  
15       cept upon an order of a court of competent jurisdiction.

16       (c) “Person” includes a person under 18 years of age.

17       (d) “Record” includes a fingerprint or photograph file, report, exhibit or other material which  
18       contains information relating to a person’s contact with any law enforcement agency, juvenile court  
19       or juvenile department, the Psychiatric Security Review Board, the Department of Human Services  
20       or the Oregon Health Authority and is kept manually, through the use of electronic data processing  
21       equipment, or by any other means by a law enforcement or public investigative agency, a juvenile  
22       court or juvenile department or an agency of the State of Oregon. “Record” does not include:

23       (A) A transcript of a student’s Youth Corrections Education Program academic record;

24       (B) Material on file with a public agency which is necessary for obtaining federal financial  
25       participation regarding financial assistance or services on behalf of a person who has had a contact;

26       (C) Records kept or disseminated by the Department of Transportation, State Marine Board and  
27       State Fish and Wildlife Commission pursuant to juvenile or adult order or recommendation;

28       (D) Police and court records related to an order of waiver where the matter is still pending in  
29       the adult court or on appeal therefrom, or to any disposition as an adult pursuant to such order;

30       (E) Records related to a support obligation;

31       (F) Medical records other than those related to a finding of responsible except for insanity under  
32       ORS 419C.411;

33       (G) Records of a proposed or adjudicated termination of parental rights and adoptions;

34       (H) Any law enforcement record of a person who currently does not qualify for expunction or  
35       of current investigations or cases waived to the adult court;

36       (I) Records and case reports of the Oregon Supreme Court and the Oregon Court of Appeals;

37       (J) Any records in cases under ORS 419C.005 in which a juvenile court found a person to be  
38       within the jurisdiction of the court based upon the person’s commission of an act which if done by  
39       an adult would constitute one of the following offenses:

40       (i) Aggravated murder under ORS 163.095;

41       (ii) Murder in any degree under ORS 163.107 or 163.115;

42       (iii) Attempt, solicitation or conspiracy to commit murder in any degree or aggravated murder;

43       (iv) Manslaughter in the first degree under ORS 163.118;

44       (v) Manslaughter in the second degree under ORS 163.125;

45       (vi) Criminally negligent homicide under ORS 163.145;

- 1 (vii) Assault in the first degree under ORS 163.185;
- 2 (viii) Criminal mistreatment in the first degree under ORS 163.205;
- 3 (ix) Kidnapping in the first degree under ORS 163.235;
- 4 (x) Rape in the third degree under ORS 163.355;
- 5 (xi) Rape in the second degree under ORS 163.365;
- 6 (xii) Rape in the first degree under ORS 163.375;
- 7 (xiii) Sodomy in the third degree under ORS 163.385;
- 8 (xiv) Sodomy in the second degree under ORS 163.395;
- 9 (xv) Sodomy in the first degree under ORS 163.405;
- 10 (xvi) Unlawful sexual penetration in the second degree under ORS 163.408;
- 11 (xvii) Unlawful sexual penetration in the first degree under ORS 163.411;
- 12 (xviii) Sexual abuse in the third degree under ORS 163.415;
- 13 (xix) Sexual abuse in the second degree under ORS 163.425;
- 14 (xx) Sexual abuse in the first degree under ORS 163.427;
- 15 [(xxi) *Promoting prostitution under ORS 167.012;*]
- 16 [(xxii)] **(xxi)** Compelling prostitution under ORS 167.017;
- 17 [(xxiii)] **(xxii)** Aggravated driving while suspended or revoked under ORS 163.196;
- 18 [(xxiv)] **(xxiii)** Aggravated vehicular homicide under ORS 163.149; or
- 19 [(xxv)] **(xxiv)** An attempt to commit a crime listed in this subparagraph other than manslaughter
- 20 in the second degree and criminally negligent homicide;
- 21 (K) Blood samples, buccal samples and other physical evidence and identification information
- 22 obtained, stored or maintained by the Department of State Police under authority of ORS 137.076,
- 23 181A.155 or 419C.473; or
- 24 (L) Records maintained in the Law Enforcement Data System under ORS 163A.035.
- 25 (e) "Termination" means:
- 26 (A) For a person who is the subject of a record kept by a juvenile court or juvenile department,
- 27 the final disposition of a case by informal means, by a decision not to place the person on probation
- 28 or make the person a ward of the court after the person has been found to be within the court's
- 29 jurisdiction or by a discontinuance of probation, of the court's wardship or of the jurisdiction of the
- 30 Psychiatric Security Review Board, the Oregon Health Authority or the Department of Human Ser-
- 31 vices.
- 32 (B) For a person who is the subject of a record kept by a law enforcement or public investi-
- 33 gative agency, a juvenile court or juvenile department or an agency of the State of Oregon, the final
- 34 disposition of the person's most recent contact with a law enforcement agency.
- 35 (2) The juvenile court or juvenile department shall make reasonable effort to provide written
- 36 notice to a child who is within the court's jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or
- 37 to a youth who is within the court's jurisdiction under ORS 419C.005, and to the child's or youth's
- 38 parent, of the procedures for expunction of a record, the right to counsel under this chapter, the
- 39 legal effect of an expunction order and the procedures for seeking relief from the duty to report as
- 40 a sex offender provided under ORS 163A.130, at the following times:
- 41 (a) At any dispositional hearing or at the time of entering into a formal accountability agree-
- 42 ment;
- 43 (b) At the time of termination;
- 44 (c) Upon notice to the subject of an expunction pending pursuant to application of a juvenile
- 45 department or motion on a juvenile court; and

(d) At the time of notice of execution of an expunction order.

