

House Bill 2045

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for State Board of Parole and Post-Prison Supervision)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Removes deadline by which State Board of Parole and Post-Prison Supervision must perform risk assessment and classification on existing sex offender registrants. Directs board to biennially report to Legislative Assembly beginning February 1, 2021, on assessment and classification progress.

Removes deadline by which Department of State Police must enter results of classification into Law Enforcement Data System. Directs department to enter results within reasonable time after receipt.

Restores until January 1, 2022, statutory references to predatory sex offenders for adult offenders not yet classified into risk level.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to sex offenders; creating new provisions; amending ORS 90.630, 144.641, 163.476 and
3 163.479 and section 7, chapter 708, Oregon Laws 2013; and declaring an emergency.

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

5 **SECTION 1.** Section 7, chapter 708, Oregon Laws 2013, as amended by section 27, chapter 820,
6 Oregon Laws 2015, section 31, chapter 442, Oregon Laws 2017, and section 1, chapter 488, Oregon
7 Laws 2017, is amended to read:

8 **Sec. 7.** (1) As used in this section and ORS 163A.200 to 163A.210:

9 (a) "Event triggering the obligation to make an initial report" has the meaning given that term
10 in ORS 163A.110.

11 (b) "Existing registrant" means a person for whom the event triggering the obligation to make
12 an initial report under ORS 163A.010 (3)(a)(A), 163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or
13 (3)(a)(A) occurs before January 1, 2014.

14 (2)(a) [*No later than December 1, 2022,*] The State Board of Parole and Post-Prison Supervision
15 shall classify existing registrants in one of the levels described in ORS 163A.100. [*No later than*
16 *February 1, 2023,*] The Department of State Police shall enter the results of the classifications de-
17 scribed in this section into the Law Enforcement Data System **within a reasonable time after**
18 **receipt**.

19 (b) The board shall classify an existing registrant as a level three sex offender under ORS
20 163A.100 (3), if:

21 (A) The person was previously designated a predatory sex offender and the designation was
22 made after the person was afforded notice and an opportunity to be heard as to all factual questions
23 at a meaningful time and in a meaningful manner; or

24 (B) The person is a sexually violent dangerous offender under ORS 137.765.

25 (c) The Psychiatric Security Review Board may complete the risk assessment of an existing
26 registrant who is under the jurisdiction of the Psychiatric Security Review Board, regardless of
27 whether the person has been found guilty except for insanity of a sex crime or was previously con-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 victed of a sex crime, if the State Board of Parole and Post-Prison Supervision and the Psychiatric
 2 Security Review Board mutually agree that the Psychiatric Security Review Board has adequate
 3 resources to perform the assessment and that the performance of the assessment by the Psychiatric
 4 Security Review Board would assist in classifying the existing registrant in a more timely manner.

5 (3) As soon as practicable following the classification of an existing registrant under this sec-
 6 tion, the classifying board shall notify the person of the classification by mail.

7 (4)(a) An existing registrant who seeks review of a classification made under this section as a
 8 level two or level three sex offender as described in ORS 163A.100 may petition the classifying board
 9 for review. The petition may be filed no later than 60 days after the board provides the notice de-
 10 scribed in subsection (3) of this section.

11 (b) Upon receipt of a petition described in this subsection, the classifying board shall afford the
 12 person an opportunity to be heard as to all factual questions related to the classification.

13 (c) After providing the person with notice and an opportunity to be heard in accordance with
 14 this subsection, the board shall classify the person in accordance with the classifications described
 15 in ORS 163A.100, based on all of the information available to the classifying board.

16 (5) The boards shall adopt rules to carry out the provisions of this section.

17 (6) An existing registrant may not petition for reclassification or relief from the obligation to
 18 report as a sex offender as provided in ORS 163A.125 until either all existing registrants have been
 19 classified in one of the levels described in ORS 163A.100 or December 1, 2018, whichever occurs
 20 first.

