

A-Engrossed
House Bill 3515

Ordered by the House May 7
Including House Amendments dated May 7

Sponsored by Representatives ROBLAN, SHIELDS, GELSER, MACPHERSON; Representatives BARKER, BARNHART, BERGER, BOQUIST, BUTLER, CAMERON, COWAN, DALLUM, C EDWARDS, FLORES, GALIZIO, GILLIAM, GILMAN, HANNA, HUNT, JENSON, KRIEGER, KRUMMEL, LIM, MAURER, MINNIS, MORGAN, NELSON, RICHARDSON, SCOTT, G SMITH, THATCHER, WHISNANT, WITT

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.

Creates crime of online sexual corruption of child in second degree. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Creates crime of online sexual corruption of child in first degree. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both.

Requires person convicted of online sexual corruption of child in any degree to report as sex offender and authorizes seizure of instrumentalities of crime.

A BILL FOR AN ACT

Relating to crime; creating new provisions; and amending ORS 131.602, 161.005, 181.594 and 342.143.

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

SECTION 1. As used in sections 2 to 4 of this 2007 Act:

(1) "Child" means a person who the defendant reasonably believes to be under 16 years of age.

(2) "Online communication" means communication that occurs via electronic mail, personal or instant messaging, chat rooms, bulletin boards or any other method of communicating over the Internet.

(3) "Sexual contact" has the meaning given that term in ORS 163.305.

(4) "Sexually explicit conduct" has the meaning given that term in ORS 163.665.

(5) "Solicit" means to invite, request, seduce, lure, entice, persuade, prevail upon, coax, coerce or attempt to do so.

SECTION 2. (1) A person commits the crime of online sexual corruption of a child in the second degree if the person is 18 years of age or older and, for the purpose of arousing or gratifying the sexual desire of the person or another person, knowingly uses an online communication to solicit a child to engage in sexual contact or sexually explicit conduct.

(2) Online sexual corruption of a child in the second degree is a Class C felony.

SECTION 3. (1) A person commits the crime of online sexual corruption of a child in the first degree if the person violates section 2 of this 2007 Act and intentionally takes a substantial step toward physically meeting with or encountering the child.

(2) Online sexual corruption of a child in the first degree is a Class B felony.

SECTION 4. (1) It is an affirmative defense to a prosecution for online sexual corruption of a child in the first or second degree that the person was not more than three years older

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 **than the person reasonably believed the child to be.**

2 **(2) It is not a defense to a prosecution for online sexual corruption of a child in the first**
3 **or second degree that the person was in fact communicating with a law enforcement officer,**
4 **as defined in ORS 163.730, or a person working under the direction of a law enforcement of-**
5 **ficer, who is 16 years of age or older.**

6 **(3) Online sexual corruption of a child in the first or second degree is committed in either**
7 **the county in which the communication originated or the county in which the communi-**
8 **cation was received.**

9 **SECTION 5.** ORS 161.005 is amended to read:

10 161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290
11 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737,
12 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to
13 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.160 to 163.208, 163.215 to 163.257, 163.275,
14 163.285, 163.305 to 163.467, 163.505 to 163.575, 163.665 to 163.693, 164.005, 164.015 to 164.135, 164.140,
15 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.877, 165.002 to 165.109, 165.805,
16 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.060 to 167.100, 167.117,
17 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340 and 167.350, 167.810 and 167.820[,] **and**
18 **sections 2 and 3 of this 2007 Act** shall be known and may be cited as Oregon Criminal Code of
19 1971.

20 **SECTION 6.** ORS 181.594 is amended to read:

21 181.594. As used in ORS 181.595, 181.596, 181.597 and 181.603:

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

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

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

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

27 (b) "Correctional facility" applies to a state hospital or a secure intensive community inpatient
28 facility only as to persons detained therein charged with or convicted of a crime, or detained therein
29 after being found guilty except for insanity under ORS 161.290 to 161.370.

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

32 (4) "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) Kidnapping in the first degree if the victim was under 18 years of age;

45 (m) Contributing to the sexual delinquency of a minor;

1 (n) Sexual misconduct if the offender is at least 18 years of age;

2 (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;

3 (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent
4 or by a person found to be within the jurisdiction of the juvenile court;

5 **(q) Online sexual corruption of a child in any degree if the offender reasonably believed**
6 **the child to be more than five years younger than the offender;**

7 [(q)] (r) Any attempt to commit any of the crimes set forth in paragraphs (a) to [(p)] (q) of this
8 subsection;

9 [(r)] (s) Burglary, when committed with intent to commit any of the offenses listed in paragraphs
10 (a) to [(p)] (q) or [(s)] (t) of this subsection; or

11 [(s)] (t) Public indecency or private indecency, if the person has a prior conviction for a crime
12 listed in this subsection.

