

A-Engrossed
Senate Bill 767

Ordered by the Senate April 26
Including Senate Amendments dated April 26

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.

[Directs Oregon Criminal Justice Commission to study recidivism rates of sex offenders and report results to interim committees of Legislative Assembly related to judiciary on or before February 1, 2019.]

[Sunsets January 2, 2020.]

Extends, from December 1, 2018, to December 1, 2022, deadline by which State Board of Parole and Post-Prison Supervision must classify existing registrant obligated to report as sex offender prior to January 1, 2014. Provides that only existing registrants classified as level three, highest risk, or level two, moderate risk, may petition classifying agency for review.

Extends, from 60 days to 90 days, time period by which classifying agency must perform risk assessment and classify sex offender if sex offender is released on probation or following finding of guilty except for insanity, moved into state or was not classified during imprisonment.

Authorizes classifying agency to classify person as level three sex offender by default if person fails or refuses to participate in risk assessment. Authorizes sex offender or existing registrant classified as level three sex offender by default to contact classifying agency for reclassification.

Provides that sex offenders classified as level three or level two may petition classifying agency for review.

Authorizes classifying agency to reassess or reclassify sex offender or existing registrant if factual mistake caused erroneous assessment or classification.

A BILL FOR AN ACT

1
2 Relating to sex offenders; amending ORS 163A.105 and 163A.110 and sections 7, 34 and 37, chapter
3 708, Oregon Laws 2013.

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

5 **SECTION 1.** Section 7, chapter 708, Oregon Laws 2013, as amended by section 27, chapter 820,
6 Oregon Laws 2015, is amended to read:

7 **Sec. 7.** (1) As used in this section and *[sections 19 to 21 of this 2015 Act]* **ORS 163A.200 to**
8 **163A.210:**

9 (a) "Event triggering the obligation to make an initial report" has the meaning given that term
10 in ORS *[181.802]* **163A.110.**

11 (b) "Existing registrant" means a person for whom the event triggering the obligation to make
12 an initial report under ORS *[181.806 (3)(a)(A), 181.807 (4)(a)(A) or 181.808 (1)(a)(A), (2)(a)(A) or*
13 *(3)(a)(A)]* **163A.010 (3)(a)(A), 163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or (3)(a)(A)** occurs
14 before January 1, 2014.

15 (2)(a) No later than December 1, *[2018]* **2022**, the State Board of Parole and Post-Prison Super-
16 vision shall classify existing registrants in one of the levels described in ORS *[181.800]* **163A.100.**
17 No later than February 1, *[2019]* **2023**, the Department of State Police shall enter the results of the

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 classifications described in this section into the Law Enforcement Data System.

2 (b) The board shall classify an existing registrant as a level three sex offender under ORS
3 [181.800] **163A.100** (3), if:

4 (A) The person was previously designated a predatory sex offender and the designation was
5 made after the person was afforded notice and an opportunity to be heard as to all factual questions
6 at a meaningful time and in a meaningful manner; or

7 (B) The person is a sexually violent dangerous offender under ORS 137.765.

8 (c) The Psychiatric Security Review Board may complete the risk assessment of an existing
9 registrant who is under the jurisdiction of the Psychiatric Security Review Board or the Oregon
10 Health Authority, regardless of whether the person has been found guilty except for insanity of a
11 sex crime or was previously convicted of a sex crime, if the State Board of Parole and Post-Prison
12 Supervision and the Psychiatric Security Review Board mutually agree that the Psychiatric Security
13 Review Board has adequate resources to perform the assessment and that the performance of the
14 assessment by the Psychiatric Security Review Board would assist in classifying the existing regis-
15 trant in a more timely manner.

16 (3) As soon as practicable following the classification of an existing registrant under this sec-
17 tion, the classifying board shall notify the person of the classification by mail.

18 (4)(a) An existing registrant who seeks review of a classification made under this section **as a**
19 **level two or level three sex offender as described in ORS 163A.100** may petition the classifying
20 board for review. The petition may be filed no later than 60 days after the board provides the notice
21 described in subsection (3) of this section.

22 (b) Upon receipt of a petition described in this subsection, the classifying board shall afford the
23 person an opportunity to be heard as to all factual questions related to the classification.

24 (c) After providing the person with notice and an opportunity to be heard in accordance with
25 this subsection, the board shall classify the person in accordance with the classifications described
26 in ORS [181.800] **163A.100**, based on all of the information available to the classifying board.

27 (5) The boards shall adopt rules to carry out the provisions of this section.

28 (6) An existing registrant may not petition for reclassification or relief from the obligation to
29 report as a sex offender as provided in ORS [181.821] **163A.125** until either all existing registrants
30 have been classified in one of the levels described in ORS [181.800] **163A.100** or December 1, 2018,
31 whichever occurs first.

32 (7) Notwithstanding ORS [181.837] **163A.225** or any other provision of law, the Department of
33 State Police may until December 1, 2018, continue to use the Internet to make information available
34 to the public concerning any adult sex offender designated as predatory as authorized by the law
35 in effect on December 31, 2013.