**SECTION 19.** ORS 419A.262 is amended to read:

419A.262. (1) An expunction proceeding shall be commenced in the county where the subject person resided at the time of the most recent termination.

(2) Upon application of either a person who is the subject of a record or a juvenile department, or upon its own motion, the juvenile court shall order expunction if, after a hearing when the matter is contested, it finds that:

(a) At least five years have elapsed since the date of the person's most recent termination;

(b) Since the date of the most recent termination, the person has not been convicted of a felony or a Class A misdemeanor;

(c) No proceedings seeking a criminal conviction or an adjudication in a juvenile court are pending against the person;

(d) The person is not within the jurisdiction of any juvenile court on the basis of a petition alleging an act or behavior as defined in ORS 419B.100 (1)(a) to (c) and (f) or 419C.005; and

(e) The juvenile department is not aware of any pending investigation of the conduct of the person by any law enforcement agency.

(3)(a) Notwithstanding subsection (2) of this section, upon application of a person who is the subject of a record kept by a juvenile court or juvenile department, upon application of the juvenile department, or upon its own motion, the juvenile court, after a hearing when the matter is contested under subsection (13) of this section, shall order expunction if it finds that:

(A) The application requests expunction of only that part of the person's record that involves a charge, allegation or adjudication based on conduct that *[if done by an adult would constitute the crime of]* **constitutes** prostitution *[under ORS 167.007]* **as defined in ORS 167.002**; and

(B) The person was under 18 years of age at the time of the conduct.

(b) Except as provided in subsections (13) and (14) of this section, there is no waiting period required before the juvenile court orders expunction under this subsection.

(4) In the case of an application by the juvenile department or of the court acting upon its own motion, expunction shall not be ordered if actual notice of expunction has not been given to the person in accordance with subsection (12) of this section unless the person has reached 21 years of age.

(5) When a person who is the subject of a record kept by a juvenile court or juvenile department reaches 18 years of age, the juvenile court, after a hearing when the matter is contested, shall order expunction if:

(a) The person never has been found to be within the jurisdiction of the court; or

(b) The conditions of subsection (2) or (3) of this section have been met.

(6) Expunction shall not be ordered under this section if actual notice of expunction has not been given to the person in accordance with subsection (12) of this section unless the person has reached 21 years of age.

(7) Subsections (5) and (6) of this section apply only to cases resulting in termination after September 13, 1975.

(8) Notwithstanding subsections (2), (3) and (5) to (7) of this section, upon application of a person who is the subject of a record kept by a juvenile court or juvenile department, upon application of the juvenile department, or upon its own motion, the juvenile court, after a hearing when the matter is contested, may order expunction of all or any part of the person's record if it finds that to do so would be in the best interests of the person and the public. In the case of an application by the ju-

1 venile department or of the court acting upon its own motion, expunction shall not be ordered if  
 2 actual notice of expunction has not been given to the person in accordance with subsection (12) of  
 3 this section unless the person has reached 21 years of age.

4 (9) Notwithstanding ORS 419A.260 (1)(d)(J)(x), (xiii), (xix) or (xviii), a person who has been found  
 5 to be within the jurisdiction of the juvenile court based on an act that if committed by an adult  
 6 would constitute:

7 (a) Rape in the third degree under ORS 163.355, sodomy in the third degree under ORS 163.385  
 8 or sexual abuse in the third degree under ORS 163.415, or an attempt to commit those crimes, may  
 9 apply for an order of expunction under this section. The court shall order expunction of the records  
 10 in the case if, after a hearing when the matter is contested, the court finds that the person:

11 (A) Meets the requirements of subsection (2) of this section;

12 (B) Has been relieved of the obligation to report as a sex offender pursuant to a court order  
 13 entered under ORS 163A.145 or 163A.150; and

14 (C) Has not been convicted of, found guilty except for insanity of or found to be within the ju-  
 15 risdiction of the juvenile court based on a crime listed in ORS 419A.260 (1)(d)(J), other than the  
 16 adjudication that is the subject of the motion.

