

# D R A F T

## SUMMARY

Requires person convicted of certain child abuse crimes to register with law enforcement agencies. Requires disclosure of registration information on request and authorizes disclosure via Internet.

Creates crime of failure to report as child abuser. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to crime; creating new provisions; amending ORS 132.320, 132.586 and 192.848; appropriating money; and declaring an emergency.

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

### **SECTION 1. As used in sections 1 to 6 of this 2013 Act:**

(1) "Another United States court," "attends," "correctional facility" and "works" have the meanings given those terms in ORS 181.594.

(2) "Child abuse crime" means a person crime:

(a) Committed against a victim who, at the time the crime is committed, is under 18 years of age; and

(b) That is not a sex crime as defined in ORS 181.594.

(3) "Child abuser" means a person convicted of a child abuse crime.

(4) "Convicted" includes a finding of guilty except for insanity.

(5) "Person crime" means a person felony or a person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission.

**SECTION 2. (1) A person who resides in this state and has been**

1 convicted of a child abuse crime, or a statutory counterpart to a child  
2 abuse crime in another jurisdiction, shall make an initial report, in  
3 person, to the Department of State Police, a city police department  
4 or a county sheriff's office as follows:

5 (a) If the person is convicted of a child abuse crime in this state  
6 and, as a result of the conviction, the person is:

7 (A) Discharged, released or placed on probation or any other form  
8 of supervised or conditional release, the person shall make an initial  
9 report in the county in which the person is discharged, released or  
10 placed on probation or other form of supervised or conditional release,  
11 no later than 10 days after the date the person is discharged, released  
12 or placed on probation or other form of supervised or conditional re-  
13 lease.

14 (B) Confined in a correctional facility, the person shall make the  
15 initial report in the county in which the person is discharged or oth-  
16 erwise released from the facility, no later than 10 days after the date  
17 the person is discharged or otherwise released.

18 (b) If the person is convicted of a statutory counterpart to a child  
19 abuse crime in another United States court and, at the time of the  
20 conviction, the person is:

21 (A) Not a resident of this state, the person shall make the initial  
22 report to the Department of State Police in Marion County, Oregon,  
23 no later than 10 days after the date the person moves into this state.

24 (B) A resident of this state, the person shall make the initial report  
25 to the Department of State Police in Marion County, Oregon, no later  
26 than 10 days after the date the person is discharged, released or placed  
27 on probation or any other form of supervised or conditional release  
28 by the other United States court or, if the person is confined in a  
29 correctional facility by the other United States court, no later than  
30 10 days after the date the person is discharged or otherwise released  
31 from the facility.

1       **(2) After making the initial report required by subsection (1) of this**  
2 **section, the person shall report, in person, to the Department of State**  
3 **Police, a city police department or a county sheriff's office, in the**  
4 **county of the person's last reported residence:**

5       **(a) Within 10 days of a change of residence; and**

6       **(b) Once each year within 10 days of the person's birth date.**

7       **(3) When a person who has been convicted of a child abuse crime,**  
8 **or the statutory counterpart to a child abuse crime in another juris-**  
9 **diction, resides in another state but attends school or works in this**  
10 **state, the person shall report, in person, to the Department of State**  
11 **Police, a city police department or a county sheriff's office, in the**  
12 **county in which the person attends school or works, no later than 10**  
13 **days after:**

14       **(a) The first day of school attendance or the 14th day of employ-**  
15 **ment; and**

16       **(b) A change in school enrollment or employment.**

17       **(4) The law enforcement agency to which a person reports under**  
18 **this section shall complete a child abuse registration form concerning**  
19 **the person when the person reports under this section. As part of the**  
20 **registration and reporting requirements of this section:**

21       **(a) The person required to report shall:**

22       **(A) Provide the information necessary to complete the child abuse**  
23 **registration form and sign the form as required; and**

24       **(B) Submit to the requirements described in paragraph (b) of this**  
25 **subsection.**

26       **(b) The Department of State Police, the city police department or**  
27 **the county sheriff's office:**

28       **(A) Shall photograph the person when the person initially reports**  
29 **under this section and each time the person reports annually under**  
30 **this section;**

31       **(B) May photograph the person or any identifying scars, marks or**

1 tattoos located on the person when the person reports under any of  
2 the circumstances described in this section; and

3 (C) Shall fingerprint the person if the person's fingerprints are not  
4 included in the record file of the Department of State Police.

5 (5) The obligation to report under this section is terminated if the  
6 conviction that gave rise to the obligation is reversed or vacated.

