

D R A F T

SUMMARY

Digest: The Act changes how and when sex offenders are assessed for risk. (Flesch Readability Score: 81.8).

Provides that the sex offender risk assessment methodology used to classify sex offenders into risk levels may exclusively consider a sex offender's risk of reoffending at the time of release, sentencing or discharge.

Authorizes a classifying entity to reassess or reclassify a person after the commission of a new sexually motivated act or sex crime.

A BILL FOR AN ACT

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2 Relating to sex offender risk assessments; amending ORS 163A.100 and
3 163A.105.

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

5 **SECTION 1.** ORS 163A.100 is amended to read:

6 163A.100. The State Board of Parole and Post-Prison Supervision shall, in
7 consultation with community corrections agencies, adopt by rule a sex
8 offender risk assessment methodology for use in classifying sex offenders.

9 **The methodology may consider exclusively the risk the sex offender**
10 **presented at the time the sex offender was released from custody,**
11 **sentenced or otherwise discharged from the jurisdiction of a court of**
12 **this state, or another United States court, for the crime or act for**
13 **which the sex offender is required to report.** Application of the risk as-
14 sessment methodology to a sex offender must result in placing the sex
15 offender in one of the following levels:

16 (1) A level one sex offender who presents, **or presented at the time of**
17 **release, sentencing or discharge,** the lowest risk of reoffending and re-
18 quires a limited range of notification.

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 (2) A level two sex offender who presents, **or presented at the time of**
2 **release, sentencing or discharge**, a moderate risk of reoffending and re-
3 quires a moderate range of notification.

4 (3) A level three sex offender who presents, **or presented at the time**
5 **of release, sentencing or discharge**, the highest risk of reoffending and
6 requires the widest range of notification.

7 **SECTION 2.** ORS 163A.105 is amended to read:

8 163A.105. (1) When a person convicted of a crime described in ORS 163.355
9 to 163.427 is sentenced to a term of imprisonment in a Department of Cor-
10 rections institution for that crime, the State Board of Parole and Post-Prison
11 Supervision shall assess the person utilizing the risk assessment methodology
12 described in ORS 163A.100. The board shall apply the results of the assess-
13 ment to place the person in one of the levels described in ORS 163A.100 be-
14 fore the person is released from custody.

15 (2) When a person convicted of a sex crime is sentenced to a term of in-
16 carceration in a jail, or is discharged, released or placed on probation by the
17 court, the supervisory authority as defined in ORS 144.087 shall assess the
18 person utilizing the risk assessment methodology described in ORS 163A.100
19 and apply the results of the assessment to place the person in one of the
20 levels described in ORS 163A.100 no later than 90 days after the person is
21 released from jail or discharged, released or placed on probation by the
22 court.

23 (3)(a) When a person is found guilty except for insanity of a sex crime,
24 the Psychiatric Security Review Board shall assess the person utilizing the
25 risk assessment methodology described in ORS 163A.100 and apply the results
26 of the assessment to place the person in one of the levels described in ORS
27 163A.100 no later than 90 days after the person is:

28 (A) Placed on conditional release by the Psychiatric Security Review
29 Board;

30 (B) Discharged from the jurisdiction of the Psychiatric Security Review
31 Board;

1 (C) Placed on conditional release by the court pursuant to ORS 161.327;
2 or

3 (D) Discharged by the court pursuant to ORS 161.329.

4 (b) If the State Board of Parole and Post-Prison Supervision previously
5 completed a risk assessment and assigned a classification level described in
6 ORS 163A.100 for a person described in paragraph (a) of this subsection, the
7 Psychiatric Security Review Board need not complete a reassessment for an
8 initial classification.

9 (c) The court shall notify the Psychiatric Security Review Board when the
10 court conditionally releases or discharges a person described in paragraph
11 (a) of this subsection.

12 (d) The Psychiatric Security Review Board shall notify the State Board
13 of Parole and Post-Prison Supervision no later than seven days after the
14 Psychiatric Security Review Board conditionally releases or discharges a
15 person who has a prior sex crime conviction that obligates the person to
16 report as a sex offender, unless the person has also been found guilty except
17 for insanity of a sex crime that obligates the person to report as a sex
18 offender.

