

# House Bill 2394

Sponsored by Representative WITT; Representatives BOONE, BUCKLEY, DOHERTY, FREDERICK, GARRETT, KENY-GUYER (Pre-session filed.)

## 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**.

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

Imposes registration fee and continuously appropriates half of fee to Department of State Police for purposes of Act. Allows half of fee to be retained by county sheriff.

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

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to crime; creating new provisions; amending ORS 132.320 and 192.848; appropriating money;  
3 and declaring an emergency.

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

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

5  
6 (1) **"Animal abuser" means a person convicted of an animal crime.**

7 (2) **"Animal crime" means:**

8 (a) **Animal abuse in the first degree as defined in ORS 167.320;**

9 (b) **Aggravated animal abuse in the first degree as defined in ORS 167.322;**

10 (c) **Assaulting a law enforcement animal as defined in ORS 167.339;**

11 (d) **Involvement in animal fighting as defined in ORS 167.355;**

12 (e) **Dogfighting as defined in ORS 167.365;**

13 (f) **Participation in dogfighting as defined in ORS 167.370;**

14 (g) **Possessing dogfighting paraphernalia as defined in ORS 167.372;**

15 (h) **Cockfighting as defined in ORS 167.428;**

16 (i) **Participation in cockfighting as defined in ORS 167.431; or**

17 (j) **An attempt to commit a crime described in paragraphs (a) to (i) of this subsection.**

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

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

21 **SECTION 2. (1) A person who resides in this state and has been convicted of an animal**  
22 **crime, or a statutory counterpart to an animal crime in another jurisdiction, shall make an**  
23 **initial report, in person, to the Department of State Police, a city police department or a**  
24 **county sheriff's office as follows:**

25 (a) **If the person is convicted of an animal crime in this state and, as a result of the**  
26 **conviction, the person is:**

27 (A) **Discharged, released or placed on probation or any other form of supervised or con-**  
28 **ditional release, the person shall make an initial report in the county in which the person is**

**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 discharged, released or placed on probation or other form of supervised or conditional re-  
 2 lease, no later than 10 days after the date the person is discharged, released or placed on  
 3 probation or other form of supervised or conditional release.

4 (B) Confined in a correctional facility, the person shall make the initial report in the  
 5 county in which the person is discharged or otherwise released from the facility, no later  
 6 than 10 days after the date the person is discharged or otherwise released.

7 (b) If the person is convicted of a statutory counterpart to an animal crime in another  
 8 United States court and, at the time of the conviction, the person is:

9 (A) Not a resident of this state, the person shall make the initial report to the Depart-  
 10 ment of State Police in Marion County, Oregon, no later than 10 days after the date the  
 11 person moves into this state.

12 (B) A resident of this state, the person shall make the initial report to the Department  
 13 of State Police in Marion County, Oregon, no later than 10 days after the date the person is  
 14 discharged, released or placed on probation or any other form of supervised or conditional  
 15 release by the other United States court or, if the person is confined in a correctional facility  
 16 by the other United States court, no later than 10 days after the date the person is dis-  
 17 charged or otherwise released from the facility.

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

21 (a) Within 10 days of a change of residence; and

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

23 (3) When a person who has been convicted of an animal crime, or a statutory counterpart  
 24 to an animal crime in another jurisdiction, resides in another state and attends school or  
 25 works in this state, the person shall report, in person, to the Department of State Police, a  
 26 city police department or a county sheriff's office, in the county in which the person attends  
 27 school or works, no later than 10 days after:

28 (a) The first day of school attendance or the 14th day of employment; and

29 (b) A change in school enrollment or employment.

30 (4) The law enforcement agency to which a person reports under this section shall com-  
 31 plete an animal crime registration form concerning the person when the person reports un-  
 32 der this section. As part of the registration and reporting requirements of this section:

33 (a) The person required to report shall:

34 (A) Provide the information necessary to complete the animal crime registration form  
 35 and sign the form as required; and

36 (B) Submit to the requirements described in paragraph (b) of this subsection.

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

39 (A) Shall photograph the person when the person initially reports under this section and  
 40 each time the person reports annually under this section;

41 (B) May photograph the person or any identifying scars, marks or tattoos located on the  
 42 person when the person reports under any of the circumstances described in this section;  
 43 and

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

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

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

6 (2) No later than three working days after registering an offender under section 2 of this  
 7 2013 Act, a city police department or a county sheriff's office shall:

8 (a) Send the original copy of the registration form to the Department of State Police; or

9 (b) Forward the registration information to the Department of State Police by any means  
 10 and, within 10 working days after registration, send the original copy of the registration form  
 11 to the Department of State Police.

