

Enrolled
House Bill 3263

Sponsored by Representatives BARKER, KRIEGER, OLSON; Representatives BARTON, BRUUN, CAMERON, COWAN, GARRETT, GELSER, HUNT, J SMITH, STIEGLER, WHISNANT, Senators BONAMICI, DEVLIN, MONROE, PROZANSKI, SCHRADER, VERGER, WALKER, WHITSETT (at the request of Colleen Kelly, Renee Smith, Tiffany Edens, Danielle Tudor)

CHAPTER

AN ACT

Relating to statutes of limitations; creating new provisions; and amending ORS 131.125.

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

SECTION 1. ORS 131.125 is amended to read:

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

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

- (a) Criminal mistreatment in the first degree under ORS 163.205.
- (b) Rape in the third degree under ORS 163.355.
- (c) Rape in the second degree under ORS 163.365.
- (d) Rape in the first degree under ORS 163.375.
- (e) Sodomy in the third degree under ORS 163.385.
- (f) Sodomy in the second degree under ORS 163.395.
- (g) Sodomy in the first degree under ORS 163.405.
- (h) Unlawful sexual penetration in the second degree under ORS 163.408.
- (i) Unlawful sexual penetration in the first degree under ORS 163.411.
- (j) Sexual abuse in the second degree under ORS 163.425.
- (k) Sexual abuse in the first degree under ORS 163.427.
- (L) Using a child in a display of sexual conduct under ORS 163.670.
- (m) Encouraging child sexual abuse in the first degree under ORS 163.684.
- (n) Incest under ORS 163.525.
- (o) Promoting prostitution under ORS 167.012.
- (p) Compelling prostitution under ORS 167.017.
- (q) Luring a minor under ORS 167.057.

(3) A prosecution for any of the following misdemeanors may be commenced within four years after the commission of the crime or, if the victim at the time of the crime was under 18 years of

age, anytime before the victim attains 22 years of age or within four years after the offense is reported to a law enforcement agency or the Department of Human Services, whichever occurs first:

- (a) Sexual abuse in the third degree under ORS 163.415.
- (b) Furnishing sexually explicit material to a child under ORS 167.054.
- (c) Exhibiting an obscene performance to a minor under ORS 167.075.
- (d) Displaying obscene materials to minors under ORS 167.080.

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

(5) A prosecution for arson in any degree may be commenced within six years after the commission of the crime.

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

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

(7) If the period prescribed in subsection (6) of this section has expired, a prosecution nevertheless may be commenced as follows:

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

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

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

(8) Notwithstanding subsection (2) of this section, **if the defendant is identified after the period described in subsection (2) of this section on the basis of DNA (deoxyribonucleic acid) sample comparisons**, a prosecution for:

(a) Rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first degree or sexual abuse in the first degree may be commenced at any time after the commission of the crime.

(b) Rape in the [first or] second degree, sodomy in the [first or] second degree[,] or unlawful sexual penetration in the [first or] second degree [or sexual abuse in the first degree] may be commenced within 25 years after the commission of the crime [if the defendant is identified after the period described in subsection (2) of this section on the basis of DNA (deoxyribonucleic acid) sample comparisons].

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

SECTION 2. The amendments to ORS 131.125 by section 1 of this 2009 Act apply to offenses committed before, on or after the effective date of this 2009 Act, but do not operate

to revive a prosecution barred by the operation of ORS 131.125 before the effective date of this 2009 Act.

Passed by House April 23, 2009

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate June 9, 2009

.....
President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2009

.....
Secretary of State