36 (8)(a) If the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Re-
37 view Board does not classify an existing registrant under ORS [181.800] **163A.100** because the person
38 has failed or refused to participate in a sex offender risk assessment as directed by the State Board
39 of Parole and Post-Prison Supervision or the Psychiatric Security Review Board, *[the person is, by*
40 *operation of law, classified]* **the appropriate board shall classify the person** as a level three sex
41 offender under ORS [181.800] **163A.100** (3) *[as of January 1, 2019]*.

42 (b) **If an existing registrant classified as a level three sex offender under this subsection**
43 **notifies the State Board of Parole and Post-Prison Supervision or the Psychiatric Security**
44 **Review Board of the willingness to participate in a sex offender risk assessment, the appro-**
45 **priate board shall perform the assessment and classify the existing registrant in one of the**

1 levels described in ORS 163A.100.

2 (9) The State Board of Parole and Post-Prison Supervision or the Psychiatric Security
3 Review Board may reassess or reclassify an existing registrant placed in one of the levels
4 described in ORS 163A.100 under this section if the classifying board determines that a fac-
5 tual mistake caused an erroneous assessment or classification.

6 **SECTION 2.** ORS 163A.105 is amended to read:

7 163A.105. (1) When a person convicted of a crime described in ORS 163.355 to 163.427 is sen-
8 tenced to a term of imprisonment in a Department of Corrections institution for that crime, the
9 State Board of Parole and Post-Prison Supervision shall assess the person utilizing the risk assess-
10 ment methodology described in ORS 163A.100. The board shall apply the results of the assessment
11 to place the person in one of the levels described in ORS 163A.100 before the person is released from
12 custody.

13 (2) When a person convicted of a sex crime is sentenced to a term of incarceration in a jail, or
14 is discharged, released or placed on probation by the court, the supervisory authority as defined in
15 ORS 144.087 shall assess the person utilizing the risk assessment methodology described in ORS
16 163A.100 and apply the results of the assessment to place the person in one of the levels described
17 in ORS 163A.100 no later than [60] 90 days after the person is released from jail or discharged, re-
18 leased or placed on probation by the court.

19 (3)(a) When a person is found guilty except for insanity of a sex crime, the Psychiatric Security
20 Review Board or the Oregon Health Authority shall assess the person utilizing the risk assessment
21 methodology described in ORS 163A.100 and apply the results of the assessment to place the person
22 in one of the levels described in ORS 163A.100 no later than [60] 90 days after the person is:

23 (A) Placed on conditional release by the Psychiatric Security Review Board or the Oregon
24 Health Authority;

25 (B) Discharged from the jurisdiction of the Psychiatric Security Review Board or the Oregon
26 Health Authority;

27 (C) Placed on conditional release by the court pursuant to ORS 161.327; or

28 (D) Discharged by the court pursuant to ORS 161.329.

29 (b) If the State Board of Parole and Post-Prison Supervision previously completed a risk as-
30 sessment and assigned a classification level described in ORS 163A.100 for a person described in
31 paragraph (a) of this subsection, the Psychiatric Security Review Board or the Oregon Health Au-
32 thority need not complete a reassessment for an initial classification.

33 (c) The court shall notify the Psychiatric Security Review Board when the court conditionally
34 releases or discharges a person described in paragraph (a) of this subsection.

35 (d) The Psychiatric Security Review Board or the Oregon Health Authority shall notify the State
36 Board of Parole and Post-Prison Supervision no later than seven days after the Psychiatric Security
37 Review Board or the authority conditionally releases or discharges a person who has a prior sex
38 crime conviction that obligates the person to report as a sex offender, unless the person has also
39 been found guilty except for insanity of a sex crime that obligates the person to report as a sex
40 offender.

41 (4)(a) Within [60] 90 days after [*the event triggering the obligation to make an initial report*] **re-**
42 **ceiving notice of a person's obligation to report in this state from the Department of State**
43 **Police**, the State Board of Parole and Post-Prison Supervision shall assess [a] **the** person utilizing
44 the risk assessment methodology described in ORS 163A.100 and apply the results of the assessment
45 to place the person in one of the levels described in ORS 163A.100 if the person[:]

1 [(a)] has been convicted in another United States court of a crime:

2 (A) That would constitute a sex crime if committed in this state; or

3 (B) For which the person would have to register as a sex offender in that court's jurisdiction,
4 or as required under federal law, regardless of whether the crime would constitute a sex crime in
5 this state[; or].

