

House Bill 2019

Sponsored by Representatives TOMEI, GILLIAM; Representatives BAILEY, BARKER, BARNHART, BOONE, DEMBROW, FREDERICK, FREEMAN, HICKS, KOMP, KRIEGER, NATHANSON, REARDON, VEGA PEDERSON, WITT (at the request of Kids Are Not For Sale in Oregon Coalition)

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**.

Creates crime of patronizing a trafficked child. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both, if victim is child under 18 years of age. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both, if conviction is based on offer by or to law enforcement officer posing as child under 18 years of age. Enhances penalties for crime of trafficking in persons if victim was minor or force was used and trafficking was for purpose of commercial sex acts.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to sex trafficking of children; creating new provisions; amending ORS 40.210, 133.724,
3 137.106, 144.275, 147.005, 147.015, 147.025, 147.390, 161.005, 163.266, 166.715, 167.008, 181.594 and
4 419B.005; and declaring an emergency.

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

6 **SECTION 1. (1) A person commits the crime of patronizing a trafficked child if the per-**
7 **son engages in, or offers or agrees to engage in, a commercial sex act, as defined in ORS**
8 **163.266, with:**

9 (a) **A child under 18 years of age; or**

10 (b) **A law enforcement officer, as defined in ORS 163.730, who is posing as a child under**
11 **18 years of age.**

12 (2) **In any prosecution of a crime described in subsection (1)(a) of this section:**

13 (a) **The state is not required to prove that the defendant knew the child was under 18**
14 **years of age.**

15 (b) **It is not a defense that the defendant did not know the child's age or that the de-**
16 **fendant reasonably believed the child to be 18 years of age or older.**

17 (3) **Violation of subsection (1)(a) of this section is a Class B felony. Violation of sub-**
18 **section (1)(b) of this section is a Class C felony.**

19 **SECTION 2. (1) The Oregon Criminal Justice Commission shall consider patronizing a**
20 **trafficked child as described in section 1 of this 2013 Act to be a person felony and classify**
21 **the crime:**

22 (a) **As a crime category 9 of the sentencing guidelines grid if the offender violated section**
23 **1 (1)(a) of this 2013 Act.**

24 (b) **As a crime category 7 of the sentencing guidelines grid if the offender violated section**
25 **1 (1)(b) of this 2013 Act.**

26 (2) **In determining the criminal history for a person convicted of patronizing a trafficked**
27 **child, the commission shall consider the following to be the equivalent of one person felony.**

28 (a) **Two prior convictions of prostitution under ORS 167.007.**

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) Two prior convictions of patronizing a prostitute under ORS 167.008.**

2 **(c) One prior conviction of prostitution under ORS 167.007 and one prior conviction of**
3 **patronizing a prostitute under ORS 167.008.**

4 **SECTION 3.** ORS 163.266 is amended to read:

5 163.266. *[(1) A person commits the crime of trafficking in persons if the person knowingly:]*

6 *[(a) Recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit,*
7 *entice, harbor, transport, provide or obtain by any means, another person knowing that the other person*
8 *will be subjected to involuntary servitude as described in ORS 163.263 or 163.264; or]*

9 *[(b) Benefits financially or receives something of value from participation in a venture that involves*
10 *an act prohibited by this section or ORS 163.263 or 163.264.]*

11 *[(2) Trafficking in persons is a Class B felony.]*

12 **(1) A person commits the crime of trafficking in persons if the person knowingly re-**
13 **cruits, entices, harbors, transports, provides or obtains by any means, or attempts to re-**
14 **cruit, entice, harbor, transport, provide or obtain by any means, another person and:**

15 **(a) The person knows that the other person will be subjected to involuntary servitude**
16 **as described in ORS 163.263 or 163.264;**

17 **(b) The person knows or recklessly disregards the fact that force, fraud or coercion will**
18 **be used to cause the other person to engage in a commercial sex act; or**

19 **(c) The person knows or recklessly disregards the fact that the other person is under 18**
20 **years of age and will be used in a commercial sex act.**

21 **(2) A person commits the crime of trafficking in persons if the person knowingly benefits**
22 **financially or receives something of value from participation in a venture that involves an**
23 **act prohibited by subsection (1) of this section or ORS 163.263 or 163.264.**

24 **(3) As used in this section, “commercial sex act” means sexual conduct or sexual contact,**
25 **as those terms are defined in ORS 167.002, performed in return for a fee or anything of value.**

26 **(4) Violation of subsection (1)(a) or (2) of this section is a Class B felony.**

27 **(5) Violation of subsection (1)(b) or (c) of this section is a Class A felony.**

28 **SECTION 4.** ORS 167.008 is amended to read:

29 167.008. (1) A person commits the crime of patronizing a prostitute if the person pays, or offers
30 or agrees to pay, a fee to engage in sexual conduct or sexual contact.

31 (2) Patronizing a prostitute is a Class A misdemeanor.

