

**Enrolled**  
**House Bill 2299**

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CHAPTER .....

AN ACT

Relating to sex offender reporting; creating new provisions; and amending ORS 137.540, 144.102, 144.270, 181.585, 181.592, 181.594, 181.595, 181.596, 181.597, 181.599, 181.600, 181.607, 181.608 and 423.478 and section 23, chapter 626, Oregon Laws 1999.

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

**SECTION 1.** ORS 181.600 is amended to read:

181.600. (1)(a) No sooner than 10 years after termination of supervision on probation, conditional release, parole or post-prison supervision, a person required to report under ORS 181.595, 181.596 or 181.597 may file a petition in the circuit court of the county in which the person resides for an order relieving the person of the duty to report if:

(A) The person has only one conviction for, or juvenile court finding of jurisdiction based on, a sex crime;

(B) The sex crime was a misdemeanor or Class C felony or, if committed in another state, would have been a misdemeanor or Class C felony if committed in this state; and

(C) The person has not been determined to be a predatory sex offender as described in ORS 181.585.

(b) The district attorney of the county shall be named and served as the respondent in the petition.

(2) The court shall hold a hearing on the petition. In determining whether to grant the relief requested, the court shall consider:

(a) The nature of the offense that required reporting;

(b) The age and number of victims;

(c) The degree of violence involved in the offense;

(d) Other criminal and relevant noncriminal behavior of the petitioner both before and after the conviction that required reporting;

(e) The period of time during which the petitioner has not reoffended;

(f) Whether the petitioner has successfully completed a court-approved sex offender treatment program; and

(g) Any other relevant factors.

(3) If the court is satisfied by clear and convincing evidence that the petitioner is rehabilitated and that the petitioner does not pose a threat to the safety of the public, the court shall enter an order relieving the petitioner of the duty to report. **When the court enters an order under this subsection, the petitioner shall send a certified copy of the court order to the Department of State Police.**

**SECTION 2.** ORS 181.607 is amended to read:

181.607. (1)(a) No sooner than two years, but no later than five years, after the termination of juvenile court jurisdiction over a person required to report under ORS 181.595, 181.596 or 181.597, the person may file a petition for relief from the duty to report. The person must file the petition in the juvenile court in which the person was adjudicated for the act that requires reporting.

(b) The juvenile court in which a petition under this section is filed may transfer the matter to the juvenile court of the county that last supervised the person if the court determines that the convenience of the parties, the victim and witnesses require the transfer.

(c) The juvenile court has exclusive original jurisdiction in any proceeding under this section.

(d) The person, the district attorney and the juvenile department are parties to a hearing on a petition filed under this section.

(2) When a person files a petition under this section and the petition was filed:

(a) No later than three years after the termination of juvenile court jurisdiction, the state has the burden of proving by clear and convincing evidence that the person is not rehabilitated and continues to pose a threat to the safety of the public.

(b) More than three years, but no later than five years, after the termination of juvenile court jurisdiction, the person has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public.

(3) In determining whether the state or the person has met the burden of proof established in subsection (2) of this section, the juvenile court may consider but need not be limited to considering:

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

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

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

(d) Whether the act was premeditated;

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

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

(g) The vulnerability of the victim;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(r) The protection afforded the public by the continued existence of the records; and

(s) Any other relevant factors.

(4) In a hearing under this section, the juvenile court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this

section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

(5) When a petition is filed under this section, the state has the right to have a psychosexual evaluation of the person conducted. The state shall file notice with the juvenile court of its intention to have the person evaluated. If the person objects to the evaluator chosen by the state, the juvenile court for good cause shown may direct the state to select a different evaluator.

(6) As soon as practicable after a petition has been filed under this section, the district attorney shall make a reasonable effort to notify the victim of the crime that the person has filed a petition seeking relief under this section.

(7)(a) When a petition has been filed under this section and the petition was filed:

(A) No later than three years after the termination of juvenile court jurisdiction, the court shall hold a hearing on the petition no sooner than 60 days and no later than 120 days after the date of filing.

(B) More than three years, but no later than five years, after the termination of juvenile court jurisdiction, the court shall hold a hearing no sooner than 90 days and no later than 150 days after the date of filing.

(b) Notwithstanding paragraph (a) of this subsection, upon a showing of good cause, the court may extend the period of time in which a hearing on the petition must be held.

(8) When the state has the burden of proof under subsection (2) of this section and proves by clear and convincing evidence that the person is not rehabilitated and continues to pose a threat to the safety of the public, the court shall deny the petition. When the person has the burden of proof under subsection (2) of this section and proves by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public, the court shall grant the petition.

(9) When a juvenile court enters an order relieving a person of the requirement to report under ORS 181.595, 181.596 or 181.597, the person [*is responsible for sending*] **shall send** a certified copy of the juvenile court order to the Department of State Police.

(10) If a person commits an act that could be charged as a sex crime listed in ORS 137.707 and the person is 15, 16 or 17 years of age at the time the act is committed, the state and the person may stipulate that the person may not petition for relief under this section as part of an agreement that the person be subject to the jurisdiction of the juvenile court rather than being prosecuted as an adult under ORS 137.707.

