

# D R A F T

## SUMMARY

Eliminates statute of limitations for certain sex crimes committed against minors by persons 18 years of age or older.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to crime; creating new provisions; amending ORS 131.125 and 411.990; and declaring an emergency.

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

**SECTION 1.** ORS 131.125, as amended by section 2, chapter 70, Oregon Laws 2012, 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 **and the defendant was 18 years of age or older at the time of the crime**, [*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*] **prosecution may be commenced at any time after the commission of the crime:**

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

- 1     [(b) *Criminal mistreatment in the first degree under ORS 163.205.*]  
2     [(c) *Rape in the third degree under ORS 163.355.*]  
3     [(d) *Rape in the second degree under ORS 163.365.*]  
4     [(e)] (a) Rape in the first degree under ORS 163.375.  
5     [(f) *Sodomy in the third degree under ORS 163.385.*]  
6     [(g) *Sodomy in the second degree under ORS 163.395.*]  
7     [(h)] (b) Sodomy in the first degree under ORS 163.405.  
8     [(i) *Unlawful sexual penetration in the second degree under ORS 163.408.*]  
9     [(j)] (c) Unlawful sexual penetration in the first degree under ORS  
10  163.411.  
11    [(k) *Sexual abuse in the second degree under ORS 163.425.*]  
12    [(L)] (d) Sexual abuse in the first degree under ORS 163.427.  
13    [(m) *Using a child in a display of sexual conduct under ORS 163.670.*]  
14    [(n) *Encouraging child sexual abuse in the first degree under ORS*  
15 *163.684.*]  
16    [(o)] (e) Incest under ORS 163.525.  
17    [(p) *Promoting prostitution under ORS 167.012.*]  
18    [(q) *Compelling prostitution under ORS 167.017.*]  
19    [(r) *Luring a minor under ORS 167.057.*]

20     **(3) A prosecution for the felonies listed in subsection (2) of this**  
21 **section may be commenced anytime before the victim attains 30 years**  
22 **of age or within 12 years after the offense is reported to a law**  
23 **enforcement agency or the Department of Human Services, whichever**  
24 **occurs first, if both the victim and the defendant were under 18 years**  
25 **of age at the time of the crime.**

26     **(4) A prosecution for any of the following felonies may be com-**  
27 **menced within six years after the commission of the crime or, if the**  
28 **victim at the time of the crime was under 18 years of age, anytime**  
29 **before the victim attains 30 years of age or within 12 years after the**  
30 **offense is reported to a law enforcement agency or the Department**  
31 **of Human Services, whichever occurs first:**

1 (a) **Strangulation under ORS 163.187 (4).**

2 (b) **Criminal mistreatment in the first degree under ORS 163.205.**

3 (c) **Rape in the third degree under ORS 163.355.**

4 (d) **Rape in the second degree under ORS 163.365.**

5 (e) **Sodomy in the third degree under ORS 163.385.**

6 (f) **Sodomy in the second degree under ORS 163.395.**

7 (g) **Unlawful sexual penetration in the second degree under ORS**  
8 **163.408.**

9 (h) **Sexual abuse in the second degree under ORS 163.425.**

10 (i) **Using a child in a display of sexual conduct under ORS 163.670.**

11 (j) **Encouraging child sexual abuse in the first degree under ORS**  
12 **163.684.**

13 (k) **Promoting prostitution under ORS 167.012.**

14 (L) **Compelling prostitution under ORS 167.017.**

15 (m) **Luring a minor under ORS 167.057.**

16 [(3)] (5) A prosecution for any of the following misdemeanors may be  
17 commenced within four years after the commission of the crime or, if the  
18 victim at the time of the crime was under 18 years of age, anytime before the  
19 victim attains 22 years of age or within four years after the offense is re-  
20 ported to a law enforcement agency or the Department of Human Services,  
21 whichever occurs first:

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

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

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

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

26 [(4)] (6) In the case of crimes described in subsection [(2)(m)] (4)(i) of this  
27 section, the victim is the child engaged in sexual conduct. In the case of the  
28 crime described in subsection [(2)(o)] (2)(e) of this section, the victim is the  
29 party to the incest other than the party being prosecuted. In the case of  
30 crimes described in subsection [(2)(p)] (4)(k) and [(q)] (L) of this section, the  
31 victim is the child whose acts of prostitution are promoted or compelled.

