

# What your attorney wants you to know about sex offender registration.

You have been adjudicated as a juvenile delinquent on a felony sex offense and may be required to register as a sex offender. It is important that you understand registration requirements and your rights and legal responsibilities—this booklet will help answer some of your questions. You should discuss your questions with your attorney.

Your Attorney: \_\_\_\_\_

Phone: \_\_\_\_\_

Your Juvenile Court Counselor/Parole Officer: \_\_\_\_\_

\_\_\_\_\_

Phone: Your Probation/Commitment Expires: \_\_\_\_\_

Youth, Rights & Justice

ATTORNEYS AT LAW

## ABOUT THIS BOOKLET

This Booklet covers OREGON LAW. It was written in May of 2016 and does not include changes in the law made after that date. The Legislature has made many changes to the juvenile sex offender registration laws in recent years and may continue to make changes in coming years. It is important to be aware of the current law.

This Booklet does not address registration and relief from registration if you were convicted of a qualifying sex offense as an adult, including if you were a juvenile waived to adult court on the offense.

We have done our best to ensure the accuracy of this booklet, but you should always talk to your lawyer, if you have one, to get answers to questions about the information found in this booklet. This booklet is meant to inform you, **not give you legal advice**. The materials in this booklet are also only provided for information and should not be used as official documents.

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# INTRODUCTION

Oregon law has, until recently, required juveniles found to be within the jurisdiction of the juvenile court for certain sex offenses to automatically be required to register for life as sex offenders. Relief from this requirement was difficult to obtain and being a registered sex offender has extensive negative consequences, including being denied housing or employment due to public knowledge of your status as a registered sex offender. Failure to strictly comply with registration requirements also leads to arrest and incarceration on the crimes related to failure to register as a sex offender.<sup>1</sup>

The 2015 and 2016 legislatures changed this requirement so that juveniles adjudicated guilty of felony sex offenses, no longer are required to register as sex offenders once they are adjudicated, but have a hearing at the end of probation, parole or other jurisdiction to determine whether they will be required to register.<sup>2</sup> These changes also apply to juveniles who were adjudicated to be within the jurisdiction of the juvenile court except for insanity of a qualifying sex offense.<sup>3</sup> Remember: if you were convicted as an adult, even though you were still under 18 years of age, the juvenile relief from registration laws do not apply to you.

This new law does not apply to juveniles who had completed probation, parole or other jurisdiction prior to August 12, 2015.<sup>4</sup> Those juveniles must continue to register and can only seek relief from registration under a more difficult procedure. But given the negative consequences of being required to register, a juvenile subject to reporting requirements is well advised to seek legal relief from registration if he or she is eligible.

## WHAT IS SEX OFFENDER REGISTRATION?

Sex offender registration and notification is a system set up by state and federal law to track and monitor adults who have been convicted of a sex offense, and juveniles, who have been adjudicated to be within the jurisdiction of the Juvenile Court for a sex offense. The purpose of this tracking and monitoring is to protect the public from sex offenses. Registration generally is required following an offender's release into the community.

The registration information provided by sex offenders is made available to local and federal law enforcement and the public, upon request.<sup>5</sup> Information about some adult sex offenders is also

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<sup>1</sup> ORS 163A.040.

<sup>2</sup> ORS 163A.130.

<sup>3</sup> ORS 163A.025.

<sup>4</sup> ORS 16A.025.

<sup>5</sup> ORSS 163A.225 (Juvenile).

published by the State Police on a website that anyone can access.<sup>6</sup> Juveniles waived to adult court (Measure 11) are considered to be adult sex offenders. The website includes a photograph, the offender's name, current location and past sex offenses.<sup>7</sup> For a group of serious adult sex offenders, there is also community notification, in which information about an offender is provided to members of the person's community.<sup>8</sup> Currently, information about juvenile sex offenders is not published on the Oregon website, but any person can call the Oregon State Police to obtain the same information.<sup>9</sup>

