

Senate Bill 984

Sponsored by Senator COURTNEY

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 victim was pregnant woman and defendant knew or reasonably should have known that victim was pregnant.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 163.095 and 163.103; and declaring an
3 emergency.

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

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

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

8 (1)*[(a)]* The defendant committed the murder pursuant to an agreement that the defendant re-
9 ceive money or other thing of value for committing the murder.

10 *[(b)]* (2) The defendant solicited another to commit the murder and paid or agreed to pay the
11 person money or other thing of value for committing the murder.

12 *[(c)]* (3) The defendant committed murder after having been convicted previously in any juris-
13 diction of any homicide, the elements of which constitute the crime of murder as defined in ORS
14 163.115 or manslaughter in the first degree as defined in ORS 163.118.

15 *[(d)]* (4) There was more than one murder victim in the same criminal episode as defined in ORS
16 131.505.

17 *[(e)]* (5) The homicide occurred in the course of or as a result of intentional maiming or torture
18 of the victim.

19 *[(f)]* (6) The victim of the intentional homicide was a person under the age of 14 years.

20 (7) **The victim was a pregnant woman and, at the time of the murder, the defendant knew**
21 **or reasonably should have known that the victim was pregnant.**

22 *[(2)(a)]* (8) The victim was one of the following and the murder was related to the performance
23 of the victim's official duties in the justice system:

24 *[(A)]* (a) A police officer as defined in ORS 181.610;

25 *[(B)]* (b) A correctional, parole and probation officer or other person charged with the duty of
26 custody, control or supervision of convicted persons;

27 *[(C)]* (c) A member of the Oregon State Police;

28 *[(D)]* (d) A judicial officer as defined in ORS 1.210;

29 *[(E)]* (e) A juror or witness in a criminal proceeding;

30 *[(F)]* (f) An employee or officer of a court of justice; or

31 *[(G)]* (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)] (9) The defendant was confined in a state, county or municipal penal or correctional facility
 2 or was otherwise in custody when the murder occurred.

3 [(c)] (10) The defendant committed murder by means of an explosive as defined in ORS 164.055.

4 [(d)] (11) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally com-
 5 mitted the homicide under the circumstances set forth in ORS 163.115 (1)(b).

6 [(e)] (12) **The defendant committed** the murder [*was committed*] in an effort to conceal the
 7 commission of a crime, or to conceal the identity of the perpetrator of a crime.

8 [(f)] (13) **The defendant committed** the murder [*was committed*] after the defendant had escaped
 9 from a state, county or municipal penal or correctional facility and before the defendant had been
 10 returned to the custody of the facility.

11 **SECTION 2.** ORS 163.103 is amended to read:

12 163.103. (1) In a prosecution for aggravated murder under ORS 163.095 [(1)(c)] (3), the state shall
 13 plead the previous conviction, and shall prove the previous conviction unless the defendant stipu-
 14 lates to that fact prior to trial. If the defendant so stipulates and the trial is by jury:

15 (a) The court shall accept the stipulation regardless of whether or not the state agrees to it;

16 (b) The defendant’s stipulation to the previous conviction constitutes a judicial admission to that
 17 element of the accusatory instrument. The stipulation shall be made a part of the record of the case,
 18 but shall not be offered or received in the presence of the jury;

19 (c) For the purpose of establishing the prior conviction solely as an element of the crime under
 20 ORS 163.095 [(1)(c)] (3), neither the court nor the state shall reveal to the jury the previous con-
 21 viction, but the previous conviction is established in the record by the defendant’s stipulation; and

22 (d) The court shall not submit the accusatory instrument or evidence of the previous conviction
 23 to the jury.

24 (2) In a proceeding under ORS 163.095 [(1)(c)] (3), the state may offer, and the court may receive
 25 and submit to the jury, evidence of the previous conviction for impeachment of the defendant or
 26 another purpose, other than establishing the conviction as an element of the offense, when the evi-
 27 dence of the previous conviction is otherwise admissible for that purpose. When evidence of the
 28 previous conviction has been admitted by the court, the state may comment upon, and the court may
 29 give instructions about, the evidence of the previous conviction only to the extent that the com-
 30 ments or instructions relate to the purpose for which the evidence was admitted.

31 (3) When the defendant stipulates to the prior conviction required as an element of aggravated
 32 murder under ORS 163.095 [(1)(c)] (3), if the jury finds the defendant guilty upon instruction re-
 33 garding the balance of the elements of the crime, the court shall enter a judgment of guilty of ag-
 34 gravated murder.

35 **SECTION 3. The amendments to ORS 163.095 by section 1 of this 2009 Act apply to con-**
 36 **duct occurring on or after the effective date of this 2009 Act.**

37 **SECTION 4. This 2009 Act being necessary for the immediate preservation of the public**
 38 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
 39 **on its passage.**

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