

Senate Bill 78

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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**.

Requires that person who is otherwise required to report as sex offender but who resides in nursing home or assisted living facility, is committed to mental health treatment facility, is confined to person's home or health care facility or moves out of state must report change of residence to Department of State Police by United States mail within 10 days of change of residence.

Defines terms related to homeless sex offenders.

Modifies reporting obligation for sex offenders following change of residence. Removes requirement that sex offender must have acquired new residence before obligation to report is triggered.

Requires sex offender to report within 10 days of legal change of name. Punishes failure to report change of name by maximum of one year's imprisonment, \$6,250 fine, or both. If sex crime requiring reporting is felony, punishes failure to report change of name by maximum of five years' imprisonment, \$125,000 fine, or both.

A BILL FOR AN ACT

1
2 Relating to sex offenders; creating new provisions; and amending ORS 163A.005, 163A.010, 163A.015,
3 163A.020, 163A.025, 163A.040 and 163A.115.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS 163A.005 to**
6 **163A.235.**

7 **SECTION 2. (1) A person who is otherwise required to report as a sex offender under**
8 **ORS 163A.010, 163A.015, 163A.020 or 163A.025, but who resides in a nursing home or assisted**
9 **living facility, is committed to a mental health treatment facility or is continuously confined**
10 **to the person's home or to a health care facility due to mental or physical disability, shall**
11 **cause the person's guardian or an individual exercising power of attorney over the person,**
12 **or, in the absence of either, the administrator of the person's resident facility, to report any**
13 **change in the person's residence to the Department of State Police by United States mail**
14 **within 10 days of the change of residence.**

15 **(2) A person who is required to report as a sex offender under ORS 163A.010, 163A.015,**
16 **163A.020 or 163A.025 and who fails to report to the Department of State Police a change of**
17 **residence to another state, but reports the change of residence to a city police department,**
18 **a county sheriff's office or the state police department in the new state of residence within**
19 **10 days of the change, shall send a certified copy of the change of residence reporting form**
20 **to the Department of State Police by United States mail within 10 days of reporting in the**
21 **new state of residence.**

22 **SECTION 3. ORS 163A.005 is amended to read:**

23 163A.005. As used in ORS 163A.005 to 163A.235:

24 (1) "Another United States court" means a federal court, a military court, the tribal court of a
25 federally recognized Indian tribe or a court of:

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 (a) A state other than Oregon;
- 2 (b) The District of Columbia;
- 3 (c) The Commonwealth of Puerto Rico;
- 4 (d) Guam;
- 5 (e) American Samoa;
- 6 (f) The Commonwealth of the Northern Mariana Islands; or
- 7 (g) The United States Virgin Islands.
- 8 (2) "Attends" means is enrolled on a full-time or part-time basis.
- 9 (3)(a) "Correctional facility" means any place used for the confinement of persons:
- 10 (A) Charged with or convicted of a crime or otherwise confined under a court order.
- 11 (B) Found to be within the jurisdiction of the juvenile court for having committed an act that
- 12 if committed by an adult would constitute a crime.
- 13 (b) "Correctional facility" applies to a state hospital or a secure intensive community inpatient
- 14 facility only as to persons detained therein charged with or convicted of a crime, or detained therein
- 15 after being found guilty except for insanity under ORS 161.290 to 161.370 or responsible except for
- 16 insanity under ORS 419C.411.
- 17 (4) "Institution of higher education" means a public or private educational institution that pro-
- 18 vides a program of post-secondary education.
- 19 **(5) "Residence" means:**
- 20 **(a) Any location with a street address designed as a regular sleeping accommodation,**
- 21 **such as a house, apartment, shelter, transitional housing unit, shared housing unit, hotel or**
- 22 **motel; or**
- 23 **(b) An unsheltered geographic location.**
- 24 [(5)] **(6) "Sex crime" means:**
- 25 (a) Rape in any degree;
- 26 (b) Sodomy in any degree;
- 27 (c) Unlawful sexual penetration in any degree;
- 28 (d) Sexual abuse in any degree;
- 29 (e) Incest with a child victim;
- 30 (f) Using a child in a display of sexually explicit conduct;
- 31 (g) Encouraging child sexual abuse in any degree;
- 32 (h) Transporting child pornography into the state;
- 33 (i) Paying for viewing a child's sexually explicit conduct;
- 34 (j) Compelling prostitution;
- 35 (k) Promoting prostitution;
- 36 (L) Kidnapping in the first degree if the victim was under 18 years of age;
- 37 (m) Contributing to the sexual delinquency of a minor;
- 38 (n) Sexual misconduct if the offender is at least 18 years of age;
- 39 (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- 40 (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent
- 41 or by a person found to be within the jurisdiction of the juvenile court;
- 42 (q) Online sexual corruption of a child in any degree if the offender reasonably believed the
- 43 child to be more than five years younger than the offender;
- 44 (r) Luring a minor, if:
- 45 (A) The offender reasonably believed the minor or, in the case of a police officer or agent of a

