

House Bill 2472

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon Sexual Assault Task Force)

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**.

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 163A.030, 675.360,
3 675.365, 675.370, 675.375, 675.380, 675.382, 675.384, 675.385, 675.390, 675.395, 675.400, 675.410,
4 676.565 and 676.595; and prescribing an effective date.

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

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

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

14 **(2) To register as a sexual offense therapist intern under this section, the applicant shall:**

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

16 **(A) A request for registration; and**

17 **(B) A plan to complete the supervised clinical experience and training required for cer-**
18 **tification; and**

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

20 **(3) The office shall register the applicant as a sexual offense therapist intern upon receipt**
21 **and approval of the materials described in subsection (2) of this section.**

22 **(4) A sexual offense therapist intern shall renew the registration annually on or before**
23 **the first day of the month in which the office approved the initial registration. To renew a**
24 **registration, the sexual offense therapist intern shall:**

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

26 **(A) A renewal application; and**

27 **(B) Documentation of the sexual offense therapist intern's fulfillment of other require-**
28 **ments of the office; and**

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

30 **(5) The office shall terminate the registration of a sexual offense therapist intern who**

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 **fails to apply for renewal of registration within 30 days of the date described in subsection**
 2 **(4) of this section.**

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

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

6 675.360. (1) The Legislative Assembly hereby declares that the comprehensive treatment of sex
 7 offenders who are subject to the supervision of the criminal justice and juvenile justice systems and
 8 the Oregon Health Authority is necessary in order to work toward the elimination of sex offenses.
 9 The Legislative Assembly hereby recognizes that [*sex offender*] **sexual offense** therapists who ex-
 10 amine and treat sex offenders therefore occupy a vital role in protecting the public from sex
 11 offenders who remain in the community prior to or following disposition or who will reenter the
 12 community following a period of incarceration.

13 (2) The Legislative Assembly further finds that the qualifications, practices, techniques and
 14 levels of effectiveness of [*sex offender*] **sexual offense** therapists vary widely and that the court's
 15 ability to effectively determine appropriate sentencing and monitoring for sex offenders, thus cur-
 16 tailing the incidence of recidivism in such offenders and enhancing the protection of victims and
 17 potential victims, is undermined by a lack of regulated standards of practice and professional re-
 18 sponsibility.

19 (3) The Legislative Assembly recognizes the right of [*sex offender*] **sexual offense** therapists to
 20 practice, consistent with the paramount requirement of public safety. Public safety is best served
 21 by regulating [*sex offender*] **sexual offense** therapists whose clients are being treated under alter-
 22 native sentencing or disposition, parole, post-prison supervision, supervision by a county juvenile
 23 department or custody of the Oregon Health Authority or the Oregon Youth Authority.

24 (4) ORS 675.375 establishes the titles certified clinical [*sex offender*] **sexual offense** therapist
 25 and certified associate [*sex offender*] **sexual offense** therapist. ORS 675.360 to 675.410 do not pro-
 26 hibit others from providing services to treat sex offenders. However, only those [*certified*] **author-**
 27 **ized** under ORS 675.360 to 675.410 shall represent the designated titles to the public. Adult and
 28 juvenile parole and probation authorities and the Oregon Health Authority may restrict their re-
 29 ferrals to those providers who are [*certified*] **authorized** under ORS 675.360 to 675.410.

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

31 675.365. As used in ORS 675.360 to 675.410:

32 (1) "Certified associate [*sex offender*] **sexual offense** therapist" means a person who is certified
 33 under ORS 675.375 or 675.380 to provide services for the treatment and rehabilitation of persons
 34 described in ORS 675.368 while under the direct supervision of a certified clinical [*sex offender*]
 35 **sexual offense** therapist.

36 (2) "Certified clinical [*sex offender*] **sexual offense** therapist" means a person who is certified
 37 under ORS 675.375 or 675.380 to provide services for the treatment and rehabilitation of persons
 38 described in ORS 675.368 and who may supervise certified associate [*sex offender*] **sexual offense**
 39 therapists **and certified secondary clinical sexual offense therapists.**

40 (3) "Certified secondary [*associate sex offender*] **clinical sexual offense** therapist" means a per-
 41 son who is certified under ORS 675.375 or 675.380 to provide limited services for the treatment and
 42 rehabilitation of persons described in ORS 675.368 under the direct supervision of a certified clinical
 43 [*sex offender*] **sexual offense** therapist.

