

House Bill 3233

Sponsored by Representative MACPHERSON; Representatives BARKER, BERGER, WHISNANT (at the request of Oregon Sex Offender Supervision Network and Attorney General's Sexual Assault Task Force)

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**.

Creates Sex Offender Treatment Board and Sex Offender Treatment Advisory Board. Authorizes Sex Offender Treatment Board to regulate sex offender treatment specialists and impose penalties. Continuously appropriates moneys to Sex Offender Treatment Board from moneys received by board.

A BILL FOR AN ACT

1
2 Relating to sex offender treatment; and appropriating money.

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

4 **SECTION 1. (1) The Legislative Assembly hereby declares that the comprehensive eval-**
5 **uation, treatment and monitoring of sex offenders who are subject to the supervision of the**
6 **criminal justice system and the Department of Human Services is necessary in order to work**
7 **toward the elimination of such offenses. The Legislative Assembly hereby recognizes that sex**
8 **offender therapists who examine and treat sex offenders assume a vital role in protecting the**
9 **public from sex offenders who remain in the community prior to or following disposition or**
10 **who will reenter the community following a period of incarceration.**

11 **(2) The Legislative Assembly further finds that the qualifications, practices, techniques**
12 **and effectiveness of sex offender therapists vary widely and that the court's ability to effec-**
13 **tively determine the appropriateness of sentencing and monitoring sex offenders so that such**
14 **offenders will curtail recidivistic behavior, and so that the protection of victims and potential**
15 **victims will be enhanced, is undermined by a lack of regulated practices.**

16 **(3) The Legislative Assembly recognizes the right of sex offender therapists to practice,**
17 **consistent with the paramount requirements of public safety. Public safety is best served by**
18 **regulating sex offender therapists whose clients are being evaluated and treated under al-**
19 **ternative sentencing or disposition, post-prison supervision, parole, the Department of Hu-**
20 **man Services supervision or as juveniles.**

21 **(4) Section 4 of this 2007 Act establishes the titles of certified clinical sex offender ther-**
22 **apist, certified associate sex offender therapist and certified sexual arousal/interest exam-**
23 **iner. Sections 1 to 13 of this 2007 Act do not prohibit others from providing services to sex**
24 **offenders. However, only those certified under sections 1 to 13 of this 2007 Act may represent**
25 **the designated titles to the public. Adult and juvenile parole and probation authorities and**
26 **the Department of Human Services may restrict their referrals to those providers who are**
27 **certified under sections 1 to 13 of this 2007 Act.**

28 **SECTION 2. As used in sections 1 to 13 of this 2007 Act:**

29 **(1) "Board" means the Sex Offender Treatment Board.**

30 **(2) "Sex offender" means a person convicted or adjudicated of a sexual offense and**

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 mandated by a court, releasing authority and the Department of Human Services to suc-
 2 cessfully complete a sex offender treatment program.

3 (3) "Sex offender treatment" means the process of evaluation, assessment and treatment
 4 for the rehabilitation of sex offenders.

5 (4) "Certified sex offender therapist" means a person certified by the board to provide
 6 services for the evaluation, treatment and rehabilitation of sex offenders, and includes the
 7 following:

8 (a) A certified clinical sex offender therapist who is authorized to treat sex offenders
 9 without supervision and may supervise certified associate sex offender therapists.

10 (b) A certified associate sex offender therapist who is authorized to treat sex offenders
 11 under the supervision of a certified clinical sex offender therapist.

12 (5) "Sexual arousal/interest examiner" means a person certified by the board to provide
 13 sexual arousal and interest assessment for the evaluation and rehabilitation of sex offenders.

14 (6) "Direct supervision" means a minimum of two hours of supervision with a certified
 15 clinical sex offender therapist for each 45 hours of direct clinical contact.

16 **SECTION 3.** (1) No person shall represent the title of sex offender therapist or sexual
 17 arousal/interest examiner unless the person has applied for and received certification under
 18 sections 4 to 6 of this 2007 Act.

19 (2) Sections 1 to 13 of this 2007 Act apply only to sex offender therapists and sex sexual
 20 arousal/interest examiners who examine and treat sex offenders as defined in section 2 of
 21 this 2007 Act.

