

Senate Bill 473

Sponsored by Senator SCHRADER; Senator WALKER (at the request of Dana Baugher)

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**.

Creates crime of sexual solicitation of minor. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both. Provides for increased penalties under certain circumstances. Requires person convicted of sexual solicitation of minor to report as sex offender.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; and amending ORS 131.125, 131.602, 181.594 and 342.143.

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

4 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS 163.305 to**
5 **163.467.**

6 **SECTION 2. (1) A person commits the crime of sexual solicitation of a minor if the per-**
7 **son knowingly solicits a minor to engage in sexual contact or sexually explicit conduct.**

8 **(2) It is an affirmative defense to a prosecution under subsection (1) of this section that**
9 **the person was not more than three years older than the person reasonably believed the**
10 **minor to be.**

11 **(3) Sexual solicitation of a minor is a Class C felony.**

12 **(4) Notwithstanding subsection (3) of this section, sexual solicitation of a minor is a:**

13 **(a) Class B felony if the person reasonably believed the minor was under 14 years of age.**

14 **(b) Class A felony if the person reasonably believed the minor was under 12 years of age.**

15 **(5) As used in this section:**

16 **(a) "Minor" means:**

17 **(A) A person who represents himself or herself to be younger than 18 years of age; or**

18 **(B) A person whom the defendant reasonably believes to be younger than 18 years of age.**

19 **(b) "Sexual contact" has the meaning given that term in ORS 163.305.**

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

21 **(d) "Solicit" means to authorize, advise, coerce, command, encourage, entice, induce, in-**
22 **vite, persuade or otherwise request.**

23 **SECTION 3. ORS 181.594 is amended to read:**

24 **181.594. As used in ORS 181.595, 181.596, 181.597 and 181.603:**

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

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

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

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

30 **(b) "Correctional facility" applies to a state hospital or a secure intensive community inpatient**
31 **facility only as to persons detained therein charged with or convicted of a crime, or detained therein**

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 after being found guilty except for insanity under ORS 161.290 to 161.370.

2 (3) “Institution of higher education” means a public or private educational institution that pro-
 3 vides a program of post-secondary education.

4 (4) “Sex crime” means:

5 (a) Rape in any degree;

6 (b) Sodomy in any degree;

7 (c) Unlawful sexual penetration in any degree;

8 (d) Sexual abuse in any degree;

9 (e) Incest with a child victim;

10 (f) Using a child in a display of sexually explicit conduct;

11 (g) Encouraging child sexual abuse in any degree;

12 (h) Transporting child pornography into the state;

13 (i) Paying for viewing a child’s sexually explicit conduct;

14 (j) Compelling prostitution;

15 (k) Promoting prostitution;

16 (L) Kidnapping in the first degree if the victim was under 18 years of age;

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

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

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

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

22 **(q) Sexual solicitation of a minor;**

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

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

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

29 (5) “Sex offender” means a person who:

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

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

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

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

36 (6) “Works” or “carries on a vocation” means full-time or part-time employment for more than
 37 14 days within one calendar year whether financially compensated, volunteered or for the purpose
 38 of governmental or educational benefit.

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

40 131.125. (1) A prosecution for aggravated murder, murder, attempted murder or aggravated
 41 murder, conspiracy or solicitation to commit aggravated murder or murder or any degree of
 42 manslaughter may be commenced at any time after the commission of the attempt, conspiracy or
 43 solicitation to commit aggravated murder or murder, or the death of the person killed.

44 (2) A prosecution for any of the following felonies may be commenced within six years after the
 45 commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime

1 before the victim attains 30 years of age or within 12 years after the offense is reported to a law
 2 enforcement agency or the Department of Human Services, whichever occurs first:

