

Requested by Representative PARRISH

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 1562**

1 On page 1 of the printed A-engrossed bill, line 2, delete “163.187” and in-
2 sert “40.355, 131.125, 163.187 and 166.470”.

3 Delete lines 4 through 24 and delete page 2 and insert:

4 **“SECTION 1.** ORS 163.187 is amended to read:

5 “163.187. (1) A person commits the crime of strangulation if the person
6 knowingly impedes the normal breathing or circulation of the blood of an-
7 other person by:

8 “(a) Applying pressure on the throat, [or] neck **or chest** of the other
9 person; or

10 “(b) Blocking the nose or mouth of the other person.

11 “(2) Subsection (1) of this section does not apply to legitimate medical or
12 dental procedures or good faith practices of a religious belief.

13 “(3) Strangulation is a [Class A misdemeanor] **Class C felony**.

14 “[4] Notwithstanding subsection (3) of this section, strangulation is a Class
15 C felony if:]

16 “[a] The crime is committed in the immediate presence of, or is witnessed
17 by, the person’s or the victim’s minor child or stepchild or a minor child re-
18 siding within the household of the person or the victim;]

19 “[b] The victim is under 10 years of age;]

20 “[c] During the commission of the crime, the person used, attempted to use
21 or threatened to use a dangerous or deadly weapon, as those terms are defined

1 *in ORS 161.015, unlawfully against another;]*

2 *“[(d) The person has been previously convicted of violating this section or*
3 *ORS 163.160, 163.165, 163.175, 163.185 or 163.190, or of committing an equiv-*
4 *alent crime in another jurisdiction, and the victim in the previous conviction*
5 *is the same person who is the victim of the current crime;]*

6 *“[(e) The person has at least three previous convictions for violating this*
7 *section or ORS 163.160, 163.165, 163.175, 163.185 or 163.190 or for committing*
8 *an equivalent crime in another jurisdiction, in any combination; or]*

9 *“[(f) The person commits the strangulation knowing that the victim is*
10 *pregnant.]*

11 *“[(5) For purposes of subsection (4)(a) of this section, a strangulation is*
12 *witnessed if the strangulation is seen or directly perceived in any other manner*
13 *by the child.]*

14 **“(4) The Oregon Criminal Justice Commission shall classify**
15 **strangulation as crime category 6 of the sentencing guidelines grid of**
16 **the commission.**

17 **“SECTION 2.** ORS 40.355 is amended to read:

18 **“40.355. (1) For the purpose of attacking the credibility of a witness, evi-**
19 **dence that the witness has been convicted of a crime shall be admitted if**
20 **elicited from the witness or established by public record, but only if the**
21 **crime:**

22 **“(a) Was punishable by death or imprisonment in excess of one year under**
23 **the law under which the witness was convicted; or**

24 **“(b) Involved false statement or dishonesty.**

25 **“(2)(a) If a defendant is charged with one or more of the crimes listed in**
26 **paragraph (b) of this subsection, and the defendant is a witness, evidence**
27 **that the defendant has been convicted of committing one or more of the fol-**
28 **lowing crimes against a family or household member, as defined in ORS**
29 **135.230, may be elicited from the defendant, or established by public record,**
30 **and admitted into evidence for the purpose of attacking the credibility of the**

1 defendant:

2 “(A) Assault in the fourth degree under ORS 163.160.

3 “(B) Menacing under ORS 163.190.

4 “(C) Harassment under ORS 166.065.

5 “(D) Attempted assault in the fourth degree under ORS 163.160 (1).

6 “(E) Attempted assault in the fourth degree under ORS 163.160 (3).

7 “(F) Strangulation [*under ORS 163.187*] **constituting a Class A**
8 **misdemeanor.**

9 “(G) The statutory counterpart in another jurisdiction to a crime listed
10 in this paragraph.

11 “(b) Evidence may be admitted into evidence for the purpose of attacking
12 the credibility of a defendant under the provisions of this subsection only if
13 the defendant is charged with committing one or more of the following
14 crimes against a family or household member, as defined in ORS 135.230:

15 “(A) Aggravated murder under ORS 163.095.

16 “(B) Murder under ORS 163.115.

17 “(C) Manslaughter in the first degree under ORS 163.118.

