

A-Engrossed
House Bill 2317

Ordered by the House April 10
Including House Amendments dated April 10

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

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.

[Extends statute of limitations from 10 years to 12 years for action for recovery of real property or for recovery of possession of real property.]

Extends statute of limitations of certain sex crimes from six to 12 years after commission of crime or, if victim was under 18 years of age, anytime before victim attains 30 years of age.

A BILL FOR AN ACT

1
2 Relating to statute of limitations; creating new provisions; and amending ORS 131.125 and 411.990.

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

4 **SECTION 1.** ORS 131.125 is amended to read:

5 131.125. (1) A prosecution for aggravated murder, murder, attempted murder or aggravated
6 murder, conspiracy or solicitation to commit aggravated murder or murder or any degree of
7 manslaughter may be commenced at any time after the commission of the attempt, conspiracy or
8 solicitation to commit aggravated murder or murder, or the death of the person killed.

9 **(2) A prosecution for any of the following felonies may be commenced within 12 years**
10 **after the commission of the crime or, if the victim at the time of the crime was under 18**
11 **years of age, anytime before the victim attains 30 years of age:**

12 **(a) Rape in the first degree under ORS 163.375.**

13 **(b) Sodomy in the first degree under ORS 163.405.**

14 **(c) Unlawful sexual penetration in the first degree under ORS 163.411.**

15 **(d) Sexual abuse in the first degree under ORS 163.427.**

16 *[(2)]* **(3) A prosecution for any of the following felonies may be commenced within six years after**
17 **the commission of the crime or, if the victim at the time of the crime was under 18 years of age,**
18 **anytime before the victim attains 30 years of age or within 12 years after the offense is reported to**
19 **a law enforcement agency or the Department of Human Services, whichever occurs first:**

20 **(a) Strangulation under ORS 163.187 (4).**

21 **(b) Criminal mistreatment in the first degree under ORS 163.205.**

22 **(c) Rape in the third degree under ORS 163.355.**

23 **(d) Rape in the second degree under ORS 163.365.**

24 *[(e)]* **Rape in the first degree under ORS 163.375.]**

25 *[(f)]* **(e) Sodomy in the third degree under ORS 163.385.**

26 *[(g)]* **(f) Sodomy in the second degree under ORS 163.395.**

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 *[(h) Sodomy in the first degree under ORS 163.405.]*
2 *[(i) (g) Unlawful sexual penetration in the second degree under ORS 163.408.*
3 *[(j) Unlawful sexual penetration in the first degree under ORS 163.411.]*
4 *[(k) (h) Sexual abuse in the second degree under ORS 163.425.*
5 *[(L) Sexual abuse in the first degree under ORS 163.427.]*
6 *[(m) (i) Using a child in a display of sexual conduct under ORS 163.670.*
7 *[(n) (j) Encouraging child sexual abuse in the first degree under ORS 163.684.*
8 *[(o) (k) Incest under ORS 163.525.*
9 *[(p) (L) Promoting prostitution under ORS 167.012.*
10 *[(q) (m) Compelling prostitution under ORS 167.017.*
11 *[(r) (n) Luring a minor under ORS 167.057.*
12 **[(3) (4) A prosecution for any of the following misdemeanors may be commenced within four**
13 **years after the commission of the crime or, if the victim at the time of the crime was under 18 years**
14 **of age, anytime before the victim attains 22 years of age or within four years after the offense is**
15 **reported to a law enforcement agency or the Department of Human Services, whichever occurs first:**
16 (a) Strangulation under ORS 163.187 (3).
17 (b) Sexual abuse in the third degree under ORS 163.415.
18 (c) Exhibiting an obscene performance to a minor under ORS 167.075.
19 (d) Displaying obscene materials to minors under ORS 167.080.
20 **[(4) (5) In the case of crimes described in subsection [(2)(m)] (3)(i) of this section, the victim is**
21 **the child engaged in sexual conduct. In the case of the crime described in subsection [(2)(o)] (3)(k)**
22 **of this section, the victim is the party to the incest other than the party being prosecuted. In the**
23 **case of crimes described in subsection [(2)(p)] (3)(L) and [(q)] (m) of this section, the victim is the**
24 **child whose acts of prostitution are promoted or compelled.**
25 **[(5) (6) A prosecution for arson in any degree may be commenced within six years after the**
26 **commission of the crime.**
27 **[(6) (7) A prosecution for any of the following felonies may be commenced within six years after**
28 **the commission of the crime if the victim at the time of the crime was 65 years of age or older:**
29 (a) Theft in the first degree under ORS 164.055.
30 (b) Aggravated theft in the first degree under ORS 164.057.
31 (c) Theft by extortion under ORS 164.075.
32 (d) Robbery in the third degree under ORS 164.395.
33 (e) Robbery in the second degree under ORS 164.405.
34 (f) Robbery in the first degree under ORS 164.415.
35 (g) Forgery in the first degree under ORS 165.013.
36 (h) Fraudulent use of a credit card under ORS 165.055 (4)(b).
37 (i) Identity theft under ORS 165.800.
38 **[(7) (8) Except as provided in subsection [(8)] (9) of this section or as otherwise expressly pro-**
39 **vided by law, prosecutions for other offenses must be commenced within the following periods of**
40 **limitations after their commission:**
41 (a) For any other felony, three years.
42 (b) For any misdemeanor, two years.
43 (c) For a violation, six months.
44 **[(8) (9) If the period prescribed in subsection [(7)] (8) of this section has expired, a prosecution**
45 **nevertheless may be commenced as follows:**