22 **SECTION 4.** (1) In order to obtain certification as a sex offender therapist or sexual
 23 arousal/interest examiner, an applicant shall complete an application developed and pre-
 24 scribed by the Sex Offender Treatment Board and file a professional disclosure statement
 25 with the board. The documents must be accompanied by a fee established by the board. The
 26 board shall issue three types of certification:

27 (a) Clinical sex offender therapist;

28 (b) Associate sex offender therapist; and

29 (c) Sexual arousal/interest examiner.

30 (2) To qualify as a certified clinical sex offender therapist, the applicant must:

31 (a) Be in compliance with the provisions of sections 1 to 13 of this 2007 Act and the rules
 32 adopted by the board;

33 (b) Have a master's degree or above in the behavioral sciences;

34 (c) Have an active Oregon mental health professional license;

35 (d) Have a minimum of 2,000 hours of direct clinical contact with sex offenders, including:

36 (A) 1,000 hours of direct treatment services; and

37 (B) 500 hours of evaluations.

38 (e) Have a minimum of 60 hours of formal training applicable to sex offender treatment
 39 and evaluation, achieved within the three years prior to application; and

40 (f) Have attained clinical sex offender therapist status in not less than three years nor
 41 more than six years.

42 (3) To qualify as a certified associate sex offender therapist, the applicant must:

43 (a) Be in compliance with the provisions of sections 1 to 13 of this 2007 Act and the rules
 44 adopted by the board;

45 (b) Have a bachelor's degree or above in the behavioral sciences;

1 (c) Have a minimum of 1,000 hours of direct clinical contact with sex offenders;

2 (d) Have a minimum of 30 hours of formal training applicable to sex offender treatment
3 and evaluation, achieved within three years prior to application; and

4 (e) Be under the direct supervision of a certified clinical sex offender therapist.

5 (4) To qualify as a certified sexual arousal/interest examiner, the applicant must:

6 (a) Be in compliance with the provisions of sections 1 to 13 of this 2007 Act and the rules
7 adopted by the board;

8 (b) Be certified as either a clinical sex offender therapist or associate sex offender ther-
9 apist under this section; and

10 (c) Complete all training in the administration and interpretation of the penile
11 plethysmograph, the Abel Assessment for Sexual Interest-2 or other applicable sexual
12 arousal/interest instruments, as determined by the board.

13 (5) The board may renew each certification of a clinical sex offender therapist or annually
14 or an associate sex offender therapist. To renew a certification, the applicant must:

15 (a) Have complied with the provisions of sections 1 to 13 of this 2007 Act and the rules
16 adopted by the board;

17 (b) Have a minimum of 100 hours of annual clinical experience, 50 of which shall be direct
18 clinical contact with sex offenders;

19 (c) Have a minimum of 15 hours annual continuing education in the field of sexual abuse
20 treatment; and

21 (d) Satisfy any additional requirements adopted by the board.

22 (6) Certification renewal shall occur every year for each sex offender arousal/interest
23 examiner on the date provided by the board. The application for certification renewal will be
24 considered by the board to be an application to continue as a clinical sex offender therapist
25 or an associate sex offender therapist. Renewal requirements shall include:

26 (a) Compliance with the provisions of sections 1 to 13 of this 2007 Act and the rules
27 adopted by the board;

28 (b) Compliance with subsection (4) of this section; and

29 (c) Documentation of continued administration of sexual arousal/interest instruments.
30 The specific requirements regarding this documentation shall be determined by the board.

31 (7) A person may not participate in the treatment or rehabilitation of a sex offender
32 unless the person is certified by the board under this section or is under the direct super-
33 vision of a certified clinical sex offender therapist or certified sexual arousal/interest exam-
34 iner.

35 **SECTION 5.** Upon application and the receipt of appropriate fees established under
36 sections 1 to 4 of this 2007 Act, the Sex Offender Treatment Board shall grant a certificate
37 as a clinical sex offender therapist, associate sex offender therapist or sexual
38 arousal/interest examiner if the applicant provides evidence to the satisfaction of the board
39 that the applicant is recognized as a sex offender therapist or sexual arousal/interest exam-
40 iner in another state in which the requirements for such recognition are, in the judgment
41 of the board, at least equivalent to the requirements of sections 1 to 13 of this 2007 Act and
42 the rules of the board.

