

House Bill 2902

Sponsored by 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 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 ORS 181.809 and 181.812.

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

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

5 181.809. (1) Unless the juvenile court enters an order under ORS 181.823 or 181.826 relieving a
6 person of the obligation to report as a sex offender, subsections (2) to (4) of this section apply to a
7 person:

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

11 **(a) Who has been ordered under section 3 of this 2015 Act to report as a sex offender;**
12 **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 under 18 years of age that would constitute a felony sex crime**
15 **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 juvenile*
21 *court, the person shall make the initial report in the county in which the person is discharged, released*
22 *or placed on probation or other form of supervised or conditional release, no later than 10 days after*
23 *the date the person is discharged, released or placed on probation or other form of supervised or con-*
24 *ditional release;]*

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

29 **(a) The person shall report no later than 10 days after the date of the termination of**
30 **juvenile court jurisdiction over the person or, if the person is placed under the jurisdiction**

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 **of the Psychiatric Security Review Board, no later than 10 days after the date the person is**
 2 **discharged from the jurisdiction of the board; or**

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

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

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

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

16 (B) A Class C felony sex crime:

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

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

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

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

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

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

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

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

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

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

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

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

1 (a) The person required to report shall:

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

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

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

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

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

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

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

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

18 **SECTION 2. Section 3 of this 2015 Act is added to and made a part of ORS 181.800 to**
19 **181.845.**

20 **SECTION 3. (1)(a) The juvenile court shall hold a hearing on the issue of reporting as a**
21 **sex offender by a person who has been found to be within the jurisdiction of the juvenile**
22 **court under ORS 419C.005, or found by the juvenile court to be responsible except for insanity**
23 **under ORS 419C.411, for having committed an act that if committed by an adult would con-**
24 **stitute a felony sex crime.**

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

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

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

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

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

34 **(3) The juvenile court shall enter an order requiring the person to report as a sex**
35 **offender under ORS 181.809 if the court finds by a preponderance of the evidence that the**
36 **reporting is necessary for the safety of the public and the prevention of future sex offenses**
37 **by the person.**

38 **(4) When the juvenile court enters an order described in subsection (3) of this section,**
39 **the court shall ensure that the person completes a form that documents the person's obli-**
40 **gation to report under ORS 181.809. No later than three working days after the person**
41 **completes the form required by this subsection, the court shall ensure that the form is sent**
42 **to the Department of State Police.**

43 **(5) A person who is the subject of a hearing described in subsection (1) of this section**
44 **has the right to be represented by suitable legal counsel possessing skills and experience**
45 **commensurate with the nature and complexity of the case, to consult with counsel prior to**

1 **the hearing, if financially eligible, to have suitable counsel appointed at state expense.**

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

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

5 181.812. (1) A person who is required to report as a sex offender in accordance with the appli-
 6 cable provisions of ORS 181.806, 181.807, 181.808 or 181.809 and who has knowledge of the reporting
 7 requirement commits the crime of failure to report as a sex offender if the person:

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

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

11 (c) Fails to report following a change of school enrollment or employment status, including en-
 12 rollment, employment or vocation status at an institution of higher education;

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

14 (e) Fails to make an annual report;

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

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

17 (h) Fails to submit to fingerprinting or to having a photograph taken of the person's face, iden-
 18 tifying scars, marks or tattoos.

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

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

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

33 (d) It is an affirmative defense to a charge of failure to report under subsection (1) of this sec-
 34 tion by a person required to report under ORS 181.808 (3) or 181.809 [(2)(c)(A)(ii)] **(2)(b)(A)(ii)** or
 35 (B)(ii) or (3) that the person reported, in person, to the Department of State Police, a city police
 36 department or a county sheriff's office, in the county of the person's residence, if the person other-
 37 wise complied with all reporting requirements.

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

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

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

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

44 (4) A person who fails to sign and return an address verification form as required by ORS
 45 181.810 (4) commits a violation.