**SECTION 3.** ORS 181.608 is amended to read:

181.608. (1) Except as provided in subsection (6) of this section, when a person is required to report under ORS 181.595, 181.596 or 181.597 as a result of having been found in a juvenile adjudication in another jurisdiction to have committed an act while the person was under 18 years of age that would constitute a sex crime if committed in this state by an adult, the person may file a petition in the circuit court of the county in which the person resides for an order relieving the person of the duty to report if:

(a) The person has been registered as a sex offender in this state for at least two years;

(b) At least two years, but not more than five years, have elapsed since the termination of supervision on probation or parole; and

(c) The person submits with the petition all releases and waivers necessary to allow the district attorney for the county in which the petition is filed to obtain the following documents from the jurisdiction in which the person was adjudicated for the sex crime:

(A) The juvenile court petition;

(B) The dispositional report to the court;

(C) The order of adjudication or jurisdiction;

(D) Any other relevant court documents;

(E) The police report relating to the sex crime for which reporting is required;

(F) The order terminating jurisdiction for the sex crime for which reporting is required; and

(G) The evaluation and treatment records or reports of the person that are related to the sex crime for which reporting is required.

(2) A person filing a petition under this section has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public.

(3) Unless the court finds good cause for a continuance, the court shall hold a hearing on the petition no sooner than 90 days and no later than 150 days after the date the petition is filed.

(4) Notwithstanding subsection (1)(b) of this section, if a person has not been registered as a sex offender in this state for two years until more than five years have elapsed since the termination of supervision on probation or parole, the person may file a petition seeking relief under this section if the person files the petition no later than 90 days after the date on which the person has been registered as a sex offender in this state for two years.

(5) If a person who files a petition under this section is required to report as a sex offender for having committed an act that if committed in this state could have subjected the person to prosecution as an adult under ORS 137.707, the court may not grant the petition notwithstanding the fact that the person has met the burden of proof established in subsection (2) of this section unless the court determines that to do so is in the interest of public safety.

(6) This section does not apply to a person who is required to register as a sex offender for life in the jurisdiction in which the offense occurred.

(7) In a hearing under this section, the court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

**(8) If the court is satisfied by clear and convincing evidence that the person is rehabilitated and that the person does not pose a threat to the safety of the public, the court shall enter an order relieving the person of the duty to report. When the court enters an order under this subsection, the person shall send a certified copy of the court order to the Department of State Police.**

**SECTION 4. The amendments to ORS 181.600, 181.607 and 181.608 by sections 1 to 3 of this 2005 Act apply to court orders entered on or after the effective date of this 2005 Act.**

**SECTION 5.** ORS 181.594 is amended to read:

181.594. As used in ORS 181.595, 181.596, 181.597 and 181.603:

**(1) "Attends" means is enrolled on a full-time or part-time basis.**

[(1)(a)] **(2)(a)** "Correctional facility" means any place used for the confinement of persons:

(A) Charged with or convicted of a crime or otherwise confined under a court order.

(B) Found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a crime.

(b) "Correctional facility" applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after being found guilty except for insanity under ORS 161.290 to 161.370.

**(3) "Institution of higher education" means a public or private educational institution that provides a program of post-secondary education.**

[(2)] **(4)** "Sex crime" means:

(a) Rape in any degree;

(b) Sodomy in any degree;

(c) Unlawful sexual penetration in any degree;

(d) Sexual abuse in any degree;

(e) Incest with a child victim;

(f) Using a child in a display of sexually explicit conduct;

(g) Encouraging child sexual abuse in any degree;

(h) Transporting child pornography into the state [(1993 Edition)];

(i) Paying for viewing a child's sexually explicit conduct [(1993 Edition)];

- (j) Compelling prostitution;
- (k) Promoting prostitution;
- (L) Kidnapping in the first degree if the victim was under 18 years of age;
- (m) Contributing to the sexual delinquency of a minor;
- (n) Sexual misconduct if the offender is at least 18 years of age;
- (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent or by a person found to be within the jurisdiction of the juvenile court;
- (q) Any attempt to commit any of the crimes set forth in paragraphs (a) to (p) of this subsection;
- (r) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a) to (p) or (s) of this subsection; or
- (s) Public indecency or private indecency, if the person has a prior conviction for a crime listed in paragraphs (a) to (r) of this subsection.

[3] (5) "Sex offender" means a person who:

- (a) Has been convicted of a sex crime;
- (b) Has been found guilty except for insanity of a sex crime;
- (c) Has been found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a sex crime; or
- (d) Is paroled to this state under ORS 144.610 after being convicted in another jurisdiction of a crime that would constitute a sex crime if committed in this state.

**(6) "Works" or "carries on a vocation" means full-time or part-time employment for more than 14 days within one calendar year whether financially compensated, volunteered or for the purpose of governmental or educational benefit.**

**SECTION 6.** ORS 181.595 is amended to read:

181.595. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency or official to whom a person reports under subsection (3) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (3) of this section.

(b) When a person who is under supervision reports to the agency supervising the person, the supervising agency may require the person to report instead to the Department of State Police, a chief of police or a county sheriff and provide the supervising agency with proof of the completed registration.