21 (7) Notwithstanding ORS 163A.225 or any other provision of law, the Department of State Police
 22 may until December 1, 2018, continue to use the Internet to make information available to the public
 23 concerning any adult sex offender designated as predatory as authorized by the law in effect on
 24 December 31, 2013.

25 (8)(a) If the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Re-
 26 view Board does not classify an existing registrant under ORS 163A.100 because the person has
 27 failed or refused to participate in a sex offender risk assessment as directed by the State Board of
 28 Parole and Post-Prison Supervision or the Psychiatric Security Review Board, the appropriate board
 29 shall classify the person as a level three sex offender under ORS 163A.100 (3).

30 (b) If an existing registrant classified as a level three sex offender under this subsection notifies
 31 the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board of
 32 the willingness to participate in a sex offender risk assessment, the appropriate board shall perform
 33 the assessment and classify the existing registrant in one of the levels described in ORS 163A.100.

34 (9) The State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review
 35 Board may reassess or reclassify an existing registrant placed in one of the levels described in ORS
 36 163A.100 under this section if the classifying board determines that a factual mistake caused an
 37 erroneous assessment or classification.

38 **SECTION 2. Beginning February 1, 2021, and biennially thereafter, the State Board of**
 39 **Parole and Post-Prison Supervision shall report to the Legislative Assembly, in the manner**
 40 **provided in ORS 192.245, on the progress made in assessing and classifying existing regis-**
 41 **trants, as defined in section 7, chapter 708, Oregon Laws 2013, and other unclassified sex**
 42 **offenders, and the efforts to reduce the cost and increase the efficiency and accuracy of the**
 43 **assessments.**

44 **SECTION 3.** ORS 90.630, as amended by section 22, chapter 820, Oregon Laws 2015, is amended
 45 to read:

1 90.630. (1) Except as provided in subsection (4) of this section, the landlord may terminate a
 2 rental agreement that is a month-to-month or fixed term tenancy for space for a manufactured
 3 dwelling or floating home by giving to the tenant not less than 30 days' notice in writing before the
 4 date designated in the notice for termination if the tenant:

5 (a) Violates a law or ordinance related to the tenant's conduct as a tenant, including but not
 6 limited to a material noncompliance with ORS 90.740;

7 (b) Violates a rule or rental agreement provision related to the tenant's conduct as a tenant and
 8 imposed as a condition of occupancy, including but not limited to a material noncompliance with a
 9 rental agreement regarding a program of recovery in drug and alcohol free housing;

10 (c) Is classified as a level three sex offender under ORS 163A.100 (3) **or is an unclassified adult**
 11 **sex offender designated as predatory prior to January 1, 2014;** or

12 (d) Fails to pay a:

13 (A) Late charge pursuant to ORS 90.260;

14 (B) Fee pursuant to ORS 90.302; or

15 (C) Utility or service charge pursuant to ORS 90.534 or 90.536.

16 (2) A violation making a tenant subject to termination under subsection (1) of this section in-
 17 cludes a tenant's failure to maintain the space as required by law, ordinance, rental agreement or
 18 rule, but does not include the physical condition of the dwelling or home. Termination of a rental
 19 agreement based upon the physical condition of a dwelling or home shall only be as provided in ORS
 20 90.632.

21 (3) The notice required by subsection (1) of this section shall state facts sufficient to notify the
 22 tenant of the reasons for termination of the tenancy and state that the tenant may avoid termination
 23 by correcting the violation as provided in subsection (4) of this section.

24 (4) The tenant may avoid termination of the tenancy by correcting the violation within the
 25 30-day period specified in subsection (1) of this section. However, if substantially the same act or
 26 omission that constituted a prior violation of which notice was given recurs within six months after
 27 the date of the notice, the landlord may terminate the tenancy upon at least 20 days' written notice
 28 specifying the violation and the date of termination of the tenancy.

