

SB 767-2
(LC 3407)
4/11/17 (JLM/ps)

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 767**

1 In line 2 of the printed bill, delete the period and insert “; amending ORS
2 163A.105 and 163A.110 and sections 7, 34 and 37, chapter 708, Oregon Laws
3 2013.”.

4 Delete lines 4 through 9 and insert:

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

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

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

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

16 “(2)(a) No later than December 1, [*2018*] **2022**, the State Board of Parole
17 and Post-Prison Supervision shall classify existing registrants in one of the
18 levels described in ORS [*181.800*] **163A.100.** No later than February 1, [*2019*]
19 **2023**, the Department of State Police shall enter the results of the classi-
20 fications described in this section into the Law Enforcement Data System.

21 “(b) The board shall classify an existing registrant as a level three sex

1 offender under ORS [181.800] **163A.100** (3), if:

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

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

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

18 “(3) As soon as practicable following the classification of an existing
19 registrant under this section, the classifying board shall notify the person
20 of the classification by mail.

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

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

29 “(c) After providing the person with notice and an opportunity to be
30 heard in accordance with this subsection, the board shall classify the person

1 in accordance with the classifications described in ORS [181.800] **163A.100**,
2 based on all of the information available to the classifying board.

3 “(5) The boards shall adopt rules to carry out the provisions of this sec-
4 tion.

5 “(6) An existing registrant may not petition for reclassification or relief
6 from the obligation to report as a sex offender as provided in ORS [181.821]
7 **163A.125** until either all existing registrants have been classified in one of
8 the levels described in ORS [181.800] **163A.100** or December 1, 2018, which-
9 ever occurs first.

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

15 “(8)(a) If the State Board of Parole and Post-Prison Supervision or the
16 Psychiatric Security Review Board does not classify an existing registrant
17 under ORS [181.800] **163A.100** because the person has failed or refused to
18 participate in a sex offender risk assessment as directed by the State Board
19 of Parole and Post-Prison Supervision or the Psychiatric Security Review
20 Board, [*the person is, by operation of law, classified*] **the appropriate board**
21 **shall classify the person** as a level three sex offender under ORS [181.800]
22 **163A.100** (3) [*as of January 1, 2019*].

23 “(b) **If an existing registrant classified as a level three sex offender**
24 **under this subsection notifies the State Board of Parole and Post-**
25 **Prison Supervision or the Psychiatric Security Review Board of the**
26 **willingness to participate in a sex offender risk assessment, the ap-**
27 **propriate board shall perform the assessment and classify the existing**
28 **registrant in one of the levels described in ORS 163A.100.**

29 “(9) **The State Board of Parole and Post-Prison Supervision or the**
30 **Psychiatric Security Review Board may reassess or reclassify an ex-**

1 **isting registrant placed in one of the levels described in ORS 163A.100**
2 **under this section if the classifying board determines that a factual**
3 **mistake caused an erroneous assessment or classification.**

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

5 “163A.105. (1) When a person convicted of a crime described in ORS
6 163.355 to 163.427 is sentenced to a term of imprisonment in a Department
7 of Corrections institution for that crime, the State Board of Parole and
8 Post-Prison Supervision shall assess the person utilizing the risk assessment
9 methodology described in ORS 163A.100. The board shall apply the results
10 of the assessment to place the person in one of the levels described in ORS
11 163A.100 before the person is released from custody.

12 “(2) When a person convicted of a sex crime is sentenced to a term of
13 incarceration in a jail, or is discharged, released or placed on probation by
14 the court, the supervisory authority as defined in ORS 144.087 shall assess
15 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
17 of the levels described in ORS 163A.100 no later than [60] **90** days after the
18 person is released from jail or discharged, released or placed on probation
19 by the court.

20 “(3)(a) When a person is found guilty except for insanity of a sex crime,
21 the Psychiatric Security Review Board or the Oregon Health Authority shall
22 assess the person utilizing the risk assessment methodology described in ORS
23 163A.100 and apply the results of the assessment to place the person in one
24 of the levels described in ORS 163A.100 no later than [60] **90** days after the
25 person is:

26 “(A) Placed on conditional release by the Psychiatric Security Review
27 Board or the Oregon Health Authority;

28 “(B) Discharged from the jurisdiction of the Psychiatric Security Review
29 Board or the Oregon Health Authority;

30 “(C) Placed on conditional release by the court pursuant to ORS 161.327;

1 or

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

3 “(b) If the State Board of Parole and Post-Prison Supervision previously
4 completed a risk assessment and assigned a classification level described in
5 ORS 163A.100 for a person described in paragraph (a) of this subsection, the
6 Psychiatric Security Review Board or the Oregon Health Authority need not
7 complete a reassessment for an initial classification.

