

(Including Amendments to Resolve Conflicts)

B-Engrossed Senate Bill 548

Ordered by the House August 1
Including Senate Amendments dated May 2 and House Amendments dated
August 1

Sponsored by Senator PROZANSKI

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.

Modifies crime of interfering with peace officer.

Expands criminal homicide to include causing death of unborn child. Provides exception for lawful abortions and acts committed by pregnant woman.

Expands crime of murder to include deaths committed with criminal negligence by intoxicated driver if driver has certain previous convictions.

Creates crime of assault on unborn child. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both.

Expands crime of assault in first degree to include assaults caused by intoxicated driver if driver has certain previous convictions.

Requires certain mental health facilities to notify victim when person who committed crime is released from facility if victim requests notification.

Requires petitioner in post-conviction relief proceeding to make certain showings before petitioner may subpoena victim to testify at proceeding.

Creates crime of unlawfully being in location where children regularly congregate. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Creates crime of unlawful contact with child. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 162.247, 163.005, 163.095, 163.115, 163.118,
3 163.125, 163.145, 163.185, 426.130 and 426.155; and declaring an emergency.

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

5 **SECTION 1.** ORS 162.247 is amended to read:

6 162.247. (1) A person commits the crime of interfering with a peace officer if the person, knowing
7 that another person is a peace officer:

8 (a) Intentionally acts in a manner that prevents, or attempts to prevent, a peace officer from
9 performing the lawful duties of the peace officer with regards to another person; [or]

10 *[(b) Refuses to obey a lawful order by the peace officer.]*

11 **(b) Intentionally or knowingly enters or remains within a designated crime scene without**
12 **the permission of a peace officer; or**

13 **(c) Intentionally or knowingly interferes with a peace officer lawfully engaged in the in-**
14 **vestigation of a crime or traffic collision.**

15 (2) Interfering with a peace officer is a Class A misdemeanor.

16 *[(3) This section does not apply in situations in which the person is engaging in:]*

17 *[(a) Activity that would constitute resisting arrest under ORS 162.315; or]*

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 *[(b) Passive resistance.]*

2 **(3) This section does not apply in situations in which a person is engaging:**

3 **(a) In activity that would constitute resisting arrest under ORS 162.315;**

4 **(b) In passive resistance; or**

5 **(c) Solely in constitutionally protected activity.**

6 **SECTION 1a.** If House Bill 3379 becomes law, section 1 of this 2005 Act (amending ORS
7 162.247) is repealed and ORS 162.247, as amended by section 1, chapter __, Oregon Laws 2005
8 (Enrolled House Bill 3379), is amended to read:

9 162.247. (1) A person commits the crime of interfering with a peace officer or parole and pro-
10 bation officer if the person, knowing that another person is a peace officer or a parole and probation
11 officer as defined in ORS 181.610:

12 (a) Intentionally acts in a manner that prevents, or attempts to prevent, a peace officer or parole
13 and probation officer from performing the lawful duties of the officer with regards to another person;
14 *[or]*

15 *[(b) Refuses to obey a lawful order by the peace officer or parole and probation officer.]*

16 **(b) Intentionally or knowingly enters or remains within a designated crime scene without
17 the permission of a peace officer; or**

18 **(c) Intentionally or knowingly interferes with a peace officer lawfully engaged in the in-
19 vestigation of a crime or traffic collision.**

20 (2) Interfering with a peace officer or parole and probation officer is a Class A misdemeanor.

21 *[(3) This section does not apply in situations in which the person is engaging in:]*

22 *[(a) Activity that would constitute resisting arrest under ORS 162.315; or]*

23 *[(b) Passive resistance.]*

24 **(3) This section does not apply in situations in which a person is engaging:**

25 **(a) In activity that would constitute resisting arrest under ORS 162.315;**

26 **(b) In passive resistance; or**

27 **(c) Solely in constitutionally protected activity.**

28 **SECTION 2.** ORS 163.005 is amended to read:

29 163.005. (1) **As used in this section:**

30 **(a) "Criminal homicide" is murder, manslaughter or criminally negligent homicide.**

31 **(b) "Human being" means:**

32 **(A) A person who has been born and was alive at the time of the criminal act; and**

33 **(B) An unborn child.**

34 **(c) "Unborn child" means a member of the species *Homo sapiens* at any stage of devel-
35 opment while carried in the womb.**

36 *[(1)]* **(2)** A person commits criminal homicide if, without justification or excuse, the person in-
37 tentiously, knowingly, recklessly or with criminal negligence causes the death of another human
38 being.

