



**TO: Rep. Jason Kropf, Chair  
Rep. Willy Chotzen, Vice Chair  
Rep. Kim Wallan, Vice Chair  
Members of House Judiciary Committee**

**FR: Oregon District Attorneys Association**

**RE: HB 2474 - Support**

February 24, 2025

Thank you for the opportunity to provide testimony from the Oregon District Attorneys Association (ODAA) in support of House Bill 2474. This legislation provides an opportunity to further protect children from sexual and physically abusive conduct.

As a result of ongoing conversations among stakeholders, we have focused the effect of this bill on two main areas: modernizing family terms which is found in Section 1 and 2; and addressing the crime of strangulation against a child which is found in Section 6. We have agreed to table all other conversations until future discussions can occur. See enclosed redline draft.

Section 1 and Section 2 address the Rape in the First Degree and Sodomy in the First Degree statutes. Most people would likely agree that the definition of a “family” has changed considerably from when some of our laws were written decades ago. Today our families are often wonderfully diverse and complex. As a result, some of the language in our statutes can provide significantly inconsistent outcomes when a family member is the perpetrator of the abuse, which is what we are trying to address here.

The problem we face with Rape in the First Degree under ORS 163.375(c) and Sodomy in the First Degree under ORS 163.405(c), is that the victim needs to be related to the offender by either blood or marriage for these statutes to apply. If they are not related by either blood or marriage, then the prosecutor’s only option is to charge the crime of Sexual Abuse in the Second Degree. This results in a shocking difference in the outcome for that perpetrator, who had he been married to the victim’s mother, would have faced a presumptive 100-month prison sentence, instead only faces a presumptive probationary sentence with the possibility of no jail time at all.

To remedy this situation, HB 2474 removes the older language discussing blood relationships and inserts language referring to the person's "biological or adopted child," or the "biological or adopted child" of the person's spouse or "sexually intimate partner," or "biological or adopted sibling" of the person. This language addresses the inconsistent outcomes when the victim is not biologically (blood) related to the offender yet has engaged in the same aggravated conduct.

The second thing our paired down HB 2474 does is change the age for when strangulation of a child can be a felony crime. Oregon law currently provides it is a Class C felony to strangle a child under 10 years of age. Consequently, it is only an A misdemeanor to assault or strangle a child older than 10 years of age.

We believe all children under 14 years should be protected with the same level of crime if they are the victim of strangulation. This would include all children that are likely still in middle school, before they are old enough to enter high school. 14 years of age also aligns this sentence enhancement with other serious crimes against children like Rape in the Second Degree, Sodomy in the Second Degree, Aggravated Murder, Murder in the First Degree, and Murder in the Second Degree.

# House Bill 2474

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon District Attorneys Association)

## 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 changes when minors are the victims of some crimes. The Act takes effect on the 91st day after sine die. (Flesch Readability Score: 87.9).

Modifies the types of familial relationships involved in a manner of committing rape in the first degree and sodomy in the first degree. Adds a manner of committing unlawful sexual penetration in the first degree when there is a specified familial relationship between the defendant and the victim. Provides that sexual abuse in the second degree is a level eight offense on the sentencing guidelines when there is a specified familial relationship between the defendant and the victim.

Increases the victim age below which assault and strangulation constitute felony offenses.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to crime victims who are under 18 years of age; creating new provisions; amending ORS  
3 137.700, 163.165, 163.187, 163.375, 163.405, 163.411 and 163.426; and prescribing an effective date.

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

5 **SECTION 1.** ORS 163.375 is amended to read:

6 163.375. (1) A person who has sexual intercourse with another person commits the crime of rape  
7 in the first degree if:

8 (a) The victim is subjected to forcible compulsion by the person;

9 (b) The victim is under 12 years of age;

10 *[(c) The victim is under 16 years of age and is the person's sibling, of the whole or half blood, the*  
11 *person's child or the person's spouse's child; or]*

12 **(c) The victim is under 16 years of age and is the person's biological or adopted sibling,**  
13 **the person's biological or adopted child or the biological or adopted child of the person's**  
14 **spouse, ~~former spouse, sexually intimate partner or former sexually intimate partner; or~~**

15 (d) The victim is incapable of consent by reason of mental incapacitation, physical helplessness  
16 or incapability of appraising the nature of the victim's conduct.

17 (2) Rape in the first degree is a Class A felony.

