

House Bill 2552

Introduced and printed pursuant to House Rule 12.00. 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 **as introduced**.

Eliminates obligation to report as sex offender if person is required to report solely as result of juvenile court adjudication for act committed when person was under 16 years of age.

Authorizes persons convicted of sex crime for conduct occurring when person was under 16 years of age to petition for relief from obligation to report as sex offender under certain circumstances.

Authorizes persons convicted of, or adjudicated for, sex crime in Oregon to obtain relief from reporting requirements when person does not reside, attend school or work in Oregon.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to sex offender reporting; creating new provisions; amending ORS 181.609, 181.820 and
3 181.823; and declaring an emergency.

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

5 **SECTION 1.** ORS 181.609 is amended to read:

6 181.609. (1) Unless the juvenile court enters an order under ORS 181.823 or 181.826 relieving a
7 person of the obligation to report as a sex offender, subsections (2) to (4) of this section apply to a
8 person:

9 (a) Who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005,
10 or found by the juvenile court to be responsible except for insanity under ORS 419C.411, for having
11 committed an act **while the person was at least 16 years of age** that if committed by an adult
12 would constitute a felony sex crime; or

13 (b) Who has been found in a juvenile adjudication in another United States court to have com-
14 mitted an act while the person was **at least 16 years of age and** under 18 years of age that would
15 constitute a felony sex crime if committed in this state by an adult.

16 (2) A person described in subsection (1) of this section who resides in this state shall make an
17 initial report, in person, to the Department of State Police, a city police department or a county
18 sheriff's office as follows:

19 (a) If, as a result of the juvenile adjudication for a felony sex crime, the person is discharged,
20 released or placed on probation or any other form of supervised or conditional release by the juve-
21 nile court, the person shall make the initial report in the county in which the person is discharged,
22 released or placed on probation or other form of supervised or conditional release, no later than 10
23 days after the date the person is discharged, released or placed on probation or other form of
24 supervised or conditional release;

25 (b) If, as a result of the juvenile adjudication for a felony sex crime, the person is confined in
26 a correctional facility by the juvenile court, the person shall make the initial report in the county
27 in which the person is discharged or otherwise released from the facility, no later than 10 days after

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 the date the person is discharged or otherwise released from the facility; or

2 (c) If the person is adjudicated for the act giving rise to the obligation to report in another
3 United States court and the person is found to have committed an act that if committed by an adult
4 in this state would constitute:

5 (A) A Class A or Class B felony sex crime:

6 (i) If the person is not a resident of this state at the time of the adjudication, the person shall
7 make the initial report to the Department of State Police in Marion County, Oregon, no later than
8 10 days after the date the person moves into this state; or

9 (ii) If the person is a resident of this state at the time of the adjudication, the person shall make
10 the initial report to the Department of State Police in Marion County, Oregon, no later than 10 days
11 after the date the person is discharged, released or placed on probation or any other form of
12 supervised or conditional release by the other United States court or, if the person is confined in
13 a correctional facility by the other United States court, no later than 10 days after the date the
14 person is discharged or otherwise released from the facility.

15 (B) A Class C felony sex crime:

16 (i) If the person is not a resident of this state at the time of the adjudication, the person shall
17 make the initial report to the Department of State Police in Marion County, Oregon, no later than
18 six months after the date the person moves into this state; or

19 (ii) If the person is a resident of this state at the time of the adjudication, the person shall make
20 the initial report to the Department of State Police in Marion County, Oregon, no later than 10 days
21 after the date the person is discharged, released or placed on probation or any other form of
22 supervised or conditional release by the other United States court or, if the person is confined in
23 a correctional facility by the other United States court, no later than 10 days after the date the
24 person is discharged or otherwise released from the facility.

25 (3) After making the initial report described in subsection (2) of this section, the person shall
26 report, in person, to the Department of State Police, a city police department or a county sheriff's
27 office, in the county of the person's last reported residence:

28 (a) Within 10 days of a change of residence;

29 (b) Once each year within 10 days of the person's birth date, regardless of whether the person
30 changed residence;

31 (c) Within 10 days of the first day the person works at, carries on a vocation at or attends an
32 institution of higher education; and

33 (d) Within 10 days of a change in work, vocation or attendance status at an institution of higher
34 education.

