

# Enrolled House Bill 2175

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of State Police)

CHAPTER .....

## AN ACT

Relating to sex offender reporting; creating new provisions; and amending ORS 135.873, 137.540, 144.102, 144.270, 181.585, 181.594, 181.595, 181.596, 181.597, 181.598, 181.599, 181.826, 181.830, 181.833 and 423.478 and section 6, chapter 627, Oregon Laws 2007, section 1, chapter 35, Oregon Laws 2008, and section 2, chapter 50, Oregon Laws 2008.

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

**SECTION 1.** ORS 181.594 is amended to read:

181.594. As used in **this section and** ORS 181.595, 181.596, 181.597, [*and*] 181.603, **181.826, 181.830 and 181.833:**

(1) **“Another United States court” means a federal court, a military court, the tribal court of a federally recognized Indian tribe or a court of:**

- (a) **A state other than Oregon;**
- (b) **The District of Columbia;**
- (c) **The Commonwealth of Puerto Rico;**
- (d) **Guam;**
- (e) **American Samoa;**
- (f) **The Commonwealth of the Northern Mariana Islands; or**
- (g) **The United States Virgin Islands.**

[(1)] (2) **“Attends” means is enrolled on a full-time or part-time basis.**

[(2)(a)] (3)(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 or a secure intensive community inpatient facility 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)] (4) **“Institution of higher education” means a public or private educational institution that provides a program of post-secondary education.**

[(4)] (5) **“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;
- (i) Paying for viewing a child's sexually explicit conduct;
- (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) 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;
- (r) Any attempt to commit any of the crimes set forth in paragraphs (a) to (q) of this subsection;
- (s) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a) to (q) or (t) of this subsection; or
- (t) Public indecency or private indecency, if the person has a prior conviction for a crime listed in this subsection.

[5] (6) "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]* **United States court** of a crime that would constitute a sex crime if committed in this state; **or**
- (e) **Is paroled to or otherwise placed in this state after having been found by another United States court 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.**

[6] (7) "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 2.** 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]* **to which** 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]* **city police department** or a county **sheriff's office** *[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]* **United States court** 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] **United States court** 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;

(d) Is discharged or placed on conditional release by the juvenile panel of the Psychiatric Security Review Board after having been found to be responsible except for insanity under ORS 419C.411 for an act that would constitute a sex crime if committed by an adult; or

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

**(3)(a) A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff's office or, if the person is under supervision, to the supervising agency:**

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

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

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

[C] **(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

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

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

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

[e] **(c)** The obligation to report under this 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] **city police department**, the county **sheriff's office** [sheriff] or the supervising agency:

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

(b) May fingerprint the person.

**SECTION 3.** 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] **to which** 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] **city police department** or a county **sheriff's office** [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] **United States court** 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] **United States court** 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) **A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff's office or, if the person is under supervision, to the supervising agency:**

(A) Within 10 days following discharge, [or] release **or placement on probation**;*[ 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) After making the report required by paragraph (a) of this subsection, the person shall report, in person:]*

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

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

*[(C)] (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

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

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

*[(d)] (b)* 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 paragraphs (a) and (b) of this subsection]* **report** to the agency supervising the person.

*[(e)] (c)* The obligation to report under this 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]* **city police department**, the county **sheriff's office** *[sheriff]* or the supervising agency:

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

(b) May fingerprint the person.

**SECTION 4.** ORS 181.597 is amended to read:

181.597. (1)(a) When a person *[listed]* **described** 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]* **described** 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 **of State Police**, 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) When a person described in subsection (2) of this section resides in this state at the time of the conviction or adjudication giving rise to the obligation to report, continues to reside in this state following the conviction or adjudication 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) Within 10 days following:**

**(i) Discharge, release on parole or release on any form of supervised or conditional release, from a jail, prison or other correctional facility or detention facility; or**

**(ii) Discharge, release or placement on probation, by another United States court;**

**(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 has changed residence.**

*[(c)]* **(d)** As used in paragraph (b) of this subsection, "attends school" means enrollment in any type of school on a full-time or part-time basis.

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

*[(e)]* **(f)** 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]* **United States court** of a crime if the elements of the crime would constitute a sex crime;

(b) A person found by *[a court in another jurisdiction]* **another United States court** 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]* **the** city police department or *[a]* **the** sheriff's office:

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

(b) May fingerprint the person.