17 (b) A sex crime that is a Class C felony may apply for an order of expunction under this section.  
 18 The court shall order expunction of the records in the case if, after a hearing when the matter is  
 19 contested, the court finds that:

20 (A) The person meets the requirements of subsection (2) of this section;

21 (B) The person was under 16 years of age at the time of the offense;

22 (C) The person is:

23 (i) Less than two years and 180 days older than the victim; or

24 (ii) At least two years and 180 days older, but less than three years and 180 days older, than  
 25 the victim and the expunction is in the interests of justice and of benefit to the person and the  
 26 community;

27 (D) The victim's lack of consent was due solely to incapacity to consent by reason of being less  
 28 than a specified age;

29 (E) The victim was at least 12 years of age at the time of the offense;

30 (F) Each finding described in this paragraph involved the same victim; and

31 (G) The person has not been convicted of, found guilty except for insanity of or found to be  
 32 within the jurisdiction of the juvenile court based on a crime listed in ORS 419A.260 (1)(d)(J) or an  
 33 offense the court is prohibited from setting aside under ORS 137.225, other than the adjudication  
 34 that is the subject of the motion.

35 (10) When an expunction proceeding is commenced by application of the person whose records  
 36 are to be expunged, the person shall set forth as part of the application the names of the juvenile  
 37 courts, juvenile departments, institutions and law enforcement and other agencies that the person  
 38 has reason to believe possess an expungible record of the person. The juvenile department shall  
 39 provide the names and addresses of the juvenile courts, juvenile departments, institutions and law  
 40 enforcement and other agencies that a reasonable search of department files indicates have  
 41 expungible records.

42 (11) When an expunction proceeding is commenced by application of the juvenile department or  
 43 upon the court's own motion, the application or motion shall set forth the names and addresses of  
 44 the juvenile courts, juvenile departments, institutions and law enforcement and other agencies that  
 45 a reasonable search of department files indicates have expungible records and those provided by the

1 subject person.

2 (12)(a) Notice and a copy of an application for expunction under subsections (2) to (8) of this  
3 section shall be given to:

4 (A) The district attorney of the county in which the expunction proceeding is commenced and  
5 the district attorney of each county in which the record sought to be expunged is kept; and

6 (B) The person who is the subject of the record if the person has not initiated the expunction  
7 proceeding.

8 (b) A district attorney who receives notice under this subsection shall notify the victim of the  
9 acts that resulted in the disposition that is the subject of the application for expunction and shall  
10 mail a copy of the application for expunction to the victim's last known address.

11 (13)(a) Within 30 days of receiving the notice of application for expunction under subsection (12)  
12 of this section, a district attorney shall give written notice of any objection and the grounds therefor  
13 to the person whose records are to be expunged and to the juvenile court.

14 (b) Except as provided in subsection (14)(c) of this section, if no objection is filed the court may  
15 decide the issue of expunction either without a hearing or after full hearing under subsections (14)  
16 to (17) of this section.

17 (14) When an expunction is pending under subsections (2) to (8) of this section, the court may  
18 proceed with or without a hearing, except that:

19 (a) The court may not enter an expunction judgment without a hearing if a timely objection to  
20 expunction has been filed under subsection (13) of this section;

21 (b) The court may not deny an expunction without a hearing if the proceeding is based on an  
22 application of the subject; and

23 (c) The court shall proceed without a hearing if:

24 (A) No objection is filed under subsection (13) of this section;

25 (B) The application requests expunction of only that part of the person's record that involves  
26 a charge, allegation or adjudication based on conduct that [*if done by an adult would constitute the*  
27 *crime of*] **constitutes** prostitution [*under ORS 167.007*] **as defined in ORS 167.002**; and

28 (C) The person was under 18 years of age at the time of the conduct.

29 (15)(a) Notice of a hearing on a pending expunction shall be served on the subject and any dis-  
30 trict attorney filing a timely objection under subsection (13) of this section.

31 (b) When a district attorney receives notice of a hearing for expunction of a record concerning  
32 a youth or youth offender proceeding under ORS chapter 419C, if the victim of the acts that resulted  
33 in the disposition that is the subject of the application for expunction requests, the district attorney  
34 shall mail notice of the hearing to the victim's last-known address.

35 (16) The court shall conduct a hearing on a pending expunction in accord with the provisions  
36 of ORS 419B.195, 419B.198, 419B.201, 419B.205, 419B.208, 419B.310, 419B.812 to 419B.839 and  
37 419B.908. Rules of evidence shall be as in a hearing to establish juvenile court jurisdiction and as  
38 defined in ORS 419B.310 (3) and 419C.400 (2). The burden of proof shall be with the party contesting  
39 expunction.

40 (17) At the conclusion of a hearing on a pending expunction, the court shall issue judgment  
41 granting or denying expunction.

42 (18) The juvenile court or juvenile department shall send a copy of an expunction judgment to  
43 each agency subject to the judgment. Upon receipt of a copy of the judgment, the agency shall  
44 comply and, within 21 days of the date of receipt, return the copy to the juvenile court or juvenile  
45 department with an indorsement indicating compliance.

1 (19) When all agencies subject to an expunction judgment have indicated their compliance or in  
 2 any event no later than six weeks following the date the judgment was delivered as required by  
 3 subsection (18) of this section, the juvenile court shall provide the person who is the subject of the  
 4 record with a copy of the expunction judgment, a list of complying and noncomplying agencies, and  
 5 a written notice of rights and effects of expunction. The juvenile court and juvenile department then  
 6 shall expunge forthwith all records which they possess and which are subject to the judgment, ex-  
 7 cept the original expunction judgment and the list of complying and noncomplying agencies which  
 8 must be preserved under seal.

