

Enrolled
House Bill 3323

Sponsored by Representatives BARKER, MATTHEWS (at the request of Department of Justice)

CHAPTER

AN ACT

Relating to crime; creating new provisions; amending ORS 131.125, 131.602, 161.005, 166.715, 167.051, 167.057, 342.143 and 443.004; repealing ORS 167.054; and declaring an emergency.

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

SECTION 1. ORS 167.051 is amended to read:

167.051. As used in ORS [*167.054 and*] 167.057:

[(1) "*Child*" means a person under 13 years of age.]

[(2)] (1) "Furnishes" means to sell, give, rent, loan or otherwise provide.

[(3)] (2) "Minor" means a person under 18 years of age.

[(4)] (3) "Sexual conduct" means:

(a) Human masturbation or sexual intercourse;

(b) Genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex or between humans and animals;

(c) Penetration of the vagina or rectum by any object other than as part of a medical diagnosis or as part of a personal hygiene practice; or

(d) Touching of the genitals, pubic areas or buttocks of the human male or female or of the breasts of the human female.

[(5) "*Sexually explicit material*" means material containing visual images of:]

[(a) Human masturbation or sexual intercourse;]

[(b) Genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex or between humans and animals; or]

[(c) Penetration of the vagina or rectum by any object other than as part of a personal hygiene practice.]

SECTION 2. ORS 167.057 is amended to read:

167.057. (1) A person commits the crime of luring a minor if the person[.]

[(a)] furnishes to, or uses with, a minor a visual representation or explicit verbal description or narrative account of sexual conduct[; and]

[(b) *Furnishes or uses the representation, description or account for the purpose of:*]

[(A) *Arousing or satisfying the sexual desires of the person or the minor; or*]

[(B)] **for the purpose of** inducing the minor to engage in sexual conduct.

(2) A person is not liable to prosecution for violating subsection (1) of this section if the person furnishes or uses a representation, description or account of sexual conduct that forms merely an incidental part of an otherwise nonoffending whole and serves some purpose other than titillation.

(3) In a prosecution under subsection (1) of this section, it is an affirmative defense:

(a) That the representation, description or account was furnished or used for the purpose of psychological or medical treatment and was furnished by a treatment provider or by another person acting on behalf of the treatment provider;

(b) That the defendant had reasonable cause to believe that the person to whom the representation, description or account was furnished or with whom the representation, description or account was used was not a minor; or

(c) That the defendant was less than three years older than the minor at the time of the alleged offense.

(4) In a prosecution under subsection (1) of this section, it is not a defense that the person to whom the representation, description or account was furnished or with whom the representation, description or account was used was not a minor but was a law enforcement officer posing as a minor.

(5) Luring a minor is a Class C felony.

SECTION 3. 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)] (b) Exhibiting an obscene performance to a minor under ORS 167.075.

[(d)] (c) 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 second degree, sodomy in the second degree or unlawful sexual penetration in the second degree may be commenced within 25 years after the commission of the crime.

(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 4. ORS 131.602 is amended to read:

131.602. The crimes to which ORS 131.550 (12)(b) applies are:

- (1) Bribe giving, as defined in ORS 162.015.
- (2) Bribe receiving, as defined in ORS 162.025.
- (3) Public investment fraud, as defined in ORS 162.117.
- (4) Bribing a witness, as defined in ORS 162.265.
- (5) Bribe receiving by a witness, as defined in ORS 162.275.
- (6) Simulating legal process, as defined in ORS 162.355.
- (7) Official misconduct in the first degree, as defined in ORS 162.415.
- (8) Custodial interference in the second degree, as defined in ORS 163.245.
- (9) Custodial interference in the first degree, as defined in ORS 163.257.
- (10) Buying or selling a person under 18 years of age, as defined in ORS 163.537.
- (11) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.
- (12) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
- (13) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
- (14) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.

(15) Possession of materials depicting sexually explicit conduct of a child in the first degree, as defined in ORS 163.688.

(16) Possession of materials depicting sexually explicit conduct of a child in the second degree, as defined in ORS 163.689.

(17) Theft in the second degree, as defined in ORS 164.045.

(18) Theft in the first degree, as defined in ORS 164.055.

(19) Aggravated theft in the first degree, as defined in ORS 164.057.

(20) Theft by extortion, as defined in ORS 164.075.

(21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.

(22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.

(23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.

(24) Unauthorized use of a vehicle, as defined in ORS 164.135.

(25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.

(26) Laundering a monetary instrument, as defined in ORS 164.170.

(27) Engaging in a financial transaction in property derived from unlawful activity, as defined in ORS 164.172.

