

House Bill 3073

Sponsored by Representative LEWIS; Representatives BARRETO, BOLES, BONHAM, BOSCHART DAVIS, FINDLEY, GORSEK, HELT, LEIF, MEEK, NERON, NOBLE, PILUSO, POST, RESCHKE, SMITH DB, SMITH G, SPRENGER, STARK, WALLAN, WILDE, WILSON, ZIKA

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**.

Extends statute of limitations for certain sex crimes. Authorizes prosecution at any time after commission of crime if defendant identified based on DNA analysis.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to statute of limitations; creating new provisions; amending ORS 131.125; and declaring an
3 emergency.

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

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

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

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

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

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

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

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

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

21 (a) Strangulation under ORS 163.187 (4).

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

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

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

25 (e) Sodomy in the third degree under ORS 163.385.

26 (f) Sodomy in the second degree under ORS 163.395.

27 (g) Unlawful sexual penetration in the second degree under ORS 163.408.

28 (h) Sexual abuse in the second degree under ORS 163.425.

29 (i) Using a child in a display of sexual conduct under ORS 163.670.

30 (j) Encouraging child sexual abuse in the first degree under ORS 163.684.

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 (k) Incest under ORS 163.525.

2 (L) Promoting prostitution under ORS 167.012.

3 (m) Compelling prostitution under ORS 167.017.

4 (n) Luring a minor under ORS 167.057.

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

9 (a) Strangulation under ORS 163.187 (3).

10 (b) Sexual abuse in the third degree under ORS 163.415.

11 (c) Exhibiting an obscene performance to a minor under ORS 167.075.

12 (d) Displaying obscene materials to minors under ORS 167.080.

13 (5) In the case of crimes described in subsection (3)(i) of this section, the victim is the child
14 engaged in sexual conduct. In the case of the crime described in subsection (3)(k) of this section,
15 the victim is the party to the incest other than the party being prosecuted. In the case of crimes
16 described in subsection (3)(L) and (m) of this section, the victim is the child whose acts of
17 prostitution are promoted or compelled.

18 (6) A prosecution for arson in any degree may be commenced within six years after the com-
19 mission of the crime.

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

22 (a) Theft in the first degree under ORS 164.055.

23 (b) Aggravated theft in the first degree under ORS 164.057.

24 (c) Extortion under ORS 164.075.

25 (d) Robbery in the third degree under ORS 164.395.

26 (e) Robbery in the second degree under ORS 164.405.

27 (f) Robbery in the first degree under ORS 164.415.

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

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

30 (i) Identity theft under ORS 165.800.

31 (8) Except as provided in subsection (9) of this section or as otherwise expressly provided by
32 law, prosecutions for other offenses must be commenced within the following periods of limitations
33 after their commission:

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

35 (b) For any misdemeanor, two years.

36 (c) For a violation, six months.

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

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

44 (b) If the offense is based upon misconduct in office by a public officer or employee, prosecution
45 may be commenced at any time while the defendant is in public office or employment or within two

1 years thereafter, but in no case shall the period of limitation otherwise applicable be extended by
 2 more than three years; or

3 (c) If the offense is an invasion of personal privacy under ORS 163.700 or 163.701, prosecution
 4 may be commenced within one year after discovery of the offense by the person aggrieved by the
 5 offense, by a person who has a legal duty to represent the person aggrieved by the offense or by a
 6 law enforcement agency, but in no case shall the period of limitation otherwise applicable be ex-
 7 tended by more than three years.

8 (10) Notwithstanding subsections (2) and (3) of this section, if the defendant is identified after
 9 the period described in subsection (2) or (3) of this section on the basis of DNA (deoxyribonucleic
 10 acid) sample comparisons, a prosecution for **any of the following felonies may be commenced at**
 11 **any time after the commission of the crime:**

12 (a) **Rape in the third degree under ORS 163.355.**

13 (b) **Rape in the second degree under ORS 163.365.**

14 (c) **Rape in the first degree under ORS 163.375.**

15 (d) **Sodomy in the third degree under ORS 163.385.**

16 (e) **Sodomy in the second degree under ORS 163.395.**

17 (f) **Sodomy in the first degree under ORS 163.405.**

18 (g) **Unlawful sexual penetration in the second degree under ORS 163.408.**

19 (h) **Unlawful sexual penetration in the first degree under ORS 163.411.**

20 (i) **Sexual abuse in the second degree under ORS 163.425.**

21 (j) **Sexual abuse in the first degree under ORS 163.427.**

22 *[(a) Rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first*
 23 *degree or sexual abuse in the first degree may be commenced at any time after the commission of the*
 24 *crime.]*

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

27 *[(11) Notwithstanding subsection (10) of this section, if a prosecution for a felony listed in sub-*
 28 *section (10) of this section would otherwise be barred by subsection (2) or (3) of this section, the pros-*
 29 *ecution must be commenced within two years of the DNA-based identification of the defendant.]*

30 *[(12)(a)]* **(11)(a)** Notwithstanding subsection (2) of this section, if a prosecuting attorney obtains
 31 corroborating evidence of the crimes of rape in the first degree, sodomy in the first degree, unlawful
 32 sexual penetration in the first degree or sexual abuse in the first degree, after the period described
 33 in subsection (2) of this section, the prosecution may be commenced at any time after the commis-
 34 sion of the crime.

35 (b) The corroborating evidence described in paragraph (a) of this subsection must consist of one
 36 of the following:

37 (A) Physical evidence other than a DNA sample, including but not limited to audio, video or
 38 other electronic recordings, text messages, guest book logs, telephone recordings and photographs.

39 (B) A confession, made by the defendant, to the crime the victim reported.

40 (C) An oral statement, made by the victim to another person in temporal proximity to the com-
 41 mission of the crime, corroborating the victim's report of the crime to a law enforcement agency.

42 (D) A written statement, created by the victim in temporal proximity to the commission of the
 43 crime and subsequently delivered to another person or to a law enforcement agency, corroborating
 44 the victim's report of the crime to a law enforcement agency.

45 (E) A report made by a different victim to a law enforcement agency, made either before or after

1 the victim's report, alleging that the defendant committed another crime of the same or similar
2 character such that the two crimes could be charged in the same charging instrument under ORS
3 132.560.

4 [(13)(a)] (12)(a) A prosecuting attorney commencing a prosecution pursuant to subsection [(12)]
5 (11) of this section shall present any evidence reasonably tending to negate the guilt of the defend-
6 ant to the grand jury considering the indictment for the offense.

7 (b) The failure to present evidence reasonably tending to negate guilt as required by paragraph
8 (a) of this subsection does not affect the validity of an indictment or prosecution.

9 **SECTION 2. The amendments to ORS 131.125 by section 1 of this 2019 Act apply to of-**
10 **fenses committed before, on or after the effective date of this 2019 Act but do not operate**
11 **to revive a prosecution barred by the operation of ORS 131.125 before the effective date of**
12 **this 2019 Act.**

13 **SECTION 3. This 2019 Act being necessary for the immediate preservation of the public**
14 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
15 **on its passage.**

16 _____