



Oregon District Attorneys: Public Safety Agenda 2023 Legislative Session

HB 2328 – Protecting Vulnerable Victims in Sex Crimes

This bill addresses three gaps in the current sex crimes statutes to protect vulnerable victims of sex crimes by:

- **Amending statute to separately define oral and anal intercourse:** Existing law must be updated to correct a glaring omission that allows someone who makes a child lick his anus subject to a 75-month sentence, whereas someone who performs oral sex on a child or makes a child lick his penis is subject to 25 years.
- **Clarifying criminal behavior that qualifies for charges of Using a Child in a Display of Sexually Explicit Conduct:** A 2021 Court of Appeals decision resulted in the Using a Child in a Display of Sexually Explicit Conduct statute no longer applying to hidden cameras used to capture child pornography images, as the court found insufficient evidence that a defendant actively “permitted a child to participate or engage in sexually explicit conduct” because the hidden camera was passively recording, even though the images captured would constitute child pornography under relevant statutes. This statutory fix would fill the gap created by the recent case by prohibiting and criminalizing the “knowing creation” of sexually explicit images of a child.
- **Ensuring young and nonverbal victims of sexual assault are protected:** Current sexual offense statutes require the State to prove not only that a victim of sexual assault was penetrated, but also specifically how they were penetrated: either with an object (unlawful sexual penetration), or a penis (rape), or a mouth (sodomy). This means that, even if medical evidence shows penetration has occurred, the State cannot charge any crime if it’s unable to prove which specific type of penetration occurred, including in cases where the victims are young children or nonverbal. This fix would enable prosecutors to charge unlawful sexual penetration so long as they can prove penetration occurred, closing an unintentional and unjust gap for some of Oregon’s youngest and most vulnerable victims of sexual abuse.