

Senate Bill 1078

Sponsored by Senator WEBER, Representatives EDWARDS, MANNIX; Senator WOODS, Representatives DIEHL, DRAZAN, LEVY B, WRIGHT

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act says that a public servant commits official misconduct if they fail to report child abuse when they are required to do so. The Act also says that the state has extra time to bring an action against the public servant for the official misconduct. (Flesch Readability Score: 62.1).

Specifies that a public servant's failure to make a mandatory report of suspected child abuse constitutes a crime of official misconduct in the second degree. Extends time period for commencing prosecution for official misconduct arising from the defendant's failure to make a mandatory report of suspected child abuse.

A BILL FOR AN ACT

1
2 Relating to official misconduct; creating new provisions; and amending ORS 131.125, 162.405 and
3 419B.010.

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

5 **SECTION 1.** ORS 419B.010 is amended to read:

6 419B.010. (1) Any public or private official having reasonable cause to believe that any child
7 with whom the official comes in contact has suffered abuse or that any person with whom the offi-
8 cial comes in contact has abused a child shall immediately report or cause a report to be made in
9 the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6)
10 affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member
11 of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report
12 such information communicated by a person if the communication is privileged under ORS 40.225 to
13 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason
14 of information communicated to the attorney in the course of representing a client if disclosure of
15 the information would be detrimental to the client.

16 (2) Notwithstanding subsection (1) of this section, a report need not be made under this section
17 if the public or private official acquires information relating to abuse by reason of a report made
18 under this section, or by reason of a proceeding arising out of a report made under this section, and
19 the public or private official reasonably believes that the information is already known by a law
20 enforcement agency or the Department of Human Services.

21 (3) The duty to report under this section is personal to the public or private official alone, re-
22 gardless of whether the official is employed by, a volunteer of or a representative or agent for any
23 type of entity or organization that employs persons or uses persons as volunteers who are public
24 or private officials in its operations.

25 (4) The duty to report under this section exists regardless of whether the entity or organization
26 that employs the public or private official or uses the official as a volunteer has its own procedures
27 or policies for reporting abuse internally within the entity or organization.

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 (5) **Except as provided in ORS 131.125 and 162.405**, a person who violates subsection (1) of this
 2 section commits a Class A violation. Prosecution under this subsection shall be commenced at any
 3 time within 18 months after commission of the offense.

4 **SECTION 2.** ORS 131.125 is amended to read:

5 131.125. (1) A prosecution for aggravated murder, murder, attempted murder or aggravated
 6 murder, conspiracy or solicitation to commit aggravated murder or murder or any degree of
 7 manslaughter may be commenced at any time after the commission of the attempt, conspiracy or
 8 solicitation to commit aggravated murder or murder, or the death of the person killed.

9 (2) A prosecution for any of the following felonies may be commenced within 20 years after the
 10 commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime
 11 before the victim attains 30 years of age, whichever occurs later:

- 12 (a) Rape in the first degree under ORS 163.375.
- 13 (b) Sodomy in the first degree under ORS 163.405.
- 14 (c) Unlawful sexual penetration in the first degree under ORS 163.411.
- 15 (d) Sexual abuse in the first degree under ORS 163.427.

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

- 20 (a) Strangulation under ORS 163.187 (4).
- 21 (b) Criminal mistreatment in the first degree under ORS 163.205.
- 22 (c) Rape in the third degree under ORS 163.355.
- 23 (d) Rape in the second degree under ORS 163.365.
- 24 (e) Sodomy in the third degree under ORS 163.385.
- 25 (f) Sodomy in the second degree under ORS 163.395.
- 26 (g) Unlawful sexual penetration in the second degree under ORS 163.408.
- 27 (h) Sexual abuse in the second degree under ORS 163.425.
- 28 (i) Using a child in a display of sexual conduct under ORS 163.670.
- 29 (j) Encouraging child sexual abuse in the first degree under ORS 163.684.
- 30 (k) Incest under ORS 163.525.
- 31 (L) Promoting prostitution under ORS 167.012.
- 32 (m) Compelling prostitution under ORS 167.017.
- 33 (n) Luring a minor under ORS 167.057.