18 **SECTION 2.** ORS 163.405 is amended to read:

19 163.405. (1) A person who engages in oral or anal sexual intercourse with another person or  
20 causes another to engage in oral or anal sexual intercourse commits the crime of sodomy in the first  
21 degree if:

22 (a) The victim is subjected to forcible compulsion by the actor;

23 (b) The victim is under 12 years of age;

24 *[(c) The victim is under 16 years of age and is the actor's brother or sister, of the whole or half*  
25 *blood, the son or daughter of the actor or the son or daughter of the actor's spouse; or]*

26 **(c) The victim is under 16 years of age and is the actor's biological or adopted sibling, the**

**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 **actor's biological or adopted child or the biological or adopted child of the actor's spouse,**  
 2 **former spouse, sexually intimate partner or former sexually intimate partner; or**

3 (d) The victim is incapable of consent by reason of mental incapacitation, physical helplessness  
 4 or incapability of appraising the nature of the victim's conduct.

5 (2) Sodomy in the first degree is a Class A felony.

6 **SECTION 3.** ~~ORS 163.411 is amended to read:~~

7 ~~163.411. (1) Except as permitted under ORS 163.412, a person commits the crime of unlawful~~  
 8 ~~sexual penetration in the first degree if the person penetrates the vagina, anus or penis of another~~  
 9 ~~with any object and:~~

10 ~~(a) The victim is subjected to forcible compulsion;~~

11 ~~(b) The victim is under 12 years of age; [or]~~

12 ~~(c) The victim is under 16 years of age and is the person's biological or adopted sibling,~~  
 13 ~~the person's biological or adopted child or the biological or adopted child of the person's~~  
 14 ~~spouse, former spouse, sexually intimate partner or former sexually intimate partner; or~~

15 ~~[(c)] (d) The victim is incapable of consent by reason of mental incapacitation, physical~~  
 16 ~~helplessness or incapability of appraising the nature of the victim's conduct.~~

17 ~~(2) Unlawful sexual penetration in the first degree is a Class A felony.~~

18 ~~(3) As used in this section, "object" includes any body part of the actor.~~

19 ~~(4) When multiple crimes are charged based on one penetrative act, the court may not enter~~  
 20 ~~separate convictions for each crime, and may enter only one conviction for the conduct.~~

21 **SECTION 4.** ~~ORS 163.426 is amended to read:~~

22 ~~163.426. (1) As used in this section:~~

23 ~~(a) "Coach" means a person who instructs or trains an individual or members of a team in a~~  
 24 ~~sport.~~

25 ~~(b) "Teacher" means an employee of a school or school district who has direct responsibility for~~  
 26 ~~the instruction of students.~~

27 ~~(2) The Oregon Criminal Justice Commission shall classify sexual abuse in the second degree~~  
 28 ~~as described in ORS 163.425 (1)(a) as a crime category 8 of the sentencing guidelines grid of the~~  
 29 ~~commission if:~~

30 ~~[(a)] (A) The victim is incapable of consent by reason of being under 18 years of age;~~

31 ~~[(b)] (B) The offender is 21 years of age or older; and~~

32 ~~[(c)] (C) At any time before the commission of the offense, the offender was the victim's coach~~  
 33 ~~or teacher[.]; or~~

34 ~~(b) The victim is 16 or 17 years of age and is the person's biological or adopted sibling,~~  
 35 ~~the person's biological or adopted child or the biological or adopted child of the person's~~  
 36 ~~spouse, former spouse, sexually intimate partner or former sexually intimate partner.~~

37 **SECTION 5.** ~~ORS 163.165 is amended to read:~~

38 ~~163.165. (1) A person commits the crime of assault in the third degree if the person:~~

39 ~~(a) Recklessly causes serious physical injury to another by means of a deadly or dangerous~~  
 40 ~~weapon;~~

41 ~~(b) Recklessly causes serious physical injury to another under circumstances manifesting ex-~~  
 42 ~~treme indifference to the value of human life;~~

43 ~~(c) Recklessly causes physical injury to another by means of a deadly or dangerous weapon un-~~  
 44 ~~der circumstances manifesting extreme indifference to the value of human life;~~

45 ~~(d) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical~~

~~injury to the operator of a public transit vehicle while the operator is in control of or operating the vehicle. As used in this paragraph, "public transit vehicle" has the meaning given that term in ORS 166.116;~~

~~(e) While being aided by another person actually present, intentionally or knowingly causes physical injury to another;~~

~~(f) While committed to a youth correction facility, intentionally or knowingly causes physical injury to another knowing the other person is a staff member while the other person is acting in the course of official duty;~~

~~(g) Intentionally, knowingly or recklessly causes physical injury to an emergency medical services provider, as defined in ORS 682.025, while the emergency medical services provider is performing official duties;~~

~~(h) Being at least 18 years of age, intentionally or knowingly causes physical injury to a child [10 years of age or younger] **under 18 years of age;**~~

~~(i) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a taxi while the operator is in control of the taxi; or~~

~~(j) Intentionally, knowingly or recklessly causes physical injury to a flagger or a highway worker while the flagger or highway worker is performing official duties.~~

~~(2)(a) Assault in the third degree is a Class C felony.~~

~~(b) Notwithstanding paragraph (a) of this subsection, assault in the third degree under subsection (1)(a) or (b) of this section is a Class B felony if:~~

