

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2902**

1 On page 1 of the printed bill, line 2, after “offenders;” delete the rest of  
2 the line and insert “amending ORS 181.823, 181.826 and 419C.411.”.

3 Delete lines 4 through 30 and delete pages 2 through 4 and insert:

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  
6 181.809 (1)(a) may file a petition for an order relieving the person of the duty  
7 to report. The person must pay the filing fee established under ORS 21.135.

8 If the person resides:

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

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

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

16 “(a) A Class A or Class B felony sex crime if committed by an adult, the  
17 petition may be filed [*no sooner than two years*] **at any time** after the ter-  
18 mination of juvenile court jurisdiction over the person or, if the person is  
19 placed under the jurisdiction of the Psychiatric Security Review Board, [*no*  
20 *sooner than two years*] **at any time** after the person is discharged from the  
21 jurisdiction of the board.

22 “(b) A Class C felony sex crime if committed by an adult, the petition

1 may be filed no sooner than 30 days before the termination of juvenile court  
2 jurisdiction over the person or, if the person is placed under the jurisdiction  
3 of the Psychiatric Security Review Board, no sooner than 30 days before the  
4 person is discharged from the jurisdiction of the board.

5 “(3)(a) The juvenile court in which a petition under this section is filed  
6 may transfer the matter to the juvenile court of the county that last super-  
7 vised the person if the court determines that the convenience of the parties,  
8 the victim and witnesses require the transfer.

9 “(b) The juvenile court has exclusive original jurisdiction in any pro-  
10 ceeding under this section.

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

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

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

20 “(b) The nature of the act that subjected the person to the duty of re-  
21 porting as a sex offender;

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

24 “(d) Whether the act was premeditated;

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

27 “(f) The age of any victim at the time of the act, the age difference be-  
28 tween any victim and the person and the number of victims;

29 “(g) The vulnerability of the victim;

30 “(h) Other acts committed by the person that would be crimes if commit-

1 ted by an adult and criminal activities engaged in by the person before and  
2 after the adjudication;

3 “(i) Statements, documents and recommendations by or on behalf of the  
4 victim or the parents of the victim;

5 “(j) The person’s willingness to accept personal responsibility for the act  
6 and personal accountability for the consequences of the act;

7 “(k) The person’s ability and efforts to pay the victim’s expenses for  
8 counseling and other trauma-related expenses or other efforts to mitigate the  
9 effects of the act;

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

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

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

15 “(C) The person’s compliance with court, board or supervision require-  
16 ments regarding treatment; and

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

18 “(m) The person’s academic and employment history;

19 “(n) The person’s use of drugs or alcohol before and after the adjudi-  
20 cation;

21 “(o) The person’s history of public or private indecency;

22 “(p) The person’s compliance with and success in completing the terms  
23 of supervision;

24 “(q) The results of psychological examinations of the person;

25 “(r) The protection afforded the public by the continued existence of the  
26 records; and

27 “(s) Any other relevant factors.

28 “(5) In a hearing under this section, the juvenile court may receive tes-  
29 timony, reports and other evidence without regard to whether the evidence  
30 is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence

1 is relevant to the determination and findings required under this section.  
2 As used in this subsection, ‘relevant evidence’ has the meaning given that  
3 term in ORS 40.150.

4 “(6) When a petition is filed under this section, the state has the right  
5 to have a psychosexual evaluation of the person conducted. The state shall  
6 file notice with the juvenile court of its intention to have the person evalu-  
7 ated. If the person objects to the evaluator chosen by the state, the juvenile  
8 court for good cause shown may direct the state to select a different evalu-  
9 ator.

10 “(7) As soon as practicable after a petition has been filed under this sec-  
11 tion, the district attorney or juvenile department shall make a reasonable  
12 effort to notify the victim of the crime that the person has filed a petition  
13 seeking relief under this section and, if the victim has requested, to inform  
14 the victim of the date, time and place of a hearing on the petition in advance  
15 of the hearing.

