

Senate Bill 542

Sponsored by Senator THATCHER (Pre-session filed.)

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**.

Creates crime of patronizing a trafficked child. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both, if victim is child under 18 years of age. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both, if conviction is based on offer by or to law enforcement officer posing as child under 18 years of age. Directs Oregon Criminal Justice Commission to classify offense as specified crime category.

Excludes certain evidence of past behavior of alleged victim or witness in prosecution for patronizing a trafficked child.

Authorizes ex parte order for interception of communications when probable cause for patronizing a trafficked child exists.

Adds crime of patronizing a trafficked child to list of crimes constituting racketeering activity.

Adds crime of patronizing a trafficked child to definition of sex crime for purposes of sex offender registration.

Adds allowing child to patronize a trafficked child to definition of child abuse.

Repeals crime of purchasing sex with a minor.

A BILL FOR AN ACT

1
2 Relating to sex trafficking; creating new provisions; amending ORS 40.210, 133.724, 161.005,
3 163A.005, 166.715 and 419B.005; and repealing ORS 163.413.

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

5 **SECTION 1. (1) A person commits the crime of patronizing a trafficked child if the per-**
6 **son engages in, or offers or agrees to engage in, a commercial sex act, as defined in ORS**
7 **163.266, with:**

8 (a) A child under 18 years of age; or

9 (b) A law enforcement officer, as defined in ORS 163.730, who is posing as a child under
10 18 years of age.

11 (2) In any prosecution of a crime described in subsection (1)(a) of this section:

12 (a) The state is not required to prove that the defendant knew the child was under 18
13 years of age.

14 (b) It is not a defense that the defendant did not know the child's age or that the de-
15 fendant reasonably believed the child to be 18 years of age or older.

16 (3) Violation of subsection (1)(a) of this section is a Class B felony. Violation of sub-
17 section (1)(b) of this section is a Class C felony.

18 **SECTION 2. (1) The Oregon Criminal Justice Commission shall consider patronizing a**
19 **trafficked child as described in section 1 of this 2017 Act to be a person felony and classify**
20 **the crime:**

21 (a) As a crime category 9 of the sentencing guidelines grid if the offender violated section
22 1 (1)(a) of this 2017 Act.

23 (b) As a crime category 7 of the sentencing guidelines grid if the offender violated section
24 1 (1)(b) of this 2017 Act.

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 **(2) In determining the criminal history for a person convicted of patronizing a trafficked**
 2 **child, the commission shall consider the following to be the equivalent of one person felony:**

3 **(a) Two prior convictions of prostitution under ORS 167.007.**

4 **(b) Two prior convictions of commercial sexual solicitation under ORS 167.008.**

5 **(c) One prior conviction of prostitution under ORS 167.007 and one prior conviction of**
 6 **commercial sexual solicitation under ORS 167.008.**

7 **SECTION 3.** ORS 40.210 is amended to read:

8 40.210. (1) Notwithstanding any other provision of law, in a prosecution for a crime described
 9 in ORS 163.266 (1)(b) or (c), 163.355 to 163.427, 163.670 or 167.017 **or section 1 of this 2017 Act**, in
 10 a prosecution for an attempt to commit one of those crimes or in a proceeding conducted under ORS
 11 163.760 to 163.777, the following evidence is not admissible:

12 (a) Reputation or opinion evidence of the past sexual behavior of an alleged victim or a cor-
 13 roborating witness; or

14 (b) Reputation or opinion evidence presented for the purpose of showing that the manner of
 15 dress of an alleged victim incited the crime or, in a proceeding under ORS 163.760 to 163.777, incited
 16 the sexual abuse, or indicated consent to the sexual acts that are alleged.

17 (2) Notwithstanding any other provision of law, in a prosecution for a crime or an attempt to
 18 commit a crime listed in subsection (1) of this section or in a proceeding conducted under ORS
 19 163.760 to 163.777, evidence of an alleged victim's past sexual behavior other than reputation or
 20 opinion evidence is also not admissible, unless the evidence other than reputation or opinion evi-
 21 dence:

22 (a) Is admitted in accordance with subsection (4) of this section; and

23 (b) Is evidence that:

24 (A) Relates to the motive or bias of the alleged victim;

25 (B) Is necessary to rebut or explain scientific or medical evidence offered by the state; or

26 (C) Is otherwise constitutionally required to be admitted.

