

# Senate Bill 77

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## 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 using a misleading domain name on the Internet. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both, or 10 years' imprisonment, \$250,000 fine, or both, depending upon manner of committing crime. Classifies crime as sex crime.

Creates crime of using misleading words or digital images on the Internet. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both, or 20 years' imprisonment, \$375,000 fine, or both, depending upon manner of committing crime. Classifies crime as sex crime.

## A BILL FOR AN ACT

1  
2 Relating to sex offenders; creating new provisions; and amending ORS 161.005, 163A.005 and  
3 163A.115.

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

5 **SECTION 1. (1) A person commits the crime of using a misleading domain name on the**  
6 **Internet when the person knowingly uses a misleading domain name on the Internet with the**  
7 **intent to:**

8 (a) **Deceive another person into viewing material constituting obscenity; or**

9 (b) **Deceive a minor into viewing material that is harmful to minors.**

10 (2) **For purposes of this section, a domain name that includes a word to indicate the**  
11 **sexual content of the Internet site, such as "sex" or "porn," is not misleading.**

12 (3) **As used in this section:**

13 (a) **"Material that is harmful to minors" means any communication consisting of nudity,**  
14 **sex or excretion that, taken both as a whole and in context:**

15 (A) **Predominantly appeals to a prurient interest of minors;**

16 (B) **Is patently offensive to prevailing standards in the adult community as a whole with**  
17 **respect to what is suitable material for minors; and**

18 (C) **Lacks serious literary, artistic, political or scientific value for minors.**

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

20 (c) **"Sex" means acts of masturbation or sexual intercourse, physical contact with a**  
21 **person's genitals or the condition of human male or female genitals when in a state of sexual**  
22 **stimulation or arousal.**

23 (4)(a) **Using a misleading domain name on the Internet as described in subsection (1)(a)**  
24 **of this section is a Class A misdemeanor.**

25 (b) **Using a misleading domain name on the Internet as described in subsection (1)(b) of**  
26 **this section is a Class B felony.**

27 **SECTION 2. (1) A person commits the crime of using misleading words or digital images**  
28 **on the Internet when the person knowingly embeds words or digital images into the source**

**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 **code of an Internet website with the intent to:**

2 (a) **Deceive another person into viewing material constituting obscenity; or**

3 (b) **Deceive a minor into viewing material that is harmful to minors.**

4 (2) **For purposes of this section, a word, such as “sex” or “porn,” or a digital image that**  
 5 **clearly indicates the sexual content of the Internet website is not misleading.**

6 (3) **As used in this section:**

7 (a) **“Material that is harmful to minors” means any communication consisting of nudity,**  
 8 **sex or excretion that, taken both as a whole and in context:**

9 (A) **Predominantly appeals to a prurient interest of minors;**

10 (B) **Is patently offensive to prevailing standards in the adult community as a whole with**  
 11 **respect to what is suitable material for minors; and**

12 (C) **Lacks serious literary, artistic, political or scientific value for minors.**

13 (b) **“Minor” means a person under 18 years of age.**

14 (c) **“Sex” means acts of masturbation or sexual intercourse, physical contact with a**  
 15 **person’s genitals or the condition of human male or female genitals when in a state of sexual**  
 16 **stimulation or arousal.**

17 (d) **“Source code” means the combination of text and other characters comprising the**  
 18 **content, either viewable or nonviewable, of an Internet website, including any website pub-**  
 19 **lishing language, programming language, protocol or functional content, or any successor**  
 20 **languages or protocols.**

21 (4)(a) **Using misleading words or digital images on the Internet as described in subsection**  
 22 **(1)(a) of this section is a Class B felony.**

23 (b) **Using misleading words or digital images on the Internet as described in subsection**  
 24 **(1)(b) of this section is a Class A felony.**

25 **SECTION 3.** ORS 163A.005 is amended to read:

26 163A.005. As used in ORS 163A.005 to 163A.235:

27 (1) **“Another United States court” means a federal court, a military court, the tribal court of a**  
 28 **federally recognized Indian tribe or a court of:**

29 (a) **A state other than Oregon;**

30 (b) **The District of Columbia;**

31 (c) **The Commonwealth of Puerto Rico;**

32 (d) **Guam;**

33 (e) **American Samoa;**

34 (f) **The Commonwealth of the Northern Mariana Islands; or**

35 (g) **The United States Virgin Islands.**

36 (2) **“Attends” means is enrolled on a full-time or part-time basis.**

37 (3)(a) **“Correctional facility” means any place used for the confinement of persons:**

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

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

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

45 (4) **“Institution of higher education” means a public or private educational institution that pro-**

