

House Bill 3501

Sponsored by Representative CONGER

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 exploitation of a child. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both. Punishes by maximum of six months' imprisonment, \$2,500 fine, or both if defense established. Adds distributing visual recording of person under 18 years of age to crime of harassment.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to crime; creating new provisions; amending ORS 166.065; and declaring an emergency.

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

SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 163.665 to 163.693.

SECTION 2. (1) A person commits the crime of exploitation of a child if the person employs, authorizes, permits, compels or induces a child within three years of age of the person to participate or engage in sexually explicit conduct for any person to observe or to record in a visual recording.

(2) Exploitation of a child is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, exploitation of a child is a Class B misdemeanor if the defendant establishes the following affirmative defense:

(a) The victim was 12 years of age or older at the time of the offense;

(b) The defendant does not have a prior conviction for exploitation of a child or for a sex crime as defined in ORS 181.594;

(c) The defendant has not been found to be within the jurisdiction of a juvenile court for an act which, if committed by an adult, would constitute a felony sex crime as defined in ORS 181.594;

(d) The offense did not involve sexual contact with any minor other than the victim;

(e) The victim knowingly and voluntarily permitted the sexually explicit conduct to be observed or recorded; and

(f) The victim knowingly and voluntarily participated or engaged in the sexually explicit conduct at the time it was being observed or recorded.

SECTION 3. ORS 166.065 is amended to read:

166.065. (1) A person commits the crime of harassment if the person intentionally:

(a) Harasses or annoys another person by:

(A) Subjecting such other person to offensive physical contact; [or]

(B) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response; or

(C) Distributing a visual recording of the other person engaged in sexually explicit con-

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 **duct, as those terms are defined in ORS 163.665, or in a state of nudity, as defined in ORS**
 2 **163.700, when the other person is under 18 years of age at the time of the recording;**

3 (b) Subjects another to alarm by conveying a false report, known by the conveyor to be false,
 4 concerning death or serious physical injury to a person, which report reasonably would be expected
 5 to cause alarm; or

6 (c) Subjects another to alarm by conveying a telephonic, electronic or written threat to inflict
 7 serious physical injury on that person or to commit a felony involving the person or property of that
 8 person or any member of that person’s family, which threat reasonably would be expected to cause
 9 alarm.

10 (2)(a) A person is criminally liable for harassment if the person knowingly permits any telephone
 11 or electronic device under the person’s control to be used in violation of subsection (1) of this sec-
 12 tion.

13 (b) Harassment that is committed under the circumstances described in subsection (1)(c) of this
 14 section is committed in either the county in which the communication originated or the county in
 15 which the communication was received.

16 (3) Harassment is a Class B misdemeanor.

17 (4) Notwithstanding subsection (3) of this section, harassment is a Class A misdemeanor if a
 18 person violates:

19 (a) Subsection (1)(a)(A) of this section by subjecting another person to offensive physical contact
 20 and the offensive physical contact consists of touching the sexual or other intimate parts of the
 21 other person; [*or*]

22 **(b) Subsection (1)(a)(C) of this section; or**

23 [*b*] (c) Subsection (1)(c) of this section and:

24 (A) The person has a previous conviction under subsection (1)(c) of this section and the victim
 25 of the current offense was the victim or a member of the family of the victim of the previous offense;

26 (B) At the time the offense was committed, the victim was protected by a stalking protective
 27 order, a restraining order as defined in ORS 24.190 or any other court order prohibiting the person
 28 from contacting the victim;

29 (C) At the time the offense was committed, the person reasonably believed the victim to be un-
 30 der 18 years of age and more than three years younger than the person; or

31 (D)(i) The person conveyed a threat to kill the other person or any member of the family of the
 32 other person;

33 (ii) The person expressed the intent to carry out the threat; and

34 (iii) A reasonable person would believe that the threat was likely to be followed by action.

35 **(5) It is not a defense to a charge under subsection (1)(a)(C) of this section that the de-**
 36 **fendant did not know the age of the victim.**

37 [(5)] (6) As used in this section, “electronic threat” means a threat conveyed by electronic mail,
 38 the Internet, a telephone text message or any other transmission of information by wire, radio, op-
 39 tical cable, cellular system, electromagnetic system or other similar means.

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