1 police officer posing as a minor, the purported minor to be more than five years younger than the
 2 offender or under 16 years of age; and

3 (B) The court designates in the judgment that the offense is a sex crime;

4 (s) Sexual assault of an animal;

5 (t) Public indecency or private indecency, if the person has a prior conviction for a crime listed
 6 in this subsection;

7 (u) Trafficking in persons as described in ORS 163.266 (1)(b) or (c);

8 (v) Purchasing sex with a minor if the court designates the offense as a sex crime pursuant to
 9 ORS 163.413 (3)(d), or the offense is the defendant’s second or subsequent conviction under ORS
 10 163.413 (3)(b)(B);

11 (w) Invasion of personal privacy in the first degree, if the court designates the offense as a sex
 12 crime pursuant to ORS 163.701 (3);

13 (x) Any attempt to commit any of the crimes listed in paragraphs (a) to (w) of this subsection;

14 (y) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a)
 15 to (w) of this subsection; or

16 (z) Criminal conspiracy if the offender agrees with one or more persons to engage in or cause
 17 the performance of an offense listed in paragraphs (a) to (w) of this subsection.

18 [(6)] (7) “Sex offender” means a person who:

19 (a) Has been convicted of a sex crime;

20 (b) Has been found guilty except for insanity of a sex crime;

21 (c) Has been convicted in another United States court of a crime:

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

23 (B) For which the person would have to register as a sex offender in that court’s jurisdiction,
 24 or as required under federal law, regardless of whether the crime would constitute a sex crime in
 25 this state; or

26 (d) Is described in ORS 163A.025 (1).

27 (8) “Unsheltered geographic location” means any location where a homeless sex offender
 28 resides that is not designed as a regular sleeping accommodation, such as a car, trailer or
 29 other vehicle, a park, a public space, an abandoned building, a substandard housing unit or
 30 a bus or train station.

31 [(7)] (10) “Works” or “carries on a vocation” means full-time or part-time employment for more
 32 than 14 days within one calendar year whether financially compensated, volunteered or for the
 33 purpose of governmental or educational benefit.

34 **SECTION 4.** ORS 163A.010, as amended by section 4, chapter 95, Oregon Laws 2016, is amended
 35 to read:

36 163A.010. (1) The agency to which a person reports under subsection (3) of this section shall
 37 complete a sex offender registration form concerning the person when the person reports under
 38 subsection (3) of this section.

39 (2) Subsection (3) of this section applies to a person who:

40 (a) Is discharged, paroled or released on any form of supervised or conditional release from a
 41 jail, prison or other correctional facility or detention facility in this state at which the person was
 42 confined as a result of:

43 (A) Conviction of a sex crime or a crime for which the person would have to register as a sex
 44 offender under federal law; or

45 (B) Having been found guilty except for insanity of a sex crime;

1 (b) Is paroled to this state under ORS 144.610 after being convicted in another United States
 2 court of a crime:

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

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

7 (c) Is discharged by the court under ORS 161.329 after having been found guilty except for in-
 8 sanity of a sex crime.

