

**B-Engrossed**  
**House Bill 2333**

Ordered by the Senate June 7  
Including House Amendments dated April 6 and Senate Amendments  
dated June 7

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary)

**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.

Relieves persons convicted of certain sex offenses who have no prior sex offense convictions, and who are less than five years older than victim, of duty to report as sex offender if victim's lack of consent was based solely on age.

**Establishes procedure to determine whether person may be relieved of duty to report as sex offender.**

**A BILL FOR AN ACT**

1  
2 Relating to sex offender reporting.

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

4 **SECTION 1. A person otherwise required to report under ORS 181.595, 181.596 or 181.597**  
5 **is not required to report, and if currently reporting is no longer required to report, if:**

6 **(1)(a) The person has been convicted of:**

7 **(A) Rape in the third degree as defined in ORS 163.355;**

8 **(B) Sodomy in the third degree as defined in ORS 163.385;**

9 **(C) Sexual abuse in the third degree as defined in ORS 163.415;**

10 **(D) Contributing to the sexual delinquency of a minor as defined in ORS 163.435;**

11 **(E) Sexual misconduct as defined in ORS 163.445; or**

12 **(F) An attempt to commit an offense listed in subparagraphs (A) to (E) of this paragraph;**

13 **(b) The person has been found guilty except for insanity of an offense listed in paragraph**  
14 **(a) of this subsection;**

15 **(c) The person has been found to be within the jurisdiction of the juvenile court for**  
16 **having committed an act that if committed by an adult would constitute an offense listed in**  
17 **paragraph (a) of this subsection; or**

18 **(d) The person is paroled to this state under ORS 144.610 after being convicted in another**  
19 **jurisdiction of a crime that would constitute an offense listed in paragraph (a) of this sub-**  
20 **section;**

21 **(2)(a) The person is less than five years older than the victim;**

22 **(b) The victim's lack of consent was due solely to incapacity to consent by reason of be-**  
23 **ing less than a specified age;**

24 **(c) At the time of the offense or act, the person had no prior conviction for an offense**  
25 **listed in ORS 181.594 (4) or adjudication for an act that if committed by an adult would con-**

**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 stitute an offense listed in ORS 181.594 (4), or no prior conviction or adjudication for conduct  
2 in another jurisdiction that if committed in this state by an adult would constitute an offense  
3 listed in ORS 181.594 (4); and

4 (d) The victim was at least 14 years of age at the time of the offense or act; and

5 (3) The court enters an order relieving the person of the requirement to report under  
6 section 2 or 3 of this 2007 Act.

7 **SECTION 2.** (1) When a person is convicted of an offense or adjudicated for an act de-  
8 scribed in section 1 (1) of this 2007 Act, the court shall determine whether the person is re-  
9 quired to report under ORS 181.595 or 181.596.

10 (2) The court shall enter an order relieving the person of the requirement to report,  
11 unless:

12 (a) The court finds by a preponderance of the evidence that the person does not meet the  
13 eligibility requirements described in section 1 of this 2007 Act; or

14 (b) The district attorney and the person stipulate that the person is required to report.

15 (3) The state has the burden of proving that the person does not meet the eligibility re-  
16 quirements described in section 1 of this 2007 Act.

17 **SECTION 3.** (1) A person who meets the criteria described in section 1 of this 2007 Act  
18 and seeks relief from the requirement to report under ORS 181.595, 181.596 or 181.597 shall:

19 (a) If the person was convicted in this state of the offense or adjudicated in this state for  
20 the act giving rise to the obligation to report, file a motion for relief from the requirement  
21 to report and an affidavit of eligibility with the circuit court of the county in which the  
22 person was convicted or adjudicated and serve a copy of the motion and affidavit on the  
23 district attorney for that county.

24 (b) If the person was convicted in another jurisdiction of an offense or adjudicated in  
25 another jurisdiction for an act giving rise to the obligation to report, file a petition for relief  
26 from the requirement to report and an affidavit of eligibility with the circuit court of the  
27 county in which the person resides and serve a copy of the petition and affidavit on the dis-  
28 trict attorney for that county.

29 (2) The court shall schedule a hearing more than 90 days from the date of the filing de-  
30 scribed in subsection (1) of this section. The court shall notify the person and the district  
31 attorney of the date of the hearing.

32 (3)(a) Upon receipt of the affidavit described in subsection (1) of this section, the district  
33 attorney shall determine whether the district attorney contests the request for relief.

34 (b) If the district attorney does not contest the request for relief, the district attorney  
35 shall submit an order to the court relieving the person of the reporting requirements de-  
36 scribed in ORS 181.595, 181.596 or 181.597. The court shall enter the order.

37 (c) If the district attorney contests the request for relief, the district attorney shall no-  
38 tify the person of that determination within 90 days.

39 (4) At the hearing, the state has the burden of proving that the person does not meet the  
40 eligibility requirements described in section 1 of this 2007 Act.

41 (5)(a) If the court finds, by a preponderance of the evidence, that the person does not  
42 meet the eligibility requirements described in section 1 of this 2007 Act, the court shall enter  
43 an order denying the request for relief.

44 (b) If the court does not make the finding described in paragraph (a) of this subsection,  
45 the court shall enter an order relieving the person from the requirement to report.

1       **(6)(a) If the court relieves the person from the requirement to report, the person shall**  
2 **send a certified copy of the court order to the Department of State Police.**

3       **(b) Upon receipt of the order, the Department of State Police shall remove from the Law**  
4 **Enforcement Data System the sex offender information obtained from the sex offender reg-**  
5 **istration form submitted under ORS 181.595, 181.596 or 181.597.**

6       **(7) The order entered under subsection (5) of this section is not subject to appeal.**

7       **(8) The Oregon Evidence Code does not apply to the hearing described in subsection (4)**  
8 **of this section.**

9       **SECTION 4.** **Section 1 of this 2007 Act applies to persons convicted of an offense or ad-**  
10 **judicated for an act before, on or after the effective date of this 2007 Act.**

11       **SECTION 5.** **Section 2 of this 2007 Act applies to persons convicted of an offense or ad-**  
12 **judicated for an act on or after the effective date of this 2007 Act.**

13       **SECTION 6.** **Section 3 of this 2007 Act applies to persons:**

14       **(1) Convicted of an offense or adjudicated for an act in this state before the effective date**  
15 **of this 2007 Act; and**

16       **(2) Convicted of an offense or adjudicated for an act in another jurisdiction before, on**  
17 **or after the effective date of this 2007 Act.**

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