

D R A F T

SUMMARY

Directs Health Licensing Office to register qualified applicant as sexual offense therapist intern. Renames Sex Offender Treatment Board to Sexual Offense Treatment Board.

Becomes operative January 1, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to sexual offense therapy; creating new provisions; amending ORS
3 163A.030, 675.360, 675.365, 675.370, 675.375, 675.380, 675.382, 675.384,
4 675.385, 675.390, 675.395, 675.400, 675.410, 676.565 and 676.595; and pre-
5 scribing an effective date.

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

7 **SECTION 1. Section 2 of this 2019 Act is added to and made a part**
8 **of ORS 675.360 to 675.410.**

9 **SECTION 2. (1) To qualify for certification as an associate sexual**
10 **offense therapist, an applicant for certification under ORS 675.360 to**
11 **675.410 who possesses the educational degree required by ORS 675.360**
12 **to 675.410 but who has not submitted documentation to the Sexual**
13 **Offense Treatment Board that the applicant has completed the re-**
14 **quired supervised clinical experience and training shall register an**
15 **internship plan with the Health Licensing Office to obtain the required**
16 **supervised clinical experience and training.**

17 **(2) To register as a sexual offense therapist intern under this sec-**
18 **tion, the applicant shall:**

19 **(a) Submit to the office, in a form and manner determined by the**

1 **office:**

2 (A) A request for registration; and

3 (B) A plan to complete the supervised clinical experience and
4 training required for certification; and

5 (b) Pay the registration fee established under ORS 676.576.

6 (3) The office shall register the applicant as a sexual offense ther-
7 apist intern upon receipt and approval of the materials described in
8 subsection (2) of this section.

9 (4) A sexual offense therapist intern shall renew the registration
10 annually on or before the first day of the month in which the office
11 approved the initial registration. To renew a registration, the sexual
12 offense therapist intern shall:

13 (a) Submit to the office, in a form and manner determined by the
14 office:

15 (A) A renewal application; and

16 (B) Documentation of the sexual offense therapist intern's fulfill-
17 ment of other requirements of the office; and

18 (b) Pay the renewal fee established under ORS 676.576.

19 (5) The office shall terminate the registration of a sexual offense
20 therapist intern who fails to apply for renewal of registration within
21 30 days of the date described in subsection (4) of this section.

22 (6) Sexual offense therapist interns are subject to the ethical and
23 practice standards adopted the office by rule.

24 **SECTION 3.** ORS 675.360 is amended to read:

25 675.360. (1) The Legislative Assembly hereby declares that the compre-
26 hensive treatment of sex offenders who are subject to the supervision of the
27 criminal justice and juvenile justice systems and the Oregon Health Au-
28 thority is necessary in order to work toward the elimination of sex offenses.
29 The Legislative Assembly hereby recognizes that [*sex offender*] **sexual of-**
30 **fense** therapists who examine and treat sex offenders therefore occupy a vi-
31 tal role in protecting the public from sex offenders who remain in the

1 community prior to or following disposition or who will reenter the commu-
2 nity following a period of incarceration.

3 (2) The Legislative Assembly further finds that the qualifications, prac-
4 tices, techniques and levels of effectiveness of [*sex offender*] **sexual offense**
5 therapists vary widely and that the court's ability to effectively determine
6 appropriate sentencing and monitoring for sex offenders, thus curtailing the
7 incidence of recidivism in such offenders and enhancing the protection of
8 victims and potential victims, is undermined by a lack of regulated standards
9 of practice and professional responsibility.

10 (3) The Legislative Assembly recognizes the right of [*sex offender*] **sexual**
11 **offense** therapists to practice, consistent with the paramount requirement
12 of public safety. Public safety is best served by regulating [*sex offender*]
13 **sexual offense** therapists whose clients are being treated under alternative
14 sentencing or disposition, parole, post-prison supervision, supervision by a
15 county juvenile department or custody of the Oregon Health Authority or the
16 Oregon Youth Authority.

17 (4) ORS 675.375 establishes the titles certified clinical [*sex offender*] **sex-**
18 **ual offense** therapist and certified associate [*sex offender*] **sexual offense**
19 therapist. ORS 675.360 to 675.410 do not prohibit others from providing ser-
20 vices to treat sex offenders. However, only those [*certified*] **authorized** under
21 ORS 675.360 to 675.410 shall represent the designated titles to the public.
22 Adult and juvenile parole and probation authorities and the Oregon Health
23 Authority may restrict their referrals to those providers who are [*certified*]
24 **authorized** under ORS 675.360 to 675.410.