7 **SECTION 3.** (1) The Department of State Police shall create a child  
8 abuse registration form for use by law enforcement agencies under  
9 section 2 (4) of this 2013 Act. The form must include a place to list all  
10 the names used by the offender.

11 (2) No later than three working days after registering an offender  
12 under section 2 of this 2013 Act, a city police department or a county  
13 sheriff's office shall:

14 (a) Send the original copy of the registration form to the Depart-  
15 ment of State Police; or

16 (b) Forward the registration information to the Department of  
17 State Police by any means and, within 10 working days after registra-  
18 tion, send the original copy of the registration form to the Department  
19 of State Police.

20 (3) The Department of State Police shall enter into the Law  
21 Enforcement Data System the child abuser information obtained from  
22 the child abuse registration forms. The department shall remove from  
23 the Law Enforcement Data System the child abuser information ob-  
24 tained from the child abuse registration form submitted under sections  
25 1 to 6 of this 2013 Act if the conviction or adjudication that gave rise  
26 to the registration obligation is reversed or vacated or if the registrant  
27 is pardoned.

28 (4) The Department of State Police may adopt rules to carry out the  
29 provisions of sections 1 to 6 of this 2013 Act.

30 **SECTION 4.** (1) The Department of State Police, a city police de-  
31 partment or a county sheriff's office shall release, upon request, any

1 information that may be necessary to protect the public concerning  
2 child abusers who reside in a specific area or concerning a specific  
3 child abuser.

4 (2) The Department of State Police may use the Internet to make  
5 the following information about a child abuser available to the public:

- 6 (a) The person's name and address;
- 7 (b) A physical description of the person;
- 8 (c) The type of vehicle that the person is known to drive;
- 9 (d) Any conditions or restrictions of the person's probation, parole,  
10 post-prison supervision or conditional release;
- 11 (e) A description of the person's primary and secondary targets;
- 12 (f) A description of the person's method of offense;
- 13 (g) A current photograph of the person;
- 14 (h) If the person is under supervision, the name or telephone  
15 number of the person's parole and probation officer; and
- 16 (i) If the person is not under supervision, contact information for  
17 the Department of State Police.

18 (3) The Department of State Police shall assess a person who is re-  
19 quired to report under section 2 of this 2013 Act and who is not under  
20 supervision a fee of \$70 each year. Moneys received by the Department  
21 of State Police under this subsection are continuously appropriated to  
22 the department for the purpose of carrying out the department's du-  
23 ties under sections 1 to 6 of this 2013 Act.

24 SECTION 5. (1) A person who is required to report in accordance  
25 with the applicable provisions of section 2 of this 2013 Act and who has  
26 knowledge of the reporting requirements commits the crime of failure  
27 to report as a child abuser if the person:

- 28 (a) Fails to make the initial report to a law enforcement agency;
- 29 (b) Fails to report following a change of school enrollment or em-  
30 ployment status;
- 31 (c) Moves to a new residence and fails to report the move and the

1 **person's new address;**

2 **(d) Fails to make an annual report;**

3 **(e) Fails to provide the accurate information necessary to complete**  
4 **the child abuse registration form;**

5 **(f) Fails to sign the child abuse registration form as required; or**

6 **(g) Fails to submit to fingerprinting or to having a photograph**  
7 **taken of the person's face, identifying scars, marks or tattoos.**

8 **(2) It is an affirmative defense in a prosecution under:**

9 **(a) Subsection (1)(a) of this section that a person required to report**  
10 **under section 2 (1)(b)(A) or (B) of this 2013 Act reported, in person, to**  
11 **the Department of State Police, a city police department or a county**  
12 **sheriff's office, in the county of the person's residence, if the person**  
13 **otherwise complied with all reporting requirements.**

14 **(b) Subsection (1)(c) of this section that the person reported, in**  
15 **person, to the Department of State Police, a city police department**  
16 **or a county sheriff's office, in the county of the person's new resi-**  
17 **dence, if the person otherwise complied with all reporting require-**  
18 **ments.**

19 **(3)(a) Except as otherwise provided in paragraph (b) of this sub-**  
20 **section, failure to report as a child abuser is a Class C felony.**

21 **(b) Failure to report as a child abuser under subsection (1)(d) or (e)**  
22 **of this section is a Class A misdemeanor.**

23 **SECTION 6. (1) The purpose of sections 1 to 6 of this 2013 Act is to**  
24 **assist law enforcement agencies in preventing the commission of fu-**  
25 **ture child abuse crimes.**

26 **(2) When the court imposes sentence upon a person convicted of a**  
27 **child abuse crime, the court shall ensure that the person completes a**  
28 **form that documents the person's obligation to report under section**  
29 **2 of this 2013 Act. No later than three working days after the person**  
30 **completes the form required by this subsection, the court shall ensure**  
31 **that the form is sent to the Department of State Police.**