12 (3) The Department of State Police shall enter into the Law Enforcement Data System  
 13 the animal crime information obtained from the animal crime registration forms. The de-  
 14 partment shall remove from the Law Enforcement Data System the animal crime informa-  
 15 tion obtained from the animal crime registration form submitted under sections 1 to 6 of this  
 16 2013 Act if the conviction or adjudication that gave rise to the registration obligation is re-  
 17 versed or vacated or if the registrant is pardoned.

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

20 **SECTION 4.** (1) The Department of State Police, a city police department or a county  
 21 sheriff's office shall release, upon request, any information that may be necessary to protect  
 22 the public concerning animal abusers who reside in a specific area or concerning a specific  
 23 animal abuser.

24 (2) The Department of State Police may use the Internet to make the following infor-  
 25 mation about an animal abuser available to the public:

26 (a) The person's name and address;

27 (b) A physical description of the person;

28 (c) The type of vehicle that the person is known to drive;

29 (d) Any conditions or restrictions of the person's probation, parole, post-prison super-  
 30 vision or conditional release;

31 (e) A description of the person's primary and secondary targets;

32 (f) A description of the person's method of offense;

33 (g) A current photograph of the person;

34 (h) If the person is under supervision, the name or telephone number of the person's  
 35 parole and probation officer; and

36 (i) If the person is not under supervision, contact information for the Department of  
 37 State Police.

38 (3) The Department of State Police shall assess a person who is required to report under  
 39 section 2 of this 2013 Act and who is not under supervision a fee of \$70 each year. Moneys  
 40 received by the Department of State Police under this subsection are continuously appro-  
 41 priated to the department for the purpose of carrying out the department's duties under  
 42 sections 1 to 6 of this 2013 Act.

43 **SECTION 5.** (1) A person who is required to report in accordance with the applicable  
 44 provisions of section 2 of this 2013 Act and who has knowledge of the reporting requirements  
 45 commits the crime of failure to report as an animal abuser if the person:

- 1 (a) Fails to make the initial report to a law enforcement agency;
- 2 (b) Fails to report following a change of school enrollment or employment status;
- 3 (c) Moves to a new residence and fails to report the move and the person's new address;
- 4 (d) Fails to make an annual report;
- 5 (e) Fails to provide the accurate information necessary to complete the animal abuse
- 6 registration form;
- 7 (f) Fails to sign the animal abuse registration form as required; or
- 8 (g) Fails to submit to fingerprinting or to having a photograph taken of the person's face,
- 9 identifying scars, marks or tattoos.

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

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

15 (b) Subsection (1)(c) of this section that the person reported, in person, to the Depart-  
16 ment of State Police, a city police department or a county sheriff's office, in the county of  
17 the person's new residence, if the person otherwise complied with all reporting requirements.

18 (3)(a) Except as otherwise provided in paragraph (b) of this subsection, failure to report  
19 as an animal abuser is a Class C felony.

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

22 **SECTION 6.** (1) The purpose of sections 1 to 6 of this 2013 Act is to assist law enforce-  
23 ment agencies in preventing the commission of future animal crimes.

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

29 (3) At the initial intake for incarceration or release on any type of supervised release,  
30 the animal abuser shall complete a form that documents the offender's obligation to report  
31 under section 2 of this 2013 Act. The Department of State Police shall develop and provide  
32 the form. No later than three working days after the animal abuser completes the form, the  
33 person responsible for the intake process shall send the form to the Department of State  
34 Police.

35 (4) A public agency and its employees are immune from liability, both civil and criminal,  
36 for the good faith performance of the agency's or the employee's duties under sections 1 to  
37 6 of this 2013 Act.

38 **SECTION 7.** ORS 132.320 is amended to read:

39 132.320. (1) Except as provided in subsections (2) to (11) of this section, in the investigation of  
40 a charge for the purpose of indictment, the grand jury shall receive no other evidence than such  
41 as might be given on the trial of the person charged with the crime in question.

42 (2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician,  
43 firearms identification expert, examiner of questioned documents, fingerprint technician, or an ex-  
44 pert or technician in some comparable scientific or professional field, concerning the results of an  
45 examination, comparison or test performed by such person in connection with a case which is the

1 subject of a grand jury proceeding, shall, when certified by such person as a report made by such  
 2 person or as a true copy thereof, be received in evidence in the grand jury proceeding.