**SECTION 5.** ORS 181.599 is amended to read:

181.599. (1) A person who is required to report as a sex offender **under ORS 181.595, 181.596 or 181.597** 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) **Fails to** make the initial report to *[the appropriate]* **an** agency *[or official];*

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

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

**(d) Moves to a new residence and fails to report the move and the person's new address;**

*[(d)]* **(e) Fails to** make an annual report; or

*[(e)]* **(f) Fails to** 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) **or (d)** 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 5a.** If House Bill 2169 becomes law, ORS 181.599, as amended by section 4, chapter 204, Oregon Laws 2009 (Enrolled House Bill 2169), is amended to read:

181.599. (1) A person who is required to report as a sex offender **under ORS 181.595, 181.596 or 181.597** 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) **Fails to** make the initial report to *[the appropriate]* **an** agency *[or official];*

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

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

(d) **Moves to a new residence and fails to report the move and the person's new address;**

[(d)] (e) **Fails to** make an annual report;

[(e)] (f) **Fails to** provide complete and accurate information;

[(f)] (g) **Fails to** sign the sex offender registration form as required; or

[(g)] (h) **Fails to** submit to fingerprinting or to having a photograph taken of the person's face, identifying scars, marks or tattoos.

(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), (c), (d) or (g) [*or (f)*] 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 6.** ORS 181.826 is amended to read:

181.826. (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 United States 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, 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 **act for which reporting is required** [*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*] **act** for which reporting is required;

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

(G) The evaluation and treatment records or reports of the person that are related to the [*sex crime*] **act** 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 7.** ORS 181.833 is amended to read:

181.833. (1) A person who meets the criteria described in ORS 181.830 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*] **United States court** of [*an*] **the** offense or adjudicated in another [*jurisdiction*] **United States court** for [*an*] **the** 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 ORS 181.830.

(5)(a) If the court finds, by a preponderance of the evidence, that the person does not meet the eligibility requirements described in ORS 181.830, 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 8.** Section 6, chapter 627, Oregon Laws 2007, is amended to read:

**Sec. 6.** [Section 3 of this 2007 Act] **ORS 181.833** applies to persons:

(1) Convicted of an offense or adjudicated for an act in this state before [the effective date of this 2007 Act] **January 1, 2008**; and

(2) Convicted of an offense or adjudicated for an act in another [jurisdiction] **United States court** before, on or after [the effective date of this 2007 Act] **January 1, 2008**.

**SECTION 9.** ORS 181.830 is amended to read:

181.830. 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 **United States court** [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)] **a sex crime** or adjudication for an act that if committed by an adult would constitute [an offense listed in ORS 181.594 (4)] **a sex crime**, or no prior conviction or adjudication in **another United States court** for conduct [in another jurisdiction] that if committed in this state by an adult would constitute [an offense listed in ORS 181.594 (4)] **a sex crime**; 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 ORS 181.832 or 181.833.

**SECTION 10.** ORS 135.873 is amended to read:

135.873. (1) As used in this section:

(a) "Local government" has the meaning given that term in ORS 174.116.

(b) "Sexual offense" includes but is not limited to a [crime listed in] **sex crime as defined in ORS 181.594 [(4)]**.

(c) "State government" has the meaning given that term in ORS 174.111.

(d) "Victim" has the meaning given that term in ORS 131.007.

(2) Upon a showing of good cause, the court may at any time order that specified disclosures be denied, restricted or deferred, or make such other order as is appropriate.

(3) Upon request of any party, the court may permit a showing of good cause for denial or regulation of disclosures, or portion of such showing, to be made in camera. A record shall be made of such proceedings.

(4) If the court enters an order granting relief following a showing in camera, the entire record of the showing shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal. Except for information or materials subject to an order that has been entered under subsection (5) or (6) of this section, the trial court, in its discretion, may, after the case has been concluded, unseal matters previously sealed.

(5) Upon the request of a district attorney or the victim, the court shall enter a protective order prohibiting any party to or attorney in, or the agent of a party to or attorney in, criminal proceedings involving a sexual offense, an offense involving the visual or audio recording of sexual conduct by a child or invasion of personal privacy under ORS 163.700 from copying or disseminating any information of a sexually explicit nature including, but not limited to, photographs depicting a person in a state of nudity, photographs of human genitalia, any information of the prior sexual history of the victim and any visual or audio recording of the sexual victimization.