44 (4) "Certified [*sex offender*] **sexual offense** therapist" means a certified clinical [*sex offender*]
 45 **sexual offense** therapist, a certified associate [*sex offender*] **sex offender** therapist or a certified

1 secondary [*associate sex offender*] **clinical sexual offense** therapist.

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

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

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

8 (6) “Professional disclosure statement” means a statement about an applicant for certification
9 under ORS 675.375 or 675.380 that includes the following information:

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

11 (b) Philosophy and approach to treatment and rehabilitation of persons described in ORS
12 675.368;

13 (c) Formal education and training;

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

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

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

18 (7) “Sexual abuse specific treatment” means the process of evaluation, assessment and reforma-
19 tion of persons described in ORS 675.368.

20 (8) **“Sexual offense therapist intern” means a person who is registered under section 2
21 of this 2019 Act.**

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

23 675.370. (1) A person may not:

24 (a) Engage in the practice of sexual abuse specific treatment or assume or use any title, words
25 or abbreviations, including the title or designation “certified clinical [*sex offender*] **sexual offense**
26 therapist,” “certified associate [*sex offender*] **sexual offense** therapist,” [*or*] “certified secondary
27 [*associate sex offender*] **clinical sexual offense** therapist[,]” **or “sexual offense therapist intern,”**
28 that indicate that the person is authorized to engage in the practice of sexual abuse specific treat-
29 ment unless the person holds [*a certificate*] **an authorization** issued under ORS 675.375 or 675.380
30 **or section 2 of this 2019 Act.**

31 (b) Attempt to obtain [*a certificate*] **an authorization** or renewal of [*a certificate*] **an authori-
32 zation** under ORS 675.360 to 675.380 by bribery or fraudulent representation.

33 (2) Subsection (1) of this section does not prohibit a person who is authorized to practice a
34 mental health profession other than sexual abuse specific treatment under the laws of this state[:]

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

36 [(b) *From providing sexual abuse specific treatment if the provision of sexual abuse specific treat-
37 ment is within the person’s scope of practice*], **if the person is not also engaging in the practice
38 of sexual abuse specific treatment.**

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

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

41 675.375. (1) To obtain certification as a clinical [*sex offender*] **sexual offense** therapist, associate
42 [*sex offender*] **sexual offense** therapist or secondary [*associate sex offender*] **clinical sexual offense**
43 therapist, an applicant must complete an application developed and prescribed by the [*Sex
44 Offender*] **Sexual Offense** Treatment Board and file a professional disclosure statement with the
45 Health Licensing Office. The documents must be accompanied by the applicable fees established

1 under ORS 676.576.

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

- 4 (a) Clinical [*sex offender*] **sexual offense** therapist;
- 5 (b) Associate [*sex offender*] **sexual offense** therapist; and
- 6 (c) Secondary [*associate sex offender*] **clinical sexual offense** therapist.

7 (3) To qualify as a certified clinical [*sex offender*] **sexual offense** therapist, the applicant must:

- 8 (a) Be in compliance with applicable provisions and rules adopted by the office;
- 9 (b) Have at least a master's degree in the behavioral sciences;
- 10 (c) Have an active Oregon mental health professional license or equivalent license as determined

11 by the office;

12 (d) Within not less than three years nor more than six years prior to application, have had a
13 minimum of 2,000 hours of direct clinical contact with persons described in ORS 675.368, including:

- 14 (A) 1,000 hours of direct treatment services; and
- 15 (B) 500 hours of evaluations; and

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

18 (4) To qualify as a certified associate [*sex offender*] **sexual offense** therapist, the applicant must:

- 19 (a) Be in compliance with applicable provisions and rules adopted by the office;
- 20 (b) Have at least a bachelor's degree in the behavioral sciences;

21 (c) Have had a minimum of 1,000 hours of direct clinical contact with persons described in ORS
22 675.368;

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

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

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

- 28 (a) Be in compliance with applicable provisions and rules adopted by the office;
- 29 (b) Have at least a master's degree in the behavioral sciences;

30 (c) Have an active Oregon mental health professional license or equivalent license as determined
31 by the office or be a registered intern for a mental health professional licensed in Oregon;

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

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

36 (f) Provide sexual abuse specific treatment services to not more than nine clients in a calendar
37 month, unless the applicant is accruing hours to qualify for application as a certified associate [*sex*
38 *offender*] **sexual offense** therapist.