(28) Burglary in the second degree, as defined in ORS 164.215.

(29) Burglary in the first degree, as defined in ORS 164.225.

(30) Possession of a burglary tool or theft device, as defined in ORS 164.235.

(31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.

(32) Arson in the second degree, as defined in ORS 164.315.

(33) Arson in the first degree, as defined in ORS 164.325.

(34) Computer crime, as defined in ORS 164.377.

(35) Robbery in the third degree, as defined in ORS 164.395.

(36) Robbery in the second degree, as defined in ORS 164.405.

(37) Robbery in the first degree, as defined in ORS 164.415.

(38) Unlawful labeling of a sound recording, as defined in ORS 164.868.

(39) Unlawful recording of a live performance, as defined in ORS 164.869.

(40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.

(41) A violation of ORS 164.886.

(42)(a) Endangering aircraft in the first degree, as defined in ORS 164.885.

(b) Endangering aircraft in the second degree, as defined in ORS 164.885.

(43) Interference with agricultural operations, as defined in ORS 164.887.

(44) Forgery in the second degree, as defined in ORS 165.007.

(45) Forgery in the first degree, as defined in ORS 165.013.

(46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.

(47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.

(48) Criminal possession of a forgery device, as defined in ORS 165.032.

(49) Criminal simulation, as defined in ORS 165.037.

(50) Fraudulently obtaining a signature, as defined in ORS 165.042.

(51) Fraudulent use of a credit card, as defined in ORS 165.055.

(52) Negotiating a bad check, as defined in ORS 165.065.

(53) Possessing a fraudulent communications device, as defined in ORS 165.070.

(54) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.

(55) Falsifying business records, as defined in ORS 165.080.

(56) Sports bribery, as defined in ORS 165.085.

(57) Sports bribe receiving, as defined in ORS 165.090.

(58) Misapplication of entrusted property, as defined in ORS 165.095.

(59) Issuing a false financial statement, as defined in ORS 165.100.

(60) Obtaining execution of documents by deception, as defined in ORS 165.102.

(61) A violation of ORS 165.543.

(62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.

- (63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- (64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- (65) Identity theft, as defined in ORS 165.800.
- (66) A violation of ORS 166.190.
- (67) Unlawful use of a weapon, as defined in ORS 166.220.
- (68) A violation of ORS 166.240.
- (69) Unlawful possession of a firearm, as defined in ORS 166.250.
- (70) A violation of ORS 166.270.
- (71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer, as defined in ORS 166.272.
- (72) A violation of ORS 166.275.
- (73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- (74) A violation of ORS 166.370.
- (75) Unlawful possession of a destructive device, as defined in ORS 166.382.
- (76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- (77) Possession of a hoax destructive device, as defined in ORS 166.385.
- (78) A violation of ORS 166.410.
- (79) Providing false information in connection with a transfer of a firearm, as defined in ORS 166.416.
- (80) Improperly transferring a firearm, as defined in ORS 166.418.
- (81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- (82) A violation of ORS 166.429.
- (83) A violation of ORS 166.470.
- (84) A violation of ORS 166.480.
- (85) A violation of ORS 166.635.
- (86) A violation of ORS 166.638.
- (87) Unlawful paramilitary activity, as defined in ORS 166.660.
- (88) A violation of ORS 166.720.
- (89) Prostitution, as defined in ORS 167.007.
- (90) Promoting prostitution, as defined in ORS 167.012.
- (91) Compelling prostitution, as defined in ORS 167.017.
- (92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- (93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- (94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- (95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- (96) Possession of gambling records in the first degree, as defined in ORS 167.137.
- (97) Possession of a gambling device, as defined in ORS 167.147.
- (98) Possession of a gray machine, as defined in ORS 167.164.
- (99) Cheating, as defined in ORS 167.167.
- (100) Tampering with drug records, as defined in ORS 167.212.
- (101) A violation of ORS 167.262.
- (102) Research and animal interference, as defined in ORS 167.312.
- (103) Animal abuse in the first degree, as defined in ORS 167.320.
- (104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- (105) Animal neglect in the first degree, as defined in ORS 167.330.
- (106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS 167.352.
- (107) Involvement in animal fighting, as defined in ORS 167.355.
- (108) Dogfighting, as defined in ORS 167.365.
- (109) Participation in dogfighting, as defined in ORS 167.370.
- (110) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- (111) Interference with livestock production, as defined in ORS 167.388.