(2) Subsection (3) of this section applies to a person who:

(a) Is discharged, paroled or released on any form of supervised or conditional release from a jail, prison or other correctional facility or detention facility in this state at which the person was confined as a result of:

- (A) Conviction of a sex crime;
- (B) Having been found guilty except for insanity of a sex crime; or
- (C) Having been found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a sex crime;

(b) Is paroled to this state under ORS 144.610 after being convicted in another jurisdiction of a crime that would constitute a sex crime if committed in this state;

(c) Is paroled to or otherwise placed in this state after having been found by a court in another jurisdiction to have committed an act while the person was under 18 years of age that would constitute a sex crime if committed in this state by an adult; or

(d) Is discharged by the court under ORS 161.329 after having been found guilty except for insanity of a sex crime.

(3)(a) Within 10 days following discharge, release on parole, post-prison supervision or other supervised or conditional release, the person shall report, in person, to the Department of State Police, a chief of police or a county sheriff or to the supervising agency, if any.

(b) [Thereafter] **After making the report required by paragraph (a) of this subsection**, the person shall report, in person:

- (A) Within 10 days of a change of residence; [and]

(B) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence;

**(C) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and**

**(D) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.**

[(b)] (c) The person shall make the reports required by paragraph [(a)(A) and (B)] (b) of this subsection to the department, a chief of police, a county sheriff or the supervising agency, if any.

[(c)] (d) If the person required to report under this subsection is a youth offender, as defined in ORS 419A.004, who is under supervision, the person shall make the reports required by [paragraph (a)] **paragraphs (a) and (b)** of this subsection to the agency supervising the person.

[(d)] (e) The obligation to report under this [section] **subsection** terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(4) As part of the registration requirement under this section, the Department of State Police, the chief of police, the county sheriff or the supervising agency:

(a) Shall photograph the person and obtain the signature of the person; and

(b) May fingerprint the person.

**SECTION 7.** ORS 181.596 is amended to read:

181.596. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency or official to whom a person reports under subsection (4) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (4) of this section.

(b) When a person who is under supervision reports to the agency supervising the person, the supervising agency may require the person to report instead to the Department of State Police, a chief of police or a county sheriff and provide the supervising agency with proof of the completed registration.

(2) Subsection (4) of this section applies to a person who is discharged, released or placed on probation:

(a) By the court after being convicted in this state of a sex crime;

(b) By the juvenile court after being found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a sex crime;

(c) To this state under ORS 144.610 after being convicted in another jurisdiction of a crime that would constitute a sex crime if committed in this state; or

(d) To this state after having been found by a court in another jurisdiction to have committed an act while the person was under 18 years of age that would constitute a sex crime if committed in this state by an adult.

(3) The court shall ensure that the person completes a form that documents the person's obligation to report under ORS 181.595 or this section. No later than three working days after the person completes the form required by this subsection, the court shall ensure that the form is sent to the Department of State Police.

(4)(a) Within 10 days following discharge or release, the person shall report, in person, to the Department of State Police, chief of police or county sheriff or to the supervising agency, if any.

**(b) [Thereafter] After making the report required by paragraph (a) of this subsection,** the person shall report, in person:

(A) Within 10 days of a change of residence; [and]

(B) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence;

**(C) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and**

**(D) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.**

[(b)] (c) The person shall make the reports required by paragraph [(a)(A) and (B)] (b) of this subsection to the department, a chief of police, a county sheriff or the supervising agency, if any.

[(c)] (d) If the person required to report under this subsection is a youth offender, as defined in ORS 419A.004, who is under supervision, the person shall make the reports required by [paragraph (a)] paragraphs (a) and (b) of this subsection to the agency supervising the person.

[(d)] (e) The obligation to report under this [section] subsection terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(5) As part of the registration requirement under this section, the Department of State Police, the chief of police, the county sheriff or the supervising agency:

(a) Shall photograph the person and obtain the signature of the person; and

(b) May fingerprint the person.

**SECTION 8.** ORS 137.540 is amended to read:

137.540. (1) The court may sentence the defendant to probation, which shall be subject to the following general conditions unless specifically deleted by the court. The probationer shall:

(a) Pay supervision fees, fines, restitution or other fees ordered by the court.

(b) Not use or possess controlled substances except pursuant to a medical prescription.

(c) Submit to testing of breath or urine for controlled substance or alcohol use if the probationer has a history of substance abuse or if there is a reasonable suspicion that the probationer has illegally used controlled substances.

(d) Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.

(e) Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency.

(f) If physically able, find and maintain gainful full-time employment, approved schooling, or a full-time combination of both. Any waiver of this requirement must be based on a finding by the court stating the reasons for the waiver.

(g) Change neither employment nor residence without prior permission from the Department of Corrections or a county community corrections agency.

(h) Permit the probation officer to visit the probationer or the probationer's work site or residence and to conduct a walk-through of the common areas and of the rooms in the residence occupied by or under the control of the probationer.

(i) Consent to the search of person, vehicle or premises upon the request of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.

(j) Obey all laws, municipal, county, state and federal.

