

## SENATE AMENDMENTS TO SENATE BILL 577

By COMMITTEE ON JUDICIARY

April 23

1 In line 2 of the printed bill, after “crimes” insert “; creating new provisions; amending ORS  
2 30.198, 30.200, 90.396, 137.225, 137.712, 163.707, 166.155, 166.165, 166.715 and 181A.225; and declaring  
3 an emergency”.

4 Delete lines 4 through 8 and insert:

5 “**SECTION 1.** ORS 166.155 is amended to read:

6 “166.155. (1) A person commits [*the crime of intimidation*] **a bias crime** in the second degree if  
7 the person:

8 “(a) Tamper or interferes with property, having no right to do so nor reasonable ground to  
9 believe that the person has such right, with the intent to cause substantial inconvenience to another  
10 **person** because of the person’s perception of the [*other’s*] **other person’s** race, color, religion,  
11 **gender identity**, sexual orientation, disability or national origin;

12 “(b) Intentionally subjects another **person** to offensive physical contact because of the person’s  
13 perception of the [*other’s*] **other person’s** race, color, religion, **gender identity**, sexual orientation,  
14 disability or national origin; or

15 “(c) Intentionally, because of the person’s perception of race, color, religion, **gender identity**,  
16 sexual orientation, disability or national origin of another **person** or of a member of the [*other’s*]  
17 **other person’s** family, subjects the other person to alarm by threatening:

18 “(A) To inflict serious physical injury upon or to commit a felony affecting the other person, or  
19 a member of the **other** person’s family; or

20 “(B) To cause substantial damage to the property of the other person or of a member of the  
21 other person’s family.

22 “(2) [*Intimidation*] **A bias crime** in the second degree is a Class A misdemeanor.

23 “(3) [*For purposes of*] **As used in this section and ORS 166.165[.]:**

24 “(a) ‘**Gender identity**’ means an individual’s **gender-related identity, appearance, ex-**  
25 **pression or behavior, regardless of whether the identity, appearance, expression or behavior**  
26 **differs from that associated with the gender assigned to the individual at birth.**

27 “(b) ‘**Property**’ means any tangible personal property or real property.

28 “**SECTION 2.** ORS 166.165 is amended to read:

29 “166.165. [(1) *Two or more persons acting together commit the crime of intimidation in the first*  
30 *degree, if the persons:*]

31 “[*(a)(A) Intentionally, knowingly or recklessly cause physical injury to another person because of*  
32 *the actors’ perception of that person’s race, color, religion, sexual orientation, disability or national*  
33 *origin; or*]

34 “[*(B) With criminal negligence cause physical injury to another person by means of a deadly*  
35 *weapon because of the actors’ perception of that person’s race, color, religion, sexual orientation, disa-*

1 *bility or national origin;]*

2 “[(b) *Intentionally, because of the actors’ perception of another person’s race, color, religion, sexual*  
3 *orientation, disability or national origin, place another person in fear of imminent serious physical in-*  
4 *jury; or]*

5 “[(c) *Commit such acts as would constitute the crime of intimidation in the second degree, if*  
6 *undertaken by one person acting alone.]*

7 “(1) **A person commits a bias crime in the first degree if the person:**

8 “(a) **Intentionally, knowingly or recklessly causes physical injury to another person be-**  
9 **cause of the person’s perception of the other person’s race, color, religion, gender identity,**  
10 **sexual orientation, disability or national origin;**

11 “(b) **With criminal negligence causes physical injury to another person by means of a**  
12 **deadly weapon because of the person’s perception of the other person’s race, color, religion,**  
13 **gender identity, sexual orientation, disability or national origin; or**

14 “(c) **Intentionally, because of the person’s perception of another person’s race, color,**  
15 **religion, gender identity, sexual orientation, disability or national origin, places another**  
16 **person in fear of imminent serious physical injury.**

17 “(2) [*Intimidation*] **A bias crime** in the first degree is a Class C felony.

18 “**SECTION 3.** ORS 181A.225 is amended to read:

19 “181A.225. (1) All law enforcement agencies shall report to the Department of State Police sta-  
20 tistics concerning crimes:

21 “(a) As directed by the department, for purposes of the Uniform Crime Reporting System of the  
22 Federal Bureau of Investigation.

23 “(b) As otherwise directed by the Governor concerning general criminal categories of criminal  
24 activities but not individual criminal records.

25 “(c) Motivated by prejudice based on the perceived race, color, religion, national origin, sexual  
26 orientation, [*marital status, political affiliation or beliefs, membership or activity in or on behalf of a*  
27 *labor organization or against a labor organization, physical or mental*] disability[, *age, economic or*  
28 *social status or citizenship*] **or gender identity** of the victim.

29 “(d) And other incidents arising out of domestic disturbances under ORS 133.055 (2) and 133.310  
30 (3).

31 “(2) The department shall prepare:

32 “(a) Quarterly and annual reports for the use of agencies reporting under subsection (1) of this  
33 section, and others having an interest therein;

34 “(b) An annual public report of the statistics on the incidence of crime motivated by prejudice  
35 based on the perceived race, color, religion, national origin, sexual orientation, [*marital status, pol-*  
36 *itical affiliation or beliefs, membership or activity in or on behalf of a labor organization or against*  
37 *a labor organization, physical or mental*] disability[, *age, economic or social status or citizenship*] **or**  
38 **gender identity** of the victim;

39 “(c) Quarterly and annual reports of the statistics on the incidence of crimes and incidents of  
40 domestic disturbances; and

41 “(d) Special reports as directed by the Governor.

42 “(3)(a) **The department shall report to the Oregon Criminal Justice Commission, contin-**  
43 **ually and at least quarterly, all primary data collected pursuant to subsection (1) of this**  
44 **section.**

45 “(b) **The data reported to, and maintained by, the commission under this subsection:**

1       “(A) Shall be used only for statistical purposes and not for any other purpose.

2       “(B) Is exempt from public disclosure if the data directly identifies any individual in-  
3       volved in a bias crime.

4       “**SECTION 4.** The Oregon Criminal Justice Commission, in the rules of the commission  
5       concerning sentencing departure factors, shall include gender identity as defined in ORS  
6       166.155 as a characteristic of the victim constituting an aggravating factor when the char-  
7       acteristic was the motivation, entirely or in part, for the commission of the crime.

8       “**SECTION 5.** (1)(a) No later than July 1, 2020, the Oregon Criminal Justice Commission,  
9       in consultation with the Oregon District Attorneys Association and the Department of State  
10      Police, shall develop and implement a standardized method for district attorneys to record  
11      the data described in subsection (2) of this section and report the data to the commission.

