

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3253**

1 On page 1 of the printed A-engrossed bill, line 3, delete “and 181.597” and
2 insert “, 181.597, 181.820 and 181.823”.

3 On page 6, after line 28, insert:

4 **“SECTION 6.** ORS 181.820, as amended by section 9, chapter 48, Oregon
5 Laws 2012, is amended to read:

6 “181.820. (1)[(a)] No sooner than 10 years after termination of supervision
7 on probation, conditional release, parole or post-prison supervision, a person
8 required to report under ORS 181.595, 181.596 or 181.597, **or required to**
9 **report as a sex offender under the laws of another state as the result**
10 **of a conviction entered in circuit court**, may file a petition [*in circuit*
11 *court*] for an order relieving the person of the [*duty*] **obligation** to report.
12 The person must pay the filing fee established under ORS 21.135. A petition
13 may be filed under this section only if:

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

15 “(B) The sex crime was a misdemeanor or Class C felony or, if committed
16 in another state, would have been a misdemeanor or Class C felony if com-
17 mitted in this state; and

18 “(C) The person has not been determined to be a predatory sex offender
19 as described in ORS 181.585[.]; **or**

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

21 **“(B) The court did not impose a mandatory minimum sentence un-**
22 **der ORS 137.700 for the sex crime;**

1 “(C) The person was convicted of the sex crime for conduct occur-
2 ring while the person was under 18 years of age; and

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

5 “[(b)(A)] (2)(a) Except as otherwise provided in this [paragraph] sub-
6 section, the petition must be filed in the circuit court of the county in which
7 the person was convicted of the sex crime.

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

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

13 “[(2)] (3) The court shall hold a hearing on the petition. In determining
14 whether to grant the relief requested, the court shall consider:

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

16 “(b) The age and number of victims;

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

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

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

21 “(f) Whether the petitioner has successfully completed a court-approved
22 sex offender treatment program; and

23 “(g) Any other relevant factors.

24 “[(3)] (4) If the court is satisfied by clear and convincing evidence that
25 the petitioner is rehabilitated and that the petitioner does not pose a threat
26 to the safety of the public, the court shall enter an order relieving the
27 petitioner of the [duty] obligation to report. When the court enters an order
28 under this subsection, the petitioner shall send a certified copy of the court
29 order to the Department of State Police.

30 “**SECTION 7.** ORS 181.823 is amended to read:

1 “181.823. (1) A person required to report as a sex offender under ORS
2 181.609 (1)(a), **or required to report as a sex offender under the laws of**
3 **another state as the result of an adjudication in the juvenile court,**
4 may file a petition for an order relieving the person of the [*duty*] **obligation**
5 to report. The person must pay the filing fee established under ORS 21.135.
6 If the person resides:

7 “(a) In this state and is required to report under ORS 181.609 (2) or (3),
8 the petition must be filed in the juvenile court in which the person was ad-
9 judicated for the act that requires reporting.

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

13 **“(c) In another state and is required to report under the laws of the**
14 **other state, the petition must be filed in the juvenile court in which**
15 **the person was adjudicated for the act that requires reporting.**

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

17 “(a) A Class A or Class B felony sex crime if committed by an adult, the
18 petition may be filed no sooner than two years after the termination of ju-
19 venile court jurisdiction over the person or, if the person is placed under the
20 jurisdiction of the Psychiatric Security Review Board, no sooner than two
21 years after the person is discharged from the jurisdiction of the board.

22 “(b) A Class C felony sex crime if committed by an adult, the petition
23 may be filed no sooner than 30 days before the termination of juvenile court
24 jurisdiction over the person or, if the person is placed under the jurisdiction
25 of the Psychiatric Security Review Board, no sooner than 30 days before the
26 person is discharged from the jurisdiction of the board.

27 “(3)(a) The juvenile court in which a petition under this section is filed
28 may transfer the matter to the juvenile court of the county that last super-
29 vised the person if the court determines that the convenience of the parties,
30 the victim and witnesses require the transfer.

1 “(b) The juvenile court has exclusive original jurisdiction in any pro-
2 ceeding under this section.

