

A-Engrossed
Senate Bill 425

Ordered by the Senate April 12
Including Senate Amendments dated April 12

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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.

Specifies that knowingly aiding or facilitating commission of prostitution by person under 18 years of age constitutes crime of compelling prostitution.

Provides that defendant's knowledge of victim's age is immaterial in prosecution for compelling minor to engage in prostitution.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 137.707 and 167.017; and declaring an
3 emergency.

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

5 **SECTION 1.** ORS 167.017 is amended to read:

6 167.017. (1) A person commits the crime of compelling prostitution if the person knowingly:

7 (a) Uses force or intimidation to compel another to engage in prostitution; [*or*]

8 (b) Induces or causes a person under 18 years of age to engage in prostitution; [*or*]

9 (c) **Aids or facilitates the commission of prostitution by a person under 18 years of age;**

10 **or**

11 [*c*] (d) Induces or causes the spouse, child or stepchild of the person to engage in prostitution.

12 (2) Compelling prostitution is a Class B felony.

13 **(3) In a prosecution under subsection (1)(b) or (c) of this section, the state is not required**
14 **to prove that the defendant knew the other person was under 18 years of age and it is no**
15 **defense that the defendant did not know the person's age or that the defendant reasonably**
16 **believed the person to be older than 18 years of age.**

17 **SECTION 2.** ORS 137.707 is amended to read:

18 137.707. (1)(a) Notwithstanding any other provision of law, when a person charged with aggra-
19 vated murder, as defined in ORS 163.095, or an offense listed in subsection (4)(a) of this section is
20 15, 16 or 17 years of age at the time the offense is committed, and the offense is committed on or
21 after April 1, 1995, or when a person charged with an offense listed in subsection (4)(b) of this sec-
22 tion is 15, 16 or 17 years of age at the time the offense is committed, and the offense is committed
23 on or after October 4, 1997, or when a person charged with the offense described in subsection (4)(c)
24 of this section is 15, 16 or 17 years of age at the time the offense is committed and the offense is
25 committed on or after January 1, 2008, the person shall be prosecuted as an adult in criminal court.

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) A district attorney, the Attorney General or a juvenile department counselor may not file in
2 juvenile court a petition alleging that a person has committed an act that, if committed by an adult,
3 would constitute aggravated murder or an offense listed in subsection (4) of this section if the person
4 was 15, 16 or 17 years of age at the time the act was committed.

5 (2) When a person charged under this section is convicted of an offense listed in subsection (4)
6 of this section, the court shall impose at least the presumptive term of imprisonment provided for
7 the offense in subsection (4) of this section. The court may impose a greater presumptive term if
8 otherwise permitted by law, but may not impose a lesser term. The person is not, during the service
9 of the term of imprisonment, eligible for release on post-prison supervision or any form of temporary
10 leave from custody. The person is not eligible for any reduction in, or based on, the minimum sen-
11 tence for any reason under ORS 421.121 or any other provision of law. ORS 138.012, 163.105 and
12 163.150 apply to sentencing a person prosecuted under this section and convicted of aggravated
13 murder under ORS 163.095 except that a person who was under 18 years of age at the time the of-
14 fense was committed is not subject to a sentence of death.

15 (3) The court shall commit the person to the legal and physical custody of the Department of
16 Corrections.

17 (4) The offenses to which this section applies and the presumptive sentences are:
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 - 20 (a)(A) Murder, as defined in
 - 21 ORS 163.115300 months
 - 22 (B) Attempt or conspiracy
 - 23 to commit aggravated
 - 24 murder, as defined
 - 25 in ORS 163.095120 months
 - 26 (C) Attempt or conspiracy
 - 27 to commit murder, as
 - 28 defined in ORS 163.11590 months
 - 29 (D) Manslaughter in the
 - 30 first degree, as defined
 - 31 in ORS 163.118120 months
 - 32 (E) Manslaughter in the
 - 33 second degree, as defined
 - 34 in ORS 163.12575 months
 - 35 (F) Assault in the first
 - 36 degree, as defined
 - 37 in ORS 163.18590 months
 - 38 (G) Assault in the second
 - 39 degree, as defined
 - 40 in ORS 163.17570 months
 - 41 (H) Kidnapping in the first
 - 42 degree, as defined in
 - 43 ORS 163.23590 months
 - 44 (I) Kidnapping in the second
 - 45 degree, as defined in