25 **SECTION 4.** ORS 675.365 is amended to read:

26 675.365. As used in ORS 675.360 to 675.410:

27 (1) "Certified associate [*sex offender*] **sexual offense** therapist" means a
28 person who is certified under ORS 675.375 or 675.380 to provide services for
29 the treatment and rehabilitation of persons described in ORS 675.368 while
30 under the direct supervision of a certified clinical [*sex offender*] **sexual of-**
31 **fense** therapist.

1 (2) “Certified clinical [*sex offender*] **sexual offense** therapist” means a
2 person who is certified under ORS 675.375 or 675.380 to provide services for
3 the treatment and rehabilitation of persons described in ORS 675.368 and
4 who may supervise certified associate [*sex offender*] **sexual offense** thera-
5 pists **and certified secondary clinical sexual offense therapists.**

6 (3) “Certified secondary [*associate sex offender*] **clinical sexual offense**
7 therapist” means a person who is certified under ORS 675.375 or 675.380 to
8 provide limited services for the treatment and rehabilitation of persons de-
9 scribed in ORS 675.368 under the direct supervision of a certified clinical
10 [*sex offender*] **sexual offense** therapist.

11 (4) “Certified [*sex offender*] **sexual offense** therapist” means a certified
12 clinical [*sex offender*] **sexual offense** therapist, a certified associate [*sex*
13 *offender*] **sex offender** therapist or a certified secondary [*associate sex*
14 *offender*] **clinical sexual offense** therapist.

15 (5) “Direct supervision” means a minimum of two hours of supervision by
16 a certified clinical [*sex offender*] **sexual offense** therapist for each:

17 (a) 45 hours of direct clinical contact with a person described in ORS
18 675.368, if the individual being supervised is a certified associate [*sex*
19 *offender*] **sexual offense** therapist; or

20 (b) 10 hours of direct clinical contact with a person described in ORS
21 675.368, if the individual being supervised is a certified secondary [*associate*
22 *sex offender*] **clinical sexual offense** therapist.

23 (6) “Professional disclosure statement” means a statement about an ap-
24 plicant for certification under ORS 675.375 or 675.380 that includes the fol-
25 lowing information:

26 (a) Name, business address and telephone number;

27 (b) Philosophy and approach to treatment and rehabilitation of persons
28 described in ORS 675.368;

29 (c) Formal education and training;

30 (d) Continuing education experience and name of supervisor, if any;

31 (e) Fee schedules for sexual abuse specific treatment services; and

1 (f) The name, address and telephone number of the [*Sex Offender*] **Sexual**
2 **Offense Treatment Board.**

3 (7) “Sexual abuse specific treatment” means the process of evaluation,
4 assessment and reformation of persons described in ORS 675.368.

5 (8) **“Sexual offense therapist intern” means a person who is regis-**
6 **tered under section 2 of this 2019 Act.**

7 **SECTION 5.** ORS 675.370 is amended to read:

8 675.370. (1) A person may not:

9 (a) Engage in the practice of sexual abuse specific treatment or assume
10 or use any title, words or abbreviations, including the title or designation
11 “certified clinical [*sex offender*] **sexual offense** therapist,” “certified associ-
12 ate [*sex offender*] **sexual offense** therapist,” [*or*] “certified secondary [*asso-*
13 *ciate sex offender*] **clinical sexual offense** therapist[,]” **or “sexual offense**
14 **therapist intern,”** that indicate that the person is authorized to engage in
15 the practice of sexual abuse specific treatment unless the person holds [*a*
16 *certificate*] **an authorization** issued under ORS 675.375 or 675.380 **or section**
17 **2 of this 2019 Act.**

18 (b) Attempt to obtain [*a certificate*] **an authorization** or renewal of [*a*
19 *certificate*] **an authorization** under ORS 675.360 to 675.380 by bribery or
20 fraudulent representation.

21 (2) Subsection (1) of this section does not prohibit a person who is au-
22 thorized to practice a mental health profession other than sexual abuse spe-
23 cific treatment under the laws of this state[:]

24 [(*a*)] from practicing the person’s mental health profession[; *or*]

25 [(*b*) *From providing sexual abuse specific treatment if the provision of sex-*
26 *ual abuse specific treatment is within the person’s scope of practice], **if the***

27 **person is not also engaging in the practice of sexual abuse specific**
28 **treatment.**

29 (3) Each violation of subsection (1) of this section is a separate violation.

30 **SECTION 6.** ORS 675.375 is amended to read:

31 675.375. (1) To obtain certification as a clinical [*sex offender*] **sexual of-**

1 **fense** therapist, associate [*sex offender*] **sexual offense** therapist or second-
2 ary [*associate sex offender*] **clinical sexual offense** therapist, an applicant
3 must complete an application developed and prescribed by the [*Sex*
4 *Offender*] **Sexual Offense** Treatment Board and file a professional disclosure
5 statement with the Health Licensing Office. The documents must be accom-
6 panied by the applicable fees established under ORS 676.576.

