

House Bill 4100

Sponsored by Representative HUNT; Representatives BARKER, BUCKLEY, COWAN, DOHERTY, FREDERICK, GELSER, KENNEMER, LINDSAY, MATTHEWS, THOMPSON, WEIDNER, WHISNANT (at the request of Oregon Abuse Advocates and Survivors in Service, Crime Victims United) (Pre-session filed.)

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**.

Eliminates statute of limitations for certain crimes committed against minors.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crimes committed against minors; creating new provisions; amending ORS 131.125 and
3 411.990; and declaring an emergency.

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

5 **SECTION 1.** ORS 131.125 is amended to read:

6 131.125. (1) A prosecution for aggravated murder, murder, attempted murder or aggravated
7 murder, conspiracy or solicitation to commit aggravated murder or murder or any degree of
8 manslaughter may be commenced at any time after the commission of the attempt, conspiracy or
9 solicitation to commit aggravated murder or murder, or the death of the person killed.

10 (2) A prosecution for any of the following felonies may be commenced within six years after the
11 commission of the crime or, if the victim at the time of the crime was under 18 years of age, [*anytime*
12 *before the victim attains 30 years of age or within 12 years after the offense is reported to a law*
13 *enforcement agency or the Department of Human Services, whichever occurs first*] **at any time after**
14 **the commission of the crime:**

15 [*(a) Strangulation under ORS 163.187 (4).*]

16 [*(b) (a) Criminal mistreatment in the first degree under ORS 163.205.*]

17 [*(c) Rape in the third degree under ORS 163.355.*]

18 [*(d) (b) Rape in the second degree under ORS 163.365.*]

19 [*(e) (c) Rape in the first degree under ORS 163.375.*]

20 [*(f) Sodomy in the third degree under ORS 163.385.*]

21 [*(g) (d) Sodomy in the second degree under ORS 163.395.*]

22 [*(h) (e) Sodomy in the first degree under ORS 163.405.*]

23 [*(i) (f) Unlawful sexual penetration in the second degree under ORS 163.408.*]

24 [*(j) (g) Unlawful sexual penetration in the first degree under ORS 163.411.*]

25 [*(k) (h) Sexual abuse in the second degree under ORS 163.425.*]

26 [*(L) (i) Sexual abuse in the first degree under ORS 163.427.*]

27 [*(m) Using a child in a display of sexual conduct under ORS 163.670.*]

28 [*(n) Encouraging child sexual abuse in the first degree under ORS 163.684.*]

29 [*(o) (j) Incest under ORS 163.525.*]

30 [*(p) (k) Promoting prostitution under ORS 167.012.*]

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 [(q)] (L) Compelling prostitution under ORS 167.017.

2 [(r) Luring a minor under ORS 167.057.]

3 (3) A prosecution for any of the following felonies may be commenced within six years
 4 after the commission of the crime or, if the victim at the time of the crime was under 18
 5 years of age, anytime before the victim attains 30 years of age or within 12 years after the
 6 offense is reported to a law enforcement agency or the Department of Human Services,
 7 whichever occurs first:

8 (a) Strangulation under ORS 163.187 (4).

9 (b) Rape in the third degree under ORS 163.355.

10 (c) Sodomy in the third degree under ORS 163.385.

11 (d) Using a child in a display of sexual conduct under ORS 163.670.

12 (e) Encouraging child sexual abuse in the first degree under ORS 163.684.

13 (f) Luring a minor under ORS 167.057.

14 [(3)] (4) A prosecution for any of the following misdemeanors may be commenced within four
 15 years after the commission of the crime or, if the victim at the time of the crime was under 18 years
 16 of age, anytime before the victim attains 22 years of age or within four years after the offense is
 17 reported to a law enforcement agency or the Department of Human Services, whichever occurs first:

18 (a) Strangulation under ORS 163.187 (3).

19 (b) Sexual abuse in the third degree under ORS 163.415.

20 (c) Exhibiting an obscene performance to a minor under ORS 167.075.