29 (5) Notwithstanding subsection (3) or (4) of this section, a tenant who is given a notice of ter-
 30 mination under subsection (1)(c) of this section does not have a right to correct the violation. A
 31 notice given to a tenant under subsection (1)(c) of this section must state that the tenant does not
 32 have a right to avoid the termination.

33 (6) This section does not limit a landlord's right to terminate a tenancy for nonpayment of rent
 34 under ORS 90.394 or for other cause under ORS 90.380 (5)(b), 90.396, 90.398 or 90.632 by complying
 35 with ORS 105.105 to 105.168.

36 (7) A tenancy terminates on the date designated in the notice and without regard to the expi-
 37 ration of the period for which, by the terms of the rental agreement, rents are to be paid. Unless
 38 otherwise agreed, rent is uniformly apportionable from day to day.

39 (8) Notwithstanding any other provision of this section or ORS 90.394, 90.396 or 90.398, the
 40 landlord may terminate the rental agreement for space for a manufactured dwelling or floating home
 41 because of repeated late payment of rent by giving the tenant not less than 30 days' notice in
 42 writing before the date designated in that notice for termination and may take possession as pro-
 43 vided in ORS 105.105 to 105.168 if:

44 (a) The tenant has not paid the monthly rent prior to the eighth day of the rental period as
 45 described in ORS 90.394 (2)(a) or the fifth day of the rental period as described in ORS 90.394 (2)(b)

1 in at least three of the preceding 12 months and the landlord has given the tenant a nonpayment
 2 of rent termination notice pursuant to ORS 90.394 (2) during each of those three instances of non-
 3 payment;

4 (b) The landlord warns the tenant of the risk of a 30-day notice for termination with no right
 5 to correct the cause, upon the occurrence of a third nonpayment of rent termination notice within
 6 a 12-month period. The warning must be contained in at least two nonpayment of rent termination
 7 notices that precede the third notice within a 12-month period or in separate written notices that
 8 are given concurrent with, or a reasonable time after, each of the two nonpayment of rent termi-
 9 nation notices; and

10 (c) The 30-day notice of termination states facts sufficient to notify the tenant of the cause for
 11 termination of the tenancy and is given to the tenant concurrent with or after the third or a sub-
 12 sequent nonpayment of rent termination notice.

13 (9) Notwithstanding subsection (4) of this section, a tenant who receives a 30-day notice of ter-
 14 mination pursuant to subsection (8) of this section does not have a right to correct the cause for the
 15 notice.

16 (10) The landlord may give a copy of the notice required by subsection (8) of this section to any
 17 lienholder of the manufactured dwelling or floating home by first class mail with certificate of
 18 mailing or by any other method allowed by ORS 90.150 (2) and (3). A landlord is not liable to a
 19 tenant for any damages incurred by the tenant as a result of the landlord giving a copy of the notice
 20 in good faith to a lienholder. A lienholder's rights and obligations regarding an abandoned manu-
 21 factured dwelling or floating home shall be as provided under ORS 90.675.

22 **SECTION 4.** ORS 144.641, as amended by section 23, chapter 820, Oregon Laws 2015, is
 23 amended to read:

24 144.641. As used in this section and ORS 144.642, 144.644 and 144.646:

25 (1) "Dwelling" has the meaning given that term in ORS 469B.100.

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

27 (3) "Halfway house" means a publicly or privately operated profit or nonprofit residential facil-
 28 ity that provides rehabilitative care and treatment for sex offenders.

29 (4) "Locations where children are the primary occupants or users" includes, but is not limited
 30 to, public and private elementary and secondary schools and licensed child care centers.

31 (5) "Sex offender" means:

32 (a) A sexually violent dangerous offender as defined in ORS 137.765; [or]

33 (b) A level three sex offender under ORS 163A.100 (3)[.]; **or**

34 (c) **An unclassified adult sex offender designated as predatory prior to January 1, 2014.**

35 (6) "Transitional housing" means housing intended to be occupied by a sex offender for 45 days
 36 or less immediately after release from incarceration.

