

# House Bill 2299

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Committee on Judiciary)

## 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**.

Requires person relieved of duty to report as sex offender to provide to Department of State Police copy of court order relieving person of duty.

## A BILL FOR AN ACT

1  
2 Relating to sex offender reporting; creating new provisions; and amending ORS 181.600, 181.607 and  
3 181.608.

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

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

6 181.600. (1)(a) No sooner than 10 years after termination of supervision on probation, conditional  
7 release, parole or post-prison supervision, a person required to report under ORS 181.595, 181.596  
8 or 181.597 may file a petition in the circuit court of the county in which the person resides for an  
9 order relieving the person of the duty to report if:

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

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

14 (C) The person has not been determined to be a predatory sex offender as described in ORS  
15 181.585.

16 (b) The district attorney of the county shall be named and served as the respondent in the pe-  
17 tition.

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

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

21 (b) The age and number of victims;

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

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

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

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

28 (g) Any other relevant factors.

29 (3) If the court is satisfied by clear and convincing evidence that the petitioner is rehabilitated  
30 and that the petitioner does not pose a threat to the safety of the public, the court shall enter an  
31 order relieving the petitioner of the duty to report. **When the court enters an order under this**

**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 subsection, the petitioner shall send a certified copy of the court order to the Department  
 2 of State Police.

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

4 181.607. (1)(a) No sooner than two years, but no later than five years, after the termination of  
 5 juvenile court jurisdiction over a person required to report under ORS 181.595, 181.596 or 181.597,  
 6 the person may file a petition for relief from the duty to report. The person must file the petition  
 7 in the juvenile court in which the person was adjudicated for the act that requires reporting.

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

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

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

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

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

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

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

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

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

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

26 (d) Whether the act was premeditated;

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

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

30 (g) The vulnerability of the victim;

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

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

35 (j) The person's willingness to accept personal responsibility for the act and personal account-  
 36 ability for the consequences of the act;

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

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

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

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

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

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

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

- 1 (n) The person’s use of drugs or alcohol before and after the adjudication;
- 2 (o) The person’s history of public or private indecency;
- 3 (p) The person’s compliance with and success in completing the terms of supervision;
- 4 (q) The results of psychological examinations of the person;
- 5 (r) The protection afforded the public by the continued existence of the records; and
- 6 (s) Any other relevant factors.

7 (4) In a hearing under this section, the juvenile court may receive testimony, reports and other  
 8 evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and  
 9 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this  
 10 section. As used in this subsection, “relevant evidence” has the meaning given that term in ORS  
 11 40.150.

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

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

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

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

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

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

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

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

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

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

43 181.608. (1) Except as provided in subsection (6) of this section, when a person is required to  
 44 report under ORS 181.595, 181.596 or 181.597 as a result of having been found in a juvenile adjudi-  
 45 cation in another jurisdiction to have committed an act while the person was under 18 years of age

1 that would constitute a sex crime if committed in this state by an adult, the person may file a pe-  
 2 tition in the circuit court of the county in which the person resides for an order relieving the person  
 3 of the duty to report if:

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

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

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

10 (A) The juvenile court petition;

11 (B) The dispositional report to the court;

12 (C) The order of adjudication or jurisdiction;

13 (D) Any other relevant court documents;

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

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

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

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

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

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

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

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

35 (7) In a hearing under this section, the court may receive testimony, reports and other evidence  
 36 without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to  
 37 40.585 if the evidence is relevant to the determination and findings required under this section. As  
 38 used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

39 **(8) If the court is satisfied by clear and convincing evidence that the person is rehabili-**  
 40 **tated and that the person does not pose a threat to the safety of the public, the court shall**  
 41 **enter an order relieving the person of the duty to report. When the court enters an order**  
 42 **under this subsection, the person shall send a certified copy of the court order to the De-**  
 43 **partment of State Police.**

44 **SECTION 4. The amendments to ORS 181.600, 181.607 and 181.608 by sections 1 to 3 of this**  
 45 **2005 Act apply to court orders entered on or after the effective date of this 2005 Act.**