9 (20) In addition to those agencies identified in ORS 419A.260 (1)(d), the juvenile, circuit, munic-  
 10 ipal and justice courts, and the district and city attorneys of this state, are bound by an expunction  
 11 judgment of any juvenile court of appropriate jurisdiction in this state issuing an expunction judg-  
 12 ment.

13 (21) Upon entry of an expunction judgment, the contact that is the subject of the expunged re-  
 14 cord shall not be disclosed by any agency. An agency that is subject to an expunction judgment shall  
 15 respond to any inquiry about the contact by indicating that no record or reference concerning the  
 16 contact exists.

17 (22) A person who is the subject of a record that has been expunged under this section may  
 18 assert that the record never existed and that the contact, which was the subject of the record, never  
 19 occurred without incurring a penalty for perjury or false swearing under the laws of this state.

20 (23) Juvenile courts, by court rule or by order related to a particular matter, may direct that  
 21 records concerning a subject person be destroyed. No records shall be destroyed until at least three  
 22 years have elapsed after the date of the subject's most recent termination. In the event the record  
 23 has been expunged, the expunction judgment and list of complying and noncomplying agencies may  
 24 not be destroyed, but shall be preserved under seal. The destruction of records under this sub-  
 25 section does not constitute expunction.

26 (24) An expunction judgment and list of complying and noncomplying agencies shall be released  
 27 from confidentiality only on order of the court originating the expunction judgment, based on a  
 28 finding that review of a particular case furthers compliance with the expunction provisions of this  
 29 chapter.

30 (25) A subject has a right of action against any person who intentionally violates the  
 31 confidentiality provisions of this section. In the proceeding, punitive damages up to an amount of  
 32 \$1,000 may be sought in addition to any actual damages. The prevailing party shall be entitled to  
 33 costs and reasonable attorney fees.

34 (26) Intentional violation of the confidentiality provisions of this section by a public employee  
 35 is cause for dismissal.

36 (27) A person who intentionally releases all or part of an expunged record commits a Class C  
 37 misdemeanor.

38 **SECTION 20.** ORS 419B.005 is amended to read:

39 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

40 (1)(a) "Abuse" means:

41 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child  
 42 which has been caused by other than accidental means, including any injury which appears to be  
 43 at variance with the explanation given of the injury.

44 (B) Any mental injury to a child, which shall include only observable and substantial impairment  
 45 of the child's mental or psychological ability to function caused by cruelty to the child, with due

1 regard to the culture of the child.

2 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-  
3 tration and incest, as those acts are described in ORS chapter 163.

4 (D) Sexual abuse, as described in ORS chapter 163.

5 (E) Sexual exploitation, including but not limited to:

6 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any  
7 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage  
8 in the performing for people to observe or the photographing, filming, tape recording or other ex-  
9 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or  
10 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-  
11 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or  
12 which is designed to serve educational or other legitimate purposes; and

13 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as [*described*  
14 *in ORS 167.007*] **defined in ORS 167.002** or a commercial sex act as defined in ORS 163.266, to  
15 purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual sollicita-  
16 tion [*as described in ORS 167.008*].

17 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to  
18 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or  
19 welfare of the child.

20 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm  
21 to the child's health or welfare.

22 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

23 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where  
24 methamphetamines are being manufactured.

25 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful  
26 manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a sub-  
27 stantial risk of harm to the child's health or safety.

28 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the  
29 conditions described in paragraph (a) of this subsection.

30 (2) "Child" means an unmarried person who:

31 (a) Is under 18 years of age; or

32 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring  
33 agency as that term is defined in ORS 418.205.

34 (3) "Higher education institution" means:

35 (a) A community college as defined in ORS 341.005;

36 (b) A public university listed in ORS 352.002;

37 (c) The Oregon Health and Science University; and

38 (d) A private institution of higher education located in Oregon.

39 (4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged  
40 to have experienced abuse.

41 (b) "Investigation" does not include screening activities conducted upon the receipt of a report.

42 (5) "Law enforcement agency" means:

43 (a) A city or municipal police department.

44 (b) A county sheriff's office.

45 (c) The Oregon State Police.