(6) Upon the request of a district attorney or the victim, unless the court finds good cause to do otherwise, the court shall enter a protective order prohibiting any party to or attorney in, or the agent of a party to or attorney in, criminal proceedings involving a sexual offense, an offense involving the visual or audio recording of sexual conduct by a child or invasion of personal privacy under ORS 163.700 from copying or disseminating a visual or audio recording of the victim describing the victim's sexual victimization.

(7) Notwithstanding a protective order entered under subsection (5) or (6) of this section, information or materials described in subsections (5) and (6) may be copied or disseminated for the purpose of:

- (a) Providing discovery;
- (b) Submitting evidence to a grand jury, a court, an agency of state government, a local government or a federal agency for use in judicial or administrative proceedings;
- (c) Having the information or materials examined by an expert witness for the court, the state or any party;
- (d) Providing copies of the information or materials to the parties' attorneys or agents; or
- (e) Sharing the information or materials with an agency of state government for use in carrying out duties imposed on the agency by statute.

(8) Upon the request of the victim, the court may order that the victim be provided with a copy of information or materials described in subsections (5) and (6) of this section.

**SECTION 11.** ORS 137.540 is amended to read:

137.540. (1) The court may sentence the defendant to probation 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 parole and 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 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 if the probationer:
    - (A) Is under supervision for a sex offense under ORS 163.305 to 163.467;
    - (B) Was previously convicted of a sex offense under ORS 163.305 to 163.467; or
    - (C) Was previously convicted in another jurisdiction of an offense that would constitute a sex offense under ORS 163.305 to 163.467 if committed in this state.
  - (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*] **city police department**, a county [*sheriff*] **sheriff's office** or the supervising agency:
    - (A) When supervision begins;
    - (B) Within 10 days of a change in residence;
    - (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 probationer for the protection of the public or reformation of the probationer, 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 is released on probation, the court shall impose as a special condition of probation that the person not reside in any dwelling in which another sex offender who is on probation, parole or post-prison supervision resides, without the approval of the person's supervising parole and probation officer, or in which more than one other sex offender who is on probation, parole or post-prison supervision resides, without the approval of the director of the probation agency that is supervising the person or of the county manager of the Department of Corrections, or a designee of the director or manager. As soon as practicable, the supervising parole and probation officer of a person subject to the requirements of this subsection shall review the person's living arrangement with the person's sex offender treatment provider to ensure that the arrangement supports the goals of offender rehabilitation and community safety. As used in this subsection:
- (a) "Dwelling" has the meaning given that term in ORS 469.160.
  - (b) "Dwelling" does not include a residential treatment facility or a halfway house.

(c) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.

(d) "Sex offender" has the meaning given that term in ORS 181.594.

(4)(a) If the person is released on probation following conviction of a sex crime, as defined in ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the court, if requested by the victim, shall include as a special condition of the person's probation that the person not reside within three miles of the victim unless:

(A) The victim resides in a county having a population of less than 130,000 and the person is required to reside in that county;

(B) The person demonstrates to the court by a preponderance of the evidence that no mental intimidation or pressure was brought to bear during the commission of the crime;

(C) The person demonstrates to the court by a preponderance of the evidence that imposition of the condition will deprive the person of a residence that would be materially significant in aiding in the rehabilitation of the person or in the success of the probation; or

(D) The person resides in a halfway house. As used in this subparagraph, "halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.

(b) A victim may request imposition of the special condition of probation described in this subsection at the time of sentencing in person or through the prosecuting attorney.

(c) If the court imposes the special condition of probation described in this subsection and if at any time during the period of probation the victim moves to within three miles of the probationer's residence, the court may not require the probationer to change the probationer's residence in order to comply with the special condition of probation.

(5) 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.

(6) 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.

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

(8) 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.

(9) It 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.

(10) 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 12.** 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 may 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*] **city police department**, a county [*sheriff*] **sheriff's office** or the supervising agency:

(A) When supervision begins;

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

(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 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 being present more than one time, without the prior written approval of the board, supervisory authority or supervising officer, at a place where persons under 18 years of age regularly congregate.

(D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition against being present, without the prior written approval of the board, supervisory authority or supervising officer, at, or on property adjacent to, a school, child care center, playground or other place intended for use primarily by persons under 18 years of age.

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

(F) 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.

(G) 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.

