

# Senate Bill 820

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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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes when the parole board is required to classify some sex offenders. (Flesch Readability Score: 65.6).

Provides that the State Board of Parole and Post-Prison Supervision is required to classify sex offender registrants convicted before January 1, 2014, into a risk level only in specified circumstances.

## A BILL FOR AN ACT

1  
2 Relating to sex offender risk levels; amending ORS 163A.125 and section 7, chapter 708, Oregon  
3 Laws 2013.

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

5 **SECTION 1.** Section 7, chapter 708, Oregon Laws 2013, as amended by section 27, chapter 820,  
6 Oregon Laws 2015, section 31, chapter 442, Oregon Laws 2017, section 1, chapter 488, Oregon Laws  
7 2017, and section 1, chapter 430, Oregon Laws 2019, is amended to read:

8 **Sec. 7.** (1) As used in this section and ORS 163A.200 to 163A.210:

9 (a) "Event triggering the obligation to make an initial report" has the meaning given that term  
10 in ORS 163A.110.

11 (b) "Existing registrant" means a person for whom the event triggering the obligation to make  
12 an initial report under ORS 163A.010 (3)(a)(A), 163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or  
13 (3)(a)(A) occurs before January 1, 2014.

14 (2)(a) No later than December 1, 2026, the State Board of Parole and Post-Prison Supervision  
15 shall classify existing registrants in one of the levels described in ORS 163A.100 **if the existing**  
16 **registrant has two or more separate sex crime conviction dates, is being released from De-**  
17 **partment of Corrections custody or is under 35 years of age on January 1, 2026. The board**  
18 **shall also classify an existing registrant who has not been classified and who has petitioned**  
19 **for reclassification or relief from reporting under ORS 163A.125.** The Department of State Po-  
20 lice shall enter the results of the classifications described in this section into the Law Enforcement  
21 Data System within a reasonable time after receipt.

22 (b) The board shall classify an existing registrant as a level three sex offender under ORS  
23 163A.100 (3), if:

24 (A) The person was previously designated a predatory sex offender and the designation was  
25 made after the person was afforded notice and an opportunity to be heard as to all factual questions  
26 at a meaningful time and in a meaningful manner; or

27 (B) The person is a sexually violent dangerous offender under ORS 137.765.

28 (c) The Psychiatric Security Review Board may complete the risk assessment of an existing

**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 registrant who is under the jurisdiction of the Psychiatric Security Review Board, regardless of  
 2 whether the person has been found guilty except for insanity of a sex crime or was previously con-  
 3 victed of a sex crime, if the State Board of Parole and Post-Prison Supervision and the Psychiatric  
 4 Security Review Board mutually agree that the Psychiatric Security Review Board has adequate  
 5 resources to perform the assessment and that the performance of the assessment by the Psychiatric  
 6 Security Review Board would assist in classifying the existing registrant in a more timely manner.

7 (3) As soon as practicable following the classification of an existing registrant under this sec-  
 8 tion, the classifying board shall notify the person of the classification by mail.

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

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

15 (c) After providing the person with notice and an opportunity to be heard in accordance with  
 16 this subsection, the board shall classify the person in accordance with the classifications described  
 17 in ORS 163A.100, based on all of the information available to the classifying board.

18 (5) The boards shall adopt rules to carry out the provisions of this section.

19 *[(6) An existing registrant may not petition for reclassification or relief from the obligation to re-*  
 20 *port as a sex offender as provided in ORS 163A.125 until either all existing registrants have been*  
 21 *classified in one of the levels described in ORS 163A.100 or December 1, 2018, whichever occurs*  
 22 *first.]*

23 *[(7) Notwithstanding ORS 163A.225 or any other provision of law, the Department of State Police*  
 24 *may until December 1, 2018, continue to use the Internet to make information available to the public*  
 25 *concerning any adult sex offender designated as predatory as authorized by the law in effect on De-*  
 26 *cember 31, 2013.]*

27 *[(8)(a)]* (6)(a) If the State Board of Parole and Post-Prison Supervision or the Psychiatric Secu-  
 28 rity Review Board does not classify an existing registrant under ORS 163A.100 because the person  
 29 has failed or refused to participate in a sex offender risk assessment as directed by the State Board  
 30 of Parole and Post-Prison Supervision or the Psychiatric Security Review Board, the appropriate  
 31 board shall classify the person as a level three sex offender under ORS 163A.100 (3).

32 (b) If an existing registrant classified as a level three sex offender under this subsection notifies  
 33 the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board of  
 34 the willingness to participate in a sex offender risk assessment, the appropriate board shall perform  
 35 the assessment and classify the existing registrant in one of the levels described in ORS 163A.100.

36 *[(9)]* (7) The State Board of Parole and Post-Prison Supervision or the Psychiatric Security Re-  
 37 view Board may reassess or reclassify an existing registrant placed in one of the levels described  
 38 in ORS 163A.100 under this section if the classifying board determines that a factual mistake caused  
 39 an erroneous assessment or classification.

