

SB 295 STAFF MEASURE SUMMARY

Senate Committee On Education

Prepared By: Lisa Gezelter, LPRO Analyst

Meeting Dates: 1/24

WHAT THE MEASURE DOES:

Repeals ORS 163.413, the crime of Purchasing Sex with a Minor, and creates crime of Patronizing a Trafficked Child. Establishes there is no affirmative defense for ignorance or mistake of age. Classifies the crime of engaging in, offering, or agreeing to engage in commercial sex with a child under 18 years of age as a Class B felony and a category 9 on the sentencing guidelines grid. Classifies the crime of engaging in, offering, or agreeing to engage in commercial sex with a law enforcement officer posing as a child under 18 years of age as a Class C felony and a category 7 on the sentencing guidelines grid. Establishes that two prior convictions for prostitution or commercial sexual solicitation counts as one person felony for purposes of sentencing under this Act. Excludes evidence of certain past behavior of an alleged victim or witness in the prosecution of this Act. Allows for an ex parte order for wire tapping when probable cause of patronizing a trafficking child exists. Adds patronizing a child to the following lists: sex crimes for which require sex offender registration; crimes that constitute racketeering; and definitions of child abuse.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

SB 295 changes the reference of a “minor” to a “trafficked child” and eliminates the affirmative defense of mistake of age for children over the age of 16. SB 295 eliminates the requirement to attend John’s school (a one-day educational program explaining the consequences of purchasing sex) as a part of sentencing. Sex offender registration is mandatory under SB 295 regardless of number of convictions; currently it is discretionary for a first conviction of the crime Purchasing Sex with a Minor, depending upon certain aggravating factors. SB 295 would make the crime of Patronizing a Trafficked Child a category 7 on the sentencing grid if a law enforcement officer is posing as a child, and a category 9 on the sentencing grid if it is a child under 18 years of age. Depending on a person’s criminal history, the maximum presumptive sentence would be 36 months and 72 months respectively. Currently, the crime of Purchasing Sex with a Minor is unclassified on the sentencing grid—the mandatory minimum sentence by statute is 30 days jail and \$10,000 fine for the first offense; the second conviction is classified as a sex crime under ORS 135A.005.

Senate Bill 295 creates a presumptive sentence for engaging in, offering, or agreeing to engage in commercial sex with a child under the age of 18, requires mandatory sex offender registration, removes the affirmative defense for ignorance or mistake of age, and allows law enforcement to intercept communications when probable cause exists to investigate this crime.