1 (a) If the offense has as a material element either fraud or the breach of a fiduciary obligation,
2 prosecution may be commenced within one year after discovery of the offense by an aggrieved party
3 or by a person who has a legal duty to represent an aggrieved party and who is not a party to the
4 offense, but in no case shall the period of limitation otherwise applicable be extended by more than
5 three years;

6 (b) If the offense is based upon misconduct in office by a public officer or employee, prosecution
7 may be commenced at any time while the defendant is in public office or employment or within two
8 years thereafter, but in no case shall the period of limitation otherwise applicable be extended by
9 more than three years; or

10 (c) If the offense is an invasion of personal privacy under ORS 163.700, prosecution may be
11 commenced within one year after discovery of the offense by the person aggrieved by the offense,
12 by a person who has a legal duty to represent the person aggrieved by the offense or by a law
13 enforcement agency, but in no case shall the period of limitation otherwise applicable be extended
14 by more than three years.

15 [(9)] (10) Notwithstanding [subsection (2)] **subsections (2) and (3)** of this section, if the defend-
16 ant is identified after the period described in subsection (2) **or (3)** of this section on the basis of
17 DNA (deoxyribonucleic acid) sample comparisons, a prosecution for:

18 (a) Rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first
19 degree or sexual abuse in the first degree may be commenced at any time after the commission of
20 the crime.

21 (b) Rape in the second degree, sodomy in the second degree or unlawful sexual penetration in
22 the second degree may be commenced within 25 years after the commission of the crime.

23 [(10)] (11) Notwithstanding subsection [(9)] (10) of this section, if a prosecution for a felony
24 listed in subsection [(9)] (10) of this section would otherwise be barred by subsection (2) **or (3)** of
25 this section, the prosecution must be commenced within two years of the DNA-based identification
26 of the defendant.

27 **SECTION 2.** ORS 411.990 is amended to read:

28 411.990. (1) Violation of ORS 411.320 or 411.335 is a Class C misdemeanor.

29 (2) Violation of any provision of ORS 411.630 or 411.840 is a Class C felony which may be re-
30 duced to a Class A misdemeanor in accordance with ORS 161.705.

31 (3) Violation of ORS 411.675 is a Class C felony.

32 (4) Criminal prosecution of violators of ORS 411.675 shall be commenced in accordance with
33 ORS 131.125 [(7)] (8) and [(8)] (9).

34 **SECTION 3. The amendments to ORS 131.125 by section 1 of this 2015 Act apply to of-**
35 **fenses committed before, on or after the effective date of this 2015 Act but do not operate**
36 **to revive a prosecution barred by the operation of ORS 131.125 before the effective date of**
37 **this 2015 Act.**