35 (4) When a person described in subsection (1) of this section attends school or works in this
36 state, resides in another state and is not otherwise required to report as a sex offender under this
37 section or ORS 181.595, 181.596 or 181.597, the person shall report, in person, to the Department of
38 State Police, a city police department or a county sheriff's office, in the county in which the person
39 attends school or works, no later than 10 days after:

40 (a) The first day of school attendance or the 14th day of employment in this state; and

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

42 (5) The agency to which a person reports under this section shall complete a sex offender reg-
43 istration form concerning the person when the person reports under this section.

44 (6) As part of the registration and reporting requirements of this section:

45 (a) The person required to report shall:

1 (A) Provide the information necessary to complete the sex offender registration form and sign
 2 the form as required; and

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

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

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

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

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

11 (7) The obligation to report under this section is terminated if the adjudication that gave rise
 12 to the obligation is reversed or vacated.

13 (8) The court shall ensure that a person described in subsection (1)(a) of this section completes
 14 a form that documents the person's obligation to report under this section. No later than three
 15 working days after the person completes the form required by this subsection, the court shall ensure
 16 that the form is sent to the Department of State Police.

17 **SECTION 2. The amendments to ORS 181.609 by section 1 of this 2013 Act apply to juve-**
 18 **nile adjudications occurring before, on or after the effective date of this 2013 Act.**

19 **SECTION 3. No later than January 1, 2015, the Department of State Police shall remove**
 20 **from the Law Enforcement Data System the sex offender information obtained from sex**
 21 **offender registration forms submitted under ORS 181.595, 181.596, 181.597 or 181.609 for any**
 22 **person who has reported as a sex offender solely as the result of a juvenile adjudication for**
 23 **an act committed while the person was under 16 years of age.**

24 **SECTION 4.** ORS 181.820, as amended by section 9, chapter 48, Oregon Laws 2012, is amended
 25 to read:

26 181.820. (1)[(a)] No sooner than 10 years after termination of supervision on probation, condi-
 27 tional release, parole or post-prison supervision, a person required to report under ORS 181.595,
 28 181.596 or 181.597, **or required to report as a sex offender under the laws of another state as**
 29 **the result of a conviction entered in circuit court,** may file a petition [*in circuit court*] for an
 30 order relieving the person of the [*duty*] **obligation** to report. The person must pay the filing fee es-
 31 tablished under ORS 21.135. A petition may be filed under this section only if:

32 (a)(A) The person has only one conviction for a sex crime;

33 (B) The sex crime was a misdemeanor or Class C felony or, if committed in another state, would
 34 have been a misdemeanor or Class C felony if committed in this state; and

35 (C) The person has not been determined to be a predatory sex offender as described in ORS
 36 181.585; **or**

37 **(b)(A) The person has only one conviction for a sex crime;**

38 **(B) The court did not impose a mandatory minimum sentence under ORS 137.700 for the**
 39 **sex crime;**

40 **(C) The person was convicted of the sex crime for conduct occurring while the person**
 41 **was under 16 years of age; and**

42 **(D) The sex crime was first reported to a law enforcement agency as defined in ORS**
 43 **131.550 after the person attained 18 years of age.**

44 [(b)(A)] **(2)(a)** Except as otherwise provided in this [*paragraph*] **subsection,** the petition must
 45 be filed in the circuit court of the county in which the person was convicted of the sex crime.

1 ~~[(B)]~~ (b) If the person was convicted of the sex crime in another state, the petition must be filed
 2 in the circuit court of the county in which the person resides.

3 (c) The district attorney of the county in which the petition is filed shall be named and served
 4 as the respondent in the petition.

