

D R A F T

SUMMARY

Eliminates automatic reporting of person found to have committed act that would constitute felony sex crime if committed by adult. Requires court to set hearing on issue of reporting prior to end of court or Psychiatric Security Review Board jurisdiction over person and sets criteria for ordering person to report.

A BILL FOR AN ACT

1
2 Relating to juvenile sex offenders; creating new provisions; and amending
3 ORS 181.809 and 181.812.

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

5 **SECTION 1.** ORS 181.809 is amended to read:

6 181.809. (1) Unless the juvenile court enters an order under ORS 181.823
7 or 181.826 relieving a person of the obligation to report as a sex offender,
8 subsections (2) to (4) of this section apply to a person:

9 *[(a) Who has been found to be within the jurisdiction of the juvenile court*
10 *under ORS 419C.005, or found by the juvenile court to be responsible except*
11 *for insanity under ORS 419C.411, for having committed an act that if com-*
12 *mitted by an adult would constitute a felony sex crime; or]*

13 **(a) Who has been ordered under section 3 of this 2015 Act to report**
14 **as a sex offender; or**

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

19 (2) A person described in subsection (1) of this section who resides in this

1 state shall make an initial report, in person, to the Department of State
2 Police, a city police department or a county sheriff's office as follows:

3 *[(a) If, as a result of the juvenile adjudication for a felony sex crime, the*
4 *person is discharged, released or placed on probation or any other form of*
5 *supervised or conditional release by the juvenile court, the person shall make*
6 *the initial report in the county in which the person is discharged, released or*
7 *placed on probation or other form of supervised or conditional release, no later*
8 *than 10 days after the date the person is discharged, released or placed on*
9 *probation or other form of supervised or conditional release;]*

10 *[(b) If, as a result of the juvenile adjudication for a felony sex crime, the*
11 *person is confined in a correctional facility by the juvenile court, the person*
12 *shall make the initial report in the county in which the person is discharged*
13 *or otherwise released from the facility, no later than 10 days after the date the*
14 *person is discharged or otherwise released from the facility; or]*

15 **(a) The person shall report no later than 10 days after the date of**
16 **the termination of juvenile court jurisdiction over the person or, if the**
17 **person is placed under the jurisdiction of the Psychiatric Security Re-**
18 **view Board, no later than 10 days after the date the person is dis-**
19 **charged from the jurisdiction of the board; or**

20 *[(c)] (b) If the person is adjudicated for the act giving rise to the obli-*
21 *gation to report in another United States court and the person is found to*
22 *have committed an act that if committed by an adult in this state would*
23 *constitute:*

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

25 (i) If the person is not a resident of this state at the time of the adjudi-
26 cation, the person shall make the initial report to the Department of State
27 Police in Marion County, Oregon, no later than 10 days after the date the
28 person moves into this state; or

29 (ii) If the person is a resident of this state at the time of the adjudication,
30 the person shall make the initial report to the Department of State Police
31 in Marion County, Oregon, no later than 10 days after the date the person

1 is discharged, released or placed on probation or any other form of super-
2 vised or conditional release by the other United States court or, if the person
3 is confined in a correctional facility by the other United States court, no
4 later than 10 days after the date the person is discharged or otherwise re-
5 leased from the facility.

6 (B) A Class C felony sex crime:

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

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

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

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

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

26 (c) Within 10 days of the first day the person works at, carries on a vo-
27 cation at or attends an institution of higher education; and

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

30 (4) When a person described in subsection (1) of this section attends
31 school or works in this state, resides in another state and is not otherwise

1 required to report as a sex offender under this section or ORS 181.806,
2 181.807 or 181.808, the person shall report, in person, to the Department of
3 State Police, a city police department or a county sheriff's office, in the
4 county in which the person attends school or works, no later than 10 days
5 after:

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

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

9 (5) The agency to which a person reports under this section shall com-
10 plete a sex offender registration form concerning the person when the person
11 reports under this section.

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

13 (a) The person required to report shall:

14 (A) Provide the information necessary to complete the sex offender reg-
15 istration form and sign the form as required; and

16 (B) Submit to the requirements described in paragraph (b) of this sub-
17 section.

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

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

22 (B) May photograph the person or any identifying scars, marks or tattoos
23 located on the person when the person reports under any of the circum-
24 stances described in this section; and

25 (C) Shall fingerprint the person if the person's fingerprints are not in-
26 cluded in the record file of the Department of State Police.

27 (7) The obligation to report under this section is terminated if the adju-
28 dication that gave rise to the obligation is reversed or vacated.

29 *[(8) The court shall ensure that a person described in subsection (1)(a) of*
30 *this section completes a form that documents the person's obligation to report*
31 *under this section. No later than three working days after the person completes*

1 *the form required by this subsection, the court shall ensure that the form is*
2 *sent to the Department of State Police.]*

3 **SECTION 2.** Section 3 of this 2015 Act is added to and made a part
4 of ORS 181.800 to 181.845.

