

HOUSE AMENDMENTS TO HOUSE BILL 2549

By COMMITTEE ON JUDICIARY

April 26

1 On page 1 of the printed bill, line 2, after “144.641,” insert “147.500.”

2 On page 2, delete lines 1 through 9 and insert:

3 “(3)(a) When a person is found guilty except for insanity of a sex crime, the Psychiatric Security
4 Review Board shall conduct, or cause to be conducted, a risk assessment of the person utilizing the
5 risk assessment tool described in section 1 of this 2013 Act:

6 “(A) Before the person is placed on conditional release by the board or the Oregon Health Au-
7 thority or is discharged from the jurisdiction of the board or the authority, if the person is confined
8 in a correctional facility by the court under ORS 161.327 after being found guilty except for insanity.

9 “(B) No later than 60 days after the person is placed on conditional release by the court under
10 ORS 161.327 or discharged by the court under ORS 161.329.

11 “(b) The court shall notify the board when the court discharges a person under ORS 161.329.”.

12 Delete line 24.

13 On page 3, line 11, after “Supervision” insert “or the Psychiatric Security Review Board”.

14 After line 17, insert:

15 “(3) A person who has been convicted or found guilty except for insanity of one of the following
16 offenses is not eligible for relief from the obligation to report as a sex offender pursuant to a peti-
17 tion filed under section 5 (1) of this 2013 Act:

18 “(a) Rape in the first degree;

19 “(b) Sodomy in the first degree;

20 “(c) Unlawful sexual penetration in the first degree;

21 “(d) Kidnapping in the first degree as described in ORS 163.235 (1)(e) or when the victim is un-
22 der 18 years of age; or

23 “(e) Burglary in the first degree when committed with the intent to commit any of the offenses
24 listed in ORS 181.594 (5)(a) to (r) or (u).”.

25 Delete lines 21 through 45 and insert:

26 “**SECTION 5.** (1)(a) A person who is required to report as a sex offender under ORS 181.595,
27 181.596 or 181.597 due to a conviction for a sex crime and is classified as a level one sex offender
28 under section 1 (1) of this 2013 Act may petition the State Board of Parole and Post-Prison Super-
29 vision to relieve the person from the obligation to report as a sex offender under ORS 181.595,
30 181.596 or 181.597.

31 “(b) A person who is required to report as a sex offender under ORS 181.595, 181.596 or 181.597
32 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is classified
33 as a level one sex offender under section 1 (1) of this 2013 Act, may petition the Psychiatric Security
34 Review Board to relieve the person from the obligation to report as a sex offender under ORS
35 181.595, 181.596 or 181.597.

1 “(c)(A) Except as otherwise provided in subparagraph (B) of this paragraph, a person described
2 in paragraph (a) or (b) of this subsection may file the petition no sooner than five years after the
3 date supervision for the sex crime is terminated or, if the person was not subject to supervision for
4 the sex crime, five years after the date the person was discharged from the jurisdiction of the court,
5 Psychiatric Security Review Board or Oregon Health Authority.

6 “(B) A person who was reclassified under subsection (2) of this section from a level two sex
7 offender under section 1 (2) of this 2013 Act to a level one sex offender under section 1 (1) of this
8 2013 Act may file the petition no sooner than five years after the date of reclassification.

9 “(d) Notwithstanding paragraph (c) of this subsection, if a person is required to report because
10 of a conviction or finding of guilty except for insanity from another United States court as that term
11 is defined in ORS 181.594, the person may not petition for relief from reporting as a sex offender in
12 Oregon unless the laws of the jurisdiction where the person was convicted or found guilty except
13 for insanity would permit a petition for relief from reporting as a sex offender.

14 “(2)(a) A person who is required to report as a sex offender under ORS 181.595, 181.596 or
15 181.597 due to a conviction for a sex crime and is classified as a level three sex offender under
16 section 1 (3) of this 2013 Act may petition the State Board of Parole and Post-Prison Supervision to
17 reclassify the person as a level two sex offender under section 1 (2) of this 2013 Act.

18 “(b) A person who is required to report as a sex offender under ORS 181.595, 181.596 or 181.597
19 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is classified
20 as a level three sex offender under section 1 (3) of this 2013 Act, may petition the Psychiatric Se-
21 curity Review Board to reclassify the person as a level two sex offender under section 1 (2) of this
22 2013 Act.