- 3 (a) Criminal mistreatment in the first degree under ORS 163.205.
- 4 (b) Rape in the third degree under ORS 163.355.
- 5 (c) Rape in the second degree under ORS 163.365.
- 6 (d) Rape in the first degree under ORS 163.375.
- 7 (e) Sodomy in the third degree under ORS 163.385.
- 8 (f) Sodomy in the second degree under ORS 163.395.
- 9 (g) Sodomy in the first degree under ORS 163.405.
- 10 (h) Unlawful sexual penetration in the second degree under ORS 163.408.
- 11 (i) Unlawful sexual penetration in the first degree under ORS 163.411.
- 12 (j) Sexual abuse in the second degree under ORS 163.425.
- 13 (k) Sexual abuse in the first degree under ORS 163.427.
- 14 (L) Using a child in a display of sexual conduct under ORS 163.670.
- 15 (m) Encouraging child sexual abuse in the first degree under ORS 163.684.
- 16 (n) Incest under ORS 163.525.
- 17 (o) Promoting prostitution under ORS 167.012.
- 18 (p) Compelling prostitution under ORS 167.017.
- 19 **(q) Sexual solicitation of a minor under section 2 of this 2007 Act.**

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

- 24 (a) Sexual abuse in the third degree under ORS 163.415.
- 25 (b) Furnishing obscene materials to minors under ORS 167.065.
- 26 (c) Sending obscene materials to minors under ORS 167.070.
- 27 (d) Exhibiting an obscene performance to a minor under ORS 167.075.
- 28 (e) Displaying obscene materials to minors under ORS 167.080.

29 (4) In the case of crimes described in subsection (2)(L) of this section, the “victim” is the child
 30 engaged in sexual conduct. In the case of the crime described in subsection (2)(n) of this section, the
 31 “victim” is the party to the incest other than the party being prosecuted. In the case of crimes de-
 32 scribed in subsection (2)(o) and (p) of this section, the “victim” is the child whose acts of prostitution
 33 are promoted or compelled.

34 (5) A prosecution for arson in any degree may be commenced within six years after the com-
 35 mission of the crime.

36 (6) Except as provided in subsection (7) of this section or as otherwise expressly provided by
 37 law, prosecutions for other offenses must be commenced within the following periods of limitations
 38 after their commission:

- 39 (a) For any other felony, three years.
- 40 (b) For any misdemeanor, two years.
- 41 (c) For a violation, six months.

42 (7) If the period prescribed in subsection (6) of this section has expired, a prosecution never-
 43 theless may be commenced as follows:

44 (a) If the offense has as a material element either fraud or the breach of a fiduciary obligation,
 45 prosecution may be commenced within one year after discovery of the offense by an aggrieved party

1 or by a person who has a legal duty to represent an aggrieved party and who is not a party to the
 2 offense, but in no case shall the period of limitation otherwise applicable be extended by more than
 3 three years;

4 (b) If the offense is based upon misconduct in office by a public officer or employee, prosecution
 5 may be commenced at any time while the defendant is in public office or employment or within two
 6 years thereafter, but in no case shall the period of limitation otherwise applicable be extended by
 7 more than three years; or

8 (c) If the offense is an invasion of personal privacy under ORS 163.700, prosecution may be
 9 commenced within one year after discovery of the offense by the person aggrieved by the offense,
 10 by a person who has a legal duty to represent the person aggrieved by the offense or by a law
 11 enforcement agency, but in no case shall the period of limitation otherwise applicable be extended
 12 by more than three years.

13 (8) Notwithstanding subsection (2) of this section, a prosecution for rape in the first or second
 14 degree or sodomy in the first or second degree may be commenced within 12 years after the com-
 15 mission of the crime if the defendant is identified after the period described in subsection (2) of this
 16 section on the basis of DNA (deoxyribonucleic acid) sample comparisons.

17 **SECTION 5.** ORS 131.602 is amended to read:

18 131.602. The crimes to which ORS 131.550 (11)(b) applies are:

- 19 (1) Bribe giving, as defined in ORS 162.015.
- 20 (2) Bribe receiving, as defined in ORS 162.025.
- 21 (3) Public investment fraud, as defined in ORS 162.117.
- 22 (4) Bribing a witness, as defined in ORS 162.265.
- 23 (5) Bribe receiving by a witness, as defined in ORS 162.275.
- 24 (6) Simulating legal process, as defined in ORS 162.355.
- 25 (7) Official misconduct in the first degree, as defined in ORS 162.415.
- 26 (8) Custodial interference in the second degree, as defined in ORS 163.245.
- 27 (9) Custodial interference in the first degree, as defined in ORS 163.257.
- 28 (10) Buying or selling a person under 18 years of age, as defined in ORS 163.537.
- 29 (11) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.
- 30 (12) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
- 31 (13) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
- 32 (14) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.
- 33 (15) Possession of materials depicting sexually explicit conduct of a child in the first degree, as
 34 defined in ORS 163.688.
- 35 (16) Possession of materials depicting sexually explicit conduct of a child in the second degree,
 36 as defined in ORS 163.689.
- 37 (17) Theft in the second degree, as defined in ORS 164.045.
- 38 (18) Theft in the first degree, as defined in ORS 164.055.
- 39 (19) Aggravated theft in the first degree, as defined in ORS 164.057.
- 40 (20) Theft by extortion, as defined in ORS 164.075.
- 41 (21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- 42 (22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- 43 (23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- 44 (24) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 45 (25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.

- 1 (26) Laundering a monetary instrument, as defined in ORS 164.170.
- 2 (27) Engaging in a financial transaction in property derived from unlawful activity, as defined
- 3 in ORS 164.172.
- 4 (28) Burglary in the second degree, as defined in ORS 164.215.
- 5 (29) Burglary in the first degree, as defined in ORS 164.225.
- 6 (30) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 7 (31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 8 (32) Arson in the second degree, as defined in ORS 164.315.
- 9 (33) Arson in the first degree, as defined in ORS 164.325.
- 10 (34) Computer crime, as defined in ORS 164.377.
- 11 (35) Robbery in the third degree, as defined in ORS 164.395.
- 12 (36) Robbery in the second degree, as defined in ORS 164.405.
- 13 (37) Robbery in the first degree, as defined in ORS 164.415.
- 14 (38) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 15 (39) Unlawful recording of a live performance, as defined in ORS 164.869.
- 16 (40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 17 (41) A violation of ORS 164.877.
- 18 (42) Endangering aircraft, as defined in ORS 164.885.
- 19 (43) Interference with agricultural operations, as defined in ORS 164.887.
- 20 (44) Forgery in the second degree, as defined in ORS 165.007.
- 21 (45) Forgery in the first degree, as defined in ORS 165.013.
- 22 (46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 23 (47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 24 (48) Criminal possession of a forgery device, as defined in ORS 165.032.
- 25 (49) Criminal simulation, as defined in ORS 165.037.
- 26 (50) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 27 (51) Fraudulent use of a credit card, as defined in ORS 165.055.
- 28 (52) Negotiating a bad check, as defined in ORS 165.065.
- 29 (53) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 30 (54) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 31 (55) Falsifying business records, as defined in ORS 165.080.
- 32 (56) Sports bribery, as defined in ORS 165.085.
- 33 (57) Sports bribe receiving, as defined in ORS 165.090.
- 34 (58) Misapplication of entrusted property, as defined in ORS 165.095.
- 35 (59) Issuing a false financial statement, as defined in ORS 165.100.
- 36 (60) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 37 (61) A violation of ORS 165.543.
- 38 (62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 39 (63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 40 (64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 41 (65) Identity theft, as defined in ORS 165.800.
- 42 (66) A violation of ORS 166.190.
- 43 (67) Unlawful use of a weapon, as defined in ORS 166.220.
- 44 (68) A violation of ORS 166.240.
- 45 (69) Unlawful possession of a firearm, as defined in ORS 166.250.