7 (2) Subject to the provisions of ORS 676.612, the office may issue three
8 types of certification to qualified applicants under this section:

9 (a) Clinical [*sex offender*] **sexual offense** therapist;

10 (b) Associate [*sex offender*] **sexual offense** therapist; and

11 (c) Secondary [*associate sex offender*] **clinical sexual offense** therapist.

12 (3) To qualify as a certified clinical [*sex offender*] **sexual offense** thera-
13 pist, the applicant must:

14 (a) Be in compliance with applicable provisions and rules adopted by the
15 office;

16 (b) Have at least a master's degree in the behavioral sciences;

17 (c) Have an active Oregon mental health professional license or equiv-
18 alent license as determined by the office;

19 (d) Within not less than three years nor more than six years prior to ap-
20 plication, have had a minimum of 2,000 hours of direct clinical contact with
21 persons described in ORS 675.368, including:

22 (A) 1,000 hours of direct treatment services; and

23 (B) 500 hours of evaluations; and

24 (e) Have a minimum of 60 hours of formal training applicable to sexual
25 abuse specific treatment and evaluation, achieved within the three years
26 prior to application.

27 (4) To qualify as a certified associate [*sex offender*] **sexual offense** ther-
28 apist, the applicant must:

29 (a) Be in compliance with applicable provisions and rules adopted by the
30 office;

31 (b) Have at least a bachelor's degree in the behavioral sciences;

1 (c) Have had a minimum of 1,000 hours of direct clinical contact with
2 persons described in ORS 675.368;

3 (d) Have a minimum of 30 hours of formal training applicable to sexual
4 abuse specific treatment and evaluation, achieved within the three years
5 prior to application; and

6 (e) Be under the direct supervision of a certified clinical [*sex offender*]
7 **sexual offense** therapist.

8 (5) To qualify as a certified secondary [*associate sex offender*] **clinical**
9 **sexual offense** therapist, the applicant must:

10 (a) Be in compliance with applicable provisions and rules adopted by the
11 office;

12 (b) Have at least a master's degree in the behavioral sciences;

13 (c) Have an active Oregon mental health professional license or equiv-
14 alent license as determined by the office or be a registered intern for a
15 mental health professional licensed in Oregon;

16 (d) Have a minimum of 15 hours of formal training applicable to sexual
17 abuse specific treatment and evaluation, achieved within the three years
18 prior to application;

19 (e) Be under the direct supervision of a certified clinical [*sex offender*]
20 **sexual offense** therapist; and

21 (f) Provide sexual abuse specific treatment services to not more than nine
22 clients in a calendar month, unless the applicant is accruing hours to qualify
23 for application as a certified associate [*sex offender*] **sexual offense** thera-
24 pist.

25 **SECTION 7.** ORS 675.380 is amended to read:

26 675.380. Upon receipt of an application and the applicable fees established
27 under ORS 676.576, the Health Licensing Office shall certify a clinical [*sex*
28 *offender*] **sexual offense** therapist, associate [*sex offender*] **sexual offense**
29 therapist or secondary [*associate sex offender*] **clinical sexual offense** ther-
30 apist if the applicant provides evidence to the satisfaction of the office that
31 the applicant is recognized as a clinical [*sex offender*] **sexual offense** ther-

1 apist, associate [*sex offender*] **sexual offense** therapist or secondary [*associ-*
 2 *ate sex offender*] **clinical sexual offense** therapist in another state in which
 3 the requirements for recognition are, in the judgment of the office, in con-
 4 sultation with the [*Sex Offender*] **Sexual Offense** Treatment Board, at least
 5 equivalent to the requirements of ORS 675.360 to 675.410 and rules of the
 6 office.

7 **SECTION 8.** ORS 675.382 is amended to read:

8 675.382. (1) ORS 675.360 to 675.410 do not apply to:

9 (a) A student enrolled in an approved educational program who is pursu-
 10 ing a graduate degree in a mental health field, if the student provides sexual
 11 abuse specific treatment services only for academic credit as part of an or-
 12 ganized and supervised training program.

13 (b) A person employed by a local, state or federal government agency,
 14 community mental health program or drug and alcohol treatment program
 15 licensed or certified in this state, if the person’s activities and services are
 16 performed and provided within the person’s scope of employment.

17 (c) A person who is a recognized member of the clergy, if the person is
 18 acting in the person’s capacity as a member of the clergy.

19 (2) A person described in subsection (1) of this section may not use the
 20 title “certified clinical [*sex offender*] **sexual offense** therapist,” “certified
 21 associate [*sex offender*] **sexual offense** therapist,” “certified secondary [*as-*
 22 *sociate sex offender*] **clinical sexual offense** therapist,” [*or*] “**sexual offense**
 23 **therapist intern**” or a similar title.