9 (3)(a) A person described in subsection (2) of this section shall report, in person, to the Depart-
 10 ment of State Police, a city police department or a county sheriff's office, in the county to which the
 11 person was discharged, paroled or released or in which the person was otherwise placed:

12 (A) Within 10 days following discharge, release on parole, post-prison supervision or other
 13 supervised or conditional release;

14 (B) Within 10 days of a change of residence;

15 (C) **Within 10 days of a legal change of name;**

16 [(C)] (D) Once each year within 10 days of the person's birth date, regardless of whether the
 17 person changed residence;

18 [(D)] (E) Within 10 days of the first day the person works at, carries on a vocation at or attends
 19 an institution of higher education; and

20 [(E)] (F) Within 10 days of a change in work, vocation or attendance status at an institution of
 21 higher education.

22 (b) If a person required to report under this subsection has complied with the initial reporting
 23 requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in per-
 24 son, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the De-
 25 partment of State Police, a city police department or a county sheriff's office, in the county of the
 26 person's last reported residence.

27 (c) Notwithstanding paragraphs (a) and (b) of this subsection, during the period of supervision
 28 or custody authorized by law, the Oregon Youth Authority may authorize a youth offender commit-
 29 ted to its supervision and custody by order of the juvenile court or a person placed in its physical
 30 custody under ORS 137.124 or any other provision of law to report to the authority regardless of the
 31 youth offender's or the person's last reported residence.

32 (d) In the event that a person reports to the authority under this subsection, the authority shall
 33 register the person.

34 (e) The obligation to report under this subsection terminates if the conviction or adjudication
 35 that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

36 (4) As part of the registration and reporting requirements of this section:

37 (a) The person required to report shall:

38 (A) Provide the information necessary to complete the sex offender registration form and sign
 39 the form as required; and

40 (B) Submit to the requirements described in paragraph (b) of this subsection.

41 (b) The Department of State Police, Oregon Youth Authority, city police department or county
 42 sheriff's office:

43 (A) Shall photograph the person when the person initially reports under this section and each
 44 time the person reports annually under this section;

45 (B) May photograph the person or any identifying scars, marks or tattoos located on the person

1 when the person reports under any of the circumstances described in this section; and

2 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file
3 of the Department of State Police.

4 **SECTION 5.** ORS 163A.015 is amended to read:

5 163A.015. (1) The agency to which a person reports under subsection (4) of this section shall
6 complete a sex offender registration form concerning the person when the person reports under
7 subsection (4) of this section.

8 (2) Subsection (4) of this section applies to a person who is discharged, released or placed on
9 probation:

10 (a) By the court after being convicted in this state of a sex crime;

11 (b) By a federal court after being convicted of a crime for which the person would have to
12 register as a sex offender under federal law, regardless of whether the crime would constitute a sex
13 crime in this state; or

14 (c) To or in this state under ORS 144.610 after being convicted in another United States court
15 of a crime:

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

17 (B) For which the person would have to register as a sex offender in that court's jurisdiction,
18 regardless of whether the crime would constitute a sex crime in this state.

19 (3) The court shall ensure that the person completes a form that documents the person's obli-
20 gation to report under ORS 163A.010 or this section. No later than three working days after the
21 person completes the form required by this subsection, the court shall ensure that the form is sent
22 to the Department of State Police.

23 (4)(a) A person described in subsection (2) of this section shall report, in person, to the Depart-
24 ment of State Police, a city police department or a county sheriff's office, in the county to which the
25 person was discharged or released or in which the person was placed on probation:

26 (A) Within 10 days following discharge, release or placement on probation;

27 (B) Within 10 days of a change of residence;

28 **(C) Within 10 days of a legal change of name;**

29 [~~C~~] **(D)** Once each year within 10 days of the person's birth date, regardless of whether the
30 person changed residence;

31 [~~D~~] **(E)** Within 10 days of the first day the person works at, carries on a vocation at or attends
32 an institution of higher education; and

33 [~~E~~] **(F)** Within 10 days of a change in work, vocation or attendance status at an institution of
34 higher education.

35 (b) If a person required to report under this subsection has complied with the initial reporting
36 requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in per-
37 son, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the De-
38 partment of State Police, a city police department or a county sheriff's office, in the county of the
39 person's last reported residence.

