



LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

SEX OFFENDERS

BACKGROUND BRIEF

Oregon established its sex offender registry in 1989 with the purpose of assisting law enforcement in the prevention of future sex crimes. ORS 163A.045. Currently, there are over 28,000 offenders registered in the state. Registration is required for those convicted of specific sex crimes. The Oregon State Police maintain a database of all registered sex offenders and a publicly accessible website with information on high-risk offenders.

In 2017, Oregon saw 1,166 first-time or new registrations with the Oregon State Police. An additional 27,967 subsequent registration forms were received in 2017, however, each registration form does not necessarily reflect a separate offender, since an offender may submit multiple forms each year.

Oregon has developed a system for providing reporting relief to some low-risk offenders while maintaining on-going reporting requirements for high- and medium-risk offenders. Additionally, Oregon allows juvenile felony sex offenders to have a hearing to determine if the juvenile must register as a sex offender.

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SEX OFFENSES

All persons convicted of a registerable offense have an obligation to register and report as a sex offender. Persons found guilty except for insanity or convicted in another state are also required to register. Registerable offenses are found in ORS 163A.005(5).

They are:

- Rape in any degree;
- Sodomy in any degree;
- Unlawful sexual penetration in any degree;
- Sexual abuse in any degree;
- Incest with a child victim;
- Using a child in a display of sexually explicit conduct;
- Encouraging child sexual abuse in any degree;
- Transporting child pornography into the state;
- Paying for viewing a child's sexually explicit conduct;

- Compelling prostitution;
- Promoting prostitution;
- Kidnapping I, if the victim was under 18 years of age;
- Kidnapping II, if the victim was under 18 years of age, except by a parent or a person found to be within the jurisdiction of the juvenile court;
- Contributing to the sexual delinquency of a minor;
- Sexual misconduct, if the offender is at least 18 years of age;
- Possession of materials depicting sexually explicit conduct of a child in the first degree;
- Online sexual corruption of a child in any degree if the offender reasonably believed the child to be more than five years younger than the offender;
- Luring a minor, if the offender reasonably believed the minor or, in the case of a police officer or agent of a police officer posing as a minor, the purported minor to be more than five years younger than the offender or under 16 years of age; and the court designates in the judgment that the offense is a sex crime;
- Sexual assault of an animal;
- Public or private indecency, if the person has a prior felony sex crime conviction;
- Purchasing sex with a minor if the court designates the offense as a sex crime pursuant to ORS 163.413(3)(d), or the offense is the defendant's second or subsequent conviction under ORS 163.413(3)(b)(B);
- Trafficking in persons as described in ORS 163.266(1)(b) or (c);
- Invasion of personal privacy in the first degree, if the court designates the offense as a sex crime pursuant to ORS 163.701(3);
- Any attempt to commit the above crimes;
- Burglary, when committed with intent to commit any of the above crimes; and,
- Criminal conspiracy if the offender agrees with one or more persons to engage in or cause the performance of any of the above crimes.

A person with an obligation to register must do so within 10 days following discharge from a corrections facility or beginning supervision. Offenders must also report, in person, within 10 days of changing residency, having a birthday, beginning work, school, or vocational programs, or any changes to such programs. ORS 163A.010(3). Reports can be made to the Oregon State Police, or a city law enforcement or county sheriff's office. Offenders who move to Oregon from another state must register within 10 days of moving into the state. Offenders who are attending school or working in Oregon, but reside in another state, must also register within 10 days of beginning or changing school or employment.

HOUSE BILL 2549 (2013) AND THE TIERED SYSTEM

In 2013, the Legislative Assembly enacted [House Bill 2549](#), which took effect August 1, 2013. HB 2549 created a three-tiered sex offender ranking system that sought to identify low-risk, high-risk, and medium-risk offenders through the use of a validated risk assessment tool. The tool uses a ten-item actuarial assessment to designate offenders

as high (Level Three), medium (Level Two), or low risk (Level One). The assessment tool determines the risk of an individual sexually re-offending in the community, but is only available for use with male sex offenders over the age of 18. Evaluations for female sex offenders and juvenile sex offenders are conducted utilizing other tools and done in person. The measure required all offenders in the registry to be reclassified and for classification of new offenders to take place before their release. Reclassification of offenders is an ongoing effort that will likely reach into 2022.