- (112) A violation of ORS 167.390.
- (113) Participation in cockfighting, as defined in ORS 167.431.
- (114) A violation of ORS 471.410.
- (115) Failure to report missing precursor substances, as defined in ORS 475.955.
- (116) Illegally selling drug equipment, as defined in ORS 475.960.
- (117) Providing false information on a precursor substances report, as defined in ORS 475.965.
- (118) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- (119) A violation of ORS 475.840, if it is a felony or a Class A misdemeanor.
- (120) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- (121) A violation of ORS 475.916.
- (122) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- (123) A violation of ORS 475.904.
- (124) Misuse of an identification card, as defined in ORS 807.430.
- (125) Unlawful production of identification cards, licenses, permits, forms or camera cards, as defined in ORS 807.500.
- (126) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
- (127) Using an invalid license, as defined in ORS 807.580.
- (128) Permitting misuse of a license, as defined in ORS 807.590.
- (129) Using another's license, as defined in ORS 807.600.
- (130) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a felony.
- (131) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a felony.
- (132) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- (133) Unlawful distribution of tobacco products, as defined in ORS 323.632.
- (134) A violation of ORS 180.440 (2) or 180.486 (2).
- (135) A violation described in ORS 475.846 to 475.894, if it is a felony.
- (136) Subjecting another person to involuntary servitude in the first degree, as defined in ORS 163.264.
- (137) Subjecting another person to involuntary servitude in the second degree, as defined in ORS 163.263.
- (138) Trafficking in persons, as defined in ORS 163.266.
- [(139) *Furnishing sexually explicit material to a child, as defined in ORS 167.054.*]
- [(140)] (139) Luring a minor, as defined in ORS 167.057.
- [(141)] (140) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.
- [(142)] (141) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.
- [(143)] (142) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to [(142)] (141) of this section if the attempt, conspiracy or solicitation is a felony or a Class A misdemeanor.

SECTION 5. ORS 161.005 is amended to read:

161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737, 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.196, 163.215 to 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.432, 163.433, 163.505 to 163.575, 163.665 to 163.693, 164.005, 164.015 to 164.135, 164.138, 164.140, 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.857, 164.886, 165.002 to 165.102, 165.109, 165.118, 165.805, 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, [167.054,] 167.057, 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340 and 167.350, 167.810 and 167.820 shall be known and may be cited as Oregon Criminal Code of 1971.

SECTION 6. ORS 166.715 is amended to read:

166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

(1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust or other profit or nonprofit legal entity, and includes any union, association or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(3) "Investigative agency" means the Department of Justice or any district attorney.

(4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct that constitutes an incident of racketeering activity may be used to establish a pattern of racketeering activity without regard to whether the conduct previously has been the subject of a criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within the jurisdiction of the juvenile court.

(5) "Person" means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(6) "Racketeering activity" includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:

(A) ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995, relating to securities;

(B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

(C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing governmental administration;

(D) ORS 162.405 to 162.425, relating to abuse of public office;

(E) ORS 162.455, relating to interference with legislative operation;

(F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

(G) ORS 163.160 to 163.205, relating to assault and related offenses;

(H) ORS 163.225 and 163.235, relating to kidnapping;

(I) ORS 163.275, relating to coercion;

(J) ORS 163.670 to 163.693, relating to sexual conduct of children;

(K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and related offenses;

(L) ORS 164.315 to 164.335, relating to arson and related offenses;

(M) ORS 164.345 to 164.365, relating to criminal mischief;

(N) ORS 164.395 to 164.415, relating to robbery;

(O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a recording;

(P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and related offenses;

(Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

(R) ORS 165.485 to 165.515, 165.540 and 165.555, relating to communication crimes;

(S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating to firearms and other weapons;

(T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, [167.054,] 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, [sexually explicit material,] sexual conduct, gambling, computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related offenses;

(U) ORS 171.990, relating to legislative witnesses;

(V) ORS 260.575 and 260.665, relating to election offenses;

(W) ORS 314.075, relating to income tax;

(X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco products taxes and the directories developed under ORS 180.425 and 180.477;

(Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments, and ORS 411.990 (2) and (3);

(Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

(AA) ORS 463.995, relating to boxing, mixed martial arts and entertainment wrestling, as defined in ORS 463.015;

(BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445, 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS chapter 471 relating to licenses issued under the Liquor Control Act;

(CC) ORS 475.005 to 475.285 and 475.840 to 475.980, relating to controlled substances;

(DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;

(EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

(FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;

(GG) ORS chapter 706, relating to banking law administration;

(HH) ORS chapter 714, relating to branch banking;

(II) ORS chapter 716, relating to mutual savings banks;

(JJ) ORS chapter 723, relating to credit unions;

(KK) ORS chapter 726, relating to pawnbrokers;