8 “(c) The court shall notify the Psychiatric Security Review Board when
9 the court conditionally releases or discharges a person described in para-
10 graph (a) of this subsection.

11 “(d) The Psychiatric Security Review Board or the Oregon Health Au-
12 thority shall notify the State Board of Parole and Post-Prison Supervision
13 no later than seven days after the Psychiatric Security Review Board or the
14 authority conditionally releases or discharges a person who has a prior sex
15 crime conviction that obligates the person to report as a sex offender, unless
16 the person has also been found guilty except for insanity of a sex crime that
17 obligates the person to report as a sex offender.

18 “(4)(a) Within [60] **90** days after [*the event triggering the obligation to*
19 *make an initial report*] **receiving notice of a person’s obligation to report**
20 **in this state from the Department of State Police**, the State Board of
21 Parole and Post-Prison Supervision shall assess [*a*] **the** person utilizing the
22 risk assessment methodology described in ORS 163A.100 and apply the results
23 of the assessment to place the person in one of the levels described in ORS
24 163A.100 if the person[:]

25 “[*a*] has been convicted in another United States court of a crime:

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

27 “(B) For which the person would have to register as a sex offender in that
28 court’s jurisdiction, or as required under federal law, regardless of whether
29 the crime would constitute a sex crime in this state[; *or*].

30 “(b) **If a person** has been convicted of a sex crime and was sentenced to

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

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

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

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

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

30 “(c) **After providing the person with notice and an opportunity to**

1 be heard in accordance with this subsection, the board or authority
2 shall classify the person in accordance with the classifications de-
3 scribed in ORS 163A.100, based on all of the information available to
4 the classifying board or authority.

5 “(8)(a) If the State Board of Parole and Post-Prison Supervision, the
6 Psychiatric Security Review Board, the Oregon Health Authority or a
7 supervisory authority does not classify an person under ORS 163A.100
8 because the person has failed or refused to participate in a sex
9 offender risk assessment as directed by the board or authority, the
10 classifying board or authority shall classify the person as a level three
11 sex offender under ORS 163A.100 (3).

12 “(b) If person classified as a level three sex offender under this
13 subsection notifies the classifying board or authority of the willingness
14 to participate in a sex offender risk assessment, the classifying board
15 or authority shall perform the assessment and classify the person in
16 one of the levels described in ORS 163A.100.

17 “(9) The State Board of Parole and Post-Prison Supervision, the
18 Psychiatric Security Review Board and the Oregon Health Authority
19 may adopt rules to carry out the provisions of this section.

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

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

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

24 “SECTION 4. Section 37, chapter 708, Oregon Laws 2013, as amended by
25 section 29, chapter 820, Oregon Laws 2015, is amended to read:

26 “**Sec. 37.** The amendments to section 35, chapter 708, Oregon Laws 2013,
27 by section 36, chapter 708, Oregon Laws 2013, become operative on January
28 1, [2019] **2023**.

29 “SECTION 5. ORS 163A.110 is amended to read:

30 “163A.110. (1) ORS 163A.105 applies to persons for whom the event trig-

1 gering the obligation to make an initial report under ORS 163A.010 (3)(a)(A),
2 163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or (3)(a)(A) occurs on or
3 after January 1, 2014.

4 “(2) As used in this section [*and ORS 163A.105*], ‘event triggering the
5 obligation to make an initial report’ means:

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

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

9 “(B) Parole to this state under ORS 144.610 after being convicted in an-
10 other United States court of a crime that would constitute a sex crime if
11 committed in this state; or

12 “(C) Discharge by the court under ORS 161.329.

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

15 “(A) By the court; or

16 “(B) To or in this state under ORS 144.610 after being convicted in an-
17 other United States court of a crime that would constitute a sex crime if
18 committed in this state.

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

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

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

24 “(A) Discharge, release on parole or release on any form of supervised or
25 conditional release, from a jail, prison or other correctional facility or de-
26 tention facility; or

27 “(B) Discharge, release or placement on probation, by another United
28 States court.”.

29
