

Enrolled Senate Bill 673

Sponsored by Senators CLOSE, JOHNSON, KNOPP, Representative TOMEI; Senators DEVLIN, DINGFELDER, EDWARDS, HANSELL, HASS, KRUSE, MONNES ANDERSON, STARR, STEINER HAYWARD, THOMSEN, WINTERS, Representatives CONGER, THATCHER

CHAPTER

AN ACT

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

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

SECTION 1. ORS 163.266 is amended to read:

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

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

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

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

(1) A person commits the crime of trafficking in persons if the person knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person and:

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

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

(c) The person knows or recklessly disregards the fact that the other person is under 15 years of age and will be used in a commercial sex act.

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

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

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

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

SECTION 2. ORS 167.008 is amended to read:

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

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

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

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

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

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

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

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

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

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

SECTION 3. Section 4 is added to and made a part of ORS 163.355 to 163.427.

SECTION 4. (1) A person commits the crime of purchasing sex with a minor if the person pays, or offers or agrees to pay, a fee to engage in sexual intercourse or sexual contact with a minor.

(2)(a) If the person does not have a prior conviction under this section at the time of the offense, purchasing sex with a minor is a Class C felony and the person may use a defense described in ORS 163.325 only if the minor was at least 16 years of age.

(b) If the person has one or more prior convictions under this section at the time of the offense, purchasing sex with a minor is a Class B felony, the state need not prove that the person knew the minor was under 18 years of age and the person may not use a defense described in ORS 163.325.

(3)(a) When a person is convicted under this section, in addition to any other sentence that may be imposed, the court shall impose and may not suspend the sentence described in paragraph (b) of this subsection.

(b) The mandatory minimum sentences that apply to paragraph (a) of this subsection are as follows:

(A) For a person's first conviction, a fine in the amount of \$10,000, a term of incarceration of at least 30 days and completion of a john school program.

(B) For a person's second or subsequent conviction, a fine in the amount of \$20,000 and the court shall designate the offense as a sex crime under ORS 181.594.

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

(d) For a person's first conviction under this section, the court may designate the offense as a sex crime under ORS 181.594 if the court finds that the circumstances of the offense and the age of the minor as reported to the defendant require the defendant to register and report as a sex offender for the safety of the community.

(4) As used in this section:

(a) "John school" means any course, class or program intended to educate and prevent recidivism of persons who have been arrested for, charged with or convicted of patronizing a prostitute or purchasing sex with a minor or attempting to patronize a prostitute or purchase sex with a minor.

(b) "Minor" means a person under 18 years of age.

SECTION 5. ORS 40.210 is amended to read:

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

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

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

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

(2) Notwithstanding any other provision of law, in a prosecution for a crime or an attempt to commit a crime listed in subsection (1) of this section, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless the evidence other than reputation or opinion evidence:

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

(b) Is evidence that:

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

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

(C) Is otherwise constitutionally required to be admitted.

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

(3) Notwithstanding any other provision of law, in a prosecution for a crime or an attempt to commit a crime listed in subsection (1) of this section, evidence, other than reputation or opinion evidence, of the manner of dress of the alleged victim or a corroborating witness, presented by a person accused of committing the crime, is also not admissible, unless the evidence is:

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

(b) Is evidence that:

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

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

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

(D) Is otherwise constitutionally required to be admitted.

(4)(a) If the person accused of [*committing rape, sodomy or sexual abuse or attempted rape, sodomy or sexual abuse*] **a crime or an attempt to commit a crime listed in subsection (1) of this section** intends to offer evidence under subsection (2) or (3) of this section, the accused shall make a written motion to offer the evidence not later than 15 days before the date on which the trial in which the evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which the evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties, and on the alleged victim through the office of the prosecutor.

(b) The motion described in paragraph (a) of this subsection shall be accompanied by a written offer of proof. If the court determines that the offer of proof contains evidence described in sub-

section (2) or (3) of this section, the court shall order a hearing in camera to determine if the evidence is admissible. At the hearing the parties may call witnesses, including the alleged victim, and offer relevant evidence. Notwithstanding ORS 40.030 (2), if the relevancy of the evidence that the accused seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in camera or at a subsequent hearing in camera scheduled for the same purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall determine the issue.

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

(5) For purposes of this section:

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

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

(b) "Past sexual behavior" means sexual behavior other than the sexual behavior with respect to which the crime or attempt to commit the crime listed in subsection (1) of this section is alleged.

