

# House Bill 2477

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 **as introduced**.

Modifies crime of invasion of personal privacy. Increases penalty to maximum of five years' imprisonment, \$125,000 fine, or both. Requires person convicted 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, 181.594 and 342.143.

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 personal  
7 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-  
27 vacy" includes, but is not limited to, a bathroom, dressing room, locker room that includes an en-  
28 closed area for dressing or showering, tanning booth and any area where a person undresses in an  
29 enclosed space that is not open to public view.

30 (d) "Public view" means that an area can be readily seen and that a person within the area can

**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 be distinguished by normal unaided vision when viewed from a public place as defined in ORS  
2 161.015.

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

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

5 163.702. (1) The provisions of ORS 163.700 do not apply to:

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

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

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

14 (a) **The person who makes or records the visual recording is the father, mother, sibling,**  
15 **grandparent or stepparent of the person under 12 years of age; and**

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

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

19 181.594. As used in ORS 181.595, 181.596, 181.597 and 181.603:

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

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

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

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

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

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

30 (4) "Sex crime" means:

31 (a) Rape in any degree;

32 (b) Sodomy in any degree;

33 (c) Unlawful sexual penetration in any degree;

34 (d) Sexual abuse in any degree;

35 (e) Incest with a child victim;

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

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

38 (h) Transporting child pornography into the state;

39 (i) Paying for viewing a child's sexually explicit conduct;

40 (j) Compelling prostitution;

41 (k) Promoting prostitution;

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

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

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

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

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

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

5 **(r) Invasion of personal privacy;**

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

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

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

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

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

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

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

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

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

22 **SECTION 4.** ORS 342.143 is amended to read:

23 342.143. (1) No teaching, personnel service or administrative license shall be issued to any per-  
 24 son until the person has attained the age of 18 years and has furnished satisfactory evidence of  
 25 proper educational training.

26 (2) The Teacher Standards and Practices Commission may require an applicant for a teaching,  
 27 personnel service or administrative license or for registration as a public charter school teacher or  
 28 administrator to furnish evidence satisfactory to the commission of good moral character, mental  
 29 and physical health, and such other evidence as it may deem necessary to establish the applicant’s  
 30 fitness to serve as a teacher or administrator.

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

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

35 (A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355,  
 36 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433,  
 37 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part),  
 38 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, **163.700**, 164.325, 164.415, 166.005,  
 39 166.087, 167.007, 167.012, 167.017, 167.054, 167.057, 167.062, 167.075, 167.080, 167.090, 475.848, 475.852,  
 40 475.858, 475.860, 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890,  
 41 475.892, 475.904 or 475.906;

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

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

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

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

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

8 **SECTION 5. The amendments to ORS 163.700, 163.702, 181.594 and 342.143 by sections 1**  
9 **to 4 of this 2009 Act apply to offenses committed on or after the effective date of this 2009**  
10 **Act.**

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