37 **SECTION 5.** ORS 163.476, as amended by section 24, chapter 820, Oregon Laws 2015, is
 38 amended to read:

39 163.476. (1) A person commits the crime of unlawfully being in a location where children regu-
 40 larly congregate if the person:

41 (a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;

42 (B) Has been classified as a level three sex offender under ORS 163A.100 (3) **or is an unclas-**
 43 **sified adult sex offender designated as predatory prior to January 1, 2014**, and does not have
 44 written approval from the State Board of Parole and Post-Prison Supervision or the person's super-
 45 visory authority or supervising officer to be in or upon the specific premises;

1 (C) Has been sentenced as a dangerous offender under ORS 161.725 upon conviction of a sex
2 crime; or

3 (D) Has been given a similar designation or been sentenced under a similar law of another ju-
4 risdiction; and

5 (b) Knowingly enters or remains in or upon premises where persons under 18 years of age reg-
6 ularly congregate.

7 (2) As used in this section:

8 (a) "Premises where persons under 18 years of age regularly congregate" means schools, child
9 care centers, playgrounds, other places intended for use primarily by persons under 18 years of age
10 and places where persons under 18 years of age gather for regularly scheduled educational and
11 recreational programs.

12 (b) "Sex crime" has the meaning given that term in ORS 163A.005.

13 (3) Unlawfully being in a location where children regularly congregate is a Class A
14 misdemeanor.

15 **SECTION 6.** ORS 163.479, as amended by section 25, chapter 820, Oregon Laws 2015, is
16 amended to read:

17 163.479. (1) A person commits the crime of unlawful contact with a child if the person:

18 (a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;

19 (B) Has been classified as a level three sex offender under ORS 163A.100 (3);

20 **(C) Is an unclassified adult sex offender designated as predatory prior to January 1, 2014;**

21 [(C)] **(D)** Has been sentenced as a dangerous offender under ORS 161.725 upon conviction of a
22 sex crime; or

23 [(D)] **(E)** Has been given a similar designation or been sentenced under a similar law of another
24 jurisdiction; and

25 (b) Knowingly contacts a child with the intent to commit a crime or for the purpose of arousing
26 or satisfying the sexual desires of the person or another person.

27 (2) As used in this section:

28 (a) "Child" means a person under 18 years of age.

29 (b) "Contact" means to communicate in any manner.

30 (c) "Sex crime" has the meaning given that term in ORS 163A.005.

31 (3) Unlawful contact with a child is a Class C felony.

32 **SECTION 7.** ORS 90.630, as amended by section 22, chapter 820, Oregon Laws 2015, and section
33 3 of this 2019 Act, is amended to read:

34 90.630. (1) Except as provided in subsection (4) of this section, the landlord may terminate a
35 rental agreement that is a month-to-month or fixed term tenancy for space for a manufactured
36 dwelling or floating home by giving to the tenant not less than 30 days' notice in writing before the
37 date designated in the notice for termination if the tenant:

38 (a) Violates a law or ordinance related to the tenant's conduct as a tenant, including but not
39 limited to a material noncompliance with ORS 90.740;

40 (b) Violates a rule or rental agreement provision related to the tenant's conduct as a tenant and
41 imposed as a condition of occupancy, including but not limited to a material noncompliance with a
42 rental agreement regarding a program of recovery in drug and alcohol free housing;

43 (c) Is classified as a level three sex offender under ORS 163A.100 (3) [*or is an unclassified adult*
44 *sex offender designated as predatory prior to January 1, 2014*]; or

45 (d) Fails to pay a:

1 (A) Late charge pursuant to ORS 90.260;

2 (B) Fee pursuant to ORS 90.302; or

3 (C) Utility or service charge pursuant to ORS 90.534 or 90.536.

