Chapter 162

1985 REPLACEMENT PART

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Offenses Against the State and Public Justice

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DEFINITIONS

162.005 Definitions for ORS 162.005 to 162.425. As used in ORS 162.005 to 162.425 and 162.465, unless the context requires otherwise:

(1) "Pecuniary benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary, in the form of money, property, commercial interests or economic gain, but does not include a political campaign contribution reported in accordance with ORS chapter 260.

(2) "Public servant" includes:

(a) A public officer or employe of the state or of any political subdivision thereof or of any governmental instrumentality within the state;

(b) A person serving as an advisor, consultant or assistant at the request or direction of the state, any political subdivision thereof or of any governmental instrumentality within the state;

(c) A person nominated, elected or appointed to become a public servant, although not yet occupying the position; and

(d) Jurors. [1971 c.743 §178]

162.010 [Repealed by 1971 c 743 §432]

BRIBERY

162.015 Bribe giving. (1) A person commits the crime of bribe giving if the person offers, confers or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision or exercise of discretion in an official capacity.

(2) Bribe giving is a Class B felony. [1971 c.743 §179]

162.020 [Repealed by 1971 c.743 §432]

162.025 Bribe receiving. (1) A public servant commits the crime of bribe receiving if the public servant:

(a) Solicits any pecuniary benefit with the intent that the vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced; or

(b) Accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that the vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced.

(2) Bribe receiving is a Class B felony. [1971 c 743 §180]

162.030 [Amended by 1963 c.625 §3, repealed by 1971 c.743 §432]

162.035 Bribery defenses. (1) In any prosecution under ORS 162.015, it is a defense that the defendant offered, conferred or agreed to confer the pecuniary benefit as a result of the public servant's conduct constituting extortion or coercion.

(2) It is no defense to a prosecution under ORS 162.015 and 162.025 that the person sought to be influenced was not qualified to act in the desired way, whether because the person had not assumed office, lacked jurisdiction or for any other reason. [1971 c 743 §181]

162.040 [Repealed by 1971 c 743 §432]

PERJURY AND RELATED OFFENSES

162.055 Definitions for ORS 162.055 to 162.425. As used in ORS 162.055 to 162.425 and 162.465, unless the context requires otherwise:

(1) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

(2) "Material" means that which could have affected the course or outcome of any proceeding or transaction. Whether a false statement is "material" in a given factual situation is a question of law.

(3) "Statement" means any representation of fact and includes a representation of opinion, belief or other state of mind where the representation clearly relates to state of mind apart from or in addition to any facts which are the subject of the representation.

(4) "Sworn statement" means any statement knowingly given under any form of oath or affirmation attesting to the truth of what is stated. [1971 c 743 §182, 1981 c.892 §90]

162.065 Perjury. (1) A person commits the crime of perjury if the person makes a false sworn statement in regard to a material issue, knowing it to be false.

(2) Perjury is a Class C felony. [1971 c.743 §183]

162.075 False swearing. (1) A person commits the crime of false swearing if the person makes a false sworn statement, knowing it to be false.

(2) False swearing is a Class A misdemeanor. [1971 c.743 §184]

162.085 Unsworn falsification. (1) A person commits the crime of unsworn falsification if the person knowingly makes any false

written statement to a public servant in connection with an application for any benefit.

(2) Unsworn falsification is a Class B misdemeanor. [1971 c 743 §185]

162.095 Defenses to perjury and false swearing limited. It is no defense to a prosecution for perjury or false swearing that:

(1) The statement was inadmissible under the rules of evidence; or

(2) The oath or affirmation was taken or administered in an irregular manner; or

(3) The defendant mistakenly believed the false statement to be immaterial. [1971 c.743 §186]

162.105 Retraction as defense. (1) It is a defense to a prosecution for perjury or false swearing committed in an official proceeding that the defendant retracted the false statement:

(a) In a manner showing a complete and voluntary retraction of the prior false statement; and

(b) During the course of the same official proceeding in which it was made; and

(c) Before the subject matter of the official proceeding is submitted to the ultimate trier of fact.