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

17 “(A) While the person is under the jurisdiction of the juvenile court or  
18 the Psychiatric Security Review Board or less than three years after the date  
19 the jurisdiction is terminated, the court shall hold a hearing no sooner than  
20 60 days and no later than 120 days after the date of filing.

21 “(B) Three years or more after the date the juvenile court or board ju-  
22 risdiction is terminated, the court shall hold a hearing no sooner than 90  
23 days and no later than 150 days after the date of filing.

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

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

30 “(b) Notwithstanding paragraph (a) of this subsection, the court may not

1 grant a petition filed under this section before the date the juvenile court  
2 or board jurisdiction over the person is terminated.

3 “(10) When a juvenile court enters an order relieving a person of the re-  
4 quirement to report under ORS 181.809, the person shall send a certified copy  
5 of the juvenile court order to the Department of State Police.

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

12 “(12) When a petition is filed under subsection (2)(b) of this section before  
13 the termination of juvenile court or board jurisdiction, if the person, or the  
14 parent or guardian of the person if the person is less than 18 years of age,  
15 requests counsel and is without sufficient financial means to employ suitable  
16 counsel to represent the person, for purposes of the petition described in this  
17 section, the court shall appoint suitable counsel to represent the person.  
18 Appointment of counsel under this subsection is subject to ORS 419C.200,  
19 419C.203, 419C.206 and 419C.209.

20 **“SECTION 2.** ORS 181.826 is amended to read:

21 “181.826. (1) Except as provided in subsection (7) of this section, a person  
22 required to report under ORS 181.809 (1)(b) may file a petition in the juvenile  
23 court for an order relieving the person of the duty to report. The person must  
24 pay the filing fee established under ORS 21.135. If the person resides:

25 “(a) In this state and is required to report under ORS 181.809 (2) or (3),  
26 the petition must be filed in the juvenile court of the county in which the  
27 person resides.

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

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

2 “(a) A Class A or Class B felony sex crime if committed in this state by  
3 an adult, the petition may be filed [*no sooner than two years*] **at any time**  
4 after the termination of the other United States court’s jurisdiction over the  
5 person.

6 “(b) A Class C felony sex crime if committed in this state by an adult, the  
7 petition may be filed no sooner than 30 days before the termination of the  
8 other United States court’s jurisdiction over the person.

9 “(3) The person filing the petition must submit with the petition all re-  
10 leases and waivers necessary to allow the district attorney for the county in  
11 which the petition is filed to obtain the following documents from the ju-  
12 risdiction in which the person was adjudicated for the act for which report-  
13 ing is required:

14 “(a) The juvenile court petition;

15 “(b) The dispositional report to the court;

16 “(c) The order of adjudication or jurisdiction;

17 “(d) Any other relevant court documents;

18 “(e) The police report relating to the act for which reporting is required;

19 “(f) The order terminating jurisdiction for the act for which reporting is  
20 required; and

21 “(g) The evaluation and treatment records or reports of the person that  
22 are related to the act for which reporting is required.

23 “(4) A person filing a petition under this section has the burden of prov-  
24 ing by clear and convincing evidence that the person is rehabilitated and  
25 does not pose a threat to the safety of the public.

26 “(5) Unless the court finds good cause for a continuance, the court shall  
27 hold a hearing on the petition no sooner than 90 days and no later than 150  
28 days after the date the petition is filed.

29 “(6) If a person who files a petition under this section is required to re-  
30 port as a sex offender for having committed an act that if committed in this

1 state could have subjected the person to prosecution as an adult under ORS  
2 137.707, the court may not grant the petition notwithstanding the fact that  
3 the person has met the burden of proof established in subsection (4) of this  
4 section unless the court determines that to do so is in the interest of public  
5 safety.

6 “(7) This section does not apply to a person who is required to register  
7 as a sex offender for life in the jurisdiction in which the offense occurred.

8 “(8) In a hearing under this section, the court may receive testimony, re-  
9 ports and other evidence without regard to whether the evidence is admissi-  
10 ble under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant  
11 to the determination and findings required under this section. As used in this  
12 subsection, ‘relevant evidence’ has the meaning given that term in ORS  
13 40.150.