6 (b) **If a person** has been convicted of a sex crime and was sentenced to a term of imprisonment
7 in a Department of Corrections institution for that sex crime, but was not subjected to a risk as-
8 sessment utilizing the risk assessment methodology described in ORS 163A.100 before release under
9 subsection (1) of this section, **within 90 days after the person's release the State Board of**
10 **Parole and Post-Prison Supervision shall assess the person utilizing the risk assessment**
11 **methodology described in ORS 163A.100 and apply the results of the assessment to place the**
12 **person in one of the levels described in ORS 163A.100.**

13 (5) When the State Board of Parole and Post-Prison Supervision, the Psychiatric Security Review
14 Board, the Oregon Health Authority or a supervisory authority applies the results of a risk assess-
15 ment to place a person in one of the levels described in ORS 163A.100, the agency shall notify the
16 Department of State Police of the results of the risk assessment within three business days after the
17 agency's classification. Upon receipt, the Department of State Police shall enter the results of the
18 risk assessment into the Law Enforcement Data System.

19 (6) **The State Board of Parole and Post-Prison Supervision, the Psychiatric Security Re-**
20 **view Board, the Oregon Health Authority or a supervisory authority may reassess or re-**
21 **classify a person placed in one of the levels described in ORS 163A.100 under this section if**
22 **the classifying board or authority determines that a factual mistake caused an erroneous**
23 **assessment or classification.**

24 (7)(a) **A person classified under this section as a level two or level three sex offender as**
25 **described in ORS 163A.100 may petition the classifying board or authority for review. The**
26 **petition may be filed no later than 60 days after the person receives notice of the classifica-**
27 **tion.**

28 (b) **Upon receipt of a petition described in this subsection, the classifying board or au-**
29 **thority shall afford the person an opportunity to be heard as to all factual questions related**
30 **to the classification.**

31 (c) **After providing the person with notice and an opportunity to be heard in accordance**
32 **with this subsection, the board or authority shall classify the person in accordance with the**
33 **classifications described in ORS 163A.100, based on all of the information available to the**
34 **classifying board or authority.**

35 (8)(a) **If the State Board of Parole and Post-Prison Supervision, the Psychiatric Security**
36 **Review Board, the Oregon Health Authority or a supervisory authority does not classify an**
37 **person under ORS 163A.100 because the person has failed or refused to participate in a sex**
38 **offender risk assessment as directed by the board or authority, the classifying board or au-**
39 **thority shall classify the person as a level three sex offender under ORS 163A.100 (3).**

40 (b) **If person classified as a level three sex offender under this subsection notifies the**
41 **classifying board or authority of the willingness to participate in a sex offender risk assess-**
42 **ment, the classifying board or authority shall perform the assessment and classify the per-**
43 **son in one of the levels described in ORS 163A.100.**

44 (9) **The State Board of Parole and Post-Prison Supervision, the Psychiatric Security Re-**
45 **view Board and the Oregon Health Authority may adopt rules to carry out the provisions of**

1 **this section.**

2 **SECTION 3.** Section 34, chapter 708, Oregon Laws 2013, as amended by section 28, chapter 820,
3 Oregon Laws 2015, is amended to read:

4 **Sec. 34.** (1) ORS 181.587 and 181.588 are repealed on January 1, 2014.

5 (2) ORS [181.820] **163A.120** is repealed on January 1, [2019] **2023**.

6 **SECTION 4.** Section 37, chapter 708, Oregon Laws 2013, as amended by section 29, chapter 820,
7 Oregon Laws 2015, is amended to read:

8 **Sec. 37.** The amendments to section 35, chapter 708, Oregon Laws 2013, by section 36, chapter
9 708, Oregon Laws 2013, become operative on January 1, [2019] **2023**.

10 **SECTION 5.** ORS 163A.110 is amended to read:

11 163A.110. (1) ORS 163A.105 applies to persons for whom the event triggering the obligation to
12 make an initial report under ORS 163A.010 (3)(a)(A), 163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A)
13 or (3)(a)(A) occurs on or after January 1, 2014.

14 (2) As used in this section [and ORS 163A.105], “event triggering the obligation to make an in-
15 itial report” means:

16 (a) If the initial report is described in ORS 163A.010 (3)(a)(A):

17 (A) Discharge, parole or release on any form of supervised or conditional release from a jail,
18 prison or other correctional facility in this state;

19 (B) Parole to this state under ORS 144.610 after being convicted in another United States court
20 of a crime that would constitute a sex crime if committed in this state; or

21 (C) Discharge by the court under ORS 161.329.

22 (b) If the initial report is described in ORS 163A.015 (4)(a)(A), discharge, release or placement
23 on probation:

24 (A) By the court; or

25 (B) To or in this state under ORS 144.610 after being convicted in another United States court
26 of a crime that would constitute a sex crime if committed in this state.

27 (c) If the initial report is described in ORS 163A.020 (1)(a)(A), moving into this state.

28 (d) If the initial report is described in ORS 163A.020 (2)(a)(A), the first day of school attendance
29 or the 14th day of employment in this state.

30 (e) If the initial report is described in ORS 163A.020 (3)(a)(A):

31 (A) Discharge, release on parole or release on any form of supervised or conditional release,
32 from a jail, prison or other correctional facility or detention facility; or

33 (B) Discharge, release or placement on probation, by another United States court.

34