32 *[(3)(a) When a person convicted of violating this section is 18 years of age or older at the time the*
33 *offense is committed and the person paid, or offered or agreed to pay, a fee to a minor to engage in*
34 *sexual conduct or sexual contact, in addition to any other sentence that may be imposed, the court shall*
35 *impose and may not suspend the sentence described in paragraph (b) of this subsection.]*

36 *[(b) Notwithstanding ORS 161.635, the mandatory minimum sentences that apply to paragraph (a)*
37 *of this subsection are as follows:]*

38 *[(A) For a person’s first conviction, a fine in the amount of \$10,000.]*

39 *[(B) For a person’s second conviction, a fine in the amount of \$20,000 and a term of incarceration*
40 *of at least seven days.]*

41 *[(C) For a person’s third or subsequent conviction, a fine in the amount of \$20,000 and a term of*
42 *incarceration of at least 30 days.]*

43 *[(c) Notwithstanding paragraphs (a) and (b) of this subsection, if the court determines that the*
44 *person is unable to pay the full amount of the mandatory minimum fine, the court shall impose and*
45 *may not suspend a fine in an amount the court determines the person is able to pay.]*

1 *[(d) In a prosecution in which it is alleged that this subsection applies, the state need not prove that*
 2 *the person knew the minor was under 18 years of age and it is no defense that the person did not know*
 3 *the minor's age or that the person reasonably believed the minor to be 18 years of age or older.]*

4 *[(e) As used in this subsection, "minor" means a person under 18 years of age.]*

5 **SECTION 5.** ORS 40.210 is amended to read:

6 40.210. (1) Notwithstanding any other provision of law, in a prosecution for a crime described
 7 in ORS **163.266 (1)(b) or (c)**, 163.355 to 163.427, **163.670 or 167.017 or section 1 of this 2013 Act**,
 8 or in a prosecution for an attempt to commit one of *[these]* **those** crimes, the following evidence is
 9 not admissible:

10 (a) Reputation or opinion evidence of the past sexual behavior of an alleged victim of the crime
 11 or a corroborating witness; or

12 (b) Reputation or opinion evidence presented for the purpose of showing that the manner of
 13 dress of an alleged victim of the crime incited the crime or indicated consent to the sexual acts al-
 14 leged in the charge.

15 (2) Notwithstanding any other provision of law, in a prosecution for a crime described in ORS
 16 163.355 to 163.427, or in a prosecution for an attempt to commit one of these crimes, evidence of a
 17 victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless
 18 the evidence other than reputation or opinion evidence:

19 (a) Is admitted in accordance with subsection (4) of this section; and

20 (b) Is evidence that:

21 (A) Relates to the motive or bias of the alleged victim;

22 (B) Is necessary to rebut or explain scientific or medical evidence offered by the state; or

23 (C) Is otherwise constitutionally required to be admitted.

24 (3) Notwithstanding any other provision of law, in a prosecution for a crime described in ORS
 25 163.355 to 163.427, or in a prosecution for an attempt to commit one of these crimes, evidence, other
 26 than reputation or opinion evidence, of the manner of dress of the alleged victim or a corroborating
 27 witness, presented by a person accused of committing the crime, is also not admissible, unless the
 28 evidence is:

29 (a) Admitted in accordance with subsection (4) of this section; and

30 (b) Is evidence that:

31 (A) Relates to the motive or bias of the alleged victim;

32 (B) Is necessary to rebut or explain scientific, medical or testimonial evidence offered by the
 33 state;

34 (C) Is necessary to establish the identity of the victim; or

35 (D) Is otherwise constitutionally required to be admitted.

36 (4)(a) If the person accused of committing rape, sodomy or sexual abuse or attempted rape,
 37 sodomy or sexual abuse intends to offer evidence under subsection (2) or (3) of this section, the ac-
 38 cused shall make a written motion to offer the evidence not later than 15 days before the date on
 39 which the trial in which the evidence is to be offered is scheduled to begin, except that the court
 40 may allow the motion to be made at a later date, including during trial, if the court determines ei-
 41 ther that the evidence is newly discovered and could not have been obtained earlier through the
 42 exercise of due diligence or that the issue to which the evidence relates has newly arisen in the
 43 case. Any motion made under this paragraph shall be served on all other parties, and on the alleged
 44 victim through the office of the prosecutor.

45 (b) The motion described in paragraph (a) of this subsection shall be accompanied by a written

1 offer of proof. If the court determines that the offer of proof contains evidence described in sub-
 2 section (2) or (3) of this section, the court shall order a hearing in camera to determine if the evi-
 3 dence is admissible. At the hearing the parties may call witnesses, including the alleged victim, and
 4 offer relevant evidence. Notwithstanding ORS 40.030 (2), if the relevancy of the evidence that the
 5 accused seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at
 6 the hearing in camera or at a subsequent hearing in camera scheduled for the same purpose, shall
 7 accept evidence on the issue of whether the condition of fact is fulfilled and shall determine the is-
 8 sue.

9 (c) If the court determines on the basis of the hearing described in paragraph (b) of this sub-
 10 section that the evidence the accused seeks to offer is relevant and that the probative value of the
 11 evidence outweighs the danger of unfair prejudice, the evidence shall be admissible in the trial to
 12 the extent an order made by the court specifies evidence that may be offered and areas with respect
 13 to which a witness may be examined or cross-examined. An order admitting evidence under this
 14 subsection may be appealed by the government before trial.

15 (5) For purposes of this section:

16 (a) "In camera" means out of the presence of the public and the jury; and

17 (b) "Past sexual behavior" means sexual behavior other than the sexual behavior with respect
 18 to which rape, sodomy or sexual abuse or attempted rape, sodomy or sexual abuse is alleged.