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

40 675.380. Upon receipt of an application and the applicable fees established under ORS 676.576,
41 the Health Licensing Office shall certify a clinical [*sex offender*] **sexual offense** therapist, associate
42 [*sex offender*] **sexual offense** therapist or secondary [*associate sex offender*] **clinical sexual offense**
43 therapist if the applicant provides evidence to the satisfaction of the office that the applicant is
44 recognized as a clinical [*sex offender*] **sexual offense** therapist, associate [*sex offender*] **sexual of-**
45 **fense** therapist or secondary [*associate sex offender*] **clinical sexual offense** therapist in another

1 state in which the requirements for recognition are, in the judgment of the office, in consultation
2 with the [*Sex Offender*] **Sexual Offense** Treatment Board, at least equivalent to the requirements
3 of ORS 675.360 to 675.410 and rules of the office.

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

5 675.382. (1) ORS 675.360 to 675.410 do not apply to:

6 (a) A student enrolled in an approved educational program who is pursuing a graduate degree
7 in a mental health field, if the student provides sexual abuse specific treatment services only for
8 academic credit as part of an organized and supervised training program.

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

12 (c) A person who is a recognized member of the clergy, if the person is acting in the person's
13 capacity as a member of the clergy.

14 (2) A person described in subsection (1) of this section may not use the title "certified clinical
15 [*sex offender*] **sexual offense** therapist," "certified associate [*sex offender*] **sexual offense**
16 therapist," "certified secondary [*associate sex offender*] **clinical sexual offense** therapist," [*or*]
17 "**sexual offense therapist intern**" or a similar title.

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

19 675.384. A person who engages in the practice of sexual abuse specific treatment as a certified
20 clinical [*sex offender*] **sexual offense** therapist, and who did not hold an active Oregon mental
21 health professional license or equivalent license as determined by the Health Licensing Office as
22 of the date of the person's initial certification, may continue to engage in the practice of sexual
23 abuse specific treatment as a certified clinical [*sex offender*] **sexual offense** therapist only if the
24 person obtains an Oregon mental health professional license or equivalent license as determined by
25 the office not later than January 1, 2021.

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

27 675.385. (1) In the manner prescribed in ORS chapter 183 for contested cases, and at the direc-
28 tion of the [*Sex Offender*] **Sexual Offense** Treatment Board, the Health Licensing Office may impose
29 a form of discipline listed in ORS 676.612 against a certified clinical [*sex offender*] **sexual offense**
30 therapist, certified associate [*sex offender*] **sexual offense** therapist [*or*], certified secondary [*asso-*
31 *ciate sex offender*] **clinical sexual offense** therapist or **sexual offense therapist intern** for any of
32 the grounds listed in ORS 676.612 and for any violation of the provisions of, or rules adopted under,
33 ORS 675.360 to 675.410.

34 (2) The office may impose disciplinary sanctions against a certified clinical [*sex offender*] **sexual**
35 **offense** therapist, certified associate [*sex offender*] **sexual offense** therapist [*or*], certified secondary
36 [*associate sex offender*] **clinical sexual offense** therapist or **sexual offense therapist intern** for any
37 of the following reasons:

38 (a) The person was convicted of violating ORS 675.390, or of a felony or misdemeanor that
39 brings into question the person's competence or integrity as a certified clinical [*sex offender*] **sexual**
40 **offense** therapist, certified associate [*sex offender*] **sexual offense** therapist [*or*], certified secondary
41 [*associate sex offender*] **clinical sexual offense** therapist or **sexual offense therapist intern**.

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

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

1 (d) The person has failed to file or has filed a false, misleading or incomplete professional dis-
 2 closure statement with the office.

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

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

6 675.390. A certified *[sex offender]* **sexual offense** therapist, or any employee of a certified *[sex*
 7 *offender]* **sexual offense** therapist, may not disclose any communication made by a client during the
 8 course of noninvestigatory professional treatment or rehabilitation, except:

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

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

13 (3) When the communication reveals the intent to commit a crime harmful to the client or oth-
 14 ers;

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

17 (5) To juvenile and adult parole and probation officers supervising the client under a mandated
 18 sex offender treatment condition imposed by a court 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 established within the Health
 21 Licensing Office. The board shall consist of seven members appointed by the Governor from lists of
 22 recommended persons submitted as provided in subsection (2) of this section. All members of the
 23 board must be residents of this state.