14 “(9) If the court is satisfied by clear and convincing evidence that the  
15 person is rehabilitated and that the person does not pose a threat to the  
16 safety of the public, the court shall enter an order relieving the person of  
17 the duty to report. When the court enters an order under this subsection, the  
18 person shall send a certified copy of the court order to the Department of  
19 State Police.

20 **“SECTION 3.** ORS 419C.411 is amended to read:

21 “419C.411. (1) At the termination of the hearing or hearings in the pro-  
22 ceeding or after entry of an order under ORS 419C.067, the court shall enter  
23 an appropriate order directing the disposition to be made of the case.

24 “(2) The court shall find a youth responsible except for insanity if:

25 “(a) The youth asserted mental disease or defect as a defense as provided  
26 in ORS 419C.524; and

27 “(b) The court determined by a preponderance of the evidence that, as a  
28 result of mental disease or defect at the time the youth committed the act  
29 alleged in the petition, the youth lacked substantial capacity either to ap-  
30 preciate the nature and quality of the act or to conform the youth’s conduct

1 to the requirements of law.

2 “(3) Except as otherwise provided in subsections (6) and (7) of this sec-  
3 tion, in determining the disposition of the case, the court shall consider each  
4 of the following:

5 “(a) The gravity of the loss, damage or injury caused or attempted during,  
6 or as part of, the conduct that is the basis for jurisdiction under ORS  
7 419C.005;

8 “(b) Whether the manner in which the youth offender engaged in the  
9 conduct was aggressive, violent, premeditated or willful;

10 “(c) Whether the youth offender was held in detention under ORS  
11 419C.145 and, if so, the reasons for the detention;

12 “(d) The immediate and future protection required by the victim, the  
13 victim’s family and the community; and

14 “(e) The youth offender’s juvenile court record and response to the re-  
15 quirements and conditions imposed by previous juvenile court orders.

16 “(4) In addition to the factors listed in subsection (3) of this section, the  
17 court may consider the following:

18 “(a) Whether the youth offender has made any efforts toward reform or  
19 rehabilitation or making restitution;

20 “(b) The youth offender’s educational status and school attendance record;

21 “(c) The youth offender’s past and present employment;

22 “(d) The disposition proposed by the youth offender;

23 “(e) The recommendations of the district attorney and the juvenile court  
24 counselor and the statements of the victim and the victim’s family;

25 “(f) The youth offender’s mental, emotional and physical health and the  
26 results of the mental health or substance abuse treatment; and

27 “(g) Any other relevant factors or circumstances raised by the parties.

28 “(5) The court’s consideration of matters under this section may be ad-  
29 dressed on appeal only if raised by a party at a dispositional hearing or by  
30 a motion to modify or set aside under ORS 419C.610.



1       “(6) When a youth is found responsible except for insanity, the court shall  
2 order a disposition under ORS 419C.529 if the court finds by a preponderance  
3 of the evidence that, at the time of disposition, the youth:

4       “(a) Has a serious mental condition; or

5       “(b) Has a mental disease or defect other than a serious mental condition  
6 and presents a substantial danger to others.

7       “(7) When a youth is found responsible except for insanity and the court  
8 does not make a finding described in subsection (6) of this section, the court  
9 may:

10       “(a) Enter an order finding the youth to be within the court’s jurisdiction  
11 under ORS 419B.100 and make any disposition authorized by ORS chapter  
12 419B;

13       “(b) Initiate civil commitment proceedings; or

14       “(c) Enter an order of discharge.

15       **“(8) If the court finds a youth to be within the jurisdiction of the**  
16 **court under ORS 419C.005 for having committed an act that, if com-**  
17 **mitted by an adult, would constitute a felony sex crime as defined in**  
18 **ORS 181.805, at the time of disposition the court shall inform the youth**  
19 **of the ability to seek relief under ORS 181.823 from the obligation to**  
20 **report as a sex offender.”.**

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