

Senate Bill 753

Sponsored by Senator THATCHER

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**.

Increases penalties for certain sex crimes when specified criteria are proven. Punishes by mandatory sentence of life in prison without release or parole.

A BILL FOR AN ACT

1 Relating to dangerous sexual offenders; creating new provisions; and amending ORS 136.325.

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

3 **SECTION 1. (1) A person may be sentenced as a dangerous sexual offender if a jury or,**
4 **if the person waives the right to a jury trial, a court finds beyond a reasonable doubt that**
5 **the person:**

6 (a) **Has been convicted of a crime described in subsection (2) of this section;**

7 (b) **Was 18 years of age or older at the time of the offense;**

8 (c) **Is classified as presenting a high risk of reoffending when assessed using the sex**
9 **offender risk assessment tool described in ORS 181.800;**

10 (d) **Exhibits characteristics showing a tendency to injure others or to target victims un-**
11 **der 12 years of age while engaged in behavior that would constitute a sex crime as defined**
12 **in ORS 181.805;**

13 (e) **Presents a serious danger to the public due to the high likelihood that the person will**
14 **continue to injure others or target victims under 12 years of age while engaged in behavior**
15 **that would constitute a sex crime as defined in ORS 181.805 if the person is in the commu-**
16 **nity; and**

17 (f) **Should receive a sentence of life imprisonment without the possibility of release or**
18 **parole.**

19 (2) **The district attorney may make a motion to sentence the defendant as a dangerous**
20 **sexual offender after the defendant has been convicted of:**

21 (a) **Rape in the first degree as described in ORS 163.375;**

22 (b) **Sodomy in the first degree as described in ORS 163.405; or**

23 (c) **Unlawful sexual penetration in the first degree as described in ORS 163.411.**

24 (3) **Upon a motion to sentence a defendant as a dangerous sexual offender, the court shall**
25 **order a presentence investigation and a risk assessment utilizing the sex offender risk as-**
26 **essment tool described in 181.800. All costs associated with the risk assessment shall be paid**
27 **by the state.**

28 (4) **The presentence investigation and risk assessment described in subsection (3) of this**
29 **section shall be conducted and a copy of the presentence investigation report and risk as-**
30 **essment filed with the court within 30 days of the court's order, subject to additional ex-**
31

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 tensions not exceeding 30 days with written permission from the court. Upon receipt of the
2 presentence investigation report and risk assessment, the court shall set a sentencing
3 hearing.

4 (5) The court shall provide a copy of the presentence investigation report and risk as-
5 sessment to the parties immediately upon receipt. The court shall ensure that the parties
6 have sufficient time to prepare for the sentencing hearing and may grant requests for addi-
7 tional time from either party.

8 (6) Upon request from either party, the court shall order any person who administered
9 the risk assessment pursuant to this section to appear at the sentencing hearing. Either
10 party may call the person described in this subsection as a witness. Nothing in this sub-
11 section shall limit either party from calling other witnesses, including expert witnesses, or
12 preparing other assessments or reports.

13 (7) If, after considering the evidence in the sentencing hearing, the jury or, if the de-
14 fendant waives the right to a jury trial, the court finds that the defendant meets the criteria
15 described in subsection (1) of this section, the court shall sentence the defendant as a dan-
16 gerous sexual offender as described in subsection (9) of this section.

17 (8) The facts required to be found to sentence a defendant as a dangerous sexual offender
18 under this section are enhancement facts, as defined in ORS 136.760, and ORS 136.765 to
19 136.785 apply to making determinations of those facts.

20 (9) Notwithstanding ORS 161.605, the mandatory sentence for a dangerous sexual offender
21 as described in this section is life imprisonment without the possibility of release or parole.
22 A person sentenced to life imprisonment without the possibility of release or parole under
23 this section shall not have that sentence suspended, deferred or commuted by any judicial
24 officer, and the State Board of Parole and Post-Prison Supervision may not parole the pris-
25 oner or reduce the period of confinement in any manner whatsoever. Neither the Depart-
26 ment of Corrections nor any executive official may permit the prisoner to participate in any
27 sort of release or furlough program.

28 (10) A sentence imposed under this section shall constitute a departure from the sen-
29 tencing guidelines created by rules of the Oregon Criminal Justice Commission. The findings
30 made to classify the defendant as a dangerous sexual offender under this section shall con-
31 stitute substantial and compelling reasons to depart from the presumptive sentence as pro-
32 vided by rules of the Oregon Criminal Justice Commission.

33 (11) As used in this section, "parties" means the district attorney and counsel for the
34 defendant or, if the defendant is not represented by an attorney, the defendant personally.

35 **SECTION 2.** ORS 136.325 is amended to read:

36 136.325. Except as required in ORS 161.313 and 163.150 and section 1 of this 2015 Act, the jury
37 in a criminal proceeding may not be informed of, and may not consider, any punishment that the
38 court may impose if the defendant is convicted of the charge.