43 **SECTION 6.** The Sex Offender Treatment Board may deny, suspend, revoke or refuse to
44 issue or renew any certification issued under sections 1 to 13 of this 2007 Act upon proof that
45 the person certified:

1 (1) Has been convicted of violating section 12 of this 2007 Act or of a felony or
2 misdemeanor that brings into question the competence or integrity of the holder of the
3 certificate in the role of sex offender therapist or sexual arousal/interest examiner;

4 (2) Has had the certificate holder's mental health license revoked, suspended or re-
5 stricted;

6 (3) Is unable to meet the requirements in section 4 of this 2007 Act by reason of mental
7 illness, physical illness, drug addition or alcohol abuse;

8 (4) Has been grossly negligent in the practice of professional therapy;

9 (5) Has violated section 10 or 12 of this 2007 Act or one or more of the rules of the board
10 pertaining to certification;

11 (6) Has failed to file a professional disclosure statement or has filed a false, incomplete
12 or misleading professional disclosure statement; or

13 (7) Has practiced outside the scope of the person's certification.

14 **SECTION 7.** (1) The Sex Offender Treatment Board and the Sex Offender Treatment
15 Advisory Board are created.

16 (2) The Sex Offender Treatment Board shall be a multidisciplinary board consisting of
17 nine members appointed by the Governor.

18 (3) In selecting the members of the Sex Offender Treatment Board, the Governor shall
19 strive to balance the representation according to geographic areas of this state, gender, age
20 and ethnic group.

21 (4) The Sex Offender Treatment Board shall select one of its members as chairperson and
22 another as vice chairperson, for such terms and with duties and powers necessary for the
23 performance of the functions of such offices as the board determines.

24 (5) A majority of the members of the Sex Offender Treatment Board constitutes a quo-
25 rum for the transaction of business.

26 (6) The Sex Offender Treatment Board shall consist of:

27 (a) Two members recommended by members of the Association for the Treatment of
28 Sexual Abusers;

29 (b) Two members recommended by the Oregon Adolescent Sex Offender Treatment Net-
30 work;

31 (c) One member recommended by the Oregon Association of Community Corrections Di-
32 rectors;

33 (d) One member recommended by the Oregon Juvenile Department Directors Associ-
34 ation;

35 (e) One member from Seniors and People with Disabilities;

36 (f) One member who is a victim advocate; and

37 (g) One member who is a post-conviction sex offender testing certified polygraph exam-
38 iner.

39 (7) The chairperson of the Sex Offender Treatment Board shall appoint all subordinate
40 officers and employees of the Sex Offender Treatment Board, prescribe their duties and fix
41 their compensation, subject to any applicable provisions of ORS chapter 240.

42 (8) The Sex Offender Treatment Advisory Board shall be a multidisciplinary board of an
43 unspecified membership who shall be appointed by the Governor.

44 (9) In selecting the members of the Sex Offender Treatment Advisory Board, the Gover-
45 nor shall strive to balance the representation according to geographic areas of this state,

1 **gender, age and ethnic group.**

2 (10) **Members of the advisory board shall include representatives from:**

- 3 (a) **Department of Corrections;**
- 4 (b) **Oregon Youth Authority;**
- 5 (c) **Oregon Association of Community Corrections Directors;**
- 6 (d) **Oregon Juvenile Department Directors Association;**
- 7 (e) **Department of Human Services;**
- 8 (f) **Oregon District Attorneys Association;**
- 9 (g) **Oregon Criminal Defense Lawyers Association;**
- 10 (h) **The Sex Offender Supervision Network;**
- 11 (i) **Oregon State Sheriffs' Association; and**
- 12 (j) **Other persons with expertise in the treatment of sex offenders.**

13 (11) **The following organizations shall recommend names of qualified persons to the**
 14 **Governor at the time for filling vacancies on either the Sex Offender Treatment Board or**
 15 **the Sex Offender Treatment Advisory Board:**