4 (2) A violation making a tenant subject to termination under subsection (1) of this section in-
5 cludes a tenant's failure to maintain the space as required by law, ordinance, rental agreement or
6 rule, but does not include the physical condition of the dwelling or home. Termination of a rental
7 agreement based upon the physical condition of a dwelling or home shall only be as provided in ORS
8 90.632.

9 (3) The notice required by subsection (1) of this section shall state facts sufficient to notify the
10 tenant of the reasons for termination of the tenancy and state that the tenant may avoid termination
11 by correcting the violation as provided in subsection (4) of this section.

12 (4) The tenant may avoid termination of the tenancy by correcting the violation within the
13 30-day period specified in subsection (1) of this section. However, if substantially the same act or
14 omission that constituted a prior violation of which notice was given recurs within six months after
15 the date of the notice, the landlord may terminate the tenancy upon at least 20 days' written notice
16 specifying the violation and the date of termination of the tenancy.

17 (5) Notwithstanding subsection (3) or (4) of this section, a tenant who is given a notice of ter-
18 mination under subsection (1)(c) of this section does not have a right to correct the violation. A
19 notice given to a tenant under subsection (1)(c) of this section must state that the tenant does not
20 have a right to avoid the termination.

21 (6) This section does not limit a landlord's right to terminate a tenancy for nonpayment of rent
22 under ORS 90.394 or for other cause under ORS 90.380 (5)(b), 90.396, 90.398 or 90.632 by complying
23 with ORS 105.105 to 105.168.

24 (7) A tenancy terminates on the date designated in the notice and without regard to the expi-
25 ration of the period for which, by the terms of the rental agreement, rents are to be paid. Unless
26 otherwise agreed, rent is uniformly apportionable from day to day.

27 (8) Notwithstanding any other provision of this section or ORS 90.394, 90.396 or 90.398, the
28 landlord may terminate the rental agreement for space for a manufactured dwelling or floating home
29 because of repeated late payment of rent by giving the tenant not less than 30 days' notice in
30 writing before the date designated in that notice for termination and may take possession as pro-
31 vided in ORS 105.105 to 105.168 if:

32 (a) The tenant has not paid the monthly rent prior to the eighth day of the rental period as
33 described in ORS 90.394 (2)(a) or the fifth day of the rental period as described in ORS 90.394 (2)(b)
34 in at least three of the preceding 12 months and the landlord has given the tenant a nonpayment
35 of rent termination notice pursuant to ORS 90.394 (2) during each of those three instances of non-
36 payment;

37 (b) The landlord warns the tenant of the risk of a 30-day notice for termination with no right
38 to correct the cause, upon the occurrence of a third nonpayment of rent termination notice within
39 a 12-month period. The warning must be contained in at least two nonpayment of rent termination
40 notices that precede the third notice within a 12-month period or in separate written notices that
41 are given concurrent with, or a reasonable time after, each of the two nonpayment of rent termi-
42 nation notices; and

43 (c) The 30-day notice of termination states facts sufficient to notify the tenant of the cause for
44 termination of the tenancy and is given to the tenant concurrent with or after the third or a sub-
45 sequent nonpayment of rent termination notice.

1 (9) Notwithstanding subsection (4) of this section, a tenant who receives a 30-day notice of ter-
 2 mination pursuant to subsection (8) of this section does not have a right to correct the cause for the
 3 notice.

4 (10) The landlord may give a copy of the notice required by subsection (8) of this section to any
 5 lienholder of the manufactured dwelling or floating home by first class mail with certificate of
 6 mailing or by any other method allowed by ORS 90.150 (2) and (3). A landlord is not liable to a
 7 tenant for any damages incurred by the tenant as a result of the landlord giving a copy of the notice
 8 in good faith to a lienholder. A lienholder's rights and obligations regarding an abandoned manu-
 9 factured dwelling or floating home shall be as provided under ORS 90.675.