~~(A) The assault resulted from the operation of a motor vehicle; and~~

~~(B) The defendant was the driver of the motor vehicle and was driving while under the influence of intoxicants.~~

~~(3) As used in this section:~~

~~(a) "Flagger" has the meaning given that term in ORS 811.230.~~

~~(b) "Highway worker" has the meaning given that term in ORS 811.230.~~

~~(c) "Staff member" means:~~

~~(A) A corrections officer as defined in ORS 181A.355, a youth correction officer, a youth correction facility staff member, a Department of Corrections or Oregon Youth Authority staff member or a person employed pursuant to a contract with the department or youth authority to work with, or in the vicinity of, adults in custody, youths or adjudicated youths; and~~

~~(B) A volunteer authorized by the department, youth authority or other entity in charge of a corrections facility to work with, or in the vicinity of, adults in custody, youths or adjudicated youths.~~

~~(d) "Youth correction facility" has the meaning given that term in ORS 162.135.~~

**SECTION 6.** ORS 163.187 is amended to read:

163.187. (1) A person commits the crime of strangulation if the person knowingly impedes the normal breathing or circulation of the blood of another person by:

(a) Applying pressure on the throat, neck or chest of the other person; or

(b) Blocking the nose or mouth of the other person.

(2) Subsection (1) of this section does not apply to legitimate medical or dental procedures or good faith practices of a religious belief.

(3) Strangulation is a Class A misdemeanor.

(4) Notwithstanding subsection (3) of this section, strangulation is a Class C felony if:

(a) The crime is committed in the immediate presence of, or is witnessed by, the person's or the

1 victim's minor child or stepchild or a minor child residing within the household of the person or the  
2 victim;

3 (b) The victim is under [10] <sup>14</sup> 18 years of age;

4 (c) The victim is a family or household member, as defined in ORS 135.230, of the person;

5 (d) During the commission of the crime, the person used, attempted to use or threatened to use  
6 a dangerous or deadly weapon, as those terms are defined in ORS 161.015, unlawfully against an-  
7 other;

8 (e) The person has been previously convicted of violating this section or ORS 163.160, 163.165,  
9 163.175, 163.185 or 163.190, or of committing an equivalent crime in another jurisdiction, and the  
10 victim in the previous conviction is the same person who is the victim of the current crime;

11 (f) The person has at least three previous convictions for violating this section or ORS 163.160,  
12 163.165, 163.175, 163.185 or 163.190 or for committing an equivalent crime in another jurisdiction, in  
13 any combination; or

14 (g) The person commits the strangulation knowing that the victim is pregnant.

15 (5) For purposes of subsection (4)(a) of this section, a strangulation is witnessed if the  
16 strangulation is seen or directly perceived in any other manner by the child.

17 (6) The Oregon Criminal Justice Commission shall classify strangulation committed under the  
18 circumstances described in subsection (4)(c) of this section as crime category 5 of the sentencing  
19 guidelines grid of the commission.

20 **SECTION 7. ~~ORS 137.700 is amended to read:~~**

21 ~~137.700. (1) Notwithstanding ORS 161.605, when a person is convicted of one of the offenses~~  
22 ~~listed in subsection (2)(a) of this section and the offense was committed on or after April 1, 1995,~~  
23 ~~or of one of the offenses listed in subsection (2)(b) of this section and the offense was committed on~~  
24 ~~or after October 4, 1997, or of the offense described in subsection (2)(c) of this section and the of~~  
25 ~~fense was committed on or after January 1, 2008, the court shall impose, and the person shall serve,~~  
26 ~~at least the entire term of imprisonment listed in subsection (2) of this section. The person is not,~~  
27 ~~during the service of the term of imprisonment, eligible for release on post prison supervision or any~~  
28 ~~form of temporary leave from custody. The person is not eligible for any reduction in, or based on,~~  
29 ~~the minimum sentence for any reason whatsoever under ORS 421.121 or any other statute. The~~  
30 ~~court may impose a greater sentence if otherwise permitted by law, but may not impose a lower~~  
31 ~~sentence than the sentence specified in subsection (2) of this section.~~

32 ~~(2) The offenses to which subsection (1) of this section applies and the applicable mandatory~~  
33 ~~minimum sentences are:~~



- 36 ~~(a)(A) Murder in the second~~  
37 ~~degree, as defined in~~  
38 ~~ORS 163.115.....300 months~~
- 39 ~~(B) Murder in the first~~  
40 ~~degree, as defined~~  
41 ~~in ORS 163.107.....360 months~~
- 42 ~~(C) Attempt or conspiracy~~  
43 ~~to commit aggravated~~  
44 ~~murder, as defined~~  
45 ~~in ORS 163.095.....120 months~~