1        [(5)] (7) A prosecution for arson in any degree may be commenced within  
2 six years after the commission of the crime.

3        [(6)] (8) A prosecution for any of the following felonies may be com-  
4 menced within six years after the commission of the crime if the victim at  
5 the time of the crime was 65 years of age or older:

- 6        (a) Theft in the first degree under ORS 164.055.
- 7        (b) Aggravated theft in the first degree under ORS 164.057.
- 8        (c) Theft by extortion under ORS 164.075.
- 9        (d) Robbery in the third degree under ORS 164.395.
- 10       (e) Robbery in the second degree under ORS 164.405.
- 11       (f) Robbery in the first degree under ORS 164.415.
- 12       (g) Forgery in the first degree under ORS 165.013.
- 13       (h) Fraudulent use of a credit card under ORS 165.055 (4)(b).
- 14       (i) Identity theft under ORS 165.800.

15       [(7)] (9) Except as provided in subsection [(8)] (10) of this section or as  
16 otherwise expressly provided by law, prosecutions for other offenses must be  
17 commenced within the following periods of limitations after their commis-  
18 sion:

- 19       (a) For any other felony, three years.
- 20       (b) For any misdemeanor, two years.
- 21       (c) For a violation, six months.

22       [(8)] (10) If the period prescribed in subsection [(7)] (9) of this section has  
23 expired, a prosecution nevertheless may be commenced as follows:

- 24       (a) If the offense has as a material element either fraud or the breach of  
25 a fiduciary obligation, prosecution may be commenced within one year after  
26 discovery of the offense by an aggrieved party or by a person who has a legal  
27 duty to represent an aggrieved party and who is not a party to the offense,  
28 but in no case shall the period of limitation otherwise applicable be extended  
29 by more than three years;
- 30       (b) If the offense is based upon misconduct in office by a public officer  
31 or employee, prosecution may be commenced at any time while the defendant

1 is in public office or employment or within two years thereafter, but in no  
2 case shall the period of limitation otherwise applicable be extended by more  
3 than three years; or

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

10 [(9)] (11) Notwithstanding [subsection (2)] **subsections (2) and (4)** of this  
11 section, if the defendant is identified after the period described in [subsection  
12 (2)] **subsections (2) and (4)** of this section on the basis of DNA  
13 (deoxyribonucleic acid) sample comparisons, a prosecution for:

14 (a) Rape in the first degree, sodomy in the first degree, unlawful sexual  
15 penetration in the first degree or sexual abuse in the first degree may be  
16 commenced at any time after the commission of the crime.

17 (b) Rape in the second degree, sodomy in the second degree or unlawful  
18 sexual penetration in the second degree may be commenced within 25 years  
19 after the commission of the crime.

20 [(10)] (12) Notwithstanding subsection [(9)] (11) of this section, if a pro-  
21 secution for a felony listed in subsection [(9)] (11) of this section would oth-  
22 erwise be barred by subsection (2) **or** (4) of this section, the prosecution must  
23 be commenced within two years of the DNA-based identification of the de-  
24 fendant.

25 **SECTION 2. The amendments to ORS 131.125 by section 1 of this**  
26 **2013 Act apply to offenses committed before, on or after the effective**  
27 **date of this 2013 Act, but do not operate to revive a prosecution barred**  
28 **by the operation of ORS 131.125 before the effective date of this 2013**  
29 **Act.**

30 **SECTION 3.** ORS 411.990, as amended by section 3, chapter 70, Oregon  
31 Laws 2012, is amended to read:

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

2 (2) Violation of any provision of ORS 411.630 or 411.840 is a Class C fel-  
3 ony which may be reduced to a Class A misdemeanor in accordance with  
4 ORS 161.705.

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

6 (4) Criminal prosecution of violators of ORS 411.675 shall be commenced  
7 in accordance with ORS 131.125 [(7) and (8)] **(9) and (10)**.

8 **SECTION 4. This 2013 Act being necessary for the immediate pres-**  
9 **ervation of the public peace, health and safety, an emergency is de-**  
10 **clared to exist, and this 2013 Act takes effect on its passage.**

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