(LL) ORS 166.382 and 166.384, relating to destructive devices;

(MM) ORS 165.074;

(NN) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;

(OO) ORS chapter 496, 497 or 498, relating to wildlife;

(PP) ORS 163.355 to 163.427, relating to sexual offenses;

(QQ) ORS 166.015, relating to riot;

(RR) ORS 166.155 and 166.165, relating to intimidation;

(SS) ORS chapter 696, relating to real estate and escrow;

(TT) ORS chapter 704, relating to outfitters and guides;

(UU) ORS 165.692, relating to making a false claim for health care payment;

(VV) ORS 162.117, relating to public investment fraud;

(WW) ORS 164.170 or 164.172;

(XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;

(YY) ORS 164.886;

(ZZ) ORS 167.312 and 167.388;

(AAA) ORS 164.889;

(BBB) ORS 165.800; or

(CCC) ORS 163.263, 163.264 or 163.266.

(b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

(7) “Unlawful debt” means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

- (A) ORS chapter 462, relating to racing;
- (B) ORS 167.108 to 167.164, relating to gambling; or
- (C) ORS 82.010 to 82.170, relating to interest and usury.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under federal or state law.

(8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions from what the statute was when this section was enacted, the reference shall extend to and include amendments to the statute.

SECTION 7. ORS 342.143 is amended to read:

342.143. (1) No teaching, personnel service or administrative license shall be issued to any person until the person has attained the age of 18 years and has furnished satisfactory evidence of proper educational training.

(2) The Teacher Standards and Practices Commission may require an applicant for a teaching, personnel service or administrative license or for registration as a public charter school teacher or administrator to furnish evidence satisfactory to the commission of good moral character, mental and physical health, and such other evidence as it may deem necessary to establish the applicant's fitness to serve as a teacher or administrator.

(3) Without limiting the powers of the Teacher Standards and Practices Commission under subsection (2) of this section:

(a) No teaching, personnel service or administrative license or registration as a public charter school teacher or administrator shall be issued to any person who:

(A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185, 163.235, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.432, 163.433, 163.435, 163.445, 163.465, 163.515, 163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part), 163.680 (1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415, 166.005, 166.087, 167.007, 167.012, 167.017, [167.054,] 167.057, 167.062, 167.075, 167.080, 167.090, 475.848, 475.852, 475.858, 475.860, 475.862, 475.864 (4), 475.868, 475.872, 475.878, 475.880, 475.882, 475.888, 475.890, 475.892, 475.904 or 475.906.

(B) Has been convicted under ORS 161.405 of an attempt to commit any of the crimes listed in subparagraph (A) of this paragraph.

(C) Has been convicted in another jurisdiction of a crime that is substantially equivalent, as defined by rule, to any of the crimes listed in subparagraphs (A) and (B) of this paragraph.

(D) Has had a teaching, personnel service or administrative license or registration revoked in another jurisdiction for a reason that is substantially equivalent, as defined by rule, to a reason described in ORS 342.175 and the revocation is not subject to further appeal. A person whose privilege to apply for a license or registration is denied under this subparagraph may apply for reinstatement of the privilege as provided in ORS 342.175 (4).

(b) The Teacher Standards and Practices Commission may refuse to issue a license or registration to any person who has been convicted of a crime involving the illegal use, sale or possession of controlled substances.

(4) In denying the issuance of a license or registration under this section, the commission shall follow the procedure set forth in ORS 342.176 and 342.177.

(5) The Department of Education shall provide school districts and public charter schools a copy of the list contained in subsection (3) of this section.

SECTION 8. ORS 443.004, as amended by section 12, chapter 93, Oregon Laws 2010, is amended to read:

443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete a criminal records check under ORS 181.534 on:

(a) An employee of a residential facility, adult foster home, in-home care agency or home health agency;

(b) Any individual who is paid directly or indirectly with public funds who has or will have contact with a recipient of home health, in-home care or support services or a resident of an adult foster home or a residential facility; and

(c) A home care worker registering with the Home Care Commission or renewing a registration with the Home Care Commission.

(2) Public funds may not be used to support, in whole or in part, the employment in any capacity having contact with a recipient of home health, in-home care or support services or a resident of a residential facility or an adult foster home, of an individual who has been convicted:

(a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165, 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465, 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215, 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017[, 167.054] or 167.057;

(b) Of a crime listed in ORS 181.594;

(c) In the last 10 years, of a crime involving the delivery or manufacture of a controlled substance;

(d) Of an attempt, conspiracy or solicitation to commit a crime described in paragraphs (a) to (c) of this subsection; or

(e) Of a crime in another jurisdiction that is substantially equivalent, as defined by rule, to a crime described in paragraphs (a) to (d) of this subsection.