40 (c) The obligation to report under this subsection terminates if the conviction or adjudication
41 that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

42 (5) As part of the registration and reporting requirements of this section:

43 (a) The person required to report shall:

44 (A) Provide the information necessary to complete the sex offender registration form and sign
45 the form as required; and

1 (B) Submit to the requirements described in paragraph (b) of this subsection.

2 (b) The Department of State Police, the city police department or the county sheriff's office:

3 (A) Shall photograph the person when the person initially reports under this section and each
4 time the person reports annually under this section;

5 (B) May photograph the person or any identifying scars, marks or tattoos located on the person
6 when the person reports under any of the circumstances described in this section; and

7 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file
8 of the Department of State Police.

9 **SECTION 6.** ORS 163A.020 is amended to read:

10 163A.020. (1)(a) When a person described in subsection (6) of this section moves into this state
11 and is not otherwise required by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall
12 report, in person, to the Department of State Police, a city police department or a county sheriff's
13 office, in the county of the person's residence:

14 (A) No later than 10 days after moving into this state;

15 (B) Within 10 days of a change of residence;

16 (C) **Within 10 days of a legal change of name;**

17 [~~C~~] (D) Once each year within 10 days of the person's birth date, regardless of whether the
18 person changed residence;

19 [~~D~~] (E) Within 10 days of the first day the person works at, carries on a vocation at or attends
20 an institution of higher education; and

21 [~~E~~] (F) Within 10 days of a change in work, vocation or attendance status at an institution of
22 higher education.

23 (b) If a person required to report under this subsection has complied with the initial reporting
24 requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in per-
25 son, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the De-
26 partment of State Police, a city police department or a county sheriff's office, in the county of the
27 person's last reported residence.

28 (2)(a) When a person described in ORS 163A.010 (2) or 163A.015 (2) or subsection (6) of this
29 section attends school or works in this state, resides in another state and is not otherwise required
30 by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall report, in person, to the Depart-
31 ment of State Police, a city police department or a county sheriff's office, in the county in which the
32 school or place of work is located, no later than 10 days after:

33 (A) The first day of school attendance or the 14th day of employment in this state; and

34 (B) A change in school enrollment or employment.

35 (b) As used in this subsection, "attends school" means enrollment in any type of school on a
36 full-time or part-time basis.

37 (3)(a) When a person described in subsection (6) of this section resides in this state at the time
38 of the conviction or adjudication giving rise to the obligation to report, continues to reside in this
39 state following the conviction or adjudication and is not otherwise required by ORS 163A.010,
40 163A.015 or 163A.025 to report, the person shall report, in person, to the Department of State Police,
41 a city police department or a county sheriff's office, in the county of the person's residence:

42 (A) Within 10 days following:

43 (i) Discharge, release on parole or release on any form of supervised or conditional release, from
44 a jail, prison or other correctional facility or detention facility; or

45 (ii) Discharge, release or placement on probation, by another United States court;

1 (B) Within 10 days of a change of residence;

2 (C) **Within 10 days of a legal change of name;**

3 [(C)] (D) Once each year within 10 days of the person's birth date, regardless of whether the
4 person has changed residence;

5 [(D)] (E) Within 10 days of the first day the person works at, carries on a vocation at or attends
6 an institution of higher education; and

7 [(E)] (F) Within 10 days of a change in work, vocation or attendance status at an institution of
8 higher education.

9 (b) If a person required to report under this subsection has complied with the applicable initial
10 reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently re-
11 port, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to
12 the Department of State Police, a city police department or a county sheriff's office, in the county
13 of the person's last reported residence.

14 (4) When a person reports under this section, the agency to which the person reports shall
15 complete a sex offender registration form concerning the person.

16 (5) The obligation to report under this section terminates if the conviction or adjudication that
17 gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

18 (6) Subsections (1) to (5) of this section apply to a person convicted in another United States
19 court of a crime:

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

21 (b) For which the person would have to register as a sex offender in that court's jurisdiction,
22 or as required under federal law, regardless of whether the crime would constitute a sex crime in
23 this state.

24 (7) As part of the registration and reporting requirements of this section:

25 (a) The person required to report shall:

26 (A) Provide the information necessary to complete the sex offender registration form and sign
27 the form as required; and

28 (B) Submit to the requirements described in paragraph (b) of this subsection.