5 [(2)] (3) The court shall hold a hearing on the petition. In determining whether to grant the re-
 6 lief requested, the court shall consider:

7 (a) The nature of the offense that required reporting;

8 (b) The age and number of victims;

9 (c) The degree of violence involved in the offense;

10 (d) Other criminal and relevant noncriminal behavior of the petitioner both before and after the
 11 conviction that required reporting;

12 (e) The period of time during which the petitioner has not reoffended;

13 (f) Whether the petitioner has successfully completed a court-approved sex offender treatment
 14 program; and

15 (g) Any other relevant factors.

16 [(3)] (4) If the court is satisfied by clear and convincing evidence that the petitioner is rehabil-
 17 itated and that the petitioner does not pose a threat to the safety of the public, the court shall enter
 18 an order relieving the petitioner of the *[duty]* **obligation** to report. When the court enters an order
 19 under this subsection, the petitioner shall send a certified copy of the court order to the Department
 20 of State Police.

21 **SECTION 5.** ORS 181.823 is amended to read:

22 181.823. (1) A person required to report as a sex offender under ORS 181.609 (1)(a), **or required**
 23 **to report as a sex offender under the laws of another state as the result of an adjudication**
 24 **in the juvenile court**, may file a petition for an order relieving the person of the *[duty]* **obligation**
 25 to report. The person must pay the filing fee established under ORS 21.135. If the person resides:

26 (a) In this state and is required to report under ORS 181.609 (2) or (3), the petition must be filed
 27 in the juvenile court in which the person was adjudicated for the act that requires reporting.

28 (b) In another state and is required to report under ORS 181.609 (4), the petition must be filed
 29 in the juvenile court in the county in which the person attends school or works.

30 (c) **In another state and is required to report under the laws of the other state, the pe-**
 31 **tion must be filed in the juvenile court in which the person was adjudicated for the act that**
 32 **requires reporting.**

33 (2) If the act giving rise to the obligation to report would constitute:

34 (a) A Class A or Class B felony sex crime if committed by an adult, the petition may be filed
 35 no sooner than two years after the termination of juvenile court jurisdiction over the person or, if
 36 the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than
 37 two years after the person is discharged from the jurisdiction of the board.

38 (b) A Class C felony sex crime if committed by an adult, the petition may be filed no sooner than
 39 30 days before the termination of juvenile court jurisdiction over the person or, if the person is
 40 placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than 30 days be-
 41 fore the person is discharged from the jurisdiction of the board.

42 (3)(a) The juvenile court in which a petition under this section is filed may transfer the matter
 43 to the juvenile court of the county that last supervised the person if the court determines that the
 44 convenience of the parties, the victim and witnesses require the transfer.

45 (b) The juvenile court has exclusive original jurisdiction in any proceeding under this section.

1 (c) The person, the district attorney and the juvenile department are parties to a hearing on a
 2 petition filed under this section.

3 (4) The person filing the petition has the burden of proving by clear and convincing evidence
 4 that the person is rehabilitated and does not pose a threat to the safety of the public. In determining
 5 whether the person has met the burden of proof, the juvenile court may consider but need not be
 6 limited to considering:

7 (a) The extent and impact of any physical or emotional injury to the victim;

8 (b) The nature of the act that subjected the person to the *[duty]* **obligation** of reporting as a sex
 9 offender;

10 (c) Whether the person used or threatened to use force in committing the act;

11 (d) Whether the act was premeditated;

12 (e) Whether the person took advantage of a position of authority or trust in committing the act;

13 (f) The age of any victim at the time of the act, the age difference between any victim and the
 14 person and the number of victims;

15 (g) The vulnerability of the victim;

16 (h) Other acts committed by the person that would be crimes if committed by an adult and
 17 criminal activities engaged in by the person before and after the adjudication;

18 (i) Statements, documents and recommendations by or on behalf of the victim or the parents of
 19 the victim;

20 (j) The person's willingness to accept personal responsibility for the act and personal account-
 21 ability for the consequences of the act;

22 (k) The person's ability and efforts to pay the victim's expenses for counseling and other
 23 trauma-related expenses or other efforts to mitigate the effects of the act;