12      “(b) The commission shall analyze the data reported under this section to identify gaps  
13      or weaknesses in the investigation, presentation, prosecution and sanctioning of crimes mo-  
14      tivated by bias.

15      “(2) The data subject to recording and reporting under this section includes, at a mini-  
16      mum, the following data concerning any crime or alleged crime in which the bias of the actor  
17      was, in whole or in part, a motivating factor in the commission of the crime or alleged crime:

18      “(a) Charges presented to the district attorney for prosecution;

19      “(b) Cases issued by the district attorney;

20      “(c) Charges indicted;

21      “(d) Sentencing enhancements requested;

22      “(e) Sentences imposed, including conditions of supervision;

23      “(f) Charges to which a defendant enters a plea of guilty or no contest; and

24      “(g) Trial outcomes.

25      “(3) No later than July 1, 2020, the district attorneys of Multnomah County and two ad-  
26      ditional counties identified by the commission shall begin to record the data described in  
27      subsection (2) of this section. The counties shall report the data to the commission using the  
28      method identified in subsection (1) of this section.

29      “(4)(a) The commission shall select one or more statistical analysis methodologies, de-  
30      termined to be consistent with current best practices, with which to analyze the data re-  
31      ceived under subsection (3) of this section.

32      “(b) The commission shall analyze all data received under subsection (3) of this section  
33      using the selected methodology.

34      “(5) No later than July 1, 2021, the commission shall report on the analysis of the data  
35      received under subsection (3) of this section to the Legislative Assembly in the manner pro-  
36      vided under ORS 192.245.

37      “(6) After completing the report described in subsection (5) of this section, the commis-  
38      sion, in consultation with the Oregon District Attorneys Association and the Department of  
39      State Police, shall make any necessary refinements to the data reporting, recording and  
40      analysis methodologies.

41      “(7) No later than July 1, 2022, the district attorney of each county in this state shall  
42      record the data described in subsection (2) of this section and report the data to the com-  
43      mission.

44      “(8) The data reported to, and maintained by, the commission under this section:

45      “(a) Shall be used only for statistical purposes and not for any other purpose.

1       **“(b) Is exempt from public disclosure if the data directly identifies any individual involved**  
2 **in the crime or alleged crime described in subsection (2) of this section.**

3       **“(9) Any data recorded by a district attorney under this section that reveals the identity**  
4 **of any individual is exempt from public disclosure.**

5       **“(10) The commission may adopt rules to carry out the provisions of this section.**

6       **“SECTION 6.** Section 5 of this 2019 Act is amended to read:

7       **“Sec. 5.** (1)(a) *[No later than July 1, 2020,]* The Oregon Criminal Justice Commission, in consul-  
8 tation with the Oregon District Attorneys Association and the Department of State Police, shall  
9 develop and implement a standardized method for district attorneys to record the data described in  
10 subsection (2) of this section and report the data to the commission.

11       “(b) The commission shall analyze the data reported under this section to identify gaps or  
12 weaknesses in the investigation, presentation, prosecution and sanctioning of crimes motivated by  
13 bias.

14       “(2) The data subject to recording and reporting under this section includes, at a minimum, the  
15 following data concerning any crime or alleged crime in which the bias of the actor was, in whole  
16 or in part, a motivating factor in the commission of the crime or alleged crime:

17       “(a) Charges presented to the district attorney for prosecution;

18       “(b) Cases issued by the district attorney;

19       “(c) Charges indicted;

20       “(d) Sentencing enhancements requested;

21       “(e) Sentences imposed, including conditions of supervision;

22       “(f) Charges to which a defendant enters a plea of guilty or no contest; and

23       “(g) Trial outcomes.

24       “(3) *No later than July 1, 2020, the district attorneys of Multnomah County and two additional*  
25 *counties identified by the commission shall begin to record the data described in subsection (2) of this*  
26 *section. The counties shall report the data to the commission using the method identified in subsection*  
27 *(1) of this section.]*

28       “(4)(a) *The commission shall select one or more statistical analysis methodologies, determined to*  
29 *be consistent with current best practices, with which to analyze the data received under subsection (3)*  
30 *of this section.]*

31       “(b) *The commission shall analyze all data received under subsection (3) of this section using the*  
32 *selected methodology.]*

33       “(5) *No later than July 1, 2021, the commission shall report on the analysis of the data received*  
34 *under subsection (3) of this section to the Legislative Assembly in the manner provided under ORS*  
35 *192.245.]*

36       “(6) *After completing the report described in subsection (5) of this section, the commission, in*  
37 *consultation with the Oregon District Attorneys Association and the Department of State Police, shall*  
38 *make any necessary refinements to the data reporting, recording and analysis methodologies.]*

39       “(7) **(3)** *[No later than July 1, 2022,]* The district attorney of each county in this state shall  
40 record the data described in subsection (2) of this section and report the data to the commission.

41       “(8) **(4)** The data reported to, and maintained by, the commission under this section:

42       “(a) Shall be used only for statistical purposes and not for any other purpose.

43       “(b) Is exempt from public disclosure if the data directly identifies any individual involved in the  
44 crime or alleged crime described in subsection (2) of this section.

45       “(9) **(5)** Any data recorded by a district attorney under this section that reveals the identity

1 of any individual is exempt from public disclosure.

2 “[10] (6) The commission may adopt rules to carry out the provisions of this section.

3 **“SECTION 7. In addition to and not in lieu of any other appropriation, there is appro-**  
4 **riated to the Department of Justice, for the biennium beginning July 1, 2019, out of the**  
5 **General Fund, the amount of \$\_\_\_\_\_ for distribution to district attorneys for the purpose**  
6 **of implementing the provisions of section 5 of this 2019 Act.**

7 **“SECTION 8. (1) As used in this section:**

8 **“(a) ‘Bias crime’ means the commission, attempted commission or alleged commission**  
9 **of an offense described in ORS 166.155 or 166.165.**

10 **“(b) ‘Bias incident’ means a person’s hostile expression of animus toward another person,**  
11 **relating to the other person’s perceived race, color, religion, gender identity, sexual orien-**  
12 **tation, disability or national origin, of which criminal investigation or prosecution is impos-**  
13 **sible or inappropriate. ‘Bias incident’ does not include any incident in which probable cause**  
14 **of the commission of a crime is established by the investigating law enforcement officer.**

15 **“(c) ‘Hate crimes hotline’ means the telephone hotline established by the Department of**  
16 **Justice under subsection (3) of this section.**