19 **SECTION 6.** ORS 133.724 is amended to read:

20 133.724. (1) An ex parte order for the interception of wire, electronic or oral communications
 21 may be issued by any circuit court judge upon written application made upon oath or affirmation
 22 of the individual who is the district attorney or a deputy district attorney authorized by the district
 23 attorney for the county in which the order is sought. The application shall include:

24 (a) The name of the district attorney or the deputy district attorney making the application and
 25 the authority of the district attorney or the deputy district attorney to make the application;

26 (b) The identity of the investigative or law enforcement officer making the application and the
 27 officer authorizing the application;

28 (c) A statement demonstrating that there is probable cause to believe that an individual is
 29 committing, has committed or is about to commit:

30 (A) A particular felony of murder, kidnapping, arson, robbery, bribery, extortion or other crime
 31 dangerous to life and punishable as a felony;

32 (B) A crime punishable as a felony under ORS **163.266 (1)(b) or (c)**, 166.720, **167.012, 167.017**,
 33 475.752, 475.806 to 475.894 or 475.904 to 475.910 **or section 1 of this 2013 Act** or as a misdemeanor
 34 under ORS 167.007 or 167.008; or

35 (C) Any conspiracy to commit any of the foregoing crimes;

36 (d) A statement of the details, if known, of the particular crime alleged under paragraph (c) of
 37 this subsection;

38 (e) A particular description of the nature and location of the facilities from which or the place
 39 where the wire, electronic or oral communication is to be intercepted, if known;

40 (f) A particular description of the type of wire, electronic or oral communication sought to be
 41 intercepted;

42 (g) The identity of the person, if known, suspected of committing the crime and whose wire,
 43 electronic or oral communications are to be intercepted;

44 (h) A full and complete statement as to whether or not other investigative procedures have been
 45 tried and failed or why other investigative procedures reasonably appear to be unlikely to succeed

1 if tried or are likely to be too dangerous;

2 (i) A statement of the period of time for which the interception is required to be maintained. If
 3 the nature of the investigation is such that the authorization for interception should not automat-
 4 ically terminate when the described type of wire, electronic or oral communication has been first
 5 obtained, a description of facts establishing probable cause to believe that additional communi-
 6 cations of the same type will occur thereafter;

7 (j) A statement as to whether any prior application has been made to intercept wire, electronic
 8 or oral communications from the same person and, if such prior application exists, a statement of
 9 the current status of that application; and

10 (k) Where the application is for the extension of an existing order, a statement setting forth the
 11 results thus far obtained from the interception, or a reasonable explanation of the failure to obtain
 12 such results.

13 (2) The judge may require the applicant to furnish further testimony or documentary evidence
 14 in support of the application.

15 (3) Upon examination of such application and evidence the judge may enter an ex parte order,
 16 as requested or as modified, authorizing or approving interception of wire, electronic or oral com-
 17 munications within the state if the judge determines on the basis of the facts submitted by the ap-
 18 plicant that:

19 (a) There is probable cause for belief that an individual is committing, has committed or is about
 20 to commit a particular crime described in subsection (1)(c) of this section;

21 (b) There is probable cause for belief that particular communications concerning that crime will
 22 be obtained through such interception;

23 (c) Normal investigative procedures have been tried and have failed or reasonably appear to be
 24 unlikely to succeed if tried or are likely to be too dangerous; and

25 (d) There is probable cause for belief that the facilities from which, or the place where, the wire,
 26 electronic or oral communications to be intercepted are being used, or are about to be used, in
 27 connection with the planning or the commission of that crime are open to the public or are owned
 28 by, leased to, listed in the name of, or commonly used by the individual suspected.

29 (4) Each order authorizing or approving the interception of any wire, electronic or oral com-
 30 munication shall specify:

31 (a) The identity of the person, if known, whose communications are to be intercepted;

32 (b) The nature and location of the communications facilities as to which, or the place where,
 33 authority to intercept is granted;

34 (c) A particular description of the type of communication sought to be intercepted, and a state-
 35 ment of the particular crime to which it relates;

36 (d) The identity of the agency authorized to intercept the communications and of the person
 37 authorizing the application;

38 (e) The period of time during which such interception is authorized, including a statement as to
 39 whether or not the interception shall automatically terminate when the described communication
 40 has been first obtained; and

41 (f) The name of the applicant, date of issuance, and the signature and title of the issuing judge.

42 (5) An order entered pursuant to this section may not authorize or approve the interception of
 43 any wire, electronic or oral communication for any period longer than is necessary to achieve the
 44 objective of authorization and in no event for longer than 30 days. Extensions of any order may be
 45 granted, but only when application for an extension is made in accordance with subsection (1)(k) of

1 this section and the court makes the findings required by subsection (3) of this section. The period
 2 of extension shall be no longer than the authorizing judge deems necessary to achieve the purpose
 3 for which it is granted and in no event for longer than 30 days. Every order and extension of that
 4 order shall contain a provision that the authorization to intercept must be executed as soon as
 5 practicable, must be conducted in such a way as to minimize the interception of communications not
 6 otherwise subject to interception, and must terminate upon attainment of the authorized objective,
 7 or in any event in 30 days.