18 “(D) Manslaughter in the second degree under ORS 163.125.

19 “(E) Assault in the first degree under ORS 163.185.

20 “(F) Assault in the second degree under ORS 163.175.

21 “(G) Assault in the third degree under ORS 163.165.

22 “(H) Assault in the fourth degree under ORS 163.160.

23 “(I) Rape in the first degree under ORS 163.375 (1)(a).

24 “(J) Sodomy in the first degree under ORS 163.405 (1)(a).

25 “(K) Unlawful sexual penetration in the first degree under ORS 163.411
26 (1)(a).

27 “(L) Sexual abuse in the first degree under ORS 163.427 (1)(a)(B).

28 “(M) Kidnapping in the first degree under ORS 163.235.

29 “(N) Kidnapping in the second degree under ORS 163.225.

30 “(O) Burglary in the first degree under ORS 164.225.

1 “(P) Coercion under ORS 163.275.
2 “(Q) Stalking under ORS 163.732.
3 “(R) Violating a court’s stalking protective order under ORS 163.750.
4 “(S) Menacing under ORS 163.190.
5 “(T) Harassment under ORS 166.065.
6 “(U) Strangulation under ORS 163.187.
7 “(V) Attempting to commit a crime listed in this paragraph.
8 “(3) Evidence of a conviction under this section is not admissible if:
9 “(a) A period of more than 15 years has elapsed since the date of the
10 conviction or of the release of the witness from the confinement imposed for
11 that conviction, whichever is the later date; or
12 “(b) The conviction has been expunged by pardon, reversed, set aside or
13 otherwise rendered nugatory.
14 “(4) When the credibility of a witness is attacked by evidence that the
15 witness has been convicted of a crime, the witness shall be allowed to ex-
16 plain briefly the circumstances of the crime or former conviction; once the
17 witness explains the circumstances, the opposing side shall have the oppor-
18 tunity to rebut the explanation.
19 “(5) The pendency of an appeal therefrom does not render evidence of a
20 conviction inadmissible. Evidence of the pendency of an appeal is admissible.
21 “(6) An adjudication by a juvenile court that a child is within its juris-
22 diction is not a conviction of a crime.
23 “(7) A conviction of any of the statutory counterparts of offenses desig-
24 nated as violations as described in ORS 153.008 may not be used to impeach
25 the character of a witness in any criminal or civil action or proceeding.
26 **“SECTION 3.** ORS 131.125 is amended to read:
27 “131.125. (1) A prosecution for aggravated murder, murder, attempted
28 murder or aggravated murder, conspiracy or solicitation to commit aggra-
29 vated murder or murder or any degree of manslaughter may be commenced
30 at any time after the commission of the attempt, conspiracy or solicitation

1 to commit aggravated murder or murder, or the death of the person killed.

2 “(2) A prosecution for any of the following felonies may be commenced
3 within 12 years after the commission of the crime or, if the victim at the
4 time of the crime was under 18 years of age, anytime before the victim at-
5 tains 30 years of age:

6 “(a) Rape in the first degree under ORS 163.375.

7 “(b) Sodomy in the first degree under ORS 163.405.

8 “(c) Unlawful sexual penetration in the first degree under ORS 163.411.

9 “(d) Sexual abuse in the first degree under ORS 163.427.

10 “(3) A prosecution for any of the following felonies may be commenced
11 within six years after the commission of the crime or, if the victim at the
12 time of the crime was under 18 years of age, anytime before the victim at-
13 tains 30 years of age or within 12 years after the offense is reported to a law
14 enforcement agency or the Department of Human Services, whichever occurs
15 first:

16 “(a) Strangulation under ORS 163.187 [(4)].

17 “(b) Criminal mistreatment in the first degree under ORS 163.205.

18 “(c) Rape in the third degree under ORS 163.355.

19 “(d) Rape in the second degree under ORS 163.365.

20 “(e) Sodomy in the third degree under ORS 163.385.

21 “(f) Sodomy in the second degree under ORS 163.395.

22 “(g) Unlawful sexual penetration in the second degree under ORS 163.408.

23 “(h) Sexual abuse in the second degree under ORS 163.425.

24 “(i) Using a child in a display of sexual conduct under ORS 163.670.