5 **SECTION 3.** (1)(a) The juvenile court shall hold a hearing on the
6 issue of reporting as a sex offender by a person who has been found
7 to be within the jurisdiction of the juvenile court under ORS 419C.005,
8 or found by the juvenile court to be responsible except for insanity
9 under ORS 419C.411, for having committed an act that if committed
10 by an adult would constitute a felony sex crime.

11 (b) The hearing described in paragraph (a) of this subsection must
12 be held during the six-month period before:

13 (A) The termination of juvenile court jurisdiction over the person;
14 or

15 (B) The person is discharged from the jurisdiction of the Psychiatric
16 Security Review Board, if the person was placed under the jurisdiction
17 of the board.

18 (2)(a) At the hearing described in subsection (1) of this section, the
19 district attorney, the victim and the person shall have an opportunity
20 to be heard.

21 (b) The district attorney shall notify the victim prior to the hearing
22 of the right to appear and the right to be heard under ORS 419C.273.

23 (3) The juvenile court shall enter an order requiring the person to
24 report as a sex offender under ORS 181.809 if the court finds by a pre-
25 ponderance of the evidence that the reporting is necessary for the
26 safety of the public and the prevention of future sex offenses by the
27 person.

28 (4) When the juvenile court enters an order described in subsection
29 (3) of this section, the court shall ensure that the person completes a
30 form that documents the person's obligation to report under ORS
31 181.809. No later than three working days after the person completes

1 **the form required by this subsection, the court shall ensure that the**
2 **form is sent to the Department of State Police.**

3 **(5) A person who is the subject of a hearing described in subsection**
4 **(1) of this section has the right to be represented by suitable legal**
5 **counsel possessing skills and experience commensurate with the na-**
6 **ture and complexity of the case, to consult with counsel prior to the**
7 **hearing, if financially eligible, to have suitable counsel appointed at**
8 **state expense.**

9 **(6) Notwithstanding ORS 419C.005 (4)(e), the juvenile court retains**
10 **jurisdiction over a person for purposes of this section.**

11 **SECTION 4.** ORS 181.812 is amended to read:

12 181.812. (1) A person who is required to report as a sex offender in ac-
13 cordance with the applicable provisions of ORS 181.806, 181.807, 181.808 or
14 181.809 and who has knowledge of the reporting requirement commits the
15 crime of failure to report as a sex offender if the person:

16 (a) Fails to make the initial report to an agency;

17 (b) Fails to report when the person works at, carries on a vocation at or
18 attends an institution of higher education;

19 (c) Fails to report following a change of school enrollment or employment
20 status, including enrollment, employment or vocation status at an institution
21 of higher education;

22 (d) Moves to a new residence and fails to report the move and the
23 person's new address;

24 (e) Fails to make an annual report;

25 (f) Fails to provide complete and accurate information;

26 (g) Fails to sign the sex offender registration form as required; or

27 (h) Fails to submit to fingerprinting or to having a photograph taken of
28 the person's face, identifying scars, marks or tattoos.

29 (2)(a) It is an affirmative defense to a charge of failure to report under
30 subsection (1)(d) of this section by a person required to report under ORS
31 181.806 (3)(a)(B), 181.807 (4)(a)(B) or 181.809 (3)(a) that the person reported,

1 in person, within 10 days of a change of residence to the Department of State
2 Police, a city police department or a county sheriff's office, in the county
3 of the person's new residence, if the person otherwise complied with all re-
4 porting requirements.

5 (b) It is an affirmative defense to a charge of failure to report under
6 subsection (1)(a) of this section by a person required to report under ORS
7 181.808 (1)(a) or 181.809 [(2)(c)(A)(i)] **(2)(b)(A)(i)** that the person reported, in
8 person, to the Department of State Police, a city police department or a
9 county sheriff's office, in the county of the person's new residence, within
10 10 days of moving into this state.

11 (c) It is an affirmative defense to a charge of failure to report under
12 subsection (1)(a) of this section by a person required to report under ORS
13 181.809 [(2)(c)(B)(i)] **(2)(b)(B)(i)** that the person reported, in person, to the
14 Department of State Police, a city police department or a county sheriff's
15 office, in the county of the person's new residence, within six months of
16 moving into this state.

17 (d) It is an affirmative defense to a charge of failure to report under
18 subsection (1) of this section by a person required to report under ORS
19 181.808 (3) or 181.809 [(2)(c)(A)(ii)] **(2)(b)(A)(ii)** or (B)(ii) or (3) that the per-
20 son reported, in person, to the Department of State Police, a city police de-
21 partment or a county sheriff's office, in the county of the person's residence,
22 if the person otherwise complied with all reporting requirements.

23 (3)(a) Except as otherwise provided in paragraph (b) of this subsection,
24 failure to report as a sex offender is a Class A misdemeanor.

25 (b) Failure to report as a sex offender is a Class C felony if the person
26 violates:

27 (A) Subsection (1)(a) of this section; or

28 (B) Subsection (1)(b), (c), (d) or (g) of this section and the crime for which
29 the person is required to report is a felony.

30 (4) A person who fails to sign and return an address verification form as
31 required by ORS 181.810 (4) commits a violation.

