

A-Engrossed
House Bill 2447

Ordered by the House April 27
Including House Amendments dated April 27

Sponsored by Representatives GELSER, BARKER; Representatives BAILEY, CAMERON, KAHL, TOMEI

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.

Increases penalty for crime of strangulation under certain circumstances to maximum of five years' imprisonment, \$125,000 fine, or both.

A BILL FOR AN ACT

1
2 Relating to strangulation; creating new provisions; and amending ORS 131.125 and 163.187.

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

4 **SECTION 1.** ORS 163.187 is amended to read:

5 163.187. (1) A person commits the crime of strangulation if the person knowingly impedes the
6 normal breathing or circulation of the blood of another person by:

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

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

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

11 (3) Strangulation is a Class A misdemeanor.

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

13 (a) **The crime is committed in the immediate presence of, or is witnessed by, the person's**
14 **or the victim's minor child or stepchild or a minor child residing within the household of the**
15 **person or victim;**

16 (b) **The victim is under 10 years of age;**

17 (c) **During the commission of the crime, the person used, attempted to use or threatened**
18 **to use a dangerous or deadly weapon, as those terms are defined in ORS 161.015, unlawfully**
19 **against another;**

20 (d) **The person has been previously convicted of violating this section or of committing**
21 **an equivalent crime in another jurisdiction;**

22 (e) **The person has been previously convicted of violating ORS 163.160, 163.165, 163.175,**
23 **163.185 or 163.190 or of committing an equivalent crime in another jurisdiction, and the vic-**
24 **tim in the previous conviction is the same person who is the victim of the current con-**
25 **viction; or**

26 (f) **The person has at least three previous convictions of any combination of ORS 163.160,**
27 **163.165, 163.175, 163.185 or 163.190 or of equivalent crimes in other jurisdictions.**

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

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

3 131.125. (1) A prosecution for aggravated murder, murder, attempted murder or aggravated
4 murder, conspiracy or solicitation to commit aggravated murder or murder or any degree of
5 manslaughter may be commenced at any time after the commission of the attempt, conspiracy or
6 solicitation to commit aggravated murder or murder, or the death of the person killed.

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

11 (a) Criminal mistreatment in the first degree under ORS 163.205.

12 **(b) Strangulation under ORS 163.187 (4).**

13 [(b)] **(c)** Rape in the third degree under ORS 163.355.

14 [(c)] **(d)** Rape in the second degree under ORS 163.365.

15 [(d)] **(e)** Rape in the first degree under ORS 163.375.

16 [(e)] **(f)** Sodomy in the third degree under ORS 163.385.

17 [(f)] **(g)** Sodomy in the second degree under ORS 163.395.

18 [(g)] **(h)** Sodomy in the first degree under ORS 163.405.

19 [(h)] **(i)** Unlawful sexual penetration in the second degree under ORS 163.408.

20 [(i)] **(j)** Unlawful sexual penetration in the first degree under ORS 163.411.

21 [(j)] **(k)** Sexual abuse in the second degree under ORS 163.425.

22 [(k)] **(L)** Sexual abuse in the first degree under ORS 163.427.

23 [(L)] **(m)** Using a child in a display of sexual conduct under ORS 163.670.

24 [(m)] **(n)** Encouraging child sexual abuse in the first degree under ORS 163.684.

25 [(n)] **(o)** Incest under ORS 163.525.

26 [(o)] **(p)** Promoting prostitution under ORS 167.012.

27 [(p)] **(q)** Compelling prostitution under ORS 167.017.

28 [(q)] **(r)** Luring a minor under ORS 167.057.

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

33 **(a) Strangulation under ORS 163.187.**

34 [(a)] **(b)** Sexual abuse in the third degree under ORS 163.415.

35 [(b)] **(c)** Furnishing sexually explicit material to a child under ORS 167.054.

36 [(c)] **(d)** Exhibiting an obscene performance to a minor under ORS 167.075.

37 [(d)] **(e)** Displaying obscene materials to minors under ORS 167.080.

38 (4) In the case of crimes described in subsection [(2)(L)] **(2)(m)** of this section, the victim is the
39 child engaged in sexual conduct. In the case of the crime described in subsection [(2)(n)] **(2)(o)** of
40 this section, the victim is the party to the incest other than the party being prosecuted. In the case
41 of crimes described in subsection [(2)(o) and (p)] **(2)(p) and (q)** of this section, the victim is the child
42 whose acts of prostitution are promoted or compelled.

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

45 (6) Except as provided in subsection (7) of this section or as otherwise expressly provided by

1 law, prosecutions for other offenses must be commenced within the following periods of limitations
2 after their commission:

3 (a) For any other felony, three years.

4 (b) For any misdemeanor, two years.

5 (c) For a violation, six months.

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

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

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

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

22 (8) Notwithstanding subsection (2) of this section, a prosecution for rape in the first or second
23 degree, sodomy in the first or second degree, unlawful sexual penetration in the first or second de-
24 gree or sexual abuse in the first degree may be commenced within 25 years after the commission
25 of the crime if the defendant is identified after the period described in subsection (2) of this section
26 on the basis of DNA (deoxyribonucleic acid) sample comparisons.

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

30 **SECTION 3. (1) The amendments to ORS 163.187 by section 1 of this 2009 Act apply to**
31 **conduct occurring on or after the effective date of this 2009 Act.**

32 **(2) The amendments to ORS 131.125 by section 2 of this 2009 Act apply to offenses com-**
33 **mitted before, on or after the effective date of this 2009 Act, but do not operate to revive a**
34 **prosecution barred by the operation of ORS 131.125 before the effective date of this 2009 Act.**

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