(2) "Official proceeding," as used in this section, means a proceeding before any judicial, legislative or administrative body or officer, wherein sworn statements are received, and includes any referee, hearing examiner, commissioner, notary or other person taking sworn statements in connection with such proceedings. Statements made in separate stages of the same trial or administrative proceeding shall be considered to have been made in the course of the same proceeding. [1971 c.743 §187]

162.110 [Repealed by 1971 c.743 §432]

162.115 Corroboration of falsity required. In any prosecution for perjury or false swearing, falsity of a statement may not be established solely through contradiction by the testimony of a single witness. [1971 c 743 §188]

162.120 [Repealed by 1971 c.743 §432]

162.130 [Repealed by 1971 c.743 §432]

ESCAPE AND RELATED OFFENSES

162.135 Definitions for ORS 162.135 to 162.205. As used in ORS 162.135 to 162.205, unless the context requires otherwise:

(1) "Contraband" means any article or thing which a person confined in a correctional facility, juvenile facility or state hospital is prohibited by statute, rule or order from obtaining or possessing, and whose use would endanger the safety or security of such institution or any person therein.

(2) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order. "Correctional facility" does not include a juvenile facility, and applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after acquittal of a crime by reason of mental disease or defect under ORS 161.290 to 161.370.

(3) "Custody" means the imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order, but does not include detention in a correctional facility, juvenile facility or a state hospital.

(4) "Escape" means the unlawful departure, including failure to return to custody after temporary leave granted for a specific purpose or limited period, of a person from custody or a correctional facility but does not include failure to comply with provisions of a conditional release in ORS 135.245.

(5) "Juvenile facility" means the MacLaren School for Boys, Hillcrest School of Oregon and any other school established by law for similar purposes, and includes the other camps and programs maintained under ORS chapter 420 and detention facilities as defined in ORS 419.602.

(6) "State hospital" means the Oregon State Hospital, F. H. Dammasch State Hospital, Eastern Oregon Psychiatric Center, Eastern Oregon Training Center, Fairview Training Center and any other hospital established by law for similar purposes.

(7) "Unauthorized departure" means the unauthorized departure of a person confined by court order in a juvenile facility or a state hospital that, because of the nature of the court order, is not a correctional facility as defined in subsection (2) of this section. [1971 c.743 §189; 1973 c.836 §342; 1983 c 740 §28, 1983 c.815 §7; 1985 c.565 §16]

162.140 [1959 c 307 §1, 1961 c.312 §1; 1963 c.499 §9, repealed by 1971 c.743 §432]

162.145 Escape in the third degree. (1) A person commits the crime of escape in the third degree if the person escapes from custody.

(2) It is a defense to a prosecution under this section that the person escaping or attempting to escape was in custody pursuant to an illegal arrest.

(3) Escape in the third degree is a Class A misdemeanor. [1971 c.743 §190]

162.150 [Repealed by 1971 c 743 §432]

162.155 Escape in the second degree. (1) A person commits the crime of escape in the second degree if:

(a) The person uses or threatens to use physical force escaping from custody; or

(b) Having been convicted or found guilty of a felony, the person escapes from custody imposed as a result thereof; or

(c) The person escapes from a correctional facility; or

(d) While under the jurisdiction of the Psychiatric Security Review Board, the person departs, is absent from or fails to return to this state without authorization of the board.

(2) Escape in the second degree is a Class C felony. [1971 c.743 §191; 1983 c.800 §13, 1985 c 192 §1]

162.160 [Repealed by 1971 c 743 §432]

162.165 Escape in the first degree. (1) A person commits the crime of escape in the first degree if:

(a) Aided by another person actually present, the person uses or threatens to use physical force in escaping from custody or a correctional facility; or

(b) The person uses or threatens to use a dangerous or deadly weapon escaping from custody or a correctional facility.

(2) Escape in the first degree is a Class B felony. [1971 c 743 §192]

162.175 Aiding an unauthorized departure. (1) A person commits the crime of aiding an unauthorized departure if, not being an inmate therein, the person aids another in making or attempting to make an unauthorized departure from a juvenile facility or a state hospital.

(2) Aiding an unauthorized departure is a Class A misdemeanor. [1971 c 743 §193, 1983 c.815 §8]

162.185 Supplying contraband. (1) A person commits the crime of supplying contraband if:

(a) The person knowingly introduces any contraband into a correctional facility, juvenile facility or state hospital; or

(b) Being confined in a correctional facility, juvenile facility or state hospital, the person knowingly makes, obtains or possesses any contraband.

(2) Supplying contraband is a Class C felony. [1971 c.743 §194, 1983 c.815 §9]

162.195 Failure to appear in the second degree. (1) A person commits the crime of failure to appear in the second degree if, having by court order been released from custody or a correctional facility upon a release agreement or security release upon the condition that the person will subsequently appear personally in connection with a charge against the person of having committed a misdemeanor or violation, the person intentionally fails to appear as required.