1	ORS 163.225	70 months
2	(J) Rape in the first degree,	
3	as defined in ORS 163.375.....	100 months
4	(K) Rape in the second	
5	degree, as defined in	
6	ORS 163.365	75 months
7	(L) Sodomy in the first	
8	degree, as defined in	
9	ORS 163.405	100 months
10	(M) Sodomy in the second	
11	degree, as defined in	
12	ORS 163.395	75 months
13	(N) Unlawful sexual	
14	penetration in the first	
15	degree, as defined	
16	in ORS 163.411.....	100 months
17	(O) Unlawful sexual	
18	penetration in the	
19	second degree, as	
20	defined in ORS 163.408	75 months
21	(P) Sexual abuse in the first	
22	degree, as defined in	
23	ORS 163.427	75 months
24	(Q) Robbery in the first	
25	degree, as defined in	
26	ORS 164.415	90 months
27	(R) Robbery in the second	
28	degree, as defined in	
29	ORS 164.405	70 months
30	(b)(A) Arson in the first degree,	
31	as defined in	
32	ORS 164.325, when	
33	the offense represented	
34	a threat of serious	
35	physical injury.	90 months
36	(B) Using a child in a display	
37	of sexually explicit	
38	conduct, as defined in	
39	ORS 163.670	70 months
40	(C) Compelling prostitution,	
41	as defined in ORS 167.017	
42	(1)(a), (b) or (d)	70 months
43	(c) Aggravated vehicular	
44	homicide, as defined in	
45	ORS 163.149	240 months

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(5) If a person charged with an offense under this section is found guilty of a lesser included offense and the lesser included offense is:

(a) An offense listed in subsection (4) of this section, the court shall sentence the person as provided in subsection (2) of this section.

(b) Not an offense listed in subsection (4) of this section:

(A) But constitutes an offense for which waiver is authorized under ORS 419C.349, the court, upon motion of the district attorney, shall hold a hearing to determine whether to retain jurisdiction or to transfer the case to juvenile court for disposition. In determining whether to retain jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If the court does not retain jurisdiction, the court shall:

- (i) Order that a presentence report be prepared;
- (ii) Set forth in a memorandum any observations and recommendations that the court deems appropriate; and
- (iii) Enter an order transferring the case to the juvenile court for disposition under ORS 419C.067 and 419C.411.

(B) And is not an offense for which waiver is authorized under ORS 419C.349, the court may not sentence the person. The court shall:

- (i) Order that a presentence report be prepared;
- (ii) Set forth in a memorandum any observations and recommendations that the court deems appropriate; and
- (iii) Enter an order transferring the case to the juvenile court for disposition under ORS 419C.067 and 419C.411.

(6) When a person is charged under this section, other offenses based on the same act or transaction shall be charged as separate counts in the same accusatory instrument and consolidated for trial, whether or not the other offenses are aggravated murder or offenses listed in subsection (4) of this section. If it appears, upon motion, that the state or the person charged is prejudiced by the joinder and consolidation of offenses, the court may order an election or separate trials of counts or provide whatever other relief justice requires.

(7)(a) If a person charged and tried as provided in subsection (6) of this section is found guilty of aggravated murder or an offense listed in subsection (4) of this section and one or more other offenses, the court shall impose the sentence for aggravated murder or the offense listed in subsection (4) of this section as provided in subsection (2) of this section and shall impose sentences for the other offenses as otherwise provided by law.

(b) If a person charged and tried as provided in subsection (6) of this section is not found guilty of aggravated murder or an offense listed in subsection (4) of this section, but is found guilty of one of the other charges that constitutes an offense for which waiver is authorized under ORS 419C.349, the court, upon motion of the district attorney, shall hold a hearing to determine whether to retain jurisdiction or to transfer the case to juvenile court for disposition. In determining whether to retain jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If the court does not retain jurisdiction, the court shall:

(A) Order that a presentence report be prepared;

1 (B) Set forth in a memorandum any observations and recommendations that the court deems
2 appropriate; and

3 (C) Enter an order transferring the case to the juvenile court for disposition under ORS
4 419C.067 and 419C.411.

5 **SECTION 3. The amendments to ORS 137.707 and 167.017 by sections 1 and 2 of this 2011
6 Act apply to conduct occurring on or after the effective date of this 2011 Act.**

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

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