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

9 (4) A grand jury that is investigating a charge of criminal driving while suspended or revoked  
 10 under ORS 811.182 may receive in evidence an affidavit of a peace officer with a report or copy of  
 11 a report of the peace officer concerning the peace officer's investigation of the violation of ORS  
 12 811.182 by the defendant.

13 (5) A grand jury may receive testimony of a witness by means of simultaneous television trans-  
 14 mission allowing the grand jury and district attorney to observe and communicate with the witness  
 15 and the witness to observe and communicate with the grand jury and the district attorney.

16 (6) A grand jury that is investigating a charge of failure to appear under ORS 133.076, 153.992,  
 17 162.195 or 162.205 may receive in evidence an affidavit of a court employee certifying that the de-  
 18 fendant failed to appear as required by law and setting forth facts sufficient to support that con-  
 19 clusion.

20 (7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence  
 21 through the testimony of one peace officer involved in the criminal investigation under grand jury  
 22 inquiry information from an official report of another peace officer involved in the same criminal  
 23 investigation concerning the other peace officer's investigation of the matter before the grand jury.  
 24 The statement of a person suspected of committing an offense or inadmissible hearsay of persons  
 25 other than the peace officer who compiled the official report may not be presented to a grand jury  
 26 under this paragraph.

27 (b) If the official report contains evidence other than chain of custody, venue or the name of the  
 28 person suspected of committing an offense, the grand jurors must be notified that the evidence is  
 29 being submitted by report and that the peace officer who compiled the report will be made available  
 30 for testimony at the request of the grand jury. When a grand jury requests the testimony of a peace  
 31 officer under this paragraph, the peace officer may present sworn testimony by telephone if requir-  
 32 ing the peace officer's presence before the grand jury would constitute an undue hardship on the  
 33 peace officer or the agency that employs or utilizes the peace officer.

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

39 **(b) A grand jury that is investigating a charge of failure to report as an animal abuser**  
 40 **under section 5 of this 2013 Act may receive in evidence certified copies of the forms required**  
 41 **by section 6 of this 2013 Act and animal crime registration forms and an affidavit of a rep-**  
 42 **resentative of the Oregon State Police, as keepers of the state's animal crime registration**  
 43 **records, certifying that the copies of the forms constitute the complete record for the de-**  
 44 **fendant.**

45 (9) The grand jury is not bound to hear evidence for the defendant, but it shall weigh all the

1 evidence submitted to it; and when it believes that other evidence within its reach will explain away  
 2 the charge, it should order such evidence to be produced, and for that purpose may require the  
 3 district attorney to issue process for the witnesses.

4 (10) A grand jury that is investigating a charge of driving while under the influence of  
 5 intoxicants in violation of ORS 813.010 may receive in evidence an affidavit of a peace officer re-  
 6 garding any or all of the following:

7 (a) Whether the defendant was driving.

8 (b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.

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

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

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

14 (b) As used in this subsection, "financial institution" means a financial institution as defined in  
 15 ORS 706.008, an entity that regularly issues, processes or services credit cards or any other com-  
 16 parable entity that regularly produces financial records.

17 **SECTION 8.** ORS 192.848 is amended to read:

18 192.848. (1) The Attorney General may not disclose the actual address or telephone number of  
 19 a program participant, except under either of the following circumstances:

20 (a) Upon receipt of a court order signed by a judge pursuant to a finding of good cause. Good  
 21 cause exists when disclosure is sought for a lawful purpose that outweighs the risk of the disclosure  
 22 and, in the case of a request for disclosure received from a federal, state or local law enforcement  
 23 agency, district attorney or other public body, when information is provided to the court that de-  
 24 scribes the official purpose for which the actual address or telephone number of the program par-  
 25 ticipant will be used. If a judge finds that good cause exists, the terms of the court order shall  
 26 address, as much as practicable, the safety and protection of the program participant. In cases  
 27 where the Attorney General has not received prior notice of a court order, not later than three  
 28 business days after receiving the order, the Attorney General may object to the order and request  
 29 a hearing before the judge who signed the order.

30 (b) Where the program participant is required to disclose the actual address of the program  
 31 participant as part of a registration for:

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

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

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

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

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

41 **SECTION 9. Sections 1 to 6 of this 2013 Act and the amendments to ORS 132.320 and**  
 42 **192.848 by sections 7 and 8 of this 2013 Act apply to persons convicted of an animal crime that**  
 43 **is committed on or after the effective date of this 2013 Act.**

44 **SECTION 10. This 2013 Act being necessary for the immediate preservation of the public**  
 45 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**

1 **on its passage.**

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