

House Bill 2474

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon District Attorneys Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes when minors are the victims of some crimes. The Act takes effect on the 91st day after sine die. (Flesch Readability Score: 87.9).

Modifies the types of familial relationships involved in a manner of committing rape in the first degree and sodomy in the first degree. Adds a manner of committing unlawful sexual penetration in the first degree when there is a specified familial relationship between the defendant and the victim. Provides that sexual abuse in the second degree is a level eight offense on the sentencing guidelines when there is a specified familial relationship between the defendant and the victim.

Increases the victim age below which assault and strangulation constitute felony offenses.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to crime victims who are under 18 years of age; creating new provisions; amending ORS
3 137.700, 163.165, 163.187, 163.375, 163.405, 163.411 and 163.426; and prescribing an effective date.

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

5 **SECTION 1.** ORS 163.375 is amended to read:

6 163.375. (1) A person who has sexual intercourse with another person commits the crime of rape
7 in the first degree if:

8 (a) The victim is subjected to forcible compulsion by the person;

9 (b) The victim is under 12 years of age;

10 *[(c) The victim is under 16 years of age and is the person's sibling, of the whole or half blood, the*
11 *person's child or the person's spouse's child; or]*

12 **(c) The victim is under 16 years of age and is the person's biological or adopted sibling,**
13 **the person's biological or adopted child or the biological or adopted child of the person's**
14 **spouse, former spouse, sexually intimate partner or former sexually intimate partner; or**

15 (d) The victim is incapable of consent by reason of mental incapacitation, physical helplessness
16 or incapability of appraising the nature of the victim's conduct.

17 (2) Rape in the first degree is a Class A felony.

18 **SECTION 2.** ORS 163.405 is amended to read:

19 163.405. (1) A person who engages in oral or anal sexual intercourse with another person or
20 causes another to engage in oral or anal sexual intercourse commits the crime of sodomy in the first
21 degree if:

22 (a) The victim is subjected to forcible compulsion by the actor;

23 (b) The victim is under 12 years of age;

24 *[(c) The victim is under 16 years of age and is the actor's brother or sister, of the whole or half*
25 *blood, the son or daughter of the actor or the son or daughter of the actor's spouse; or]*

26 **(c) The victim is under 16 years of age and is the actor's biological or adopted sibling, the**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **actor's biological or adopted child or the biological or adopted child of the actor's spouse,**
2 **former spouse, sexually intimate partner or former sexually intimate partner; or**

3 (d) The victim is incapable of consent by reason of mental incapacitation, physical helplessness
4 or incapability of appraising the nature of the victim's conduct.

5 (2) Sodomy in the first degree is a Class A felony.

6 **SECTION 3.** ORS 163.411 is amended to read:

7 163.411. (1) Except as permitted under ORS 163.412, a person commits the crime of unlawful
8 sexual penetration in the first degree if the person penetrates the vagina, anus or penis of another
9 with any object and:

10 (a) The victim is subjected to forcible compulsion;

11 (b) The victim is under 12 years of age; *[or]*

12 **(c) The victim is under 16 years of age and is the person's biological or adopted sibling,**
13 **the person's biological or adopted child or the biological or adopted child of the person's**
14 **spouse, former spouse, sexually intimate partner or former sexually intimate partner; or**

15 *[(c)]* **(d)** The victim is incapable of consent by reason of mental incapacitation, physical
16 helplessness or incapability of appraising the nature of the victim's conduct.

17 (2) Unlawful sexual penetration in the first degree is a Class A felony.

18 (3) As used in this section, "object" includes any body part of the actor.

19 (4) When multiple crimes are charged based on one penetrative act, the court may not enter
20 separate convictions for each crime, and may enter only one conviction for the conduct.

21 **SECTION 4.** ORS 163.426 is amended to read:

22 163.426. (1) As used in this section:

23 (a) "Coach" means a person who instructs or trains an individual or members of a team in a
24 sport.

25 (b) "Teacher" means an employee of a school or school district who has direct responsibility for
26 the instruction of students.

27 (2) The Oregon Criminal Justice Commission shall classify sexual abuse in the second degree
28 as described in ORS 163.425 (1)(a) as a crime category 8 of the sentencing guidelines grid of the
29 commission if:

30 *[(a)]* **(a)(A)** The victim is incapable of consent by reason of being under 18 years of age;

31 *[(b)]* **(B)** The offender is 21 years of age or older; and

32 *[(c)]* **(C)** At any time before the commission of the offense, the offender was the victim's coach
33 or teacher~~].~~; **or**

34 **(b) The victim is 16 or 17 years of age and is the person's biological or adopted sibling,**
35 **the person's biological or adopted child or the biological or adopted child of the person's**
36 **spouse, former spouse, sexually intimate partner or former sexually intimate partner.**

