

House Bill 3263

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

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 statutes of limitations for certain sex crimes if defendant is identified on basis of DNA sample comparisons.

A BILL FOR 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

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 after the commission of the crime or, if the victim at the time of the crime was under 18 years of
 2 age, anytime before the victim attains 22 years of age or within four years after the offense is re-
 3 ported to a law enforcement agency or the Department of Human Services, whichever occurs first:

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

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

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

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

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

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

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

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

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

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

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

43 (b) Rape in the *[first or]* second degree, sodomy in the *[first or]* second degree[,] **or** unlawful
 44 sexual penetration in the *[first or]* second degree *[or sexual abuse in the first degree]* may be com-
 45 menced within 25 years after the commission of the crime *[if the defendant is identified after the pe-*

1 *riod described in subsection (2) of this section on the basis of DNA (deoxyribonucleic acid) sample*
2 *comparisons].*

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

6 **SECTION 2. The amendments to ORS 131.125 by section 1 of this 2009 Act apply to of-**
7 **fenses committed before, on or after the effective date of this 2009 Act, but do not operate**
8 **to revive a prosecution barred by the operation of ORS 131.125 before the effective date of**
9 **this 2009 Act.**

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