

# House Bill 2035

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for State Board of Parole and Post-Prison Supervision)

## 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**.

Provides that person required to report as sex offender in this state due to conviction from another jurisdiction may not petition for relief from reporting requirement in this state unless person is no longer required to report as sex offender in jurisdiction of conviction.

## A BILL FOR AN ACT

1  
2 Relating to sex offender reporting; creating new provisions; and amending ORS 163A.125.

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

4 **SECTION 1.** ORS 163A.125 is amended to read:

5 163A.125. (1)(a) A person who is required to report as a sex offender under ORS 163A.010,  
6 163A.015 or 163A.020 due to a conviction for a sex crime and is classified as a level one sex offender  
7 under ORS 163A.100 (1) may petition the State Board of Parole and Post-Prison Supervision to re-  
8 lieve the person from the obligation to report as a sex offender under ORS 163A.010, 163A.015 or  
9 163A.020.

10 (b) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
11 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is  
12 classified as a level one sex offender under ORS 163A.100 (1), may petition the Psychiatric Security  
13 Review Board to relieve the person from the obligation to report as a sex offender under ORS  
14 163A.010, 163A.015 or 163A.020.

15 (c)(A) Except as otherwise provided in subparagraph (B) of this paragraph, a person described  
16 in paragraph (a) or (b) of this subsection may file the petition no sooner than five years after the  
17 date supervision for the sex crime is terminated or, if the person was not subject to supervision for  
18 the sex crime, five years after the date the person was discharged from the jurisdiction of the court,  
19 Psychiatric Security Review Board or Oregon Health Authority.

20 (B) A person who was reclassified under subsection (2) of this section from a level two sex  
21 offender under ORS 163A.100 (2) to a level one sex offender under ORS 163A.100 (1) may file the  
22 petition no sooner than five years after the date of reclassification.

23 (d) Notwithstanding paragraph (c) of this subsection, if a person is required to report because  
24 of a conviction or finding of guilty except for insanity from another United States court as that term  
25 is defined in ORS 163A.005, the person may not petition for relief from reporting as a sex offender  
26 in Oregon unless:

27 (A) The *[laws of]* **person is no longer required to report as a sex offender in** the jurisdiction  
28 where the person was convicted or found guilty except for insanity *[would permit a petition for relief*  
29 *from reporting as a sex offender.]; and*

30 (B) **The person, at the time of filing the petition, provides an official document from the**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **jurisdiction where the person was convicted or found guilty except for insanity establishing**  
2 **that the person is no longer required to report as a sex offender in the other jurisdiction.**

3 (2)(a) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
4 163A.020 due to a conviction for a sex crime and is classified as a level three sex offender under  
5 ORS 163A.100 (3) may petition the State Board of Parole and Post-Prison Supervision to reclassify  
6 the person as a level two sex offender under ORS 163A.100 (2).

7 (b) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
8 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is  
9 classified as a level three sex offender under ORS 163A.100 (3), may petition the Psychiatric Security  
10 Review Board to reclassify the person as a level two sex offender under ORS 163A.100 (2).

11 (c) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
12 163A.020 due to a conviction for a sex crime and is classified as a level two sex offender under ORS  
13 163A.100 (2) may petition the State Board of Parole and Post-Prison Supervision to reclassify the  
14 person as a level one sex offender under ORS 163A.100 (1).

15 (d) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
16 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is  
17 classified as a level two sex offender under ORS 163A.100 (2), may petition the Psychiatric Security  
18 Review Board to reclassify the person as a level one sex offender under ORS 163A.100 (1).

19 (e) The petition described in this subsection may be filed no sooner than 10 years after the date  
20 supervision for the sex crime is terminated or, if the person was not subject to supervision for the  
21 sex crime, 10 years after the date the person was discharged from the jurisdiction of the court,  
22 Psychiatric Security Review Board or Oregon Health Authority.

23 (3)(a) The State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review  
24 Board shall deny a petition filed under this section if, at any time after the person is convicted or  
25 found guilty except for insanity of a sex crime, the person is convicted of or found guilty except for  
26 insanity of a person felony or a person Class A misdemeanor, as those terms are defined in the rules  
27 of the Oregon Criminal Justice Commission.

28 (b) The appropriate board shall deny a petition filed under subsection (2)(c) or (d) of this section  
29 if the board has previously reclassified the person as a level two sex offender under ORS 163A.100  
30 (2) as the result of a petition filed under subsection (2)(a) or (b) of this section.

