

House Bill 3505

Sponsored by Representative BARKER, Senator STARR; Representatives BARTON, MATTHEWS, MAURER, NATHANSON, OLSON, RICHARDSON, SCHAUFLEER, Senators BOQUIST, HASS, SCHRADER, VERGER, WHITSETT (at the request of Chris Popp in memory of John Stephen Popp and Heather Snively)

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**.

Classifies crime of murder as aggravated murder if defendant knows victim is pregnant.
Classifies crime of assault in second degree as assault in first degree if defendant knows victim is pregnant.
Punishes crime of assault in fourth degree as Class C felony if defendant knows victim is pregnant.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; and amending ORS 163.095, 163.160 and 163.185.

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

4 **SECTION 1.** ORS 163.095 is amended to read:

5 163.095. As used in ORS 163.105 and this section, "aggravated murder" means murder as defined
6 in ORS 163.115 which is committed under, or accompanied by, any of the following circumstances:

7 (1)(a) The defendant committed the murder pursuant to an agreement that the defendant receive
8 money or other thing of value for committing the murder.

9 (b) The defendant solicited another to commit the murder and paid or agreed to pay the person
10 money or other thing of value for committing the murder.

11 (c) The defendant committed murder after having been convicted previously in any jurisdiction
12 of any homicide, the elements of which constitute the crime of murder as defined in ORS 163.115
13 or manslaughter in the first degree as defined in ORS 163.118.

14 (d) There was more than one murder victim in the same criminal episode as defined in ORS
15 131.505.

16 (e) The homicide occurred in the course of or as a result of intentional maiming or torture of
17 the victim.

18 (f) The victim of the intentional homicide was a person under the age of 14 years.

19 (2)(a) The victim was one of the following and the murder was related to the performance of the
20 victim's official duties in the justice system:

21 (A) A police officer as defined in ORS 181.610;

22 (B) A correctional, parole and probation officer or other person charged with the duty of cus-
23 tody, control or supervision of convicted persons;

24 (C) A member of the Oregon State Police;

25 (D) A judicial officer as defined in ORS 1.210;

26 (E) A juror or witness in a criminal proceeding;

27 (F) An employee or officer of a court of justice; or

28 (G) A member of the State Board of Parole and Post-Prison Supervision.

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 (b) The defendant was confined in a state, county or municipal penal or correctional facility or
2 was otherwise in custody when the murder occurred.

3 (c) The defendant committed murder by means of an explosive as defined in ORS 164.055.

4 (d) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed the
5 homicide under the circumstances set forth in ORS 163.115 (1)(b).

6 (e) The murder was committed in an effort to conceal the commission of a crime, or to conceal
7 the identity of the perpetrator of a crime.

8 (f) The murder was committed after the defendant had escaped from a state, county or municipal
9 penal or correctional facility and before the defendant had been returned to the custody of the fa-
10 cility.

11 **(g) The defendant committed the murder knowing that the victim was pregnant.**

12 **SECTION 2.** ORS 163.185 is amended to read:

13 163.185. (1) A person commits the crime of assault in the first degree if the person:

14 (a) Intentionally causes serious physical injury to another by means of a deadly or dangerous
15 weapon;

16 (b) Intentionally or knowingly causes serious physical injury to a child under six years of age;

17 **(c) Violates ORS 163.175 knowing that the victim is pregnant; or**

18 **[(c)] (d)** Intentionally, knowingly or recklessly causes serious physical injury to another while
19 operating a motor vehicle under the influence of intoxicants in violation of ORS 813.010 and:

20 (A) The person has at least three previous convictions for driving while under the influence of
21 intoxicants under ORS 813.010, or its statutory counterpart in any jurisdiction, in the 10 years prior
22 to the date of the current offense; or

23 (B)(i) The person has a previous conviction for any of the crimes described in subsection (2) of
24 this section, or their statutory counterparts in any jurisdiction; and

25 (ii) The victim's death or serious physical injury in the previous conviction was caused by the
26 person driving a motor vehicle.

27 (2) The previous convictions to which subsection **[(1)(c)(B)] (1)(d)(B)** of this section apply are:

28 (a) Manslaughter in the first degree under ORS 163.118;

29 (b) Manslaughter in the second degree under ORS 163.125;

30 (c) Criminally negligent homicide under ORS 163.145;

31 (d) Assault in the first degree under this section;

32 (e) Assault in the second degree under ORS 163.175; or

33 (f) Assault in the third degree under ORS 163.165.

34 (3) Assault in the first degree is a Class A felony.

35 (4) It is an affirmative defense to a prosecution under subsection **[(1)(c)(B)] (1)(d)(B)** of this
36 section that the defendant was not under the influence of intoxicants at the time of the conduct that
37 resulted in the previous conviction.

38 **SECTION 3.** ORS 163.160 is amended to read:

39 163.160. (1) A person commits the crime of assault in the fourth degree if the person:

40 (a) Intentionally, knowingly or recklessly causes physical injury to another; or

41 (b) With criminal negligence causes physical injury to another by means of a deadly weapon.

42 (2) Assault in the fourth degree is a Class A misdemeanor.

43 (3) Notwithstanding subsection (2) of this section, assault in the fourth degree is a Class C fel-
44 ony if the person commits the crime of assault in the fourth degree and:

45 (a) The person has previously been convicted of assaulting the same victim;

1 (b) The person has previously been convicted at least three times under this section or under
2 equivalent laws of another jurisdiction and all of the assaults involved domestic violence, as defined
3 in ORS 135.230; [or]

4 (c) The assault is committed in the immediate presence of, or is witnessed by, the person's or
5 the victim's minor child or stepchild or a minor child residing within the household of the person
6 or victim; **or**

7 **(d) The person commits the assault knowing that the victim is pregnant.**

8 (4) For the purposes of subsection (3) of this section, an assault is witnessed if the assault is
9 seen or directly perceived in any other manner by the child.

10 **SECTION 4. The amendments to ORS 163.095, 163.160 and 163.185 by sections 1 to 3 of this**
11 **2009 Act apply to conduct occurring on or after the effective date of this 2009 Act.**

12