(k) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections or a county community corrections agency.

(L) Not possess weapons, firearms or dangerous animals.

(m) If under supervision for, or previously convicted of, a sex offense under ORS 163.305 to 163.467, and if recommended by the supervising officer, successfully complete a sex offender treatment program approved by the supervising officer and submit to polygraph examinations at the direction of the supervising officer.

(n) Participate in a mental health evaluation as directed by the supervising officer and follow the recommendation of the evaluator.

(o) Report as required and abide by the direction of the supervising officer.

(p) If required to report as a sex offender under ORS 181.596, report with the Department of State Police, a chief of police, a county sheriff or the supervising agency:

(A) When supervision begins;

(B) Within 10 days of a change in residence; [and]

(C) Once each year within 10 days of the probationer's date of birth;

**(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and**

**(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.**

(2) In addition to the general conditions, the court may impose any special conditions of probation that are reasonably related to the crime of conviction or the needs of the defendant for the protection of the public or reformation of the offender, or both, including, but not limited to, that the probationer shall:

(a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence or to the premises thereof, or be subject to any combination of such confinement and restriction, such confinement or restriction or combination thereof to be for a period not to exceed one year or one-half of the maximum period of confinement that could be imposed for the offense for which the defendant is convicted, whichever is the lesser.

(b) For felonies committed on or after November 1, 1989, be confined in the county jail, or be subject to other custodial sanctions under community supervision, or both, as provided by rules of the Oregon Criminal Justice Commission.

(c) For crimes committed on or after December 5, 1996, sell any assets of the probationer as specifically ordered by the court in order to pay restitution.

(3) When a person who is a sex offender, as defined in ORS 181.594, is released on probation, the Department of Corrections or the county community corrections agency, whichever is appropriate, shall notify the chief of police, if the person is going to reside within a city, and the county sheriff of the county in which the person is going to reside of the person's release and the conditions of the person's release.

(4) Failure to abide by all general and special conditions imposed by the court and supervised by the Department of Corrections or a county community corrections agency may result in arrest, modification of conditions, revocation of probation or imposition of structured, intermediate sanctions in accordance with rules adopted under ORS 137.595.

(5) The court may at any time modify the conditions of probation.

(6) A court may not order revocation of probation as a result of the probationer's failure to pay restitution unless the court determines from the totality of the circumstances that the purposes of the probation are not being served.

(7) It *[shall not be]* **is not** a cause for revocation of probation that the probationer failed to apply for or accept employment at any workplace where there is a labor dispute in progress. As used in this subsection, "labor dispute" has the meaning for that term provided in ORS 662.010.

**(8) As used in this section, "attends," "institution of higher education," "works" and "carries on a vocation" have the meanings given those terms in ORS 181.594.**

**SECTION 9.** ORS 144.102 is amended to read:

144.102. (1) The State Board of Parole and Post-Prison Supervision or local supervisory authority responsible for correctional services for a person shall specify in writing the conditions of post-prison supervision imposed under ORS 144.096. A copy of the conditions shall be given to the person upon release from prison or jail.

(2) The board or the supervisory authority shall determine, and may at any time modify, the conditions of post-prison supervision, which may include, among other conditions, that the person shall:

(a) Comply with the conditions of post-prison supervision as specified by the board or supervisory authority.

(b) Be under the supervision of the Department of Corrections and its representatives or other supervisory authority and abide by their direction and counsel.

(c) Answer all reasonable inquiries of the board, the department or the supervisory authority.

(d) Report to the parole officer as directed by the board, the department or the supervisory authority.

(e) Not own, possess or be in control of any weapon.  
(f) Respect and obey all municipal, county, state and federal laws.  
(g) Understand that the board or supervisory authority may, at its discretion, punish violations of post-prison supervision.

(h) Attend a victim impact treatment session in a county that has a victim impact program. If the board or supervisory authority requires attendance under this paragraph, the board or supervisory authority may require the person, as an additional condition of post-prison supervision, to pay a reasonable fee to the victim impact program to offset the cost of the person's participation. The board or supervisory authority shall not order a person to pay a fee in excess of \$5 under this paragraph.

(i) If required to report as a sex offender under ORS 181.595, report with the Department of State Police, a chief of police, a county sheriff or the supervising agency:

(A) When supervision begins;

(B) Within 10 days of a change in residence; *[and]*

(C) Once each year within 10 days of the person's date of birth;

**(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and**

**(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.**

(3)(a) The board or supervisory authority may establish special conditions as the board or supervisory authority *[shall determine are]* **determines** necessary because of the individual circumstances of the person on post-prison supervision.

(b) If the person is on post-prison supervision following conviction of a sex crime, as defined in ORS 181.594, the board or supervisory authority shall include all of the following as special conditions of the person's post-prison supervision:

(A) Agreement to comply with any curfew set by the board, the supervisory authority or the supervising officer.

(B) A prohibition against contacting a person under 18 years of age without the prior written approval of the board, supervisory authority or supervising officer.

(C) A prohibition against frequenting, without the prior written approval of the board, supervisory authority or supervising officer, a place where persons under 18 years of age regularly congregate.