39 *[(2) "Criminal homicide" is murder, manslaughter or criminally negligent homicide.]*

40 *[(3) "Human being" means a person who has been born and was alive at the time of the criminal
41 act.]*

42 **(3) A person does not commit criminal homicide if the death is of an unborn child and
43 occurs:**

44 **(a) During a lawful abortion performed with the pregnant woman's consent to the
45 abortion or with the consent of a person authorized to act on the pregnant woman's behalf;**

1 **or**

2 **(b) As the result of acts committed by the pregnant woman.**

3 **(4) In a prosecution for a criminal homicide involving the death of an unborn child, it is**
4 **no defense that the defendant did not know or could not reasonably have known that the**
5 **woman was pregnant.**

6 **SECTION 3.** ORS 163.095 is amended to read:

7 163.095. **(1)** As used in ORS 163.105 and this section, “aggravated murder” means murder as
8 defined in ORS 163.115, **except for murder as defined in ORS 163.115 (1)(d)**, which is committed
9 under, or accompanied by, any of the following circumstances:

10 [(1)(a)] **(a)** The defendant committed the murder pursuant to an agreement that the defendant
11 receive money or other thing of value for committing the murder.

12 (b) The defendant solicited another to commit the murder and paid or agreed to pay the person
13 money or other thing of value for committing the murder.

14 (c) The defendant committed murder after having been convicted previously in any jurisdiction
15 of any homicide, the elements of which constitute the crime of murder as defined in ORS 163.115,
16 **except for murder as defined in ORS 163.115 (1)(d)**, or manslaughter in the first degree as defined
17 in ORS 163.118.

18 (d) There was more than one murder victim in the same criminal episode as defined in ORS
19 131.505.

20 (e) The homicide occurred in the course of or as a result of intentional maiming or torture of
21 the victim.

22 (f) The victim of the intentional homicide was a [person] **human being** under the age of 14
23 years.

24 [(2)(a)] **(g)** The victim was one of the following and the murder was related to the performance
25 of the victim’s official duties in the justice system:

26 (A) A police officer as defined in ORS 181.610;

27 (B) A correctional, parole or probation officer or other person charged with the duty of custody,
28 control or supervision of convicted persons;

29 (C) A member of the Oregon State Police;

30 (D) A judicial officer as defined in ORS 1.210;

31 (E) A juror or witness in a criminal proceeding;

32 (F) An employee or officer of a court of justice; or

33 (G) A member of the State Board of Parole and Post-Prison Supervision.

34 [(b)] **(h)** The defendant was confined in a state, county or municipal penal or correctional facil-
35 ity or was otherwise in custody when the murder occurred.

36 [(c)] **(i)** The defendant committed murder by means of an explosive as defined in ORS 164.055.

37 [(d)] **(j)** Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally commit-
38 ted the homicide under the circumstances set forth in ORS 163.115 (1)(b).

39 [(e)] **(k)** The murder was committed in an effort to conceal the commission of a crime, or to
40 conceal the identity of the perpetrator of a crime.

41 [(f)] **(L)** The murder was committed after the defendant had escaped from a state, county or
42 municipal penal or correctional facility and before the defendant had been returned to the custody
43 of the facility.

