

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. Establishes procedure for state to move juvenile court for order requiring such person to report as sex offender. Requires court to set hearing on motion and sets criteria for ordering person to report. Modifies reporting requirements for persons adjudicated in other United States courts.

Requires person ordered to report as sex offender to provide certain information to juvenile department. Establishes restrictions on sharing of information.

Allows person convicted as adult for certain sex crimes committed when person was under 16 years of age to apply for relief from reporting as sex offender if person convicted prior to January 1, 2014.

A BILL FOR AN ACT

1
2 Relating to juvenile sex offenders; creating new provisions; and amending
3 ORS 181.809, 181.812, 181.820 and 419C.446.

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**

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

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

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

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

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

23 *[(A) A Class A or Class B felony sex crime:]*

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

28 *[(ii) If the person is a resident of this state at the time of the adjudication,*
29 *the person shall make the initial report to the Department of State Police in*
30 *Marion County, Oregon, no later than 10 days after the date the person is*
31 *discharged, released or placed on probation or any other form of supervised*

1 *or conditional release by the other United States court or, if the person is*
2 *confined in a correctional facility by the other United States court, no later*
3 *than 10 days after the date the person is discharged or otherwise released from*
4 *the facility.]*

5 *[(B) A Class C felony sex crime:]*

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

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

18 **(a) The person shall report within 10 days following the termination**
19 **of juvenile court jurisdiction over the person or, if the person is placed**
20 **under the jurisdiction of the Psychiatric Security Review Board,**
21 **within 10 days following the person's discharge from the jurisdiction**
22 **of the board; or**

23 **(b) If the person was adjudicated for the act giving rise to the ob-**
24 **ligation to report in another United States court, the person shall re-**
25 **port no later than six months after moving into or returning to this**
26 **state or six months after the person learns of the obligation to report**
27 **under this section, whichever is later.**

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

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

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

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

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

8 (4) When a person described in subsection (1) of this section attends
9 school or works in this state, resides in another state and is not otherwise
10 required to report as a sex offender under this section or ORS 181.806,
11 181.807 or 181.808, the person shall report, in person, to the Department of
12 State Police, a city police department or a county sheriff's office, in the
13 county in which the person attends school or works, no later than 10 days
14 after:

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

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

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

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

22 (a) The person required to report shall:

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

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

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

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

31 (B) May photograph the person or any identifying scars, marks or tattoos

1 located on the person when the person reports under any of the circum-
2 stances described in this section; and

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

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

7 [(8) *The court shall ensure that a person described in subsection (1)(a) of*
8 *this section completes a form that documents the person's obligation to report*
9 *under this section. No later than three working days after the person completes*
10 *the form required by this subsection, the court shall ensure that the form is*
11 *sent to the Department of State Police.*]

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

14 **SECTION 3. (1)(a) The state, acting through the district attorney,**
15 **the Attorney General or, when authorized by the district attorney, the**
16 **juvenile department counselor, may move the juvenile court for an**
17 **order requiring a person to report as a sex offender under ORS 181.809**
18 **if the person has been found to be within the jurisdiction of the juve-**
19 **nile court under ORS 419C.005, or found by the juvenile court to be**
20 **responsible except for insanity under ORS 419C.411, for having com-**
21 **mitted an act that if committed by an adult would constitute a felony**
22 **sex crime.**

23 **(b) The motion described in paragraph (a) of this subsection must**
24 **be filed during the six-month period before:**

25 **(A) The termination of juvenile court jurisdiction over the person;**
26 **or**

27 **(B) The person is discharged from the jurisdiction of the Psychiatric**
28 **Security Review Board, if the person was placed under the jurisdiction**
29 **of the board.**

30 **(c) The party filing the motion described in paragraph (a) of this**
31 **subsection shall notify the victim of the right to appear and the right**

1 to be heard on the motion under ORS 419C.273.

2 (2) Upon receipt of a motion described in subsection (1) of this sec-
3 tion, the juvenile court shall set a hearing. At the hearing, the party
4 filing the motion, the victim and the person shall have an opportunity
5 to be heard.

6 (3) The juvenile court shall enter an order requiring the person to
7 report as a sex offender under ORS 181.809 if the court finds by a pre-
8 ponderance of the evidence that the person will engage in unlawful
9 sexual acts in the future and that the reporting requirement is nec-
10 essary to assist law enforcement in preventing such future acts.

11 (4) When the juvenile court enters an order described in subsection
12 (3) of this section, the court shall ensure that the person completes a
13 form that documents the person's obligation to report under ORS
14 181.809. No later than three working days after the person completes
15 the form required by this subsection, the court shall ensure that the
16 form is sent to the Department of State Police.

17 (5) A person who is the subject of a motion described in subsection
18 (1) of this section has the right to be represented by suitable legal
19 counsel possessing skills and experience commensurate with the na-
20 ture and complexity of the case, to consult with counsel prior to the
21 hearing on the motion and, if financially eligible, to have suitable
22 counsel appointed at state expense.

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

25 **SECTION 4.** ORS 419C.446 is amended to read:

26 419C.446. (1) When a court determines it would be in the best interest and
27 welfare of a youth offender, the court may place the youth offender on pro-
28 bation. The court may direct that the youth offender remain in the legal
29 custody of the youth offender's parents or other person with whom the youth
30 offender is living, or the court may direct that the youth offender be placed
31 in the legal custody of some relative or some person maintaining a foster

1 home approved by the court, or in a child care center or a youth care center
2 authorized to accept the youth offender.

