

D R A F T

SUMMARY

Authorizes persons adjudicated for sex crime as juvenile in Oregon to file petition for relief from reporting requirements when person does not reside, attend school or work in Oregon.

A BILL FOR AN ACT

Relating to juvenile sex offender reporting; amending ORS 181.823.

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

SECTION 1. ORS 181.823 is amended to read:

181.823. (1) A person required to report as a sex offender under ORS 181.809 (1)(a), **or required to report as a sex offender under the laws of another state as a result of an adjudication in an Oregon juvenile court**, may file a petition for an order relieving the person of the [*duty*] **obligation** to report. The person must pay the filing fee established under ORS 21.135. If the person resides:

(a) In this state and is required to report under ORS 181.809 (2) or (3), the petition must be filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

(b) In another state and is required to report under ORS 181.809 (4), the petition must be filed in the juvenile court in the county in which the person attends school or works.

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

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

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

6 (b) A Class C felony sex crime if committed by an adult, the petition may
7 be filed no sooner than 30 days before the termination of juvenile court ju-
8 risdiction over the person or, if the person is placed under the jurisdiction
9 of the Psychiatric Security Review Board, no sooner than 30 days before the
10 person is discharged from the jurisdiction of the board.

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

15 (b) The juvenile court has exclusive original jurisdiction in any proceed-
16 ing under this section.

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

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

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

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

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

30 (d) Whether the act was premeditated;

31 (e) Whether the person took advantage of a position of authority or trust

1 in committing the act;

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

4 (g) The vulnerability of the victim;

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

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

10 (j) The person's willingness to accept personal responsibility for the act
11 and personal accountability for the consequences of the act;

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

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

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

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

20 (C) The person's compliance with court, board or supervision require-
21 ments regarding treatment; and

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

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

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

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

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

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

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

31 (s) Any other relevant factors.

1 (5) In a hearing under this section, the juvenile court may receive testi-
2 mony, reports and other evidence without regard to whether the evidence is
3 admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is
4 relevant to the determination and findings required under this section. As
5 used in this subsection, “relevant evidence” has the meaning given that term
6 in ORS 40.150.

7 (6) When a petition is filed under this section, the state has the right to
8 have a psychosexual evaluation of the person conducted. The state shall file
9 notice with the juvenile court of its intention to have the person evaluated.
10 If the person objects to the evaluator chosen by the state, the juvenile court
11 for good cause shown may direct the state to select a different evaluator.

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

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

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

23 (B) Three years or more after the date the juvenile court or board juris-
24 diction is terminated, the court shall hold a hearing no sooner than 90 days
25 and no later than 150 days after the date of filing.

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

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

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

4 (10) When a juvenile court enters an order relieving a person of the re-
5 quirement to report under ORS 181.809, the person shall send a certified copy
6 of the juvenile court order to the Department of State Police.

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

13 (12) When a petition is filed under subsection (2)(b) of this section before
14 the termination of juvenile court or board jurisdiction, if the person, or the
15 parent or guardian of the person if the person is less than 18 years of age,
16 requests counsel and is without sufficient financial means to employ suitable
17 counsel to represent the person, for purposes of the petition described in this
18 section, the court shall appoint suitable counsel to represent the person.
19 Appointment of counsel under this subsection is subject to ORS 419C.200,
20 419C.203, 419C.206 and 419C.209.

21
