

# House Bill 3340

Sponsored by Representative FREEMAN

## 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**.

Creates crime of unlawfully residing within 1,000 feet of school and makes crime applicable to sex offenders. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Directs Department of Corrections and State Board of Parole and Post-Prison Supervision to modify rules to include prohibition on residing within 1,000 feet of school for purposes of locating permanent residences for certain sex offenders.

## A BILL FOR AN ACT

Relating to sex offenders; creating new provisions; and amending ORS 144.641, 144.642 and 144.644.

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

**SECTION 1. (1) A person commits the crime of unlawfully residing within 1,000 feet of a school if the person:**

(a) **Is required to report as a sex offender under ORS 181.595, 181.596 or 181.597; and**

(b) **Resides within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.**

**(2) Unlawfully residing within 1,000 feet of a school is a Class C felony.**

**SECTION 2.** ORS 144.641 is amended to read:

144.641. As used in this section and ORS 144.642, 144.644 and 144.646:

(1) "Dwelling" has the meaning given that term in ORS 469.160.

(2) "Dwelling" does not include a residential treatment facility or a halfway house.

(3) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.

(4) "Locations where children are the primary occupants or users" includes, but is not limited to, [*public and private elementary and secondary schools and licensed day*] **certified child** care centers.

(5) "Sex offender" means a:

(a) Sexually violent dangerous offender as defined in ORS 137.765; or

(b) Predatory sex offender as described in ORS 181.585.

(6) "Transitional housing" means housing intended to be occupied by a sex offender for 45 days or less immediately after release from incarceration.

**SECTION 3.** ORS 144.642 is amended to read:

144.642. (1) The Department of Corrections, in consultation with the State Board of Parole and Post-Prison Supervision and community corrections agencies, shall adopt rules establishing criteria to be considered in determining the permanent residence requirements for a sex offender released on post-prison supervision or parole. [*Transitional housing is not subject to permanent residence requirements.*] The department shall include in the rules:

(a) **A prohibition against allowing a sex offender to reside within 1,000 feet of the real**

**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 **property comprising a public or private elementary, secondary or career school attended**  
 2 **primarily by minors;**

3 [(a)] (b) A general prohibition against allowing a sex offender to reside near locations, **other**  
 4 **than those described in paragraph (a) of this subsection**, where children are the primary occu-  
 5 pants or users[;], **and the bases upon which exceptions to the general prohibition are author-**  
 6 **ized;**

7 [(b) *The bases upon which exceptions to the general prohibition required by paragraph (a) of this*  
 8 *subsection are authorized;*]

9 (c) A prohibition against allowing a sex offender to reside in any dwelling in which another sex  
 10 offender on probation, parole or post-prison supervision resides unless authorized as provided in ORS  
 11 144.102 (3)(b)(M); and

12 (d) A process that allows communities and community corrections agencies that would be af-  
 13 fected by a decision about the location of a sex offender’s residence to be informed of the decision  
 14 making process before the offender is released.

15 (2) Based upon the rules adopted under subsection (1) of this section, the department shall de-  
 16 velop a decision matrix to be used in determining the permanent residence requirements for a sex  
 17 offender.

18 **(3) Rules adopted under subsection (1)(b) to (d) of this section do not apply to transitional**  
 19 **housing.**

20 **SECTION 4.** ORS 144.644 is amended to read:

21 144.644. (1) The State Board of Parole and Post-Prison Supervision, in consultation with the  
 22 Department of Corrections and community corrections agencies, shall adopt rules establishing cri-  
 23 teria to be considered:

24 (a) In reviewing the proposed residence of a sex offender in a release plan under ORS 144.096  
 25 or a parole plan under ORS 144.125; and

26 (b) In determining the residence of a sex offender in a release plan under ORS 144.096, as a  
 27 condition of post-prison supervision under ORS 144.102 or as a condition of parole under ORS  
 28 144.270.

29 (2) The board shall include in the rules:

30 (a) **A prohibition against allowing a sex offender to reside within 1,000 feet of the real**  
 31 **property comprising a public or private elementary, secondary or career school attended**  
 32 **primarily by minors;**

33 [(a)] (b) A general prohibition against allowing a sex offender to reside near locations, **other**  
 34 **than those described in paragraph (a) of this subsection**, where children are the primary occu-  
 35 pants or users[;], **and the bases upon which exceptions to the general prohibition are author-**  
 36 **ized;**

37 [(b) *The bases upon which exceptions to the general prohibition required by paragraph (a) of this*  
 38 *subsection are authorized;*]

39 (c) A prohibition against allowing a sex offender to reside in any dwelling in which another sex  
 40 offender on probation, parole or post-prison supervision resides unless authorized as provided in ORS  
 41 144.102 (3)(b)(M); and

42 (d) A process that allows communities and community corrections agencies that would be af-  
 43 fected by a decision about the location of a sex offender’s residence to be informed of the decision  
 44 making process before the offender is released.

45 (3) Based upon the rules adopted under subsections (1) and (2) of this section, the board shall

1 develop a decision matrix to be used in determining the specific residence for a sex offender.

2 **SECTION 5. (1) Section 1 of this 2011 Act applies to persons convicted of, or adjudicated**  
3 **for, a sex offense before, on or after the effective date of this 2011 Act.**

4 **(2) The amendments to ORS 144.642 and 144.644 by sections 3 and 4 of this 2011 Act apply**  
5 **to persons released on parole or post-prison supervision before, on or after the effective date**  
6 **of this 2011 Act.**

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