- 1 (d) A police department established by a university under ORS 352.121 or 353.125.
- 2 (e) A county juvenile department.
- 3 (6) "Public or private official" means:
- 4 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
- 5 including any intern or resident.
- 6 (b) Dentist.
- 7 (c) School employee, including an employee of a higher education institution.
- 8 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
- 9 or employee of an in-home health service.
- 10 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
- 11 Division, Department of Education, Youth Development Division, Office of Child Care, the Oregon
- 12 Youth Authority, a local health department, a community mental health program, a community de-
- 13 velopmental disabilities program, a county juvenile department, a child-caring agency as that term
- 14 is defined in ORS 418.205 or an alcohol and drug treatment program.
- 15 (f) Peace officer.
- 16 (g) Psychologist.
- 17 (h) Member of the clergy.
- 18 (i) Regulated social worker.
- 19 (j) Optometrist.
- 20 (k) Chiropractor.
- 21 (L) Certified provider of foster care, or an employee thereof.
- 22 (m) Attorney.
- 23 (n) Licensed professional counselor.
- 24 (o) Licensed marriage and family therapist.
- 25 (p) Firefighter or emergency medical services provider.
- 26 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 27 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 28 (s) Member of the Legislative Assembly.
- 29 (t) Physical, speech or occupational therapist.
- 30 (u) Audiologist.
- 31 (v) Speech-language pathologist.
- 32 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 33 gations or discipline by the commission.
- 34 (x) Pharmacist.
- 35 (y) An operator of a preschool recorded program under ORS 329A.255.
- 36 (z) An operator of a school-age recorded program under ORS 329A.257.
- 37 (aa) Employee of a private agency or organization facilitating the provision of respite services,
- 38 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
- 39 109.056.
- 40 (bb) Employee of a public or private organization providing child-related services or activities:
- 41 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
- 42 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
- 43 vision or auspices of religious, public or private educational systems or community service organ-
- 44 izations; and
- 45 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide



1 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-  
 2 ficking.

3 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,  
 4 if compensated and if the athlete is a child.

5 (dd) Personal support worker, as defined in ORS 410.600.

6 (ee) Home care worker, as defined in ORS 410.600.

7 (ff) Animal control officer, as defined in ORS 609.500.

8 (gg) Member of a school district board or public charter school governing body.

9 (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a  
 10 service identified in an individualized written service plan of a child with a developmental disability.

11 **SECTION 21.** ORS 419C.473 is amended to read:

12 419C.473. (1) Whenever a youth offender has been found to be within the jurisdiction of the court  
 13 under ORS 419C.005 for having committed an act that if done by an adult would constitute a felony  
 14 listed in subsection (2) of this section, the court shall order the youth offender to submit to the ob-  
 15 taining of a blood or buccal sample in the manner provided by ORS 137.076. The court shall further  
 16 order that as soon as practicable after the entry of the dispositional order, the law enforcement  
 17 agency attending upon the court shall cause a blood or buccal sample to be obtained and transmit-  
 18 ted in accordance with ORS 137.076. The court may also order the youth offender to reimburse the  
 19 appropriate agency for the cost of obtaining and transmitting the blood or buccal sample.

20 (2) The felonies to which subsection (1) of this section applies are:

21 (a) Rape, sodomy, unlawful sexual penetration, sexual abuse in the first or second degree, public  
 22 indecency, incest or using a child in a display of sexually explicit conduct, as those offenses are  
 23 defined in ORS 163.355 to 163.427, 163.465 (1)(d), 163.525 and 163.670;

24 (b) Burglary in the second degree, as defined in ORS 164.215, when committed with intent to  
 25 commit any offense listed in paragraph (a) of this subsection;

26 (c) [*Promoting or*] Compelling prostitution, as defined in ORS [*167.012 and*] 167.017;

27 (d) Burglary in the first degree, as defined in ORS 164.225;

28 (e) Assault in the first degree, as defined in ORS 163.185;

29 (f) Conspiracy or attempt to commit any Class A or Class B felony listed in paragraphs (a) to  
 30 (e) of this subsection; or

31 (g) Murder or aggravated murder.

32 (3) No order for the obtaining and transmitting of a blood or buccal sample is required to be  
 33 entered if:

34 (a) The Department of State Police notifies the court or the law enforcement agency attending  
 35 upon the court that it has previously received an adequate blood or buccal sample taken from the  
 36 youth offender in accordance with this section, ORS 137.076 or 161.325 (4); or

37 (b) The court determines that obtaining a sample would create a substantial and unreasonable  
 38 risk to the health of the youth offender.

39 (4) Notwithstanding any other provision of law, blood and buccal samples and other physical  
 40 evidence and criminal identification information obtained under authority of this section or as a  
 41 result of analysis conducted pursuant to ORS 181A.155 may be maintained, stored, destroyed and  
 42 released to authorized persons or agencies under the conditions established in ORS 181A.155 and  
 43 rules adopted by the Department of State Police under the authority of that section.

44 **SECTION 22.** ORS 443.004 is amended to read:

45 443.004. (1)(a) The Department of Human Services or the Oregon Health Authority shall com-

1 plete a criminal records check under ORS 181A.195 on:

2 (A) An employee of a residential facility or an adult foster home;

3 (B) Any individual who is paid directly or indirectly with public funds who has or will have  
4 contact with a recipient of support services or a resident of an adult foster home or a residential  
5 facility; and

6 (C) A home care worker or personal support worker registering with the Home Care Commission  
7 or renewing a registration with the Home Care Commission.

8 (b) The department or the authority shall complete the criminal records check under paragraph  
9 (a) of this subsection not more than once during a two-year period unless the department or the  
10 authority:

11 (A) Receives credible evidence of a new criminal conviction;

12 (B) Receives credible evidence to substantiate a complaint of abuse or neglect;

13 (C) Is required by federal law to conduct more frequent criminal records checks; or

14 (D) Is notified that a subject individual has changed positions or duties for which there are  
15 different criminal records check requirements.

