

Senate Bill 1122

Sponsored by COMMITTEE ON JUDICIARY

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**. The statement includes a measure digest written in compliance with applicable readability standards.

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

1
2 Relating to sex offender risk assessments; amending ORS 163A.100 and 163A.105.

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

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

5 163A.100. The State Board of Parole and Post-Prison Supervision shall, in consultation with
6 community corrections agencies, adopt by rule a sex offender risk assessment methodology for use
7 in classifying sex offenders. **The methodology may consider exclusively the risk the sex**
8 **offender presented at the time the sex offender was released from custody, sentenced or**
9 **otherwise discharged from the jurisdiction of a court of this state, or another United States**
10 **court, for the crime or act for which the sex offender is required to report.** Application of the
11 risk assessment methodology to a sex offender must result in placing the sex offender in one of the
12 following levels:

13 (1) A level one sex offender who presents, **or presented at the time of release, sentencing**
14 **or discharge**, the lowest risk of reoffending and requires a limited range of notification.

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

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

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

20 163A.105. (1) When a person convicted of a crime described in ORS 163.355 to 163.427 is sen-
21 tenced to a term of imprisonment in a Department of Corrections institution for that crime, the
22 State Board of Parole and Post-Prison Supervision shall assess the person utilizing the risk assess-
23 ment methodology described in ORS 163A.100. The board shall apply the results of the assessment
24 to place the person in one of the levels described in ORS 163A.100 before the person is released from
25 custody.

26 (2) When a person convicted of a sex crime is sentenced to a term of incarceration in a jail, or
27 is discharged, released or placed on probation by the court, the supervisory authority as defined in
28 ORS 144.087 shall assess the person utilizing the risk assessment methodology described in ORS

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 163A.100 and apply the results of the assessment to place the person in one of the levels described
2 in ORS 163A.100 no later than 90 days after the person is released from jail or discharged, released
3 or placed on probation by the court.

4 (3)(a) When a person is found guilty except for insanity of a sex crime, the Psychiatric Security
5 Review Board shall assess the person utilizing the risk assessment methodology described in ORS
6 163A.100 and apply the results of the assessment to place the person in one of the levels described
7 in ORS 163A.100 no later than 90 days after the person is:

- 8 (A) Placed on conditional release by the Psychiatric Security Review Board;
- 9 (B) Discharged from the jurisdiction of the Psychiatric Security Review Board;
- 10 (C) Placed on conditional release by the court pursuant to ORS 161.327; or
- 11 (D) Discharged by the court pursuant to ORS 161.329.

12 (b) If the State Board of Parole and Post-Prison Supervision previously completed a risk as-
13 sessment and assigned a classification level described in ORS 163A.100 for a person described in
14 paragraph (a) of this subsection, the Psychiatric Security Review Board need not complete a reas-
15 sessment for an initial classification.

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

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

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

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

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

32 (b) If a person has been convicted of a sex crime and was sentenced to a term of imprisonment
33 in a Department of Corrections institution for that sex crime, but was not subjected to a risk as-
34 sessment utilizing the risk assessment methodology described in ORS 163A.100 before release under
35 subsection (1) of this section, within 90 days after the person's release the State Board of Parole and
36 Post-Prison Supervision shall assess the person utilizing the risk assessment methodology described
37 in ORS 163A.100 and apply the results of the assessment to place the person in one of the levels
38 described in ORS 163A.100.

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

45 (6) The State Board of Parole and Post-Prison Supervision, the Psychiatric Security Review

1 Board or a supervisory authority may reassess or reclassify a person placed in one of the levels
2 described in ORS 163A.100 under this section if:

3 (a) The classifying board or authority determines that a factual mistake caused an erroneous
4 assessment or classification; or

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

8 (7)(a) A person classified under this section as a level two or level three sex offender as de-
9 scribed in ORS 163A.100 may petition the classifying board or authority for review. Except for good
10 cause shown, the petition may be filed no later than 60 days after the notice of the classification is
11 provided to the person or, if the notice is mailed, no later than 60 days after the notice is sent.

12 (b) When good cause is shown, the time for filing a petition under this subsection may not be
13 extended more than 60 days beyond the date of the person's next annual report under ORS 163A.010,
14 163A.015 or 163A.020.

15 (c) Upon receipt of a petition described in this subsection, the classifying board or authority
16 shall afford the person an opportunity to be heard as to all factual questions related to the classi-
17 fication.

18 (d) After providing the person with notice and an opportunity to be heard in accordance with
19 this subsection, the board or authority shall classify the person in accordance with the classifica-
20 tions described in ORS 163A.100, based on all of the information available to the classifying board
21 or authority.

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

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

30 (b) If person classified as a level three sex offender under this subsection notifies the classifying
31 board or authority of the willingness to participate in a sex offender risk assessment, the classifying
32 board or authority shall perform the assessment and classify the person in one of the levels de-
33 scribed in ORS 163A.100.

34 (9) The State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review
35 Board may adopt rules to carry out the provisions of this section.

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