27 (3) Notwithstanding any other provision of law, in a prosecution for a crime or an attempt to
 28 commit a crime listed in subsection (1) of this section or in a proceeding conducted under ORS
 29 163.760 to 163.777, evidence, other than reputation or opinion evidence, of the manner of dress of
 30 the alleged victim or a corroborating witness, presented by a person accused of committing the
 31 crime or, in a proceeding conducted under ORS 163.760 to 163.777, by the respondent, is also not
 32 admissible, unless *[the evidence is]*:

33 (a) **The evidence is** admitted in accordance with subsection (4) of this section; and

34 (b) *[Is]* **The** evidence *[that]*:

35 (A) Relates to the motive or bias of the alleged victim;

36 (B) Is necessary to rebut or explain scientific, medical or testimonial evidence offered by the
 37 state;

38 (C) Is necessary to establish the identity of the alleged victim; or

39 (D) Is otherwise constitutionally required to be admitted.

40 (4)(a) If the person accused of a crime or an attempt to commit a crime listed in subsection (1)
 41 of this section, or the respondent in a proceeding conducted under ORS 163.760 to 163.777, intends
 42 to offer evidence under subsection (2) or (3) of this section, the accused or the respondent shall make
 43 a written motion to offer the evidence not later than 15 days before the date on which the trial in
 44 which the evidence is to be offered is scheduled to begin, except that the court may allow the mo-
 45 tion to be made at a later date, including during trial, if the court determines either that the evi-

1 dence is newly discovered and could not have been obtained earlier through the exercise of due
 2 diligence or that the issue to which the evidence relates has newly arisen in the case. Any motion
 3 made under this paragraph shall be served on all other parties and, in a criminal proceeding, on the
 4 alleged victim through the office of the prosecutor.

5 (b) The motion described in paragraph (a) of this subsection shall be accompanied by a written
 6 offer of proof. If the court determines that the offer of proof contains evidence described in sub-
 7 section (2) or (3) of this section, the court shall order a hearing in camera to determine if the evi-
 8 dence is admissible. At the hearing the parties may call witnesses, including the alleged victim, and
 9 offer relevant evidence. Notwithstanding ORS 40.030 (2), if the relevancy of the evidence that the
 10 accused or the respondent seeks to offer in the trial depends upon the fulfillment of a condition of
 11 fact, the court, at the hearing in camera or at a subsequent hearing in camera scheduled for the
 12 same purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and
 13 shall determine the issue.

14 (c) If the court determines on the basis of the hearing described in paragraph (b) of this sub-
 15 section that the evidence the accused or the respondent seeks to offer is relevant and that the
 16 probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be ad-
 17 missible in the trial to the extent an order made by the court specifies evidence that may be offered
 18 and areas with respect to which a witness may be examined or cross-examined.

19 (d) An order admitting evidence under this subsection in a criminal prosecution may be appealed
 20 by the state before trial.

21 (5) For purposes of this section:

22 (a) "Alleged victim" includes the petitioner in a proceeding conducted under ORS 163.760 to
 23 163.777.

24 (b) "In camera" means out of the presence of the public and the jury.

25 (c) "Past sexual behavior" means sexual behavior other than:

26 (A) The sexual behavior with respect to which the crime or attempt to commit the crime listed
 27 in subsection (1) of this section is alleged; or

28 (B) In a proceeding conducted under ORS 163.760 to 163.777, the alleged sexual abuse.

29 (d) "Trial" includes a hearing conducted under ORS 163.760 to 163.777.