25 “(j) Encouraging child sexual abuse in the first degree under ORS 163.684.

26 “(k) Incest under ORS 163.525.

27 “(L) Promoting prostitution under ORS 167.012.

28 “(m) Compelling prostitution under ORS 167.017.

29 “(n) Luring a minor under ORS 167.057.

30 “(4) A prosecution for any of the following misdemeanors may be com-

1 commenced within four years after the commission of the crime or, if the victim
2 at the time of the crime was under 18 years of age, anytime before the victim
3 attains 22 years of age or within four years after the offense is reported to
4 a law enforcement agency or the Department of Human Services, whichever
5 occurs first:

6 “[a) *Strangulation under ORS 163.187 (3).*]

7 “[b) **(a)** Sexual abuse in the third degree under ORS 163.415.

8 “[c) **(b)** Exhibiting an obscene performance to a minor under ORS
9 167.075.

10 “[d) **(c)** Displaying obscene materials to minors under ORS 167.080.

11 “(5) In the case of crimes described in subsection (3)(i) of this section, the
12 victim is the child engaged in sexual conduct. In the case of the crime de-
13 scribed in subsection (3)(k) of this section, the victim is the party to the
14 incest other than the party being prosecuted. In the case of crimes described
15 in subsection (3)(L) and (m) of this section, the victim is the child whose acts
16 of prostitution are promoted or compelled.

17 “(6) A prosecution for arson in any degree may be commenced within six
18 years after the commission of the crime.

19 “(7) A prosecution for any of the following felonies may be commenced
20 within six years after the commission of the crime if the victim at the time
21 of the crime was 65 years of age or older:

22 “(a) Theft in the first degree under ORS 164.055.

23 “(b) Aggravated theft in the first degree under ORS 164.057.

24 “(c) Extortion under ORS 164.075.

25 “(d) Robbery in the third degree under ORS 164.395.

26 “(e) Robbery in the second degree under ORS 164.405.

27 “(f) Robbery in the first degree under ORS 164.415.

28 “(g) Forgery in the first degree under ORS 165.013.

29 “(h) Fraudulent use of a credit card under ORS 165.055 (4)(b).

30 “(i) Identity theft under ORS 165.800.

1 “(8) Except as provided in subsection (9) of this section or as otherwise
2 expressly provided by law, prosecutions for other offenses must be com-
3 menced within the following periods of limitations after their commission:

4 “(a) For any other felony, three years.

5 “(b) For any misdemeanor, two years.

6 “(c) For a violation, six months.

7 “(9) If the period prescribed in subsection (8) of this section has expired,
8 a prosecution nevertheless may be commenced as follows:

9 “(a) If the offense has as a material element either fraud or the breach
10 of a fiduciary obligation, prosecution may be commenced within one year
11 after discovery of the offense by an aggrieved party or by a person who has
12 a legal duty to represent an aggrieved party and who is not a party to the
13 offense, but in no case shall the period of limitation otherwise applicable be
14 extended by more than three years;

15 “(b) If the offense is based upon misconduct in office by a public officer
16 or employee, prosecution may be commenced at any time while the defendant
17 is in public office or employment or within two years thereafter, but in no
18 case shall the period of limitation otherwise applicable be extended by more
19 than three years; or

20 “(c) If the offense is an invasion of personal privacy under ORS 163.700
21 or 163.701, prosecution may be commenced within one year after discovery
22 of the offense by the person aggrieved by the offense, by a person who has
23 a legal duty to represent the person aggrieved by the offense or by a law
24 enforcement agency, but in no case shall the period of limitation otherwise
25 applicable be extended by more than three years.

26 “(10) Notwithstanding subsections (2) and (3) of this section, if the de-
27 fendant is identified after the period described in subsection (2) or (3) of this
28 section on the basis of DNA (deoxyribonucleic acid) sample comparisons, a
29 prosecution for:

30 “(a) Rape in the first degree, sodomy in the first degree, unlawful sexual

1 penetration in the first degree or sexual abuse in the first degree may be
2 commenced at any time after the commission of the crime.

3 “(b) Rape in the second degree, sodomy in the second degree or unlawful
4 sexual penetration in the second degree may be commenced within 25 years
5 after the commission of the crime.

