

# Senate Bill 915

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**.

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

1  
2 Relating to juvenile sex offender reporting; amending ORS 181.823.

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

4 **SECTION 1.** ORS 181.823 is amended to read:

5 181.823. (1) A person required to report as a sex offender under ORS 181.809 (1)(a), **or required**  
6 **to report as a sex offender under the laws of another state as a result of an adjudication in**  
7 **an Oregon juvenile court**, may file a petition for an order relieving the person of the [*duty*] **obli-**  
8 **gation** to report. The person must pay the filing fee established under ORS 21.135. If the person  
9 resides:

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

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

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

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

18 (a) A Class A or Class B felony sex crime if committed by an adult, the petition may be filed  
19 no sooner than two years after the termination of juvenile court jurisdiction over the person or, if  
20 the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than  
21 two years after the person is discharged from the jurisdiction of the board.

22 (b) A Class C felony sex crime if committed by an adult, the petition may be filed no sooner than  
23 30 days before the termination of juvenile court jurisdiction over the person or, if the person is  
24 placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than 30 days be-  
25 fore the person is discharged from the jurisdiction of the board.

26 (3)(a) The juvenile court in which a petition under this section is filed may transfer the matter  
27 to the juvenile court of the county that last supervised the person if the court determines that the  
28 convenience of the parties, the victim and witnesses require the transfer.

29 (b) The juvenile court has exclusive original jurisdiction in any proceeding under this section.

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

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

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

6 (b) The nature of the act that subjected the person to the [*duty*] **obligation** of reporting as a sex  
7 offender;

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

9 (d) Whether the act was premeditated;

10 (e) Whether the person took advantage of a position of authority or trust in committing the act;

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

13 (g) The vulnerability of the victim;

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

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

18 (j) The person's willingness to accept personal responsibility for the act and personal account-  
19 ability for the consequences of the act;

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

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

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

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

26 (C) The person's compliance with court, board or supervision requirements regarding treatment;  
27 and

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

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

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

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

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

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

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

35 (s) Any other relevant factors.

36 (5) In a hearing under this section, the juvenile court may receive testimony, reports and other  
37 evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and  
38 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this  
39 section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS  
40 40.150.

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

45 (7) As soon as practicable after a petition has been filed under this section, the district attorney

1 or juvenile department shall make a reasonable effort to notify the victim of the crime that the  
 2 person has filed a petition seeking relief under this section and, if the victim has requested, to in-  
 3 form the victim of the date, time and place of a hearing on the petition in advance of the hearing.

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

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

8 (B) Three years or more after the date the juvenile court or board jurisdiction is terminated, the  
 9 court shall hold a hearing no sooner than 90 days and no later than 150 days after the date of filing.

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

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

14 (b) Notwithstanding paragraph (a) of this subsection, the court may not grant a petition filed  
 15 under this section before the date the juvenile court or board jurisdiction over the person is termi-  
 16 nated.

17 (10) When a juvenile court enters an order relieving a person of the requirement to report under  
 18 ORS 181.809, the person shall send a certified copy of the juvenile court order to the Department  
 19 of State Police.

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

25 (12) When a petition is filed under subsection (2)(b) of this section before the termination of ju-  
 26 venile court or board jurisdiction, if the person, or the parent or guardian of the person if the person  
 27 is less than 18 years of age, requests counsel and is without sufficient financial means to employ  
 28 suitable counsel to represent the person, for purposes of the petition described in this section, the  
 29 court shall appoint suitable counsel to represent the person. Appointment of counsel under this  
 30 subsection is subject to ORS 419C.200, 419C.203, 419C.206 and 419C.209.

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