17 **“(d) ‘Local victims’ services’ means services provided to a victim of a bias crime or bias**  
18 **incident, including but not limited to safety planning, trauma management and data report-**  
19 **ing, by an entity located in the same geographic area as the law enforcement agency that**  
20 **responds to the bias crime or bias incident.**

21 **“(2)(a) A law enforcement agency that responds to a report of a bias incident shall refer**  
22 **the victim of the bias incident to qualifying local victims’ services.**

23 **“(b) The Department of Justice shall by rule designate qualifying local victims’ services.**

24 **“(c) If qualifying local victims’ services are unavailable, the law enforcement agency shall**  
25 **refer the victim of the bias incident to the hate crimes hotline.**

26 **“(3) The Department of Justice shall establish a staffed hate crimes telephone hotline**  
27 **dedicated to assisting the victims of bias crimes and bias incidents.**

28 **“(4) There is created in the Department of Justice the position of Hate Crimes Response**  
29 **Coordinator. The Hate Crimes Response Coordinator shall:**

30 **“(a) Respond to all reports of bias crimes and bias incidents made to the hate crimes**  
31 **hotline.**

32 **“(b) Provide assistance to victims of bias crimes and bias incidents that is culturally**  
33 **competent and designed to reduce the effects of trauma, prevent further trauma and reach**  
34 **a diverse community.**

35 **“(c) Assist with safety planning for victims of bias crimes and bias incidents.**

36 **“(d) Coordinate with local nongovernmental organizations and service providers in as-**  
37 **sisting victims of bias crimes and bias incidents.**

38 **“(e) Develop training for nongovernmental organizations and service providers to stand-**  
39 **ardize methods for assisting victims of bias crimes and bias incidents.**

40 **“(5)(a) The Department of Justice shall:**

41 **“(A) In coordination with the Oregon Criminal Justice Commission, develop a standard-**  
42 **ized intake process for all reports of bias crimes and bias incidents made to the department.**

43 **“(B) Collect all data possible concerning the character, location and impacted protected**  
44 **class of any bias crime or bias incident reported to the department.**

45 **“(C) Report to the commission continually and at least quarterly all data collected pur-**

1 suant to this subsection.

2 “(b) The data reported to the commission under this subsection may not contain infor-  
3 mation that reveals the identity of any individual.

4 “(6) Any data collected by the Department of Justice under this section that reveals the  
5 identity of any individual is exempt from public disclosure.

6 “(7) The Department of Justice may adopt rules to carry out the provisions of this sec-  
7 tion.

8 “**SECTION 9.** (1) As used in this section:

9 “(a) ‘Bias crime’ means the commission, attempted commission or alleged commission  
10 of an offense described in ORS 166.155 or 166.165.

11 “(b) ‘Bias incident’ means a person’s hostile expression of animus toward another person,  
12 relating to the other person’s perceived race, color, religion, gender identity, sexual orien-  
13 tation, disability or national origin, of which criminal investigation or prosecution is impos-  
14 sible or inappropriate. ‘Bias incident’ does not include any incident in which probable cause  
15 of the commission of a crime is established by the investigating law enforcement officer.

16 “(2) The Oregon Criminal Justice Commission shall review all data pertaining to bias  
17 crimes and bias incidents submitted to the commission:

18 “(a) By district attorneys under section 5 of this 2019 Act;

19 “(b) By the Department of State Police under ORS 181A.225; and

20 “(c) By the Department of Justice under section 8 of this 2019 Act.

21 “(3) The commission shall select one or more statistical analysis methodologies, deter-  
22 mined to be consistent with current best practices, with which to analyze the data described  
23 in subsection (2) of this section.

24 “(4) No later than July 1, 2020, and at least annually thereafter, the commission shall  
25 report the results of the data analysis to the Governor, the Legislative Assembly, the At-  
26 torney General, the Oregon District Attorneys Association, the Department of State Police  
27 and the Department of Public Safety Standards and Training.

28 “(5) Except as provided in subsection (7) of this section, the data described in subsection  
29 (2) of this section shall be made publicly accessible to the fullest extent possible under state  
30 and federal law.

31 “(6) The commission may use the data described in subsection (2) of this section only for  
32 statistical purposes and not for any other purpose.

33 “(7) Any data described in subsection (2) of this section that reveals the identity of any  
34 individual is exempt from public disclosure.

35 “(8) The commission may adopt rules to carry out the provisions of this section.

36 “**SECTION 10.** In addition to and not in lieu of any other appropriation, there is appro-  
37 priated to the Oregon Criminal Justice Commission, for the biennium beginning July 1, 2019,  
38 out of the General Fund, the amount of \$\_\_\_\_\_ for the purpose of implementing the pro-  
39 visions of sections 5 and 9 of this 2019 Act.

40 “**SECTION 11.** ORS 90.396 is amended to read:

41 “90.396. (1) Except as provided in subsection (2) of this section, after at least 24 hours’ written  
42 notice specifying the acts and omissions constituting the cause and specifying the date and time of  
43 the termination, the landlord may terminate the rental agreement and take possession as provided  
44 in ORS 105.105 to 105.168, if:

45 “(a) The tenant, someone in the tenant’s control or the tenant’s pet seriously threatens to inflict

1 substantial personal injury, or inflicts any substantial personal injury, upon a person on the prem-  
2 ises other than the tenant;

3 “(b) The tenant or someone in the tenant’s control recklessly endangers a person on the prem-  
4 ises other than the tenant by creating a serious risk of substantial personal injury;

5 “(c) The tenant, someone in the tenant’s control or the tenant’s pet inflicts any substantial  
6 personal injury upon a neighbor living in the immediate vicinity of the premises;

7 “(d) The tenant or someone in the tenant’s control intentionally inflicts any substantial damage  
8 to the premises or the tenant’s pet inflicts substantial damage to the premises on more than one  
9 occasion;

10 “(e)(A) The tenant intentionally provided substantial false information on the application for the  
11 tenancy within the past year;

12 “(B) The false information was with regard to a criminal conviction of the tenant that would  
13 have been material to the landlord’s acceptance of the application; and

14 “(C) The landlord terminates the rental agreement within 30 days after discovering the falsity  
15 of the information; or

16 “(f) The tenant, someone in the tenant’s control or the tenant’s pet commits any act that is  
17 outrageous in the extreme, on the premises or in the immediate vicinity of the premises. For pur-  
18 poses of this paragraph, an act is outrageous in the extreme if the act is not described in paragraphs  
19 (a) to (e) of this subsection, but is similar in degree and is one that a reasonable person in that  
20 community would consider to be so offensive as to warrant termination of the tenancy within 24  
21 hours, considering the seriousness of the act or the risk to others. An act that is outrageous in the  
22 extreme is more extreme or serious than an act that warrants a 30-day termination under ORS  
23 90.392. Acts that are ‘outrageous in the extreme’ include, but are not limited to, the following acts  
24 by a person:

25 “(A) Prostitution, commercial sexual solicitation or promoting prostitution, as described in ORS  
26 167.007, 167.008 and 167.012;

27 “(B) Unlawful manufacture, delivery or possession of a controlled substance, as defined in ORS  
28 475.005;

29 “(C) Manufacture of a cannabinoid extract, as defined in ORS 475B.015, unless the person man-  
30 ufacturing the cannabinoid extract holds a license issued under ORS 475B.090 or is registered under  
31 ORS 475B.840;

32 “(D) [*Intimidation*] **A bias crime**, as described in ORS 166.155 and 166.165; or

33 “(E) Burglary as described in ORS 164.215 and 164.225.