29 (b) The Department of State Police, the city police department or the county sheriff's office:

30 (A) Shall photograph the person when the person initially reports under this section, each time
31 the person reports annually under subsection [(1)(a)(C) or (3)(a)(C)] **(1)(a)(D) or (3)(a)(D)** of this
32 section and each time the person reports under subsection (2)(a)(B) of this section;

33 (B) May photograph the person or any identifying scars, marks or tattoos located on the person
34 when the person reports under any of the circumstances described in this section; and

35 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file
36 of the Department of State Police.

37 **SECTION 7.** ORS 163A.025, as amended by section 1, chapter 95, Oregon Laws 2016, is amended
38 to read:

39 163A.025. (1) A person found to be within the jurisdiction of the juvenile court under ORS
40 419C.005, or found by the juvenile court to be responsible except for insanity under ORS 419C.411,
41 for having committed an act that, if committed by an adult, would constitute a felony sex crime shall
42 report as a sex offender as described in subsections (2) to (4) of this section, unless the juvenile
43 court enters an order under ORS 163A.130 or 163A.135 relieving the person of the obligation to re-
44 port, if:

45 (a) The person has been ordered under ORS 163A.030 to report as a sex offender;

1 (b) The person was adjudicated, and the jurisdiction of the juvenile court or the Psychiatric
2 Security Review Board over the person ended, prior to August 12, 2015;

3 (c) The person was adjudicated prior to August 12, 2015, and the jurisdiction of the juvenile
4 court or the Psychiatric Security Review Board over the person ended after August 12, 2015, and
5 before April 4, 2016; or

6 (d) The person has been found in a juvenile adjudication in another United States court to have
7 committed an act while the person was under 18 years of age that would constitute a felony sex
8 crime if committed in this state by an adult.

9 (2) A person described in subsection (1)(a) or (d) of this section, or a person described in sub-
10 section (1)(c) of this section who did not make an initial report prior to April 4, 2016, who resides
11 in this state shall make an initial report, in person, to the Department of State Police, a city police
12 department or a county sheriff's office as follows:

13 (a) The person shall report no later than 10 days after the date of the court order requiring the
14 person to report under ORS 163A.030;

15 (b) If the person is adjudicated for the act giving rise to the obligation to report in another
16 United States court and the person is found to have committed an act that if committed by an adult
17 in this state would constitute:

18 (A) A Class A or Class B felony sex crime:

19 (i) If the person is not a resident of this state at the time of the adjudication, the person shall
20 make the initial report to the Department of State Police, a city police department or a county
21 sheriff's office, in the county of the person's residence, no later than 10 days after the date the
22 person moves into this state; or

23 (ii) If the person is a resident of this state at the time of the adjudication, the person shall make
24 the initial report to the Department of State Police, a city police department or a county sheriff's
25 office, in the county of the person's residence, no later than 10 days after the date the person is
26 discharged, released or placed on probation or any other form of supervised or conditional release
27 by the other United States court or, if the person is confined in a correctional facility by the other
28 United States court, no later than 10 days after the date the person is discharged or otherwise re-
29 leased from the facility.

30 (B) A Class C felony sex crime:

31 (i) If the person is not a resident of this state at the time of the adjudication, the person shall
32 make the initial report to the Department of State Police, a city police department or a county
33 sheriff's office, in the county of the person's residence, no later than six months after the date the
34 person moves into this state; or

35 (ii) If the person is a resident of this state at the time of the adjudication, the person shall make
36 the initial report to the Department of State Police, a city police department or a county sheriff's
37 office, in the county of the person's residence, no later than 10 days after the date the person is
38 discharged, released or placed on probation or any other form of supervised or conditional release
39 by the other United States court or, if the person is confined in a correctional facility by the other
40 United States court, no later than 10 days after the date the person is discharged or otherwise re-
41 leased from the facility; or

42 (c) For persons described in subsection (1)(c) of this section who did not make an initial report
43 prior to April 4, 2016, the person shall report no later than August 2, 2016.