- 16 (a) **Association for the Treatment of Sexual Abusers;**
- 17 (b) **Oregon Adolescent Sex Offender Treatment Network;**
- 18 (c) **Oregon Association of Community Corrections Directors;**
- 19 (d) **Oregon Juvenile Department Directors Association;**
- 20 (e) **Department of Corrections;**
- 21 (f) **Oregon Youth Authority;**
- 22 (g) **Oregon Criminal Defense Lawyers Association;**
- 23 (h) **Department of Human Services;**
- 24 (i) **Oregon District Attorneys Association;**
- 25 (j) **The Sex Offender Supervision Network; and**
- 26 (k) **Oregon State Sheriffs' Association.**

27 (12) **The term of office for each member of the Sex Offender Treatment Board is two**
 28 **years, but a member serves at the pleasure of the Governor. By October 1 of each year, the**
 29 **Governor shall appoint persons to fill positions on the board that are due to become vacant**
 30 **on October 1 of that year. A member is eligible for one consecutive reappointment. If there**
 31 **is a vacancy for any cause, the Governor shall make an appointment to become immediately**
 32 **effective for the unexpired term.**

33 (13) **Notwithstanding the term of office specified by subsection (12) of this section, of the**
 34 **members first appointed to the board:**

- 35 (a) **Four shall serve terms of three years.**
- 36 (b) **Five shall serve terms of four years.**

37 (14) **The term of office for each member of the Sex Offender Treatment Advisory Board**
 38 **is two years. Each member shall serve at the pleasure of the Governor. By October 1 of each**
 39 **year, the Governor shall appoint persons to fill positions on the advisory board that are due**
 40 **to become vacant on October 1 of that year. A member is eligible for one consecutive reap-**
 41 **pointment. If there is a vacancy for any cause, the Governor shall make an appointment to**
 42 **become effective immediately for the unexpired term.**

43 (15) **The purpose of the Sex Offender Treatment Advisory Board is to provide recom-**
 44 **mendations to the Sex Offender Treatment Board.**

45 **SECTION 8. The Sex Offender Treatment Board has the following powers:**

1 (1) In accordance with the applicable provisions of ORS chapter 183, the board shall adopt
 2 rules, standards and guidelines necessary for the administration of the laws the board is
 3 charged with administering.

4 (2) The board shall:

5 (a) Maintain a register of all current certified sex offender therapists and sexual
 6 arousal/interest examiners. The register shall be available to the public online and for a
 7 reasonable copying fee;

8 (b) Maintain a list of post-conviction sex offender testing certified polygraph examiners;

9 (c) Develop evidence-based standards and guidelines specific to the treatment and evalu-
 10 ation of adult, juvenile, developmentally delayed and other distinct sex offender populations;

11 (d) Establish procedures to review the complaints of clients of persons certified by the
 12 board;

13 (e) Report to the Legislative Assembly concerning the activities of the board during the
 14 preceding biennium;

15 (f) Certify clinical sex offender therapists, associate sex offender therapists and sexual
 16 arousal/interest examiners who meet the requirements of sections 1 to 13 of this 2007 Act
 17 and the rules of the board;

18 (g) Establish an appeal process for applicants who have been denied certification or
 19 whose certification has been revoked or suspended;

20 (h) Certify sex offender treatment and arousal/interest providers who are practicing on
 21 the effective date of this 2007 Act and who meet the requirements adopted by the Sex
 22 Offender Treatment Board;

23 (i) Adopt a code of ethics for clinical sex offender therapists, associate sex offender
 24 therapists and sexual arousal/interest examiners; and

25 (j) Adopt training standards required under sections 1 to 13 of this 2007 Act.

26 (3) The board may administer oaths, take depositions, defray legal expenses and issue
 27 subpoenas to compel the attendance of witnesses and the production of documents or written
 28 information necessary to carry out sections 1 to 13 of this 2007 Act.

29 (4) The board may adopt a seal to be affixed to all certificates.

30 (5) The board shall establish a program for impaired professionals to assist any certified
 31 clinical sex offender therapist, associate sex offender therapist or sexual arousal/interest
 32 examiner to regain or retain certification and impose the requirement of participation in the
 33 program as a condition to reissuance or retention of the certificate.

