

Enrolled Senate Bill 30

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CHAPTER

AN ACT

Relating to sex offender registration; creating new provisions; amending ORS 167.057 and 181.594; and declaring an emergency.

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

SECTION 1. ORS 167.057 is amended to read:

167.057. (1) A person commits the crime of luring a minor if the person furnishes to, or uses with, a minor a visual representation or explicit verbal description or narrative account of sexual conduct for the purpose of inducing the minor to engage in sexual conduct.

(2) A person is not liable to prosecution for violating subsection (1) of this section if the person furnishes or uses a representation, description or account of sexual conduct that forms merely an incidental part of an otherwise nonoffending whole and serves some purpose other than titillation.

(3) In a prosecution under subsection (1) of this section, it is an affirmative defense:

(a) That the representation, description or account was furnished or used for the purpose of psychological or medical treatment and was furnished by a treatment provider or by another person acting on behalf of the treatment provider;

(b) That the defendant had reasonable cause to believe that the person to whom the representation, description or account was furnished or with whom the representation, description or account was used was not a minor; or

(c) That the defendant was less than three years older than the minor at the time of the alleged offense.

(4) In a prosecution under subsection (1) of this section, it is not a defense that the person to whom the representation, description or account was furnished or with whom the representation, description or account was used was not a minor but was a law enforcement officer posing as a minor.

(5) Luring a minor is a Class C felony.

(6)(a) The court may designate luring a minor as a sex crime under ORS 181.594 if the court determines that:

(A) The offender reasonably believed the child to be more than five years younger than the offender or under 16 years of age; and

(B) Given the nature of the offense, the age or purported age of the minor and the person's criminal history, designation of the offense as a sex crime is necessary for the safety of the community.

(b) The court shall indicate the designation and the findings supporting the designation in the judgment.

SECTION 2. ORS 181.594 is amended to read:

181.594. As used in this section and ORS 181.595, 181.596, 181.597, 181.603, 181.609, 181.826, 181.830 and 181.833:

(1) "Another United States court" means a federal court, a military court, the tribal court of a federally recognized Indian tribe or a court of:

- (a) A state other than Oregon;
- (b) The District of Columbia;
- (c) The Commonwealth of Puerto Rico;
- (d) Guam;
- (e) American Samoa;
- (f) The Commonwealth of the Northern Mariana Islands; or
- (g) The United States Virgin Islands.

(2) "Attends" means is enrolled on a full-time or part-time basis.

(3)(a) "Correctional facility" means any place used for the confinement of persons:

(A) Charged with or convicted of a crime or otherwise confined under a court order.

(B) Found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a crime.

(b) "Correctional facility" applies to a state hospital or a secure intensive community inpatient facility only as to persons detained therein charged with or convicted of a crime, or detained therein after being found guilty except for insanity under ORS 161.290 to 161.370 or responsible except for insanity under ORS 419C.411.

(4) "Institution of higher education" means a public or private educational institution that provides a program of post-secondary education.

(5) "Sex crime" means:

- (a) Rape in any degree;
- (b) Sodomy in any degree;
- (c) Unlawful sexual penetration in any degree;
- (d) Sexual abuse in any degree;
- (e) Incest with a child victim;
- (f) Using a child in a display of sexually explicit conduct;
- (g) Encouraging child sexual abuse in any degree;
- (h) Transporting child pornography into the state;
- (i) Paying for viewing a child's sexually explicit conduct;
- (j) Compelling prostitution;
- (k) Promoting prostitution;
- (L) Kidnapping in the first degree if the victim was under 18 years of age;
- (m) Contributing to the sexual delinquency of a minor;
- (n) Sexual misconduct if the offender is at least 18 years of age;
- (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent or by a person found to be within the jurisdiction of the juvenile court;
- (q) Online sexual corruption of a child in any degree if the offender reasonably believed the child to be more than five years younger than the offender;

(r) Luring a minor, if:

(A) The offender reasonably believed the child to be more than five years younger than the offender or under 16 years of age; and

(B) The court designates in the judgment that the offense is a sex crime;

[(r)] (s) Sexual assault of an animal;

(t) Public indecency or private indecency, if the person has a prior conviction for a crime listed in this subsection;

[(s)] (u) Any attempt to commit any of the crimes [set forth] listed in paragraphs (a) to [(r)] (s) of this subsection;

[(t)] (v) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a) to [(r) or (u)] (t) of this subsection; or

[(u)] Public indecency or private indecency, if the person has a prior conviction for a crime listed in this subsection.]

(w) Criminal conspiracy if the offender agrees with one or more persons to engage in or cause the performance of an offense listed in paragraphs (a) to (t) of this subsection.

(6) "Sex offender" means a person who:

(a) Has been convicted of a sex crime;

(b) Has been found guilty except for insanity of a sex crime;

(c) Is paroled to this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state; or

(d) Is described in ORS 181.609 (1).

(7) "Works" or "carries on a vocation" means full-time or part-time employment for more than 14 days within one calendar year whether financially compensated, volunteered or for the purpose of governmental or educational benefit.

SECTION 3. The amendments to ORS 167.057 and 181.594 by sections 1 and 2 of this 2013 Act apply to offenders convicted of an offense or adjudicated for an act on or after the effective date of this 2013 Act.

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

Passed by Senate April 29, 2013

Received by Governor:

.....M,....., 2013

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Robert Taylor, Secretary of Senate

Approved:

.....M,....., 2013

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Peter Courtney, President of Senate

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John Kitzhaber, Governor

Passed by House May 22, 2013

Filed in Office of Secretary of State:

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Tina Kotek, Speaker of House

.....M,....., 2013

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Kate Brown, Secretary of State