44 (3) After making the initial report described in subsection (2) of this section or, for a person
45 described in subsection (1)(c) of this section who made an initial report prior to April 4, 2016, or a

1 person described in subsection (1)(b) of this section, beginning after April 4, 2016, the person shall
 2 report, in person, to the Department of State Police, a city police department or a county sheriff's
 3 office, in the county of the person's last reported residence:

4 (a) Within 10 days of a change of residence;

5 **(b) Within 10 days of a legal change of name;**

6 [(b)] (c) Once each year within 10 days of the person's birth date, regardless of whether the
 7 person changed residence;

8 [(c)] (d) Within 10 days of the first day the person works at, carries on a vocation at or attends
 9 an institution of higher education; and

10 [(d)] (e) Within 10 days of a change in work, vocation or attendance status at an institution of
 11 higher education.

12 (4) When a person described in subsection (1) of this section attends school or works in this
 13 state, resides in another state and is not otherwise required to report as a sex offender under this
 14 section or ORS 163A.010, 163A.015 or 163A.020, the person shall report, in person, to the Depart-
 15 ment of State Police, a city police department or a county sheriff's office, in the county in which the
 16 person attends school or works, no later than 10 days after:

17 (a) The first day of school attendance or the 14th day of employment in this state; and

18 (b) A change in school enrollment or employment.

19 (5) The agency to which a person reports under this section shall complete a sex offender reg-
 20 istration form concerning the person when the person reports under this section.

21 (6) As part of the registration and reporting requirements of this section:

22 (a) The person required to report shall:

23 (A) Provide the information necessary to complete the sex offender registration form and sign
 24 the form as required; and

25 (B) Submit to the requirements described in paragraph (b) of this subsection.

26 (b) The Department of State Police, Oregon Youth Authority, county juvenile department, city
 27 police department or county sheriff's office:

28 (A) Shall photograph the person when the person initially reports under this section and each
 29 time the person reports annually under this section;

30 (B) May photograph the person or any identifying scars, marks or tattoos located on the person
 31 when the person reports under any of the circumstances described in this section; and

32 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file
 33 of the Department of State Police.

34 (7) The obligation to report under this section is terminated if the adjudication that gave rise
 35 to the obligation is reversed or vacated.

36 (8) Notwithstanding subsections (2) and (3) of this section:

37 (a) The Oregon Youth Authority may authorize a youth offender committed to its custody and
 38 supervision by order of the juvenile court, or a person placed in its physical custody under ORS
 39 137.124 or any other provision of law, to report to the authority regardless of the youth offender's
 40 or the person's last reported residence.

41 (b) A county juvenile department may authorize a youth offender or young person, as those
 42 terms are defined in ORS 419A.004, to report to the department, regardless of the county of the
 43 youth offender's or the young person's last reported residence.

44 (c) In the event that a person reports to the authority or the department under this subsection,
 45 the authority or the department shall register the person.

1 **SECTION 8.** ORS 163A.040, as amended by section 4a, chapter 95, Oregon Laws 2016, is
2 amended to read:

3 163A.040. (1) A person who is required to report as a sex offender in accordance with the ap-
4 plicable provisions of ORS 163A.010, 163A.015, 163A.020 or 163A.025 and who has knowledge of the
5 reporting requirement commits the crime of failure to report as a sex offender if the person:

6 (a) Fails to make the initial report to an agency;

7 (b) Fails to report when the person works at, carries on a vocation at or attends an institution
8 of higher education;

9 (c) Fails to report following a change of school enrollment or employment status, including en-
10 rollment, employment or vocation status at an institution of higher education;

11 (d) [*Moves to a new residence and*] Fails to report [*the move and the person's new address*] a
12 **change of residence;**

13 (e) **Fails to report a legal change of name;**

14 [*e*] (f) Fails to make an annual report;

15 [*f*] (g) Fails to provide complete and accurate information;

16 [*g*] (h) Fails to sign the sex offender registration form as required;

17 [*h*] (i) Fails or refuses to participate in a sex offender risk assessment as directed by the State
18 Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board, Oregon Health
19 Authority or supervisory authority; or

20 [*i*] (j) Fails to submit to fingerprinting or to having a photograph taken of the person's face,
21 identifying scars, marks or tattoos.

