

# A-Engrossed House Bill 2477

Ordered by the House April 29  
Including House Amendments dated April 29

Sponsored by Representative HUFFMAN; Representatives BARKER, BARTON, BENTZ, BERGER, CAMERON, COWAN, FREEMAN, GARRETT, GILLIAM, HANNA, KRIEGER, MATTHEWS, OLSON, G SMITH, SPRENGER, STIEGLER, THOMPSON, VANORMAN, WHISNANT, WINGARD (at the request of Judge Laura Pryor (retired) and Jean Beckley)

## 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.

Modifies crime of invasion of personal privacy. Increases penalty **for specified convicted persons** to maximum of five years' imprisonment, \$125,000 fine, or both. Requires [*person*] **specified convicted persons** to report as sex offender.

## A BILL FOR AN ACT

1  
2 Relating to invasion of personal privacy; creating new provisions; and amending ORS 163.700,  
3 163.702 and 181.594.

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

5 **SECTION 1.** ORS 163.700 is amended to read:

6 163.700. (1) Except as provided in ORS 163.702, a person commits the crime of invasion of per-  
7 sonal privacy if:

8 (a)(A) The person knowingly makes or records a photograph, motion picture, videotape or other  
9 visual recording of another person in a state of nudity without the consent of the person being re-  
10 corded; and

11 (B) At the time the visual recording is made or recorded the person being recorded is in a place  
12 and circumstances where the person has a reasonable expectation of personal privacy; or

13 (b)(A) For the purpose of arousing or gratifying the sexual desire of the person, the person is  
14 in a location to observe another person in a state of nudity without the consent of the other person;  
15 and

16 (B) The other person is in a place and circumstances where the person has a reasonable ex-  
17 pectation of personal privacy.

18 (2) As used in this section:

19 (a) "Makes or records a photograph, motion picture, videotape or other visual recording" in-  
20 cludes, but is not limited to, making or recording or employing, authorizing, permitting, compelling  
21 or inducing another person to make or record a photograph, motion picture, videotape or other  
22 visual recording.

23 (b) "Nudity" means **any part of the** uncovered, or less than opaquely covered, [*post-pubescent*]  
24 human genitals, pubic areas or [*a post-pubescent human*] female breast below a point immediately  
25 above the top of the areola. [*"Nudity" includes a partial state of nudity.*]

26 (c) "Places and circumstances where the person has a reasonable expectation of personal pri-

**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 vacy” includes, but is not limited to, a bathroom, dressing room, locker room that includes an en-  
2 closed area for dressing or showering, tanning booth and any area where a person undresses in an  
3 enclosed space that is not open to public view.

4 (d) “Public view” means that an area can be readily seen and that a person within the area can  
5 be distinguished by normal unaided vision when viewed from a public place as defined in ORS  
6 161.015.

7 (3)(a) Invasion of personal privacy is a Class C felony [A misdemeanor].

8 (b) **Notwithstanding paragraph (a) of this subsection, invasion of personal privacy is a**  
9 **Class A misdemeanor if the person who committed the offense is under 18 years of age and**  
10 **has not previously been convicted of, or found to be within the jurisdiction of the juvenile**  
11 **court for having committed an act that if committed by an adult would constitute, invasion**  
12 **of personal privacy.**

13 **SECTION 2.** ORS 163.702 is amended to read:

14 163.702. (1) The provisions of ORS 163.700 do not apply to:

15 [(1)] (a) Any legitimate medical procedure performed by or under the direction of a person li-  
16 censed to provide medical service for the purpose of medical diagnosis, treatment, education or re-  
17 search, including, but not limited to, the recording of medical procedures; and

18 [(2)] (b) Any activity undertaken in the course of bona fide law enforcement or corrections ac-  
19 tivity or necessary to the proper functioning of the criminal justice system, including but not limited  
20 to the operation and management of jails, prisons and other youth and adult corrections facilities.

21 (2) **The provisions of ORS 163.700 (1)(a) do not apply to a visual recording of a person**  
22 **under 12 years of age if:**

23 (a) **The person who makes or records the visual recording is the father, mother, sibling,**  
24 **grandparent, aunt, uncle or first cousin, by blood, adoption or marriage, of the person under**  
25 **12 years of age; and**

26 (b) **The visual recording is made or recorded for a purpose other than arousing or grati-**  
27 **fyng the sexual desire of the person or another person.**

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

29 181.594. As used in ORS 181.595, 181.596, 181.597 and 181.603:

30 (1) “Attends” means is enrolled on a full-time or part-time basis.

31 (2)(a) “Correctional facility” means any place used for the confinement of persons:

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

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

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

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

40 (4) “Sex crime” means:

41 (a) Rape in any degree;

42 (b) Sodomy in any degree;

43 (c) Unlawful sexual penetration in any degree;

44 (d) Sexual abuse in any degree;

45 (e) Incest with a child victim;

- 1 (f) Using a child in a display of sexually explicit conduct;
- 2 (g) Encouraging child sexual abuse in any degree;
- 3 (h) Transporting child pornography into the state;
- 4 (i) Paying for viewing a child's sexually explicit conduct;
- 5 (j) Compelling prostitution;
- 6 (k) Promoting prostitution;
- 7 (L) Kidnapping in the first degree if the victim was under 18 years of age;
- 8 (m) Contributing to the sexual delinquency of a minor;
- 9 (n) Sexual misconduct if the offender is at least 18 years of age;
- 10 (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- 11 (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent
- 12 or by a person found to be within the jurisdiction of the juvenile court;
- 13 (q) Online sexual corruption of a child in any degree if the offender reasonably believed the
- 14 child to be more than five years younger than the offender;
- 15 (r) Any attempt to commit any of the crimes set forth in paragraphs (a) to (q) of this subsection;
- 16 (s) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a)
- 17 to (q) [*or (t)*], **(t) or (u)** of this subsection; [*or*]
- 18 **(t) Invasion of personal privacy under ORS 163.700 (1)(b), if the offender was at least 18**
- 19 **years of age at the time the offense was committed and the offender has a prior conviction**
- 20 **for invasion of personal privacy that was committed when the offender was at least 18 years**
- 21 **of age; or**
- 22 [*t*] **(u)** Public indecency or private indecency, if the person has a prior conviction for a crime
- 23 listed in this subsection.
- 24 (5) "Sex offender" means a person who:
- 25 (a) Has been convicted of a sex crime;
- 26 (b) Has been found guilty except for insanity of a sex crime;
- 27 (c) Has been found to be within the jurisdiction of the juvenile court for having committed an
- 28 act that if committed by an adult would constitute a sex crime; or
- 29 (d) Is paroled to this state under ORS 144.610 after being convicted in another jurisdiction of a
- 30 crime that would constitute a sex crime if committed in this state.
- 31 (6) "Works" or "carries on a vocation" means full-time or part-time employment for more than
- 32 14 days within one calendar year whether financially compensated, volunteered or for the purpose
- 33 of governmental or educational benefit.
- 34 **SECTION 4. The amendments to ORS 163.700 and 163.702 by sections 1 and 2 of this 2009**
- 35 **Act apply to offenses committed on or after the effective date of this 2009 Act.**
- 36