

House Bill 2972

Sponsored by Representative BARTON; Representatives CAMERON, KRIEGER, WHISNANT

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**.

Places burden of proof on person seeking relief from obligation to report as sex offender.
Permits person seeking relief to have victim testify voluntarily or upon order allowing subpoena.
Designates hearing as part of underlying case for purposes of rules of procedure.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to sex offender registration; creating new provisions; amending ORS 181.833; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 181.833 is amended to read:

6 181.833. (1) A person who meets the criteria described in ORS 181.830 and seeks relief from the
7 requirement to report under ORS 181.595, 181.596 or 181.597 shall:

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

12 (b) If the person was convicted in another jurisdiction of an offense or adjudicated in another
13 jurisdiction for an act giving rise to the obligation to report, file a petition for relief from the re-
14 quirement to report and an affidavit of eligibility with the circuit court of the county in which the
15 person resides and serve a copy of the petition and affidavit on the district attorney for that county.

16 (2) The court shall schedule a hearing more than 90 days from the date of the filing described
17 in subsection (1) of this section. The court shall notify the person and the district attorney of the
18 date of the hearing.

19 (3)(a) Upon receipt of the affidavit described in subsection (1) of this section, the district attor-
20 ney shall determine whether the district attorney contests the request for relief.

21 (b) If the district attorney does not contest the request for relief, the district attorney shall
22 submit an order to the court relieving the person of the reporting requirements described in ORS
23 181.595, 181.596 or 181.597. The court shall enter the order.

24 (c) If the district attorney contests the request for relief, the district attorney shall notify the
25 person of that determination within 90 days **after receipt of the affidavit**.

26 (4) At the hearing, the [*state*] **person** has the burden of proving that the person [*does not meet*]
27 **meets** the eligibility requirements described in ORS 181.830.

28 **(5)(a) At the hearing, the victim of the offense or act giving rise to the obligation to re-**
29 **port:**

30 **(A) May testify voluntarily upon request.**

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) May be compelled by the person to testify only if the court issues an order allowing
2 a subpoena upon the motion of the person.

3 (b) A copy of the motion for a subpoena under this subsection must be served on the
4 district attorney.

5 (c) The court may not issue an order allowing a subpoena under this subsection unless
6 the person can demonstrate good cause by showing that the victim's testimony is material
7 and favorable to the person's request for relief.

8 (d) If the court grants an order allowing a subpoena under this subsection, the court
9 may allow the victim to appear by telephone or other communication device approved by the
10 court.

11 [(5)(a)] (6)(a) If the court finds, by a preponderance of the evidence, that the person [*does not*
12 *meet*] **meets** the eligibility requirements described in ORS 181.830, the court shall enter an order
13 [*denying*] **granting** the request for relief **from the requirement to report**.

14 (b) If the court does not make the finding described in paragraph (a) of this subsection, the court
15 shall enter an order [*relieving the person from the requirement to report*] **denying the request for**
16 **relief**.

17 [(6)(a)] (7)(a) If the court relieves the person from the requirement to report, the person shall
18 send a certified copy of the court order to the Department of State Police.

19 (b) Upon receipt of the order, the Department of State Police shall remove from the Law
20 Enforcement Data System the sex offender information obtained from the sex offender registration
21 form submitted under ORS 181.595, 181.596 or 181.597.

22 [(7)] (8) The order entered under subsection [(5)] (6) of this section is not subject to appeal.

23 [(8)] (9) The Oregon Evidence Code [*does*] **and the Oregon Rules of Civil Procedure do** not
24 apply to the hearing described in subsection [(4)] (2) of this section.

25 **SECTION 2. The amendments to ORS 181.833 by section 1 of this 2009 Act apply to**
26 **motions and petitions for relief filed on or after the effective date of this 2009 Act.**

27 **SECTION 3. This 2009 Act being necessary for the immediate preservation of the public**
28 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
29 **on its passage.**

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