



LPRO: Legislative Policy and Research Office

# SEX OFFENDERS

## BACKGROUND BRIEF

### OVERVIEW

Oregon established its sex offender registry in 1989 with the purpose of assisting law enforcement in the prevention of future sex crimes. ORS 163A.045. Currently, there are over 28,000 offenders registered in the state. Registration is required for those convicted of specific sex crimes. The Oregon State Police maintains a database of all registered sex offenders and a publicly accessible website with information on high risk offenders.

In 2015, Oregon saw 1,408 new sex offenders register with the Oregon State Police. An additional 27,281 offenders maintained their registration, for a total of 28,689 offenders. According to the Crime Victim's Center and the US Census, Oregon has the highest percentage of registered sex offenders in the nation.

Oregon has developed a system for providing reporting relief to some low-risk offenders while maintaining on-going reporting requirements for high and medium risk offenders. Additionally, Oregon allows juvenile sex offenders to request a hearing prior to reporting to determine whether to grant relief from the reporting requirement.

### WHO MUST REGISTER AND REPORT

All persons convicted of a registerable offense have an obligation to register and report as a sex offender. Persons found guilty except for insanity or convicted in another state are also

required to register. Registerable offenses are found in ORS 163A.005(5). They are:

- Rape in any degree;
- Sodomy in any degree;
- Unlawful sexual penetration in any degree;
- Sexual abuse in any degree;
- Incest with a child victim;
- Using a child in a display of sexually explicit conduct;

- Encouraging child sexual abuse in any degree;
- Transporting child pornography into the state;
- Paying for viewing a child's sexually explicit conduct;
- Compelling prostitution;
- Promoting prostitution;

### CONTENTS

#### OVERVIEW

#### WHO MUST REGISTER AND REPORT

#### HOUSE BILL 2549 (2013) AND THE TIERED SYSTEM

#### NOTIFICATION AND PUBLIC WEBSITE

#### JUVENILE OFFENDERS

#### STAFF CONTACT



## SEX OFFENDERS

- Kidnapping in the first degree if the victim was under 18 years of age;
- Contributing to the sexual delinquency of a minor;
- Sexual misconduct if the offender is at least 18 years of age;
- Possession of materials depicting sexually explicit conduct of a child in the first degree;
- Kidnapping in the second degree if the victim was under 18 years of age, except by a parent or by a person found to be within the jurisdiction of the juvenile court;
- Online sexual corruption of a child in any degree if the offender reasonably believed the child to be more than five years younger than the offender;
- Certain instances of luring a minor;
- Sexual assault of an animal;
- Public indecency or private indecency, if the person has a prior conviction for a crime listed in this subsection;
- Trafficking in persons;
- Purchasing sex with a minor;
- Invasion of personal privacy in the first degree;
- Any attempt to commit any of the crimes listed above;
- Burglary, when committed with intent to commit any of the offenses listed in above; or
- Criminal conspiracy if the offender agrees with one or more persons to engage in or cause the performance of an offense outlined above.

A person with an obligation to register must do so within 10 days following discharge or beginning supervision. Offenders must also report, in person, within 10 days of changing residency, having a birthday, beginning work, school, or vocational programs, or any changes to such programs. ORS 163A.010(3). Reports can be made to the Oregon State Police, or a city law enforcement or county sheriff's office. Offenders who move to Oregon from another state must register within 10 days of moving into the state. Offenders who are attending school or working in Oregon, but reside in another state must also register within 10 days of beginning or changing school or employment.

### HOUSE BILL 2549 (2013) AND THE TIERED SYSTEM

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In 2013, the Legislature enacted [House Bill 2549](#), which took effect January 1, 2014. HB 2549 created a three-tiered sex offender ranking system that sought to identify low risk, high risk, and medium risk offenders through the use of a validated risk assessment tool. The tool uses a ten-item actuarial assessment to designate offenders as high (Level Three), medium (Level Two), or low risk (Level One). The assessment tool determines the risk of an individual sexually reoffending in the community, but is only available for use with male sex offenders over the age of 18. Evaluations for female sex offenders and juvenile sex offenders are conducted through other tools and done in person. The measure required all offenders in the registry to be reclassified and for classification of new offenders to take place before their release. Reclassification of offenders is an ongoing effort that will likely reach into 2018.