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

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

27 (b) Two shall be from a list submitted by the Oregon Adolescent Sex Offending Treatment Net-
 28 work or a successor organization;

29 (c) One shall be from a list submitted by the Oregon Association of Community Corrections Di-
 30 rectors;

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

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

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

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

41 (5) The board shall select one of its members to serve as chair and another to serve as vice
 42 chair, for those terms and with such duties and powers necessary for the performance of the func-
 43 tions of those offices as the board determines.

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

45 (7) The board shall meet at times and places specified by the call of the chair or of a majority

1 of the members of the board. The board shall meet at least once each calendar year.

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

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

8 675.400. The [*Sex Offender*] **Sexual Offense** Treatment Board shall:

9 (1) Determine the qualifications and fitness of applicants for [*certification*] **authorization** as
10 clinical [*sex offender*] **sexual offense** therapists [*or*], associate [*sex offender*] **sexual offense** thera-
11 pists, **secondary clinical sexual offense therapists and sexual offense therapist interns** under
12 ORS 675.360 to 675.380.

13 (2) Establish standards of practice and professional responsibility for persons [*certified*] **au-**
14 **thorized** by the Health Licensing Office.

15 (3) Adopt standards for training, including but not limited to training related to the treatment
16 of distinct sex offender populations, including adults, juveniles, persons with developmental disabil-
17 ities and others.

18 (4) Advise the office on all matters related to administering ORS 675.360 to 675.410 and recom-
19 mend rules, standards and guidelines necessary for the administration of ORS 675.360 to 675.380.

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

21 675.410. (1) The Health Licensing Office shall:

22 (a) Issue [*certifications*] **authorizations** to persons determined by the office to be qualified.

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

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

27 (d) Keep a record of its proceedings related to the issuance, refusal, suspension and revocation
28 of [*certifications*] **authorizations** issued under ORS 675.360 to 675.380.

29 (e) In consultation with the [*Sex Offender*] **Sexual Offense** Treatment Board, create a multidis-
30 ciplinary advisory committee within the board. Persons who are not board members may be ap-
31 pointed as nonvoting members to serve on the multidisciplinary advisory committee with the
32 approval of the board.

33 (2) The office may:

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

36 (b) Provide for waivers of examinations, grandfathering requirements and temporary [*certif-*
37 *ications*] **authorizations** as considered appropriate.

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

41
42 **CONFORMING AMENDMENTS**

43
44 **SECTION 15.** ORS 163A.030 is amended to read:

45 163A.030. (1)(a) Except as provided in subsection (6) of this section, the juvenile court shall hold

1 a hearing on the issue of reporting as a sex offender by a person who has been found to be within
 2 the jurisdiction of the juvenile court under ORS 419C.005, or found by the juvenile court to be re-
 3 sponsible except for insanity under ORS 419C.411, for having committed an act that if committed
 4 by an adult would constitute a felony sex crime if:

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

6 (B) The person was adjudicated before August 12, 2015, and was still under the jurisdiction of
 7 the juvenile court or the Psychiatric Security Review Board on April 4, 2016.

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

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

12 (B) During the six-month period after the court receives the notice described in subsection (2)
 13 of this section from the Psychiatric Security Review Board, if the person was placed under the ju-
 14 risdiction of the board.

15 (c) The court shall notify the person of the person's right to a hearing under this section upon
 16 finding the person within the jurisdiction of the juvenile court under ORS 419C.005.

17 (2)(a) The county or state agency responsible for supervising the person shall notify the person
 18 and the juvenile court when the agency determines that termination of jurisdiction is likely to occur
 19 within six months.

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

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

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

25 (b) Set an initial hearing date; and

26 (c) Notify the parties and the juvenile department or the Psychiatric Security Review Board, if
 27 the department or board is supervising or has jurisdiction over the person, of the hearing at least
 28 60 days before the hearing date.

29 (4)(a) A person who is the subject of a hearing under this section has the right to be represented
 30 by a suitable attorney possessing skills and experience commensurate with the nature and com-
 31 plexity of the case, to consult with the attorney prior to the hearing and, if financially eligible, to
 32 have a suitable attorney appointed at state expense.

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

35 (A) Continue the appointment of the attorney appointed under ORS 419C.200 at the time of dis-
 36 position;

37 (B) Set a date prior to the hearing under this section in order to reappoint the attorney ap-
 38 pointed under ORS 419C.200; or

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

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

43 (b) If the person is under the jurisdiction of the Psychiatric Security Review Board, the board
 44 shall notify the following of the hearing:

45 (A) The mental health agency providing services to the person, if any;

1 (B) The person's board defense attorney; and

2 (C) The assistant attorney general representing the state at board hearings.