8 (6) Whenever an order authorizing interception is entered pursuant to this section, the order
 9 may require reports to be made to the judge who issued the order showing what progress has been
 10 made toward achievement of the authorized objective and the need for continued interception. Such
 11 reports shall be made at such intervals as the judge may require.

12 **SECTION 7.** ORS 137.106 is amended to read:

13 137.106. (1) When a person is convicted of a crime, or a violation as described in ORS 153.008,
 14 that has resulted in economic damages, the district attorney shall investigate and present to the
 15 court, prior to the time of sentencing, evidence of the nature and amount of the damages. If the
 16 court finds from the evidence presented that a victim suffered economic damages, in addition to any
 17 other sanction it may impose, the court shall include one of the following in the judgment:

18 (a) A requirement that the defendant pay the victim restitution in a specific amount that equals
 19 the full amount of the victim's economic damages as determined by the court.

20 (b) A requirement that the defendant pay the victim restitution, and that the specific amount
 21 of restitution will be established by a supplemental judgment based upon a determination made by
 22 the court within 90 days of entry of the judgment. In the supplemental judgment, the court shall
 23 establish a specific amount of restitution that equals the full amount of the victim's economic dam-
 24 ages as determined by the court. The court may extend the time within which the determination and
 25 supplemental judgment may be completed for good cause. The lien, priority of the lien and ability
 26 to enforce the specific amount of restitution established under this paragraph by a supplemental
 27 judgment relates back to the date of the original judgment that is supplemented.

28 (c)(A) A requirement that the defendant pay the victim restitution in a specific amount that is
 29 less than the full amount of the victim's economic damages, with the consent of the victim.

30 (B) If the defendant is convicted of a person felony, as that term is defined in the rules of the
 31 Oregon Criminal Justice Commission, a requirement that the defendant pay the victim restitution
 32 in a specific amount that is less than the full amount of the victim's economic damages, only with
 33 the written consent of the victim.

34 **(2) Notwithstanding subsection (1) of this section, when a defendant is convicted of a**
 35 **crime described in ORS 163.266 (1)(b) or (c), 167.012 or 167.017 or section 1 of this 2013 Act,**
 36 **the court shall allow the district attorney 60 days after the time of sentencing to investigate**
 37 **the nature and amount of any economic damages. The district attorney shall notify the de-**
 38 **fendant and the court once the amount of damages is known, and the court shall set a**
 39 **hearing not more than 90 days after the time of sentencing during which the district attor-**
 40 **ney shall present evidence supporting the claim. If the court finds from the evidence pre-**
 41 **sentated that the victim suffered economic damages, the court shall order restitution in a**
 42 **specific amount that equals the full amount of the victim's economic damages unless the**
 43 **victim consents to a lesser amount.**

44 [(2)] (3) After the district attorney makes a presentation described in subsection (1) of this sec-
 45 tion, if the court is unable to find from the evidence presented that a victim suffered economic

1 damages, the court shall make a finding on the record to that effect.

2 [(3)] (4) No finding made by the court or failure of the court to make a finding under this section
 3 limits or impairs the rights of a person injured to sue and recover damages in a civil action as
 4 provided in ORS 137.109.

5 [(4)(a)] (5)(a) If a judgment or supplemental judgment described in subsection (1) of this section
 6 includes restitution, a court may delay the enforcement of the monetary sanctions, including
 7 restitution, only if the defendant alleges and establishes to the satisfaction of the court the
 8 defendant’s inability to pay the judgment in full at the time the judgment is entered. If the court
 9 finds that the defendant is unable to pay, the court may establish or allow an appropriate super-
 10 vising authority to establish a payment schedule, taking into consideration the financial resources
 11 of the defendant and the burden that payment of restitution will impose, with due regard to the
 12 other obligations of the defendant. The supervising authority shall be authorized to modify any
 13 payment schedule established under this section.

14 (b) As used in this subsection, “supervising authority” means any state or local agency that is
 15 authorized to supervise the defendant.

16 [(5)] (6) If the defendant objects to the imposition, amount or distribution of the restitution, the
 17 court shall allow the defendant to be heard on such issue at the time of sentencing or at the time
 18 the court determines the amount of restitution.

19 **SECTION 8.** ORS 147.005 is amended to read:

20 147.005. As used in ORS 147.005 to 147.367 unless the context requires otherwise:

21 (1) “Applicant” means:

- 22 (a) Any victim of a compensable crime who applies to the Department of Justice for compen-
 23 sation under ORS 147.005 to 147.367;
- 24 (b) Any person who was a dependent of a deceased victim at the time of the death of that victim;
- 25 (c) Any person who is a survivor of a deceased victim; or
- 26 (d) Any person eligible for compensation under ORS 147.025.

27 (2) “Board” means the Workers’ Compensation Board.

28 (3) “Child” means an unmarried person who is under 18 years of age and includes a posthumous
 29 child, stepchild or an adopted child.

30 (4) “Compensable crime” means abuse of corpse in any degree or an intentional, knowing,
 31 reckless or criminally negligent act that results in [*serious bodily*] injury or death of another person
 32 and that, if committed by a person of full legal capacity, would be punishable as a crime in this
 33 state.

34 (5) “Counseling” has the meaning given that term by the department by rule.

35 (6) “Dependent” means such relatives of a deceased victim who wholly or partially were de-
 36 pendent upon the victim’s income at the time of death or would have been so dependent but for the
 37 victim’s incapacity due to the injury from which the death resulted.