34 “(2) If the cause for a termination notice given pursuant to subsection (1) of this section is based  
35 upon the acts of the tenant’s pet, the tenant may cure the cause and avoid termination of the  
36 tenancy by removing the pet from the premises prior to the end of the notice period. The notice  
37 must describe the right of the tenant to cure the cause. If the tenant returns the pet to the premises  
38 at any time after having cured the violation, the landlord, after at least 24 hours’ written notice  
39 specifying the subsequent presence of the offending pet, may terminate the rental agreement and  
40 take possession as provided in ORS 105.105 to 105.168. The tenant does not have a right to cure this  
41 subsequent violation.

42 “(3) For purposes of subsection (1) of this section, someone is in the tenant’s control if that  
43 person enters or remains on the premises with the tenant’s permission or consent after the tenant  
44 reasonably knows or should know of that person’s act or likelihood to commit any act of the type  
45 described in subsection (1) of this section.

1 “(4) An act can be proven to be outrageous in the extreme even if the act is one that does not  
2 violate a criminal statute. Notwithstanding the references to criminal statutes in subsection (1)(f)  
3 of this section, the landlord’s burden of proof in an action for possession under subsection (1) of this  
4 section is the civil standard of proof by a preponderance of the evidence.

5 “(5) If a good faith effort by a landlord to terminate the tenancy under subsection (1)(f) of this  
6 section and to recover possession of the rental unit under ORS 105.105 to 105.168 fails by decision  
7 of the court, the landlord may not be found in violation of any state statute or local ordinance re-  
8 quiring the landlord to remove that tenant upon threat of fine, abatement or forfeiture as long as  
9 the landlord continues to make a good faith effort to terminate the tenancy.

10 “**SECTION 12.** ORS 137.225, as amended by section 12, chapter 120, Oregon Laws 2018, is  
11 amended to read:

12 “137.225. (1)(a) Except as provided in paragraph (c) of this subsection, at any time after the lapse  
13 of three years from the date of pronouncement of judgment, any defendant who has fully complied  
14 with and performed the sentence of the court and whose conviction is described in subsection (5)  
15 of this section by motion may apply to the court where the conviction was entered for entry of an  
16 order setting aside the conviction. A person who is still under supervision, or who is still  
17 incarcerated, as part of the sentence for the offense that is the subject of the motion has not fully  
18 complied with or performed the sentence of the court.

19 “(b) At any time after the lapse of one year from the date of any arrest, issuance of a criminal  
20 citation or criminal charge, if no accusatory instrument was filed, or at any time after an acquittal  
21 or a dismissal of the charge, the arrested, cited or charged person may apply to the court that would  
22 have jurisdiction over the crime for which the person was arrested, cited or charged, for entry of  
23 an order setting aside the record of the arrest, citation or charge. For the purpose of computing the  
24 one-year period, time during which the person has secreted himself or herself within or without this  
25 state is not included.

26 “(c) A person whose sentence of probation was revoked may not apply to the court for entry  
27 of an order setting aside the conviction for which the person was sentenced to probation for a pe-  
28 riod of 10 years from the date of revocation.

29 “(2)(a) A copy of the motion and a full set of the defendant’s fingerprints shall be served upon  
30 the office of the prosecuting attorney who prosecuted the crime or violation, or who had authority  
31 to prosecute the charge if there was no accusatory instrument filed, and opportunity shall be given  
32 to contest the motion. The fingerprint card with the notation ‘motion for setting aside conviction,’  
33 or ‘motion for setting aside arrest, citation or charge record’ as the case may be, shall be forwarded  
34 to the Department of State Police. Information resulting from the fingerprint search along with the  
35 fingerprint card shall be returned to the prosecuting attorney.

36 “(b) When a prosecuting attorney is served with a copy of a motion to set aside a conviction  
37 under this section, the prosecuting attorney shall provide a copy of the motion and notice of the  
38 hearing date to the victim, if any, of the crime by mailing a copy of the motion and notice to the  
39 victim’s last-known address.

40 “(c) When a person makes a motion under subsection (1)(a) of this section, the person must pay  
41 a fee of \$80 to the Department of State Police. The person shall attach a certified check payable to  
42 the Department of State Police in the amount of \$80 to the fingerprint card that is served upon the  
43 prosecuting attorney. The office of the prosecuting attorney shall forward the check with the fin-  
44 gerprint card to the Department of State Police.

45 “(d) In addition to the fee established under paragraph (c) of this subsection, when a person



1 makes a motion under subsection (1)(a) of this section the person must pay the filing fee established  
2 under ORS 21.135.

3 “(e) The prosecuting attorney may not charge the defendant a fee for performing the require-  
4 ments described in this section.

5 “(3) Upon hearing the motion, the court may require the filing of such affidavits and may require  
6 the taking of such proofs as the court deems proper. The court shall allow the victim to make a  
7 statement at the hearing. Except as otherwise provided in subsection (12) of this section, if the court  
8 determines that the circumstances and behavior of the applicant from the date of conviction, or from  
9 the date of arrest, citation or charge as the case may be, to the date of the hearing on the motion  
10 warrant setting aside the conviction, or the arrest, citation or charge record as the case may be,  
11 the court shall enter an appropriate order that shall state the original arrest or citation charge and  
12 the conviction charge, if any and if different from the original, date of charge, submitting agency  
13 and disposition. The order shall further state that positive identification has been established by the  
14 Department of State Police and further identified as to Department of State Police number or sub-  
15 mitting agency number. Upon the entry of the order, the applicant for purposes of the law shall be  
16 deemed not to have been previously convicted, or arrested, cited or charged as the case may be, and  
17 the court shall issue an order sealing the record of conviction and other official records in the case,  
18 including the records of arrest, citation or charge whether or not the arrest, citation or charge re-  
19 sulted in a further criminal proceeding.