31 (4)(a) Except as otherwise provided in subsection (3) of this section, if a person files a petition  
32 under subsection (1) of this section, the State Board of Parole and Post-Prison Supervision or the  
33 Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an  
34 order relieving the person of the obligation to report as a sex offender under ORS 163A.010,  
35 163A.015 or 163A.020 if the board determines, by clear and convincing evidence, that the person:

36 (A) Is statistically unlikely to reoffend; and

37 (B) Does not pose a threat to the safety of the public.

38 (b)(A) Except as otherwise provided in subsection (3) of this section, if a person files a petition  
39 under subsection (2)(a) or (b) of this section, the State Board of Parole and Post-Prison Supervision  
40 or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter  
41 an order reclassifying the person as a level two sex offender under ORS 163A.100 (2) if, after com-  
42 pletion of a new risk assessment utilizing the risk assessment methodology described in ORS  
43 163A.100, the person is classified as presenting a low or moderate risk of reoffending and the board  
44 determines that a lower level of notification is sufficient to protect public safety.

45 (B) Except as otherwise provided in subsection (3) of this section, if a person files a petition

1 under subsection (2)(c) or (d) of this section, the State Board of Parole and Post-Prison Supervision  
2 or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter  
3 an order reclassifying the person as a level one sex offender under ORS 163A.100 (1) if, after com-  
4 pletion of a new risk assessment utilizing the risk assessment methodology described in ORS  
5 163A.100, the person is classified as presenting a low risk of reoffending and the board determines  
6 that a lower level of notification is sufficient to protect public safety.

7 (5) In making the determinations described in subsection (4) of this section, the State Board of  
8 Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall consider:

9 (a) The nature of and degree of violence involved in the offense that requires reporting;

10 (b) The age and number of victims of the offense that requires reporting;

11 (c) The age of the person at the time of the offense that requires reporting;

12 (d) The length of time since the offense that requires reporting and the time period during which  
13 the person has not reoffended;

14 (e) The person's performance on supervision for the offense that requires reporting;

15 (f) Whether the person has participated in or successfully completed a court-approved sex  
16 offender treatment program or any other rehabilitative programs;

17 (g) The person's stability in employment and housing;

18 (h) The person's community and personal support system;

19 (i) Other criminal and relevant noncriminal behavior of the person both before and after the  
20 offense that requires reporting; and

21 (j) Any other relevant factors.

22 (6)(a) The Attorney General may represent the state at a hearing conducted under this section  
23 unless the district attorney of the county in which the person was convicted or, if the conviction for  
24 which the person is required to report as a sex offender was entered in another United States court,  
25 the district attorney of the county in which the person resides, elects to represent the state.

26 (b) If a district attorney elects to represent the state, the district attorney shall give timely  
27 written notice of the election to the Attorney General, the State Board of Parole and Post-Prison  
28 Supervision or the Psychiatric Security Review Board and the person who is the subject of the  
29 hearing.

30 (c) If the district attorney declines to represent the state, the district attorney shall cooperate  
31 with the Attorney General in securing the material necessary to represent the state.

32 (7)(a) When the State Board of Parole and Post-Prison Supervision or the Psychiatric Security  
33 Review Board enters an order under this section relieving a person of the obligation to report as  
34 a sex offender under ORS 163A.010, 163A.015 or 163A.020 or enters an order reclassifying a person  
35 as a level two sex offender under ORS 163A.100 (2) or as a level one sex offender under ORS  
36 163A.100 (1), the board shall forward a copy of the order to the Department of State Police.

37 (b) Upon receipt of an order relieving a person of the obligation to report, the department shall  
38 remove from the Law Enforcement Data System the sex offender information obtained from the sex  
39 offender registration form submitted under ORS 163A.010, 163A.015 or 163A.020.

40 (c) Upon receipt of an order reclassifying a person as a level two sex offender under ORS  
41 163A.100 (2) or as a level one sex offender under ORS 163A.100 (1), the department shall update the  
42 Law Enforcement Data System to reflect the reclassification.

43 (8) The State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review  
44 Board shall adopt rules to carry out the provisions of this section. The rules may include a filing  
45 fee in an amount determined by the appropriate board. All fees paid under this subsection shall be

1 deposited into the General Fund and credited to the account of the appropriate board.

2 (9) As used in this section, “supervision” means probation, parole, post-prison supervision or any  
3 other form of supervised or conditional release.

4 **SECTION 2. The amendments to ORS 163A.125 by section 1 of this 2021 Act apply to pe-**  
5 **titions for relief filed on or after the effective date of this 2021 Act.**

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