

# House Bill 4108

Sponsored by Representative BONHAM; Representatives BOSHART DAVIS, CATE, DRAZAN, EVANS, GOODWIN, LEVY, LEWIS, MOORE-GREEN, MORGAN, NOBLE, OWENS, RESCHKE, SCHARF, SMITH DB, SMITH G (Presession filed.)

## SUMMARY

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

Establishes procedure for charging aggravated version of certain assault and attempted murder offenses when defendant causes permanent physical injury to victim during commission of crime. Provides that if defendant is convicted of aggravated offense, court shall sentence defendant to 300 months' imprisonment. Authorizes court to impose lesser sentence in certain circumstances.

## A BILL FOR AN ACT

1  
2 Relating to permanent physical injury; creating new provisions; and amending ORS 161.005.

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

4 **SECTION 1. Section 2 of this 2022 Act shall be known and may be cited as Ezra's Law.**

5 **SECTION 2. (1)(a) An allegation that a defendant caused permanent physical injury to a**  
6 **victim during the commission of a crime described in paragraph (b) of this subsection may**  
7 **be pleaded in the accusatory instrument, and proved at trial as an element in aggravation**  
8 **of the crime, as provided in this section. The aggravated nature of the crime may be indi-**  
9 **cated by adding the words "resulting in permanent physical injury" to the title of the offense.**  
10 **The unaggravated crime shall be considered a lesser included offense.**

11 **(b) This section applies to the following crimes committed intentionally or knowingly by**  
12 **a person at least 18 years of age:**

- 13 **(A) Assault in the first degree;**  
14 **(B) Assault in the second degree;**  
15 **(C) Attempted murder in any degree; or**  
16 **(D) Attempted aggravated murder.**

17 **(2)(a) Notwithstanding the provisions of ORS 161.605, and except as otherwise provided**  
18 **in subsection (3) of this section, if a defendant is convicted of a crime described in subsection**  
19 **(1)(b) of this section having as an element that the defendant caused permanent physical**  
20 **injury to the victim during the commission of the crime, the court shall impose as a sentence**  
21 **a term of imprisonment of 300 months.**

22 **(b) A defendant sentenced under this subsection is not, during the service of the term**  
23 **of imprisonment, eligible for release on post-prison supervision, work release or any form**  
24 **of temporary leave from custody, or any reduction in the imposed sentence under ORS**  
25 **421.121 or any other statute.**

26 **(3)(a) If, at the time of commission of the offense, the defendant has not previously been**  
27 **sentenced under this section, the court may impose a sentence of less than 300 months of**  
28 **imprisonment if the court expressly finds substantial and compelling circumstances justify-**  
29 **ing the lesser sentence, and sets forth those circumstances on the record at sentencing.**

**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       **(b) If the court sentences a defendant to a term of less than 300 months of imprisonment**  
2 **under this subsection, the court:**

3       **(A) May indicate in the judgment that the defendant is eligible for a reduction in a term**  
4 **of imprisonment under ORS 421.121.**

5       **(B) May not impose a sentence that is less than a mandatory sentence required by ORS**  
6 **137.635 or 137.700 or any other statute.**

7       **(4) As used in this section, “permanent physical injury” means physical injury that di-**  
8 **rectly results in:**

9       **(a) Permanent loss of a person’s vision or hearing;**

10       **(b) Permanent loss of a person’s ability to walk, breathe, eat or move the person’s limbs;**  
11 **or**

12       **(c) Permanent impairment of a person’s cognitive functioning.**

13       **SECTION 3.** ORS 161.005 is amended to read:

14       161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290  
15 to 161.373, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737,  
16 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to  
17 162.425, 162.465, 163.005, 163.095, 163.107, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208,  
18 163.191, 163.196, 163.215 to 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to  
19 163.467, 163.432, 163.433, 163.472, 163.505 to 163.575, 163.665 to 163.693, 163.700, 163.701, 163.715,  
20 164.005, 164.015 to 164.135, 164.138, 164.140, 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415,  
21 164.805, 164.857, 164.886, 165.002 to 165.102, 165.109, 165.118, 165.805, 165.815, 166.005 to 166.095,  
22 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.057, 167.060 to 167.100, 167.117, 167.122 to  
23 167.162, 167.203 to 167.252, 167.310 to 167.340, 167.350, 167.810 and 167.820 **and section 2 of this**  
24 **2022 Act** shall be known and may be cited as Oregon Criminal Code of 1971.