44 **(2) As used in this section, “human being” has the meaning given that term in ORS**
45 **163.005.**

1 **SECTION 4.** ORS 163.115 is amended to read:

2 163.115. (1) Except as provided in ORS 163.118 and 163.125, criminal homicide constitutes mur-
3 der:

4 (a) When it is committed intentionally, except that it is an affirmative defense that, at the time
5 of the homicide, the defendant was under the influence of an extreme emotional disturbance;

6 (b) When it is committed by a person, acting either alone or with one or more persons, who
7 commits or attempts to commit any of the following crimes and in the course of and in furtherance
8 of the crime the person is committing or attempting to commit, or during the immediate flight
9 therefrom, the person, or another participant if there be any, causes the death of a [*person*] **human
10 being** other than one of the participants:

11 (A) Arson in the first degree as defined in ORS 164.325;

12 (B) Criminal mischief in the first degree by means of an explosive as defined in ORS 164.365;

13 (C) Burglary in the first degree as defined in ORS 164.225;

14 (D) Escape in the first degree as defined in ORS 162.165;

15 (E) Kidnapping in the second degree as defined in ORS 163.225;

16 (F) Kidnapping in the first degree as defined in ORS 163.235;

17 (G) Robbery in the first degree as defined in ORS 164.415;

18 (H) Any felony sexual offense in the first degree defined in this chapter;

19 (I) Compelling prostitution as defined in ORS 167.017; or

20 (J) Assault in the first degree, as defined in ORS 163.185, and the victim is **a human being**
21 under 14 years of age, or assault in the second degree, as defined in ORS 163.175 (1)(a) or (b), and
22 the victim is **a human being** under 14 years of age; [*or*]

23 (c) By abuse when a person, recklessly under circumstances manifesting extreme indifference to
24 the value of human life, causes the death of a [*child*] **human being** under 14 years of age or a de-
25 pendent person, as defined in ORS 163.205, and:

26 (A) The person has previously engaged in a pattern or practice of assault or torture of the vic-
27 tim or another [*child*] **human being** under 14 years of age or a dependent person; or

28 (B) The person causes the death by neglect or maltreatment; **or**

29 **(d) By intoxicated driver when it is committed with criminal negligence by a person while**
30 **the person is operating a vehicle under the influence of intoxicants as described in ORS**
31 **813.010 and the person has been convicted of driving while under the influence of intoxicants**
32 **in violation of ORS 813.010 or its statutory counterpart in another jurisdiction:**

33 **(A) At least three times previously; or**

34 **(B) At least one time previously and, as a result of that act, caused the death of, or se-**
35 **rious physical injury to, another person.**

36 (2) An accusatory instrument alleging murder by abuse under subsection (1)(c) of this section
37 need not allege specific incidents of assault or torture.

38 (3) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the
39 defendant:

40 (a) Was not the only participant in the underlying crime;

41 (b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause
42 or aid in the commission thereof;

43 (c) Was not armed with a dangerous or deadly weapon;

44 (d) Had no reasonable ground to believe that any other participant was armed with a dangerous
45 or deadly weapon; and

1 (e) Had no reasonable ground to believe that any other participant intended to engage in con-
2 duct likely to result in death.

3 (4) It is an affirmative defense to a charge of violating subsection (1)(c)(B) of this section that
4 the *[child or dependent person]* **victim** was under care or treatment solely by spiritual means pur-
5 suant to the religious beliefs or practices of the *[child or person]* **victim** or the parent or guardian
6 of the *[child or person]* **victim**.

7 (5)(a) A person convicted of murder, who was at least 15 years of age at the time of committing
8 the murder, shall be punished by imprisonment for life.

9 (b) When a defendant is convicted of murder under this section, the court shall order that the
10 defendant shall be confined for a minimum of 25 years without possibility of parole, release to
11 post-prison supervision, release on work release or any form of temporary leave or employment at
12 a forest or work camp.

13 (c) At any time after completion of a minimum period of confinement pursuant to paragraph (b)
14 of this subsection, the State Board of Parole and Post-Prison Supervision, upon the petition of a
15 prisoner so confined, shall hold a hearing to determine if the prisoner is likely to be rehabilitated
16 within a reasonable period of time. The sole issue shall be whether or not the prisoner is likely to
17 be rehabilitated within a reasonable period of time. The proceeding shall be conducted in the man-
18 ner prescribed for a contested case hearing under ORS chapter 183 except that:

19 (A) The prisoner shall have the burden of proving by a preponderance of the evidence the like-
20 lihood of rehabilitation within a reasonable period of time; and

21 (B) The prisoner shall have the right, if the prisoner is without sufficient funds to employ an
22 attorney, to be represented by legal counsel, appointed by the board, at board expense.