1       **(3) At the initial intake for incarceration or release on any type of**  
2 **supervised release, the child abuser shall complete a form that docu-**  
3 **ments the offender’s obligation to report under section 2 of this 2013**  
4 **Act. The Department of State Police shall develop and provide the**  
5 **form. No later than three working days after the child abuser com-**  
6 **pletes the form, the person responsible for the intake process shall**  
7 **send the form to the Department of State Police.**

8       **(4) A public agency and its employees are immune from liability,**  
9 **both civil and criminal, for the good faith performance of the agency’s**  
10 **or the employee’s duties under sections 1 to 6 of this 2013 Act.**

11       **SECTION 7.** ORS 132.586 is amended to read:

12       132.586. (1) As used in this section[,]:

13       **(a) “Child abuse crime” has the meaning given that term in section**  
14 **1 of this 2013 Act.**

15       **(b) “Domestic violence” has the meaning given that term in ORS 135.230.**

16       (2) When a crime involves domestic violence, the accusatory instrument  
17 may plead, and the prosecution may prove at trial, domestic violence as an  
18 element of the crime. When a crime is so pleaded, the words “constituting  
19 domestic violence” may be added to the title of the crime.

20       **(3) When a crime is a child abuse crime, the accusatory instrument**  
21 **may plead, and the prosecution may prove at trial, that the crime is**  
22 **a child abuse crime as an element of the crime. When a crime is so**  
23 **pleaded, the words “constituting a child abuse crime” may be added**  
24 **to the title of the crime.**

25       **SECTION 8.** ORS 132.320 is amended to read:

26       132.320. (1) Except as provided in subsections (2) to (11) of this section,  
27 in the investigation of a charge for the purpose of indictment, the grand jury  
28 shall receive no other evidence than such as might be given on the trial of  
29 the person charged with the crime in question.

30       (2) A report or a copy of a report made by a physicist, chemist, medical  
31 examiner, physician, firearms identification expert, examiner of questioned

1 documents, fingerprint technician, or an expert or technician in some com-  
2 parable scientific or professional field, concerning the results of an exam-  
3 ination, comparison or test performed by such person in connection with a  
4 case which is the subject of a grand jury proceeding, shall, when certified  
5 by such person as a report made by such person or as a true copy thereof,  
6 be received in evidence in the grand jury proceeding.

7 (3) An affidavit of a witness who is unable to appear before the grand jury  
8 shall be received in evidence in the grand jury proceeding if, upon applica-  
9 tion by the district attorney, the presiding judge for the judicial district in  
10 which the grand jury is sitting authorizes such receipt after good cause has  
11 been shown for the witness' inability to appear. An affidavit taken in an-  
12 other state or territory of the United States, the District of Columbia or in  
13 a foreign country must be authenticated as provided in ORS 194.505 to  
14 194.575 before it can be used in this state.

15 (4) A grand jury that is investigating a charge of criminal driving while  
16 suspended or revoked under ORS 811.182 may receive in evidence an affidavit  
17 of a peace officer with a report or copy of a report of the peace officer con-  
18 cerning the peace officer's investigation of the violation of ORS 811.182 by  
19 the defendant.

20 (5) A grand jury may receive testimony of a witness by means of simul-  
21 taneous television transmission allowing the grand jury and district attorney  
22 to observe and communicate with the witness and the witness to observe and  
23 communicate with the grand jury and the district attorney.

24 (6) A grand jury that is investigating a charge of failure to appear under  
25 ORS 133.076, 153.992, 162.195 or 162.205 may receive in evidence an affidavit  
26 of a court employee certifying that the defendant failed to appear as required  
27 by law and setting forth facts sufficient to support that conclusion.

28 (7)(a) Except as otherwise provided in this subsection, a grand jury may  
29 receive in evidence through the testimony of one peace officer involved in  
30 the criminal investigation under grand jury inquiry information from an of-  
31 ficial report of another peace officer involved in the same criminal investi-



1 gation concerning the other peace officer's investigation of the matter before  
2 the grand jury. The statement of a person suspected of committing an offense  
3 or inadmissible hearsay of persons other than the peace officer who compiled  
4 the official report may not be presented to a grand jury under this para-  
5 graph.

6 (b) If the official report contains evidence other than chain of custody,  
7 venue or the name of the person suspected of committing an offense, the  
8 grand jurors must be notified that the evidence is being submitted by report  
9 and that the peace officer who compiled the report will be made available  
10 for testimony at the request of the grand jury. When a grand jury requests  
11 the testimony of a peace officer under this paragraph, the peace officer may  
12 present sworn testimony by telephone if requiring the peace officer's pres-  
13 ence before the grand jury would constitute an undue hardship on the peace  
14 officer or the agency that employs or utilizes the peace officer.