24 (L) Whether the person has participated in and satisfactorily completed a sex offender treatment
 25 program or any other intervention, and if so the juvenile court may also consider:

26 (A) The availability, duration and extent of the treatment activities;

27 (B) Reports and recommendations from the providers of the treatment;

28 (C) The person's compliance with court, board or supervision requirements regarding treatment;

29 and

30 (D) The quality and thoroughness of the treatment program;

31 (m) The person's academic and employment history;

32 (n) The person's use of drugs or alcohol before and after the adjudication;

33 (o) The person's history of public or private indecency;

34 (p) The person's compliance with and success in completing the terms of supervision;

35 (q) The results of psychological examinations of the person;

36 (r) The protection afforded the public by the continued existence of the records; and

37 (s) Any other relevant factors.

38 (5) In a hearing under this section, the juvenile court may receive testimony, reports and other
 39 evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and
 40 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this
 41 section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS
 42 40.150.

43 (6) When a petition is filed under this section, the state has the right to have a psychosexual
 44 evaluation of the person conducted. The state shall file notice with the juvenile court of its intention
 45 to have the person evaluated. If the person objects to the evaluator chosen by the state, the juvenile

1 court for good cause shown may direct the state to select a different evaluator.

2 (7) As soon as practicable after a petition has been filed under this section, the district attorney
 3 or juvenile department shall make a reasonable effort to notify the victim of the crime that the
 4 person has filed a petition seeking relief under this section and, if the victim has requested, to in-
 5 form the victim of the date, time and place of a hearing on the petition in advance of the hearing.

6 (8)(a) When a petition filed under this section is filed:

7 (A) While the person is under the jurisdiction of the juvenile court or the Psychiatric Security
 8 Review Board or less than three years after the date the jurisdiction is terminated, the court shall
 9 hold a hearing no sooner than 60 days and no later than 120 days after the date of filing.

10 (B) Three years or more after the date the juvenile court or board jurisdiction is terminated, the
 11 court shall hold a hearing no sooner than 90 days and no later than 150 days after the date of filing.

12 (b) Notwithstanding paragraph (a) of this subsection, upon a showing of good cause, the court
 13 may extend the period of time in which a hearing on the petition must be held.

14 (9)(a) When the person proves by clear and convincing evidence that the person is rehabilitated
 15 and does not pose a threat to the safety of the public, the court shall grant the petition.

16 (b) Notwithstanding paragraph (a) of this subsection, the court may not grant a petition filed
 17 under this section before the date the juvenile court or board jurisdiction over the person is termi-
 18 nated.

19 (10) When a juvenile court enters an order relieving a person of the requirement to report under
 20 ORS 181.609, the person shall send a certified copy of the juvenile court order to the Department
 21 of State Police.

22 (11) If a person commits an act that could be charged as a sex crime listed in ORS 137.707 and
 23 the person is 15, 16 or 17 years of age at the time the act is committed, the state and the person
 24 may stipulate that the person may not petition for relief under this section as part of an agreement
 25 that the person be subject to the jurisdiction of the juvenile court rather than being prosecuted as
 26 an adult under ORS 137.707.

27 (12) When a petition is filed under subsection (2)(b) of this section before the termination of ju-
 28 venile court or board jurisdiction, if the person, or the parent or guardian of the person if the person
 29 is less than 18 years of age, requests counsel and is without sufficient financial means to employ
 30 suitable counsel to represent the person, for purposes of the petition described in this section, the
 31 court shall appoint suitable counsel to represent the person. Appointment of counsel under this
 32 subsection is subject to ORS 419C.200, 419C.203, 419C.206 and 419C.209.

33 **SECTION 6. The amendments to ORS 181.820 and 181.823 by sections 4 and 5 of this 2013**
 34 **Act apply to petitions filed on or after the effective date of this 2013 Act.**

35 **SECTION 7. This 2013 Act being necessary for the immediate preservation of the public**
 36 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
 37 **on its passage.**