

# D R A F T

## SUMMARY

Increases penalty for crime of harassment if offense consists of subjecting another person to offensive physical contact and is committed in immediate presence of or witnessed by minor child in specified circumstances. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both. Directs Oregon Criminal Justice Commission to classify offense as person Class A misdemeanor under rules of commission.

## A BILL FOR AN ACT

Relating to harassment; amending ORS 166.065.

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

**SECTION 1.** 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;

(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, as defined in ORS 163.665, of the other person engaged in sexually explicit conduct, as defined in ORS 163.665, or in a state of nudity, as defined in ORS 163.700, when the other person is under 18 years of age at the time of the recording;

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

(c) Subjects another to alarm by conveying a telephonic, electronic or

1 written threat to inflict serious physical injury on that person or to commit  
2 a felony involving the person or property of that person or any member of  
3 that person's family, which threat reasonably would be expected to cause  
4 alarm.

5 (2)(a) A person is criminally liable for harassment if the person knowingly  
6 permits any telephone or electronic device under the person's control to be  
7 used in violation of subsection (1) of this section.

8 (b) Harassment that is committed under the circumstances described in  
9 subsection (1)(c) of this section is committed in either the county in which  
10 the communication originated or the county in which the communication  
11 was received.

12 (3) Harassment is a Class B misdemeanor.

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

15 (a) Subsection (1)(a)(A) of this section by subjecting another person to  
16 offensive physical contact and:

17 (A) The offensive physical contact consists of touching the sexual or  
18 other intimate parts of the other person; or

19 (B) **The offense is committed in the immediate presence of, or is**  
20 **witnessed by, the person's or the victim's minor child or stepchild or**  
21 **a minor child residing within the household of the person or victim;**

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

23 (c) Subsection (1)(c) of this section and:

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

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

30 (C) At the time the offense was committed, the person reasonably believed  
31 the victim to be under 18 years of age and more than three years younger

1 than the person; or

2 (D)(i) The person conveyed a threat to kill the other person or any mem-  
3 ber of the family of the other person;

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

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

7 (5) It is not a defense to a charge under subsection (1)(a)(C) of this section  
8 that the defendant did not know the age of the victim.

9 **(6) The Oregon Criminal Justice Commission shall classify**  
10 **harassment as described in subsection (4)(a)(B) of this section as a**  
11 **person Class A misdemeanor under the rules of the commission.**

12 [(6)] **(7)(a)** As used in this section, “electronic threat” means a threat  
13 conveyed by electronic mail, the Internet, a telephone text message or any  
14 other transmission of information by wire, radio, optical cable, cellular sys-  
15 tem, electromagnetic system or other similar means.

16 **(b) For purposes of subsection (4) of this section, an offense is wit-**  
17 **nessed if the offense is seen or directly perceived in any other manner**  
18 **by the minor child.**

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