16 (2)(a) A home health agency shall conduct a criminal background check before hiring or con-  
17 tracting with an individual and before allowing an individual to volunteer to provide services on  
18 behalf of the home health agency, if the individual will have direct contact with a patient of the  
19 home health agency.

20 (b) An in-home care agency shall conduct a criminal background check before hiring or con-  
21 tracting with an individual and before allowing an individual to volunteer to provide services on  
22 behalf of the in-home care agency, if the individual will have direct contact with a client of the in-  
23 home care agency.

24 (c) The authority shall prescribe by rule the process for conducting a criminal background  
25 check.

26 (3) Public funds may not be used to support, in whole or in part, the employment in any capacity  
27 having contact with a recipient of support services or a resident of a residential facility or an adult  
28 foster home, of an individual, other than a mental health or substance abuse treatment provider,  
29 who has been convicted:

30 (a) Of a crime described in ORS 163.095, 163.107, 163.115, 163.118, 163.125, 163.145, 163.149,  
31 163.165, 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275,  
32 163.465, 163.467, 163.535, 163.537, 163.547, 163.689, 163.700, 163.701, 164.055, 164.057, 164.098, 164.125  
33 (5)(c) or (d), 164.215, 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.013, 165.022, 165.032,  
34 165.800, 165.803, [167.012,] 167.017, 167.057, 167.320 or 167.322;

35 (b) Notwithstanding paragraph (a) of this subsection, of a crime described in ORS 163.465,  
36 163.467, 163.700, 163.701, 164.055, 164.125 or 164.377, the date of conviction for which was within the  
37 five years immediately preceding employment in any capacity of an individual, other than a mental  
38 health or substance abuse treatment provider, having contact with a recipient of support services,  
39 a resident of a residential facility or a resident of an adult foster home, when the recipient or resi-  
40 dent is 65 years of age or older;

41 (c) Of a crime listed in ORS 163A.005;

42 (d) In the last 10 years, of a crime involving the delivery or manufacture of a controlled sub-  
43 stance;

44 (e) Of an attempt, conspiracy or solicitation to commit a crime described in paragraphs (a) to  
45 (d) of this subsection; or

1 (f) Of a crime in another jurisdiction that is substantially equivalent, as defined by rule, to a  
 2 crime described in paragraphs (a) to (e) of this subsection.

3 (4) If the criminal background check conducted by a home health agency or in-home care agency  
 4 under subsection (2) of this section reveals that the individual who is subject to the criminal back-  
 5 ground check has been convicted of any of the crimes described in subsection (3) of this section, the  
 6 home health agency or in-home care agency may not employ the individual.

7 (5) Public funds may not be used to support, in whole or in part, the employment, in any ca-  
 8 pacity having contact with a recipient of support services or a resident of a residential facility or  
 9 an adult foster home, of a mental health or substance abuse treatment provider who has been con-  
 10 victed of committing, or convicted of an attempt, conspiracy or solicitation to commit, a crime de-  
 11 scribed in ORS 163.095, 163.107, 163.115, 163.375, 163.405, 163.411 or 163.427.

12 (6) Upon the request of a mental health or substance abuse treatment provider, the department  
 13 or authority shall maintain a record of the results of any fitness determination made under ORS  
 14 181A.195 (10). The department or authority may disclose the record only to a person the provider  
 15 specifically authorizes, by a written release, to receive the information.

16 (7) If the department or authority has a record of substantiated abuse committed by an employee  
 17 or potential employee of a home health agency, in-home care agency, adult foster home or residen-  
 18 tial facility, regardless of whether criminal charges were filed, the department or authority shall  
 19 notify, in writing, the employer and the employee or potential employee and may conduct a fitness  
 20 determination in accordance with this section and ORS 181A.195.

21 (8) As used in this section:

22 (a) "Adult foster home" has the meaning given that term in ORS 443.705.

23 (b) "Home care worker" has the meaning given that term in ORS 410.600.

24 (c) "Home health agency" has the meaning given that term in ORS 443.014.

25 (d) "In-home care agency" has the meaning given that term in ORS 443.305.

26 (e) "Mental health or substance abuse treatment provider" means:

27 (A) A peer support specialist;

28 (B) An employee of a residential treatment facility or a residential treatment home that is li-  
 29 censed under ORS 443.415 to provide treatment for individuals with alcohol or drug dependence;

30 (C) An individual who provides treatment or services for persons with substance use disorders;

31 or

32 (D) An individual who provides mental health treatment or services.

33 (f) "Peer support specialist" has the meaning given that term in ORS 414.025.

34 (g) "Personal support worker" has the meaning given that term in ORS 410.600.

35 (h) "Residential facility" has the meaning given that term in ORS 443.400.

36 **SECTION 23.** ORS 809.745 is amended to read:

37 809.745. A law enforcement agency, as defined in ORS 136.595, may not seize a vehicle for  
 38 forfeiture under ORS 131.602 [(137)] (134) or [(138)] (135) or 809.740, unless the agency has adopted  
 39 policies and procedures for seizure, including policies relating to when a police officer may seize a  
 40 motor vehicle for forfeiture under ORS 131.602 [(137)] (134) or [(138)] (135) or 809.740.