Prior to enactment of HB 2549, sex offenders could fall into three categories: predatory,



## SEX OFFENDERS

sexual violent dangerous offender, or sexual offender. The predatory designation was attached by the trial court judge and applied only to convictions for rape, sodomy, unlawful sexual penetration, sexual abuse, and attempts of those crimes. Sexually violent dangerous offenders were designated by the court or the Board of Parole and applied only to first degree sex offenses and attempts. These designations could only be applied to those convicted of the specified crimes and were not evidence based. This lead to inconsistently applied designations and situations in which an offender should have been designated a higher risk level and was not.

Under HB 2549, if a person was designated a “predatory” sex offender or “sexually violent dangerous offender,” that person is an automatic Level Three offender. All Level Three offenders are listed on the Oregon State Police website and are ineligible for total relief from reporting obligations. Other Level Three offenders are eligible to apply to move to Level Two after 10 years without re-offense. Level Two offenders are eligible for reclassification to Level One after ten years without re-offense. Level One offenders are eligible for relief from the reporting obligation after five years without re-offense.

When an offender petitions for reclassification, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board, as appropriate, must hold a hearing. At the hearing, the Board must determine, by clear and convincing evidence, that the offender is statistically unlikely to reoffend and does not pose a threat to public safety. The Board analyzes a number of factors, including the nature of the crime and degree of violence involved in the offense, the offender’s performance on supervision, completion of sex offender treatment programs, the person’s stability, and other

relevant factors. The state’s interest is represented by the District Attorney of the county of conviction or the Attorney General. The victim of the crime also receives notification of the hearing and may appear. See ORS 163A.100-150.

### NOTIFICATION AND PUBLIC WEBSITE

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The Oregon State Police maintains a public website with information on over 700 high-risk sex offenders. In order to be placed on the public website, the offender must be either designated a Level Three offender or have a pre-2013 “predatory” offender designation and have been on a high level of supervision. According to a [September 2016 report to the Legislature](#), there are currently 225 Level Three offenders and 485 predatory offenders on the website. The Board of Parole and Post-Prison Supervision estimates that 5-10% of the total sex offender population will be classified as Level Three, and eventually placed on the public website.

Additionally, OSP maintains a database of all registered sex-offenders. Information from that database must be released, when requested, if it is necessary to protect the public. Information may be released if it is determined to be in the public interest. Level Three offenders must be placed on the OSP public website. Specific Level Three offender information may be given to others, including those living with a sex offender, neighbors, churches, parks, schools, child care centers, long term care facilities, and local or regional media sources. For Level Two and Level One offenders, information may be released to the specific persons or entities outlined above. See ORS 163A.215.



## SEX OFFENDERS

### JUVENILE OFFENDERS

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In 2015, [House Bill 2320](#) attempted to provide a hearing mechanism for juvenile sex offenders to petition for relief from reporting requirements. The concept was further refined in [House Bill 4074](#) of the 2016 session. The two measures allow for a juvenile who has been adjudicated of a felony sex crime to petition the juvenile court for relief from the reporting obligation. The optional hearing is available to juveniles within six months of the end of their supervision.

At the hearing, the juvenile has the burden to prove, by clear and convincing evidence, that the person has been rehabilitated and does not pose a public safety threat. The court considers many factors when determining whether the juvenile has met their burden, including the physical and emotional impact or injury to the victim, the nature of the act, any use of force in committing the act, premeditation, whether the juvenile took advantage of a position of authority or trust, the age and vulnerability of the victim, the juvenile's willingness to accept responsibility for the act, and the treatment programs the juvenile has participated in.

If the juvenile meets the burden of proof, the court may grant relief from the reporting requirement. If the juvenile does not meet the burden of proof, or if the juvenile does not request the hearing, then the juvenile is required to register and report as a sex offender. Reporting is through the Oregon Youth Authority.

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