38 (7) “Department” means the Department of Justice.

39 (8) “Funeral expenses” means expenses of the funeral, burial, cremation or other chosen method
 40 of interment, including plot or tomb and other necessary incidents to the disposition of the remains
 41 and also including, in the case of abuse of corpse in any degree, reinterment.

42 (9) “Injury” means abuse of a corpse or actual bodily harm and, with respect to a victim, in-
 43 cludes pregnancy and mental or nervous shock.

44 (10) “International terrorism” means activities that:

- 45 (a) Involve violent acts or acts dangerous to human life that are a violation of the criminal laws

1 of the United States or any state or that would be a criminal violation if committed within the ju-
 2 risdiction of the United States or of any state;

3 (b) Appear to be intended to:

4 (A) Intimidate or coerce a civilian population;

5 (B) Influence the policy of a government by intimidation or coercion; or

6 (C) Affect the conduct of a government by assassination or kidnapping; and

7 (c) Occur primarily outside the territorial jurisdiction of the United States or transcend national
 8 boundaries in terms of the means by which they are accomplished, the persons they appear intended
 9 to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.

10 (11) "Involved in the hearing" and "involved in the oral argument" have the meaning given
 11 those terms by the department by rule.

12 (12) "Law enforcement official" means a sheriff, constable, marshal, municipal police officer or
 13 member of the Oregon State Police and such other persons as may be designated by law as a peace
 14 officer.

15 (13) "Relative" means a person related to the victim within the third degree as determined by
 16 the common law, a spouse, or an individual related to the spouse within the third degree as so de-
 17 termined and includes an individual in an adoptive relationship.

18 (14) "Survivor" means any spouse, parent, grandparent, guardian, sibling, child or other imme-
 19 diate family member or household member of a deceased victim.

20 (15) "Victim" means:

21 (a) A person:

22 (A) Killed or injured in this state as a result of a compensable crime perpetrated or attempted
 23 against that person;

24 (B) Killed or injured in this state while attempting to assist a person against whom a
 25 compensable crime is being perpetrated or attempted, if that attempt of assistance would be ex-
 26 pected of a reasonable person under the circumstances;

27 (C) Killed or injured in this state while assisting a law enforcement official to apprehend a
 28 person who has perpetrated a crime or to prevent the perpetration of any such crime, if that as-
 29 sistance was in response to the express request of the law enforcement official;

30 (D) Killed or injured in another state as a result of a criminal episode that began in this state;

31 (E) Who is an Oregon resident killed or injured as a result of a compensable crime perpetrated
 32 or attempted against the person in a state, within the United States, without a reciprocal crime
 33 victims' compensation program; or

34 (F) Who is an Oregon resident killed or injured by an act of international terrorism committed
 35 outside the United States; or

36 (b) In the case of abuse of corpse in any degree, the corpse or a relative of the corpse.

37 **SECTION 9.** ORS 147.015 is amended to read:

38 147.015. (1) A person is eligible for an award of compensation under ORS 147.005 to 147.367 if:

39 [(1)] (a) The person is a victim, or is a survivor or dependent of a deceased victim, of a
 40 compensable crime that has resulted in or may result in a compensable loss;

41 [(2)] (b) The appropriate law enforcement officials were notified of the perpetration of the crime
 42 allegedly causing the death or injury to the victim within 72 hours after its perpetration, unless the
 43 Department of Justice finds good cause exists for the failure of notification;

44 [(3)] (c) The applicant has cooperated fully with law enforcement officials in the apprehension
 45 and prosecution of the assailant or the department has found that the applicant's failure to cooper-

1 ate was for good cause;

2 [(4)] (d) The application for compensation is not the result of collusion between the applicant
3 and the assailant of the victim;

4 [(5)] (e) The death or injury to the victim was not substantially attributable to the wrongful act
5 of the victim or substantial provocation of the assailant of the victim; and

6 [(6)] (f) The application for an award of compensation under ORS 147.005 to 147.367 is filed with
7 the department:

8 [(a)] (A) Within one year of the date of the injury to the victim; or

9 [(b)] (B) Within such further extension of time as the department for good cause shown, allows.

10 **(2) The fact that a victim was subjected to sexual exploitation as defined in ORS 419B.005**
11 **is prima facie evidence of good cause for the victim's failure to notify law enforcement in a**
12 **timely manner under subsection (1)(b) of this section, or for failure to cooperate with law**
13 **enforcement under subsection (1)(c) of this section.**

14 **SECTION 10.** ORS 166.715 is amended to read:

15 166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

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

20 (2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business
21 trust or other profit or nonprofit legal entity, and includes any union, association or group of indi-
22 viduals associated in fact although not a legal entity, and both illicit and licit enterprises and gov-
23 ernmental and nongovernmental entities.