30 **SECTION 4.** ORS 133.724 is amended to read:

31 133.724. (1) An ex parte order for the interception of wire, electronic or oral communications
 32 may be issued by any circuit court judge upon written application made upon oath or affirmation
 33 of the individual who is the district attorney or a deputy district attorney authorized by the district
 34 attorney for the county in which the order is sought. The application shall include:

35 (a) The name of the district attorney or the deputy district attorney making the application and
 36 the authority of the district attorney or the deputy district attorney to make the application;

37 (b) The identity of the investigative or law enforcement officer making the application and the
 38 officer authorizing the application;

39 (c) A statement demonstrating that there is probable cause to believe that an individual is
 40 committing, has committed or is about to commit:

41 (A) A particular felony of murder, kidnapping, arson, robbery, bribery, extortion or other crime
 42 dangerous to life and punishable as a felony;

43 (B) A crime punishable as a felony under ORS 163.266 (1)(b) or (c), [163.413,] 166.720, 167.012,
 44 167.017, 475.752, 475.806 to 475.894 or 475.904 to 475.910 or **section 1 of this 2017 Act** or as a
 45 misdemeanor under ORS 167.007 or 167.008; or

- 1 (C) Any conspiracy to commit any of the foregoing crimes;
- 2 (d) A statement of the details, if known, of the particular crime alleged under paragraph (c) of
3 this subsection;
- 4 (e) A particular description of the nature and location of the facilities from which or the place
5 where the wire, electronic or oral communication is to be intercepted, if known;
- 6 (f) A particular description of the type of wire, electronic or oral communication sought to be
7 intercepted;
- 8 (g) The identity of the person, if known, suspected of committing the crime and whose wire,
9 electronic or oral communications are to be intercepted;
- 10 (h) A full and complete statement as to whether or not other investigative procedures have been
11 tried and failed or why other investigative procedures reasonably appear to be unlikely to succeed
12 if tried or are likely to be too dangerous;
- 13 (i) A statement of the period of time for which the interception is required to be maintained. If
14 the nature of the investigation is such that the authorization for interception should not automat-
15 ically terminate when the described type of wire, electronic or oral communication has been first
16 obtained, a description of facts establishing probable cause to believe that additional communi-
17 cations of the same type will occur thereafter;
- 18 (j) A statement as to whether any prior application has been made to intercept wire, electronic
19 or oral communications from the same person and, if such prior application exists, a statement of
20 the current status of that application; and
- 21 (k) Where the application is for the extension of an existing order, a statement setting forth the
22 results thus far obtained from the interception, or a reasonable explanation of the failure to obtain
23 such results.
- 24 (2) The judge may require the applicant to furnish further testimony or documentary evidence
25 in support of the application.
- 26 (3) Upon examination of such application and evidence the judge may enter an ex parte order,
27 as requested or as modified, authorizing or approving interception of wire, electronic or oral com-
28 munications within the state if the judge determines on the basis of the facts submitted by the ap-
29 plicant that:
- 30 (a) There is probable cause for belief that an individual is committing, has committed or is about
31 to commit a particular crime described in subsection (1)(c) of this section;
- 32 (b) There is probable cause for belief that particular communications concerning that crime will
33 be obtained through such interception;
- 34 (c) Normal investigative procedures have been tried and have failed or reasonably appear to be
35 unlikely to succeed if tried or are likely to be too dangerous; and
- 36 (d) There is probable cause for belief that the facilities from which, or the place where, the wire,
37 electronic or oral communications to be intercepted are being used, or are about to be used, in
38 connection with the planning or the commission of that crime are open to the public or are owned
39 by, leased to, listed in the name of, or commonly used by the individual suspected.
- 40 (4) Each order authorizing or approving the interception of any wire, electronic or oral com-
41 munication shall specify:
- 42 (a) The identity of the person, if known, whose communications are to be intercepted;
- 43 (b) The nature and location of the communications facilities as to which, or the place where,
44 authority to intercept is granted;
- 45 (c) A particular description of the type of communication sought to be intercepted, and a state-

1 ment of the particular crime to which it relates;

2 (d) The identity of the agency authorized to intercept the communications and of the person
3 authorizing the application;

4 (e) The period of time during which such interception is authorized, including a statement as to
5 whether or not the interception shall automatically terminate when the described communication
6 has been first obtained; and

7 (f) The name of the applicant, date of issuance, and the signature and title of the issuing judge.