13 (5) "Sex offender" means a person who:

14 (a) Has been convicted of a sex crime;

15 (b) Has been found guilty except for insanity of a sex crime;

16 (c) Has been found to be within the jurisdiction of the juvenile court for having committed an
17 act that if committed by an adult would constitute a sex crime; or

18 (d) Is paroled to this state under ORS 144.610 after being convicted in another jurisdiction of a
19 crime that would constitute a sex crime if committed in this state.

20 (6) "Works" or "carries on a vocation" means full-time or part-time employment for more than
21 14 days within one calendar year whether financially compensated, volunteered or for the purpose
22 of governmental or educational benefit.

23 **SECTION 7.** ORS 131.602 is amended to read:

24 131.602. The crimes to which ORS 131.550 (11)(b) applies are:

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

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

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

28 (4) Bribing a witness, as defined in ORS 162.265.

29 (5) Bribe receiving by a witness, as defined in ORS 162.275.

30 (6) Simulating legal process, as defined in ORS 162.355.

31 (7) Official misconduct in the first degree, as defined in ORS 162.415.

32 (8) Custodial interference in the second degree, as defined in ORS 163.245.

33 (9) Custodial interference in the first degree, as defined in ORS 163.257.

34 (10) Buying or selling a person under 18 years of age, as defined in ORS 163.537.

35 (11) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.

36 (12) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.

37 (13) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.

38 (14) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.

39 (15) Possession of materials depicting sexually explicit conduct of a child in the first degree, as
40 defined in ORS 163.688.

41 (16) Possession of materials depicting sexually explicit conduct of a child in the second degree,
42 as defined in ORS 163.689.

43 (17) Theft in the second degree, as defined in ORS 164.045.

44 (18) Theft in the first degree, as defined in ORS 164.055.

45 (19) Aggravated theft in the first degree, as defined in ORS 164.057.

- 1 (20) Theft by extortion, as defined in ORS 164.075.
- 2 (21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- 3 (22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- 4 (23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- 5 (24) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 6 (25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- 7 (26) Laundering a monetary instrument, as defined in ORS 164.170.
- 8 (27) Engaging in a financial transaction in property derived from unlawful activity, as defined
- 9 in ORS 164.172.
- 10 (28) Burglary in the second degree, as defined in ORS 164.215.
- 11 (29) Burglary in the first degree, as defined in ORS 164.225.
- 12 (30) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 13 (31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 14 (32) Arson in the second degree, as defined in ORS 164.315.
- 15 (33) Arson in the first degree, as defined in ORS 164.325.
- 16 (34) Computer crime, as defined in ORS 164.377.
- 17 (35) Robbery in the third degree, as defined in ORS 164.395.
- 18 (36) Robbery in the second degree, as defined in ORS 164.405.
- 19 (37) Robbery in the first degree, as defined in ORS 164.415.
- 20 (38) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 21 (39) Unlawful recording of a live performance, as defined in ORS 164.869.
- 22 (40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 23 (41) A violation of ORS 164.877.
- 24 (42) Endangering aircraft, as defined in ORS 164.885.
- 25 (43) Interference with agricultural operations, as defined in ORS 164.887.
- 26 (44) Forgery in the second degree, as defined in ORS 165.007.
- 27 (45) Forgery in the first degree, as defined in ORS 165.013.
- 28 (46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 29 (47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 30 (48) Criminal possession of a forgery device, as defined in ORS 165.032.
- 31 (49) Criminal simulation, as defined in ORS 165.037.
- 32 (50) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 33 (51) Fraudulent use of a credit card, as defined in ORS 165.055.
- 34 (52) Negotiating a bad check, as defined in ORS 165.065.
- 35 (53) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 36 (54) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 37 (55) Falsifying business records, as defined in ORS 165.080.
- 38 (56) Sports bribery, as defined in ORS 165.085.
- 39 (57) Sports bribe receiving, as defined in ORS 165.090.
- 40 (58) Misapplication of entrusted property, as defined in ORS 165.095.
- 41 (59) Issuing a false financial statement, as defined in ORS 165.100.
- 42 (60) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 43 (61) A violation of ORS 165.543.
- 44 (62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 45 (63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.