(H) Unless otherwise indicated for the treatment required under subparagraph (F) 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.

(I) 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.

(J) 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.

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

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

(M) A prohibition against residing in any dwelling in which another sex offender who is on probation, parole or post-prison supervision resides unless approved by the board, supervisory authority or supervising officer, or in which more than one other sex offender who is on probation, parole or post-prison supervision resides unless approved by the board or the director of the supervisory authority, or a designee of the board or director. As soon as practicable, the supervising officer of a person subject to the requirements of this subparagraph shall review the person's living arrangement with the person's sex offender treatment provider to ensure that the arrangement supports the goals of offender rehabilitation and community safety. As used in this subparagraph:

(i) "Dwelling" has the meaning given that term in ORS 469.160.

(ii) "Dwelling" does not include a residential treatment facility or a halfway house.

(iii) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.

(c)(A) If the person is on post-prison supervision following conviction of a sex crime, as defined in ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the board or supervisory authority, if requested by the victim, shall include as a special condition of the person's post-prison supervision that the person not reside within three miles of the victim unless:

(i) The victim resides in a county having a population of less than 130,000 and the person is required to reside in that county under subsection (6) of this section;

(ii) The person demonstrates to the board or supervisory authority by a preponderance of the evidence that no mental intimidation or pressure was brought to bear during the commission of the crime;

(iii) The person demonstrates to the board or supervisory authority by a preponderance of the evidence that imposition of the condition will deprive the person of a residence that would be materially significant in aiding in the rehabilitation of the person or in the success of the post-prison supervision; or

(iv) The person resides in a halfway house. As used in this sub-subparagraph, "halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.

(B) A victim may request imposition of the special condition of post-prison supervision described in this paragraph at the time of sentencing in person or through the prosecuting attorney. A victim's request may be included in the judgment document.

(C) If the board or supervisory authority imposes the special condition of post-prison supervision described in this paragraph and if at any time during the period of post-prison supervision the victim moves to within three miles of the person's residence, the board or supervisory authority may not require the person to change the person's residence in order to comply with the special condition of post-prison supervision.

(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 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; 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 13.** 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 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 being present more than one time, without the prior written approval of the board or supervising officer, at a place where persons under 18 years of age regularly congregate.

(D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition against being present, without the prior written approval of the board or supervising officer, at, or on property adjacent to, a school, child care center, playground or other place intended for use primarily by persons under 18 years of age.

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

(F) 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.

(G) 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.

(H) Unless otherwise indicated for the treatment required under subparagraph (F) 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.

(I) 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.

(J) 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.

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

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

(M) A prohibition against residing in any dwelling in which another sex offender who is on probation, parole or post-prison supervision resides unless approved by the board or supervising officer, or in which more than one other sex offender who is on probation, parole or post-prison

supervision resides unless approved by the board or a designee of the board. As soon as practicable, the supervising officer of a person subject to the requirements of this subparagraph shall review the person's living arrangement with the person's sex offender treatment provider to ensure that the arrangement supports the goals of offender rehabilitation and community safety. As used in this subparagraph:

(i) "Dwelling" has the meaning given that term in ORS 469.160.

(ii) "Dwelling" does not include a residential treatment facility or a halfway house.

(iii) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.

(c)(A) If the person is on parole following conviction of a sex crime, as defined in ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the board, if requested by the victim, shall include as a special condition of the person's parole that the person not reside within three miles of the victim unless:

(i) The victim resides in a county having a population of less than 130,000 and the person is required to reside in that county under subsection (5) of this section;

(ii) The person demonstrates to the board by a preponderance of the evidence that no mental intimidation or pressure was brought to bear during the commission of the crime;

(iii) The person demonstrates to the board by a preponderance of the evidence that imposition of the condition will deprive the person of a residence that would be materially significant in aiding in the rehabilitation of the person or in the success of the parole; or

(iv) The person resides in a halfway house. As used in this sub-subparagraph, "halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.

(B) A victim may request imposition of the special condition of parole described in this paragraph at the time of sentencing in person or through the prosecuting attorney. A victim's request may be included in the judgment document.

(C) If the board imposes the special condition of parole described in this paragraph and if at any time during the period of parole the victim moves to within three miles of the parolee's residence, the board may not require the parolee to change the parolee's residence in order to comply with the special condition of parole.