(2) Failure to appear in the second degree is a Class A misdemeanor. [1971 c.743 §195; 1973 c 836 §343]

162.205 Failure to appear in the first degree. (1) A person commits the crime of failure to appear in the first degree if, having by court order been released from custody or a correctional facility upon a release agreement or security release upon the condition that the person will subsequently appear personally in connection with a charge against the person of having committed a felony, the person intentionally fails to appear as required.

(2) Failure to appear in the first degree is a Class C felony. [1971 c.743 §196; 1973 c 836 §344]

162.210 [Repealed by 1971 c 743 §432]

162.220 [Repealed by 1971 c.743 §432]

OBSTRUCTING GOVERNMENTAL ADMINISTRATION

162.225 Definitions for ORS 162.225 to 162.375. As used in ORS 162.225 to 162.375 and 162.465, unless the context requires otherwise:

(1) "Fireman" means any fire or forestry department employe, or authorized fire department volunteer, vested with the duty of preventing or combating fire or preventing the loss of life or property by fire.

(2) "Official proceeding" means a proceeding before any judicial, legislative or administrative body or officer, wherein sworn statements are received, and includes any referee, hearing examiner, commissioner, notary or other person taking sworn statements in connection with such proceedings.

(3) "Physical evidence" means any article, object, record, document or other evidence of physical substance.

(4) "Public record" means any book, document, paper, file, photograph, sound recording, computerized recording in machine storage, records or other materials, regardless of physical form or characteristic, made, received, filed or recorded in any government office or agency

pursuant to law or in connection with the transaction of public business, whether or not confidential or restricted in use.

(5) "Testimony" means oral or written statements that may be offered by a witness in an official proceeding. [1971 c 743 §197]

162.230 [Repealed by 1971 c 743 §432]

162.235 Obstructing governmental or judicial administration. (1) A person commits the crime of obstructing governmental or judicial administration if the person intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle.

(2) This section shall not apply to the obstruction of unlawful governmental or judicial action or interference with the making of an arrest.

(3) Obstructing governmental or judicial administration is a Class A misdemeanor. [1971 c 743 §198, 1981 c 902 §1]

162.240 [Repealed by 1971 c.743 §432]

162.245 Refusing to assist a peace officer. (1) A person commits the offense of refusing to assist a peace officer if upon command by a person known by the person to be a peace officer the person unreasonably refuses or fails to assist in effecting an authorized arrest or preventing another from committing a crime.

(2) Refusing to assist a peace officer is a violation. [1971 c 743 §199]

162.255 Refusing to assist in fire-fighting operations. (1) A person commits the offense of refusing to assist in fire-fighting operations if:

(a) Upon command by a person known by the person to be a fireman the person unreasonably refuses or fails to assist in extinguishing a fire or protecting property threatened thereby; or

(b) Upon command by a person known by the person to be a fireman or peace officer the person intentionally and unreasonably disobeys a lawful order relating to the conduct of the person in the vicinity of a fire.

(2) Refusing to assist in fire-fighting operations is a violation. [1971 c.743 §200]

162.265 Bribing a witness. (1) A person commits the crime of bribing a witness if the person offers, confers or agrees to confer any pecuniary benefit upon a witness in any official proceeding, or a person the person believes may be called as a witness, with the intent that:

(a) The testimony of the person as a witness will thereby be influenced; or

(b) The person will avoid legal process summoning the person to testify; or

(c) The person will be absent from any official proceeding to which the person has been legally summoned.

(2) Bribing a witness is a Class C felony. [1971 c.743 §201]

162.275 Bribe receiving by a witness. (1) A witness in any official proceeding, or a person who believes the person may be called as a witness, commits the crime of bribe receiving by a witness if the person solicits any pecuniary benefit with the intent, or accepts or agrees to accept any pecuniary benefit upon an agreement or understanding, that:

(a) The testimony of the person as a witness will thereby be influenced; or

(b) The person will avoid legal process summoning the person to testify; or

(c) The person will be absent from any official proceeding to which the person has been legally summoned.

(2) Bribe receiving by a witness is a Class C felony. [1971 c 743 §202]

162.285 Tampering with a witness. (1) A person commits the crime of tampering with a witness if:

(a) The person knowingly induces or attempts to induce a witness or a person the person believes may be called as a witness in any official proceeding to offer false testimony or unlawfully withhold any testimony; or

(b) The person knowingly induces or attempts to induce a witness to be absent from any official proceeding to which the person has been legally summoned.

