

Enrolled Senate Bill 203

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CHAPTER

AN ACT

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

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

SECTION 1. 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.

(2) A prosecution for any of the following felonies may be commenced within six years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 24 years of age or within six years after the offense is reported to a law enforcement agency or [*other governmental agency*] **the Department of Human Services**, whichever occurs first:

- (a) Criminal mistreatment in the first degree under ORS 163.205.
- (b) Rape in the third degree under ORS 163.355.
- (c) Rape in the second degree under ORS 163.365.
- (d) Rape in the first degree under ORS 163.375.
- (e) Sodomy in the third degree under ORS 163.385.
- (f) Sodomy in the second degree under ORS 163.395.
- (g) Sodomy in the first degree under ORS 163.405.
- (h) Unlawful sexual penetration in the second degree under ORS 163.408.
- (i) Unlawful sexual penetration in the first degree under ORS 163.411.
- (j) Sexual abuse in the second degree under ORS 163.425.
- (k) Sexual abuse in the first degree under ORS 163.427.
- (L) Using a child in a display of sexual conduct under ORS 163.670.
- (m) Encouraging child sexual abuse in the first degree under ORS 163.684.
- (n) Incest under ORS 163.525.
- (o) Promoting prostitution under ORS 167.012.
- (p) Compelling prostitution under ORS 167.017.

(3) A prosecution for any of the following misdemeanors may be commenced within four years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 22 years of age or within four years after the offense is re-

ported to a law enforcement agency or [other governmental agency] **the Department of Human Services**, whichever occurs first:

- (a) Sexual abuse in the third degree under ORS 163.415.
- (b) Furnishing obscene materials to minors under ORS 167.065.
- (c) Sending obscene materials to minors under ORS 167.070.
- (d) Exhibiting an obscene performance to a minor under ORS 167.075.
- (e) Displaying obscene materials to minors under ORS 167.080.

(4) In the case of crimes described in subsection (2)(L) of this section, the “victim” is the child engaged in sexual conduct. In the case of the crime described in subsection (2)(n) of this section, the “victim” is the party to the incest other than the party being prosecuted. In the case of crimes described in subsection (2)(o) and (p) of this section, the “victim” is the child whose acts of prostitution are promoted or compelled.

(5) A prosecution for arson in any degree may be commenced within six years after the commission of the crime.

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

- (a) For any other felony, three years.
- (b) For any misdemeanor, two years.
- (c) For a violation, six months.

(7) If the period prescribed in subsection (6) of this section has expired, a prosecution nevertheless may be commenced as follows:

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

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

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

(8) Notwithstanding subsection (2) of this section, a prosecution for rape in the first or second degree or sodomy in the first or second degree may be commenced within 12 years after the commission of the crime if the defendant is identified after the period described in subsection (2) of this section on the basis of DNA (deoxyribonucleic acid) sample comparisons.

SECTION 2. The amendments to ORS 131.125 by section 1 of this 2005 Act apply to offenses committed before, on or after the effective date of this 2005 Act, but do not operate to revive a prosecution barred by the operation of ORS 131.125 before the effective date of this 2005 Act.

Passed by Senate February 7, 2005

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Secretary of Senate

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President of Senate

Passed by House June 7, 2005

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Speaker of House

Received by Governor:

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Approved:

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Governor

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Secretary of State