(4) It 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 given that term 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 that 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 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; 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*] **city police department**, a county [*sheriff*] **sheriff’s office** or the supervising agency:

- (a) When supervision begins;
- (b) Within 10 days of a change in residence;
- (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 14.** 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 [(4)(a)] **(5)(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 15.** ORS 181.598 is amended to read:

181.598. (1) Agencies [*and officials*] required to register offenders under ORS 181.595, 181.596 and 181.597 shall use forms provided by the Department of State Police. The department shall include places on the form to list all the names used by the offender and the address of the offender. No later than three working days after registration, the agency or official completing the form shall:

- (a) Send the original copy of the registration form to the department; or
- (b) Forward the registration information to the department by any means and, within 10 working days after registration, send the original copy of the registration form to the department.

(2) If the person is no longer under supervision, the department shall verify the residence address of a person determined to be a sexually violent dangerous offender as defined in ORS 137.765 every 90 days by mailing a verification form to the person at the person’s last reported residence address. No later than 10 days after receiving the form, the person shall sign and return the form to the department.

(3) The department shall assess a person who is required to report under ORS 181.595, 181.596 or 181.597 and who is not under supervision a fee of \$70 each year. Moneys received by the department under this subsection are continuously appropriated to the department for the purpose of carrying out the department's duties under ORS 181.585 to 181.587, 181.588, 181.589, 181.594, 181.595, 181.596, 181.597, 181.598, 181.599, 181.601, 181.602, 181.603, 181.604, 181.605, 181.606 and 181.820.

**SECTION 16.** 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*] **city police department** or a county [*sheriff*] **sheriff's office** or to the supervising agency, if any:

- (a) When the person is released;
- (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 17.** Section 1, chapter 35, Oregon Laws 2008, is amended to read:

**Sec. 1.** (1) When a court sentences a defendant to a term of incarceration that exceeds one year, the defendant may request a determination of the defendant's eligibility for release on post-prison supervision under ORS 421.508 (4). The court shall order in the judgment that the Department of Corrections may release the defendant on post-prison supervision under ORS 421.508 (4) only if, after a hearing, the court finds that:

- (a) The defendant meets the eligibility requirements of subsections (2) and (3) of this section;
- (b) The defendant was not on probation, parole or post-prison supervision for an offense listed in ORS 137.712 (4) or 811.705 (2)(b) at the time of the commission of the current crime of conviction;
- (c) The defendant has not previously been released on post-prison supervision under ORS 421.508 (4);

(d) The harm or loss caused by the crime is not greater than usual for that type of crime;  
(e) The crime was not part of an organized criminal operation; and  
(f) After considering the nature of the offense and the harm to the victim, the defendant's successful completion of the program would:

- (A) Increase public safety;
- (B) Enhance the likelihood that the defendant would be rehabilitated; and
- (C) Not unduly reduce the appropriate punishment.

(2) Except as provided in subsection (4) of this section, a defendant may not be released on post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime under ORS 163.145, 163.165 (1)(a) or (b), 163.525 or 811.705 (2)(b).

(3) A defendant may not be released on post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime listed in ORS 137.700, 137.707[,] or 163.095 or a **sex crime as defined in ORS 181.594 [(4)]**.

(4) Notwithstanding subsection (1) of this section, the parties may stipulate to a defendant's eligibility for release on post-prison supervision under ORS 421.508 (4). If the court accepts the stipulation, the court does not need to make explicit findings regarding the factors described in subsection (1)(b) to (f) of this section. The parties may not stipulate to the defendant's release on post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime described in subsection (3) of this section.

(5) If the court makes the findings described in subsection (1) of this section or accepts the stipulation of the parties under subsection (4) of this section, the court shall:

(a) Order on the record in open court as part of the sentence imposed that the defendant may be considered by the department for release on post-prison supervision under ORS 421.508 (4); and  
(b) Include the order described in paragraph (a) of this subsection in the judgment.

(6) Subject to the requirements of this section, the court may order that the defendant serve a minimum period of incarceration before the defendant is released on post-prison supervision under ORS 421.508 (4). Nothing in this section authorizes the release of the defendant on post-prison supervision before the defendant has served the period of time described in ORS 421.508 (4)(b).