34 **SECTION 9.** (1) The Sex Offender Treatment Board and the Sex Offender Treatment
 35 Advisory Board shall meet at least quarterly at a place, time and hour determined by the
 36 board. The board and the advisory board also shall meet at other times and places specified
 37 when called by the board coordinator or by a majority of the members of the board.

38 (2) A majority of the members of the board or advisory board constitutes a quorum. A
 39 majority of the members present may take action on behalf of the board unless a different
 40 number is provided in the rule of the board.

41 (3) A member of the Sex Offender Treatment Board or Sex Offender Treatment Advisory
 42 Board is not entitled to compensation, with the exception of board or advisory coordinator,
 43 but may receive actual and necessary expenses as provided in ORS 292.495.

44 (4) A member of the Sex Offender Treatment Board or Sex Offender Treatment Advisory
 45 Board is not entitled to compensation, but may receive actual and necessary expenses as

1 provided in ORS 292.495.

2 **SECTION 10.** A clinical sex offender therapist, associate sex offender therapist or sexual
 3 arousal/interest examiner or any employees of these individuals may not disclose any com-
 4 munication from a client during the course of noninvestigatory professional treatment or
 5 rehabilitation, except:

6 (1) When the client or a person authorized to act on behalf of the client gives consent
 7 to the disclosure;

8 (2) When the client initiates legal action or makes a complaint against a clinical sex
 9 offender therapist, associate sex offender therapist or sexual arousal/interest examiner to
 10 the Sex Offender Treatment Board;

11 (3) When the communication reveals the intent to commit a crime harmful to the client
 12 or others;

13 (4) When the communication reveals that a minor may have been a victim of a crime or
 14 physical, sexual, emotional abuse or neglect; or

15 (5) To juvenile and adult parole and probation officers supervising the client under a
 16 mandated sex offender treatment condition imposed by a court or releasing authority.

17 **SECTION 11.** All moneys received by the Sex Offender Treatment Board under sections
 18 1 to 13 of this 2007 Act shall be paid into the General Fund of the State Treasury and placed
 19 to the credit of the Sex Offender Treatment Board. Such moneys are appropriated contin-
 20 uously to the Sex Offender Treatment Board for the administration and enforcement of
 21 sections 1 to 13 of this 2007 Act.

22 **SECTION 12.** (1) No person shall:

23 (a) Attempt to obtain a certificate or renewal of a certificate under sections 1 to 13 of
 24 this 2007 Act by bribery or fraudulent representation;

25 (b) Purport to the public to be engaged in the practice of sex offender therapy under the
 26 title "Certified Sex Offender Therapist" unless the person possesses a valid certification un-
 27 der sections 1 to 13 of this 2007 Act; or

28 (c) Purport to the public to be engaged in the practice of sex offender arousal/interest
 29 assessment under the title "Certified Sexual Arousal/Interest Examiner" unless the person
 30 possesses a valid certification under sections 1 to 13 of this 2007 Act.

31 (2) Nothing in sections 1 to 13 of this 2007 Act is intended to limit or prevent the practice
 32 of an individual's profession or to restrict a person from providing counseling or therapy if
 33 the person or individual does not represent to the public by title that the person or individual
 34 is a certified sex offender therapist or sexual arousal/interest examiner.

35 (3) Each violation of this section is a separate violation.

36 **SECTION 13.** The Sex Offender Treatment Board may impose a civil penalty for each
 37 separate violation of section 12 of this 2007 Act. The maximum and minimum penalties shall
 38 be determined by the Sex Offender Treatment Board.

39 **SECTION 14.** (1) The Sex Offender Treatment Board may commence proceedings in any
 40 circuit court to enjoin a violation of section 12 of this 2007 Act.

41 (2) In proceedings under this section, the board need not show that a person has been
 42 or is likely to be injured by the person against whom the injunction is sought.

43 (3) If the person against whom an injunction is sought under this section is found by the
 44 court to have unlawfully used the title "Sex Offender Therapist" or "Sexual Arousal/Interest
 45 Examiner," a court may grant an injunction barring such practices.

1 **(4) An injunction under this section is in addition to any other remedies or penalties**
2 **provided by law.**

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