23 (d) If, upon hearing all of the evidence, the board, upon a unanimous vote of all of its members,
24 finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's confinement
25 should be changed to life imprisonment with the possibility of parole, release to post-prison super-
26 vision or work release, it shall enter an order to that effect and the order shall convert the terms
27 of the prisoner's confinement to life imprisonment with the possibility of parole, release to post-
28 prison supervision or work release and may set a release date. Otherwise, the board shall deny the
29 relief sought in the petition.

30 (e) Not less than two years after the denial of the relief sought in a petition under paragraph
31 (c) of this subsection, the prisoner may petition again for a change in the terms of confinement.
32 Further petitions for a change may be filed at intervals of not less than two years thereafter.

33 (6) As used in this section:

34 (a) "Assault" means to intentionally, knowingly or recklessly cause physical injury to another
35 person. "Assault" does not include the causing of physical injury in a motor vehicle accident that
36 occurs by reason of the reckless conduct of a defendant.

37 **(b) "Human being" has the meaning given that term in ORS 163.005.**

38 *[(b)]* (c) "Neglect or maltreatment" means a violation of ORS 163.535, 163.545 or 163.547 or a
39 failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the
40 health or welfare of a *[child]* **human being** under 14 years of age or a dependent person. This par-
41 agraph is not intended to replace or affect the duty or standard of care required under ORS chapter
42 677.

43 *[(c)]* (d) "Pattern or practice" means one or more previous episodes.

44 *[(d)]* (e) "Torture" means to intentionally inflict intense physical pain upon an unwilling victim
45 as a separate objective apart from any other purpose.

1 **SECTION 5.** ORS 163.118 is amended to read:

2 163.118. (1) Criminal homicide constitutes manslaughter in the first degree when:

3 (a) It is committed recklessly under circumstances manifesting extreme indifference to the value
4 of human life;

5 (b) It is committed intentionally by a defendant under the influence of extreme emotional dis-
6 turbance as provided in ORS 163.135, which constitutes a mitigating circumstance reducing the
7 homicide that would otherwise be murder to manslaughter in the first degree and need not be proved
8 in any prosecution; or

9 (c) A person recklessly causes the death of a [*child*] **human being** under 14 years of age or a
10 dependent person, as defined in ORS 163.205, and:

11 (A) The person has previously engaged in a pattern or practice of assault or torture of the vic-
12 tim or another [*child*] **human being** under 14 years of age or a dependent person; or

13 (B) The person causes the death by neglect or maltreatment, as defined in ORS 163.115.

14 (2) Manslaughter in the first degree is a Class A felony.

15 (3) It is an affirmative defense to a charge of violating subsection (1)(c)(B) of this section that
16 the [*child or dependent person*] **victim** was under care or treatment solely by spiritual means pur-
17 suant to the religious beliefs or practices of the [*child or person*] **victim** or the parent or guardian
18 of the [*child or person*] **victim**.

19 (4) **As used in this section, “human being” has the meaning given that term in ORS**
20 **163.005.**

21 **SECTION 6.** ORS 163.125 is amended to read:

22 163.125. (1) Criminal homicide constitutes manslaughter in the second degree when:

23 (a) It is committed recklessly;

24 (b) A person intentionally causes or aids another person to commit suicide; or

25 (c) A person, with criminal negligence, causes the death of a [*child*] **human being** under 14
26 years of age or a dependent person, as defined in ORS 163.205, and:

27 (A) The person has previously engaged in a pattern or practice of assault or torture of the vic-
28 tim or another [*child*] **human being** under 14 years of age or a dependent person; or

29 (B) The person causes the death by neglect or maltreatment, as defined in ORS 163.115.

30 (2) Manslaughter in the second degree is a Class B felony.

31 (3) **As used in this section, “human being” has the meaning given that term in ORS**
32 **163.005.**

33 **SECTION 7.** ORS 163.145 is amended to read:

34 163.145. (1) [*A person commits the crime of*] **Criminal homicide constitutes** criminally negligent
35 homicide when[,] **it is committed** with criminal negligence[, *the person causes the death of another*
36 *person*].