20 “(4) The clerk of the court shall forward a certified copy of the order to such agencies as di-  
21 rected by the court. A certified copy must be sent to the Department of Corrections when the person  
22 has been in the custody of the Department of Corrections. Upon entry of the order, the conviction,  
23 arrest, citation, charge or other proceeding shall be deemed not to have occurred, and the applicant  
24 may answer accordingly any questions relating to its occurrence.

25 “(5) The provisions of subsection (1)(a) of this section apply to a conviction for:

26 “(a) A Class B felony, except for a violation of ORS 166.429 or any crime classified as a person  
27 felony as that term is defined in the rules of the Oregon Criminal Justice Commission, only if:

28 “(A)(i) Twenty years or more have elapsed from the date of the conviction sought to be set aside  
29 or of the release of the person from imprisonment for the conviction sought to be set aside, which-  
30 ever is later; and

31 “(ii) The person has not been convicted of, arrested or criminally cited for or charged with any  
32 other offense, excluding motor vehicle violations, after the date the person was convicted of the of-  
33 fense sought to be set aside. Notwithstanding subsection (1) of this section, a conviction, arrest, ci-  
34 tation or charge that has been set aside under this section shall be considered for the purpose of  
35 determining whether this subparagraph is applicable; or

36 “(B) The Class B felony is described in paragraphs (b) to (d) of this subsection.

37 “(b) Any misdemeanor, Class C felony or felony punishable as a misdemeanor pursuant to ORS  
38 161.705.

39 “(c) An offense constituting a violation under state law or local ordinance.

40 “(d) An offense committed before January 1, 1972, that, if committed after that date, would  
41 qualify for an order under this section.

42 “(6) Notwithstanding subsection (5) of this section, the provisions of subsection (1)(a) of this  
43 section do not apply to a conviction for:

44 “(a) Criminal mistreatment in the second degree under ORS 163.200 if the victim at the time of  
45 the crime was 65 years of age or older.

1           “(b) Criminal mistreatment in the first degree under ORS 163.205 if the victim at the time of the  
2 crime was 65 years of age or older, or when the offense constitutes child abuse as defined in ORS  
3 419B.005.

4           “(c) Endangering the welfare of a minor under ORS 163.575 (1)(a), when the offense constitutes  
5 child abuse as defined in ORS 419B.005.

6           “(d) Criminally negligent homicide under ORS 163.145, when that offense was punishable as a  
7 Class C felony.

8           “(e) Assault in the third degree under ORS 163.165 (1)(h).

9           “(f) Any sex crime, unless:

10          “(A) The sex crime is listed in ORS 163A.140 (1)(a) and:

11          “(i) The person has been relieved of the obligation to report as a sex offender pursuant to a  
12 court order entered under ORS 163A.145 or 163A.150; and

13          “(ii) The person has not been convicted of, found guilty except for insanity of or found to be  
14 within the jurisdiction of the juvenile court based on a crime for which the court is prohibited from  
15 setting aside the conviction under this section; or

16          “(B) The sex crime constitutes a Class C felony and:

17          “(i) The person was under 16 years of age at the time of the offense;

18          “(ii) The person is:

19           “(I) Less than two years and 180 days older than the victim; or

20           “(II) At least two years and 180 days older, but less than three years and 180 days older, than  
21 the victim and the court finds that setting aside the conviction is in the interests of justice and of  
22 benefit to the person and the community;

23          “(iii) The victim’s lack of consent was due solely to incapacity to consent by reason of being less  
24 than a specified age;

25          “(iv) The victim was at least 12 years of age at the time of the offense;

26          “(v) The person has not been convicted of, found guilty except for insanity of or found to be  
27 within the jurisdiction of the juvenile court based on a crime for which the court is prohibited from  
28 setting aside the conviction under this section; and

29          “(vi) Each conviction or finding described in this subparagraph involved the same victim.

30          “(7) Notwithstanding subsection (5) of this section, the provisions of subsection (1) of this section  
31 do not apply to:

32           “(a) A conviction for a state or municipal traffic offense.

33           “(b) A person convicted, within the 10-year period immediately preceding the filing of the motion  
34 pursuant to subsection (1) of this section, of any other offense, excluding motor vehicle violations,  
35 whether or not the other conviction is for conduct associated with the same criminal episode that  
36 caused the arrest, citation, charge or conviction that is sought to be set aside. A single violation,  
37 other than a motor vehicle violation, within the last 10 years is not a conviction under this sub-  
38 section. Notwithstanding subsection (1) of this section, a conviction that has been set aside under  
39 this section shall be considered for the purpose of determining whether this paragraph is applicable.

40           “(c) A person who at the time the motion authorized by subsection (1) of this section is pending  
41 before the court is under charge of commission of any crime.

42          “(8) The provisions of subsection (1)(b) of this section do not apply to:

43           “(a) A person arrested or criminally cited for or charged with an offense within the three-year  
44 period immediately preceding the filing of the motion for any offense, excluding motor vehicle vio-  
45 lations, and excluding arrests, citations or charges for conduct associated with the same criminal

1 episode that caused the arrest, citation or charge that is sought to be set aside. An arrest, citation  
2 or charge that has been set aside under this section may not be considered for the purpose of de-  
3 termining whether this paragraph is applicable.

4 “(b) An arrest or citation for driving while under the influence of intoxicants if the charge is  
5 dismissed as a result of the person’s successful completion of a diversion agreement described in  
6 ORS 813.200.

7 “(9) The provisions of subsection (1) of this section apply to convictions, arrests, citations and  
8 charges that occurred before, as well as those that occurred after, September 9, 1971. There is no  
9 time limit for making an application.

10 “(10) For purposes of any civil action in which truth is an element of a claim for relief or af-  
11 firmative defense, the provisions of subsection (3) of this section providing that the conviction, ar-  
12 rest, citation, charge or other proceeding be deemed not to have occurred do not apply and a party  
13 may apply to the court for an order requiring disclosure of the official records in the case as may  
14 be necessary in the interest of justice.

15 “(11) Upon motion of any prosecutor or defendant in a case involving records sealed under this  
16 section, supported by affidavit showing good cause, the court with jurisdiction may order the reo-  
17 pening and disclosure of any records sealed under this section for the limited purpose of assisting  
18 the investigation of the movant. However, such an order has no other effect on the orders setting  
19 aside the conviction or the arrest, citation or charge record.

20 “(12) Unless the court makes written findings by clear and convincing evidence that granting  
21 the motion would not be in the best interests of justice, the court shall grant the motion and enter  
22 an order as provided in subsection (3) of this section if the defendant has been convicted of one of  
23 the following crimes and is otherwise eligible for relief under this section:

24 “(a) Abandonment of a child, ORS 163.535.