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

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

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

10 (a) The district attorney, the victim, the person and the juvenile department or a representative
11 of the Oregon Youth Authority shall have an opportunity to be heard.

12 (b) The person who is the subject of the hearing has the burden of proving by clear and con-
13 vincing evidence that the person is rehabilitated and does not pose a threat to the safety of the
14 public. If the court finds that the person has not met the burden of proof, the court shall enter an
15 order requiring the person to report as a sex offender under ORS 163A.025.

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

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

19 (b) The nature of the act that subjected the person to the duty of reporting as a sex offender;

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

21 (d) Whether the act was premeditated;

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

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

25 (g) The vulnerability of the victim;

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

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

30 (j) The person's willingness to accept personal responsibility for the act and personal account-
31 ability for the consequences of the act;

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

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

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

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

38 (C) The person's compliance with court, board or supervision requirements regarding treatment;

39 and

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

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

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

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

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

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

1 (r) The protection afforded the public by records of sex offender registration; and

2 (s) Any other relevant factors.

3 (9) In a hearing under this section, the juvenile court may receive testimony, reports and other
 4 evidence, without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and
 5 40.310 to 40.585, if the evidence is relevant evidence related to the determination and findings re-
 6 quired under this section. As used in this subsection, “relevant evidence” has the meaning given
 7 that term in ORS 40.150.

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

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

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

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

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

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

27 (12) Notwithstanding ORS 419C.005 (4)(c), (d) and (e), the juvenile court retains jurisdiction over
 28 a person for purposes of this section.

29 (13) As used in this section, “parties” means the person, the state as represented by the district
 30 attorney or the juvenile department, and the Oregon Youth Authority or other child care agency,
 31 if the person is temporarily committed to the authority or agency.

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

34 676.565. Pursuant to ORS 676.568, the Health Licensing Office shall provide administrative and
 35 regulatory oversight and centralized service for the following boards, councils and programs:

- 36 (1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;
- 37 (2) Board of Cosmetology, as provided in ORS 690.005 to 690.225;
- 38 (3) State Board of Denture Technology, as provided in ORS 680.500 to 680.565;
- 39 (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;
- 40 (5) Respiratory Therapist and Polysomnographic Technologist Licensing Board, as provided in
 41 ORS 688.800 to 688.840;
- 42 (6) Environmental Health Registration Board, as provided in ORS chapter 700;
- 43 (7) Board of Electrologists and Body Art Practitioners, as provided in ORS 690.350 to 690.410;
- 44 (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.170;
- 45 (9) [*Sex Offender*] **Sexual Offense** Treatment Board, as provided in ORS 675.360 to 675.410;

- 1 (10) Long Term Care Administrators Board, as provided in ORS 678.710 to 678.820;
- 2 (11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485;
- 3 (12) Behavior Analysis Regulatory Board, as provided in ORS 676.806;
- 4 (13) Board of Certified Advanced Estheticians, as provided in ORS 676.630 to 676.660;
- 5 (14) Art therapy, as provided in ORS 681.740 to 681.758; and
- 6 (15) Lactation consultation, as provided in ORS 676.665 to 676.689.

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

9 676.595. (1) As used in this section, “board” means the:

- 10 (a) [*Sex Offender*] **Sexual Offense** Treatment Board established under ORS 675.395.
- 11 (b) Behavior Analysis Regulatory Board created under ORS 676.806.
- 12 (c) Long Term Care Administrators Board established under ORS 678.800.
- 13 (d) State Board of Denture Technology established under ORS 680.556.
- 14 (e) State Board of Direct Entry Midwifery established under ORS 687.470.
- 15 (f) Board of Athletic Trainers established under ORS 688.705.
- 16 (g) Respiratory Therapist and Polysomnographic Technologist Licensing Board established under
 17 ORS 688.820.
- 18 (h) Board of Licensed Dietitians established under ORS 691.485.
- 19 (i) Environmental Health Registration Board established under ORS 700.210.