24 **SECTION 9.** ORS 675.384 is amended to read:

25 675.384. A person who engages in the practice of sexual abuse specific
 26 treatment as a certified clinical [*sex offender*] **sexual offense** therapist, and
 27 who did not hold an active Oregon mental health professional license or
 28 equivalent license as determined by the Health Licensing Office as of the
 29 date of the person’s initial certification, may continue to engage in the
 30 practice of sexual abuse specific treatment as a certified clinical [*sex*
 31 *offender*] **sexual offense** therapist only if the person obtains an Oregon

1 mental health professional license or equivalent license as determined by the
2 office not later than January 1, 2021.

3 **SECTION 10.** ORS 675.385 is amended to read:

4 675.385. (1) In the manner prescribed in ORS chapter 183 for contested
5 cases, and at the direction of the [*Sex Offender*] **Sexual Offense** Treatment
6 Board, the Health Licensing Office may impose a form of discipline listed in
7 ORS 676.612 against a certified clinical [*sex offender*] **sexual offense** thera-
8 pist, certified associate [*sex offender*] **sexual offense** therapist [*or*], certified
9 secondary [*associate sex offender*] **clinical sexual offense** therapist **or sex-**
10 **ual offense therapist intern** for any of the grounds listed in ORS 676.612
11 and for any violation of the provisions of, or rules adopted under, ORS
12 675.360 to 675.410.

13 (2) The office may impose disciplinary sanctions against a certified clin-
14 ical [*sex offender*] **sexual offense** therapist, certified associate [*sex*
15 *offender*] **sexual offense** therapist [*or*], certified secondary [*associate sex*
16 *offender*] **clinical sexual offense** therapist **or sexual offense therapist**
17 **intern** for any of the following reasons:

18 (a) The person was convicted of violating ORS 675.390, or of a felony or
19 misdemeanor that brings into question the person's competence or integrity
20 as a certified clinical [*sex offender*] **sexual offense** therapist, certified asso-
21 ciate [*sex offender*] **sexual offense** therapist [*or*], certified secondary [*asso-*
22 *ciate sex offender*] **clinical sexual offense** therapist **or sexual offense**
23 **therapist intern**.

24 (b) The person's mental health professional license, or equivalent license,
25 has been revoked, suspended or restricted by the issuing authority.

26 (c) The person has violated ORS 675.370 (1), or any rules adopted by the
27 office pertaining to [*certification*] **authorization**.

28 (d) The person has failed to file or has filed a false, misleading or in-
29 complete professional disclosure statement with the office.

30 (e) The person has practiced beyond the scope of the person's
31 [*certification*] **authorization** under ORS 675.380 **or section 2 of this 2019**

1 **Act.**

2 **SECTION 11.** ORS 675.390 is amended to read:

3 675.390. A certified [*sex offender*] **sexual offense** therapist, or any em-
4 ployee of a certified [*sex offender*] **sexual offense** therapist, may not disclose
5 any communication made by a client during the course of noninvestigatory
6 professional treatment or rehabilitation, except:

7 (1) When the client or a person authorized to act on behalf of the client
8 gives consent to the disclosure;

9 (2) When the client initiates legal action or makes a complaint against
10 a [*sex offender*] **sexual offense** therapist to the [*Sex Offender*] **Sexual**
11 **Offender** Treatment Board;

12 (3) When the communication reveals the intent to commit a crime harmful
13 to the client or others;

14 (4) When the communication reveals that a minor may have been a victim
15 of a crime or physical, sexual or emotional abuse or neglect; or

16 (5) To juvenile and adult parole and probation officers supervising the
17 client under a mandated sex offender treatment condition imposed by a court
18 or releasing authority.

19 **SECTION 12.** ORS 675.395 is amended to read:

20 675.395. (1) The [*Sex Offender*] **Sexual Offense** Treatment Board is es-
21 tablished within the Health Licensing Office. The board shall consist of
22 seven members appointed by the Governor from lists of recommended persons
23 submitted as provided in subsection (2) of this section. All members of the
24 board must be residents of this state.

25 (2) Of the members appointed to the board:

26 (a) Two shall be from a list submitted by the Oregon Association for the
27 Treatment of Sexual Abusers;

28 (b) Two shall be from a list submitted by the Oregon Adolescent Sex Of-
29 fending Treatment Network or a successor organization;

30 (c) One shall be from a list submitted by the Oregon Association of
31 Community Corrections Directors;

1 (d) One shall be from a list submitted by the Oregon Juvenile Department
2 Directors Association; and

3 (e) One shall be from a list submitted by a victims' advocacy organization.