Prior to enactment of HB 2549, sex offenders could fall into three categories: predatory, sexual violent dangerous offender, or sexual offender. The predatory designation was attached by the trial court judge and applied only to convictions for rape, sodomy, unlawful sexual penetration, sexual abuse, and attempts of those crimes. Sexually violent dangerous offenders were designated by the court or the Board of Parole and Post-Prison Supervision and applied only to first-degree sex offenses and attempts. These designations could only be applied to those convicted of the specified crimes and were not evidence-based. This led to inconsistently applied designations and situations in which an offender should have been designated a higher risk level and was not.

Under HB 2549, if a person is designated a “predatory” sex offender or “sexually violent dangerous offender,” that person is an automatic Level Three offender. All Level Three offenders are listed on the Oregon State Police website and are ineligible for total relief from reporting obligations. Other Level Three offenders are eligible to apply to move to Level Two after 10 years without re-offense. Level Two offenders are eligible for reclassification to Level One after ten years without re-offense. Level One offenders are eligible for relief from the reporting obligation after five years without re-offense.

When an offender petitions for reclassification, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board, as appropriate, must hold a hearing. At the hearing, the Board must determine, by clear and convincing evidence, that the offender is statistically unlikely to re-offend and does not pose a threat to public safety. The Board analyzes a number of factors, including the nature of the crime and degree of violence involved in the offense, the offender’s performance on supervision, completion of sex offender treatment programs, the person’s stability, and other relevant factors. The state’s interest is represented by the District Attorney of the county of conviction or the Attorney General. The victim of the crime also receives notification of the hearing and may appear. See ORS 163A.100-150.

JUVENILE OFFENDERS

In 2015, [House Bill 2320](#) attempted to provide a hearing mechanism for juvenile sex offenders to petition for relief from reporting requirements. The concept was further refined in [House Bill 4074](#) of the 2016 session. The two measures allow for a juvenile, who has been adjudicated of a felony sex crime, to petition the juvenile court for relief

from the reporting obligation. The optional hearing is available to juveniles within six months of the end of their supervision.

At the hearing, the juvenile has the burden to prove, by clear and convincing evidence, that they have been rehabilitated and do not pose a threat to public safety. The court considers many factors when determining whether the juvenile has met their burden, including the physical and emotional impact or injury to the victim, the nature of the act, any use of force in committing the act, premeditation, whether the juvenile took advantage of a position of authority or trust, the age and vulnerability of the victim, the juvenile's willingness to accept responsibility for the act, and the treatment programs the juvenile has completed.

If the juvenile meets the burden of proof, the court may grant relief from the reporting requirement. If the juvenile does not meet the burden of proof, or if the juvenile does not request the hearing, then the juvenile is required to register and report as a sex offender. Reporting is through the Oregon Youth Authority.

RECENT LEGISLATION

Senate Bill 408 (2011) modified the juvenile sex offender registration requirements. For a juvenile tried and adjudicated delinquent, the following apply:

1. Misdemeanor sex offense – no registration.
2. Class C felony – may apply for relief from reporting 30 days after juvenile court jurisdiction ends.
3. Class A or B felony – may apply for relief from reporting two years after juvenile court jurisdiction ends.

Senate Bill 673 (2013) created the new crime of purchasing sex with a minor. Convicted offenders would be required to attend "John School." A second conviction would be a Class B felony and the offender would be required to register as a sex offender.

Senate Bill 1600 (2016) authorizes prosecution for an offense of Rape I, Sodomy I, Unlawful Sexual Penetration I, or Sexual Abuse I at any time, if there is corroborating evidence of the crime.

Senate Bill 1050 (2017) provides a presumptive sentence of life imprisonment without parole for a person convicted of Rape I, Sodomy I, or Unlawful Sexual Penetration I, if, at the time the crime was committed, the person had a prior conviction for one of these offenses.

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