

**Enrolled**  
**House Bill 2333**

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

CHAPTER .....

AN ACT

Relating to sex offender reporting.

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

**SECTION 1.** A person otherwise required to report under ORS 181.595, 181.596 or 181.597 is not required to report, and if currently reporting is no longer required to report, if:

(1)(a) The person has been convicted of:

- (A) Rape in the third degree as defined in ORS 163.355;
  - (B) Sodomy in the third degree as defined in ORS 163.385;
  - (C) Sexual abuse in the third degree as defined in ORS 163.415;
  - (D) Contributing to the sexual delinquency of a minor as defined in ORS 163.435;
  - (E) Sexual misconduct as defined in ORS 163.445; or
  - (F) An attempt to commit an offense listed in subparagraphs (A) to (E) of this paragraph;
- (b) The person has been found guilty except for insanity of an offense listed in paragraph

(a) of this subsection;

(c) The person 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 an offense listed in paragraph (a) of this subsection; or

(d) The person is paroled to this state under ORS 144.610 after being convicted in another jurisdiction of a crime that would constitute an offense listed in paragraph (a) of this subsection;

(2)(a) The person is less than five years older than the victim;

(b) The victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age;

(c) At the time of the offense or act, the person had no prior conviction for an offense listed in ORS 181.594 (4) or adjudication for an act that if committed by an adult would constitute an offense listed in ORS 181.594 (4), or no prior conviction or adjudication for conduct in another jurisdiction that if committed in this state by an adult would constitute an offense listed in ORS 181.594 (4); and

(d) The victim was at least 14 years of age at the time of the offense or act; and

(3) The court enters an order relieving the person of the requirement to report under section 2 or 3 of this 2007 Act.

**SECTION 2.** (1) When a person is convicted of an offense or adjudicated for an act described in section 1 (1) of this 2007 Act, the court shall determine whether the person is required to report under ORS 181.595 or 181.596.

(2) The court shall enter an order relieving the person of the requirement to report, unless:

(a) The court finds by a preponderance of the evidence that the person does not meet the eligibility requirements described in section 1 of this 2007 Act; or

(b) The district attorney and the person stipulate that the person is required to report.

(3) The state has the burden of proving that the person does not meet the eligibility requirements described in section 1 of this 2007 Act.

**SECTION 3.** (1) A person who meets the criteria described in section 1 of this 2007 Act and seeks relief from the requirement to report under ORS 181.595, 181.596 or 181.597 shall:

(a) If the person was convicted in this state of the offense or adjudicated in this state for the act giving rise to the obligation to report, file a motion for relief from the requirement to report and an affidavit of eligibility with the circuit court of the county in which the person was convicted or adjudicated and serve a copy of the motion and affidavit on the district attorney for that county.

(b) If the person was convicted in another jurisdiction of an offense or adjudicated in another jurisdiction for an act giving rise to the obligation to report, file a petition for relief from the requirement to report and an affidavit of eligibility with the circuit court of the county in which the person resides and serve a copy of the petition and affidavit on the district attorney for that county.

(2) The court shall schedule a hearing more than 90 days from the date of the filing described in subsection (1) of this section. The court shall notify the person and the district attorney of the date of the hearing.

(3)(a) Upon receipt of the affidavit described in subsection (1) of this section, the district attorney shall determine whether the district attorney contests the request for relief.

(b) If the district attorney does not contest the request for relief, the district attorney shall submit an order to the court relieving the person of the reporting requirements described in ORS 181.595, 181.596 or 181.597. The court shall enter the order.

(c) If the district attorney contests the request for relief, the district attorney shall notify the person of that determination within 90 days.

(4) At the hearing, the state has the burden of proving that the person does not meet the eligibility requirements described in section 1 of this 2007 Act.

(5)(a) If the court finds, by a preponderance of the evidence, that the person does not meet the eligibility requirements described in section 1 of this 2007 Act, the court shall enter an order denying the request for relief.

(b) If the court does not make the finding described in paragraph (a) of this subsection, the court shall enter an order relieving the person from the requirement to report.

(6)(a) If the court relieves the person from the requirement to report, the person shall send a certified copy of the court order to the Department of State Police.

(b) Upon receipt of the order, the Department of State Police 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.

(7) The order entered under subsection (5) of this section is not subject to appeal.

(8) The Oregon Evidence Code does not apply to the hearing described in subsection (4) of this section.

**SECTION 4.** Section 1 of this 2007 Act applies to persons convicted of an offense or adjudicated for an act before, on or after the effective date of this 2007 Act.

**SECTION 5.** Section 2 of this 2007 Act applies to persons convicted of an offense or adjudicated for an act on or after the effective date of this 2007 Act.

**SECTION 6.** Section 3 of this 2007 Act applies to persons:

(1) Convicted of an offense or adjudicated for an act in this state before the effective date of this 2007 Act; and

**(2) Convicted of an offense or adjudicated for an act in another jurisdiction before, on or after the effective date of this 2007 Act.**

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**Passed by House April 11, 2007**

**Received by Governor:**

**Repassed by House June 12, 2007**

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**Approved:**

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Chief Clerk of House

.....M,....., 2007

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Speaker of House

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Governor

**Passed by Senate June 11, 2007**

**Filed in Office of Secretary of State:**

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President of Senate

.....M,....., 2007

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Secretary of State