37 (2) Criminally negligent homicide is a Class B felony.

38 **SECTION 8. Section 9 of this 2005 Act is added to and made a part of ORS 163.160 to**
39 **163.208.**

40 **SECTION 9. (1) A person commits the crime of assault of an unborn child if the person**
41 **knowingly causes physical injury to the mother of an unborn child without the mother’s**
42 **consent and by causing physical injury to the mother:**

43 (a) **Causes serious physical injury to the unborn child; or**

44 (b) **Causes the unborn child to be born prior to 37 weeks’ gestation and the child weighs**
45 **2,500 grams or less at the time of birth.**

1 **(2) Assault of an unborn child is a Class B felony.**

2 **(3) In a prosecution under this section, it is no defense that the defendant did not know**
3 **or could not reasonably have known that the woman was pregnant.**

4 **(4) As used in this section, “unborn child” has the meaning given that term in ORS**
5 **163.005.**

6 **SECTION 10.** ORS 163.185 is amended to read:

7 163.185. (1) A person commits the crime of assault in the first degree if the person:

8 **(a) Intentionally causes serious physical injury to another by means of a deadly or dangerous**
9 **weapon; or**

10 **(b) With criminal negligence violates ORS 163.175 (1)(a) or (c) while the person is oper-**
11 **ating a vehicle under the influence of intoxicants as described in ORS 813.010 and the person**
12 **has been convicted of driving while under the influence of intoxicants in violation of ORS**
13 **813.010 or its statutory counterpart in another jurisdiction:**

14 **(A) At least three times previously; or**

15 **(B) At least one time previously and, as a result of that act, caused the death of, or se-**
16 **rious physical injury to, another person.**

17 (2) Assault in the first degree is a Class A felony.

18 **SECTION 11.** ORS 426.155 is amended to read:

19 426.155. (1) The provisions of this section apply to the release of information about a person who
20 is held in custody either pending a commitment proceeding under ORS 426.070, 426.140, 426.228,
21 426.232, 426.233 or 426.237 (1)(b) or while committed or recommitted under ORS 426.005 to 426.390.

22 (2) Notwithstanding the provisions of ORS 179.495, 179.505 or 192.502 (2) and notwithstanding
23 any other provision of ORS 426.005 to 426.390, a facility or nonhospital facility where a person is
24 held shall establish procedures for releasing information as required under subsections (3), [*and*] (4)
25 **and (5)** of this section.

26 (3)(a) If a person described in subsection (1) of this section authorizes disclosure as provided in
27 subsection [(5)] **(6)** of this section, upon request of a member of the family of the person, or any
28 other person designated by the person, a facility or nonhospital facility where the person is held
29 shall provide the family member or the designee with the following information:

30 **(A) The person’s diagnosis;**

31 **(B) The person’s prognosis;**

32 **(C) The medications prescribed for the person and the side effects of medications prescribed, if**
33 **any;**

34 **(D) The person’s progress;**

35 **(E) Information about any civil commitment process, including the date, time and location of the**
36 **person’s commitment hearing; and**

37 **(F) Where and when the person may be visited.**

38 (b) If a request for information is made under this subsection and the person described in sub-
39 section (1) of this section is unable to authorize disclosure as provided in subsection [(5)] **(6)** of this
40 section, the person requesting information shall be provided notice of the presence of the person
41 described in subsection (1) of this section in any facility or nonhospital facility. Information shall
42 not be provided under this paragraph if the physician of the person described in subsection (1) of
43 this section determines that it would not be in the person’s best interest to provide the information
44 or if providing the information is prohibited by federal law.

45 (4) Upon the admission of any person to a facility or nonhospital facility under ORS 426.005 to

1 426.390, the facility or nonhospital facility shall make reasonable attempts to notify the person's
 2 next of kin, or any other person designated by the person, of the person's admission, unless the
 3 person requests that this information not be provided. The facility or nonhospital facility shall make
 4 reasonable attempts to notify the person's next of kin, or any other person designated by the person,
 5 of the person's release, transfer, serious illness, injury or death upon request of the family member
 6 or designee, unless the person requests that this information not be provided. The person shall be
 7 advised by the facility or nonhospital facility that the person has the right to request that this in-
 8 formation not be provided.