(3) Subsection (2) of this section does not apply to:

(a) A peer support specialist; or

(b) An employee of a residential treatment facility or a residential treatment home that is licensed under ORS 443.415 to provide for individuals with alcohol or drug dependence.

(4) If the department or authority has a record of substantiated abuse committed by an employee or potential employee of a home health agency, in-home care agency, adult foster home or residential facility, regardless of whether criminal charges were filed, the department or authority shall notify, in writing, the employer and the employee or potential employee.

(5) As used in this section:

(a) "Adult foster home" has the meaning given that term in ORS 443.705.

(b) "Home care worker" has the meaning given that term in ORS 410.600.

(c) "Home health agency" has the meaning given that term in ORS 443.005.

(d) "In-home care agency" has the meaning given that term in ORS 443.305.

(e) "Peer support specialist" means a person who:

(A) Is providing peer support services as defined by the authority by rule;

(B) Is under the supervision of a qualified clinical supervisor;

(C) Has completed training required by the authority; and

(D) Is currently receiving or has formerly received mental health services, or is in recovery from a substance use disorder and meets the abstinence requirements for staff providing services in alcohol or other drug treatment programs.

(f) "Residential facility" has the meaning given that term in ORS 443.400.

(g) "Residential treatment facility" has the meaning given that term in ORS 443.400.

(h) "Residential treatment home" has the meaning given that term in ORS 443.400.

SECTION 9. ORS 443.004, as amended by sections 12 and 13, chapter 93, Oregon Laws 2010, is amended to read:

443.004. (1) The Department of Human Services or the Oregon Health Authority shall complete a criminal records check under ORS 181.534 on:

(a) An employee of a residential facility, adult foster home, in-home care agency or home health agency;

(b) Any individual who is paid directly or indirectly with public funds who has or will have contact with a recipient of home health, in-home care or support services or a resident of an adult foster home or a residential facility; and

(c) A home care worker registering with the Home Care Commission or renewing a registration with the Home Care Commission.

(2) Public funds may not be used to support, in whole or in part, the employment in any capacity having contact with a recipient of home health, in-home care or support services or a resident of a residential facility or an adult foster home, of an individual who has been convicted:

(a) Of a crime described in ORS 163.095, 163.115, 163.118, 163.125, 163.145, 163.149, 163.165, 163.175, 163.185, 163.187, 163.200, 163.205, 163.225, 163.235, 163.263, 163.264, 163.266, 163.275, 163.465, 163.467, 163.535, 163.537, 163.689, 163.700, 164.055, 164.057, 164.098, 164.125 (5)(c) or (d), 164.215, 164.225, 164.325, 164.377 (2) or (3), 164.405, 164.415, 165.022, 165.032, 165.800, 165.803, 167.012, 167.017[, 167.054] or 167.057;

(b) Of a crime listed in ORS 181.594;

(c) In the last 10 years, of a crime involving the delivery or manufacture of a controlled substance;

(d) Of an attempt, conspiracy or solicitation to commit a crime described in paragraphs (a) to (c) of this subsection; or

(e) Of a crime in another jurisdiction that is substantially equivalent, as defined by rule, to a crime described in paragraphs (a) to (d) of this subsection.

(3) Subsection (2) of this section does not apply to a peer support specialist.

(4) If the department or authority has a record of substantiated abuse committed by an employee or potential employee of a home health agency, in-home care agency, adult foster home or residential facility, regardless of whether criminal charges were filed, the department or authority shall notify, in writing, the employer and the employee or potential employee.

(5) As used in this section:

(a) "Adult foster home" has the meaning given that term in ORS 443.705.

(b) "Home care worker" has the meaning given that term in ORS 410.600.

(c) "Home health agency" has the meaning given that term in ORS 443.005.

(d) "In-home care agency" has the meaning given that term in ORS 443.305.

(e) "Peer support specialist" means a person who:

(A) Is providing peer support services as defined by the authority by rule;

(B) Is under the supervision of a qualified clinical supervisor;

(C) Has completed training required by the authority; and

(D) Is currently receiving or has formerly received mental health services, or is in recovery from a substance use disorder and meets the abstinence requirements for staff providing services in alcohol or other drug treatment programs.

(f) "Residential facility" has the meaning given that term in ORS 443.400.

SECTION 10. ORS 167.054 is repealed.

SECTION 11. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House April 25, 2011

Repassed by House June 21, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate June 16, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

.....
Kate Brown, Secretary of State