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

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

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

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

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

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

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

- 1 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing
 2 governmental administration;
- 3 (D) ORS 162.405 to 162.425, relating to abuse of public office;
- 4 (E) ORS 162.455, relating to interference with legislative operation;
- 5 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;
- 6 (G) ORS 163.160 to 163.205, relating to assault and related offenses;
- 7 (H) ORS 163.225 and 163.235, relating to kidnapping;
- 8 (I) ORS 163.275, relating to coercion;
- 9 (J) ORS 163.665 to 163.693, relating to sexual conduct of children;
- 10 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135,
 11 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and
 12 related offenses;
- 13 (L) ORS 164.315 to 164.335, relating to arson and related offenses;
- 14 (M) ORS 164.345 to 164.365, relating to criminal mischief;
- 15 (N) ORS 164.395 to 164.415, relating to robbery;
- 16 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a
 17 recording;
- 18 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and
 19 related offenses;
- 20 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;
- 21 (R) ORS 165.540 and 165.555, relating to communication crimes;
- 22 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating
 23 to firearms and other weapons;
- 24 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.057,
 25 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365,
 26 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexual conduct, gambling,
 27 computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting
 28 bird and related offenses;
- 29 (U) ORS 171.990, relating to legislative witnesses;
- 30 (V) ORS 260.575 and 260.665, relating to election offenses;
- 31 (W) ORS 314.075, relating to income tax;
- 32 (X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco
 33 products taxes and the directories developed under ORS 180.425 and 180.477;
- 34 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments, and ORS
 35 411.990 (2) and (3);
- 36 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;
- 37 (AA) ORS 463.995, relating to boxing, mixed martial arts and entertainment wrestling, as defined
 38 in ORS 463.015;
- 39 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445,
 40 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS
 41 chapter 471 relating to licenses issued under the Liquor Control Act;
- 42 (CC) ORS 475.005 to 475.285 and 475.752 to 475.980, relating to controlled substances;
- 43 (DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;
- 44 (EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;
- 45 (FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;

- 1 (GG) ORS chapter 706, relating to banking law administration;
- 2 (HH) ORS chapter 714, relating to branch banking;
- 3 (II) ORS chapter 716, relating to mutual savings banks;
- 4 (JJ) ORS chapter 723, relating to credit unions;
- 5 (KK) ORS chapter 726, relating to pawnbrokers;
- 6 (LL) ORS 166.382 and 166.384, relating to destructive devices;
- 7 (MM) ORS 165.074;
- 8 (NN) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;
- 9 (OO) ORS chapter 496, 497 or 498, relating to wildlife;
- 10 (PP) ORS 163.355 to 163.427, relating to sexual offenses;
- 11 (QQ) ORS 166.015, relating to riot;
- 12 (RR) ORS 166.155 and 166.165, relating to intimidation;
- 13 (SS) ORS chapter 696, relating to real estate and escrow;
- 14 (TT) ORS chapter 704, relating to outfitters and guides;
- 15 (UU) ORS 165.692, relating to making a false claim for health care payment;
- 16 (VV) ORS 162.117, relating to public investment fraud;
- 17 (WW) ORS 164.170 or 164.172;
- 18 (XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;
- 19 (YY) ORS 164.886;
- 20 (ZZ) ORS 167.312 and 167.388;
- 21 (AAA) ORS 164.889;
- 22 (BBB) ORS 165.800; or
- 23 (CCC) ORS 163.263, 163.264 or 163.266 **or section 1 of this 2013 Act.**
- 24 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).
- 25 (7) “Unlawful debt” means any money or other thing of value constituting principal or interest
- 26 of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred
- 27 or contracted:
- 28 (a) In violation of any one of the following:
- 29 (A) ORS chapter 462, relating to racing;
- 30 (B) ORS 167.108 to 167.164, relating to gambling; or
- 31 (C) ORS 82.010 to 82.170, relating to interest and usury.
- 32 (b) In gambling activity in violation of federal law or in the business of lending money at a rate
- 33 usurious under federal or state law.
- 34 (8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute
- 35 in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions
- 36 from what the statute was when this section was enacted, the reference shall extend to and include
- 37 amendments to the statute.
- 38 **SECTION 11.** ORS 181.594 is amended to read:
- 39 181.594. As used in this section and ORS 181.595, 181.596, 181.597, 181.603, 181.609, 181.826,
- 40 181.830 and 181.833:
- 41 (1) “Another United States court” means a federal court, a military court, the tribal court of a
- 42 federally recognized Indian tribe or a court of:
- 43 (a) A state other than Oregon;
- 44 (b) The District of Columbia;
- 45 (c) The Commonwealth of Puerto Rico;