(D) A prohibition against working or volunteering at a school, *[day]* **child** care center, park, playground or other place where persons under 18 years of age regularly congregate.

(E) Entry into and completion of or successful discharge from a sex offender treatment program approved by the board, supervisory authority or supervising officer. The program may include polygraph and plethysmograph testing. The person is responsible for paying for the treatment program.

(F) A prohibition against any contact with the victim, directly or indirectly, unless approved by the victim, the person's treatment provider and the board, supervisory authority or supervising officer.

(G) Unless otherwise indicated for the treatment required under subparagraph (E) of this paragraph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating visual or auditory materials that are relevant to the person's deviant behavior.

(H) Agreement to consent to a search of the person or the vehicle or residence of the person upon the request of a representative of the board or supervisory authority if the representative has reasonable grounds to believe that evidence of a violation of a condition of post-prison supervision will be found.

(I) Participation in random polygraph examinations to obtain information for risk management and treatment. The person is responsible for paying the expenses of the examinations. The results of a polygraph examination under this subparagraph may not be used in evidence in a hearing to prove a violation of post-prison supervision.

(J) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless approved by the board, supervisory authority or supervising officer.

(K) A prohibition against using a post-office box unless approved by the board, supervisory authority or supervising officer.

(4)(a) The board or supervisory authority may require the person to pay, as a condition of post-prison supervision, any compensatory fines, restitution or attorney fees:

(A) As determined, imposed or required by the sentencing court; or

(B) When previously required as a condition of any type of supervision that is later revoked.

(b) The board may require a person to pay restitution as a condition of post-prison supervision imposed for an offense other than the offense for which the restitution was ordered if the person:

(A) Was ordered to pay restitution as a result of another conviction; and

(B) Has not fully paid the restitution by the time the person has completed the period of post-prison supervision imposed for the offense for which the restitution was ordered.

(5) A person's failure to apply for or accept employment at any workplace where there is a labor dispute in progress does not constitute a violation of the conditions of post-prison supervision. As used in this subsection, "labor dispute" has the meaning given that term in ORS 662.010.

(6)(a) When a person is released from imprisonment on post-prison supervision, the board shall order, as a condition of post-prison supervision, that the person reside for the first six months after release in the county where the person resided at the time of the offense that resulted in the imprisonment.

(b) Upon motion of the board, the person, a victim or a district attorney, the board may waive the residency requirement only after making a finding that one of the following conditions has been met:

(A) The person provides proof of employment with no set ending date in a county other than the established county of residence;

(B) The person is found to pose a significant danger to a victim of the person's crime, or a victim or victim's family is found to pose a significant danger to the person residing in the established county of residence;

(C) The person has a spouse or biological or adoptive family residing in a county other than the established county of residence who will be materially significant in aiding in the rehabilitation of the person and in the success of the post-prison supervision;

(D) As another condition of post-prison supervision, the person is required to participate in a treatment program that is not available in the established county of residence;

(E) The person desires to be released to another state; or

(F) The board finds other good cause, of a nature similar to the other conditions listed in this paragraph, for the waiver.

(c)(A) The board shall determine the county where the person resided at the time of the offense by establishing the person's last address at the time of the offense. In making its determination, the board shall examine all [*the available information in the following records*] **of the following**:

(i) An Oregon driver license, regardless of its validity;

(ii) Records maintained by the Department of Revenue;

(iii) Records maintained by the Department of State Police Bureau of Criminal Identification;

(iv) Records maintained by the Department of Human Services; [*or*] **and**

(v) Records maintained by the Department of Corrections.

(B) When the person did not have an identifiable address of record at the time of the offense, the person is considered to have resided in the county where the offense occurred.

(C) If the person is serving multiple sentences, the county of residence shall be determined according to the date of the last arrest resulting in a conviction.

(D) In determining the person's county of residence for purposes of this subsection, the board may not consider offenses committed by the person while the person was incarcerated in a Department of Corrections facility.

(7) As used in this section, “attends,” “institution of higher education,” “works” and “carries on a vocation” have the meanings given those terms in ORS 181.594.

**SECTION 10.** ORS 144.270 is amended to read:

144.270. (1) The State Board of Parole and Post-Prison Supervision, in releasing a person on parole, shall specify in writing the conditions of the parole and a copy of such conditions shall be given to the person paroled.

(2) The board shall determine, and may at any time modify, the conditions of parole, which may include, among other conditions, that the parolee shall:

(a) Accept the parole granted subject to all terms and conditions specified by the board.

(b) Be under the supervision of the Department of Corrections and its representatives and abide by their direction and counsel.

(c) Answer all reasonable inquiries of the board or the parole officer.

(d) Report to the parole officer as directed by the board or parole officer.

(e) Not own, possess or be in control of any weapon.

(f) Respect and obey all municipal, county, state and federal laws.

(g) Understand that the board may, in its discretion, suspend or revoke parole if it determines that the parole is not in the best interest of the parolee, or in the best interest of society.

(3)(a) The board may establish such special conditions as it [*shall determine*] **determines** are necessary because of the individual circumstances of the parolee.