20 (2) Except to the extent that disclosure is necessary to conduct a full and proper investigation,
 21 the Health Licensing Office may not disclose information, including complaints and information
 22 identifying complainants, obtained 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 to 680.565, 687.405 to
 24 687.495, 688.701 to 688.734, 688.800 to 688.840 or 691.405 to 691.485 or ORS chapter 700.
- 25 (b) ORS 676.560 to 676.625 if the investigation is related to the regulation of:
 - 26 (A) [*Sex offender therapy*] **Sexual abuse specific treatment** under ORS 675.360 to 675.410;
 - 27 (B) Applied behavior analysis under ORS 676.810 to 676.820;
 - 28 (C) Nursing home administration and residential care facility administration under ORS 678.710
 29 to 678.820;
 - 30 (D) The practice of denture technology under ORS 680.500 to 680.565;
 - 31 (E) Direct entry midwifery under ORS 687.405 to 687.495;
 - 32 (F) Athletic training under ORS 688.701 to 688.734;
 - 33 (G) Respiratory care and polysomnography under ORS 688.800 to 688.840;
 - 34 (H) Dietetics under ORS 691.405 to 691.485; or
 - 35 (I) Environmental or waste water sanitation under ORS chapter 700.

36 (3) Notwithstanding subsection (2) of this section, if the office decides not to impose a discipli-
 37 nary sanction after conducting an investigation described in subsection (2) of this section:

38 (a) The office shall disclose information obtained as part of the investigation if the person re-
 39 questing the information demonstrates by clear and convincing evidence that the public interest in
 40 disclosure outweighs other interests in nondisclosure, including the public interest in nondisclosure.

41 (b) The office may disclose to a complainant who made a complaint related to the investigation
 42 a written summary of information obtained as part of the investigation to the extent that disclosure
 43 is necessary to explain the office’s decision. The person who is the subject of the investigation may
 44 review and obtain a copy of a written summary disclosed under this paragraph after the office has
 45 redacted any information identifying the complainant.

1 (4) Notwithstanding subsection (2) of this section, if a decision is made to impose a disciplinary
 2 sanction and to issue a notice of intent to impose a disciplinary sanction after conducting an in-
 3 vestigation described in subsection (2) of this section, upon written request by the person who is the
 4 subject of the investigation, the office shall disclose to the person all information obtained by the
 5 office during the investigation, except that the office may not disclose:

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

7 (b) Information identifying a person who provided information that led to the investigation, un-
 8 less the person will provide testimony at a hearing arising out of the investigation.

9 (c) Information identifying a complainant.

10 (d) Reports of expert witnesses.

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

14 (6) The office shall disclose:

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

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

17 (c) An emergency suspension order.

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

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

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

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

23 (b) An emergency suspension order; or

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

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

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

32 (9)(a) Notwithstanding subsection (2) of this section, the office is not publicly disclosing infor-
 33 mation when the office permits other public officials and members of the press to attend executive
 34 sessions where information obtained as part of an investigation is discussed. Public officials and
 35 members of the press attending such executive sessions may not disclose information obtained as
 36 part of an investigation to any other member of the public.

37 (b) For purposes of this subsection, "public official" means a member, member-elect or employee
 38 of a public entity as defined in ORS 676.177.

39 (10) The office may establish fees reasonably calculated to reimburse the actual cost of disclos-
 40 ing information to a person against whom discipline is sought as required by subsection (4) of this
 41 section.

42
 43 **CAPTIONS**

44
 45 **SECTION 18. The unit captions used in this 2019 Act are provided only for the conven-**

1 ience of the reader and do not become part of the statutory law of this state or express any
2 legislative intent in the enactment of this 2019 Act.

3
4 **DATES**

5
6 **SECTION 19.** (1) Section 2 of this 2019 Act and the amendments to ORS 163A.030, 675.360,
7 675.365, 675.370, 675.375, 675.380, 675.382, 675.384, 675.385, 675.390, 675.395, 675.400, 675.410,
8 676.565 and 676.595 by sections 3 to 17 of this 2019 Act become operative on January 1, 2020.

9 (2) The Health Licensing Office and the Sex Offender Treatment Board may take any
10 action before the operative date specified in subsection (1) of this section that is necessary
11 to enable the office and the Sexual Offense Treatment Board to exercise, on and after the
12 operative date specified in subsection (1) of this section, all of the duties, functions and
13 powers conferred on the office and the Sexual Offense Treatment Board by section 2 of this
14 2019 Act and the amendments to ORS 163A.030, 675.360, 675.365, 675.370, 675.375, 675.380,
15 675.382, 675.384, 675.385, 675.390, 675.395, 675.400, 675.410, 676.565 and 676.595 by sections 3 to
16 17 of this 2019 Act.

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