8 (5) An order entered pursuant to this section may not authorize or approve the interception of
9 any wire, electronic or oral communication for any period longer than is necessary to achieve the
10 objective of authorization and in no event for longer than 30 days. Extensions of any order may be
11 granted, but only when application for an extension is made in accordance with subsection (1)(k) of
12 this section and the court makes the findings required by subsection (3) of this section. The period
13 of extension shall be no longer than the authorizing judge deems necessary to achieve the purpose
14 for which it is granted and in no event for longer than 30 days. Every order and extension of that
15 order shall contain a provision that the authorization to intercept must be executed as soon as
16 practicable, must be conducted in such a way as to minimize the interception of communications not
17 otherwise subject to interception, and must terminate upon attainment of the authorized objective,
18 or in any event in 30 days.

19 (6) Whenever an order authorizing interception is entered pursuant to this section, the order
20 may require reports to be made to the judge who issued the order showing what progress has been
21 made toward achievement of the authorized objective and the need for continued interception. Such
22 reports shall be made at such intervals as the judge may require.

23 **SECTION 5.** ORS 166.715 is amended to read:

24 166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

25 (1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart,
26 photograph, phonograph record, magnetic tape, computer printout, other data compilation from
27 which information can be obtained or from which information can be translated into usable form,
28 or other tangible item.

29 (2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business
30 trust or other profit or nonprofit legal entity, and includes any union, association or group of indi-
31 viduals associated in fact although not a legal entity, and both illicit and licit enterprises and gov-
32 ernmental and nongovernmental entities.

33 (3) "Investigative agency" means the Department of Justice or any district attorney.

34 (4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering
35 activity that have the same or similar intents, results, accomplices, victims or methods of commis-
36 sion or otherwise are interrelated by distinguishing characteristics, including a nexus to the same
37 enterprise, and are not isolated incidents, provided at least one of such incidents occurred after
38 November 1, 1981, and that the last of such incidents occurred within five years after a prior inci-
39 dent of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other
40 provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct
41 that constitutes an incident of racketeering activity may be used to establish a pattern of
42 racketeering activity without regard to whether the conduct previously has been the subject of a
43 criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted
44 in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within
45 the jurisdiction of the juvenile court.

1 (5) "Person" means any individual or entity capable of holding a legal or beneficial interest in
2 real or personal property.

3 (6) "Racketeering activity" includes conduct of a person committed both before and after the
4 person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to
5 commit, or to solicit, coerce or intimidate another person to commit:

6 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following
7 provisions of the Oregon Revised Statutes:

8 (A) ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995, relating to securities;

9 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

10 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing
11 governmental administration;

12 (D) ORS 162.405 to 162.425, relating to abuse of public office;

13 (E) ORS 162.455, relating to interference with legislative operation;

14 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

15 (G) ORS 163.160 to 163.205, relating to assault and related offenses;

16 (H) ORS 163.225 and 163.235, relating to kidnapping;

17 (I) ORS 163.275, relating to coercion;

18 (J) ORS 163.665 to 163.693, relating to sexual conduct of children;

19 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135,
20 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and
21 related offenses;

22 (L) ORS 164.315 to 164.335, relating to arson and related offenses;

23 (M) ORS 164.345 to 164.365, relating to criminal mischief;

24 (N) ORS 164.395 to 164.415, relating to robbery;

25 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a
26 recording;

27 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and
28 related offenses;

29 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

30 (R) ORS 165.540 and 165.555, relating to communication crimes;

31 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating
32 to firearms and other weapons;

33 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.057,
34 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365,
35 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexual conduct, gambling,
36 computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting
37 bird and related offenses;

38 (U) ORS 171.990, relating to legislative witnesses;

39 (V) ORS 260.575 and 260.665, relating to election offenses;

40 (W) ORS 314.075, relating to income tax;

41 (X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco
42 products taxes and the directories developed under ORS 180.425 and 180.477;

43 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments or medical
44 assistance benefits, and ORS 411.990 (2) and (3);

45 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

1 (AA) ORS 463.995, relating to boxing, mixed martial arts and entertainment wrestling, as defined
2 in ORS 463.015;

3 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445,
4 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS
5 chapter 471 relating to licenses issued under the Liquor Control Act;

6 (CC) ORS 475.005 to 475.285 and 475.752 to 475.980, relating to controlled substances;

7 (DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;