(2) Tampering with a witness is a Class C felony. [1971 c.743 §203; 1979 c.231 §1]

162.295 Tampering with physical evidence. (1) A person commits the crime of tampering with physical evidence if, with intent that it be used, introduced, rejected or unavailable in an official proceeding which is then pending or to the knowledge of such person is about to be instituted, the person:

(a) Destroys, mutilates, alters, conceals or removes physical evidence impairing its verity or availability; or

(b) Knowingly makes, produces or offers any false physical evidence; or

(c) Prevents the production of physical evidence by an act of force, intimidation or deception against any person.

(2) Tampering with physical evidence is a Class A misdemeanor. [1971 c.743 §204]

162.305 Tampering with public records. (1) A person commits the crime of tampering with public records if, without lawful authority, the person knowingly destroys, mutilates, conceals, removes, makes a false entry in or falsely alters any public record.

(2) Tampering with public records is a Class A misdemeanor. [1971 c 743 §205]

162.310 [Repealed by 1971 c.743 §432]

162.315 Resisting arrest. (1) A person commits the crime of resisting arrest if the person intentionally resists a person known by the person to be a peace officer in making an arrest.

(2) "Resists," as used in this section, means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.

(3) It is no defense to a prosecution under this section that the peace officer lacked legal authority to make the arrest, provided the peace officer was acting under color of official authority.

(4) Resisting arrest is a Class A misdemeanor. [1971 c.743 §206]

162.320 [Repealed by 1971 c.743 §432]

162.322 [1961 c.649 §1; repealed by 1971 c.743 §432]

162.324 [1961 c.649 §2; repealed by 1971 c.743 §432]

162.325 Hindering prosecution. (1) A person commits the crime of hindering prosecution if, with intent to hinder the apprehension, prosecution, conviction or punishment of a person who has committed a crime punishable as a felony, or with the intent to assist a person who has committed a crime punishable as a felony in profiting or benefiting from the commission of the crime, the person:

(a) Harbors or conceals such person; or

(b) Warns such person of impending discovery or apprehension; or

(c) Provides or aids in providing such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or

(d) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person; or

(e) Suppresses by any act of concealment, alteration or destruction physical evidence which might aid in the discovery or apprehension of such person; or

(f) Aids such person in securing or protecting the proceeds of the crime.

(2) Hindering prosecution is a Class C felony. [1971 c.743 §207]

162.326 [1961 c 649 §3; repealed by 1971 c 743 §432]

162.330 [Amended by 1961 c.649 §4; repealed by 1971 c.743 §432]

162.335 Compounding a felony. (1) A person commits the crime of compounding if the person accepts or agrees to accept any pecuniary benefit as consideration for refraining from reporting to law enforcement authorities the commission or suspected commission of any felony or information relating to a felony.

(2) Compounding is a Class A misdemeanor. [1971 c.743 §208]

162.340 [Amended by 1955 c.660 §21, 1961 c.649 §5, repealed by 1971 c 743 §432]

162.345 Defenses for hindering or compounding limited. It is no defense to a prosecution for hindering prosecution or compounding that the principal offender is not apprehended, prosecuted, convicted or punished. [1971 c 743 §209]

162.350 [Amended by 1955 c.660 §22; repealed by 1961 c 649 §9]

162.355 Simulating legal process. (1) A person commits the crime of simulating legal process if the person knowingly issues or delivers to another any document that in form and substance falsely simulates civil or criminal process.

(2) Simulating legal process is a Class B misdemeanor. [1971 c.743 §210]

162.360 [Repealed by 1961 c.649 §9]

162.365 Criminal impersonation. (1) A person commits the crime of criminal impersonation if with intent to obtain a benefit or to injure or defraud another the person falsely impersonates a public servant and does an act in such assumed character.

(2) Criminal impersonation is a Class A misdemeanor. [1971 c.743 §211]

162.370 [Repealed by 1961 c.649 §9]

162.375 Initiating a false report. (1) A person commits the crime of initiating a false report if the person knowingly initiates a false alarm or report which is transmitted to a fire department, law enforcement agency or other organization that deals with emergencies involving danger to life or property.

