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SUMMARY

Digest: The Act changes how prior convictions may be used. (Flesch Readability Score: 75.5).

Modifies when a prior conviction is admissible to impeach the character of a witness.

Limits prior convictions that may be used to calculate the criminal history of a defendant for the purposes of sentencing.

A BILL FOR AN ACT

Relating to prior convictions; creating new provisions; and amending ORS 40.355.

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

PRIOR CONVICTIONS AS EVIDENCE

SECTION 1. ORS 40.355 is amended to read:

40.355. *[(1) For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime shall be admitted if elicited from the witness or established by public record, but only if the crime:]*

[(a) Was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted; or]

[(b) Involved false statement or dishonesty.]

[(2)(a) If a defendant is charged with one or more of the crimes listed in paragraph (b) of this subsection, and the defendant is a witness, evidence that the defendant has been convicted of committing one or more of the following crimes against a family or household member, as defined in ORS 135.230, may

1 *be elicited from the defendant, or established by public record, and admitted*
2 *into evidence for the purpose of attacking the credibility of the defendant:]*

3 [(A) *Assault in the fourth degree under ORS 163.160.*]

4 [(B) *Menacing under ORS 163.190.*]

5 [(C) *Harassment under ORS 166.065.*]

6 [(D) *Attempted assault in the fourth degree under ORS 163.160 (1).*]

7 [(E) *Attempted assault in the fourth degree under ORS 163.160 (3).*]

8 [(F) *Strangulation under ORS 163.187.*]

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

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

15 [(A) *Aggravated murder under ORS 163.095.*]

16 [(B) *Murder in the first degree under ORS 163.107.*]

17 [(C) *Murder in the second degree under ORS 163.115.*]

18 [(D) *Manslaughter in the first degree under ORS 163.118.*]

19 [(E) *Manslaughter in the second degree under ORS 163.125.*]

20 [(F) *Assault in the first degree under ORS 163.185.*]

21 [(G) *Assault in the second degree under ORS 163.175.*]

22 [(H) *Assault in the third degree under ORS 163.165.*]

23 [(I) *Assault in the fourth degree under ORS 163.160.*]

24 [(J) *Rape in the first degree under ORS 163.375 (1)(a).*]

25 [(K) *Sodomy in the first degree under ORS 163.405 (1)(a).*]

26 [(L) *Unlawful sexual penetration in the first degree under ORS 163.411*
27 *(1)(a).*]

28 [(M) *Sexual abuse in the first degree under ORS 163.427 (1)(a)(B).*]

29 [(N) *Kidnapping in the first degree under ORS 163.235.*]

30 [(O) *Kidnapping in the second degree under ORS 163.225.*]

31 [(P) *Burglary in the first degree under ORS 164.225.*]

1 [(Q) *Coercion under ORS 163.275.*]

2 [(R) *Stalking under ORS 163.732.*]

3 [(S) *Violating a court's stalking protective order under ORS 163.750.*]

4 [(T) *Menacing under ORS 163.190.*]

5 [(U) *Harassment under ORS 166.065.*]

6 [(V) *Strangulation under ORS 163.187.*]

7 [(W) *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 con-*
10 *viction or of the release of the witness from the confinement imposed for that*
11 *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 wit-*
15 *ness has been convicted of a crime, the witness shall be allowed to explain*
16 *briefly the circumstances of the crime or former conviction; once the witness*
17 *explains the circumstances, the opposing side shall have the opportunity to*
18 *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 *isdiction is not a conviction of a crime.*]

23 [(7) *A conviction of any of the statutory counterparts of offenses designated*
24 *as violations as described in ORS 153.008 may not be used to impeach the*
25 *character of a witness in any criminal or civil action or proceeding.*]

26 **(1) The following rules apply to attacking a witness's character for**
27 **truthfulness by evidence of a criminal conviction:**

28 **(a) For a crime that, in the convicting jurisdiction, was punishable**
29 **by death or imprisonment for more than one year, the evidence:**

30 **(A) Must be admitted, subject to ORS 40.160, in a civil case or in a**
31 **criminal case in which the witness is not a defendant.**

1 **(B) Must be admitted in a criminal case in which the witness is a**
2 **defendant, if the probative value of the evidence outweighs its preju-**
3 **dicial effect to that defendant.**

4 **(b) For any crime, regardless of the punishment, the evidence must**
5 **be admitted if the court can readily determine that establishing the**
6 **elements of the crime required proving, or the witness's admitting, a**
7 **dishonest act or false statement.**

8 **(2) If more than 10 years have passed since the witness's conviction**
9 **or release from confinement for the conviction, whichever is later,**
10 **evidence of the conviction is admissible only if:**

11 **(a) The probative value of the conviction, supported by specific**
12 **facts and circumstances, substantially outweighs its prejudicial effect;**
13 **and**

14 **(b) The proponent gives an adverse party reasonable written notice**
15 **of the intent to use the conviction so that the party has a fair oppor-**
16 **tunity to contest the use of the conviction.**

17 **(3) Evidence of a conviction is not admissible if:**

18 **(a) The conviction has been the subject of a pardon, annulment,**
19 **certificate of rehabilitation or other equivalent procedure based on a**
20 **finding that the person has been rehabilitated, and the person has not**
21 **been convicted of a later crime punishable by death or by**
22 **imprisonment for more than one year; or**

23 **(b) The conviction has been the subject of a pardon, annulment or**
24 **other equivalent procedure based on a finding of innocence.**

25 **(4) Evidence of a juvenile adjudication is admissible under this rule**
26 **only if:**

27 **(a) The adjudication is offered in a criminal case;**

28 **(b) The adjudication was of a witness other than the defendant;**

29 **(c) The adjudication is for conduct that, if committed by an adult,**
30 **would result in a conviction that would be admissible to attack the**
31 **adult's credibility; and**

1 (d) Admitting the evidence is necessary to fairly determine guilt or
2 innocence.

3 (5) A conviction that satisfies the provisions of this section is ad-
4 missible even if an appeal of the conviction is pending. Evidence of the
5 pendency of the appeal is also admissible.

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7 **PRIOR CONVICTIONS IN SENTENCING**

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9 **SECTION 2.** (1) When determining a defendant's criminal history
10 category for purposes of the sentencing guidelines, only the following
11 convictions may be considered:

12 (a) Convictions for which the date of entry of the judgment of
13 conviction is within the 15 years prior to the date of the crime for
14 which the defendant is being sentenced; and

15 (b) Convictions for which the defendant was incarcerated within the
16 15 years prior to the date of the crime for which the defendant is being
17 sentenced.

18 (2) The Oregon Criminal Justice Commission, in the rules of the
19 commission concerning the sentencing guidelines grid, shall limit
20 when a conviction may be used to determine a defendant's criminal
21 history category in accordance with subsection (1) of this section.

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23 **APPLICABILITY**

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25 **SECTION 3.** (1) The amendments to ORS 40.355 by section 1 of this
26 2025 Act apply to proceedings based on conduct occurring on or after
27 the effective date of this 2025 Act.

28 (2) Section 2 of this 2025 Act applies to sentencing proceedings for
29 convictions based on conduct occurring on or after the effective date
30 of this 2025 Act.

CAPTIONS

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SECTION 4. The unit captions used in this 2025 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2025 Act.
