

House Bill 3065

Sponsored by Representative BARKER (at the request of Department of Justice)

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**.

Increases maximum penalty for crime of official misconduct in first degree to maximum of five years' imprisonment, \$125,000 fine, or both. Includes commission of certain criminal offenses in course of official duties as official misconduct in first degree. Directs Oregon Criminal Justice Commission to classify crime as level 8 on sentencing guidelines grid if offense results in financial gain of \$10,000 or more or constitutes felony person crime, otherwise as level 6.

Increases maximum penalty for official misconduct in second degree to maximum of one year's imprisonment, \$6,250 fine, or both.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to official misconduct; creating new provisions; amending ORS 162.405 and 162.415; and
3 declaring an emergency.

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

5 **SECTION 1.** ORS 162.415 is amended to read:

6 162.415. (1) A public servant commits the crime of official misconduct in the first degree if [*with*
7 *intent to obtain a benefit or to harm another*]:

8 (a) **With the intent to obtain a benefit or to harm another, the public servant:**

9 (A) [*The public servant*] Knowingly fails to perform a duty imposed upon the public servant by
10 law or one clearly inherent in the nature of office; or

11 [*(b)*] (B) [*The public servant*] Knowingly performs an act constituting an unauthorized exercise
12 in official duties; or

13 (b) **The public servant is described in ORS 162.005 (2)(a) to (c) and, in the course of ex-**
14 **ercising official duties, the public servant commits:**

15 (A) **Harassment as defined in ORS 166.065;**

16 (B) **A misdemeanor involving violence as defined in ORS 166.470; or**

17 (C) **A person felony as that term is defined in the rules of the Oregon Criminal Justice**
18 **Commission.**

19 (2) Official misconduct in the first degree is a Class [*A misdemeanor*] **C felony.**

20 (3)(a) **The Oregon Criminal Justice Commission shall classify official misconduct in the**
21 **first degree as crime category 6 of the sentencing guidelines grid of the commission.**

22 (b) **Notwithstanding paragraph (a) of this subsection, the commission shall classify offi-**
23 **cial misconduct in the first degree as crime category 8 of the sentencing guidelines grid of**
24 **the commission if the violation is described in subsection (1)(b)(C) of this section or if the**
25 **offense results in financial gain to the public servant in the amount of \$10,000 or more.**

26 **SECTION 2.** ORS 162.405 is amended to read:

27 162.405. (1) A public servant commits the crime of official misconduct in the second degree if the
28 person knowingly violates any statute relating to the office of the person.

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 (2) Official misconduct in the second degree is a Class [C] A misdemeanor.

2 **SECTION 3. The amendments to ORS 162.405 and 162.415 by sections 1 and 2 of this 2011**
3 **Act apply to conduct occurring on or after the effective date of this 2011 Act.**

4 **SECTION 4. This 2011 Act being necessary for the immediate preservation of the public**
5 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
6 **on its passage.**

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