22 (2)(a) It is an affirmative defense to a charge of failure to report under subsection (1)(d) of this
23 section by a person required to report under ORS 163A.010 (3)(a)(B), 163A.015 (4)(a)(B) or 163A.025
24 (3)(a) that the person reported, in person, within 10 days of a change of residence to the Department
25 of State Police, a city police department or a county sheriff's office, in the county of the person's
26 new residence, if the person otherwise complied with all reporting requirements.

27 (b) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this
28 section by a person required to report under ORS 163A.025 (2)(b)(A)(i) that the person reported, in
29 person, to the Department of State Police in Marion County, Oregon, within 10 days of moving into
30 this state.

31 (c) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this
32 section by a person required to report under ORS 163A.025 (2)(b)(B)(i) that the person reported, in
33 person, to the Department of State Police in Marion County, Oregon, within six months of moving
34 into this state.

35 (d) It is an affirmative defense to a charge of failure to report under subsection (1) of this sec-
36 tion by a person required to report under ORS 163A.025 (2)(b)(A)(ii) or (B)(ii) that the person re-
37 ported, in person, to the Department of State Police in Marion County, Oregon, if the person
38 otherwise complied with all reporting requirements.

39 (e) It is an affirmative defense to a charge of failure to report under subsection (1) of this sec-
40 tion by a person required to report under ORS 163A.025 (3) that the person reported, in person, to
41 the Department of State Police, a city police department or a county sheriff's office, in the county
42 of the person's residence, if the person otherwise complied with all reporting requirements.

43 (f) It is an affirmative defense to a charge of failure to report under subsection (1) of this section
44 by a person required to report under ORS 163A.010 (3) that the person reported to the Oregon Youth
45 Authority if the person establishes that the authority registered the person under ORS 163A.010

1 (3)(c).

2 (g) It is an affirmative defense to a charge of failure to report under subsection (1) of this sec-
 3 tion by a person required to report under ORS 163A.025 (2) or (3) that the person reported to the
 4 Oregon Youth Authority or a county juvenile department if the person establishes that the authority
 5 or department registered the person under ORS 163A.025 (8).

6 (3)(a) Except as otherwise provided in paragraph (b) of this subsection, failure to report as a sex
 7 offender is a Class A misdemeanor.

8 (b) Failure to report as a sex offender is a Class C felony if the person violates:

9 (A) Subsection (1)(a) of this section; or

10 (B) Subsection (1)(b), (c), (d), (e) or [(g)] (h) of this section and the crime for which the person
 11 is required to report is a felony.

12 (4) A person who fails to sign and return an address verification form as required by ORS
 13 163A.035 (4) commits a violation.

14 **SECTION 9.** ORS 163A.115 is amended to read:

15 163A.115. Notwithstanding any other provision of law:

16 (1) A person who is a sexually violent dangerous offender under ORS 137.765:

17 (a) Must be classified as a level three sex offender under ORS 163A.100 (3); and

18 (b) Is not eligible for relief from the obligation to report as a sex offender or reclassification as
 19 a level two sex offender under ORS 163A.100 (2), pursuant to a petition filed under ORS 163A.125.

20 (2) A person who has been convicted or found guilty except for insanity of one of the following
 21 offenses is not eligible for relief from the obligation to report as a sex offender pursuant to a peti-
 22 tion filed under ORS 163A.125 (1):

23 (a) Rape in the first degree;

24 (b) Sodomy in the first degree;

25 (c) Unlawful sexual penetration in the first degree;

26 (d) Kidnapping in the first degree as described in ORS 163.235 (1)(e) or when the victim is under
 27 18 years of age; or

28 (e) Burglary in the first degree when committed with the intent to commit any of the offenses
 29 listed in ORS 163A.005 [(5)(a)] (6)(a) to (w).

30 (3) A person classified as a level three sex offender under section 7 (2)(b), chapter 708, Oregon
 31 Laws 2013, is not eligible for relief from the obligation to report as a sex offender pursuant to a
 32 petition filed under ORS 163A.125 (1).
 33 _____