- 1 (d) Guam;
- 2 (e) American Samoa;
- 3 (f) The Commonwealth of the Northern Mariana Islands; or
- 4 (g) The United States Virgin Islands.
- 5 (2) "Attends" means is enrolled on a full-time or part-time basis.
- 6 (3)(a) "Correctional facility" means any place used for the confinement of persons:
- 7 (A) Charged with or convicted of a crime or otherwise confined under a court order.
- 8 (B) Found to be within the jurisdiction of the juvenile court for having committed an act that
- 9 if committed by an adult would constitute a crime.
- 10 (b) "Correctional facility" applies to a state hospital or a secure intensive community inpatient
- 11 facility only as to persons detained therein charged with or convicted of a crime, or detained therein
- 12 after being found guilty except for insanity under ORS 161.290 to 161.370 or responsible except for
- 13 insanity under ORS 419C.411.
- 14 (4) "Institution of higher education" means a public or private educational institution that pro-
- 15 vides a program of post-secondary education.
- 16 (5) "Sex crime" means:
- 17 (a) Rape in any degree;
- 18 (b) Sodomy in any degree;
- 19 (c) Unlawful sexual penetration in any degree;
- 20 (d) Sexual abuse in any degree;
- 21 (e) Incest with a child victim;
- 22 (f) Using a child in a display of sexually explicit conduct;
- 23 (g) Encouraging child sexual abuse in any degree;
- 24 (h) Transporting child pornography into the state;
- 25 (i) Paying for viewing a child's sexually explicit conduct;
- 26 (j) Compelling prostitution;
- 27 (k) Promoting prostitution;
- 28 (L) Kidnapping in the first degree if the victim was under 18 years of age;
- 29 (m) Contributing to the sexual delinquency of a minor;
- 30 (n) Sexual misconduct if the offender is at least 18 years of age;
- 31 (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- 32 (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent
- 33 or by a person found to be within the jurisdiction of the juvenile court;
- 34 (q) Online sexual corruption of a child in any degree if the offender reasonably believed the
- 35 child to be more than five years younger than the offender;
- 36 (r) Sexual assault of an animal;
- 37 **(s) Trafficking in persons involving a commercial sex act;**
- 38 **(t) Patronizing a trafficked child;**
- 39 [(s)] **(u)** Any attempt to commit any of the crimes set forth in paragraphs (a) to [(r)] **(t)** of this
- 40 subsection;
- 41 [(t)] **(v)** Burglary, when committed with intent to commit any of the offenses listed in paragraphs
- 42 (a) to [(r)] **(t)** or [(u)] **(w)** of this subsection; or
- 43 [(u)] **(w)** Public indecency or private indecency, if the person has a prior conviction for a crime
- 44 listed in this subsection.
- 45 (6) "Sex offender" means a person who:

- 1 (a) Has been convicted of a sex crime;
- 2 (b) Has been found guilty except for insanity of a sex crime;
- 3 (c) Is paroled to this state under ORS 144.610 after being convicted in another United States
4 court of a crime that would constitute a sex crime if committed in this state; or
- 5 (d) Is described in ORS 181.609 (1).
- 6 (7) “Works” or “carries on a vocation” means full-time or part-time employment for more than
7 14 days within one calendar year whether financially compensated, volunteered or for the purpose
8 of governmental or educational benefit.
- 9 **SECTION 12.** ORS 419B.005, as amended by section 60, chapter 37, Oregon Laws 2012, and
10 section 1, chapter 92, Oregon Laws 2012, is amended to read:
- 11 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:
- 12 (1)(a) “Abuse” means:
- 13 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
14 which has been caused by other than accidental means, including any injury which appears to be
15 at variance with the explanation given of the injury.
- 16 (B) Any mental injury to a child, which shall include only observable and substantial impairment
17 of the child’s mental or psychological ability to function caused by cruelty to the child, with due
18 regard to the culture of the child.
- 19 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
20 tration and incest, as those acts are described in ORS chapter 163.
- 21 (D) Sexual abuse, as described in ORS chapter 163.
- 22 (E) Sexual exploitation, including but not limited to:
- 23 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
24 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
25 in the performing for people to observe or the photographing, filming, tape recording or other ex-
26 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
27 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
28 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
29 which is designed to serve educational or other legitimate purposes; *[and]*
- 30 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution **as described**
31 **in ORS 167.007 or a commercial sex act as defined in ORS 163.266**, *[or]* to patronize a prostitute
32 **as described in ORS 167.008 or to patronize a trafficked child**, *as defined in ORS chapter 167.*
33 **as described in section 1 of this 2013 Act; and**
- 34 (iii) **Trafficking in persons involving a child for commercial sex acts as described in ORS**
35 **163.266.**
- 36 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to
37 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
38 welfare of the child.
- 39 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
40 to the child’s health or welfare.
- 41 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.
- 42 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where
43 methamphetamines are being manufactured.
- 44 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child
45 to a substantial risk of harm to the child’s health or safety.

1 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the
2 conditions described in paragraph (a) of this subsection.

3 (2) "Child" means an unmarried person who is under 18 years of age.

4 (3) "Higher education institution" means:

5 (a) A community college as defined in ORS 341.005;

6 (b) A public university listed in ORS 352.002;

7 (c) The Oregon Health and Science University; and

8 (d) A private institution of higher education located in Oregon.

9 (4) "Law enforcement agency" means:

10 (a) A city or municipal police department.

11 (b) A county sheriff's office.

12 (c) The Oregon State Police.

13 (d) A police department established by a university under ORS 352.383.

14 (e) A county juvenile department.

15 (5) "Public or private official" means:

16 (a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric phy-
17 sician and surgeon, including any intern or resident.

18 (b) Dentist.

19 (c) School employee, including an employee of a higher education institution.

20 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
21 or employee of an in-home health service.

22 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
23 Council, Youth Development Council, Child Care Division of the Employment Department, the
24 Oregon Youth Authority, a county health department, a community mental health program, a com-
25 munity developmental disabilities program, a county juvenile department, a licensed child-caring
26 agency or an alcohol and drug treatment program.

27 (f) Peace officer.

28 (g) Psychologist.

29 (h) Member of the clergy.

30 (i) Regulated social worker.

31 (j) Optometrist.

32 (k) Chiropractor.

33 (L) Certified provider of foster care, or an employee thereof.

34 (m) Attorney.

35 (n) Licensed professional counselor.

36 (o) Licensed marriage and family therapist.

