

House Bill 4041

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Judiciary for Representative Jason Kropf for Oregon District Attorneys Association, Oregon Criminal Defense Lawyers 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 tells DOJ to do two studies and adds a way of committing the crime of criminal mistreatment in the first degree. The Act changes what is recorded at GJ, when a person can enter a conditional plea and how a misdemeanor is reduced to a violation. The Act also raises the dollar amounts in the elements of some crimes. (Flesch Readability Score: 61.3).

Directs the Department of Justice to study whether legislative changes are needed concerning credit for time served and post-conviction relief petitions based on nonunanimous jury verdicts. Directs the department to submit findings to the interim committees of the Legislative Assembly related to the judiciary no later than September 15, 2027. Sunsets on January 2, 2028.

Provides that a person commits the crime of criminal mistreatment in the first degree if the person exposes another person to an unlawful controlled substance in a specified manner. Punishes by a maximum of five years' imprisonment, \$125,000 fine, or both.

Requires the recording of a presentation of facts to the court by a grand jury for the purpose of receiving further instruction.

Removes the requirement that the state consent to the entry of a conditional plea of guilty or no contest.

Authorizes the court to enter a judgment of conviction for a Class A violation instead of a misdemeanor in specified circumstances.

Increases the dollar amounts in specified property crimes that serve as a minimum value amount of damages or stolen property or as a threshold between offense levels of the crime.

A BILL FOR AN ACT

Relating to public safety; creating new provisions; and amending ORS 132.260, 132.370, 135.335, 163.205, 164.043, 164.045, 164.055, 164.057, 164.061, 164.354 and 164.365.

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

CREDIT FOR TIME SERVED

SECTION 1. The Department of Justice, in consultation with the Department of Corrections, shall study whether legislative changes are needed to modify how credit for time served is applied to sentences. The Department of Justice shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to the judiciary no later than September 15, 2027.

SECTION 2. Section 1 of this 2026 Act is repealed on January 2, 2028.

POST-CONVICTION RELIEF

SECTION 3. The Department of Justice shall study whether legislative changes are needed to modify the procedures for post-conviction relief petitions based on nonunanimous

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.

jury verdicts. The department shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to the judiciary no later than September 15, 2027.

SECTION 4. Section 3 of this 2026 Act is repealed on January 2, 2028.

CRIMINAL MISTREATMENT

SECTION 5. ORS 163.205 is amended to read:

163.205. (1) A person commits the crime of criminal mistreatment in the first degree if:

(a) The person, in violation of a legal duty to provide care for another person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of another person, intentionally or knowingly:

(A) Withholds necessary and adequate food, physical care or medical attention from that other person; or

(B) Exposes the other person to an unlawful controlled substance in a manner that results in a detectable level of the controlled substance in the other person's body; or

(b) The person, in violation of a legal duty to provide care for a dependent person or elderly person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of a dependent person or elderly person, intentionally or knowingly:

(A) Causes physical injury or injuries to the dependent person or elderly person;

(B) Deserts the dependent person or elderly person in a place with the intent to abandon that person;

(C) Leaves the dependent person or elderly person unattended at a place for such a period of time as may be likely to endanger the health or welfare of that person;

(D) Hides the dependent person's or elderly person's money or property or takes the money or property for, or appropriates the money or property to, any use or purpose not in the due and lawful execution of the person's responsibility;

(E) Takes charge of a dependent or elderly person for the purpose of fraud;

(F) Leaves the dependent person or elderly person, or causes the dependent person or elderly person to enter or remain, in or upon premises:

(i) Where a cannabinoid extract as defined in ORS 475C.009 is being processed; and

(ii) That have not been licensed under ORS 475C.085; or

(G) Leaves the dependent person or elderly person, or causes the dependent person or elderly person to enter or remain, in or upon premises where a chemical reaction involving one or more precursor substances:

(i) Is occurring as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance; or

(ii) Has occurred as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance and the premises have not been certified as fit for use under ORS 453.885.

(2) As used in this section:

(a) "Controlled substance" has the meaning given that term in ORS 475.005.

(b) "Dependent person" means a person who because of either age or a physical or mental disability is dependent upon another to provide for the person's physical needs.