**SECTION 18.** Section 2, chapter 50, Oregon Laws 2008, is amended to read:

**Sec. 2.** (1)(a) When a youth makes a first appearance before the juvenile court on a petition described in subsection (4) of this section alleging that the youth is within the jurisdiction of the juvenile court under ORS 419C.005, the district attorney or other person filing the petition under ORS 419C.250 shall notify:

(A) The superintendent of the school district in which the youth resides or the superintendent's designee; or

(B) If the person filing the petition has information that the youth is enrolled in a private school or charter school, the principal of the school in which the youth is enrolled.

(b) If the juvenile court sets aside or dismisses a petition as provided in ORS 419C.261 for which notice was given under subsection (1)(a) of this section, or if the juvenile court determines that the youth is not within the jurisdiction of the juvenile court, the district attorney or other person prosecuting the case shall notify:

(A) The superintendent of the school district in which the youth resides or the superintendent's designee; or

(B) If the person prosecuting the case has information that the youth is enrolled in a private school or charter school, the principal of the school in which the youth is enrolled.

(2) The notice required under subsection (1) of this section may be communicated by mail or other method of delivery, including but not limited to electronic transmission. The notice must include:

- (a) The name and date of birth of the youth;
- (b) The names and addresses of the youth's parents or guardians;
- (c) The alleged basis for the juvenile court's jurisdiction over the youth;
- (d) The act alleged in the petition that, if committed by an adult, would constitute a crime; and

(e) If notice is required under subsection (1)(b) of this section, that portion of the juvenile court order providing for the legal disposition of the youth.

(3) The notice required under subsection (1) of this section must be given within 15 days after:

(a) The youth makes a first appearance before the juvenile court on a petition;

(b) The petition is dismissed or set aside; or

(c) The juvenile court determines that the youth is not within the jurisdiction of the juvenile court after a hearing on the merits of the petition.

(4) This section applies to petitions filed alleging that the youth engaged in conduct that, if committed by an adult, would constitute a crime involving:

(a) Harm or threatened harm to another person, including criminal homicide, felony assault or any attempt to cause serious physical injury to another person;

(b) Sexual assault of an animal or animal abuse in any degree;

(c) A sex offense listed in ORS 181.594 [(4)], except for rape in the third degree under ORS 163.355;

(d) A weapon, as defined in ORS 166.360, or the threatened use of a weapon;

(e) Possession or manufacture of a destructive device, as defined in ORS 166.382, or possession of a hoax destructive device, as defined in ORS 166.385; or

(f) An offense for which manufacture or delivery of alcohol or a controlled substance is an element of the crime.

(5) Except as otherwise provided in ORS 192.490, a person who sends or receives notice under this section is not civilly or criminally liable for failing to disclose the information under this section.

**SECTION 19.** (1) **Before granting permission to a sending state to authorize a delinquent juvenile on probation or parole to reside in this state, the Juvenile Compact Administrator described in ORS 417.040 shall determine whether the delinquent juvenile is required to report as a sex offender under ORS 181.595, 181.596 or 181.597. If the delinquent juvenile is required to report as a sex offender, the Juvenile Compact Administrator shall, before granting permission for the delinquent juvenile to reside in this state, make a diligent effort to ensure that the sending state notifies the delinquent juvenile of the obligation to report.**

(2) **As used in this section, “delinquent juvenile,” “probation or parole” and “sending state” have the meanings given those terms in ORS 417.030.**

**SECTION 20.** **If House Bill 2169 becomes law, section 2 of this 2009 Act (amending ORS 181.595) is repealed and ORS 181.595, as amended by section 1, chapter 204, Oregon Laws 2009 (Enrolled House Bill 2169), is amended to read:**

181.595. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency [or official to whom] to which 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 city police department or a county sheriff’s office 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] **United States court** 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] **United States court** 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;

(d) Is discharged or placed on conditional release by the juvenile panel of the Psychiatric Security Review Board after having been found to be responsible except for insanity under ORS 419C.411 for an act that would constitute a sex crime if committed by an adult; or

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

(3)(a) A person [required to report under] **described in subsection (2) of** this section shall report, in person, to the Department of State Police, a city police department or a county sheriff's office or, if the person is under supervision, to the supervising agency:

(A) Within 10 days following discharge, release on parole, post-prison supervision or other supervised or conditional release;

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

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

(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.

(b) If the person required to report under this subsection is a youth offender or young person, as defined in ORS 419A.004, who is under supervision, the person shall report to the agency supervising the person.

(c) The obligation to report under this 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 and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department, the county sheriff's office or the supervising agency:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police bureau of criminal identification.