15 (8)(a) A grand jury that is investigating a charge of failure to report as  
16 a sex offender under ORS 181.599 may receive in evidence certified copies  
17 of the form required by ORS 181.603 (2) and sex offender registration forms  
18 and an affidavit of a representative of the Oregon State Police, as keepers  
19 of the state's sex offender registration records, certifying that the [*certified*]  
20 copies of the forms constitute the complete record for the defendant.

21 **(b) A grand jury that is investigating a charge of failure to report**  
22 **as a child abuser under section 5 of this 2013 Act may receive in evi-**  
23 **dence certified copies of the forms required by section 6 of this 2013**  
24 **Act and child abuse registration forms and an affidavit of a represen-**  
25 **tative of the Oregon State Police, as keepers of the state's child abuse**  
26 **registration records, certifying that the copies of the forms constitute**  
27 **the complete record for the defendant.**

28 (9) The grand jury is not bound to hear evidence for the defendant, but  
29 it shall weigh all the evidence submitted to it; and when it believes that  
30 other evidence within its reach will explain away the charge, it should order  
31 such evidence to be produced, and for that purpose may require the district

1 attorney to issue process for the witnesses.

2 (10) A grand jury that is investigating a charge of driving while under  
3 the influence of intoxicants in violation of ORS 813.010 may receive in evi-  
4 dence an affidavit of a peace officer regarding any or all of the following:

5 (a) Whether the defendant was driving.

6 (b) Whether the defendant took or refused to take tests under any pro-  
7 vision of ORS chapter 813.

8 (c) The administration of tests under any provision of ORS chapter 813  
9 and the results of such tests.

10 (d) The officer's observations of physical or mental impairment of the  
11 defendant.

12 (11)(a) A grand jury may receive in evidence an affidavit of a represen-  
13 tative of a financial institution for the purpose of authenticating records of  
14 the financial institution.

15 (b) As used in this subsection, "financial institution" means a financial  
16 institution as defined in ORS 706.008, an entity that regularly issues, pro-  
17 cesses or services credit cards or any other comparable entity that regularly  
18 produces financial records.

19 **SECTION 9.** ORS 192.848 is amended to read:

20 192.848. (1) The Attorney General may not disclose the actual address or  
21 telephone number of a program participant, except under either of the fol-  
22 lowing circumstances:

23 (a) Upon receipt of a court order signed by a judge pursuant to a finding  
24 of good cause. Good cause exists when disclosure is sought for a lawful  
25 purpose that outweighs the risk of the disclosure and, in the case of a re-  
26 quest for disclosure received from a federal, state or local law enforcement  
27 agency, district attorney or other public body, when information is provided  
28 to the court that describes the official purpose for which the actual address  
29 or telephone number of the program participant will be used. If a judge finds  
30 that good cause exists, the terms of the court order shall address, as much  
31 as practicable, the safety and protection of the program participant. In cases

1 where the Attorney General has not received prior notice of a court order,  
2 not later than three business days after receiving the order, the Attorney  
3 General may object to the order and request a hearing before the judge who  
4 signed the order.

5 (b) Where the program participant is required to disclose the actual ad-  
6 dress of the program participant as part of a registration for:

7 (A) Sex offenders as required under ORS 181.598 and 181.599; or

8 (B) **Child abusers as required under sections 1 to 6 of this 2013 Act.**

9 (2) A person to whom an actual address or telephone number of a program  
10 participant has been disclosed pursuant to a court order may not disclose the  
11 actual address or telephone number to any other person unless permitted to  
12 do so by order of the court.

13 (3) The Attorney General shall notify a program participant within one  
14 business day after the Attorney General discloses an actual address under  
15 subsection (1)(a) of this section.

16 (4) Upon request by a public body, the Attorney General may verify  
17 whether or not a person is a program participant when the verification is for  
18 official use only.

19 **SECTION 10. Sections 1 to 6 of this 2013 Act and the amendments**  
20 **to ORS 132.320, 132.586 and 192.848 by sections 7 to 9 of this 2013 Act**  
21 **apply to persons convicted of a child abuse crime that is committed**  
22 **on or after the effective date of this 2013 Act.**

23 **SECTION 11. This 2013 Act being necessary for the immediate**  
24 **preservation of the public peace, health and safety, an emergency is**  
25 **declared to exist, and this 2013 Act takes effect on its passage.**

26