(c) "Elderly person" means a person 65 years of age or older.

(d) "Legal duty" includes but is not limited to a duty created by familial relationship, court order, contractual agreement or statutory or case law.

(e) "Precursor substance" has the meaning given that term in ORS 475.940.

(3) Criminal mistreatment in the first degree is a Class C felony.

GRAND JURY RECORDATION

SECTION 6. ORS 132.260 is amended to read:

132.260. (1) Except as provided in subsection (2) of this section, the grand juror described in ORS 132.250 (2)(a), or the shorthand reporter described in ORS 132.250 (2)(b), who is recording grand jury proceedings shall record all testimony given before the grand jury, including:

(a) The case name and number;

(b) The name of each witness appearing before the grand jury; *[and]*

(c) Each question asked of, and each response provided by, a witness appearing before the grand jury[.]; **and**

(d) A presentment made pursuant to ORS 132.370.

(2) The grand juror operating the audio electronic recording device or the shorthand reporter may not record:

(a) The deliberations or voting of the grand jury.

[(b) A presentment made pursuant to ORS 132.370.]

[(c)] **(b)** Any statements made by a grand juror who is examined as a witness as provided in ORS 132.350.

[(d)] **(c)** A procedure related to the production of records, or the unsealing of records, subpoenaed pursuant to ORS 136.583 and to be presented before the grand jury.

(3) The district attorney shall maintain the audio recordings, or report of the shorthand reporter, produced pursuant to this section and ORS 132.250.

SECTION 7. ORS 132.370 is amended to read:

132.370. (1) When the grand jury is in doubt whether the facts, as shown by the evidence before it, constitute a crime in law or whether the same has ceased to be punishable by reason of lapse of time or a former acquittal or conviction, it may make a presentment of the facts to the court, without mentioning the names of individuals, and ask the court for instructions concerning the law arising thereon.

(2) A presentment cannot be found and made to the court except as provided in subsection (1) of this section, and, when so found and presented, the court shall give such instructions to the grand jury concerning the law of the case as it thinks proper and necessary.

(3) A presentment is made to the court by the foreman in the presence of the grand jury[. *But being a mere*] **and is a** formal statement of facts for the purpose of obtaining the advice of the court as to the law arising thereon[, *it is not to be filed in court or preserved beyond the sitting of the grand jury*].

CONDITIONAL PLEAS

SECTION 8. ORS 135.335 is amended to read:

135.335. (1) The kinds of plea to an indictment, information or complaint, or each count thereof,

are:

- (a) Guilty.
- (b) Not guilty.
- (c) No contest.

(2) A defendant may plead no contest only with the consent of the court. Such a plea shall be accepted by the court only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

(3) With the consent of the court [*and the state*], a defendant may enter a conditional plea of guilty or no contest reserving, in writing, the right, on appeal from the judgment, to a review of an adverse determination of any specified pretrial motion. A defendant who finally prevails on appeal may withdraw the plea.

REDUCTION OF MISDEMEANORS TO VIOLATIONS

SECTION 9. Section 10 of this 2026 Act is added to and made a part of ORS 161.705 to 161.737.

SECTION 10. (1) Notwithstanding ORS 161.545, and except as provided in subsection (3) of this section, the court may enter a judgment of conviction for a Class A violation and make disposition accordingly when:

(a) A person is convicted of any misdemeanor other than one listed in subsection (3) of this section; and

(b) The court, considering the nature and circumstances of the crime and the history and character of the defendant, believes that a violation conviction is appropriate.

(2) The entry of a judgment of conviction for a Class A violation under this section may be made at the time of conviction and the court shall clearly denominate the offense as a Class A violation in the judgment.