37 **SECTION 5.** ORS 163.165 is amended to read:

38 163.165. (1) A person commits the crime of assault in the third degree if the person:

39 (a) Recklessly causes serious physical injury to another by means of a deadly or dangerous
40 weapon;

41 (b) Recklessly causes serious physical injury to another under circumstances manifesting ex-
42 treme indifference to the value of human life;

43 (c) Recklessly causes physical injury to another by means of a deadly or dangerous weapon un-
44 der circumstances manifesting extreme indifference to the value of human life;

45 (d) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical

1 injury to the operator of a public transit vehicle while the operator is in control of or operating the
 2 vehicle. As used in this paragraph, “public transit vehicle” has the meaning given that term in ORS
 3 166.116;

4 (e) While being aided by another person actually present, intentionally or knowingly causes
 5 physical injury to another;

6 (f) While committed to a youth correction facility, intentionally or knowingly causes physical
 7 injury to another knowing the other person is a staff member while the other person is acting in the
 8 course of official duty;

9 (g) Intentionally, knowingly or recklessly causes physical injury to an emergency medical ser-
 10 vices provider, as defined in ORS 682.025, while the emergency medical services provider is per-
 11 forming official duties;

12 (h) Being at least 18 years of age, intentionally or knowingly causes physical injury to a child
 13 [*10 years of age or younger*] **under 18 years of age**;

14 (i) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical
 15 injury to the operator of a taxi while the operator is in control of the taxi; or

16 (j) Intentionally, knowingly or recklessly causes physical injury to a flagger or a highway
 17 worker while the flagger or highway worker is performing official duties.

18 (2)(a) Assault in the third degree is a Class C felony.

19 (b) Notwithstanding paragraph (a) of this subsection, assault in the third degree under sub-
 20 section (1)(a) or (b) of this section is a Class B felony if:

21 (A) The assault resulted from the operation of a motor vehicle; and

22 (B) The defendant was the driver of the motor vehicle and was driving while under the influence
 23 of intoxicants.

24 (3) As used in this section:

25 (a) “Flagger” has the meaning given that term in ORS 811.230.

26 (b) “Highway worker” has the meaning given that term in ORS 811.230.

27 (c) “Staff member” means:

28 (A) A corrections officer as defined in ORS 181A.355, a youth correction officer, a youth cor-
 29 rection facility staff member, a Department of Corrections or Oregon Youth Authority staff member
 30 or a person employed pursuant to a contract with the department or youth authority to work with,
 31 or in the vicinity of, adults in custody, youths or adjudicated youths; and

32 (B) A volunteer authorized by the department, youth authority or other entity in charge of a
 33 corrections facility to work with, or in the vicinity of, adults in custody, youths or adjudicated
 34 youths.

35 (d) “Youth correction facility” has the meaning given that term in ORS 162.135.

36 **SECTION 6.** ORS 163.187 is amended to read:

37 163.187. (1) A person commits the crime of strangulation if the person knowingly impedes the
 38 normal breathing or circulation of the blood of another person by:

39 (a) Applying pressure on the throat, neck or chest of the other person; or

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

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

43 (3) Strangulation is a Class A misdemeanor.

44 (4) Notwithstanding subsection (3) of this section, strangulation is a Class C felony if:

45 (a) The crime is committed in the immediate presence of, or is witnessed by, the person’s or the

1 victim's minor child or stepchild or a minor child residing within the household of the person or the
2 victim;

3 (b) The victim is under [10] 18 years of age;

4 (c) The victim is a family or household member, as defined in ORS 135.230, of the person;

5 (d) During the commission of the crime, the person used, attempted to use or threatened to use
6 a dangerous or deadly weapon, as those terms are defined in ORS 161.015, unlawfully against an-
7 other;

8 (e) The person has been previously convicted of violating this section or ORS 163.160, 163.165,
9 163.175, 163.185 or 163.190, or of committing an equivalent crime in another jurisdiction, and the
10 victim in the previous conviction is the same person who is the victim of the current crime;

11 (f) The person has at least three previous convictions for violating this section or ORS 163.160,
12 163.165, 163.175, 163.185 or 163.190 or for committing an equivalent crime in another jurisdiction, in
13 any combination; or

14 (g) The person commits the strangulation knowing that the victim is pregnant.

15 (5) For purposes of subsection (4)(a) of this section, a strangulation is witnessed if the
16 strangulation is seen or directly perceived in any other manner by the child.

17 (6) The Oregon Criminal Justice Commission shall classify strangulation committed under the
18 circumstances described in subsection (4)(c) of this section as crime category 5 of the sentencing
19 guidelines grid of the commission.