(b) If the person is on parole following conviction of a sex crime, as defined in ORS 181.594, the board shall include all of the following as special conditions of the person’s parole:

(A) Agreement to comply with any curfew set by the board or the supervising officer.

(B) A prohibition against contacting a person under 18 years of age without the prior written approval of the board or supervising officer.

(C) A prohibition against frequenting, without the prior written approval of the board or supervising officer, a place where persons under 18 years of age regularly congregate.

(D) A prohibition against working or volunteering at a school, [*day*] **child** care center, park, playground or other place where persons under 18 years of age regularly congregate.

(E) Entry into and completion of or successful discharge from a sex offender treatment program approved by the board or supervising officer. The program may include polygraph and plethysmograph testing. The person is responsible for paying for the treatment program.

(F) A prohibition against any contact with the victim, directly or indirectly, unless approved by the victim, the person’s treatment provider and the board or supervising officer.

(G) Unless otherwise indicated for the treatment required under subparagraph (E) of this paragraph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating visual or auditory materials that are relevant to the person’s deviant behavior.

(H) Agreement to consent to a search of the person or the vehicle or residence of the person upon the request of a representative of the board if the representative has reasonable grounds to believe that evidence of a violation of a condition of parole will be found.

(I) Participation in random polygraph examinations to obtain information for risk management and treatment. The person is responsible for paying the expenses of the examinations. The results of a polygraph examination under this subparagraph may not be used in evidence in a hearing to prove a violation of parole.

(J) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless approved by the board or supervising officer.

(K) A prohibition against using a post-office box unless approved by the board or supervising officer.

(4) It [*shall not be*] **is not** a cause for revocation of parole that the parolee failed to apply for or accept employment at any workplace where there is a labor dispute in progress. As used in this subsection, “labor dispute” has the meaning for that term provided in ORS 662.010.

(5)(a) When the board grants an inmate parole from the custody of the Department of Corrections, the board shall order, as a condition of parole, that the inmate reside for the first six

months in the county where the inmate resided at the time of the offense that resulted in the imprisonment.

(b) Upon motion of the board, an inmate, a victim or a district attorney, the board may waive the residency requirement only after making a finding that one of the following conditions has been met:

(A) The inmate provides proof of a job with no set ending date in a county other than the established county of residence;

(B) The inmate is found to pose a significant danger to the victim of the offender's crime, or the victim or victim's family is found to pose a significant danger to the inmate residing in the county of residence;

(C) The inmate has a spouse or biological or adoptive family residing in other than the county of residence who will be materially significant in aiding in the rehabilitation of the offender and in the success of the parole;

(D) As another condition of parole, the inmate is required to participate in a treatment program which is not available or located in the county of residence;

(E) The inmate desires to be paroled to another state; or

(F) The board finds other good cause, of a nature similar to the other conditions listed in this paragraph, for the waiver.

(c)(A) For purposes of this subsection, "residency" means the last address at the time of the offense, as established by an examination of all [*the available information in the following records*] **of the following:**

(i) An Oregon [*driver's*] **driver** license, regardless of its validity;

(ii) Records maintained by the Department of Revenue;

(iii) Records maintained by the Department of State Police, Bureau of Criminal Identification;

(iv) Records maintained by the Department of Human Services; [*or*] **and**

(v) Records maintained by the Department of Corrections.

(B) When an inmate did not have one identifiable address of record at the time of the offense, the inmate shall be considered to have resided in the county where the offense occurred.

(C) If the inmate is serving multiple sentences, the county of residence shall be determined according to the date of the last arrest resulting in a conviction.

(D) If the inmate is being rereleased after revocation of parole, the county of residence shall be determined according to the date of the arrest resulting in a conviction of the underlying offense.

(E) In determining the inmate's county of residence, a conviction for an offense that the inmate committed while incarcerated in a state corrections institution may not be considered.

(6) When the board grants an inmate parole from the custody of the Department of Corrections and if the inmate is required to report as a sex offender under ORS 181.595, the board, as a condition of parole, shall order the inmate to report with the Department of State Police, a chief of police, a county sheriff or the supervising agency:

(a) When supervision begins;

(b) Within 10 days of a change in residence; [*and*]

(c) Once each year within 10 days of the inmate's date of birth;

**(d) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and**

**(e) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.**

**(7) As used in this section, "attends," "institution of higher education," "works" and "carries on a vocation" have the meanings given those terms in ORS 181.594.**

**SECTION 11.** ORS 181.599 is amended to read:

181.599. (1) A person who is required to report as a sex offender and who has knowledge of the reporting requirement commits the crime of failure to report as a sex offender if the person fails, as required by ORS 181.595, 181.596 or 181.597, to:

(a) Make the initial report to the appropriate agency or official;

**(b) Report when the person works at, carries on a vocation at or attends an institution of higher education;**

~~[(b)]~~ **(c) Report following a change of residence, school enrollment or employment status, including enrollment, employment or vocation status at an institution of higher education;**

~~[(c)]~~ **(d) Make an annual report; or**

~~[(d)]~~ **(e) Provide complete and accurate information.**

(2) Except as otherwise provided in subsection (3) of this section, failure to report as a sex offender is a Class A misdemeanor.

