

A-Engrossed
Senate Bill 464

Ordered by the Senate April 16
Including Senate Amendments dated April 16

Sponsored by COMMITTEE ON JUDICIARY (at the request of Regional Economic Crime Information Center)

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 aggravated identity theft. Punishes by maximum of 10 years' imprisonment, \$250,000, or both. Imposes presumptive term of imprisonment under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; and amending ORS 131.315 and 137.717.

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

4 **SECTION 1. (1) A person commits the crime of aggravated identity theft if:**

5 (a) **The person violates ORS 165.800 in 10 or more separate incidents within a 180-day**
6 **period;**

7 (b) **The person violates ORS 165.800 and the person has a previous conviction for aggra-**
8 **vated identity theft;**

9 (c) **The person violates ORS 165.800 and the losses incurred in a single or aggregate**
10 **transaction are \$10,000 or more within a 180-day period; or**

11 (d) **The person violates ORS 165.800 and has in the person's custody, possession or con-**
12 **trol 10 or more pieces of personal identification from 10 or more different persons.**

13 **(2) Aggravated identity theft is a Class B felony.**

14 **(3) As used in this section, "previous conviction" includes:**

15 (a) **Convictions occurring before, on or after the effective date of this 2007 Act; and**

16 (b) **Convictions entered in any other state or federal court for comparable offenses.**

17 **(4) The state shall plead in the accusatory instrument and prove beyond a reasonable**
18 **doubt, as an element of the offense, the previous conviction for aggravated identity theft.**

19 **SECTION 2. ORS 137.717 is amended to read:**

20 137.717. (1) When a court sentences a person convicted of:

21 (a) **Aggravated theft in the first degree under ORS 164.057, [*or*] burglary in the first degree un-**
22 **der ORS 164.225 or aggravated identity theft under section 1 of this 2007 Act, the presumptive**
23 **sentence is 19 months of incarceration, unless the rules of the Oregon Criminal Justice Commission**
24 **prescribe a longer presumptive sentence, if the person has:**

25 (A) **A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary**
26 **in the first degree under ORS 164.225, robbery in the second degree under ORS 164.405, [*or*] robbery**
27 **in the first degree under ORS 164.415 or aggravated identity theft under section 1 of this 2007**
28 **Act; or**

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) Four previous convictions for any combination of the other crimes listed in subsection (2)
2 of this section.

3 (b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS
4 164.135, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under
5 ORS 164.365, computer crime under ORS 164.377, forgery in the first degree under ORS 165.013,
6 identity theft under ORS 165.800, possession of a stolen vehicle under ORS 819.300 or trafficking in
7 stolen vehicles under ORS 819.310, the presumptive sentence is 13 months of incarceration, unless
8 the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the
9 person has:

10 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unau-
11 thorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery
12 in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession
13 of a stolen vehicle under ORS 819.300, [or] trafficking in stolen vehicles under ORS 819.310 **or ag-**
14 **gravated identity theft under section 1 of this 2007 Act;** or

15 (B) Four previous convictions for any combination of the other crimes listed in subsection (2)
16 of this section.

17 (2) The crimes to which subsection (1) of this section applies are:

- 18 (a) Theft in the second degree under ORS 164.045;
- 19 (b) Theft in the first degree under ORS 164.055;
- 20 (c) Aggravated theft in the first degree under ORS 164.057;
- 21 (d) Unauthorized use of a vehicle under ORS 164.135;
- 22 (e) Burglary in the second degree under ORS 164.215;
- 23 (f) Burglary in the first degree under ORS 164.225;
- 24 (g) Criminal mischief in the second degree under ORS 164.354;
- 25 (h) Criminal mischief in the first degree under ORS 164.365;
- 26 (i) Computer crime under ORS 164.377;
- 27 (j) Forgery in the second degree under ORS 165.007;
- 28 (k) Forgery in the first degree under ORS 165.013;
- 29 (L) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- 30 (m) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- 31 (n) Fraudulent use of a credit card under ORS 165.055;
- 32 (o) Identity theft under ORS 165.800;
- 33 (p) Possession of a stolen vehicle under ORS 819.300; and
- 34 (q) Trafficking in stolen vehicles under ORS 819.310.

