

# Senate Bill 786

Sponsored by Senator KNOPP, Representative BARTON; Representative BERGER

## 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**.

Expands crime of trafficking in persons to include children for purpose of engaging in commercial sex acts. Punishes by maximum of 20 years' imprisonment, \$375,000 fine, or both.

Directs Board on Public Safety Standards and Training to train police officers in recognizing and investigating sex and labor trafficking.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to trafficking of persons under 18 years of age; creating new provisions; amending ORS  
3 163.266, 181.594 and 419B.005; and declaring an emergency.

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

5 **SECTION 1.** ORS 163.266 is amended to read:

6 163.266. (1) A person commits the crime of trafficking in persons if the person knowingly:

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

10 **(b) Recruits, entices, harbors, transports, provides or obtains by any means, or attempts**  
11 **to recruit, entice, harbor, transport, provide or obtain by any means, a person under 18 years**  
12 **of age for the purpose of engaging in a commercial sex act;**

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

15 **(d) Advertises any of the activities prohibited by this section.**

16 (2) Trafficking in persons **under subsection (1)(a), (c) or (d) of this section** is a Class B fel-  
17 ony.

18 **(3) Trafficking in persons under subsection (1)(b) of this section is a Class A felony and**  
19 **the Oregon Criminal Justice Commission shall classify the offense as crime category 9 of the**  
20 **sentencing guidelines grid.**

21 **(4) In any prosecution under subsection (1)(b) of this section, it is not a defense that the**  
22 **defendant did not know the victim's age, that the victim consented to the activity or that**  
23 **the defendant is the victim's parent or legal guardian.**

24 **(5) 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 **SECTION 2.** ORS 181.594 is amended to read:

27 181.594. As used in this section and ORS 181.595, 181.596, 181.597, 181.603, 181.609, 181.826,  
28 181.830 and 181.833:

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

**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 (a) A state other than Oregon;
- 2 (b) The District of Columbia;
- 3 (c) The Commonwealth of Puerto Rico;
- 4 (d) Guam;
- 5 (e) American Samoa;
- 6 (f) The Commonwealth of the Northern Mariana Islands; or
- 7 (g) The United States Virgin Islands.
- 8 (2) "Attends" means is enrolled on a full-time or part-time basis.
- 9 (3)(a) "Correctional facility" means any place used for the confinement of persons:
- 10 (A) Charged with or convicted of a crime or otherwise confined under a court order.
- 11 (B) Found to be within the jurisdiction of the juvenile court for having committed an act that
- 12 if committed by an adult would constitute a crime.
- 13 (b) "Correctional facility" applies to a state hospital or a secure intensive community inpatient
- 14 facility only as to persons detained therein charged with or convicted of a crime, or detained therein
- 15 after being found guilty except for insanity under ORS 161.290 to 161.370 or responsible except for
- 16 insanity under ORS 419C.411.
- 17 (4) "Institution of higher education" means a public or private educational institution that pro-
- 18 vides a program of post-secondary education.
- 19 (5) "Sex crime" means:
- 20 (a) Rape in any degree;
- 21 (b) Sodomy in any degree;
- 22 (c) Unlawful sexual penetration in any degree;
- 23 (d) Sexual abuse in any degree;
- 24 (e) Incest with a child victim;
- 25 (f) Using a child in a display of sexually explicit conduct;
- 26 (g) Encouraging child sexual abuse in any degree;
- 27 (h) Transporting child pornography into the state;
- 28 (i) Paying for viewing a child's sexually explicit conduct;
- 29 (j) Compelling prostitution;
- 30 (k) Promoting prostitution;
- 31 (L) Kidnapping in the first degree if the victim was under 18 years of age;
- 32 (m) Contributing to the sexual delinquency of a minor;
- 33 (n) Sexual misconduct if the offender is at least 18 years of age;
- 34 (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- 35 (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent
- 36 or by a person found to be within the jurisdiction of the juvenile court;
- 37 (q) Online sexual corruption of a child in any degree if the offender reasonably believed the
- 38 child to be more than five years younger than the offender;
- 39 (r) Sexual assault of an animal;
- 40 (s) **Trafficking in persons for the purpose of engaging in a commercial sex act as de-**
- 41 **scribed in ORS 163.266 (1)(b);**
- 42 [(s)] (t) Any attempt to commit any of the crimes set forth in paragraphs (a) to [(r)] (s) of this
- 43 subsection;
- 44 [(t)] (u) Burglary, when committed with intent to commit any of the offenses listed in paragraphs
- 45 (a) to [(r)] (s) or [(u)] (v) of this subsection; or

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

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

4        (a) Has been convicted of a sex crime;

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

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

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

9        (7) "Works" or "carries on a vocation" means full-time or part-time employment for more than  
10 14 days within one calendar year whether financially compensated, volunteered or for the purpose  
11 of governmental or educational benefit.

12        **SECTION 3. Section 4 of this 2013 Act is added to and made a part of ORS 181.610 to**  
13 **181.712.**

14        **SECTION 4. The Board on Public Safety Standards and Training shall ensure that all**  
15 **police officers and certified reserve officers are trained to recognize, investigate and report**  
16 **cases involving labor trafficking and sex trafficking of children and adults.**

17        **SECTION 5.** ORS 419B.005, as amended by section 60, chapter 37, Oregon Laws 2012, and sec-  
18 tion 1, chapter 92, Oregon Laws 2012, is amended to read:

19        419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

20        (1)(a) "Abuse" means:

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

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

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

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

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

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

38        (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution **as described**  
39 **in ORS 167.007 or a commercial sex act as defined in ORS 163.266**, or to patronize a prostitute,  
40 as [defined in ORS chapter 167.] **described in ORS 167.008; and**

41        **(iii) Trafficking in persons for the purpose of engaging in a commercial sex act as de-**  
42 **scribed in ORS 163.266 (1)(b).**

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

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

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

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

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

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

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

11 (3) "Higher education institution" means:

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

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

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

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

16 (4) "Law enforcement agency" means:

17 (a) A city or municipal police department.

18 (b) A county sheriff's office.

19 (c) The Oregon State Police.

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

21 (e) A county juvenile department.

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

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

25 (b) Dentist.

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

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

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

34 (f) Peace officer.

35 (g) Psychologist.

36 (h) Member of the clergy.

37 (i) Regulated social worker.

38 (j) Optometrist.

39 (k) Chiropractor.

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

41 (m) Attorney.

42 (n) Licensed professional counselor.

43 (o) Licensed marriage and family therapist.

44 (p) Firefighter or emergency medical services provider.

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

- 1 (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
- 2 (s) Member of the Legislative Assembly.
- 3 (t) Physical, speech or occupational therapist.
- 4 (u) Audiologist.
- 5 (v) Speech-language pathologist.
- 6 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 7 gations or discipline by the commission.
- 8 (x) Pharmacist.
- 9 (y) An operator of a preschool recorded program under ORS 657A.255.
- 10 (z) An operator of a school-age recorded program under ORS 657A.257.
- 11 (aa) Employee of a private agency or organization facilitating the provision of respite services,
- 12 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
- 13 109.056.
- 14 (bb) Employee of a public or private organization providing child-related services or activities:
- 15 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
- 16 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
- 17 vision or auspices of religious, public or private educational systems or community service organ-
- 18 izations; and
- 19 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide
- 20 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-
- 21 ficking.
- 22 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
- 23 if compensated and if the athlete is a child.

24 **SECTION 6. This 2013 Act being necessary for the immediate preservation of the public**  
25 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
26 **on its passage.**

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