37 (p) Firefighter or emergency medical services provider.

38 (q) A court appointed special advocate, as defined in ORS 419A.004.

39 (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.

40 (s) Member of the Legislative Assembly.

41 (t) Physical, speech or occupational therapist.

42 (u) Audiologist.

43 (v) Speech-language pathologist.

44 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
45 gations or discipline by the commission.

1 (x) Pharmacist.

2 (y) An operator of a preschool recorded program under ORS 657A.255.

3 (z) An operator of a school-age recorded program under ORS 657A.257.

4 (aa) Employee of a private agency or organization facilitating the provision of respite services,
5 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
6 109.056.

7 (bb) Employee of a public or private organization providing child-related services or activities:

8 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
9 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
10 vision or auspices of religious, public or private educational systems or community service organ-
11 izations; and

12 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide
13 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-
14 ficking.

15 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
16 if compensated and if the athlete is a child.

17 **SECTION 13.** ORS 161.005 is amended to read:

18 161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290
19 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,
20 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to
21 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.196, 163.215 to
22 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.432, 163.433,
23 163.505 to 163.575, 163.665 to 163.693, 164.005, 164.015 to 164.135, 164.138, 164.140, 164.205 to 164.270,
24 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.857, 164.886, 165.002 to 165.102, 165.109, 165.118,
25 165.805, 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.057, 167.060 to
26 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340 and 167.350, 167.810 and
27 167.820 **and section 1 of this 2013 Act** shall be known and may be cited as Oregon Criminal Code
28 of 1971.

29 **SECTION 14.** ORS 144.275 is amended to read:

30 144.275. Whenever the State Board of Parole and Post-Prison Supervision orders the release on
31 parole of an inmate who has been ordered to pay compensatory fines pursuant to ORS 137.101 or
32 to make restitution pursuant to ORS 137.106, but with respect to whom payment of all or a portion
33 of the fine or restitution was suspended until the release of the inmate from imprisonment, the board
34 may establish a schedule by which payment of the compensatory fine or restitution shall be resumed.
35 In fixing the schedule and supervising the paroled inmate's performance thereunder, the board shall
36 consider the factors specified in ORS 137.106 [(4)] (5). The board shall provide to the sentencing
37 court a copy of the schedule and any modifications thereof.

38 **SECTION 15.** ORS 147.025 is amended to read:

39 147.025. (1) Notwithstanding that a person is not a victim or a dependent of a deceased victim
40 under ORS 147.015 (1)(a), the person is eligible for compensation for reasonable medical expenses
41 for the victim and for reasonable funeral expenses of the deceased victim if the person:

42 (a) Paid or incurred such expenses; and

43 (b) Files a claim in the manner provided in ORS 147.105 and the conditions in ORS 147.015 [(2)
44 to (6)] (1)(b) to (f) are met.

45 (2) Notwithstanding that a person is not a survivor or dependent of a deceased victim under

1 ORS 147.015 (1)(a), the person is eligible for compensation for reasonable counseling expenses up to
2 a maximum amount of \$500 if the person:

3 (a) Paid or incurred such expenses;

4 (b) Was a friend or acquaintance of the victim;

5 (c) Was the first person to discover the corpse of the victim; and

6 (d) Files a claim in the manner provided in ORS 147.105 and the conditions in ORS 147.015 [(2)
7 to (6)] (1)(b) to (f) are met.

8 (3) Notwithstanding that a person is not a victim or a survivor or dependent of a deceased vic-
9 tim under ORS 147.015 (1)(a), the person is eligible for the compensation described in ORS 147.035
10 (7) and (8) if:

11 (a) The person is the personal representative, as defined by the Department of Justice by rule,
12 of a victim or of a survivor or dependent of a deceased victim;

13 (b) The person is involved in the hearing or oral argument in lieu of the victim, survivor or
14 dependent; and

15 (c) The person files a claim in the manner provided in ORS 147.105 and the conditions in ORS
16 147.015 [(2) to (6)] (1)(b) to (f) are met.

17 (4) The Department of Justice may pay directly to the provider of the services compensation for
18 medical, funeral or counseling expenses incurred by the person.

19 **SECTION 16.** ORS 147.390 is amended to read:

20 147.390. (1) Notwithstanding that a child is not a victim under ORS 147.015 (1)(a), in cases of
21 suspected child sexual abuse as described in ORS 419B.005 (1)(a)(C), (D) or (E), or child physical
22 abuse by an adult or caretaker as otherwise described in ORS 419B.005 (1)(a)(A), compensation may
23 be made on behalf of the child for a child abuse medical assessment as defined in ORS 418.782 or
24 a medical examination required by ORS 419B.023, if:

25 (a) The expenses are actually paid or incurred by the applicant; and

26 (b) A claim is filed on behalf of the child in the manner provided in ORS 147.015.

27 (2) The Department of Justice may pay compensation for child abuse medical assessments or
28 medical examinations required by ORS 419B.023 regardless of whether a finding of abuse is made
29 and only if other insurance is unavailable. If the department pays compensation, the department
30 shall pay the compensation directly to the provider of the services. The medical fee schedules for
31 payment under this section shall be the schedules adopted under ORS 147.035.

32 **SECTION 17. This 2013 Act being necessary for the immediate preservation of the public**
33 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
34 **on its passage.**

35