(3) A court may not enter a judgment of conviction for a violation for the following misdemeanors under this section:

- (a) Assault in the fourth degree under ORS 163.160;
- (b) Strangulation under ORS 163.187;
- (c) Menacing under ORS 163.190;
- (d) Sexual abuse in the third degree under ORS 163.415;
- (e) Contributing to the sexual delinquency of a minor under ORS 163.435;
- (f) Sexual misconduct under ORS 163.445;
- (g) Custodial sexual misconduct in the second degree under ORS 163.454;
- (h) Unlawful dissemination of an intimate image under ORS 163.472;
- (i) Encouraging child sexual abuse in the third degree under ORS 163.687;
- (j) Invasion of personal privacy in the second degree under ORS 163.700;
- (k) Stalking under ORS 163.732;
- (L) Violating a court's stalking protective order under ORS 163.750;
- (m) Fleeing or attempting to elude a police officer under ORS 811.540;
- (n) Driving under the influence of intoxicants under ORS 813.010;
- (o) A misdemeanor constituting domestic violence as defined in ORS 135.230;
- (p) A misdemeanor that was originally charged as a felony and for which the court entered a judgment of conviction for a misdemeanor under ORS 161.705; or

(q) A misdemeanor for which an order of restitution is outstanding.

(4) Notwithstanding ORS 153.019 and 153.021, if the court enters a judgment of conviction for a Class A violation under this section, the fine that the court may impose:

(a) May be waived, after the court has taken into consideration the defendant's ability to pay and whether the defendant has already paid any fines, fees or restitution on the charge;

(b) May be less than the presumptive fine established by ORS 153.019 for a Class A violation; and

(c) May not exceed the maximum fine established by ORS 153.018 for a Class A violation.

(5) Notwithstanding subsections (1) and (3) of this section, the court may reduce any misdemeanor, other than a misdemeanor listed in subsection (3)(m) or (n) of this section, to a violation at any time after the filing of an information upon agreement of the defendant and prosecutor.

SECTION 11. Section 10 of this 2026 Act applies to offenses committed on or after the effective date of this 2026 Act.

OFFENSE LEVELS BASED ON DOLLAR AMOUNTS

SECTION 12. ORS 164.043 is amended to read:

164.043. (1) A person commits the crime of theft in the third degree if:

(a) By means other than extortion, the person commits theft as defined in ORS 164.015; and

(b) The total value of the property in a single or an aggregate transaction is less than [\$100] **\$150**.

(2) Theft in the third degree is a Class C misdemeanor.

SECTION 13. ORS 164.045 is amended to read:

164.045. (1) A person commits the crime of theft in the second degree if:

(a) By means other than extortion, the person commits theft as defined in ORS 164.015; and

(b) The total value of the property in a single or aggregate transaction is [\$100] **\$150** or more and less than [\$1,000] **\$1,500**.

(2) Theft in the second degree is a Class A misdemeanor.

SECTION 14. ORS 164.055 is amended to read:

164.055. (1) A person commits the crime of theft in the first degree if, by means other than extortion, the person commits theft as defined in ORS 164.015 and:

(a) The total value of the property in a single or aggregate transaction is [\$1,000] **\$1,500** or more;

(b) The theft is committed during a riot, fire, explosion, catastrophe or other emergency in an area affected by the riot, fire, explosion, catastrophe or other emergency;

(c) The theft is theft by receiving committed by buying, selling, borrowing or lending on the security of the property;

(d) The subject of the theft is a firearm or explosive;

(e) The subject of the theft is a livestock animal, a companion animal or a wild animal removed from habitat or born of a wild animal removed from habitat, pursuant to ORS 497.308 (2)(c);

(f) The subject of the theft is a precursor substance; or

(g) During the commission of the theft, the person recklessly engages in conduct that creates a substantial risk of serious physical injury to another person.

(2) As used in this section:

(a) "Companion animal" means a dog or cat possessed by a person, business or other entity for purposes of companionship, security, hunting, herding or providing assistance in relation to a physical disability.

(b) "Explosive" means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelley, but excluding fireworks as defined in ORS 480.111, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

(c) "Firearm" has the meaning given that term in ORS 166.210.

(d) "Livestock animal" means a ratite, psittacine, horse, gelding, mare, filly, stallion, colt, mule, ass, jenny, bull, steer, cow, calf, goat, sheep, lamb, llama, pig or hog.

(e) "Precursor substance" has the meaning given that term in ORS 475.940.

(3) Theft in the first degree is a Class C felony.