25 “(b) Attempted assault in the second degree, ORS 163.175.

26 “(c) Assault in the third degree, ORS 163.165.

27 “(d) Coercion, ORS 163.275.

28 “(e) Criminal mistreatment in the first degree, ORS 163.205.

29 “(f) Attempted escape in the first degree, ORS 162.165.

30 “(g) Incest, ORS 163.525, if the victim was at least 18 years of age.

31 “(h) [Intimidation] **A bias crime** in the first degree, ORS 166.165.

32 “(i) Attempted kidnapping in the second degree, ORS 163.225.

33 “(j) Attempted robbery in the second degree, ORS 164.405.

34 “(k) Robbery in the third degree, ORS 164.395.

35 “(L) Supplying contraband, ORS 162.185.

36 “(m) Unlawful use of a weapon, ORS 166.220.

37 “(13) As used in this section, ‘sex crime’ has the meaning given that term in ORS 163A.005.

38 “**SECTION 13.** ORS 137.712 is amended to read:

39 “137.712. (1)(a) Notwithstanding ORS 137.700 and 137.707, when a person is convicted of  
40 manslaughter in the second degree as defined in ORS 163.125, assault in the second degree as de-  
41 fined in ORS 163.175 (1)(b), kidnapping in the second degree as defined in ORS 163.225, rape in the  
42 second degree as defined in ORS 163.365, sodomy in the second degree as defined in ORS 163.395,  
43 unlawful sexual penetration in the second degree as defined in ORS 163.408, sexual abuse in the first  
44 degree as defined in ORS 163.427 (1)(a)(A) or robbery in the second degree as defined in ORS  
45 164.405, the court may impose a sentence according to the rules of the Oregon Criminal Justice

1 Commission that is less than the minimum sentence that otherwise may be required by ORS 137.700  
2 or 137.707 if the court, on the record at sentencing, makes the findings set forth in subsection (2)  
3 of this section and finds that a substantial and compelling reason under the rules of the Oregon  
4 Criminal Justice Commission justifies the lesser sentence. When the court imposes a sentence under  
5 this subsection, the person is eligible for a reduction in the sentence as provided in ORS 421.121 and  
6 any other statute.

7 “(b) In order to make a dispositional departure under this section, the court must make the  
8 following additional findings on the record:

9 “(A) There exists a substantial and compelling reason not relied upon in paragraph (a) of this  
10 subsection;

11 “(B) A sentence of probation will be more effective than a prison term in reducing the risk of  
12 offender recidivism; and

13 “(C) A sentence of probation will better serve to protect society.

14 “(2) A conviction is subject to subsection (1) of this section only if the sentencing court finds  
15 on the record by a preponderance of the evidence:

16 “(a) If the conviction is for manslaughter in the second degree:

17 “(A) That the victim was a dependent person as defined in ORS 163.205 who was at least 18  
18 years of age;

19 “(B) That the defendant is the mother or father of the victim;

20 “(C) That the death of the victim was the result of an injury or illness that was not caused by  
21 the defendant;

22 “(D) That the defendant treated the injury or illness solely by spiritual treatment in accordance  
23 with the religious beliefs or practices of the defendant and based on a good faith belief that spiritual  
24 treatment would bring about the victim’s recovery from the injury or illness;

25 “(E) That no other person previously under the defendant’s care has died or sustained signif-  
26 icant physical injury as a result of or despite the use of spiritual treatment, regardless of whether  
27 the spiritual treatment was used alone or in conjunction with medical care; and

28 “(F) That the defendant does not have a previous conviction for a crime listed in subsection (4)  
29 of this section or for criminal mistreatment in the second degree.

30 “(b) If the conviction is for assault in the second degree:

31 “(A) That the victim was not physically injured by means of a deadly weapon;

32 “(B) That the victim did not suffer a significant physical injury; and

33 “(C) That the defendant does not have a previous conviction for a crime listed in subsection (4)  
34 of this section.

35 “(c) If the conviction is for kidnapping in the second degree:

36 “(A) That the victim was at least 12 years of age at the time the crime was committed; and

37 “(B) That the defendant does not have a previous conviction for a crime listed in subsection (4)  
38 of this section.

39 “(d) If the conviction is for robbery in the second degree:

40 “(A) That the victim did not suffer a significant physical injury;

41 “(B) That, if the defendant represented by words or conduct that the defendant was armed with  
42 a dangerous weapon, the representation did not reasonably put the victim in fear of imminent sig-  
43 nificant physical injury;

44 “(C) That, if the defendant represented by words or conduct that the defendant was armed with  
45 a deadly weapon, the representation did not reasonably put the victim in fear of imminent physical

1 injury; and

2 “(D) That the defendant does not have a previous conviction for a crime listed in subsection (4)

3 of this section.

4 “(e) If the conviction is for rape in the second degree, sodomy in the second degree or sexual

5 abuse in the first degree:

6 “(A) That the victim was at least 12 years of age, but under 14 years of age, at the time of the

7 offense;

8 “(B) That the defendant does not have a prior conviction for a crime listed in subsection (4) of

9 this section;

10 “(C) That the defendant has not been previously found to be within the jurisdiction of a juvenile

11 court for an act that would have been a felony sexual offense if the act had been committed by an

12 adult;

13 “(D) That the defendant was no more than five years older than the victim at the time of the

14 offense;

15 “(E) That the offense did not involve sexual contact with any minor other than the victim; and

16 “(F) That the victim’s lack of consent was due solely to incapacity to consent by reason of being

17 under 18 years of age at the time of the offense.

18 “(f) If the conviction is for unlawful sexual penetration in the second degree:

19 “(A) That the victim was 12 years of age or older at the time of the offense;

20 “(B) That the defendant does not have a prior conviction for a crime listed in subsection (4) of

21 this section;

22 “(C) That the defendant has not been previously found to be within the jurisdiction of a juvenile

23 court for an act that would have been a felony sexual offense if the act had been committed by an

24 adult;

25 “(D) That the defendant was no more than five years older than the victim at the time of the

26 offense;

27 “(E) That the offense did not involve sexual contact with any minor other than the victim;

28 “(F) That the victim’s lack of consent was due solely to incapacity to consent by reason of being

29 under 18 years of age at the time of the offense; and

30 “(G) That the object used to commit the unlawful sexual penetration was the hand or any part

31 thereof of the defendant.

32 “(3) In making the findings required by subsections (1) and (2) of this section, the court may

33 consider any evidence presented at trial and may receive and consider any additional relevant in-

34 formation offered by either party at sentencing.