21 (d) Displaying obscene materials to minors under ORS 167.080.

22 [(4)] (5) [In the case of crimes described in subsection (2)(m) of this section, the victim is the child
 23 engaged in sexual conduct.] In the case of the crime described in subsection (2)[(o)] (j) of this section,
 24 the victim is the party to the incest other than the party being prosecuted. In the case of crimes
 25 described in subsection (2)[(p) and (q)] (k) and (L) of this section, the victim is the child whose acts
 26 of prostitution are promoted or compelled. **In the case of crimes described in subsection (3)(d)
 27 of this section, the victim is the child engaged in sexual conduct.**

28 [(5)] (6) A prosecution for arson in any degree may be commenced within six years after the
 29 commission of the crime.

30 [(6)] (7) Except as otherwise provided in [subsection (7) of] this section or as otherwise expressly
 31 provided by law, prosecutions for other offenses must be commenced within the following periods
 32 of limitations after their commission:

33 (a) For any other felony, three years.

34 (b) For any misdemeanor, two years.

35 (c) For a violation, six months.

36 [(7)] (8) If the period prescribed in subsection [(6)] (7) of this section has expired, a prosecution
 37 nevertheless may be commenced as follows:

38 (a) If the offense has as a material element either fraud or the breach of a fiduciary obligation,
 39 prosecution may be commenced within one year after discovery of the offense by an aggrieved party
 40 or by a person who has a legal duty to represent an aggrieved party and who is not a party to the
 41 offense, but in no case shall the period of limitation otherwise applicable be extended by more than
 42 three years;

43 (b) If the offense is based upon misconduct in office by a public officer or employee, prosecution
 44 may be commenced at any time while the defendant is in public office or employment or within two
 45 years thereafter, but in no case shall the period of limitation otherwise applicable be extended by

1 more than three years; or

2 (c) If the offense is an invasion of personal privacy under ORS 163.700, prosecution may be
3 commenced within one year after discovery of the offense by the person aggrieved by the offense,
4 by a person who has a legal duty to represent the person aggrieved by the offense or by a law
5 enforcement agency, but in no case shall the period of limitation otherwise applicable be extended
6 by more than three years.

7 [(8)] (9) Notwithstanding subsection (2) of this section, if the defendant is identified after the
8 period described in subsection (2) of this section on the basis of DNA (deoxyribonucleic acid) sample
9 comparisons, a prosecution for[:]

10 [(a)] rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first
11 degree or sexual abuse in the first degree may be commenced at any time after the commission of
12 the crime[.]

13 [(b) *Rape in the second degree, sodomy in the second degree or unlawful sexual penetration in the*
14 *second degree may be commenced within 25 years after the commission of the crime.*]

15 [(9) *Notwithstanding subsection (8) of this section, if a prosecution for a felony listed in subsection*
16 *(8) of this section*], **except that if the prosecution** would otherwise be barred by subsection (2) of
17 this section, the prosecution must be commenced within two years of the DNA-based identification
18 of the defendant.

19 **SECTION 2.** ORS 411.990 is amended to read:

20 411.990. (1) Violation of ORS 411.320 or 411.335 is a Class C misdemeanor.

21 (2) Violation of any provision of ORS 411.630 or 411.840 is a Class C felony which may be re-
22 duced to a Class A misdemeanor in accordance with ORS 161.705.

23 (3) Violation of ORS 411.675 is a Class C felony.

24 (4) Criminal prosecution of violators of ORS 411.675 shall be commenced in accordance with
25 ORS 131.125 [(6) and (7)] **(7) and (8)**.

26 **SECTION 3. The amendments to ORS 131.125 by section 1 of this 2012 Act apply to of-**
27 **fenses committed before, on or after the effective date of this 2012 Act, but do not operate**
28 **to revive a prosecution barred by the operation of ORS 131.125 before the effective date of**
29 **this 2012 Act.**

30 **SECTION 4. This 2012 Act being necessary for the immediate preservation of the public**
31 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**
32 **on its passage.**

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