20 **SECTION 7.** ORS 137.700 is amended to read:

21 137.700. (1) Notwithstanding ORS 161.605, when a person is convicted of one of the offenses
22 listed in subsection (2)(a) of this section and the offense was committed on or after April 1, 1995,
23 or of one of the offenses listed in subsection (2)(b) of this section and the offense was committed on
24 or after October 4, 1997, or of the offense described in subsection (2)(c) of this section and the of-
25 fense was committed on or after January 1, 2008, the court shall impose, and the person shall serve,
26 at least the entire term of imprisonment listed in subsection (2) of this section. The person is not,
27 during the service of the term of imprisonment, eligible for release on post-prison supervision or any
28 form of temporary leave from custody. The person is not eligible for any reduction in, or based on,
29 the minimum sentence for any reason whatsoever under ORS 421.121 or any other statute. The
30 court may impose a greater sentence if otherwise permitted by law, but may not impose a lower
31 sentence than the sentence specified in subsection (2) of this section.

32 (2) The offenses to which subsection (1) of this section applies and the applicable mandatory
33 minimum sentences are:

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- 36 (a)(A) Murder in the second
37 degree, as defined in
38 ORS 163.115.....300 months
 - 39 (B) Murder in the first
40 degree, as defined
41 in ORS 163.107.....360 months
 - 42 (C) Attempt or conspiracy
43 to commit aggravated
44 murder, as defined
45 in ORS 163.095.....120 months

- 1 (D) Attempt or conspiracy
2 to commit murder
3 in any degree.90 months
- 4 (E) Manslaughter in the
5 first degree, as defined
6 in ORS 163.118.120 months
- 7 (F) Manslaughter in the
8 second degree, as defined
9 in ORS 163.125.75 months
- 10 (G) Assault in the first
11 degree, as defined in
12 ORS 163.185.90 months
- 13 (H) Assault in the second
14 degree, as defined in
15 ORS 163.175.70 months
- 16 (I) Except as provided in
17 paragraph (b)(G) of
18 this subsection,
19 kidnapping in the first
20 degree, as defined
21 in ORS 163.235.90 months
- 22 (J) Kidnapping in the second
23 degree, as defined in
24 ORS 163.225.70 months
- 25 (K) Rape in the first degree,
26 as defined in ORS 163.375
27 (1)(a), (c) or (d).100 months
- 28 (L) Rape in the second degree,
29 as defined in
30 ORS 163.365.75 months
- 31 (M) Sodomy in the first degree,
32 as defined in ORS 163.405
33 (1)(a), (c) or (d).100 months
- 34 (N) Sodomy in the second
35 degree, as defined in
36 ORS 163.395.75 months
- 37 (O) Unlawful sexual penetration
38 in the first degree, as
39 defined in ORS 163.411
40 (1)(a), [or] (c) **or** (d).100 months
- 41 (P) Unlawful sexual penetration
42 in the second degree, as
43 defined in ORS 163.408.75 months
- 44 (Q) Sexual abuse in the first
45 degree, as defined in

- 1 ORS 163.427.....75 months
- 2 (R) Robbery in the first degree,
- 3 as defined in
- 4 ORS 164.415.....90 months
- 5 (S) Robbery in the second
- 6 degree, as defined in
- 7 ORS 164.405.....70 months
- 8 (b)(A) Arson in the first degree,
- 9 as defined in ORS 164.325,
- 10 when the offense represented
- 11 a threat of serious
- 12 physical injury.90 months
- 13 (B) Using a child in a display
- 14 of sexually explicit
- 15 conduct, as defined in
- 16 ORS 163.670.....70 months
- 17 (C) Compelling prostitution,
- 18 as defined in
- 19 ORS 167.017.....70 months
- 20 (D) Rape in the first degree,
- 21 as defined in
- 22 ORS 163.375 (1)(b).300 months
- 23 (E) Sodomy in the first degree,
- 24 as defined in
- 25 ORS 163.405 (1)(b).300 months
- 26 (F) Unlawful sexual penetration
- 27 in the first degree, as
- 28 defined in
- 29 ORS 163.411 (1)(b).300 months
- 30 (G) Kidnapping in the first
- 31 degree, as defined in
- 32 ORS 163.235, when the
- 33 offense is committed in
- 34 furtherance of the commission
- 35 or attempted commission of an
- 36 offense listed in subparagraph
- 37 (D), (E) or (F) of
- 38 this paragraph.....300 months
- 39 (c) Aggravated vehicular
- 40 homicide, as defined in
- 41 ORS 163.149.....240 months

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44 **SECTION 8. The amendments to ORS 137.700, 163.165, 163.187, 163.375, 163.405, 163.411 and**

45 **163.426 by sections 1 to 7 of this 2025 Act apply to conduct occurring on or after the effective**

1 **date of this 2025 Act.**

2 **SECTION 9. This 2025 Act takes effect on the 91st day after the date on which the 2025**
3 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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