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

- 38 (a) Strangulation under ORS 163.187 (3).
- 39 (b) Sexual abuse in the third degree under ORS 163.415.
- 40 (c) Exhibiting an obscene performance to a minor under ORS 167.075.
- 41 (d) Displaying obscene materials to minors under ORS 167.080.

42 (5) In the case of crimes described in subsection (3)(i) of this section, the victim is the child
 43 engaged in sexual conduct. In the case of the crime described in subsection (3)(k) of this section,
 44 the victim is the party to the incest other than the party being prosecuted. In the case of crimes
 45 described in subsection (3)(L) and (m) of this section, the victim is the child whose acts of

1 prostitution are promoted or compelled.

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

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

- 6 (a) Theft in the first degree under ORS 164.055.
- 7 (b) Aggravated theft in the first degree under ORS 164.057.
- 8 (c) Extortion under ORS 164.075.
- 9 (d) Robbery in the third degree under ORS 164.395.
- 10 (e) Robbery in the second degree under ORS 164.405.
- 11 (f) Robbery in the first degree under ORS 164.415.
- 12 (g) Forgery in the first degree under ORS 165.013.
- 13 (h) Fraudulent use of a credit card under ORS 165.055 (4)(b).
- 14 (i) Identity theft under ORS 165.800.

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

- 18 (a) For any other felony, three years.
- 19 (b) For any misdemeanor, two years.
- 20 (c) For a violation, six months.

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

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

28 **(b) If the offense is based on official misconduct in office by a public officer or employee**
29 **for failure to report suspected child abuse as required under ORS 419B.010, prosecution may**
30 **be commenced at any time while the defendant is in public office or employment or within**
31 **five years thereafter, but in no case shall the period of limitation otherwise applicable be**
32 **extended by more than six years;**

33 [(b)] (c) If the offense is based upon misconduct in office by a public officer or employee, **other**
34 **than as described in paragraph (b) of this subsection**, prosecution may be commenced at any
35 time while the defendant is in public office or employment or within two years thereafter, but in no
36 case shall the period of limitation otherwise applicable be extended by more than three years;

37 [(c)] (d) If the offense is an invasion of personal privacy under ORS 163.700 or 163.701, prose-
38 cution may be commenced within one year after discovery of the offense by the person aggrieved
39 by the offense, by a person who has a legal duty to represent the person aggrieved by the offense
40 or by a law enforcement agency, but in no case shall the period of limitation otherwise applicable
41 be extended by more than three years; or

42 [(d)] (e) If the offense is sexual abuse by fraudulent representation under ORS 163.429, prose-
43 cution may be commenced within six years after the victim becomes aware or reasonably should
44 have become aware of the criminal nature of the conduct.

45 (10) Notwithstanding subsections (2) and (3) of this section, if the defendant is identified after

1 the period described in subsection (2) or (3) of this section on the basis of DNA (deoxyribonucleic
2 acid) sample comparisons, a prosecution for:

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

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

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

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

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

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

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

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

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

26 (E) A report made by a different victim to a law enforcement agency, made either before or after
27 the victim's report, alleging that the defendant committed another crime of the same or similar
28 character such that the two crimes could be charged in the same charging instrument under ORS
29 132.560.

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

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

35 **SECTION 3.** ORS 162.405 is amended to read:

36 162.405. (1) A public servant commits the crime of official misconduct in the second degree if the
37 person knowingly violates any statute relating to the office of the person.

38 (2) Official misconduct in the second degree is a Class C misdemeanor.

39 (3) **As used in this section, "relating to the office of the person" includes a duty described**
40 **in ORS 419B.010 if the person is a public or private official as defined in ORS 419B.005 based**
41 **on the person's position as a public servant.**

42 **SECTION 4. The amendments to ORS 131.125 by section 2 of this 2025 Act apply to of-**
43 **fenses committed before, on or after the effective date of this 2025 Act but do not operate**
44 **to revive a prosecution barred by the operation of ORS 131.125 before the effective date of**
45 **this 2025 Act.**