40 **SECTION 2.** ORS 163A.125 is amended to read:

41 163A.125. (1)(a) A person who is required to report as a sex offender under ORS 163A.010,  
 42 163A.015 or 163A.020 due to a conviction for a sex crime and is classified as a level one sex offender  
 43 under ORS 163A.100 (1) may petition the State Board of Parole and Post-Prison Supervision to re-  
 44 lieve the person from the obligation to report as a sex offender under ORS 163A.010, 163A.015 or  
 45 163A.020.

1 (b) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
2 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is  
3 classified as a level one sex offender under ORS 163A.100 (1), may petition the Psychiatric Security  
4 Review Board to relieve the person from the obligation to report as a sex offender under ORS  
5 163A.010, 163A.015 or 163A.020.

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

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

14 (d) Notwithstanding paragraph (c) of this subsection, if a person is required to report because  
15 of a conviction or finding of guilty except for insanity from another United States court as that term  
16 is defined in ORS 163A.005, the person may not petition for relief from reporting as a sex offender  
17 in Oregon unless the laws of the jurisdiction where the person was convicted or found guilty except  
18 for insanity would permit a petition for relief from reporting as a sex offender.

19 (2)(a) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
20 163A.020 due to a conviction for a sex crime and is classified as a level three sex offender under  
21 ORS 163A.100 (3) may petition the State Board of Parole and Post-Prison Supervision to reclassify  
22 the person as a level two sex offender under ORS 163A.100 (2).

23 (b) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
24 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is  
25 classified as a level three sex offender under ORS 163A.100 (3), may petition the Psychiatric Security  
26 Review Board to reclassify the person as a level two sex offender under ORS 163A.100 (2).

27 (c) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
28 163A.020 due to a conviction for a sex crime and is classified as a level two sex offender under ORS  
29 163A.100 (2) may petition the State Board of Parole and Post-Prison Supervision to reclassify the  
30 person as a level one sex offender under ORS 163A.100 (1).

31 (d) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
32 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is  
33 classified as a level two sex offender under ORS 163A.100 (2), may petition the Psychiatric Security  
34 Review Board to reclassify the person as a level one sex offender under ORS 163A.100 (1).

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

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

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

1 (2) as the result of a petition filed under subsection (2)(a) or (b) of this section.

2 (4)(a) Except as otherwise provided in subsection (3) of this section, if a person files a petition  
3 under subsection (1) of this section, the State Board of Parole and Post-Prison Supervision or the  
4 Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an  
5 order relieving the person of the obligation to report as a sex offender under ORS 163A.010,  
6 163A.015 or 163A.020 if the board determines, by clear and convincing evidence, that the person:

7 (A) Is statistically unlikely to reoffend; and

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

9 (b)(A) Except as otherwise provided in subsection (3) of this section, if a person files a petition  
10 under subsection (2)(a) or (b) of this section, the State Board of Parole and Post-Prison Supervision  
11 or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter  
12 an order reclassifying the person as a level two sex offender under ORS 163A.100 (2) if, after com-  
13 pletion of a new risk assessment utilizing the risk assessment methodology described in ORS  
14 163A.100, the person is classified as presenting a low or moderate risk of reoffending and the board  
15 determines that a lower level of notification is sufficient to protect public safety.

16 (B) Except as otherwise provided in subsection (3) of this section, if a person files a petition  
17 under subsection (2)(c) or (d) of this section, the State Board of Parole and Post-Prison Supervision  
18 or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter  
19 an order reclassifying the person as a level one sex offender under ORS 163A.100 (1) if, after com-  
20 pletion of a new risk assessment utilizing the risk assessment methodology described in ORS  
21 163A.100, the person is classified as presenting a low risk of reoffending and the board determines  
22 that a lower level of notification is sufficient to protect public safety.

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

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

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

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

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

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

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

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

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

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

37 (j) Any other relevant factors.

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

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

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

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

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

11 (c) Upon receipt of an order reclassifying a person as a level two sex offender under ORS  
12 163A.100 (2) or as a level one sex offender under ORS 163A.100 (1), the department shall update the  
13 Law Enforcement Data System to reflect the reclassification.

14 **(8) Notwithstanding any other provision of this section, a person who is required to re-**  
15 **port as a sex offender under ORS 163A.010, 163A.015 or 163A.020 due to a conviction for a sex**  
16 **crime, but who has not been classified in a level described in ORS 163A.100, may petition the**  
17 **State Board of Parole and Post-Prison Supervision for relief under this section. Upon the**  
18 **filing of the petition, the board shall classify the person in order to determine whether the**  
19 **person qualifies for reclassification or relief from the obligation to report as a sex offender,**  
20 **and the petition shall thereafter be considered in the normal course as described in this**  
21 **section.**

22 [(8)] (9) The State Board of Parole and Post-Prison Supervision and the Psychiatric Security  
23 Review Board shall adopt rules to carry out the provisions of this section. The rules may include  
24 a filing fee in an amount determined by the appropriate board. All fees paid under this subsection  
25 shall be deposited into the General Fund and credited to the account of the appropriate board.

26 [(9)] (10) As used in this section, "supervision" means probation, parole, post-prison supervision  
27 or any other form of supervised or conditional release.

28