4 (3) The term of office of each member is four years, but a member serves
5 at the pleasure of the Governor. Vacancies shall be filled by the Governor
6 by appointment for the unexpired term. A member shall hold the member's
7 office until the appointment and qualification of a successor. A member is
8 eligible for reappointment. If a person serves two consecutive full terms, a
9 period of at least four years must elapse before the person is again eligible
10 for appointment to serve on the board.

11 (4) Members of the board are eligible for compensation and expenses as
12 provided in ORS 292.495.

13 (5) The board shall select one of its members to serve as chair and an-
14 other to serve as vice chair, for those terms and with such duties and powers
15 necessary for the performance of the functions of those offices as the board
16 determines.

17 (6) A majority of the board constitutes a quorum for the transaction of
18 business.

19 (7) The board shall meet at times and places specified by the call of the
20 chair or of a majority of the members of the board. The board shall meet
21 at least once each calendar year.

22 (8) A board member appointed under this section who is also a certified
23 clinical [*sex offender*] **sexual offense** therapist, certified associate [*sex*
24 *offender*] **sexual offense** therapist or certified secondary [*associate sex*
25 *offender*] **clinical sexual offense** therapist must satisfy all requirements for
26 certification provided in ORS 675.375 and must obtain certification within
27 12 months of the member's appointment.

28 **SECTION 13.** ORS 675.400 is amended to read:

29 675.400. The [*Sex Offender*] **Sexual Offense** Treatment Board shall:

30 (1) Determine the qualifications and fitness of applicants for
31 [*certification*] **authorization** as clinical [*sex offender*] **sexual offense** thera-

1 pists [or], associate [*sex offender*] **sexual offense** therapists, **secondary**
2 **clinical sexual offense therapists and sexual offense therapist interns**
3 under ORS 675.360 to 675.380.

4 (2) Establish standards of practice and professional responsibility for
5 persons [*certified*] **authorized** by the Health Licensing Office.

6 (3) Adopt standards for training, including but not limited to training
7 related to the treatment of distinct sex offender populations, including
8 adults, juveniles, persons with developmental disabilities and others.

9 (4) Advise the office on all matters related to administering ORS 675.360
10 to 675.410 and recommend rules, standards and guidelines necessary for the
11 administration of ORS 675.360 to 675.380.

12 **SECTION 14.** ORS 675.410 is amended to read:

13 675.410. (1) The Health Licensing Office shall:

14 (a) Issue [*certifications*] **authorizations** to persons determined by the of-
15 fice to be qualified.

16 (b) Make all disbursements necessary to carry out the provisions of ORS
17 675.360 to 675.410.

18 (c) Maintain a registry of all current certified [*sex offender*] **sexual of-**
19 **fense therapists and registered sexual offense therapist interns.** The
20 registry shall be made available to the public online.

21 (d) Keep a record of its proceedings related to the issuance, refusal, sus-
22 pension and revocation of [*certifications*] **authorizations** issued under ORS
23 675.360 to 675.380.

24 (e) In consultation with the [*Sex Offender*] **Sexual Offense** Treatment
25 Board, create a multidisciplinary advisory committee within the board. Per-
26 sons who are not board members may be appointed as nonvoting members to
27 serve on the multidisciplinary advisory committee with the approval of the
28 board.

29 (2) The office may:

30 (a) Deny, suspend, revoke or refuse to issue or renew any [*certification*]
31 **authorization** issued under ORS 675.360 to 675.380.

1 (b) Provide for waivers of examinations, grandfathering requirements and
2 temporary [*certifications*] **authorizations** as considered appropriate.

3 (c) In consultation with the [*Sex Offender Treatment*] board, create any
4 committees within the board as deemed necessary. Persons who are not
5 board members may be appointed as nonvoting members to serve on the
6 committees with the approval of the board.

7
8 **CONFORMING AMENDMENTS**

9
10 **SECTION 15.** ORS 163A.030 is amended to read:

11 163A.030. (1)(a) Except as provided in subsection (6) of this section, the
12 juvenile court shall hold a hearing on the issue of reporting as a sex offender
13 by a person who has been found to be within the jurisdiction of the juvenile
14 court under ORS 419C.005, or found by the juvenile court to be responsible
15 except for insanity under ORS 419C.411, for having committed an act that if
16 committed by an adult would constitute a felony sex crime if:

17 (A) The person was adjudicated on or after August 12, 2015; or

18 (B) The person was adjudicated before August 12, 2015, and was still un-
19 der the jurisdiction of the juvenile court or the Psychiatric Security Review
20 Board on April 4, 2016.

21 (b) Unless the court continues the hearing described in this section for
22 good cause, the hearing must be held:

23 (A) During the six-month period before the termination of juvenile court
24 jurisdiction over the person; or

25 (B) During the six-month period after the court receives the notice de-
26 scribed in subsection (2) of this section from the Psychiatric Security Review
27 Board, if the person was placed under the jurisdiction of the board.