(2) Initiating a false report is a Class C misdemeanor. [1971 c.743 §212]

162.380 [Amended by 1953 c.531 §2; 1955 c.660 §23; repealed by 1971 c.743 §432]

162.385 Giving false information to police officer for a citation. (1) A person commits the crime of giving false information to a peace officer for a citation if the person knowingly uses or gives a false or fictitious name, address or date of birth to any peace officer for the purpose of the officer's issuing or serving the person a citation under authority of ORS 133.045 to 133.080, 133.110 and 156.050.

(2) A person who violates this section commits a Class A misdemeanor. [1983 c 661 §11]

Note: 162.385 was added to and made a part of ORS chapter 133 by legislative action. It was not added to ORS chapter 162 or any series therein by legislative action See Preface to Oregon Revised Statutes for further explanation.

162.390 [Amended by 1955 c.660 §24; repealed by 1961 c.649 §9]

162.400 [Repealed by 1971 c.743 §432]

ABUSE OF PUBLIC OFFICE

162.405 Official misconduct in the second degree. (1) A public servant commits the crime of official misconduct in the second degree if the person knowingly violates any statute relating to the office of the person.

(2) Official misconduct in the second degree is a Class C misdemeanor. [1971 c.743 §214]

162.410 [Repealed by 1961 c 649 §9]

162.415 Official misconduct in the first degree. (1) A public servant commits the crime of official misconduct in the first degree if with intent to obtain a benefit or to harm another:

(a) The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or

(b) The public servant knowingly performs an act constituting an unauthorized exercise in official duties.

(2) Official misconduct in the first degree is a Class A misdemeanor. [1971 c.743 §215]

162.420 [Repealed by 1961 c.649 §9]

162.425 Misuse of confidential information. (1) A public servant commits the crime of misuse of confidential information if in contemplation of official action by the public servant or by a governmental unit with which the public servant is associated, or in reliance on information to which the public servant has access in an official capacity and which has not been made public, the public servant acquires or aids another in acquiring a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official action.

(2) Misuse of confidential information is a Class B misdemeanor. [1971 c.743 §216]

162.430 [Amended by 1961 c.649 §6; repealed by 1971 c.743 §432]

162.440 [Amended by 1961 c.649 §7; repealed by 1971 c 743 §432]

162.450 [1965 c 447 §§8, 9; repealed by 1971 c 743 §432]

INTERFERENCE WITH LEGISLATIVE OPERATIONS

162.455 Interfering with legislative operations. Any person not a member of the Legislative Assembly who engages in conduct in or near the legislative chambers of either house or in or near any meeting of a joint, standing, interim or special committee of either house, wherever held, with the intention of interrupting, disrupting or otherwise interfering with the orderly conduct of business therein, or who gains or seeks to gain access to the chambers or meeting in such manner shall be guilty of a misdemeanor. [1971 c.276 §1]

Note: 162.455 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Criminal Code of 1971 by legislative action. See the Preface to Oregon Revised Statutes for further explanation

162.465 Unlawful legislative lobbying. (1) A person commits the crime of unlawful legislative lobbying if, having an interest in the passage or defeat of a measure being considered by either house of the Legislative Assembly of this state, as either an agent or principal, the person knowingly attempts to influence a member of the assembly in relation to the measure without first disclosing completely to the member the true interest of the person therein, or that of the principal of the person and the person's own agency therein.

(2) Unlawful legislative lobbying is a Class B misdemeanor. [1971 c.743 §213]

162.510 [Repealed by 1971 c.743 §432]

162.520 [Repealed by 1971 c 743 §432]

162.530 [Repealed by 1971 c.743 §432]

162.540 [Repealed by 1971 c.743 §432]

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162.600 [Repealed by 1971 c.743 §432]

162.610 [Repealed by 1971 c.743 §432]

162.620 [Repealed by 1971 c 743 §432]

162.630 [Repealed by 1971 c.743 §432]

162.640 [Repealed by 1971 c.743 §432]

162.650 [Repealed by 1971 c.743 §432]

162.655 [Repealed by 1971 c 743 §432]

162.660 [Repealed by 1971 c.743 §432]

162.670 [Repealed by 1971 c 743 §432]

162.680 [Repealed by 1971 c.743 §432]

162.690 [Repealed by 1971 c.743 §432]

162.700 [Repealed by 1971 c.743 §432]

162.710 [Repealed by 1971 c 743 §432]

162.720 [Repealed by 1971 c 743 §432]

162.730 [Repealed by 1971 c.743 §432]

162.740 [Repealed by 1971 c 743 §432]