

Senate Bill 914

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. 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 ORS 181.809, 181.812,
3 181.820 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 or 181.826 relieving a
7 person of the obligation to report as a sex offender, subsections (2) to (4) of this section apply to a
8 person:

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

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

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

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

20 *[(a) If, as a result of the juvenile adjudication for a felony sex crime, the person is discharged,*
21 *released or placed on probation or any other form of supervised or conditional release by the juvenile*
22 *court, the person shall make the initial report in the county in which the person is discharged, released*
23 *or placed on probation or other form of supervised or conditional release, no later than 10 days after*
24 *the date the person is discharged, released or placed on probation or other form of supervised or con-*
25 *ditional release;]*

26 *[(b) If, as a result of the juvenile adjudication for a felony sex crime, the person is confined in a*
27 *correctional facility by the juvenile court, the person shall make the initial report in the county in which*

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 *the person is discharged or otherwise released from the facility, no later than 10 days after the date*
 2 *the person is discharged or otherwise released from the facility; or]*

3 *[(c) If the person is adjudicated for the act giving rise to the obligation to report in another United*
 4 *States court and the person is found to have committed an act that if committed by an adult in this*
 5 *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 make*
 8 *the initial report to the Department of State Police in Marion County, Oregon, no later than 10 days*
 9 *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 supervised*
 13 *or conditional release by the other United States court or, if the person is confined in a correctional*
 14 *facility by the other United States court, no later than 10 days after the date the person is discharged*
 15 *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 make*
 18 *the initial report to the Department of State Police in Marion County, Oregon, no later than six months*
 19 *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 supervised*
 23 *or conditional release by the other United States court or, if the person is confined in a correctional*
 24 *facility by the other United States court, no later than 10 days after the date the person is discharged*
 25 *or otherwise released from the facility.]*

26 **(a) The person shall report within 10 days following the termination of juvenile court ju-**
 27 **risdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric**
 28 **Security Review Board, within 10 days following the person’s discharge from the jurisdiction**
 29 **of the board; or**

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

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

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

38 (b) Once each year within 10 days of the person’s birth date, regardless of whether the person
 39 changed residence;

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

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

44 (4) When a person described in subsection (1) of this section attends school or works in this
 45 state, resides in another state and is not otherwise required to report as a sex offender under this

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

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

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

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

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

9 (a) The person required to report shall:

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

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

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

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

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

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

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

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

26 **SECTION 2. Section 3 of this 2015 Act is added to and made a part of ORS 181.800 to**
27 **181.845.**

28 **SECTION 3. (1)(a) The state, acting through the district attorney, the Attorney General**
29 **or, when authorized by the district attorney, the juvenile department counselor, may move**
30 **the juvenile court for an order requiring a person to report as a sex offender under ORS**
31 **181.809 if the person has been found to be within the jurisdiction of the juvenile court under**
32 **ORS 419C.005, or found by the juvenile court to be responsible except for insanity under ORS**
33 **419C.411, for having committed an act that if committed by an adult would constitute a fel-**
34 **ony sex crime.**

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

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

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

40 **(c) The party filing the motion described in paragraph (a) of this subsection shall notify**
41 **the victim of the right to appear and the right to be heard on the motion under ORS**
42 **419C.273.**

43 **(2) Upon receipt of a motion described in subsection (1) of this section, the juvenile court**
44 **shall set a hearing. At the hearing, the party filing the motion, the victim and the person**
45 **shall have an opportunity to be heard.**

1 **(3) The juvenile court shall enter an order requiring the person to report as a sex**
 2 **offender under ORS 181.809 if the court finds by a preponderance of the evidence that the**
 3 **person will engage in unlawful sexual acts in the future and that the reporting requirement**
 4 **is necessary to assist law enforcement in preventing such future acts.**

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

10 **(5) A person who is the subject of a motion described in subsection (1) of this section has**
 11 **the right to be represented by suitable legal counsel possessing skills and experience**
 12 **commensurate with the nature and complexity of the case, to consult with counsel prior to**
 13 **the hearing on the motion and, if financially eligible, to have suitable counsel appointed at**
 14 **state expense.**

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

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

18 419C.446. (1) When a court determines it would be in the best interest and welfare of a youth
 19 offender, the court may place the youth offender on probation. The court may direct that the youth
 20 offender remain in the legal custody of the youth offender's parents or other person with whom the
 21 youth offender is living, or the court may direct that the youth offender be placed in the legal cus-
 22 tody of some relative or some person maintaining a foster home approved by the court, or in a child
 23 care center or a youth care center authorized to accept the youth offender.