6 “(11) Notwithstanding subsection (10) of this section, if a prosecution for
7 a felony listed in subsection (10) of this section would otherwise be barred
8 by subsection (2) or (3) of this section, the prosecution must be commenced
9 within two years of the DNA-based identification of the defendant.

10 “(12)(a) Notwithstanding subsection (2) of this section, if a prosecuting
11 attorney obtains corroborating evidence of the crimes of rape in the first
12 degree, sodomy in the first degree, unlawful sexual penetration in the first
13 degree or sexual abuse in the first degree, after the period described in sub-
14 section (2) of this section, the prosecution may be commenced at any time
15 after the commission of the crime.

16 “(b) The corroborating evidence described in paragraph (a) of this sub-
17 section must consist of one of the following:

18 “(A) Physical evidence other than a DNA sample, including but not lim-
19 ited to audio, video or other electronic recordings, text messages, guest book
20 logs, telephone recordings and photographs.

21 “(B) A confession, made by the defendant, to the crime the victim re-
22 ported.

23 “(C) An oral statement, made by the victim to another person in temporal
24 proximity to the commission of the crime, corroborating the victim’s report
25 of the crime to a law enforcement agency.

26 “(D) A written statement, created by the victim in temporal proximity to
27 the commission of the crime and subsequently delivered to another person
28 or to a law enforcement agency, corroborating the victim’s report of the
29 crime to a law enforcement agency.

30 “(E) A report made by a different victim to a law enforcement agency,

1 made either before or after the victim’s report, alleging that the defendant
2 committed another crime of the same or similar character such that the two
3 crimes could be charged in the same charging instrument under ORS 132.560.

4 “(13)(a) A prosecuting attorney commencing a prosecution pursuant to
5 subsection (12) of this section shall present any evidence reasonably tending
6 to negate the guilt of the defendant to the grand jury considering the
7 indictment for the offense.

8 “(b) The failure to present evidence reasonably tending to negate guilt
9 as required by paragraph (a) of this subsection does not affect the validity
10 of an indictment or prosecution.

11 **“SECTION 4.** ORS 166.470 is amended to read:

12 “166.470. (1) Unless relief has been granted under ORS 166.273 or 166.274
13 or 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law
14 of another jurisdiction, a person may not intentionally sell, deliver or oth-
15 erwise transfer any firearm when the transferor knows or reasonably should
16 know that the recipient:

17 “(a) Is under 18 years of age;

18 “(b) Has been convicted of a felony;

19 “(c) Has any outstanding felony warrants for arrest;

20 “(d) Is free on any form of pretrial release for a felony;

21 “(e) Was committed to the Oregon Health Authority under ORS 426.130;

22 “(f) After January 1, 1990, was found to be a person with mental illness
23 and subject to an order under ORS 426.130 that the person be prohibited from
24 purchasing or possessing a firearm as a result of that mental illness;

25 “(g) Has been convicted of a misdemeanor involving violence or found
26 guilty except for insanity under ORS 161.295 of a misdemeanor involving vi-
27 olence within the previous four years. As used in this paragraph,
28 ‘misdemeanor involving violence’ means a misdemeanor described in ORS
29 163.160, [163.187,] 163.190, 163.195 or 166.155 (1)(b) **or strangulation consti-**
30 **tuting a Class A misdemeanor;**

1 “(h) Is presently subject to an order under ORS 426.133 prohibiting the
2 person from purchasing or possessing a firearm; or

3 “(i) Has been found guilty except for insanity under ORS 161.295 of a
4 felony.

5 “(2) A person may not sell, deliver or otherwise transfer any firearm that
6 the person knows or reasonably should know is stolen.

7 “(3) Subsection (1)(a) of this section does not prohibit:

8 “(a) The parent or guardian, or another person with the consent of the
9 parent or guardian, of a minor from transferring to the minor a firearm,
10 other than a handgun; or

11 “(b) The temporary transfer of any firearm to a minor for hunting, target
12 practice or any other lawful purpose.

13 “(4) Violation of this section is a Class A misdemeanor.

14 **“SECTION 5. The amendments to ORS 131.125 and 163.187 by
15 sections 1 and 3 of this 2018 Act apply to offenses committed on or
16 after the effective date of this 2018 Act.”.**

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