3 (2) The court may specify particular requirements to be observed during
4 the probation consistent with recognized juvenile court practice, including
5 but not limited to restrictions on visitation by the youth offender's parents,
6 restrictions on the youth offender's associates, occupation and activities, re-
7 strictions on and requirements to be observed by the person having the youth
8 offender's legal custody, requirements for visitation by and consultation with
9 a juvenile counselor or other suitable counselor, requirements to make
10 restitution under ORS 419C.450, requirements of a period of detention under
11 ORS 419C.453, requirements to pay a fine under ORS 419C.459, requirements
12 to pay a supervision fee under ORS 419C.449, requirements to perform com-
13 munity service under ORS 419C.462, or service for the victim under ORS
14 419C.465, or requirements to submit to blood or buccal testing under ORS
15 419C.473.

16 (3) If the youth offender is a sex offender, as defined in ORS 181.805[,]:

17 (a) **The youth offender must notify the juvenile department of the**
18 **youth offender's current home, school and work address and must**
19 **notify the juvenile department of any changes to the addresses;**

20 (b) **The juvenile department may notify the victim if an address**
21 **described in paragraph (a) of this subsection is within one mile of the**
22 **victim's home, school or work address but may not disclose the youth**
23 **offender's home address to the victim or to the public;**

24 (c) The juvenile department shall notify the chief of police, if the youth
25 offender is going to reside within a city, and the county sheriff of the county
26 in which the youth offender is going to reside of the youth offender's release
27 on probation and the requirements imposed on the youth offender's probation
28 under subsection (2) of this section[.]; **and**

29 (d) **Except as otherwise provided in ORS 181.837, a local law**
30 **enforcement agency notified under paragraph (c) of this subsection**
31 **may make the information provided by the juvenile department avail-**

1 **able to other law enforcement agencies within the agency's jurisdic-**
2 **tion for use in the investigation and prosecution of crimes, and of**
3 **conduct that if committed by an adult would be a crime, only if the**
4 **information is relevant to a specific investigation by the other law**
5 **enforcement agency.**

6 **SECTION 5.** ORS 181.820 is amended to read:

7 181.820. (1)[(a)] No sooner than 10 years after termination of supervision
8 on probation, conditional release, parole or post-prison supervision, a person
9 required to report under ORS 181.806, 181.807 or 181.808, **or required to**
10 **report as a sex offender under the laws of another state as the result**
11 **of a conviction entered in an Oregon court,** may file a petition in circuit
12 court for an order relieving the person of the [*duty*] **obligation** to report.
13 The person must pay the filing fee established under ORS 21.135. A petition
14 may be filed under this section only if:

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

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

19 (C) The person has not been determined to be a predatory sex offender
20 as described in ORS 181.838[.]; **or**

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

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

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

26 (D) **The sex crime was first reported to a law enforcement agency**
27 **after the person attained 18 years of age.**

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

31 [(B)] (b) If the person was convicted of the sex crime in another state,

1 the petition must be filed in the circuit court of the county in which the
2 person resides.

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

5 [(2)] (3) The court shall hold a hearing on the petition. In determining
6 whether to grant the relief 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
11 both before and after the 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
14 offender treatment program; and

15 (g) Any other relevant factors.

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

22 **SECTION 6.** ORS 181.812 is amended to read:

23 181.812. (1) A person who is required to report as a sex offender in ac-
24 cordance with the applicable provisions of ORS 181.806, 181.807, 181.808 or
25 181.809 and who has knowledge of the reporting requirement commits the
26 crime of failure to report as a sex offender if the person:

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

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

30 (c) Fails to report following a change of school enrollment or employment
31 status, including enrollment, employment or vocation status at an institution

1 of higher education;

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

4 (e) Fails to make an annual report;

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

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

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

9 (2)(a) It is an affirmative defense to a charge of failure to report under
10 subsection (1)(d) of this section by a person required to report under ORS
11 181.806 (3)(a)(B), 181.807 (4)(a)(B) or 181.809 (3)(a) that the person reported,
12 in person, within 10 days of a change of residence to the Department of State
13 Police, a city police department or a county sheriff's office, in the county
14 of the person's new residence, if the person otherwise complied with all re-
15 porting requirements.

16 (b) It is an affirmative defense to a charge of failure to report under
17 subsection (1)(a) of this section by a person required to report under ORS
18 181.808 (1)(a) [*or 181.809 (2)(c)(A)(i)*] that the person reported, in person, to
19 the Department of State Police, a city police department or a county sheriff's
20 office, in the county of the person's new residence, within 10 days of moving
21 into this state.

22 [*(c) It is an affirmative defense to a charge of failure to report under sub-*
23 *section (1)(a) of this section by a person required to report under ORS 181.809*
24 *(2)(c)(B)(i) that the person reported, in person, to the Department of State Po-*
25 *lice, a city police department or a county sheriff's office, in the county of the*
26 *person's new residence, within six months of moving into this state.]*

27 [(d)] (c) It is an affirmative defense to a charge of failure to report under
28 subsection (1) of this section by a person required to report under ORS
29 181.808 (3) or 181.809 [(2)(c)(A)(ii) or (B)(ii) or] (3) that the person reported,
30 in person, to the Department of State Police, a city police department or a
31 county sheriff's office, in the county of the person's residence, if the person

1 otherwise complied with all reporting requirements.

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

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

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

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

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

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