

D R A F T

SUMMARY

Digest: The Act changes the burden of proof at hearings to decide whether a young person must report as a sex offender. (Flesch Readability Score: 64.6).

Shifts the burden of proof to the state during hearings on the issue of sex offender reporting by juvenile offenders.

A BILL FOR AN ACT

1
2 Relating to juvenile offenders; creating new provisions; and amending ORS
3 163A.030.

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

5 **SECTION 1.** ORS 163A.030 is amended to read:

6 163A.030. (1)(a) Except as provided in subsection (6) of this section, the
7 juvenile court shall hold a hearing on the issue of reporting as a sex offender
8 by a person who has been found to be within the jurisdiction of the juvenile
9 court under ORS 419C.005, or found by the juvenile court to be responsible
10 except for insanity under ORS 419C.411, for having committed an act that if
11 committed by an adult would constitute a felony sex crime if:

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

13 (B) The person was adjudicated before August 12, 2015, and was still un-
14 der the jurisdiction of the juvenile court or the Psychiatric Security Review
15 Board on April 4, 2016.

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

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

1 (B) During the six-month period after the court receives the notice de-
2 scribed in subsection (2) of this section from the Psychiatric Security Review
3 Board, if the person was placed under the jurisdiction of the board.

4 (c) The court shall notify the person of the person's right to a hearing
5 under this section upon finding the person within the jurisdiction of the ju-
6 venile court under ORS 419C.005.

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

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

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

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

17 (b) Set an initial hearing date; and

18 (c) Notify the parties and the juvenile department or the Psychiatric Se-
19 curity Review Board, if the department or board is supervising or has juris-
20 diction over the person, of the hearing at least 60 days before the hearing
21 date.

22 (4)(a) A person who is the subject of a hearing under this section has the
23 right to be represented by a suitable attorney possessing skills and experi-
24 ence commensurate with the nature and complexity of the case, to consult
25 with the attorney prior to the hearing and to have a suitable attorney ap-
26 pointed at state expense.

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

29 (A) Continue the appointment of the attorney appointed under ORS
30 419C.200 at the time of disposition;

31 (B) Set a date prior to the hearing under this section in order to reap-

1 point the attorney appointed under ORS 419C.200; or

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

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

6 (b) If the person is under the jurisdiction of the Psychiatric Security Re-
7 view Board, the board shall notify the following of the hearing:

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

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

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

12 (6)(a) A person may waive the right to the hearing described in this sec-
13 tion only after receiving the notice described in subsection (2)(a) of this
14 section and after consultation with the person's attorney. If the court finds
15 that the person has knowingly waived the right to a hearing, the court shall
16 enter an order requiring the person to report as a sex offender under ORS
17 163A.025.

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

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

22 (a) The district attorney, the victim, the person and the juvenile depart-
23 ment or a representative of the Oregon Youth Authority shall have an op-
24 portunity to be heard.

25 (b) The [*person who is the subject of the hearing*] **district attorney** has
26 the burden of proving by clear and convincing evidence that the person is
27 **not** rehabilitated and [*does not pose*] **poses** a threat to the safety of the
28 public. If the court finds that the [*person has not*] **district attorney has** met
29 the burden of proof, the court shall enter an order requiring the person to
30 report as a sex offender under ORS 163A.025.

31 (8) In determining whether the [*person*] **district attorney** has met the

1 burden of proof, the juvenile court may consider but need not be limited to
2 considering:

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

5 (b) The nature of the act that subjected the person to the duty of report-
6 ing as a sex offender;

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

9 (d) Whether the act was premeditated;

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

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

14 (g) The vulnerability of the victim;

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

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

20 (j) The person's willingness to accept personal responsibility for the act
21 and personal accountability for the consequences of the act;

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

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

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

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

30 (C) The person's compliance with court, board or supervision require-
31 ments regarding treatment; and

- 1 (D) The quality and thoroughness of the treatment program;
- 2 (m) The person's academic and employment history;
- 3 (n) The person's use of drugs or alcohol before and after the adjudication;
- 4 (o) The person's history of public or private indecency;
- 5 (p) The person's compliance with and success in completing the terms of
- 6 supervision;
- 7 (q) The results of psychological examinations of the person;
- 8 (r) The protection afforded the public by records of sex offender registra-
- 9 tion; and
- 10 (s) Any other relevant factors.

11 (9) In a hearing under this section, the juvenile court may receive testi-
12 mony, reports and other evidence, without regard to whether the evidence
13 is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585, if the evidence
14 is relevant evidence related to the determination and findings required under
15 this section. As used in this subsection, "relevant evidence" has the meaning
16 given that term in ORS 40.150.

17 (10)(a) In a hearing under this section, the Oregon Youth Authority or
18 the juvenile department, if either agency is supervising the person, or the
19 Psychiatric Security Review Board, if the board has jurisdiction over the
20 person, shall file with the juvenile court the following records and materials
21 in the possession of the agency or board at least 45 days prior to the hearing
22 unless good cause is shown:

23 (A) Evaluations and treatment records concerning the person conducted
24 by a clinician or program operating under the standards of practice for the
25 evaluation and treatment of juvenile sex offenders adopted by the Sexual
26 Offense Treatment Board under ORS 675.400, and recommendations contained
27 therein regarding the need for the person to register in order to protect the
28 public from future sex crimes;

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

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

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

4 (11)(a) When the juvenile court enters an order described in subsection
5 (6)(a) or (7)(b) of this section, the court shall ensure that the person com-
6 pletes a form that documents the person's obligation to report under ORS
7 163A.025. No later than three business days after the person completes the
8 form required by this subsection, the court shall ensure that the form is sent
9 to the Department of State Police.

10 (b) If the court enters an order under this section, no later than three
11 business days after entry of the order, the court shall ensure that the order
12 is sent to the Department of State Police.

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

15 (13) As used in this section, "parties" means the person, the state as re-
16 presented by the district attorney or the juvenile department, and the Oregon
17 Youth Authority or other child care agency, if the person is temporarily
18 committed to the authority or agency.

19 **SECTION 2. The amendments to ORS 163A.030 by section 1 of this**
20 **2025 Act apply to hearings conducted on or after the effective date of**
21 **this 2025 Act.**

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