8 (EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

9 (FF) ORS 658.452 or 658.991 (2) to (4), relating to labor contractors;

10 (GG) ORS chapter 706, relating to banking law administration;

11 (HH) ORS chapter 714, relating to branch banking;

12 (II) ORS chapter 716, relating to mutual savings banks;

13 (JJ) ORS chapter 723, relating to credit unions;

14 (KK) ORS chapter 726, relating to pawnbrokers;

15 (LL) ORS 166.382 and 166.384, relating to destructive devices;

16 (MM) ORS 165.074;

17 (NN) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;

18 (OO) ORS chapter 496, 497 or 498, relating to wildlife;

19 (PP) ORS 163.355 to 163.427, relating to sexual offenses;

20 (QQ) ORS 166.015, relating to riot;

21 (RR) ORS 166.155 and 166.165, relating to intimidation;

22 (SS) ORS chapter 696, relating to real estate and escrow;

23 (TT) ORS chapter 704, relating to outfitters and guides;

24 (UU) ORS 165.692, relating to making a false claim for health care payment;

25 (VV) ORS 162.117, relating to public investment fraud;

26 (WW) ORS 164.170 or 164.172;

27 (XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;

28 (YY) ORS 164.886;

29 (ZZ) ORS 167.312 and 167.388;

30 (AAA) ORS 164.889;

31 (BBB) ORS 165.800; or

32 (CCC) ORS 163.263, 163.264 or 163.266 **or section 1 of this 2017 Act.**

33 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

34 (7) “Unlawful debt” means any money or other thing of value constituting principal or interest
35 of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred
36 or contracted:

37 (a) In violation of any one of the following:

38 (A) ORS chapter 462, relating to racing;

39 (B) ORS 167.108 to 167.164, relating to gambling; or

40 (C) ORS 82.010 to 82.170, relating to interest and usury.

41 (b) In gambling activity in violation of federal law or in the business of lending money at a rate
42 usurious under federal or state law.

43 (8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute
44 in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions
45 from what the statute was when this section was enacted, the reference shall extend to and include

1 amendments to the statute.

2 **SECTION 6.** ORS 166.715, as amended by section 27, chapter 584, Oregon Laws 2013, is
3 amended to read:

4 166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

5 (1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart,
6 photograph, phonograph record, magnetic tape, computer printout, other data compilation from
7 which information can be obtained or from which information can be translated into usable form,
8 or other tangible item.

9 (2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business
10 trust or other profit or nonprofit legal entity, and includes any union, association or group of indi-
11 viduals associated in fact although not a legal entity, and both illicit and licit enterprises and gov-
12 ernmental and nongovernmental entities.

13 (3) "Investigative agency" means the Department of Justice or any district attorney.

14 (4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering
15 activity that have the same or similar intents, results, accomplices, victims or methods of commis-
16 sion or otherwise are interrelated by distinguishing characteristics, including a nexus to the same
17 enterprise, and are not isolated incidents, provided at least one of such incidents occurred after
18 November 1, 1981, and that the last of such incidents occurred within five years after a prior inci-
19 dent of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other
20 provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct
21 that constitutes an incident of racketeering activity may be used to establish a pattern of
22 racketeering activity without regard to whether the conduct previously has been the subject of a
23 criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted
24 in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within
25 the jurisdiction of the juvenile court.

26 (5) "Person" means any individual or entity capable of holding a legal or beneficial interest in
27 real or personal property.

28 (6) "Racketeering activity" includes conduct of a person committed both before and after the
29 person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to
30 commit, or to solicit, coerce or intimidate another person to commit:

31 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following
32 provisions of the Oregon Revised Statutes:

33 (A) ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995, relating to securities;

34 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

35 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing
36 governmental administration;

37 (D) ORS 162.405 to 162.425, relating to abuse of public office;

38 (E) ORS 162.455, relating to interference with legislative operation;

39 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

40 (G) ORS 163.160 to 163.205, relating to assault and related offenses;

41 (H) ORS 163.225 and 163.235, relating to kidnapping;

42 (I) ORS 163.275, relating to coercion;

43 (J) ORS 163.665 to 163.693, relating to sexual conduct of children;

44 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135,
45 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and

