

# House Bill 3365

Sponsored by Representatives OLSON, TAYLOR, SPRENGER; Representatives BARKER, BARRETO, BOONE, DAVIS, ESQUIVEL, GILLIAM, HACK, HEARD, HUFFMAN, KENNEMER, KENY-GUYER, KRIEGER, NATHANSON, PARRISH, POST, RAYFIELD, SMITH, STARK, WEIDNER, WHISNANT, WILSON, Senators BATES, BOQUIST, BURDICK, FERRIOLI, ROBLAN, THOMSEN, WHITSETT

## 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**.

Modifies crime of displaying obscene materials to minors. Renames crime and provides that person commits crime by displaying to minor or allowing minor to purchase specified items.

## A BILL FOR AN ACT

Relating to obscene materials made available to minors; amending ORS 131.125 and 167.080.

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

**SECTION 1.** ORS 167.080 is amended to read:

167.080. (1) A person commits the crime of *[displaying]* **making** obscene materials **available** to minors if, being the owner, operator or manager of a business or acting in a managerial capacity, the person knowingly or recklessly permits a minor who is not accompanied by the parent or lawful guardian of the minor to:

(a) Enter or remain on the premises, if in that part of the premises where the minor is so permitted to be, there is visibly displayed:

*[(a)]* (A) Any picture, photograph, drawing, sculpture or other visual representation or image of a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse; *[or]*

*[(b)]* (B) Any book, magazine, paperback, pamphlet or other written or printed matter, however reproduced, that reveals a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse[.]; **or**

(C) Any instrument or device, other than one primarily intended for a medical purpose including contraception, that is specifically designed to sexually stimulate a person's genital or anal areas as part of an act of sexual conduct; **or**

(b) Purchase from the business any instrument or device, other than one primarily intended for a medical purpose including contraception, that is specifically designed to sexually stimulate a person's genital or anal areas as part of an act of sexual conduct.

(2) Displaying obscene materials to minors is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding \$10,000.

**SECTION 2.** ORS 131.125 is amended to read:

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

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

- 5 (a) Strangulation under ORS 163.187 (4).
- 6 (b) Criminal mistreatment in the first degree under ORS 163.205.
- 7 (c) Rape in the third degree under ORS 163.355.
- 8 (d) Rape in the second degree under ORS 163.365.
- 9 (e) Rape in the first degree under ORS 163.375.
- 10 (f) Sodomy in the third degree under ORS 163.385.
- 11 (g) Sodomy in the second degree under ORS 163.395.
- 12 (h) Sodomy in the first degree under ORS 163.405.
- 13 (i) Unlawful sexual penetration in the second degree under ORS 163.408.
- 14 (j) Unlawful sexual penetration in the first degree under ORS 163.411.
- 15 (k) Sexual abuse in the second degree under ORS 163.425.
- 16 (L) Sexual abuse in the first degree under ORS 163.427.
- 17 (m) Using a child in a display of sexual conduct under ORS 163.670.
- 18 (n) Encouraging child sexual abuse in the first degree under ORS 163.684.
- 19 (o) Incest under ORS 163.525.
- 20 (p) Promoting prostitution under ORS 167.012.
- 21 (q) Compelling prostitution under ORS 167.017.
- 22 (r) Luring a minor under ORS 167.057.

23 (3) A prosecution for any of the following misdemeanors may be commenced within four years  
 24 after the commission of the crime or, if the victim at the time of the crime was under 18 years of  
 25 age, anytime before the victim attains 22 years of age or within four years after the offense is re-  
 26 ported to a law enforcement agency or the Department of Human Services, whichever occurs first:

- 27 (a) Strangulation under ORS 163.187 (3).
- 28 (b) Sexual abuse in the third degree under ORS 163.415.
- 29 (c) Exhibiting an obscene performance to a minor under ORS 167.075.
- 30 (d) [*Displaying*] **Making** obscene materials **available** to minors under ORS 167.080.

31 (4) In the case of crimes described in subsection (2)(m) of this section, the victim is the child  
 32 engaged in sexual conduct. In the case of the crime described in subsection (2)(o) of this section,  
 33 the victim is the party to the incest other than the party being prosecuted. In the case of crimes  
 34 described in subsection (2)(p) and (q) of this section, the victim is the child whose acts of  
 35 prostitution are promoted or compelled.

36 (5) A prosecution for arson in any degree may be commenced within six years after the com-  
 37 mission of the crime.

38 (6) A prosecution for any of the following felonies may be commenced within six years after the  
 39 commission of the crime if the victim at the time of the crime was 65 years of age or older:

- 40 (a) Theft in the first degree under ORS 164.055.
- 41 (b) Aggravated theft in the first degree under ORS 164.057.
- 42 (c) Theft by extortion under ORS 164.075.
- 43 (d) Robbery in the third degree under ORS 164.395.
- 44 (e) Robbery in the second degree under ORS 164.405.
- 45 (f) Robbery in the first degree under ORS 164.415.

1 (g) Forgery in the first degree under ORS 165.013.

2 (h) Fraudulent use of a credit card under ORS 165.055 (4)(b).

3 (i) Identity theft under ORS 165.800.

4 (7) Except as provided in subsection (8) of this section or as otherwise expressly provided by  
5 law, prosecutions for other offenses must be commenced within the following periods of limitations  
6 after their commission:

7 (a) For any other felony, three years.

8 (b) For any misdemeanor, two years.

9 (c) For a violation, six months.

10 (8) If the period prescribed in subsection (7) of this section has expired, a prosecution never-  
11 theless may be commenced as follows:

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

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

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

26 (9) Notwithstanding subsection (2) of this section, if the defendant is identified after the period  
27 described in subsection (2) of this section on the basis of DNA (deoxyribonucleic acid) sample com-  
28 parisons, a prosecution for:

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

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

34 (10) Notwithstanding subsection (9) of this section, if a prosecution for a felony listed in sub-  
35 section (9) of this section would otherwise be barred by subsection (2) of this section, the prose-  
36 cution must be commenced within two years of the DNA-based identification of the defendant.

37