

**PROPOSED AMENDMENTS TO
HOUSE BILL 2902**

1 On page 1 of the printed bill, line 2, after “181.809” delete the rest of the
2 line and insert “, 181.812 and 181.823.”.

3 On page 3, delete lines 30 to 37 and insert:

4 “(2) The district attorney shall notify the victim prior to the hearing of
5 the right to appear and the right to be heard under ORS 419C.273.

6 “(3) At the hearing described in subsection (1) of this section:

7 “(a) The district attorney, the victim, the person and the juvenile court
8 counselor or a representative of the Oregon Youth Authority shall have an
9 opportunity to be heard.

10 “(b) The person filing the petition has the burden of proving by clear and
11 convincing evidence that the person is rehabilitated and does not pose a
12 threat to the safety of the public. If the court finds that the person has not
13 met the burden of proof, the court shall enter an order requiring the person
14 to report as a sex offender under ORS 181.809.

15 “(c) In determining whether the person has met the burden of proof, the
16 juvenile court may consider but need not be limited to considering:

17 “(A) The nature of the offense giving rise to the obligation to report as
18 a sex offender;

19 “(B) Input from or recommendations by or on behalf of the victim or the
20 parents of the victim; and

21 “(C) Whether the person has participated in and satisfactorily completed
22 a sex offender treatment program or any other treatment program.

1 “(4) In a hearing under this section, the juvenile court may receive tes-
2 timony, reports and other evidence, without regard to whether the evidence
3 is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585, if the evidence
4 is relevant evidence related to the determination and findings required under
5 this section. As used in this subsection, ‘relevant evidence’ has the meaning
6 given that term in ORS 40.150.

7 “(5) The court shall consider all available polygraph examination prepa-
8 ration materials and examination reports, including but not limited to the
9 person’s full sexual history disclosure polygraph examination preparation
10 materials and corresponding full sexual history disclosure polygraph exam-
11 ination report, prior to determining the issue of reporting as a sex offender
12 under this section. Unless produced as a result of the court’s own motion,
13 all polygraph examination reports and preparation materials shall be re-
14 leased and disclosed to the court, district attorney, person’s attorney and
15 juvenile department no less than 15 days prior to any hearing held under this
16 section.”.

17 In line 38, delete “(4)” and insert “(6)” and delete “(3)” and insert
18 “(3)(b)”.

19 In line 43, delete “(5)” and insert “(7)”.

20 On page 4, line 2, delete “(6)” and insert “(8)”.

21 After line 45, insert:

22 **“SECTION 5.** ORS 181.823 is amended to read:

23 “181.823. (1) A person required to report as a sex offender under ORS
24 181.809 (1)(a), **or required to report as a sex offender under the laws of**
25 **another state as a result of an adjudication in an Oregon juvenile**
26 **court**, may file a petition for an order relieving the person of the [*duty*]
27 **obligation** to report. The person must pay the filing fee established under
28 ORS 21.135. If the person resides:

29 “(a) In this state and is required to report under ORS 181.809 (2) or (3),
30 the petition must be filed in the juvenile court in which the person was ad-

1 adjudicated for the act that requires reporting.

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

5 **“(c) In another state and is required to report under the laws of the
6 other state, the petition must be filed in the juvenile court in which
7 the person was adjudicated for the act that requires reporting.**

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

9 “(a) A Class A or Class B felony sex crime if committed by an adult, the
10 petition may be filed no sooner than two years after the termination of ju-
11 venile court jurisdiction over the person or, if the person is placed under the
12 jurisdiction of the Psychiatric Security Review Board, no sooner than two
13 years after the person is discharged from the jurisdiction of the board.

14 “(b) A Class C felony sex crime if committed by an adult, the petition
15 may be filed no sooner than 30 days before the termination of juvenile court
16 jurisdiction over the person or, if the person is placed under the jurisdiction
17 of the Psychiatric Security Review Board, no sooner than 30 days before the
18 person is discharged from the jurisdiction of the board.

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

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

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

27 “(4) The person filing the petition has the burden of proving by clear and
28 convincing evidence that the person is rehabilitated and does not pose a
29 threat to the safety of the public. In determining whether the person has
30 met the burden of proof, the juvenile court may consider but need not be

1 limited to considering:

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

4 “(b) The nature of the act that subjected the person to the [*duty*] **obli-**
5 **gation** of reporting as a sex offender;

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

8 “(d) Whether the act was premeditated;

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

11 “(f) The age of any victim at the time of the act, the age difference be-
12 tween any victim and the 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 commit-
15 ted by an adult and criminal activities engaged in by the person before and
16 after the adjudication;

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

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

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

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

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

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

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

1 “(D) The quality and thoroughness of the treatment program;
2 “(m) The person’s academic and employment history;
3 “(n) The person’s use of drugs or alcohol before and after the adjudi-
4 cation;
5 “(o) The person’s history of public or private indecency;
6 “(p) The person’s compliance with and success in completing the terms
7 of supervision;
8 “(q) The results of psychological examinations of the person;
9 “(r) The protection afforded the public by the continued existence of the
10 records; and
11 “(s) Any other relevant factors.
12 “(5) In a hearing under this section, the juvenile court may receive tes-
13 timony, reports and other evidence without regard to whether the evidence
14 is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence
15 is relevant **evidence related** to the determination and findings required un-
16 der this section. As used in this subsection, ‘relevant evidence’ has the
17 meaning given that term in ORS 40.150.
18 “(6) When a petition is filed under this section, the state has the right
19 to have a psychosexual evaluation of the person conducted. The state shall
20 file notice with the juvenile court of its intention to have the person evalu-
21 ated. If the person objects to the evaluator chosen by the state, the juvenile
22 court for good cause shown may direct the state to select a different evalu-
23 ator.
24 “(7) As soon as practicable after a petition has been filed under this sec-
25 tion, the district attorney or juvenile department shall make a reasonable
26 effort to notify the victim of the crime that the person has filed a petition
27 seeking relief under this section and, if the victim has requested, to inform
28 the victim of the date, time and place of a hearing on the petition in advance
29 of the hearing.
30 “(8)(a) When a petition filed under this section is filed:

1 “(A) While the person is under the jurisdiction of the juvenile court or
2 the Psychiatric Security Review Board or less than three years after the date
3 the jurisdiction is terminated, the court shall hold a hearing no sooner than
4 60 days and no later than 120 days after the date of filing.

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

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

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

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

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

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

26 “(12) When a petition is filed under subsection (2)(b) of this section before
27 the termination of juvenile court or board jurisdiction, if the person, or the
28 parent or guardian of the person if the person is less than 18 years of age,
29 requests counsel and is without sufficient financial means to employ suitable
30 counsel to represent the person, for purposes of the petition described in this

1 section, the court shall appoint suitable counsel to represent the person.
2 Appointment of counsel under this subsection is subject to ORS 419C.200,
3 419C.203, 419C.206 and 419C.209.”.

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