35 “(4) The crimes to which subsection (2)(a)(F), (b)(C), (c)(B), (d)(D), (e)(B) and (f)(B) of this section

36 refer are:

37 “(a) A crime listed in ORS 137.700 (2) or 137.707 (4);

38 “(b) Escape in the first degree, as defined in ORS 162.165;

39 “(c) Aggravated murder, as defined in ORS 163.095;

40 “(d) Criminally negligent homicide, as defined in ORS 163.145;

41 “(e) Assault in the third degree, as defined in ORS 163.165;

42 “(f) Criminal mistreatment in the first degree, as defined in ORS 163.205 (1)(b)(A);

43 “(g) Rape in the third degree, as defined in ORS 163.355;

44 “(h) Sodomy in the third degree, as defined in ORS 163.385;

45 “(i) Sexual abuse in the second degree, as defined in ORS 163.425;

1 “(j) Stalking, as defined in ORS 163.732;

2 “(k) Burglary in the first degree, as defined in ORS 164.225, when it is classified as a person

3 felony under the rules of the Oregon Criminal Justice Commission;

4 “(L) Arson in the first degree, as defined in ORS 164.325;

5 “(m) Robbery in the third degree, as defined in ORS 164.395;

6 “(n) [Intimidation] **A bias crime** in the first degree, as defined in ORS 166.165;

7 “(o) Promoting prostitution, as defined in ORS 167.012; and

8 “(p) An attempt or solicitation to commit any Class A or B felony listed in paragraphs (a) to (L)

9 of this subsection.

10 “(5) Notwithstanding ORS 137.545 (5)(b), if a person sentenced to probation under this section

11 violates a condition of probation by committing a new crime, the court shall revoke the probation

12 and impose the presumptive sentence of imprisonment under the rules of the Oregon Criminal Jus-

13 tice Commission.

14 “(6) As used in this section:

15 “(a) ‘Conviction’ includes, but is not limited to:

16 “(A) A juvenile court adjudication finding a person within the court’s jurisdiction under ORS

17 419C.005, if the person was at least 15 years of age at the time the person committed the offense

18 that brought the person within the jurisdiction of the juvenile court. ‘Conviction’ does not include

19 a juvenile court adjudication described in this subparagraph if the person successfully asserted the

20 defense set forth in ORS 419C.522.

21 “(B) A conviction in another jurisdiction for a crime that if committed in this state would con-

22 stitute a crime listed in subsection (4) of this section.

23 “(b) ‘Previous conviction’ means a conviction that was entered prior to imposing sentence on the

24 current crime provided that the prior conviction is based on a crime committed in a separate crim-

25 inal episode. ‘Previous conviction’ does not include a conviction for a Class C felony, including an

26 attempt or solicitation to commit a Class B felony, or a misdemeanor, unless the conviction was

27 entered within the 10-year period immediately preceding the date on which the current crime was

28 committed.

29 “(c) ‘Significant physical injury’ means a physical injury that:

30 “(A) Creates a risk of death that is not a remote risk;

31 “(B) Causes a serious and temporary disfigurement;

32 “(C) Causes a protracted disfigurement; or

33 “(D) Causes a prolonged impairment of health or the function of any bodily organ.

34 “**SECTION 14.** ORS 163.707 is amended to read:

35 “163.707. (1) A motor vehicle used by the owner in a drive-by shooting is subject to civil in rem

36 forfeiture.

37 “(2) Seizure and forfeiture proceedings under this section shall be conducted in accordance with

38 ORS chapter 131A.

39 “(3) As used in this section, ‘drive-by shooting’ means discharge of a firearm from a motor ve-

40 hicle while committing or attempting to commit:

41 “(a) Aggravated murder under ORS 163.095;

42 “(b) Murder under ORS 163.115;

43 “(c) Manslaughter in any degree under ORS 163.118 or 163.125;

44 “(d) Assault in any degree under ORS 163.160, 163.165, 163.175 or 163.185;

45 “(e) Menacing under ORS 163.190;

1 “(f) Recklessly endangering another person under ORS 163.195;  
2 “(g) Assaulting a public safety officer under ORS 163.208; or  
3 “(h) [Intimidation] **A bias crime** in any degree under ORS 166.155 or 166.165.  
4 “**SECTION 15.** ORS 166.715 is amended to read:  
5 “166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:  
6 “(1) ‘Documentary material’ means any book, paper, document, writing, drawing, graph, chart,  
7 photograph, phonograph record, magnetic tape, computer printout, other data compilation from  
8 which information can be obtained or from which information can be translated into usable form,  
9 or other tangible item.  
10 “(2) ‘Enterprise’ includes any individual, sole proprietorship, partnership, corporation, business  
11 trust or other profit or nonprofit legal entity, and includes any union, association or group of indi-  
12 viduals associated in fact although not a legal entity, and both illicit and licit enterprises and gov-  
13 ernmental and nongovernmental entities.  
14 “(3) ‘Investigative agency’ means the Department of Justice or any district attorney.  
15 “(4) ‘Pattern of racketeering activity’ means engaging in at least two incidents of racketeering  
16 activity that have the same or similar intents, results, accomplices, victims or methods of commis-  
17 sion or otherwise are interrelated by distinguishing characteristics, including a nexus to the same  
18 enterprise, and are not isolated incidents, provided at least one of such incidents occurred after  
19 November 1, 1981, and that the last of such incidents occurred within five years after a prior inci-  
20 dent of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other  
21 provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct  
22 that constitutes an incident of racketeering activity may be used to establish a pattern of  
23 racketeering activity without regard to whether the conduct previously has been the subject of a  
24 criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted  
25 in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within  
26 the jurisdiction of the juvenile court.  
27 “(5) ‘Person’ means any individual or entity capable of holding a legal or beneficial interest in  
28 real or personal property.  
29 “(6) ‘Racketeering activity’ includes conduct of a person committed both before and after the  
30 person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to  
31 commit, or to solicit, coerce or intimidate another person to commit:  
32 “(a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following  
33 provisions of the Oregon Revised Statutes:  
34 “(A) ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, relating to securities;  
35 “(B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;  
36 “(C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstruct-  
37 ing governmental administration;  
38 “(D) ORS 162.405 to 162.425, relating to abuse of public office;  
39 “(E) ORS 162.455, relating to interference with legislative operation;  
40 “(F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;  
41 “(G) ORS 163.160 to 163.205, relating to assault and related offenses;  
42 “(H) ORS 163.225 and 163.235, relating to kidnapping;  
43 “(I) ORS 163.275, relating to coercion;  
44 “(J) ORS 163.665 to 163.693, relating to sexual conduct of children;  
45 “(K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135,

