

House Bill 2827

Sponsored by Representatives OLSON, GARRETT; Representatives BARKER, BARTON, BERGER, BRUUN, CAMERON, ESQUIVEL, FREEMAN, GARRARD, HANNA, HUFFMAN, KAHL, KRIEGER, MATTHEWS, MAURER, SCHAUFLEER, SPRENGER, STIEGLER, THOMPSON, WEIDNER, WHISNANT, WITT, Senators BOQUIST, MORSE

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**.

Extends statute of limitations for action based on conduct that constitutes child abuse or conduct knowingly allowing, permitting or encouraging child abuse. Requires that action be commenced before claimant attains 40 years of age, or not more than five years from date claimant discovers or in exercise of reasonable care should have discovered causal connection between child abuse and injury, whichever period is longer.

A BILL FOR AN ACT

Relating to child abuse; creating new provisions; and amending ORS 12.117.

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

SECTION 1. ORS 12.117 is amended to read:

12.117. (1) Notwithstanding ORS 12.110, 12.115 or 12.160, an action based on conduct that constitutes child abuse or conduct knowingly allowing, permitting or encouraging child abuse *[accruing]* **that occurs** while the person *[who is entitled to bring the action]* is under 18 years of age *[shall]* **must** be commenced *[not more than six years after that person attains 18 years of age]* **before the person attains 40 years of age**, or if the *[injured]* person has not discovered *[the injury or]* the causal connection between the injury and the child abuse, nor in the exercise of reasonable care should have discovered *[the injury or]* the causal connection between the injury and the child abuse, not more than *[three]* **five** years from the date the *[injured]* person discovers or in the exercise of reasonable care should have discovered *[the injury or]* the causal connection between the child abuse and the injury, whichever period is longer.

(2) For the purpose of determining when a person discovered the causal connection between the injury and the child abuse under subsection (1) of this section:

(a) The injury includes all mental or emotional suffering or trauma, or psychological or emotional aftereffects, that are distinct from the child abuse, become manifest after the child abuse and can be causally linked to the child abuse; and

(b) The causal connection occurs when the person consciously realizes that the child abuse has caused ascertainable impact on the mental and emotional health of the person that is separate and distinct from any suffering that occurred at the time of the child abuse, and separate and distinct from any memories of the suffering that occurred at the time of the child abuse.

[(2)] **(3)** As used in *[subsection (1) of]* this section, "child abuse" means any of the following:

(a) Intentional conduct by an adult that results in:

(A) Any physical injury to a child; or

(B) Any mental injury to a child which results in observable and substantial impairment of 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 child's mental or psychological ability to function caused by cruelty to the child, with due regard
2 to the culture of the child;

3 (b) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
4 tration and incest, as those acts are defined in ORS chapter 163;

5 (c) Sexual abuse, as defined in ORS chapter 163, when the victim is a child; or

6 (d) Sexual exploitation of a child, including but not limited to:

7 (A) Conduct constituting violation of ORS 163.435 and any other conduct which allows, employs,
8 authorizes, permits, induces or encourages a child to engage in the performing for people to observe
9 or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts
10 sexual conduct or contact; and

11 (B) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in
12 ORS chapter 167.

13 [(3)] (4) Nothing in this section creates a new cause of action or enlarges any existing cause
14 of action.

15 **SECTION 2. (1) Except as provided in subsection (2) of this section, the amendments to**
16 **ORS 12.117 by section 1 of this 2009 Act apply to all causes of action, whether arising before,**
17 **on or after the effective date of this 2009 Act.**

18 **(2) The amendments to ORS 12.117 by section 1 of this 2009 Act do not apply to any cause**
19 **of action for which a judgment was entered before the effective date of this 2009 Act.**

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