1 related offenses;

2 (L) ORS 164.315 to 164.335, relating to arson and related offenses;

3 (M) ORS 164.345 to 164.365, relating to criminal mischief;

4 (N) ORS 164.395 to 164.415, relating to robbery;

5 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a
6 recording;

7 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and
8 related offenses;

9 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

10 (R) ORS 165.540 and 165.555, relating to communication crimes;

11 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating
12 to firearms and other weapons;

13 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.057,
14 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365,
15 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexual conduct, gambling,
16 computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting
17 bird and related offenses;

18 (U) ORS 171.990, relating to legislative witnesses;

19 (V) ORS 260.575 and 260.665, relating to election offenses;

20 (W) ORS 314.075, relating to income tax;

21 (X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco
22 products taxes and the directories developed under ORS 180.425 and 180.477;

23 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments or medical
24 assistance benefits, and ORS 411.990 (2) and (3);

25 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

26 (AA) ORS 463.995, relating to boxing, mixed martial arts and entertainment wrestling, as defined
27 in ORS 463.015;

28 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445,
29 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS
30 chapter 471 relating to licenses issued under the Liquor Control Act;

31 (CC) ORS 475.005 to 475.285 and 475.752 to 475.980, relating to controlled substances;

32 (DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;

33 (EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

34 (FF) ORS 658.452 or 658.991 (2) to (4), relating to labor contractors;

35 (GG) ORS chapter 706, relating to banking law administration;

36 (HH) ORS chapter 714, relating to branch banking;

37 (II) ORS chapter 716, relating to mutual savings banks;

38 (JJ) ORS chapter 723, relating to credit unions;

39 (KK) ORS chapter 726, relating to pawnbrokers;

40 (LL) ORS 166.382 and 166.384, relating to destructive devices;

41 (MM) ORS 165.074;

42 (NN) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;

43 (OO) ORS chapter 496, 497 or 498, relating to wildlife;

44 (PP) ORS 163.355 to 163.427, relating to sexual offenses;

45 (QQ) ORS 166.015, relating to riot;

- 1 (RR) ORS 166.155 and 166.165, relating to intimidation;
- 2 (SS) ORS chapter 696, relating to real estate and escrow;
- 3 (TT) ORS chapter 704, relating to outfitters and guides;
- 4 (UU) ORS 165.692, relating to making a false claim for health care payment;
- 5 (VV) ORS 162.117, relating to public investment fraud;
- 6 (WW) ORS 164.170 or 164.172;
- 7 (XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;
- 8 (YY) ORS 164.886;
- 9 (ZZ) ORS 167.312 and 167.388;
- 10 (AAA) ORS 164.889;
- 11 (BBB) ORS 165.800; or
- 12 (CCC) ORS 163.263, 163.264 or 163.266 **or section 1 of this 2017 Act.**

13 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

14 (7) “Unlawful debt” means any money or other thing of value constituting principal or interest
 15 of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred
 16 or contracted:

17 (a) In violation of any one of the following:

- 18 (A) ORS chapter 462, relating to racing;
- 19 (B) ORS 167.108 to 167.164, relating to gambling; or
- 20 (C) ORS 82.010 to 82.170, relating to interest and usury.

21 (b) In gambling activity in violation of federal law or in the business of lending money at a rate
 22 usurious under federal or state law.

23 (8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute
 24 in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions
 25 from what the statute was when this section was enacted, the reference shall extend to and include
 26 amendments to the statute.

27 **SECTION 7.** ORS 163A.005 is amended to read:

28 163A.005. As used in ORS 163A.005 to 163A.235:

29 (1) “Another United States court” means a federal court, a military court, the tribal court of a
 30 federally recognized Indian tribe or a court of:

- 31 (a) A state other than Oregon;
- 32 (b) The District of Columbia;
- 33 (c) The Commonwealth of Puerto Rico;
- 34 (d) Guam;
- 35 (e) American Samoa;
- 36 (f) The Commonwealth of the Northern Mariana Islands; or
- 37 (g) The United States Virgin Islands.

38 (2) “Attends” means is enrolled on a full-time or part-time basis.

