

# Senate Bill 819

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## 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 allows the parole board and the PSRB to make sex offender decisions without a hearing. (Flesch Readability Score: 60.1).

Authorizes the State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review Board to make determinations administratively concerning petitions for changes in sex offender risk classifications and relief from the reporting requirement. Specifies when a hearing is required.

## A BILL FOR AN ACT

1  
2 Relating to sex offenders; amending ORS 163A.125.

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

4 **SECTION 1.** ORS 163A.125 is amended to read:

5 163A.125. (1)(a) A person who is required to report as a sex offender under ORS 163A.010,  
6 163A.015 or 163A.020 due to a conviction for a sex crime and is classified as a level one sex offender  
7 under ORS 163A.100 (1) may petition the State Board of Parole and Post-Prison Supervision to re-  
8 lieve the person from the obligation to report as a sex offender under ORS 163A.010, 163A.015 or  
9 163A.020.

10 (b) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
11 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is  
12 classified as a level one sex offender under ORS 163A.100 (1), may petition the Psychiatric Security  
13 Review Board to relieve the person from the obligation to report as a sex offender under ORS  
14 163A.010, 163A.015 or 163A.020.

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

20 (B) A person who was reclassified under subsection (2) of this section from a level two sex  
21 offender under ORS 163A.100 (2) to a level one sex offender under ORS 163A.100 (1) may file the  
22 petition no sooner than five years after the date of reclassification.

23 (d) Notwithstanding paragraph (c) of this subsection, if a person is required to report because  
24 of a conviction or finding of guilty except for insanity from another United States court as that term  
25 is defined in ORS 163A.005, the person may not petition for relief from reporting as a sex offender  
26 in Oregon unless the laws of the jurisdiction where the person was convicted or found guilty except  
27 for insanity would permit a petition for relief from reporting as a sex offender.

**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) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
2 163A.020 due to a conviction for a sex crime and is classified as a level three sex offender under  
3 ORS 163A.100 (3) may petition the State Board of Parole and Post-Prison Supervision to reclassify  
4 the person as a level two sex offender under ORS 163A.100 (2).

5 (b) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
6 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is  
7 classified as a level three sex offender under ORS 163A.100 (3), may petition the Psychiatric Security  
8 Review Board to reclassify the person as a level two sex offender under ORS 163A.100 (2).

9 (c) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
10 163A.020 due to a conviction for a sex crime and is classified as a level two sex offender under ORS  
11 163A.100 (2) may petition the State Board of Parole and Post-Prison Supervision to reclassify the  
12 person as a level one sex offender under ORS 163A.100 (1).

13 (d) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or  
14 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is  
15 classified as a level two sex offender under ORS 163A.100 (2), may petition the Psychiatric Security  
16 Review Board to reclassify the person as a level one sex offender under ORS 163A.100 (1).

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

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

26 (b) The appropriate board shall deny a petition filed under subsection (2)(c) or (d) of this section  
27 if the board has previously reclassified the person as a level two sex offender under ORS 163A.100  
28 (2) as the result of a petition filed under subsection (2)(a) or (b) of this section.

29 (4)(a) Except as otherwise provided in subsection (3) of this section, if a person files a petition  
30 under subsection (1) of this section, the State Board of Parole and Post-Prison Supervision or the  
31 Psychiatric Security Review Board [*shall*] **may hold a hearing or may make a determination ad-**  
32 **ministratively.** [*At the hearing*] **Upon considering the petition,** the board shall enter an order  
33 relieving the person of the obligation to report as a sex offender under ORS 163A.010, 163A.015 or  
34 163A.020 if the board determines, by clear and convincing evidence, that the person:

35 (A) Is statistically unlikely to reoffend; and

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

37 (b)(A) Except as otherwise provided in subsection (3) of this section, if a person files a petition  
38 under subsection (2)(a) or (b) of this section, the State Board of Parole and Post-Prison Supervision  
39 or the Psychiatric Security Review Board [*shall*] **may hold a hearing or may make a determi-**  
40 **nation administratively.** [*At the hearing*] **Upon considering the petition,** the board shall enter an  
41 order reclassifying the person as a level two sex offender under ORS 163A.100 (2) if, after completion  
42 of a new risk assessment utilizing the risk assessment methodology described in ORS 163A.100, the  
43 person is classified as presenting a low or moderate risk of reoffending and the board determines  
44 that a lower level of notification is sufficient to protect public safety.