28 (c) The court shall notify the person of the person's right to a hearing
29 under this section upon finding the person within the jurisdiction of the ju-
30 venile court under ORS 419C.005.

31 (2)(a) The county or state agency responsible for supervising the person

1 shall notify the person and the juvenile court when the agency determines
2 that termination of jurisdiction is likely to occur within six months.

3 (b) If the Psychiatric Security Review Board discharges a person prior to
4 the end of the board's jurisdiction over the person, the board shall notify the
5 juvenile court within three business days after the discharge date.

6 (3) Upon receipt of the notice described in subsection (2) of this section,
7 the court shall:

8 (a) Appoint an attorney for the person as described in subsection (4) of
9 this section;

10 (b) Set an initial hearing date; and

11 (c) Notify the parties and the juvenile department or the Psychiatric Se-
12 curity Review Board, if the department or board is supervising or has juris-
13 diction over the person, of the hearing at least 60 days before the hearing
14 date.

15 (4)(a) A person who is the subject of a hearing under this section has the
16 right to be represented by a suitable attorney possessing skills and experi-
17 ence commensurate with the nature and complexity of the case, to consult
18 with the attorney prior to the hearing and, if financially eligible, to have a
19 suitable attorney appointed at state expense.

20 (b) In order to comply with the right to counsel under paragraph (a) of
21 this subsection, the court may:

22 (A) Continue the appointment of the attorney appointed under ORS
23 419C.200 at the time of disposition;

24 (B) Set a date prior to the hearing under this section in order to reap-
25 point the attorney appointed under ORS 419C.200; or

26 (C) Appoint or reappoint an attorney at any time in response to a request
27 by the person who is the subject of a hearing under this section.

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

30 (b) If the person is under the jurisdiction of the Psychiatric Security Re-
31 view Board, the board shall notify the following of the hearing:

- 1 (A) The mental health agency providing services to the person, if any;
- 2 (B) The person's board defense attorney; and
- 3 (C) The assistant attorney general representing the state at board
- 4 hearings.

5 (6)(a) A person may waive the right to the hearing described in this sec-
6 tion after consultation with the person's attorney. If the court finds that the
7 person has knowingly waived the right to a hearing, the court shall enter
8 an order requiring the person to report as a sex offender under ORS
9 163A.025.

10 (b) If a person fails to appear at a hearing described in this section, the
11 court may enter an order requiring the person to report as a sex offender
12 under ORS 163A.025.

13 (7) At the hearing described in subsection (1) of this section:

14 (a) The district attorney, the victim, the person and the juvenile depart-
15 ment or a representative of the Oregon Youth Authority shall have an op-
16 portunity to be heard.

17 (b) The person who is the subject of the hearing has the burden of proving
18 by clear and convincing evidence that the person is rehabilitated and does
19 not pose a threat to the safety of the public. If the court finds that the per-
20 son has not met the burden of proof, the court shall enter an order requiring
21 the person to report as a sex offender under ORS 163A.025.

22 (8) In determining whether the person has met the burden of proof, the
23 juvenile court may consider but need not be limited to considering:

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

26 (b) The nature of the act that subjected the person to the duty of report-
27 ing as a sex offender;

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

30 (d) Whether the act was premeditated;

31 (e) Whether the person took advantage of a position of authority or trust

1 in committing the act;

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

4 (g) The vulnerability of the victim;

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

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

10 (j) The person's willingness to accept personal responsibility for the act
11 and personal accountability for the consequences of the act;

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

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

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

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

20 (C) The person's compliance with court, board or supervision require-
21 ments regarding treatment; and

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

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

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

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

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

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

29 (r) The protection afforded the public by records of sex offender registra-
30 tion; and

31 (s) Any other relevant factors.

1 (9) In a hearing under this section, the juvenile court may receive testi-
2 mony, 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 (10)(a) In a hearing under this section, the Oregon Youth Authority or
8 the juvenile department, if either agency is supervising the person, or the
9 Psychiatric Security Review Board, if the board has jurisdiction over the
10 person, shall file with the juvenile court the following records and materials
11 in the possession of the agency or board at least 45 days prior to the hearing
12 unless good cause is shown:

13 (A) Evaluations and treatment records concerning the person conducted
14 by a clinician or program operating under the standards of practice for the
15 evaluation and treatment of juvenile sex offenders adopted by the [*Sex*
16 *Offender*] **Sexual Offense** Treatment Board under ORS 675.400, and recom-
17 mendations contained therein regarding the need for the person to register
18 in order to protect the public from future sex crimes;

19 (B) All examination preparation material and examination records from
20 polygraph examinations conducted by or for the treatment provider, juvenile
21 department or Oregon Youth Authority; and

22 (C) The Psychiatric Security Review Board exhibit file.