24 (2) The court may specify particular requirements to be observed during the probation consist-
 25 ent with recognized juvenile court practice, including but not limited to restrictions on visitation
 26 by the youth offender's parents, restrictions on the youth offender's associates, occupation and ac-
 27 tivities, restrictions on and requirements to be observed by the person having the youth offender's
 28 legal custody, requirements for visitation by and consultation with a juvenile counselor or other
 29 suitable counselor, requirements to make restitution under ORS 419C.450, requirements of a period
 30 of detention under ORS 419C.453, requirements to pay a fine under ORS 419C.459, requirements to
 31 pay a supervision fee under ORS 419C.449, requirements to perform community service under ORS
 32 419C.462, or service for the victim under ORS 419C.465, or requirements to submit to blood or buccal
 33 testing under ORS 419C.473.

34 (3) If the youth offender is a sex offender, as defined in ORS 181.805[.];

35 **(a) The youth offender must notify the juvenile department of the youth offender's cur-**
 36 **rent home, school and work address and must notify the juvenile department of any changes**
 37 **to the addresses;**

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

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

45 **(d) Except as otherwise provided in ORS 181.837, a local law enforcement agency notified**

1 **under paragraph (c) of this subsection may make the information provided by the juvenile**
 2 **department available to other law enforcement agencies within the agency's jurisdiction for**
 3 **use in the investigation and prosecution of crimes, and of conduct that if committed by an**
 4 **adult would be a crime, only if the information is relevant to a specific investigation by the**
 5 **other law 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 on probation, condi-
 8 tional release, parole or post-prison supervision, a person required to report under ORS 181.806,
 9 181.807 or 181.808, **or required to report as a sex offender under the laws of another state as**
 10 **the result of a conviction entered in an Oregon court,** may file a petition in circuit court for
 11 an order relieving the person of the [duty] **obligation** to report. The person must pay the filing fee
 12 established under ORS 21.135. A petition may be filed under this section only if:

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

14 (B) The sex crime was a misdemeanor or Class C felony or, if committed in another state, would
 15 have been a misdemeanor or Class C felony if committed in this state; and

16 (C) The person has not been determined to be a predatory sex offender as described in ORS
 17 181.838[.]; **or**

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

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

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

23 (D) **The sex crime was first reported to a law enforcement agency after the person at-**
 24 **tained 18 years of age.**

25 [(b)(A)] (2)(a) Except as otherwise provided in this [paragraph] **subsection,** the petition must
 26 be filed in the circuit court of the county in which the person was convicted of the sex crime.

27 [(B)] (b) If the person was convicted of the sex crime in another state, the petition must be filed
 28 in the circuit court of the county in which the person resides.

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

31 [(2)] (3) The court shall hold a hearing on the petition. In determining whether to grant the re-
 32 lief requested, the court shall consider:

33 (a) The nature of the offense that required reporting;

34 (b) The age and number of victims;

35 (c) The degree of violence involved in the offense;

36 (d) Other criminal and relevant noncriminal behavior of the petitioner both before and after the
 37 conviction that required reporting;

38 (e) The period of time during which the petitioner has not reoffended;

39 (f) Whether the petitioner has successfully completed a court-approved sex offender treatment
 40 program; and

41 (g) Any other relevant factors.

42 [(3)] (4) If the court is satisfied by clear and convincing evidence that the petitioner is rehabil-
 43 itated and that the petitioner does not pose a threat to the safety of the public, the court shall enter
 44 an order relieving the petitioner of the duty to report. When the court enters an order under this
 45 subsection, the petitioner shall send a certified copy of the court order to the Department of State

1 Police.

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

3 181.812. (1) A person who is required to report as a sex offender in accordance with the appli-
4 cable provisions of ORS 181.806, 181.807, 181.808 or 181.809 and who has knowledge of the reporting
5 requirement commits the crime of failure to report as a sex offender if the person:

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

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

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

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

12 (e) Fails to make an annual report;

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

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

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

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

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

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

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

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

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

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

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

41 (4) A person who fails to sign and return an address verification form as required by ORS
42 181.810 (4) commits a violation.

43