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

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

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

12 “(b) The nature of the act that subjected the person to the [*duty*] **obli-**
13 **gation** of reporting as a sex offender;

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

16 “(d) Whether the act was premeditated;

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

19 “(f) The age of any victim at the time of the act, the age difference be-
20 tween any victim and the person and the number of victims;

21 “(g) The vulnerability of the victim;

22 “(h) Other acts committed by the person that would be crimes if commit-
23 ted by an adult and criminal activities engaged in by the person before and
24 after the adjudication;

25 “(i) Statements, documents and recommendations by or on behalf of the
26 victim or the parents of the victim;

27 “(j) The person’s willingness to accept personal responsibility for the act
28 and personal accountability for the consequences of the act;

29 “(k) The person’s ability and efforts to pay the victim’s expenses for
30 counseling and other trauma-related expenses or other efforts to mitigate the

1 effects of the act;

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

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

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

7 “(C) The person’s compliance with court, board or supervision require-
8 ments regarding treatment; and

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

10 “(m) The person’s academic and employment history;

11 “(n) The person’s use of drugs or alcohol before and after the adjudi-
12 cation;

13 “(o) The person’s history of public or private indecency;

14 “(p) The person’s compliance with and success in completing the terms
15 of supervision;

16 “(q) The results of psychological examinations of the person;

17 “(r) The protection afforded the public by the continued existence of the
18 records; and

19 “(s) Any other relevant factors.

20 “(5) In a hearing under this section, the juvenile court may receive tes-
21 timony, reports and other evidence without regard to whether the evidence
22 is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence
23 is relevant to the determination and findings required under this section.
24 As used in this subsection, ‘relevant evidence’ has the meaning given that
25 term in ORS 40.150.

26 “(6) When a petition is filed under this section, the state has the right
27 to have a psychosexual evaluation of the person conducted. The state shall
28 file notice with the juvenile court of its intention to have the person evalu-
29 ated. If the person objects to the evaluator chosen by the state, the juvenile
30 court for good cause shown may direct the state to select a different evalu-

1 ator.

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

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

9 “(A) While the person is under the jurisdiction of the juvenile court or
10 the Psychiatric Security Review Board or less than three years after the date
11 the jurisdiction is terminated, the court shall hold a hearing no sooner than
12 60 days and no later than 120 days after the date of filing.

13 “(B) Three years or more after the date the juvenile court or board ju-
14 risdiction is terminated, the court shall hold a hearing no sooner than 90
15 days and no later than 150 days after the date of filing.

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

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

22 “(b) Notwithstanding paragraph (a) of this subsection, the court may not
23 grant a petition filed under this section before the date the juvenile court
24 or board jurisdiction over the person is terminated.

25 “(10) When a juvenile court enters an order relieving a person of the re-
26 quirement to report under ORS 181.609, the person shall send a certified copy
27 of the juvenile court order to the Department of State Police.

28 “(11) If a person commits an act that could be charged as a sex crime
29 listed in ORS 137.707 and the person is 15, 16 or 17 years of age at the time
30 the act is committed, the state and the person may stipulate that the person

1 may not petition for relief under this section as part of an agreement that
2 the person be subject to the jurisdiction of the juvenile court rather than
3 being prosecuted as an adult under ORS 137.707.

4 “(12) When a petition is filed under subsection (2)(b) of this section before
5 the termination of juvenile court or board jurisdiction, if the person, or the
6 parent or guardian of the person if the person is less than 18 years of age,
7 requests counsel and is without sufficient financial means to employ suitable
8 counsel to represent the person, for purposes of the petition described in this
9 section, the court shall appoint suitable counsel to represent the person.
10 Appointment of counsel under this subsection is subject to ORS 419C.200,
11 419C.203, 419C.206 and 419C.209.

12 **“SECTION 8. The amendments to ORS 181.820 and 181.823 by**
13 **sections 6 and 7 of this 2013 Act apply to petitions filed on or after the**
14 **effective date of this 2013 Act.”.**

15 In line 29, delete “6” and insert “9”.

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