23 (b) Any records and materials filed with the court under this subsection
24 shall be made available to the parties in accordance with ORS 419A.255.

25 (11) When the juvenile court enters an order described in subsection (7)(b)
26 of this section, the court shall ensure that the person completes a form that
27 documents the person’s obligation to report under ORS 163A.025. No later
28 than three business days after the person completes the form required by this
29 subsection, the court shall ensure that the form is sent to the Department
30 of State Police.

31 (12) Notwithstanding ORS 419C.005 (4)(c), (d) and (e), the juvenile court

1 retains jurisdiction over a person for purposes of this section.

2 (13) As used in this section, “parties” means the person, the state as re-
3 presented by the district attorney or the juvenile department, and the Oregon
4 Youth Authority or other child care agency, if the person is temporarily
5 committed to the authority or agency.

6 **SECTION 16.** ORS 676.565, as amended by section 22, chapter 61, Oregon
7 Laws 2018, is amended to read:

8 676.565. Pursuant to ORS 676.568, the Health Licensing Office shall pro-
9 vide administrative and regulatory oversight and centralized service for the
10 following boards, councils and programs:

11 (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

12 (2) Board of Cosmetology, as provided in ORS 690.005 to 690.225;

13 (3) State Board of Denture Technology, as provided in ORS 680.500 to
14 680.565;

15 (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to
16 687.495;

17 (5) Respiratory Therapist and Polysomnographic Technologist Licensing
18 Board, as provided in ORS 688.800 to 688.840;

19 (6) Environmental Health Registration Board, as provided in ORS chapter
20 700;

21 (7) Board of Electrologists and Body Art Practitioners, as provided in
22 ORS 690.350 to 690.410;

23 (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to
24 694.170;

25 (9) [*Sex Offender*] **Sexual Offense** Treatment Board, as provided in ORS
26 675.360 to 675.410;

27 (10) Long Term Care Administrators Board, as provided in ORS 678.710
28 to 678.820;

29 (11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485;

30 (12) Behavior Analysis Regulatory Board, as provided in ORS 676.806;

31 (13) Board of Certified Advanced Estheticians, as provided in ORS 676.630

1 to 676.660;

2 (14) Art therapy, as provided in ORS 681.740 to 681.758; and

3 (15) Lactation consultation, as provided in ORS 676.665 to 676.689.

4 **SECTION 17.** ORS 676.595, as amended by section 23, chapter 61, Oregon
5 Laws 2018, is amended to read:

6 676.595. (1) As used in this section, “board” means the:

7 (a) [*Sex Offender*] **Sexual Offense** Treatment Board established under
8 ORS 675.395.

9 (b) Behavior Analysis Regulatory Board created under ORS 676.806.

10 (c) Long Term Care Administrators Board established under ORS 678.800.

11 (d) State Board of Denture Technology established under ORS 680.556.

12 (e) State Board of Direct Entry Midwifery established under ORS 687.470.

13 (f) Board of Athletic Trainers established under ORS 688.705.

14 (g) Respiratory Therapist and Polysomnographic Technologist Licensing
15 Board established under ORS 688.820.

16 (h) Board of Licensed Dietitians established under ORS 691.485.

17 (i) Environmental Health Registration Board established under ORS
18 700.210.

19 (2) Except to the extent that disclosure is necessary to conduct a full and
20 proper investigation, the Health Licensing Office may not disclose informa-
21 tion, including complaints and information identifying complainants, ob-
22 tained by the office as part of an investigation conducted under:

23 (a) ORS 675.360 to 675.410, 676.810 to 676.820, 678.710 to 678.820, 680.500
24 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840 or 691.405
25 to 691.485 or ORS chapter 700.

26 (b) ORS 676.560 to 676.625 if the investigation is related to the regulation
27 of:

28 (A) [*Sex offender therapy*] **Sexual abuse specific treatment** under ORS
29 675.360 to 675.410;

30 (B) Applied behavior analysis under ORS 676.810 to 676.820;

31 (C) Nursing home administration and residential care facility adminis-

1 tration under ORS 678.710 to 678.820;

2 (D) The practice of denture technology under ORS 680.500 to 680.565;

3 (E) Direct entry midwifery under ORS 687.405 to 687.495;

4 (F) Athletic training under ORS 688.701 to 688.734;

5 (G) Respiratory care and polysomnography under ORS 688.800 to 688.840;

6 (H) Dietetics under ORS 691.405 to 691.485; or

7 (I) Environmental or waste water sanitation under ORS chapter 700.

8 (3) Notwithstanding subsection (2) of this section, if the office decides not
9 to impose a disciplinary sanction after conducting an investigation described
10 in subsection (2) of this section:

11 (a) The office shall disclose information obtained as part of the investi-
12 gation if the person requesting the information demonstrates by clear and
13 convincing evidence that the public interest in disclosure outweighs other
14 interests in nondisclosure, including the public interest in nondisclosure.