23 “(c) A person who is required to report as a sex offender under ORS 181.595, 181.596 or 181.597
24 due to a conviction for a sex crime and is classified as a level two sex offender under section 1 (2)
25 of this 2013 Act may petition the State Board of Parole and Post-Prison Supervision to reclassify the
26 person as a level one sex offender under section 1 (1) of this 2013 Act.

27 “(d) A person who is required to report as a sex offender under ORS 181.595, 181.596 or 181.597
28 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is classified
29 as a level two sex offender under section 1 (2) of this 2013 Act, may petition the Psychiatric Security
30 Review Board to reclassify the person as a level one sex offender under section 1 (1) of this 2013
31 Act.

32 “(e) The petition described in this subsection may be filed no sooner than 10 years after the date
33 supervision for the sex crime is terminated or, if the person was not subject to supervision for the
34 sex crime, 10 years after the date the person was discharged from the jurisdiction of the court,
35 Psychiatric Security Review Board or Oregon Health Authority.

36 “(3)(a) The State Board of Parole and Post-Prison Supervision or the Psychiatric Security Re-
37 view Board shall deny a petition filed under this section if, at any time after the person is convicted
38 or found guilty except for insanity of a sex crime, the person is convicted of or found guilty except
39 for insanity of a person felony or a person Class A misdemeanor, as those terms are defined in the
40 rules of the Oregon Criminal Justice Commission.

41 “(b) The appropriate board shall deny a petition filed under subsection (2)(c) or (d) of this sec-
42 tion if the board has previously reclassified the person as a level two sex offender under section 1
43 (2) of this 2013 Act as the result of a petition filed under subsection (2)(a) or (b) of this section.

44 “(4)(a) Except as otherwise provided in subsection (3) of this section, if a person files a petition
45 under subsection (1) of this section, the State Board of Parole and Post-Prison Supervision or the

1 Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an
2 order relieving the person of the obligation to report as a sex offender under ORS 181.595, 181.596
3 or 181.597 if the board determines, by clear and convincing evidence, that the person:

4 “(A) Is statistically unlikely to reoffend; and

5 “(B) Does not pose a threat to the safety of the public.

6 “(b)(A) Except as otherwise provided in subsection (3) of this section, if a person files a petition
7 under subsection (2)(a) or (b) of this section, the State Board of Parole and Post-Prison Supervision
8 or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter
9 an order reclassifying the person as a level two sex offender under section 1 (2) of this 2013 Act if,
10 after completion of a new risk assessment utilizing the risk assessment tool described in section 1
11 of this 2013 Act, the person is classified as presenting a low or moderate risk of reoffending and the
12 board determines that a lower level of notification is sufficient to protect public safety.

13 “(B) Except as otherwise provided in subsection (3) of this section, if a person files a petition
14 under subsection (2)(c) or (d) of this section, the State Board of Parole and Post-Prison Supervision
15 or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter
16 an order reclassifying the person as a level one sex offender under section 1 (1) of this 2013 Act if,
17 after completion of a new risk assessment utilizing the risk assessment tool described in section 1
18 of this 2013 Act, the person is classified as presenting a low risk of reoffending and the board de-
19 termines that a lower level of notification is sufficient to protect public safety.

20 “(5) In making the determinations described in subsection (4) of this section, the State Board
21 of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall consider:

22 “(a) The nature of and degree of violence involved in the offense that requires reporting;

23 “(b) The age and number of victims of the offense that requires reporting;

24 “(c) The age of the person at the time of the offense that requires reporting;

25 “(d) The length of time since the offense that requires reporting and the time period during
26 which the person has not reoffended;

27 “(e) The person’s performance on supervision for the offense that requires reporting;

28 “(f) Whether the person has participated in or successfully completed a court-approved sex
29 offender treatment program or any other rehabilitative programs;

30 “(g) The person’s stability in employment and housing;

31 “(h) The person’s community and personal support system;

32 “(i) Other criminal and relevant noncriminal behavior of the person both before and after the
33 offense that requires reporting; and

34 “(j) Any other relevant factors.”