9 **(5) Before a person committed to a facility or nonhospital facility under ORS 426.005 to**
 10 **426.390 may be released on any type of release, the facility or nonhospital facility shall notify**
 11 **the victim of any crime the person has committed if a request for the notification is included**
 12 **in the judgment of commitment under ORS 426.130 (1)(b)(C). The facility or nonhospital fa-**
 13 **ility shall notify the victim by mail sent to the last address provided by the victim. Notifi-**
 14 **cation shall include the projected date of release of the person from confinement, the name**
 15 **and location of the facility from which the person is to be released and the community in**
 16 **which the person will reside upon release. Notification is required under this subsection re-**
 17 **gardless of whether the person has been convicted of the crime.**

18 [(5)] (6) The person who is held in custody shall be notified by the facility or nonhospital facility
 19 that information about the person has been requested **under subsection (3) or (4) of this**
 20 **section.** Except as provided in subsection (3) of this section, the consent of the person who is held
 21 is required for release of information under subsections (3) and (4) of this section. If, when initially
 22 informed of the request for information, the person is unable to give voluntary and informed consent
 23 to authorize the release of information, notation of the attempt shall be made in the person's treat-
 24 ment record and daily efforts shall be made to secure the person's consent or refusal of authori-
 25 zation.

26 [(6)] (7) Notwithstanding any other provision of this section, an individual eligible to receive
 27 information under subsection (3) of this section may not receive information unless the individual
 28 first agrees to make no further disclosure of the information. The agreement may be made orally.

29 [(7)] (8) A facility or nonhospital facility that releases information under subsection (3) or (4)
 30 of this section shall:

31 (a) Notify the person who is held to whom, when and what information was released; and

32 (b) Note in the medical record of the person who is held:

33 (A) The basis for finding that the person gave voluntary and informed consent;

34 (B) The oral or written consent of the person who is held;

35 (C) To whom, when and what information was released;

36 (D) The agreement to the requirements of subsection [(6)] (7) of this section by the person who
 37 requested information; and

38 (E) Any determination made by the person's physician under subsection (3)(b) of this section
 39 regarding the provision of notice of the presence of the person in any facility or nonhospital facility.

40 [(8)] (9) A facility or nonhospital facility, including the staff of such facilities and nonhospital
 41 facilities, that releases information under this section or rules adopted under ORS 426.236 may not
 42 be held civilly or criminally liable for damages caused or alleged to be caused by the release of in-
 43 formation or the failure to release information as long as the release was done in good faith and in
 44 compliance with subsections (3), [and] (4) **and (5)** of this section or rules adopted under ORS 426.236.

45 [(9)] (10) The provisions of subsections (3), [and] (4) **and (5)** of this section do not limit the

1 ability or obligation of facilities, nonhospital facilities, physicians, mental health care providers or
2 licensed mental health professionals to provide information as otherwise allowed or required by law.

3 **SECTION 12.** ORS 426.130 is amended to read:

4 426.130. (1) After hearing all of the evidence, and reviewing the findings of the examining per-
5 sons, the court shall determine whether the person is mentally ill. If, in the opinion of the court, the
6 person is:

7 (a) Not mentally ill, the person shall be discharged forthwith.

8 (b) Mentally ill based upon clear and convincing evidence, the court:

9 (A) Shall order the release of the individual and dismiss the case if:

10 (i) The mentally ill person is willing and able to participate in treatment on a voluntary basis;
11 and

12 (ii) The court finds that the person will probably do so.

13 (B) May order conditional release under this subparagraph subject to the qualifications and re-
14 quirements under ORS 426.125. If the court orders conditional release under this subparagraph, the
15 court shall establish a period of commitment for the conditional release.

16 (C) May order commitment of the individual to the Department of Human Services for treatment
17 if, in the opinion of the court, subparagraph (A) or (B) of this paragraph is not in the best interest
18 of the mentally ill person. If the court orders commitment under this subparagraph:

19 (i) The court shall establish a period of commitment.