(3) Failure to report as a sex offender is a Class C felony if the person violates:

(a) Subsection (1)(a) of this section; or

(b) Subsection (1)(b) **or (c)** of this section and the crime for which the person is required to report is a felony.

(4) A person who fails to sign and return an address verification form as required by ORS 181.598 (2) commits a violation.

**SECTION 12.** ORS 423.478 is amended to read:

423.478. (1) The Department of Corrections shall:

(a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

(b) Provide central information and data services sufficient to:

(A) Allow tracking of offenders; and

(B) Permit analysis of correlations between sanctions, supervision, services and programs, and future criminal conduct; and

(c) Provide interstate compact administration and jail inspections.

(2) Subject to ORS 423.483, the county, in partnership with the department, shall assume responsibility for community-based supervision, sanctions and services for offenders convicted of felonies who are:

(a) On parole;

(b) On probation;

(c) On post-prison supervision;

(d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

(e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-Prison Supervision to 12 months or less incarceration for violation of a condition of parole, probation or post-prison supervision; and

(f) On conditional release under ORS 420A.206.

(3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration, when an offender is committed to the custody of the supervisory authority of a county under ORS 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority releases a person from custody under this subsection and the person is required to report as a sex offender under ORS 181.595, the supervisory authority, as a condition of release, shall order the person to report to the Department of State Police, a chief of police or a county sheriff or to the supervising agency, if any:

(a) When the person is released; *[and]*

(b) Within 10 days of a change of residence;

**(c) Once each year within 10 days of the person's birth date;**

**(d) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and**

**(e) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.**

(4) As used in this section, "attends," "institution of higher education," "works" and "carries on a vocation" have the meanings given those terms in ORS 181.594.

**SECTION 13.** ORS 181.592 is amended to read:

181.592. (1) The Department of State Police shall enter into the Law Enforcement Data System the sex offender information obtained from the sex offender registration forms submitted under ORS 181.595, 181.596 and 181.597. The department shall remove from the Law Enforcement Data System the sex offender information obtained from the sex offender registration form submitted under ORS 181.595, 181.596 or 181.597 if the conviction or adjudication that gave rise to the registration obligation is reversed or vacated or if the registrant is pardoned.

(2)(a) When a person is under supervision for the first time as a result of a conviction for an offense requiring reporting as a sex offender, the department, a chief of police or a county sheriff shall release, upon request, only the following information about the sex offender:

(A) The sex offender's name and date of birth;

(B) A physical description of the sex offender and a photograph, if applicable;

(C) The name and zip code of the city where the sex offender resides; *[and]*

(D) The name and telephone number of a contact person at the agency that is supervising the sex offender; **and**

**(E) The name of institutions of higher education that the sex offender attends or at which the sex offender works or carries on a vocation.**

(b) Notwithstanding paragraph (a) of this subsection, if the sex offender is under the supervision of the Oregon Youth Authority or a county juvenile department, the Department of State Police, chief of police or county sheriff shall release only:

(A) The sex offender's name and year of birth;

(B) The name and zip code of the city where the sex offender resides; *[and]*

(C) The name and telephone number of a contact person at the agency that is supervising the sex offender; **and**

**(D) The name of institutions of higher education that the sex offender attends or at which the sex offender works or carries on a vocation.**

(c) An agency that supervises a sex offender shall release, upon request, any information that may be necessary to protect the public concerning the sex offender.

(3) Except as otherwise limited by subsection (2)(a) and (b) of this section regarding persons who are under supervision for the first time as sex offenders, the Department of State Police, a chief of police or a county sheriff shall release, upon request, any information that may be necessary to protect the public concerning sex offenders who reside in a specific area or concerning a specific sex offender. However, the entity releasing the information may not release the identity of a victim of a sex crime.

(4)(a) The department may make the information described in subsections (2) and (3) of this section available to the public, without the need for a request, by electronic or other means. The department shall make information about a person who is under supervision for the first time as a result of a conviction for an offense that requires reporting as a sex offender accessible only by the use of the sex offender's name. For all other sex offenders, the department may make the information accessible in any manner the department chooses.

(b) Notwithstanding paragraph (a) of this subsection, the department may use the Internet to make the information described in subsections (2) and (3) of this section available to the public only if the information is about a person determined to be a predatory sex offender as provided in ORS 181.585 or found to be a sexually violent dangerous offender under ORS 144.635.

(5) The Law Enforcement Data System may send sex offender information to the National Crime Information Center as part of the national sex offender registry in accordance with appropriate state and federal procedures.

(6) As used in this section:

*[(a) "Sex crime" has the meaning given that term in ORS 181.594.]*

**(a) "Attends," "institution of higher education," "sex crime," "works" and "carries on a vocation" have the meanings given those terms in ORS 181.594.**

(b) "Sex offender" means a person who is required to report under ORS 181.595, 181.596 or 181.597.