41 **SECTION 24.** ORS 687.011 is amended to read:

42 687.011. As used in ORS 687.011 to 687.250, 687.895 and 687.991:

43 (1) "Board" means the State Board of Massage Therapists.

44 (2) "Certified class" means a class that is approved by the board and is offered:

45 (a) By a person or institution licensed as a career school under ORS 345.010 to 345.450;

1 (b) By a community college and approved by the Higher Education Coordinating Commission;

2 (c) By an accredited college or university; or

3 (d) In another state and licensed or approved by the appropriate agency in that state.

4 (3) "Manual" means the use of the hands, feet or any other part of the body in the performance  
5 of massage.

6 (4)(a) "Massage," "massage therapy" or "bodywork" means the use of pressure, friction, strok-  
7 ing, tapping or kneading on the human body, or the use of vibration or stretching on the human  
8 body by manual or mechanical means or gymnastics, with or without appliances such as vibrators,  
9 infrared heat, sun lamps or external baths, and with or without lubricants such as salts, powders,  
10 liquids or creams, for the purpose of, but not limited to, maintaining good health and establishing  
11 and maintaining good physical condition.

12 (b) "Massage," "massage therapy" and "bodywork" do not include the use of high-velocity,  
13 short-amplitude manipulative thrusting procedures to the articulations of the spine or extremities.

14 (5)(a) "Massage facility" means a facility where a person engages in the practice of massage.

15 (b) "Massage facility" does not include:

16 (A) A career school licensed under ORS 345.010 to 345.450;

17 (B) An accredited college or university or a community college operated under ORS chapter 341;

18 or

19 (C) A clinic or facility owned or operated by a person authorized to practice a profession by a  
20 health professional regulatory board, as defined in ORS 676.160.

21 (6) "Massage therapist" means a person licensed under ORS 687.011 to 687.250, 687.895 and  
22 687.991 to practice massage.

23 (7) "Practice of massage" means the performance of massage:

24 (a) For purposes other than sexual contact, as defined in ORS 167.002 [(5)]; and

25 (b) For compensation.

26 (8) "Preceptor" means a licensed massage therapist who contracts with an approved school or  
27 program of massage to provide direct on-site clinical supervision of a student enrolled in a certified  
28 class.

29 (9) "Supervision" means:

30 (a) The process of overseeing and directing the training of students enrolled in a certified class  
31 as set forth in the rules of the board;

32 (b) The process of overseeing and directing a licensee, or a person that has a permit to operate  
33 a massage facility, who is being disciplined by the board; or

34 (c) Voluntary consultation with, and education of, less experienced licensed massage therapists  
35 or practitioners in related fields.

36 (10) "Unprofessional or dishonorable conduct" means a behavior, practice or condition that is  
37 contrary to the ethical standards adopted by the board.

38 **SECTION 25.** ORS 137.076 is amended to read:

39 137.076. (1) This section applies to any person convicted of:

40 (a) A felony;

41 (b) Sexual abuse in the third degree or public indecency;

42 (c) Conspiracy or attempt to commit rape in the third degree, sodomy in the third degree, sexual  
43 abuse in the second degree[,] **or** burglary in the second degree [*or promoting prostitution*]; or

44 (d) Murder or aggravated murder.

45 (2) When a person is convicted of an offense listed in subsection (1) of this section:

1 (a) The person shall, whether or not ordered to do so by the court under paragraph (b) of this  
 2 subsection, provide a blood or buccal sample at the request of the appropriate agency designated in  
 3 paragraph (c) of this subsection.

4 (b) The court shall include in the judgment of conviction an order stating that a blood or buccal  
 5 sample is required to be obtained at the request of the appropriate agency and, unless the convicted  
 6 person lacks the ability to pay, that the person shall reimburse the appropriate agency for the cost  
 7 of obtaining and transmitting the blood or buccal sample. If the judgment sentences the convicted  
 8 person to probation, the court shall order the convicted person to submit to the obtaining of a blood  
 9 or buccal sample as a condition of the probation.

10 (c) The appropriate agency shall cause a blood or buccal sample to be obtained and transmitted  
 11 to the Department of State Police. The agency shall cause the sample to be obtained as soon as  
 12 practicable after conviction. The agency shall obtain the convicted person's thumbprint at the same  
 13 time the agency obtains the blood or buccal sample. The agency shall include the thumbprint with  
 14 the identifying information that accompanies the sample. Whenever an agency is notified by the  
 15 Department of State Police that a sample is not adequate for analysis, the agency shall obtain and  
 16 transmit a blood sample. The appropriate agency shall be:

17 (A) The Department of Corrections, whenever the convicted person is committed to the legal  
 18 and physical custody of the department.

19 (B) In all other cases, the law enforcement agency attending upon the court.

