

Enrolled Senate Bill 767

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER

AN ACT

Relating to sex offenders; amending ORS 163A.105, 163A.110 and 163A.210 and sections 7, 34 and 37, chapter 708, Oregon Laws 2013.

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

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

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

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

(b) “Existing registrant” means a person for whom the event triggering the obligation to make an initial report under ORS [181.806 (3)(a)(A), 181.807 (4)(a)(A) or 181.808 (1)(a)(A), (2)(a)(A) or (3)(a)(A)] **163A.010 (3)(a)(A), 163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or (3)(a)(A)** occurs before January 1, 2014.

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

(b) The board shall classify an existing registrant as a level three sex offender under ORS [181.800] **163A.100 (3)**, if:

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

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

(c) The Psychiatric Security Review Board may complete the risk assessment of an existing registrant who is under the jurisdiction of the Psychiatric Security Review Board or the Oregon Health Authority, regardless of whether the person has been found guilty except for insanity of a sex crime or was previously convicted of a sex crime, if the State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review Board mutually agree that the Psychiatric Security Review Board has adequate resources to perform the assessment and that the performance of the assessment by the Psychiatric Security Review Board would assist in classifying the existing registrant in a more timely manner.

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

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

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

(c) After providing the person with notice and an opportunity to be heard in accordance with this subsection, the board shall classify the person in accordance with the classifications described in ORS [181.800] **163A.100**, based on all of the information available to the classifying board.

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

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

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

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

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

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

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

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

(2) When a person convicted of a sex crime is sentenced to a term of incarceration in a jail, or is discharged, released or placed on probation by the court, the supervisory authority as defined in ORS 144.087 shall assess the person utilizing the risk assessment methodology described in ORS 163A.100 and apply the results of the assessment to place the person in one of the levels described in ORS 163A.100 no later than [60] **90** days after the person is released from jail or discharged, released or placed on probation by the court.

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

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

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

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

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

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

(c) The court shall notify the Psychiatric Security Review Board when the court conditionally releases or discharges a person described in paragraph (a) of this subsection.

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

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

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

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

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

(b) **If a person** has been convicted of a sex crime and was sentenced to a term of imprisonment in a Department of Corrections institution for that sex crime, but was not subjected to a risk assessment utilizing the risk assessment methodology described in ORS 163A.100 before release under subsection (1) of this section, **within 90 days after the person's release the State Board of Parole and Post-Prison Supervision shall assess the person utilizing the risk assessment methodology described in ORS 163A.100 and apply the results of the assessment to place the person in one of the levels described in ORS 163A.100.**

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

(6) The State Board of Parole and Post-Prison Supervision, the Psychiatric Security Review Board or a supervisory authority may reassess or reclassify a person placed in one of the levels described in ORS 163A.100 under this section if the classifying board or authority determines that a factual mistake caused an erroneous assessment or classification.

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

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

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

classifications described in ORS 163A.100, based on all of the information available to the classifying board or authority.

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

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

(9) The State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review Board may adopt rules to carry out the provisions of this section.

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

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

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

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

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

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

163A.110. (1) ORS 163A.105 applies to persons for whom the event triggering the obligation to make 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 (3)(a)(A) occurs on or after January 1, 2014.

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

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

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

(B) Parole to this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state; or

(C) Discharge by the court under ORS 161.329.

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

(A) By the court; or

(B) To or in this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state.

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

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

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

(A) Discharge, release on parole or release on any form of supervised or conditional release, from a jail, prison or other correctional facility or detention facility; or

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

SECTION 6. ORS 163A.210 is amended to read:

163A.210. Notwithstanding ORS 419A.257 or any other provision of law, the Oregon Youth Authority and the juvenile department may disclose and provide copies of reports and other materials relating to a child, ward, youth or youth offender’s history and prognosis to the Psychiatric Security Review Board[, the Oregon Health Authority] or the State Board of Parole and Post-Prison Supervision in order **for the boards** to determine whether to reclassify the person as a level one or a level two sex offender or relieve the person from the obligation to report as a sex offender, as de-

scribed in ORS 163A.125, or whether to classify a person who is an existing registrant into one of the three levels described in ORS 163A.100, as required by section 7, chapter 708, Oregon Laws 2013.

Passed by Senate May 2, 2017

Repassed by Senate June 15, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 13, 2017

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Tina Kotek, Speaker of House

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Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

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Dennis Richardson, Secretary of State