SECTION 15. ORS 164.057 is amended to read:

164.057. (1) A person commits the crime of aggravated theft in the first degree, if:

(a)(A) The person violates ORS 164.055 with respect to property, other than a motor vehicle used primarily for personal rather than commercial transportation; and

[(b)] (B) The value of the property in a single or aggregate transaction is [\$10,000] **\$15,000** or more; **or**

(b)(A) The person violates ORS 164.055 with respect to property, other than a motor vehicle used primarily for personal rather than commercial transportation;

(B) The victim of the theft was 65 years of age or older at the time of the commission of the offense; and

(C) The value of the property stolen from the victim described in subparagraph (B) of this paragraph, in a single or aggregate transaction, is \$10,000 or more.

(2) Aggravated theft in the first degree is a Class B felony.

SECTION 16. ORS 164.061 is amended to read:

164.061. When a person is convicted of aggravated theft in the first degree under ORS 164.057 (b), the court shall sentence the person to a term of incarceration ranging from 16 months to 45 months, depending on the person's criminal history, if:

(1) The victim of the theft was 65 years of age or older at the time of the commission of the offense; and

(2) The value of the property stolen from the victim described in subsection (1) of this section, in a single or aggregate transaction, is \$10,000 or more.

SECTION 17. ORS 164.354 is amended to read:

164.354. (1) A person commits the crime of criminal mischief in the second degree if:

(a) The person violates ORS 164.345, and as a result thereof, damages property in an amount exceeding [\$500] **\$750**; or

(b) Having no right to do so nor reasonable ground to believe that the person has such right, the person intentionally damages property of another, or, the person recklessly damages property of another in an amount exceeding [\$500] **\$750**.

(2) Criminal mischief in the second degree is a Class A misdemeanor.

SECTION 18. ORS 164.365 is amended to read:

164.365. (1) A person commits the crime of criminal mischief in the first degree who, with intent

1 to damage property, and having no right to do so nor reasonable ground to believe that the person
2 has such right:

3 (a) Damages or destroys property of another:

4 (A) In an amount exceeding [~~\$1,000~~] **\$1,500**;

5 (B) By means of an explosive;

6 (C) By starting a fire in an institution while the person is committed to and confined in the in-
7 stitution;

8 (D) Which is a livestock animal as defined in ORS 164.055;

9 (E) Which is the property of a public utility, telecommunications carrier, railroad, public trans-
10 portation facility or medical facility used in direct service to the public; or

11 (F) By intentionally interfering with, obstructing or adulterating in any manner the service of
12 a public utility, telecommunications carrier, railroad, public transportation facility or medical facil-
13 ity; or

14 (b) Intentionally uses, manipulates, arranges or rearranges the property of a public utility,
15 telecommunications carrier, railroad, public transportation facility or medical facility used in direct
16 service to the public so as to interfere with its efficiency.

17 (2) As used in subsection (1) of this section:

18 (a) "Institution" includes state and local correctional facilities, mental health facilities, juvenile
19 detention facilities and state training schools.

20 (b) "Medical facility" means a health care facility as defined in ORS 442.015, a licensed
21 physician's office or anywhere a licensed medical practitioner provides health care services.

22 (c) "Public utility" has the meaning provided for that term in ORS 757.005 and includes any
23 cooperative, people's utility district or other municipal corporation providing an electric, gas, water
24 or other utility service.

25 (d) "Railroad" has the meaning provided for that term in ORS 824.020.

26 (e) "Public transportation facility" means any property, structure or equipment used for or in
27 connection with the transportation of persons for hire by rail, air or bus, including any railroad
28 cars, buses or airplanes used to carry out such transportation.

29 (f) "Telecommunications carrier" has the meaning given that term in ORS 133.721.

30 (3) Criminal mischief in the first degree is a Class C felony.

31 **SECTION 19. The amendments to ORS 164.043, 164.045, 164.055, 164.057, 164.061, 164.354**
32 **and 164.365 by sections 12 to 18 of this 2026 Act apply to conduct constituting, or alleged to**
33 **constitute, a criminal offense occurring on or after the effective date of this 2026 Act.**
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35 CAPTIONS

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37 **SECTION 20. The unit captions used in this 2026 Act are provided only for the conven-**
38 **ience of the reader and do not become part of the statutory law of this state or express any**
39 **legislative intent in the enactment of this 2026 Act.**
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