20 (ii) The department may place the committed person in outpatient commitment under ORS
21 426.127.

22 **(iii) The court shall include in the judgment a requirement that the victim be notified of**
23 **the committed person's release from confinement if the victim, or the prosecuting attorney**
24 **on behalf of the victim, requests notification and the court finds that the victim suffered fi-**
25 **nancial, psychological or physical harm as a result of conduct that contributed to the de-**
26 **termination that the committed person is dangerous to others.**

27 (D) Shall order that the person be prohibited from purchasing or possessing a firearm if, in the
28 opinion of the court, there is a reasonable likelihood the person would constitute a danger to self
29 or others or to the community at large as a result of the person's mental or psychological state as
30 demonstrated by past behavior or participation in incidents involving unlawful violence or threats
31 of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When
32 a court makes an order under this subparagraph, the court shall cause a copy of the order to be
33 delivered to the sheriff of the county who will enter the information into the Law Enforcement Data
34 System.

35 (2) A court that orders a conditional release or a commitment under this section shall establish
36 a period of commitment for the person subject to the order. Any period of commitment ordered for
37 commitment or conditional release under this section shall be for a period of time not to exceed 180
38 days.

39 (3) If the commitment proceeding was initiated under ORS 426.070 (1)(a) and if the notice in-
40 cluded a request under ORS 426.070 (2)(d)(B), the court shall notify the two persons of the court's
41 determination under subsection (1) of this section.

42 **SECTION 13. Section 14 of this 2005 Act is added to and made a part of ORS 138.510 to**
43 **138.680.**

44 **SECTION 14. In order for the petitioner in a proceeding under ORS 138.510 to 138.680 to**
45 **compel a victim of the petitioner's underlying crime to testify, the petitioner shall file a**

1 motion with the court for an order allowing a subpoena and shall serve a copy of the motion
2 on the counsel for the defendant. The court may not grant the motion unless the petitioner
3 shows that the victim has information that is material to the post-conviction proceeding, is
4 favorable to the petitioner and was not introduced at trial.

5 **SECTION 15.** (1) A person commits the crime of unlawfully being in a location where
6 children regularly congregate if the person:

7 (a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;

8 (B) Has been designated a predatory sex offender under ORS 181.585;

9 (C) Has been sentenced as a dangerous offender under ORS 161.725 upon conviction of a
10 sex crime; or

11 (D) Has been given a similar designation or been sentenced under a similar law of an-
12 other jurisdiction; and

13 (b) Knowingly enters or remains in or upon premises where persons under 18 years of
14 age regularly congregate.

15 (2) As used in this section:

16 (a) "Premises" has the meaning given that term in ORS 164.205.

17 (b) "Sex crime" has the meaning given that term in ORS 181.594.

18 (3) Unlawfully being in a location where children regularly congregate is a Class C felony.

19 **SECTION 16.** (1) A person commits the crime of unlawful contact with a child if the
20 person:

21 (a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;

22 (B) Has been designated a predatory sex offender under ORS 181.585;

23 (C) Has been sentenced as a dangerous offender under ORS 161.725 upon conviction of a
24 sex crime; or

25 (D) Has been given a similar designation or been sentenced under a similar law of an-
26 other jurisdiction; and

27 (b) Knowingly contacts a child with the intent to commit a crime or for the purpose of
28 arousing or satisfying the sexual desires of the person or another person.

29 (2) As used in this section:

30 (a) "Child" means a person under 18 years of age.

31 (b) "Contact" means to communicate in any manner.

32 (c) "Sex crime" has the meaning given that term in ORS 181.594.

33 (3) Unlawful contact with a child is a Class C felony.

34 **SECTION 17.** Sections 8, 9, 15 and 16 of this 2005 Act and the amendments to ORS 162.247,
35 163.005, 163.095, 163.115, 163.118, 163.125, 163.145, 163.185, 426.130 and 426.155 by sections 1 to
36 7 and 10 to 12 of this 2005 Act become operative on January 1, 2006.

37 **SECTION 18.** This 2005 Act being necessary for the immediate preservation of the public
38 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
39 on its passage.

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