**SECTION 21. If House Bill 2169 becomes law, section 3 of this 2009 Act (amending ORS 181.596) is repealed and ORS 181.596, as amended by section 2, chapter 204, Oregon Laws 2009 (Enrolled House Bill 2169), is amended to read:**

181.596. (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the agency [or official to whom] **to which** 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 city police department or a county sheriff's office 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] **United States court** 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] **United States court** 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) A person [required to report under] **described in subsection (2) of this section** shall report, in person, to the Department of State Police, a city police department or a county sheriff's office or, if the person is under supervision, to the supervising agency:

(A) Within 10 days following discharge, [or] release **or placement on probation;**

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

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

(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.

(b) 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 report to the agency supervising the person.

(c) The obligation to report under this 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 and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department, the county sheriff's office or the supervising agency:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police bureau of criminal identification.

**SECTION 22. If House Bill 2170 becomes law, section 4 of this 2009 Act (amending ORS 181.597) is repealed and ORS 181.597, as amended by section 1, chapter 34, Oregon Laws 2009 (Enrolled House Bill 2170), is amended to read:**

181.597. (1)(a) When a person [listed] **described** 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;

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

(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.

(b) When a person *[listed]* **described** 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 of **State Police**, 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) When a person described in subsection (2) of this section resides in this state at the time of the conviction or adjudication giving rise to the obligation to report, continues to reside in this state following the conviction or adjudication 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) Within 10 days following:**

**(i) Discharge, release on parole or release on any form of supervised or conditional release, from a jail, prison or other correctional facility or detention facility; or**

**(ii) Discharge, release or placement on probation, by another United States court;**

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

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

**(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.**

*[(c)]* **(d)** As used in paragraph (b) of this subsection, "attends school" means enrollment in any type of school on a full-time or part-time basis.

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

*[(e)]* **(f)** 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]* **United States court** of a crime if the elements of the crime would constitute a sex crime;

(b) A person found by *[a court in another jurisdiction]* **another United States court** 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]* **the** city police department or *[a]* **the** sheriff's office:

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

(b) May fingerprint the person.

**SECTION 23. If House Bill 2173 becomes law, section 9 of this 2009 Act (amending ORS 181.830) is repealed and ORS 181.830, as amended by section 1, chapter 205, Oregon Laws 2009 (Enrolled House Bill 2173), is amended to read:**

181.830. 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*] **United States court** 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) The victim was at least 14 years of age at the time of the offense or act;
- (d) Except for the convictions or findings described in subsection (1) of this section, the person has not been convicted of, found guilty except for insanity of, or found to be within the jurisdiction of the juvenile court based on, [*an offense listed in ORS 181.594 (4)*] **a sex crime or an offense, in another United States court, for** conduct [*in another jurisdiction*] that if committed in this state would constitute [*an offense listed in ORS 181.594 (4)*] **a sex crime**; and
- (e) Each conviction or finding described in subsection (1) of this section involved the same victim; and
- (3) The court enters an order relieving the person of the requirement to report under ORS 181.832 or 181.833.

**SECTION 24.** (1) **The amendments to ORS 181.595 by sections 2 and 20 of this 2009 Act apply to persons paroled to or otherwise placed in this state on or after the effective date of this 2009 Act.**

(2) **The amendments to ORS 181.596 by sections 3 and 21 of this 2009 Act apply to persons discharged, released or placed on probation to this state on or after the effective date of this 2009 Act.**

(3)(a) **Except as provided in paragraph (b) of this subsection, the amendments to ORS 181.597 by sections 4 and 22 of this 2009 Act apply to persons who move into this state, or whose first day of school attendance or work in this state occurs, on or after the effective date of this 2009 Act.**

(b) **ORS 181.597 (1)(c) applies to persons convicted of a crime or adjudicated for an act on or after the effective date of this 2009 Act.**

(4) **The amendments to ORS 181.599 by sections 5 and 5a of this 2009 Act apply to conduct occurring on or after the effective date of this 2009 Act.**

(5) **The amendments to ORS 181.826, 181.830 and 181.833 by sections 6, 7, 9 and 23 of this 2009 Act apply to petitions or motions filed on or after the effective date of this 2009 Act.**

**Passed by House March 10, 2009**

**Repassed by House June 18, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 4, 2009**

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President of Senate

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

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Governor

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.....M,....., 2009

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Secretary of State