20 (3)(a) A blood sample may only be drawn in a medically acceptable manner by a licensed phy-  
 21 sician, a person acting under the direction or control of a licensed physician, a physician assistant  
 22 licensed under ORS 677.505 to 677.525, a nurse licensed under ORS chapter 678 or a qualified med-  
 23 ical technician.

24 (b) A buccal sample may be obtained by anyone authorized to do so by the appropriate agency.  
 25 The person obtaining the buccal sample shall follow the collection procedures established by the  
 26 Department of State Police.

27 (c) A person authorized by this subsection to obtain a blood or buccal sample shall not be held  
 28 civilly liable for obtaining a sample in accordance with this subsection and subsection (2) of this  
 29 section, ORS 161.325 and 419C.473. The sample shall also be obtained and transmitted in accordance  
 30 with any procedures that may be established by the Department of State Police. However, no test  
 31 result or opinion based upon a test result shall be rendered inadmissible as evidence solely because  
 32 of deviations from procedures adopted by the Department of State Police that do not affect the re-  
 33 liability of the opinion or test result.

34 (4) No sample is required to be obtained if:

35 (a) The Department of State Police notifies the court or the appropriate agency that it has  
 36 previously received an adequate blood or buccal sample obtained from the convicted person in ac-  
 37 cordance with this section or ORS 161.325 or 419C.473; or

38 (b) The court determines that obtaining a sample would create a substantial and unreasonable  
 39 risk to the health of the convicted person.

40 (5) The provisions of subsections (1) to (4) of this section apply to any person who, on or after  
 41 September 29, 1991, is serving a term of incarceration as a sentence or as a condition of probation  
 42 imposed for conviction of an offense listed in subsection (1) of this section, and any such person shall  
 43 submit to the obtaining of a blood or buccal sample. Before releasing any such person from  
 44 incarceration, the supervisory authority shall cause a blood or buccal sample and the person's  
 45 thumbprint to be obtained and transmitted in accordance with subsections (1) to (4) of this section.

**SECTION 26.** ORS 163.413 is amended to read:

163.413. (1) A person commits the crime of purchasing sex with a minor if the person pays, or offers or agrees to pay, a fee to engage in sexual intercourse or sexual contact with a minor, a police officer posing as a minor or an agent of a police officer posing as a minor.

(2)(a) If the person does not have a prior conviction under this section at the time of the offense, purchasing sex with a minor is a Class C felony and the person may use a defense described in ORS 163.325 only if the minor or, in the case of a police officer or agent of a police officer posing as a minor, the age of the purported minor as reported to the defendant was at least 16 years of age.

(b) If the person has one or more prior convictions under this section at the time of the offense, purchasing sex with a minor is a Class B felony, the state need not prove that the person knew the minor or, in the case of a police officer or agent of a police officer posing as a minor, the purported minor was under 18 years of age and the person may not use a defense described in ORS 163.325.

(3)(a) When a person is convicted under this section, in addition to any other sentence that may be imposed, the court shall impose and may not suspend the sentence described in paragraph (b) of this subsection.

(b) The mandatory minimum sentences that apply to paragraph (a) of this subsection are as follows:

(A) For a person's first conviction, a fine in the amount of \$10,000, a term of incarceration of at least 30 days and completion of a john school program.

(B) For a person's second or subsequent conviction, a fine in the amount of \$20,000 and the court shall designate the offense as a sex crime under ORS 163A.005.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, if the court determines that the person is unable to pay the full amount of the mandatory minimum fine, the court shall impose and may not suspend a fine in an amount the court determines the person is able to pay.

(d) For a person's first conviction under this section, the court may designate the offense as a sex crime under ORS 163A.005 if the court finds that the circumstances of the offense and the age of the minor or, in the case of a police officer or agent of a police officer posing as a minor, the purported minor as reported to the defendant require the defendant to register and report as a sex offender for the safety of the community.

(4) As used in this section:

(a) "John school" means any course, class or program intended to educate and prevent recidivism of persons who have been arrested for, charged with or convicted of [*commercial sexual solicitation or*] purchasing sex with a minor or attempting to engage in [*commercial sexual solicitation or purchase*] **purchasing** sex with a minor.

(b) "Minor" means a person under 18 years of age.

(c) "Police officer" has the meaning given that term in ORS 181A.355.

**SECTION 27.** ORS 163A.115 is amended to read:

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

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

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

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

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

- 1 (a) Rape in the first degree;
- 2 (b) Sodomy in the first degree;
- 3 (c) Unlawful sexual penetration in the first degree;
- 4 (d) Kidnapping in the first degree as described in ORS 163.235 (1)(e) or when the victim is under
- 5 18 years of age; or
- 6 (e) Burglary in the first degree when committed with the intent to commit any of the offenses
- 7 listed in ORS 163A.005 (5)(a) to [(w)] (v).
- 8 (3) A person classified as a level three sex offender under section 7 (2)(b), chapter 708, Oregon
- 9 Laws 2013, is not eligible for relief from the obligation to report as a sex offender pursuant to a
- 10 petition filed under ORS 163A.125 (1).

11 **SECTION 28. This 2021 Act takes effect on the 91st day after the date on which the 2021**

12 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

13

---