1 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and  
2 related offenses;

3 “(L) ORS 164.315 to 164.335, relating to arson and related offenses;

4 “(M) ORS 164.345 to 164.365, relating to criminal mischief;

5 “(N) ORS 164.395 to 164.415, relating to robbery;

6 “(O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of  
7 a recording;

8 “(P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and  
9 related offenses;

10 “(Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

11 “(R) ORS 165.540 and 165.555, relating to communication crimes;

12 “(S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating  
13 to firearms and other weapons;

14 “(T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.057,  
15 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365,  
16 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexual conduct, gambling,  
17 computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting  
18 bird and related offenses;

19 “(U) ORS 171.990, relating to legislative witnesses;

20 “(V) ORS 260.575 and 260.665, relating to election offenses;

21 “(W) ORS 314.075, relating to income tax;

22 “(X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco  
23 products taxes and the directories developed under ORS 180.425 and 180.477;

24 “(Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments or medical  
25 assistance benefits, and ORS 411.990 (2) and (3);

26 “(Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

27 “(AA) ORS 463.995, relating to entertainment wrestling and unarmed combat sports, as defined  
28 in ORS 463.015;

29 “(BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445,  
30 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS  
31 chapter 471 relating to licenses issued under the Liquor Control Act;

32 “(CC) ORS 475B.010 to 475B.545, relating to marijuana items as defined in ORS 475B.015;

33 “(DD) ORS 475.005 to 475.285 and 475.752 to 475.980, relating to controlled substances;

34 “(EE) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;

35 “(FF) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

36 “(GG) ORS 658.452 or 658.991 (2) to (4), relating to labor contractors;

37 “(HH) ORS chapter 706, relating to banking law administration;

38 “(II) ORS chapter 714, relating to branch banking;

39 “(JJ) ORS chapter 716, relating to mutual savings banks;

40 “(KK) ORS chapter 723, relating to credit unions;

41 “(LL) ORS chapter 726, relating to pawnbrokers;

42 “(MM) ORS 166.382 and 166.384, relating to destructive devices;

43 “(NN) ORS 165.074;

44 “(OO) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;

45 “(PP) ORS chapter 496, 497 or 498, relating to wildlife;



1 “(QQ) ORS 163.355 to 163.427, relating to sexual offenses;  
2 “(RR) ORS 166.015, relating to riot;  
3 “(SS) ORS 166.155 and 166.165, relating to *[intimidation]* **bias crimes**;  
4 “(TT) ORS chapter 696, relating to real estate and escrow;  
5 “(UU) ORS chapter 704, relating to outfitters and guides;  
6 “(VV) ORS 165.692, relating to making a false claim for health care payment;  
7 “(WW) ORS 162.117, relating to public investment fraud;  
8 “(XX) ORS 164.170 or 164.172;  
9 “(YY) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;  
10 “(ZZ) ORS 164.886;  
11 “(AAA) ORS 167.312 and 167.388;  
12 “(BBB) ORS 164.889;  
13 “(CCC) ORS 165.800; or  
14 “(DDD) ORS 163.263, 163.264 or 163.266.  
15 “(b) Any conduct defined as ‘racketeering activity’ under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).  
16 “(7) ‘Unlawful debt’ means any money or other thing of value constituting principal or interest  
17 of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred  
18 or contracted:  
19 “(a) In violation of any one of the following:  
20 “(A) ORS chapter 462, relating to racing;  
21 “(B) ORS 167.108 to 167.164, relating to gambling; or  
22 “(C) ORS 82.010 to 82.170, relating to interest and usury.  
23 “(b) In gambling activity in violation of federal law or in the business of lending money at a rate  
24 usurious under federal or state law.  
25 “(8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute  
26 in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions  
27 from what the statute was when this section was enacted, the reference shall extend to and include  
28 amendments to the statute.  
29 “**SECTION 16.** ORS 30.198 is amended to read:  
30 “30.198. (1) Irrespective of any criminal prosecution or the result thereof, any person injured by  
31 a violation of ORS 166.155 or 166.165 shall have a civil action to secure an injunction, damages or  
32 other appropriate relief against any *[and all persons]* **person** whose actions are unlawful under ORS  
33 166.155 and 166.165.  
34 “(2) Upon prevailing in such action, the plaintiff may recover:  
35 “(a) Both special and general damages, including damages for emotional distress; and  
36 “(b) Punitive damages.  
37 “(3) The court shall award reasonable attorney fees to the prevailing plaintiff in an action under  
38 this section. The court may award reasonable attorney fees and expert witness fees incurred by a  
39 defendant who prevails in the action if the court determines that the plaintiff had no objectively  
40 reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of  
41 a trial court.  
42 “(4) The parent, parents or legal guardian of an unemancipated minor shall be liable for any  
43 judgment recovered against such minor under this section, in an amount not to exceed \$5,000.  
44 “**SECTION 17.** ORS 30.200 is amended to read:  
45 “30.200. If any district attorney has reasonable cause to believe that any person *[or group of*

1 *persons*] is engaged in violation of ORS 166.155 or 166.165, the district attorney may bring a civil  
2 claim for relief in the appropriate court, setting forth facts pertaining to such violation, and request  
3 such relief as may be necessary to restrain or prevent such violation. Any claim for relief under this  
4 section does not prevent any person from seeking any other remedy otherwise available under law.

5 **“SECTION 18. Section 4 of this 2019 Act and the amendments to ORS 30.198, 30.200,**  
6 **90.396, 137.225, 137.712, 163.707, 166.155, 166.165 and 166.715 by sections 1, 2 and 11 to 17 of this**  
7 **2019 Act apply to conduct occurring on or after the effective date of this 2019 Act.**

8 **“SECTION 19. (1)(a) Sections 5, 8 and 9 of this 2019 Act become operative on January 1,**  
9 **2020.**

10 **“(b) The Department of Justice and the Oregon Criminal Justice Commission may take**  
11 **any action before the operative date specified in paragraph (a) of this subsection that is**  
12 **necessary to enable the department or commission to exercise, on and after the operative**  
13 **date specified in paragraph (a) of this subsection, all of the duties, functions and powers**  
14 **conferred on the department or commission by sections 5, 8 and 9 of this 2019 Act.**

15 **“(2) The amendments to section 5 of this 2019 Act by section 6 of this 2019 Act become**  
16 **operative on January 2, 2023.**

17 **“SECTION 20. This 2019 Act being necessary for the immediate preservation of the public**  
18 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
19 **on its passage.”.**

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