35 On page 4, delete lines 1 through 24.

36 In line 32, after “Supervision” insert “or the Psychiatric Security Review Board”.

37 In line 35, after “Supervision” insert “or the Psychiatric Security Review Board”.

38 In line 38, after “Act” insert “or as a level one sex offender under section 1 (1) of this 2013
39 Act”.

40 In line 44, after “Act” insert “or as a level one sex offender under section 1 (1) of this 2013
41 Act”.

42 On page 5, line 1, after “Supervision” insert “and the Psychiatric Security Review Board”.

43 In line 3, after “the” insert “appropriate”.

44 On page 6, line 12, after “vision” insert “or the Psychiatric Security Review Board, as appro-
45 priate,”.

1 In line 13, delete “January” and insert “February”.

2 In line 22, after “classification” insert “by certified mail”.

3 In line 25, delete “December 1, 2016” and insert “January 1, 2017”.

4 In line 28, delete “Forty-five” and insert “Sixty”.

5 In line 30, delete “Forty-five” and insert “Sixty”.

6 On page 13, after line 43, insert:

7 “**SECTION 15a.** ORS 147.500 is amended to read:

8 “147.500. As used in ORS 147.500 to 147.550:

9 “(1) ‘Authorized prosecuting attorney’ means a prosecuting attorney who, at the request of a

10 victim, has agreed to assert and enforce a right granted to the victim by section 42 or 43, Article

11 I of the Oregon Constitution.

12 “(2) ‘Claim’ means the allegation and proposed remedy described in ORS 147.515 (1).

13 “(3) ‘Crime’ includes an act committed by a person who is under 18 years of age that, if com-

14 mitted by an adult, would constitute a misdemeanor or felony.

15 “(4) ‘Criminal proceeding’ means an action at law in which a person is alleged, or has been ad-

16 judicated, to have committed a crime for which there is a victim and that is conducted in the trial

17 court before or after sentencing or disposition.

18 “(5) ‘Critical stage of the proceeding’ means:

19 “(a) Release hearings or hearings to modify the conditions of release, except hearings concern-

20 ing release decisions at arraignment;

21 “(b) Preliminary hearings;

22 “(c) Hearings related to the rescheduling of trial;

23 “(d) Hearings on motions or petitions:

24 “(A) Conducted pursuant to ORS 40.210 or 135.139;

25 “(B) To amend, dismiss or set aside a charge, conviction, order or judgment; or

26 “(C) To suppress or exclude evidence;

27 “(e) Entry of guilty or no contest pleas;

28 “(f) Trial;

29 “(g) Restitution hearings;

30 “(h) Sentencing;

31 “(i) Probation violation or revocation hearings if the crime of conviction is a felony or person

32 Class A misdemeanor and the victim has requested notice of the hearing from the prosecuting at-

33 torney or the supervisory authority as defined in ORS 144.087;

34 “(j) Hearings for relief from the requirement to report as a sex offender **or for the reclassi-**

35 **fication of a sex offender;**

36 “(k) Hearings related to a deferred sentencing agreement;

37 “(L) Hearings designated as a critical stage of the proceeding in ORS 419C.273; and

38 “(m) Any other stage of a criminal proceeding the court determines is a critical stage of the

39 proceeding for purposes of section 42, Article I of the Oregon Constitution.

40 “(6) ‘Defendant’ includes a person under 18 years of age alleged to be within the jurisdiction of

41 the juvenile court under ORS chapter 419C.

42 “(7) ‘Plea hearing’ means a hearing in which a defendant enters a plea of guilty or no contest.

43 “(8) ‘Plea of guilty or no contest’ includes:

44 “(a) An admission by a person under 18 years of age that the person is within the jurisdiction

45 of the juvenile court; and

1 “(b) If a juvenile court petition has been filed, entering into a formal accountability agreement
2 under ORS 419C.230 or entering an authorized diversion program under ORS 419C.225.

3 “(9) ‘Prosecuting attorney’ means a district attorney as defined in ORS 131.005. In a criminal
4 proceeding conducted in the juvenile court, ‘prosecuting attorney’ includes the juvenile department.

5 “(10) ‘Reasonable efforts to inform the victim’ includes, but is not limited to, providing informa-
6 tion orally, in writing, electronically or by mail to the victim’s last known address.

7 “(11) ‘Sentencing hearing’ includes the dispositional phase of a juvenile delinquency proceeding
8 under ORS chapter 419C.

9 “(12) ‘Trial court’ includes the juvenile court.

10 “(13) ‘Victim’ means any person determined by the prosecuting attorney or the court to have
11 suffered direct financial, psychological or physical harm as a result of the crime alleged in the
12 criminal proceeding and, in the case of a victim who is a minor, the legal guardian of the minor.

13 “(14) ‘Violent felony’ means a felony in which there was actual or threatened serious physical
14 injury to a victim or a felony sexual offense.”.

15 On page 22, line 37, after “144.641,” insert “147.500,”.

16 In line 40, after the comma insert “the Psychiatric Security Review Board,”.

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