

House Bill 2631

Sponsored by Representative DOHERTY; Representatives BOONE, KOMP, MATTHEWS, TOMEI (Presession 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 sex crimes committed against minors.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 131.125 and 411.990; and declaring an
3 emergency.

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

5 **SECTION 1.** ORS 131.125, as amended by section 2, chapter 70, Oregon Laws 2012, is amended
6 to read:

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

11 **(2) A prosecution for a sex crime as defined in ORS 181.594 may be commenced at any**
12 **time after the commission of the crime, if the victim at the time of the crime was under 18**
13 **years of age.**

14 **(3) Except as otherwise provided in subsection (2) of this section, a prosecution for any**
15 **of the following crimes may be commenced within six years after the commission of the**
16 **crime:**

17 **(a) Rape in the first degree under ORS 163.375.**

18 **(b) Sodomy in the first degree under ORS 163.405.**

19 **(c) Unlawful sexual penetration in the first degree under ORS 163.411.**

20 **(d) Sexual abuse in the second degree under ORS 163.425.**

21 **(e) Sexual abuse in the first degree under ORS 163.427.**

22 **(f) Incest under ORS 163.525.**

23 **(g) Promoting prostitution under ORS 167.012.**

24 **(h) Compelling prostitution under ORS 167.017.**

25 [(2)] (4) A prosecution for any of the following felonies may be commenced within six years after
26 the commission of the crime or, if the victim at the time of the crime was under 18 years of age,
27 anytime before the victim attains 30 years of age or within 12 years after the offense is reported to
28 a law enforcement agency or the Department of Human Services, whichever occurs first:

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

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

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

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

16 **(5) Except as otherwise provided in subsection (2) of this section, a prosecution for sexual**
 17 **abuse in the third degree under ORS 163.415 may be commenced within four years after the**
 18 **commission of the crime.**

19 *[(3) (6) A prosecution for any of the following misdemeanors may be commenced within four*
 20 *years after the commission of the crime or, if the victim at the time of the crime was under 18 years*
 21 *of age, anytime before the victim attains 22 years of age or within four years after the offense is*
 22 *reported to a law enforcement agency or the Department of Human Services, whichever occurs first:*

- 23 *(a) Strangulation under ORS 163.187 (3).*
- 24 *[(b) Sexual abuse in the third degree under ORS 163.415.]*
- 25 *[(c) (b) Exhibiting an obscene performance to a minor under ORS 167.075.*
- 26 *[(d) (c) Displaying obscene materials to minors under ORS 167.080.*

27 *[(4) In the case of crimes described in subsection (2)(m) of this section, the victim is the child en-*
 28 *gaged in sexual conduct. In the case of the crime described in subsection (2)(o) of this section, the*
 29 *victim is the party to the incest other than the party being prosecuted. In the case of crimes described*
 30 *in subsection (2)(p) and (q) of this section, the victim is the child whose acts of prostitution are pro-*
 31 *moted or compelled.]*

32 **(7) For purposes of this section, the victim in a prosecution for:**

- 33 **(a) Using a child in a display of sexually explicit conduct under ORS 163.670 is the child**
 34 **engaged in sexual conduct.**
- 35 **(b) Incest under ORS 163.525 is the party to the incest other than the party being pros-**
 36 **ecuted.**
- 37 **(c) Promoting prostitution under ORS 167.012 is the person whose acts of prostitution**
 38 **are promoted.**
- 39 **(d) Compelling prostitution under ORS 167.017 is the person whose acts of prostitution**
 40 **are compelled.**

41 *[(5) (8) A prosecution for arson in any degree may be commenced within six years after the*
 42 *commission of the crime.*

43 *[(6) (9) A prosecution for any of the following felonies may be commenced within six years after*
 44 *the commission of the crime if the victim at the time of the crime was 65 years of age or older:*

- 45 *(a) Theft in the first degree under ORS 164.055.*

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

9 [(7)] (10) Except as provided in subsection [(8)] (11) of this section or as otherwise expressly
 10 provided by law, prosecutions for other offenses must be commenced within the following periods
 11 of limitations after their commission:

- 12 (a) For any other felony, three years.
- 13 (b) For any misdemeanor, two years.
- 14 (c) For a violation, six months.

15 [(8)] (11) If the period prescribed in subsection [(7)] (10) of this section has expired, a prose-
 16 cution nevertheless may be commenced as follows:

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

22 (b) If the offense is based upon misconduct in office by a public officer or employee, prosecution
 23 may be commenced at any time while the defendant is in public office or employment or within two
 24 years thereafter, but in no case shall the period of limitation otherwise applicable be extended by
 25 more than three years; or

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

31 [(9)] (12) Notwithstanding subsection [(2)] (3) of this section, if the defendant is identified after
 32 the period described in subsection [(2)] (3) of this section on the basis of DNA (deoxyribonucleic
 33 acid) sample comparisons, a prosecution for[.:

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

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

39 [(10) Notwithstanding subsection (9) of this section, if a prosecution for a felony listed in subsection
 40 (9) of this section], **except that if the prosecution** would otherwise be barred by subsection [(2)]
 41 (3) of this section, the prosecution must be commenced within two years of the DNA-based identifi-
 42 cation of the defendant.

43 **SECTION 2.** ORS 411.990, as amended by section 3, chapter 70, Oregon Laws 2012, is amended
 44 to read:

45 411.990. (1) Violation of ORS 411.320 or 411.335 is a Class C misdemeanor.

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

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

4 [(4) *Criminal prosecution of violators of ORS 411.675 shall be commenced in accordance with ORS*
5 *131.125 (7) and (8).*]

6 **SECTION 3. (1) The amendments to ORS 131.125 by section 1 of this 2013 Act apply to**
7 **crimes committed before, on or after the effective date of this 2013 Act, but do not operate**
8 **to revive a prosecution barred by the operation of ORS 131.125 before the effective date of**
9 **this 2013 Act.**

10 (2) The amendments to ORS 131.125 by section 1 of this 2013 Act do not bar the prose-
11 cution of a defendant in accordance with the requirements of ORS 131.125 (9)(b) and (10), as
12 those provisions existed on the date immediately preceding the effective date of this 2013 Act.

13 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
14 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
15 **on its passage.**