39 (3)(a) “Correctional facility” means any place used for the confinement of persons:

40 (A) Charged with or convicted of a crime or otherwise confined under a court order.

41 (B) Found to be within the jurisdiction of the juvenile court for having committed an act that
 42 if committed by an adult would constitute a crime.

43 (b) “Correctional facility” applies to a state hospital or a secure intensive community inpatient
 44 facility only as to persons detained therein charged with or convicted of a crime, or detained therein
 45 after being found guilty except for insanity under ORS 161.290 to 161.370 or responsible except for

1 insanity under ORS 419C.411.

2 (4) "Institution of higher education" means a public or private educational institution that pro-
3 vides a program of post-secondary education.

4 (5) "Sex crime" means:

5 (a) Rape in any degree;

6 (b) Sodomy in any degree;

7 (c) Unlawful sexual penetration in any degree;

8 (d) Sexual abuse in any degree;

9 (e) Incest with a child victim;

10 (f) Using a child in a display of sexually explicit conduct;

11 (g) Encouraging child sexual abuse in any degree;

12 (h) Transporting child pornography into the state;

13 (i) Paying for viewing a child's sexually explicit conduct;

14 (j) Compelling prostitution;

15 (k) Promoting prostitution;

16 (L) Kidnapping in the first degree if the victim was under 18 years of age;

17 (m) Contributing to the sexual delinquency of a minor;

18 (n) Sexual misconduct if the offender is at least 18 years of age;

19 (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;

20 (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent
21 or by a person found to be within the jurisdiction of the juvenile court;

22 (q) Online sexual corruption of a child in any degree if the offender reasonably believed the
23 child to be more than five years younger than the offender;

24 (r) Luring a minor, if:

25 (A) The offender reasonably believed the minor or, in the case of a police officer or agent of a
26 police officer posing as a minor, the purported minor to be more than five years younger than the
27 offender or under 16 years of age; and

28 (B) The court designates in the judgment that the offense is a sex crime;

29 (s) Sexual assault of an animal;

30 (t) Public indecency or private indecency, if the person has a prior conviction for a crime listed
31 in this subsection;

32 (u) Trafficking in persons as described in ORS 163.266 (1)(b) or (c);

33 [*v*] *Purchasing sex with a minor if the court designates the offense as a sex crime pursuant to*
34 *ORS 163.413 (3)(d), or the offense is the defendant's second or subsequent conviction under ORS*
35 *163.413 (3)(b)(B);]*

36 (v) **Patronizing a trafficked child;**

37 (w) Invasion of personal privacy in the first degree, if the court designates the offense as a sex
38 crime pursuant to ORS 163.701 (3);

39 (x) Any attempt to commit any of the crimes listed in paragraphs (a) to (w) of this subsection;

40 (y) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a)
41 to (w) of this subsection; or

42 (z) Criminal conspiracy if the offender agrees with one or more persons to engage in or cause
43 the performance of an offense listed in paragraphs (a) to (w) of this subsection.

44 (6) "Sex offender" means a person who:

45 (a) Has been convicted of a sex crime;

1 (b) Has been found guilty except for insanity of a sex crime;

2 (c) Has been convicted in another United States court of a crime:

3 (A) That would constitute a sex crime if committed in this state; or

4 (B) For which the person would have to register as a sex offender in that court's jurisdiction,
5 or as required under federal law, regardless of whether the crime would constitute a sex crime in
6 this state; or

7 (d) Is described in ORS 163A.025 (1).

8 (7) "Works" or "carries on a vocation" means full-time or part-time employment for more than
9 14 days within one calendar year whether financially compensated, volunteered or for the purpose
10 of governmental or educational benefit.

11 **SECTION 8.** ORS 419B.005, as amended by section 39, chapter 106, Oregon Laws 2016, is
12 amended to read:

13 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

14 (1)(a) "Abuse" means:

15 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
16 which has been caused by other than accidental means, including any injury which appears to be
17 at variance with the explanation given of the injury.

18 (B) Any mental injury to a child, which shall include only observable and substantial impairment
19 of the child's mental or psychological ability to function caused by cruelty to the child, with due
20 regard to the culture of the child.

21 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
22 tration and incest, as those acts are described in ORS chapter 163.