SECTION 6. ORS 133.724 is amended to read:

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

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

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

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

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

(B) A crime punishable as a felony under ORS **163.266 (1)(b) or (c)**, 166.720, **167.012, 167.017, 475.752, 475.806 to 475.894, [or] 475.904 to 475.910 or section 4 of this 2013 Act** or as a misdemeanor under ORS 167.007 or 167.008; or

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

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

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

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

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

(h) A full and complete statement as to whether or not other investigative procedures have been tried and failed or why other investigative procedures reasonably appear to be unlikely to succeed if tried or are likely to be too dangerous;

(i) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of wire, electronic or oral communication has been first

obtained, a description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

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

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

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

(3) Upon examination of such application and evidence the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire, electronic or oral communications within the state if the judge determines on the basis of the facts submitted by the applicant that:

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

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

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

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

(4) Each order authorizing or approving the interception of any wire, electronic or oral communication shall specify:

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

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

(c) A particular description of the type of communication sought to be intercepted, and a statement of the particular crime to which it relates;

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

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

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

(5) An order entered pursuant to this section may not authorize or approve the interception of any wire, electronic or oral communication for any period longer than is necessary to achieve the objective of authorization and in no event for longer than 30 days. Extensions of any order may be granted, but only when application for an extension is made in accordance with subsection (1)(k) of this section and the court makes the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purpose for which it is granted and in no event for longer than 30 days. Every order and extension of that order shall contain a provision that the authorization to intercept must be executed as soon as practicable, must be conducted in such a way as to minimize the interception of communications not otherwise subject to interception, and must terminate upon attainment of the authorized objective, or in any event in 30 days.

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

SECTION 7. ORS 137.106 is amended to read:

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

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

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

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

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

(2) Notwithstanding subsection (1) of this section, when a defendant is convicted of a crime described in ORS 163.266 (1)(b) or (c), 167.012 or 167.017, the court shall allow the district attorney 60 days after the time of sentencing to investigate the nature and amount of any economic damages. The district attorney shall notify the defendant and the court once the amount of damages is known, and the court shall set a hearing not more than 90 days after the time of sentencing during which the district attorney shall present evidence supporting the claim. If the court finds from the evidence presented that the victim suffered economic damages, the court shall order restitution in a specific amount that equals the full amount of the victim's economic damages unless the victim consents to a lesser amount.

[2] (3) After the district attorney makes a presentation described in subsection (1) of this section, if the court is unable to find from the evidence presented that a victim suffered economic damages, the court shall make a finding on the record to that effect.

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

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

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

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

SECTION 8. ORS 147.005 is amended to read:

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

(1) "Applicant" means:

(a) Any victim of a compensable crime who applies to the Department of Justice for compensation under ORS 147.005 to 147.367;

(b) Any person who was a dependent of a deceased victim at the time of the death of that victim;

(c) Any person who is a survivor of a deceased victim; or

(d) Any person eligible for compensation under ORS 147.025.

(2) "Board" means the Workers' Compensation Board.

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

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

(5) "Counseling" has the meaning given that term by the department by rule.

(6) "Dependent" means such relatives of a deceased victim who wholly or partially were dependent upon the victim's income at the time of death or would have been so dependent but for the victim's incapacity due to the injury from which the death resulted.

(7) "Department" means the Department of Justice.

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

(9) "Injury" means abuse of a corpse or actual bodily harm and, with respect to a victim, includes pregnancy and mental or nervous shock.

(10) "International terrorism" means activities that:

(a) Involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any state or that would be a criminal violation if committed within the jurisdiction of the United States or of any state;

(b) Appear to be intended to:

(A) Intimidate or coerce a civilian population;

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

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

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

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

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

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

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

(15) "Victim" means:

(a) A person:

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

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

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

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

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

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

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

SECTION 9. ORS 147.015 is amended to read:

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

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

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

[3] (c) The applicant has cooperated fully with law enforcement officials in the apprehension and prosecution of the assailant or the department has found that the applicant's failure to cooperate was for good cause;

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

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

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

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

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

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

SECTION 10. 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) Sexual assault of an animal;
- (s) Trafficking in persons as described in ORS 163.266 (1)(b) or (c);**
- (t) Purchasing sex with a minor if the court designates the offense as a sex crime pursuant to section 4 (3)(d) of this 2013 Act, or the offense is the defendant's second or subsequent conviction under section 4 (3)(b)(B) of this 2013 Act;**