- 1 (64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 2 (65) Identity theft, as defined in ORS 165.800.
- 3 (66) A violation of ORS 166.190.
- 4 (67) Unlawful use of a weapon, as defined in ORS 166.220.
- 5 (68) A violation of ORS 166.240.
- 6 (69) Unlawful possession of a firearm, as defined in ORS 166.250.
- 7 (70) A violation of ORS 166.270.
- 8 (71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or
- 9 firearms silencer, as defined in ORS 166.272.
- 10 (72) A violation of ORS 166.275.
- 11 (73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 12 (74) A violation of ORS 166.370.
- 13 (75) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 14 (76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 15 (77) Possession of a hoax destructive device, as defined in ORS 166.385.
- 16 (78) A violation of ORS 166.410.
- 17 (79) Providing false information in connection with a transfer of a firearm, as defined in ORS
- 18 166.416.
- 19 (80) Improperly transferring a firearm, as defined in ORS 166.418.
- 20 (81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 21 (82) A violation of ORS 166.429.
- 22 (83) A violation of ORS 166.470.
- 23 (84) A violation of ORS 166.480.
- 24 (85) A violation of ORS 166.635.
- 25 (86) A violation of ORS 166.638.
- 26 (87) Unlawful paramilitary activity, as defined in ORS 166.660.
- 27 (88) A violation of ORS 166.720.
- 28 (89) Prostitution, as defined in ORS 167.007.
- 29 (90) Promoting prostitution, as defined in ORS 167.012.
- 30 (91) Compelling prostitution, as defined in ORS 167.017.
- 31 (92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 32 (93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 33 (94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 34 (95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 35 (96) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 36 (97) Possession of a gambling device, as defined in ORS 167.147.
- 37 (98) Possession of a gray machine, as defined in ORS 167.164.
- 38 (99) Cheating, as defined in ORS 167.167.
- 39 (100) Tampering with drug records, as defined in ORS 167.212.
- 40 (101) A violation of ORS 167.262.
- 41 (102) Research and animal interference, as defined in ORS 167.312.
- 42 (103) Animal abuse in the first degree, as defined in ORS 167.320.
- 43 (104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 44 (105) Animal neglect in the first degree, as defined in ORS 167.330.
- 45 (106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS

- 1 167.352.
- 2 (107) Involvement in animal fighting, as defined in ORS 167.355.
- 3 (108) Dogfighting, as defined in ORS 167.365.
- 4 (109) Participation in dogfighting, as defined in ORS 167.370.
- 5 (110) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 6 (111) Interference with livestock production, as defined in ORS 167.388.
- 7 (112) A violation of ORS 167.390.
- 8 (113) A violation of ORS 471.410.
- 9 (114) Failure to report missing precursor substances, as defined in ORS 475.955.
- 10 (115) Illegally selling drug equipment, as defined in ORS 475.960.
- 11 (116) Providing false information on a precursor substances report, as defined in ORS 475.965.
- 12 (117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- 13 (118) A violation of ORS 475.840, if it is a felony or a Class A misdemeanor.
- 14 (119) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- 15 (120) A violation of ORS 475.916.
- 16 (121) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- 17 (122) A violation of ORS 475.904 [(2)].
- 18 (123) Misuse of an identification card, as defined in ORS 807.430.
- 19 (124) Unlawful production of identification cards, licenses, permits, forms or camera cards, as
20 defined in ORS 807.500.
- 21 (125) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
- 22 (126) Using an invalid license, as defined in ORS 807.580.
- 23 (127) Permitting misuse of a license, as defined in ORS 807.590.
- 24 (128) Using another's license, as defined in ORS 807.600.
- 25 (129) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a fel-
26 ony.
- 27 (130) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a
28 felony.
- 29 (131) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- 30 (132) A violation of ORS 180.440 (2).
- 31 (133) A violation described in ORS 475.846 to 475.894, if it is a felony.
- 32 **(134) Online sexual corruption of a child in the second degree, as defined in section 2 of**
33 **this 2007 Act.**
- 34 **(135) Online sexual corruption of a child in the first degree, as defined in section 3 of this**
35 **2007 Act.**
- 36 [(134)] **(136)** An attempt, conspiracy or solicitation to commit a crime in subsections (1) to
37 [(133)] **(135)** of this section if the attempt, conspiracy or solicitation is a felony or a Class A
38 misdemeanor.
- 39 **SECTION 8.** ORS 342.143 is amended to read:
- 40 342.143. (1) No teaching, personnel service or administrative license shall be issued to any per-
41 son until the person has attained the age of 18 years and has furnished satisfactory evidence of
42 proper educational training.
- 43 (2) The Teacher Standards and Practices Commission may also require an applicant for a
44 teaching, personnel service or administrative license to furnish evidence satisfactory to the com-
45 mission of good moral character, mental and physical health, and such other evidence as it may

1 deem necessary to establish the applicant's fitness to serve as a teacher.

2 (3) Without limiting the powers of the Teacher Standards and Practices Commission under sub-
3 section (2) of this section and notwithstanding ORS 670.280:

4 (a) No teaching, personnel service or administrative license or registration as a public charter
5 school teacher shall be issued to any person who:

6 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,
7 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.435, 163.445,
8 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part), 163.680 (1993
9 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087, 167.007, 167.012,
10 167.017, 167.062, 167.065, 167.070, 167.075, 167.080, 167.087, 167.090, 475.848, 475.852, 475.858, 475.860,
11 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904 or
12 475.906 **or section 2 or 3 of this 2007 Act;**

13 (B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in
14 subparagraph (A) of this paragraph; or

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

17 (b) The Teacher Standards and Practices Commission may refuse to issue a license or registra-
18 tion to any person who has been convicted of a crime involving the illegal use, sale or possession
19 of controlled substances.

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

22 (5) The Department of Education shall provide school districts and public charter schools a copy
23 of the list contained in subsection (3) of this section.

24