19 (4)(a) Within 90 days after receiving notice of a person's obligation to
20 report in this state from the Department of State Police, the State Board of
21 Parole and Post-Prison Supervision shall assess the person utilizing the risk
22 assessment methodology described in ORS 163A.100 and apply the results of
23 the assessment to place the person in one of the levels described in ORS
24 163A.100 if the person has been convicted in another United States court of
25 a crime:

26 (A) That would constitute a sex crime if committed in this state; or

27 (B) For which the person would have to register as a sex offender in that
28 court's jurisdiction, or as required under federal law, regardless of whether
29 the crime would constitute a sex crime in this state.

30 (b) If a person has been convicted of a sex crime and was sentenced to a
31 term of imprisonment in a Department of Corrections institution for that sex

1 crime, but was not subjected to a risk assessment utilizing the risk assess-
2 ment methodology described in ORS 163A.100 before release under subsection
3 (1) of this section, within 90 days after the person's release the State Board
4 of Parole and Post-Prison Supervision shall assess the person utilizing the
5 risk assessment methodology described in ORS 163A.100 and apply the results
6 of the assessment to place the person in one of the levels described in ORS
7 163A.100.

8 (5) When the State Board of Parole and Post-Prison Supervision, the
9 Psychiatric Security Review Board or a supervisory authority applies the
10 results of a risk assessment to place a person in one of the levels described
11 in ORS 163A.100, the agency shall notify the Department of State Police of
12 the results of the risk assessment within three business days after the
13 agency's classification. Upon receipt, the Department of State Police shall
14 enter the results of the risk assessment into the Law Enforcement Data
15 System.

16 (6) The State Board of Parole and Post-Prison Supervision, the Psychiat-
17 ric Security Review Board or a supervisory authority may reassess or re-
18 classify a person placed in one of the levels described in ORS 163A.100 under
19 this section if:

20 (a) The classifying board or authority determines that a factual mistake
21 caused an erroneous assessment or classification; **or**

22 (b) **The person has committed a sexually motivated rule violation**
23 **while in custody, has committed a sexually motivated violation of a**
24 **condition of probation, parole or post-prison supervision or has been**
25 **arrested for or charged with a sex crime.**

26 (7)(a) A person classified under this section as a level two or level three
27 sex offender as described in ORS 163A.100 may petition the classifying board
28 or authority for review. Except for good cause shown, the petition may be
29 filed no later than 60 days after the notice of the classification is provided
30 to the person or, if the notice is mailed, no later than 60 days after the no-
31 tice is sent.

1 (b) When good cause is shown, the time for filing a petition under this
2 subsection may not be extended more than 60 days beyond the date of the
3 person's next annual report under ORS 163A.010, 163A.015 or 163A.020.

4 (c) Upon receipt of a petition described in this subsection, the classifying
5 board or authority shall afford the person an opportunity to be heard as to
6 all factual questions related to the classification.

7 (d) After providing the person with notice and an opportunity to be heard
8 in accordance with this subsection, the board or authority shall classify the
9 person in accordance with the classifications described in ORS 163A.100,
10 based on all of the information available to the classifying board or author-
11 ity.

12 (e) As used in this subsection, "good cause" means that, due to a person's
13 transience, lack of housing, ongoing mental health concerns or other similar
14 circumstances, a notice mailed to the person under paragraph (a) of this
15 subsection was not received by the person.

16 (8)(a) If the State Board of Parole and Post-Prison Supervision, the Psy-
17 chiatric Security Review Board or a supervisory authority does not classify
18 a person under ORS 163A.100 because the person has failed or refused to
19 participate in a sex offender risk assessment as directed by the board or
20 authority, the classifying board or authority shall classify the person as a
21 level three sex offender under ORS 163A.100 (3).

22 (b) If person classified as a level three sex offender under this subsection
23 notifies the classifying board or authority of the willingness to participate
24 in a sex offender risk assessment, the classifying board or authority shall
25 perform the assessment and classify the person in one of the levels described
26 in ORS 163A.100.

27 (9) The State Board of Parole and Post-Prison Supervision and the Psy-
28 chiatric Security Review Board may adopt rules to carry out the provisions
29 of this section.

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