45 (B) Except as otherwise provided in subsection (3) of this section, if a person files a petition

1 under subsection (2)(c) or (d) of this section, the State Board of Parole and Post-Prison Supervision  
2 or the Psychiatric Security Review Board [*shall*] **may hold a hearing or may make a determi-**  
3 **nation administratively.** [*At the hearing*] **Upon considering the petition,** the board shall enter an  
4 order reclassifying the person as a level one sex offender under ORS 163A.100 (1) if, after completion  
5 of a new risk assessment utilizing the risk assessment methodology described in ORS 163A.100, the  
6 person is classified as presenting a low risk of reoffending and the board determines that a lower  
7 level of notification is sufficient to protect public safety.

8 **(c) Notwithstanding paragraphs (a) and (b) of this subsection, if the Attorney General,**  
9 **the district attorney of the county in which the person was convicted or the county in which**  
10 **the person resides, or the victim of a crime for which the person is required to report re-**  
11 **quests a hearing on the petition, the board shall hold a hearing and may not make a deter-**  
12 **mination administratively.**

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

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

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

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

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

20 (e) The person's performance on supervision for the offense that requires reporting;

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

23 (g) The person's stability in employment and housing;

24 (h) The person's community and personal support system;

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

27 (j) Any other relevant factors.

28 (6)(a) The Attorney General may represent the state [*at a hearing conducted*] under this section  
29 unless the district attorney of the county in which the person was convicted or, if the conviction for  
30 which the person is required to report as a sex offender was entered in another United States court,  
31 the district attorney of the county in which the person resides, elects to represent the state. **The**  
32 **Attorney General may appear at a hearing or may submit materials to the board conducting**  
33 **the administrative review.**

34 (b) If a district attorney elects to represent the state, the district attorney shall give timely  
35 written notice of the election to the Attorney General, the State Board of Parole and Post-Prison  
36 Supervision or the Psychiatric Security Review Board and the person who is the subject of the  
37 [*hearing*] **petition.**

38 (c) If the district attorney declines to represent the state, the district attorney shall cooperate  
39 with the Attorney General in securing the material necessary to represent the state.

40 (7)(a) When the State Board of Parole and Post-Prison Supervision or the Psychiatric Security  
41 Review Board enters an order under this section relieving a person of the obligation to report as  
42 a sex offender under ORS 163A.010, 163A.015 or 163A.020 or enters an order reclassifying a person  
43 as a level two sex offender under ORS 163A.100 (2) or as a level one sex offender under ORS  
44 163A.100 (1), the board shall forward a copy of the order to the Department of State Police.

45 (b) Upon receipt of an order relieving a person of the obligation to report, the department shall

1 remove from the Law Enforcement Data System the sex offender information obtained from the sex  
2 offender registration form submitted under ORS 163A.010, 163A.015 or 163A.020.

3 (c) Upon receipt of an order reclassifying a person as a level two sex offender under ORS  
4 163A.100 (2) or as a level one sex offender under ORS 163A.100 (1), the department shall update the  
5 Law Enforcement Data System to reflect the reclassification.

6 (8) The State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review  
7 Board shall adopt rules to carry out the provisions of this section. The rules may include a filing  
8 fee in an amount determined by the appropriate board. All fees paid under this subsection shall be  
9 deposited into the General Fund and credited to the account of the appropriate board.

10 (9) As used in this section, "supervision" means probation, parole, post-prison supervision or any  
11 other form of supervised or conditional release.

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