10 **SECTION 8.** ORS 144.641, as amended by section 23, chapter 820, Oregon Laws 2015, and sec-
 11 tion 4 of this 2019 Act, is amended to read:

12 144.641. As used in this section and ORS 144.642, 144.644 and 144.646:

13 (1) "Dwelling" has the meaning given that term in ORS 469B.100.

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

15 (3) "Halfway house" means a publicly or privately operated profit or nonprofit residential facil-
 16 ity that provides rehabilitative care and treatment for sex offenders.

17 (4) "Locations where children are the primary occupants or users" includes, but is not limited
 18 to, public and private elementary and secondary schools and licensed child care centers.

19 (5) "Sex offender" means:

20 (a) A sexually violent dangerous offender as defined in ORS 137.765; **or**

21 (b) A level three sex offender under ORS 163A.100 (3); *or*].

22 [*c*] *An unclassified adult sex offender designated as predatory prior to January 1, 2014.*]

23 (6) "Transitional housing" means housing intended to be occupied by a sex offender for 45 days
 24 or less immediately after release from incarceration.

25 **SECTION 9.** ORS 163.476, as amended by section 24, chapter 820, Oregon Laws 2015, and sec-
 26 tion 5 of this 2019 Act, is amended to read:

27 163.476. (1) A person commits the crime of unlawfully being in a location where children regu-
 28 larly congregate if the person:

29 (a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;

30 (B) Has been classified as a level three sex offender under ORS 163A.100 (3) [*or is an unclassi-*
 31 *fied adult sex offender designated as predatory prior to January 1, 2014*], and does not have written
 32 approval from the State Board of Parole and Post-Prison Supervision or the person's supervisory
 33 authority or supervising officer to be in or upon the specific premises;

34 (C) Has been sentenced as a dangerous offender under ORS 161.725 upon conviction of a sex
 35 crime; or

36 (D) Has been given a similar designation or been sentenced under a similar law of another ju-
 37 risdiction; and

38 (b) Knowingly enters or remains in or upon premises where persons under 18 years of age reg-
 39 ularly congregate.

40 (2) As used in this section:

41 (a) "Premises where persons under 18 years of age regularly congregate" means schools, child
 42 care centers, playgrounds, other places intended for use primarily by persons under 18 years of age
 43 and places where persons under 18 years of age gather for regularly scheduled educational and
 44 recreational programs.

45 (b) "Sex crime" has the meaning given that term in ORS 163A.005.

1 (3) Unlawfully being in a location where children regularly congregate is a Class A
2 misdemeanor.

3 **SECTION 10.** ORS 163.479, as amended by section 25, chapter 820, Oregon Laws 2015, and
4 section 6 of this 2019 Act, is amended to read:

5 163.479. (1) A person commits the crime of unlawful contact with a child if the person:

6 (a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;

7 (B) Has been classified as a level three sex offender under ORS 163A.100 (3);

8 *[(C) Is an unclassified adult sex offender designated as predatory prior to January 1, 2014;]*

9 *[(D)]* (C) Has been sentenced as a dangerous offender under ORS 161.725 upon conviction of a
10 sex crime; or

11 *[(E)]* (D) Has been given a similar designation or been sentenced under a similar law of another
12 jurisdiction; and

13 (b) Knowingly contacts a child with the intent to commit a crime or for the purpose of arousing
14 or satisfying the sexual desires of the person or another person.

15 (2) As used in this section:

16 (a) "Child" means a person under 18 years of age.

17 (b) "Contact" means to communicate in any manner.

18 (c) "Sex crime" has the meaning given that term in ORS 163A.005.

19 (3) Unlawful contact with a child is a Class C felony.

20 **SECTION 11. The amendments to ORS 90.630, 144.641, 163.476 and 163.479 by sections 7**
21 **to 10 of this 2019 Act become operative January 1, 2022.**

22 **SECTION 12. This 2019 Act being necessary for the immediate preservation of the public**
23 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
24 **on its passage.**

25