- 1     ~~(D) Attempt or conspiracy~~
- 2         ~~to commit murder~~
- 3         ~~in any degree. ....90 months~~
- 4     ~~(E) Manslaughter in the~~
- 5         ~~first degree, as defined~~
- 6         ~~in ORS 163.118. ....120 months~~
- 7     ~~(F) Manslaughter in the~~
- 8         ~~second degree, as defined~~
- 9         ~~in ORS 163.125. ....75 months~~
- 10    ~~(G) Assault in the first~~
- 11       ~~degree, as defined in~~
- 12       ~~ORS 163.185. ....90 months~~
- 13    ~~(H) Assault in the second~~
- 14       ~~degree, as defined in~~
- 15       ~~ORS 163.175. ....70 months~~
- 16    ~~(I) Except as provided in~~
- 17       ~~paragraph (b)(G) of~~
- 18       ~~this subsection,~~
- 19       ~~kidnapping in the first~~
- 20       ~~degree, as defined~~
- 21       ~~in ORS 163.235. ....90 months~~
- 22    ~~(J) Kidnapping in the second~~
- 23       ~~degree, as defined in~~
- 24       ~~ORS 163.225. ....70 months~~
- 25    ~~(K) Rape in the first degree,~~
- 26       ~~as defined in ORS 163.375~~
- 27       ~~(1)(a), (c) or (d). ....100 months~~
- 28    ~~(L) Rape in the second degree,~~
- 29       ~~as defined in~~
- 30       ~~ORS 163.365. ....75 months~~
- 31    ~~(M) Sodomy in the first degree,~~
- 32       ~~as defined in ORS 163.405~~
- 33       ~~(1)(a), (c) or (d). ....100 months~~
- 34    ~~(N) Sodomy in the second~~
- 35       ~~degree, as defined in~~
- 36       ~~ORS 163.395. ....75 months~~
- 37    ~~(O) Unlawful sexual penetration~~
- 38       ~~in the first degree, as~~
- 39       ~~defined in ORS 163.411~~
- 40       ~~(1)(a), [or] (c) or (d). ....100 months~~
- 41    ~~(P) Unlawful sexual penetration~~
- 42       ~~in the second degree, as~~
- 43       ~~defined in ORS 163.408. ....75 months~~
- 44    ~~(Q) Sexual abuse in the first~~
- 45       ~~degree, as defined in~~

- 1           ~~ORS 163.427.....75 months~~
- 2       (R)   ~~Robbery in the first degree,~~
- 3           ~~as defined in~~
- 4           ~~ORS 164.415.....90 months~~
- 5       (S)   ~~Robbery in the second~~
- 6           ~~degree, as defined in~~
- 7           ~~ORS 164.405.....70 months~~
- 8       (b)(A) ~~Arson in the first degree,~~
- 9           ~~as defined in ORS 164.325,~~
- 10          ~~when the offense represented~~
- 11          ~~a threat of serious~~
- 12          ~~physical injury. ....90 months~~
- 13       (B)   ~~Using a child in a display~~
- 14           ~~of sexually explicit~~
- 15           ~~conduct, as defined in~~
- 16           ~~ORS 163.670.....70 months~~
- 17       (C)   ~~Compelling prostitution,~~
- 18           ~~as defined in~~
- 19           ~~ORS 167.017.....70 months~~
- 20       (D)   ~~Rape in the first degree,~~
- 21           ~~as defined in~~
- 22           ~~ORS 163.375 (1)(b).....300 months~~
- 23       (E)   ~~Sodomy in the first degree,~~
- 24           ~~as defined in~~
- 25           ~~ORS 163.405 (1)(b).....300 months~~
- 26       (F)   ~~Unlawful sexual penetration~~
- 27           ~~in the first degree, as~~
- 28           ~~defined in~~
- 29           ~~ORS 163.411 (1)(b).....300 months~~
- 30       (G)   ~~Kidnapping in the first~~
- 31           ~~degree, as defined in~~
- 32           ~~ORS 163.235, when the~~
- 33           ~~offense is committed in~~
- 34           ~~furtherance of the commission~~
- 35           ~~or attempted commission of an~~
- 36           ~~offense listed in subparagraph~~
- 37           ~~(D), (E) or (F) of~~
- 38           ~~this paragraph.....300 months~~
- 39       (e)   ~~Aggravated vehicular~~
- 40           ~~homicide, as defined in~~
- 41           ~~ORS 163.140.....240 months~~

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SECTION 8. The amendments to ORS 137.700, 163.165, 163.187, 163.375, 163.405, 163.411 and 163.426 by sections 1 to 7 of this 2025 Act apply to conduct occurring on or after the effective



1 **date of this 2025 Act.**

2 **SECTION 9. This 2025 Act takes effect on the 91st day after the date on which the 2025**  
3 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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