- 1 vides a program of post-secondary education.
- 2 (5) "Sex crime" means:
- 3 (a) Rape in any degree;
- 4 (b) Sodomy in any degree;
- 5 (c) Unlawful sexual penetration in any degree;
- 6 (d) Sexual abuse in any degree;
- 7 (e) Incest with a child victim;
- 8 (f) Using a child in a display of sexually explicit conduct;
- 9 (g) Encouraging child sexual abuse in any degree;
- 10 (h) Transporting child pornography into the state;
- 11 (i) Paying for viewing a child's sexually explicit conduct;
- 12 (j) Compelling prostitution;
- 13 (k) Promoting prostitution;
- 14 (L) Kidnapping in the first degree if the victim was under 18 years of age;
- 15 (m) Contributing to the sexual delinquency of a minor;
- 16 (n) Sexual misconduct if the offender is at least 18 years of age;
- 17 (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- 18 (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent
- 19 or by a person found to be within the jurisdiction of the juvenile court;
- 20 (q) Online sexual corruption of a child in any degree if the offender reasonably believed the
- 21 child to be more than five years younger than the offender;
- 22 (r) Luring a minor, if:
- 23 (A) The offender reasonably believed the minor or, in the case of a police officer or agent of a
- 24 police officer posing as a minor, the purported minor to be more than five years younger than the
- 25 offender or under 16 years of age; and
- 26 (B) The court designates in the judgment that the offense is a sex crime;
- 27 (s) Sexual assault of an animal;
- 28 (t) Public indecency or private indecency, if the person has a prior conviction for a crime listed
- 29 in this subsection;
- 30 (u) Trafficking in persons as described in ORS 163.266 (1)(b) or (c);
- 31 (v) Purchasing sex with a minor if the court designates the offense as a sex crime pursuant to
- 32 ORS 163.413 (3)(d), or the offense is the defendant's second or subsequent conviction under ORS
- 33 163.413 (3)(b)(B);
- 34 (w) Invasion of personal privacy in the first degree, if the court designates the offense as a sex
- 35 crime pursuant to ORS 163.701 (3);
- 36 **(x) Using a misleading domain name on the Internet;**
- 37 **(y) Using misleading words or digital images on the Internet;**
- 38 [(x)] **(z)** Any attempt to commit any of the crimes listed in paragraphs (a) to [(w)] **(y)** of this
- 39 subsection;
- 40 [(y)] **(z)** Burglary, when committed with intent to commit any of the offenses listed in paragraphs
- 41 (a) to [(w)] **(y)** of this subsection; or
- 42 [(z)] **(aa)** Criminal conspiracy if the offender agrees with one or more persons to engage in or
- 43 cause the performance of an offense listed in paragraphs (a) to [(w)] **(y)** of this subsection.
- 44 (6) "Sex offender" means a person who:
- 45 (a) Has been convicted of a sex crime;

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

2 (c) Has been convicted in another United States court of a crime:

3 (A) That would constitute a sex crime if committed in this state; or

4 (B) For which the person would have to register as a sex offender in that court's jurisdiction,  
5 or as required under federal law, regardless of whether the crime would constitute a sex crime in  
6 this state; or

7 (d) Is described in ORS 163A.025 (1).

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

11 **SECTION 4.** ORS 161.005, as amended by section 4, chapter 22, Oregon Laws 2016, is amended  
12 to read:

13 161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290  
14 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737,  
15 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to  
16 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.196, 163.215 to  
17 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.432, 163.433,  
18 163.472, 163.505 to 163.575, 163.665 to 163.693, 163.700, 163.701, 164.005, 164.015 to 164.135, 164.138,  
19 164.140, 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.857, 164.886, 165.002  
20 to 165.102, 165.109, 165.118, 165.805, 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to  
21 167.027, 167.057, 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340,  
22 167.350, 167.810 and 167.820 and section 1, chapter 22, Oregon Laws 2016, **and sections 1 and 2 of**  
23 **this 2017 Act** shall be known and may be cited as Oregon Criminal Code of 1971.

24 **SECTION 5.** ORS 163A.115 is amended to read:

25 163A.115. Notwithstanding any other provision of law:

26 (1) A person who is a sexually violent dangerous offender under ORS 137.765:

27 (a) Must be classified as a level three sex offender under ORS 163A.100 (3); and

28 (b) Is not eligible for relief from the obligation to report as a sex offender or reclassification as  
29 a level two sex offender under ORS 163A.100 (2), pursuant to a petition filed under ORS 163A.125.

30 (2) A person who has been convicted or found guilty except for insanity of one of the following  
31 offenses is not eligible for relief from the obligation to report as a sex offender pursuant to a peti-  
32 tion filed under ORS 163A.125 (1):

33 (a) Rape in the first degree;

34 (b) Sodomy in the first degree;

35 (c) Unlawful sexual penetration in the first degree;

36 (d) Kidnapping in the first degree as described in ORS 163.235 (1)(e) or when the victim is under  
37 18 years of age; or

38 (e) Burglary in the first degree when committed with the intent to commit any of the offenses  
39 listed in ORS 163A.005 (5)(a) to [(w)] (y).

40 (3) A person classified as a level three sex offender under section 7 (2)(b), chapter 708, Oregon  
41 Laws 2013, is not eligible for relief from the obligation to report as a sex offender pursuant to a  
42 petition filed under ORS 163A.125 (1).

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