15 (b) The office may disclose to a complainant who made a complaint re-
16 lated to the investigation a written summary of information obtained as part
17 of the investigation to the extent that disclosure is necessary to explain the
18 office's decision. The person who is the subject of the investigation may re-
19 view and obtain a copy of a written summary disclosed under this paragraph
20 after the office has redacted any information identifying the complainant.

21 (4) Notwithstanding subsection (2) of this section, if a decision is made
22 to impose a disciplinary sanction and to issue a notice of intent to impose
23 a disciplinary sanction after conducting an investigation described in sub-
24 section (2) of this section, upon written request by the person who is the
25 subject of the investigation, the office shall disclose to the person all infor-
26 mation obtained by the office during the investigation, except that the office
27 may not disclose:

28 (a) Information that is otherwise privileged or confidential under state
29 or federal law.

30 (b) Information identifying a person who provided information that led to
31 the investigation, unless the person will provide testimony at a hearing

1 arising out of the investigation.

2 (c) Information identifying a complainant.

3 (d) Reports of expert witnesses.

4 (5) Information disclosed to a person under subsection (4) of this section
5 may be further disclosed by the person only to the extent that disclosure is
6 necessary to prepare for a hearing arising out of the investigation.

7 (6) The office shall disclose:

8 (a) Any notice related to the imposition of a disciplinary sanction.

9 (b) A final order related to the imposition of a disciplinary sanction.

10 (c) An emergency suspension order.

11 (d) A consent order or stipulated agreement that involves the conduct of
12 a person against whom discipline is sought.

13 (e) Information to further an investigation into board conduct under ORS
14 192.685.

15 (7) The office must summarize the factual basis for the office's disposition
16 of:

17 (a) A final order related to the imposition of a disciplinary sanction;

18 (b) An emergency suspension order; or

19 (c) A consent order or stipulated agreement that involves the conduct of
20 a person against whom discipline is sought.

21 (8)(a) An office record or order, or any part of an office record or order,
22 that is obtained during an investigation described in subsection (2) of this
23 section, during a contested case proceeding or as a result of entering into a
24 consent order or stipulated agreement is not admissible as evidence and may
25 not preclude an issue or claim in a civil proceeding.

26 (b) This subsection does not apply to a proceeding between the office and
27 a person against whom discipline is sought as otherwise authorized by law.

28 (9)(a) Notwithstanding subsection (2) of this section, the office is not
29 publicly disclosing information when the office permits other public officials
30 and members of the press to attend executive sessions where information
31 obtained as part of an investigation is discussed. Public officials and mem-

1 bers of the press attending such executive sessions may not disclose infor-
2 mation obtained as part of an investigation to any other member of the
3 public.

4 (b) For purposes of this subsection, “public official” means a member,
5 member-elect or employee of a public entity as defined in ORS 676.177.

6 (10) The office may establish fees reasonably calculated to reimburse the
7 actual cost of disclosing information to a person against whom discipline is
8 sought as required by subsection (4) of this section.

9

10

CAPTIONS

11

12 **SECTION 18. The unit captions used in this 2019 Act are provided**
13 **only for the convenience of the reader and do not become part of the**
14 **statutory law of this state or express any legislative intent in the**
15 **enactment of this 2019 Act.**

16

17

DATES

18

19 **SECTION 19. (1) Section 2 of this 2019 Act and the amendments to**
20 **ORS 163A.030, 675.360, 675.365, 675.370, 675.375, 675.380, 675.382, 675.384,**
21 **675.385, 675.390, 675.395, 675.400, 675.410, 676.565 and 676.595 by sections**
22 **3 to 17 of this 2019 Act become operative on January 1, 2020.**

23

24 **(2) The Health Licensing Office and the Sex Offender Treatment**
25 **Board may take any action before the operative date specified in sub-**
26 **section (1) of this section that is necessary to enable the office and the**
27 **Sexual Offense Treatment Board to exercise, on and after the opera-**
28 **tive date specified in subsection (1) of this section, all of the duties,**
29 **functions and powers conferred on the office and the Sexual Offense**
30 **Treatment Board by section 2 of this 2019 Act and the amendments to**
31 **ORS 163A.030, 675.360, 675.365, 675.370, 675.375, 675.380, 675.382, 675.384,**
675.385, 675.390, 675.395, 675.400, 675.410, 676.565 and 676.595 by sections

1 **3 to 17 of this 2019 Act.**

2 **SECTION 20. This 2019 Act takes effect on the 91st day after the**
3 **date on which the 2019 regular session of the Eightieth Legislative**
4 **Assembly adjourns sine die.**

5 _____