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

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

[(u)] **(w)** Public indecency or private indecency, if the person has a prior conviction for a crime listed in 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 11. ORS 419B.005, as amended by section 60, chapter 37, Oregon Laws 2012, and section 1, chapter 92, Oregon Laws 2012, is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution **as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in section 4 of this 2013 Act** or to patronize a prostitute[, *as defined in ORS chapter 167.*] **as described in ORS 167.008.**

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

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

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

(3) "Higher education institution" means:

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

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

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

(4) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

(c) The Oregon State Police.

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

(e) A county juvenile department.

(5) "Public or private official" means:

(a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric physician and surgeon, including any intern or resident.

(b) Dentist.

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

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

(e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Council, Youth Development Council, Child Care Division of the Employment Department, the Oregon Youth Authority, a county health department, a community mental health program, a com-

munity developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.

- (f) Peace officer.
- (g) Psychologist.
- (h) Member of the clergy.
- (i) Regulated social worker.
- (j) Optometrist.
- (k) Chiropractor.
- (L) Certified provider of foster care, or an employee thereof.
- (m) Attorney.
- (n) Licensed professional counselor.
- (o) Licensed marriage and family therapist.
- (p) Firefighter or emergency medical services provider.
- (q) A court appointed special advocate, as defined in ORS 419A.004.
- (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
- (s) Member of the Legislative Assembly.
- (t) Physical, speech or occupational therapist.
- (u) Audiologist.
- (v) Speech-language pathologist.
- (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
- (x) Pharmacist.
- (y) An operator of a preschool recorded program under ORS 657A.255.
- (z) An operator of a school-age recorded program under ORS 657A.257.
- (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
- (bb) Employee of a public or private organization providing child-related services or activities:
 - (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
 - (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
- (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.

SECTION 12. Section 13 of this 2013 Act is added to and made a part of ORS 181.610 to 181.712.

SECTION 13. The Board on Public Safety Standards and Training may require that all police officers and certified reserve officers are trained to recognize, investigate and report cases involving labor trafficking and sex trafficking of children and adults at any advanced training program operated or authorized by the Department of Public Safety Standards and Training.

SECTION 14. ORS 144.275 is amended to read:

144.275. Whenever the State Board of Parole and Post-Prison Supervision orders the release on parole of an inmate who has been ordered to pay compensatory fines pursuant to ORS 137.101 or to make restitution pursuant to ORS 137.106, but with respect to whom payment of all or a portion of the fine or restitution was suspended until the release of the inmate from imprisonment, the board may establish a schedule by which payment of the compensatory fine or restitution shall be resumed. In fixing the schedule and supervising the paroled inmate's performance thereunder, the board shall

consider the factors specified in ORS 137.106 [(4)] (5). The board shall provide to the sentencing court a copy of the schedule and any modifications thereof.

SECTION 15. ORS 147.025 is amended to read:

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

(a) Paid or incurred such expenses; and

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

(2) Notwithstanding that a person is not a survivor or dependent of a deceased victim under ORS 147.015 (1)(a), the person is eligible for compensation for reasonable counseling expenses up to a maximum amount of \$500 if the person:

(a) Paid or incurred such expenses;

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

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

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

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

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

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

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

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

SECTION 16. ORS 147.390 is amended to read:

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

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

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

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

SECTION 17. (1) Section 4 of this 2013 Act and the amendments to ORS 163.266, 167.008 and 181.594 by sections 1, 2 and 10 of this 2013 Act apply to prosecutions for offenses committed on or after the effective date of this 2013 Act.

(2) The amendments to ORS 40.210, 133.724, 137.106, 147.015 by sections 5, 6, 7 and 9 of this 2013 Act apply to prosecutions commenced on or after the effective date of this 2013 Act.

SECTION 18. If House Bill 3277 becomes law, sections 7 (amending ORS 137.106) and 14 (amending ORS 144.275) of this 2013 Act are repealed.

SECTION 19. 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 30, 2013

Repassed by Senate June 28, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 14, 2013

Repassed by House July 1, 2013

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Tina Kotek, Speaker of House

Received by Governor:

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

Approved:

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

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

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

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Kate Brown, Secretary of State