- 1 (70) A violation of ORS 166.270.
- 2 (71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or
3 firearms silencer, as defined in ORS 166.272.
- 4 (72) A violation of ORS 166.275.
- 5 (73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 6 (74) A violation of ORS 166.370.
- 7 (75) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 8 (76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 9 (77) Possession of a hoax destructive device, as defined in ORS 166.385.
- 10 (78) A violation of ORS 166.410.
- 11 (79) Providing false information in connection with a transfer of a firearm, as defined in ORS
12 166.416.
- 13 (80) Improperly transferring a firearm, as defined in ORS 166.418.
- 14 (81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 15 (82) A violation of ORS 166.429.
- 16 (83) A violation of ORS 166.470.
- 17 (84) A violation of ORS 166.480.
- 18 (85) A violation of ORS 166.635.
- 19 (86) A violation of ORS 166.638.
- 20 (87) Unlawful paramilitary activity, as defined in ORS 166.660.
- 21 (88) A violation of ORS 166.720.
- 22 (89) Prostitution, as defined in ORS 167.007.
- 23 (90) Promoting prostitution, as defined in ORS 167.012.
- 24 (91) Compelling prostitution, as defined in ORS 167.017.
- 25 (92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 26 (93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 27 (94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 28 (95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 29 (96) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 30 (97) Possession of a gambling device, as defined in ORS 167.147.
- 31 (98) Possession of a gray machine, as defined in ORS 167.164.
- 32 (99) Cheating, as defined in ORS 167.167.
- 33 (100) Tampering with drug records, as defined in ORS 167.212.
- 34 (101) A violation of ORS 167.262.
- 35 (102) Research and animal interference, as defined in ORS 167.312.
- 36 (103) Animal abuse in the first degree, as defined in ORS 167.320.
- 37 (104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 38 (105) Animal neglect in the first degree, as defined in ORS 167.330.
- 39 (106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS
40 167.352.
- 41 (107) Involvement in animal fighting, as defined in ORS 167.355.
- 42 (108) Dogfighting, as defined in ORS 167.365.
- 43 (109) Participation in dogfighting, as defined in ORS 167.370.
- 44 (110) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 45 (111) Interference with livestock production, as defined in ORS 167.388.

- 1 (112) A violation of ORS 167.390.
- 2 (113) A violation of ORS 471.410.
- 3 (114) Failure to report missing precursor substances, as defined in ORS 475.955.
- 4 (115) Illegally selling drug equipment, as defined in ORS 475.960.
- 5 (116) Providing false information on a precursor substances report, as defined in ORS 475.965.
- 6 (117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- 7 (118) A violation of ORS 475.840, if it is a felony or a Class A misdemeanor.
- 8 (119) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- 9 (120) A violation of ORS 475.916.
- 10 (121) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- 11 (122) A violation of ORS 475.904 (2).
- 12 (123) Misuse of an identification card, as defined in ORS 807.430.
- 13 (124) Unlawful production of identification cards, licenses, permits, forms or camera cards, as
- 14 defined in ORS 807.500.
- 15 (125) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
- 16 (126) Using an invalid license, as defined in ORS 807.580.
- 17 (127) Permitting misuse of a license, as defined in ORS 807.590.
- 18 (128) Using another’s license, as defined in ORS 807.600.
- 19 (129) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a fel-
- 20 ony.
- 21 (130) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a
- 22 felony.
- 23 (131) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- 24 (132) A violation of ORS 180.440 (2).
- 25 (133) A violation described in ORS 475.846 to 475.894, if it is a felony.

26 **(134) Sexual solicitation of a minor, as defined in section 2 of this 2007 Act.**

27 ~~[(134)]~~ **(135)** An attempt, conspiracy or solicitation to commit a crime in subsections (1) to
 28 ~~[(133)]~~ **(134)** of this section if the attempt, conspiracy or solicitation is a felony or a Class A
 29 misdemeanor.

30 **SECTION 6.** ORS 342.143 is amended to read:

31 342.143. (1) No teaching, personnel service or administrative license shall be issued to any per-
 32 son until the person has attained the age of 18 years and has furnished satisfactory evidence of
 33 proper educational training.

34 (2) The Teacher Standards and Practices Commission may also require an applicant for a
 35 teaching, personnel service or administrative license to furnish evidence satisfactory to the com-
 36 mission of good moral character, mental and physical health, and such other evidence as it may
 37 deem necessary to establish the applicant’s fitness to serve as a teacher.

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

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

- 42 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,
- 43 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.435, 163.445,
- 44 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part), 163.680 (1993
- 45 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087, 167.007, 167.012,

1 167.017, 167.062, 167.065, 167.070, 167.075, 167.080, 167.087, 167.090, 475.848, 475.852, 475.858, 475.860,
2 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904 or
3 475.906 **or section 2 of this 2007 Act;**

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

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

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

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

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

15