23 (D) Sexual abuse, as described in ORS chapter 163.

24 (E) Sexual exploitation, including but not limited to:

25 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
26 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
27 in the performing for people to observe or the photographing, filming, tape recording or other ex-
28 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
29 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
30 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
31 which is designed to serve educational or other legitimate purposes; and

32 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in
33 ORS 167.007 or a commercial sex act as defined in ORS 163.266, [*to purchase sex with a minor as*
34 *described in ORS 163.413 or*] to engage in commercial sexual solicitation as described in ORS
35 167.008 **or to patronize a trafficked child as described in section 1 of this 2017 Act.**

36 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to
37 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
38 welfare of the child.

39 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
40 to the child's health or welfare.

41 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

42 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where
43 methamphetamines are being manufactured.

44 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child
45 to a substantial risk of harm to the child's health or safety.

1 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the
 2 conditions described in paragraph (a) of this subsection.

3 (2) "Child" means an unmarried person who:

4 (a) Is under 18 years of age; or

5 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring
 6 agency as that term is defined in ORS 418.205.

7 (3) "Higher education institution" means:

8 (a) A community college as defined in ORS 341.005;

9 (b) A public university listed in ORS 352.002;

10 (c) The Oregon Health and Science University; and

11 (d) A private institution of higher education located in Oregon.

12 (4) "Law enforcement agency" means:

13 (a) A city or municipal police department.

14 (b) A county sheriff's office.

15 (c) The Oregon State Police.

16 (d) A police department established by a university under ORS 352.121 or 353.125.

17 (e) A county juvenile department.

18 (5) "Public or private official" means:

19 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
 20 including any intern or resident.

21 (b) Dentist.

22 (c) School employee, including an employee of a higher education institution.

23 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
 24 or employee of an in-home health service.

25 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
 26 Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local
 27 health department, a community mental health program, a community developmental disabilities
 28 program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205
 29 or an alcohol and drug treatment program.

30 (f) Peace officer.

31 (g) Psychologist.

32 (h) Member of the clergy.

33 (i) Regulated social worker.

34 (j) Optometrist.

35 (k) Chiropractor.

36 (L) Certified provider of foster care, or an employee thereof.

37 (m) Attorney.

38 (n) Licensed professional counselor.

39 (o) Licensed marriage and family therapist.

40 (p) Firefighter or emergency medical services provider.

41 (q) A court appointed special advocate, as defined in ORS 419A.004.

42 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.

43 (s) Member of the Legislative Assembly.

44 (t) Physical, speech or occupational therapist.

45 (u) Audiologist.

1 (v) Speech-language pathologist.

2 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
3 gations or discipline by the commission.

4 (x) Pharmacist.

5 (y) An operator of a preschool recorded program under ORS 329A.255.

6 (z) An operator of a school-age recorded program under ORS 329A.257.

7 (aa) Employee of a private agency or organization facilitating the provision of respite services,
8 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
9 109.056.

10 (bb) Employee of a public or private organization providing child-related services or activities:

11 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
12 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
13 vision or auspices of religious, public or private educational systems or community service organ-
14 izations; and

15 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide
16 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-
17 ficking.

18 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
19 if compensated and if the athlete is a child.

20 (dd) Personal support worker, as defined by rule adopted by the Home Care Commission.

21 (ee) Home care worker, as defined in ORS 410.600.

22 **SECTION 9.** ORS 161.005, as amended by section 4, chapter 22, Oregon Laws 2016, is amended
23 to read:

24 161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290
25 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737,
26 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to
27 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.196, 163.215 to
28 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.432, 163.433,
29 163.472, 163.505 to 163.575, 163.665 to 163.693, 163.700, 163.701, 164.005, 164.015 to 164.135, 164.138,
30 164.140, 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.857, 164.886, 165.002
31 to 165.102, 165.109, 165.118, 165.805, 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to
32 167.027, 167.057, 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340,
33 167.350, 167.810 and 167.820 and section 1, chapter 22, Oregon Laws 2016 **and section 1 of this 2017**
34 **Act**, shall be known and may be cited as Oregon Criminal Code of 1971.

35 **SECTION 10. ORS 163.413 is repealed.**

36