

Enrolled Senate Bill 425

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CHAPTER

AN ACT

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

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

SECTION 1. ORS 167.017 is amended to read:

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

- (a) Uses force or intimidation to compel another to engage in prostitution; [*or*]
- (b) Induces or causes a person under 18 years of age to engage in prostitution; [*or*]
- (c) **Aids or facilitates the commission of prostitution by a person under 18 years of age;**

or

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

(2) Compelling prostitution is a Class B felony.

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

SECTION 2. ORS 137.707 is amended to read:

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

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

(2) When a person charged under this section is convicted of an offense listed in subsection (4) of this section, the court shall impose at least the presumptive term of imprisonment provided for the offense in subsection (4) of this section. The court may impose a greater presumptive term if otherwise permitted by law, but may not impose a lesser term. The person is not, during the service

of the term of imprisonment, eligible for release on post-prison supervision or any form of temporary leave from custody. The person is not eligible for any reduction in, or based on, the minimum sentence for any reason under ORS 421.121 or any other provision of law. ORS 138.012, 163.105 and 163.150 apply to sentencing a person prosecuted under this section and convicted of aggravated murder under ORS 163.095 except that a person who was under 18 years of age at the time the offense was committed is not subject to a sentence of death.

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

(4) The offenses to which this section applies and the presumptive sentences are:

- (a)(A) Murder, as defined in
ORS 163.115300 months
- (B) Attempt or conspiracy
to commit aggravated
murder, as defined
in ORS 163.095120 months
- (C) Attempt or conspiracy
to commit murder, as
defined in ORS 163.11590 months
- (D) Manslaughter in the
first degree, as defined
in ORS 163.118120 months
- (E) Manslaughter in the
second degree, as defined
in ORS 163.12575 months
- (F) Assault in the first
degree, as defined
in ORS 163.18590 months
- (G) Assault in the second
degree, as defined
in ORS 163.17570 months
- (H) Kidnapping in the first
degree, as defined in
ORS 163.23590 months
- (I) Kidnapping in the second
degree, as defined in
ORS 163.22570 months
- (J) Rape in the first degree,
as defined in ORS 163.375100 months
- (K) Rape in the second
degree, as defined in
ORS 163.36575 months
- (L) Sodomy in the first
degree, as defined in
ORS 163.405100 months
- (M) Sodomy in the second
degree, as defined in
ORS 163.39575 months
- (N) Unlawful sexual
penetration in the first
degree, as defined

- in ORS 163.411100 months
- (O) Unlawful sexual penetration in the second degree, as defined in ORS 163.40875 months
- (P) Sexual abuse in the first degree, as defined in ORS 163.42775 months
- (Q) Robbery in the first degree, as defined in ORS 164.41590 months
- (R) Robbery in the second degree, as defined in ORS 164.40570 months
- (b)(A) Arson in the first degree, as defined in ORS 164.325, when the offense represented a threat of serious physical injury.90 months
- (B) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.70 months
- (C) Compelling prostitution, as defined in ORS 167.017 **(1)(a), (b) or (d)**.....70 months
- (c) Aggravated vehicular homicide, as defined in ORS 163.149.240 months

(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;

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

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

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

SECTION 4. 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 Senate April 14, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 31, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

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

Approved:

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

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

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

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Kate Brown, Secretary of State