**SECTION 14.** Section 23, chapter 626, Oregon Laws 1999, as amended by section 23a, chapter 626, Oregon Laws 1999, is amended to read:

**Sec. 23.** (1) Except as otherwise provided in subsection (2) of this section, [sections 1 and 22 of this 1999 Act] **ORS 181.590 and 181.592** and the amendments to ORS 137.540, 144.102, 144.270, 181.586, 181.588, 181.589, 181.594, 181.595, 181.596, 181.597, 181.598, 181.599, 181.600, 181.601, 181.603, 181.604, 181.606, 419A.260 and 423.478 by sections 2 to 21, **chapter 626, Oregon Laws 1999**, [of this 1999 Act] apply to persons convicted of crimes before, on or after [the effective date of this 1999 Act] **September 1, 1999**.

(2) The amendments to ORS 137.540, 144.102, 144.270, 181.586, 181.588, 181.589, 181.594, 181.595, 181.596, 181.597, 181.598, 181.599, 181.600, 181.601, 181.603, 181.604, 181.606, 419A.260 and 423.478 by sections 2 to 21, **chapter 626, Oregon Laws 1999**, [of this 1999 Act] apply to persons who, on or after [the effective date of this 1999 Act] **September 1, 1999**, are:

(a) Convicted of a crime listed in ORS 181.594 [(2)(L)] **(4)(L)** to (p) or (s), an attempt to commit a crime listed in ORS 181.594 [(2)(L)] **(4)(L)** to (p) or burglary if committed with the intent to commit a crime listed in ORS 181.594 [(2)(L)] **(4)(L)** to (p) or (s) or convicted of an equivalent crime in another jurisdiction;

(b) Found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a crime listed in ORS 181.594 [(2)(L)] **(4)(L)** to (p) or (s), an attempt to commit a crime listed in ORS 181.594 [(2)(L)] **(4)(L)** to (p) or burglary if committed with the intent to commit a crime listed in ORS 181.594 [(2)(L)] **(4)(L)** to (p) or (s); or

(c) Found by a court in another jurisdiction to have committed an act while the person was under 18 years of age that if committed by an adult would constitute the equivalent of a crime listed in ORS 181.594 [(2)(L)] **(4)(L)** to (p) or (s), an attempt to commit a crime listed in ORS 181.594 [(2)(L)] **(4)(L)** to (p) or burglary if committed with the intent to commit a crime listed in ORS 181.594 [(2)(L)] **(4)(L)** to (p) or (s).

(3) The amendments to ORS 163.345 by section 24, **chapter 626, Oregon Laws 1999**, [of this 1999 Act] apply to offenses committed on or after the [effective date of this 1999 Act] **September 1, 1999**.

**SECTION 15.** ORS 181.597 is amended to read:

181.597. (1)(a) When a person listed in subsection (2) of this section moves into this state and is not otherwise required by ORS 181.595 or 181.596 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office:

(A) No later than 10 days after moving into this state;

(B) Within 10 days of a change of residence; and

(C) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence.

(b) When a person listed in subsection (2) of this section attends school or works in this state, resides in another state and is not otherwise required by ORS 181.595 or 181.596 to report, the person shall report, in person, to the department, a city police department or a county sheriff's office no later than 10 days after:

(A) The first day of school attendance or the 14th day of employment in this state; and

(B) A change in school enrollment or employment.

(c) As used in paragraph (b) of this subsection, [.]

[A] "attends school" means enrollment in any type of school on a [full-] **full-time** or part-time basis.

[B] "Works" means full- or part-time employment, with or without compensation, for more than 14 days within a calendar year.]

(d) When a person reports under paragraph (a) of this subsection, the agency or official to whom the person reports shall complete a sex offender registration form concerning the person.

(e) The obligation to report under this section terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(2) Subsection (1) of this section applies to:

(a) A person convicted in another jurisdiction of a crime if the elements of the crime would constitute a sex crime;

(b) A person found by a court in another jurisdiction to have committed an act while the person was under 18 years of age that would constitute a sex crime if committed in this state by an adult; and

(c) A person required to register in another state for having committed a sex offense in that state regardless of whether the crime would constitute a sex crime in this state.

(3) As part of the registration required under this section, the Department of State Police, a city police department or a sheriff's office:

(a) Shall photograph the person and obtain the signature of the person; and

(b) May fingerprint the person.

**SECTION 16.** ORS 181.585 is amended to read:

181.585. (1) For purposes of ORS 181.585 to 181.587, a person is a predatory sex offender if the person exhibits characteristics showing a tendency to victimize or injure others and has been convicted of a sex crime listed in ORS 181.594 [(2)(a)] (4)(a) to (d), has been convicted of attempting to commit one of those crimes or has been found guilty except for insanity of one of those crimes.

(2) In determining whether a person is a predatory sex offender, an agency shall use a sex offender risk assessment scale approved by the Department of Corrections or a community corrections agency.

**SECTION 17.** The amendments to ORS 137.540, 144.102, 144.270, 181.592, 181.594, 181.595, 181.596, 181.599 and 423.478 by sections 5 to 13 of this 2005 Act apply to persons who are required to report as sex offenders on or after the effective date of this 2005 Act.

Passed by House February 21, 2005

Received by Governor:

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Approved:

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Chief Clerk of House

.....M.,....., 2005

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Speaker of House

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Governor

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