35 (3) The court may impose a sentence other than the sentence provided by subsection (1) of this
36 section if the court imposes:

37 (a) A longer term of incarceration that is otherwise required or authorized by law; or

38 (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission
39 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon
40 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-
41 lowed for a person sentenced under this subsection is double the presumptive sentence provided in
42 subsection (1) of this section.

43 (4) As used in this section, "previous conviction" includes:

- 44 (a) Convictions occurring before, on or after July 1, 2003; and
- 45 (b) Convictions entered in any other state or federal court for comparable offenses.

1 (5)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have
2 occurred upon the pronouncement of sentence in open court. However, when sentences are imposed
3 for two or more convictions arising out of the same conduct or criminal episode, none of the con-
4 victions is considered to have occurred prior to any of the other convictions arising out of the same
5 conduct or criminal episode.

6 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-
7 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open
8 court of the suspended imposition of a sentence.

9 (6) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

10 **SECTION 3.** ORS 131.315 is amended to read:

11 131.315. (1) If conduct constituting elements of an offense or results constituting elements of an
12 offense occur in two or more counties, trial of the offense may be held in any of the counties con-
13 cerned.

14 (2) If a cause of death is inflicted on a person in one county and the person dies therefrom in
15 another county, trial of the offense may be held in either county.

16 (3) If the commission of an offense commenced outside this state is consummated within this
17 state, trial of the offense shall be held in the county in which the offense is consummated or the
18 interest protected by the criminal statute in question is impaired.

19 (4) If an offense is committed on any body of water located in, or adjacent to, two or more
20 counties or forming the boundary between two or more counties, trial of the offense may be held in
21 any nearby county bordering on the body of water.

22 (5) If an offense is committed in or upon any railroad car, vehicle, aircraft, boat or other
23 conveyance in transit and it cannot readily be determined in which county the offense was com-
24 mitted, trial of the offense may be held in any county through or over which the conveyance passed.

25 (6) If an offense is committed on the boundary of two or more counties or within one mile
26 thereof, trial of the offense may be held in any of the counties concerned.

27 (7) A person who commits theft, burglary or robbery may be tried in any county in which the
28 person exerts control over the property that is the subject of the crime.

29 (8) If the offense is an attempt or solicitation to commit a crime, trial of the offense may be held
30 in any county in which any act that is an element of the offense is committed.

31 (9) If the offense is criminal conspiracy, trial of the offense may be held in any county in which
32 any act or agreement that is an element of the offense occurs.

33 (10) A person who in one county commits an inchoate offense that results in the commission of
34 an offense by another person in another county, or who commits the crime of hindering prosecution
35 of the principal offense, may be tried in either county.

36 (11) A criminal nonsupport action may be tried in any county in which the dependent child is
37 found, irrespective of the domicile of the parent, guardian or other person lawfully charged with
38 support of the child.

39 (12) If the offense is theft, **forgery or identity theft** and the offense consists of an aggregate
40 transaction involving more than one county, trial of the offense may be held in any county in which
41 one of the acts of theft, **forgery or identity theft** was committed.

42 (13) When a prosecution is for violation of the Oregon Securities Law, the trial of the offense
43 may be held in the county in which:

44 (a) The offer to purchase or sell securities took place or where the sale or purchase of securities
45 took place; or

1 (b) Any act that is an element of the offense occurred.

2 (14) When a prosecution under ORS 165.692 and 165.990 or 411.675 and 411.990 (2) and (3) in-
3 volves Medicaid funds, the trial of the offense may be held in the county in which the claim was
4 submitted for payment or in the county in which the claim was paid.

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