There are many negative effects of being on the sex offender registry. Employers and landlords routinely check the registry and will not hire or rent to an individual on the registry.<sup>10</sup> Many youth on the registry become homeless due to their status.<sup>11</sup> Families of youth offenders also confront enormous obstacles in living together as a family.<sup>12</sup> Neighbors and victims who get registry information may harass and even commit violence against persons on the registry.<sup>13</sup> Access to college and other training may be limited due to being on the registry.<sup>14</sup>

## **WHO IS REQUIRED TO REGISTER?**

### **Will I be Required to Register?**

If you are adjudicated as a juvenile of a felony sex offense in Oregon, and are not yet registered, you are entitled to have a hearing prior to getting off probation, parole or other supervision to determine whether you will be required to register.<sup>15</sup> To avoid registration, you and your attorney will have to convince the judge that you are rehabilitated and do not pose a threat to the public.<sup>16</sup>

### **What will the Judge consider to decide whether I am rehabilitated and do not pose a threat to the public?**

In determining whether you have proved that you should not be required to register, the judge may consider the following:<sup>17</sup>

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<sup>6</sup> ORS 163A.215.

<sup>7</sup> *Id.*

<sup>8</sup> ORS 163A.215.

<sup>9</sup> ORS 163A.225.

<sup>10</sup> Frenzel et al., *Understanding Collateral Consequences of Registry Laws: An Examination of the Perceptions of Sex Offender Registrants*, 11 JUST. POL'Y J. (2014), available at [LINK](#).

<sup>11</sup> *Raised on the Registry*, Human Rights Watch (May 1, 2013), available at [LINK](#).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> ORS 163A.030(1).

<sup>16</sup> ORS 163A.030(7)(b).

<sup>17</sup> ORS 163A.030(8)(a-s).

- The extent and impact of any physical or emotional injury to the victim;
- The nature of the offense;
- Whether you used or threatened to use force in committing the offense;
- Whether the offense was premeditated;
- Whether you took advantage of a position of authority or trust in committing the act;
- The age of any victim at the time of the act, the age difference between you and any victim and the number of victims;
- The vulnerability of the victim;
- Other crimes you committed and criminal activities you engaged in before and after the adjudication;
- Statements, documents and recommendations by or on behalf of the victim or the parents of the victim;
- Your willingness to accept personal responsibility for the offense and personal accountability for the consequences of your actions;
- Your ability and efforts to pay the victim's expenses for counseling and other trauma-related expenses or other efforts to mitigate the effects of the act;
- Whether you have participated in and satisfactorily completed a sex offender treatment program or any other intervention, and if so the juvenile court may also consider:
  - The availability, duration and extent of the treatment activities;
  - Reports and recommendations from the providers of the treatment;
  - Your compliance with court, or supervision requirements regarding treatment;
  - The quality and thoroughness of the treatment program;
- Your academic and employment history;
- Your use of drugs or alcohol before and after the adjudication;
- Your history of public or private indecency;
- Your compliance with and success in completing the terms of supervision;
- The results of psychological examinations;
- The protection afforded the public by placing you on the registry, and
- Any other relevant factors

### **What if I am already registered?**

If you are already registered, but you are not yet off from probation, parole or other supervision, you will also have a hearing prior to getting off from probation, parole or other supervision to determine whether you will be required to continue to register. The judge will determine whether you are rehabilitated and do not pose a threat to the public.<sup>18</sup> In

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<sup>18</sup> ORS 163A.030(7)(b).

making that determination, the judge may consider the items above in considering whether to continue or discontinue you on registration.<sup>19</sup>

### **What if I am registered and off from probation, parole or other supervision?**

If you got off from probation, parole or other supervision between August 12, 2015 and April 2, 2016, you also have a right to have a hearing to determine whether you will be required to continue or discontinue registration.<sup>20</sup> You should receive a notice that you are entitled to this hearing. In order to get the hearing, you will need to file a written request for this hearing with the Juvenile Court. You only have until July 1, 2018 to file a written request. After that date you will have to use the procedure for relief from registration discussed below at page 8 .

At this hearing the judge will determine whether you are rehabilitated and do not pose a threat to the public.<sup>21</sup> In making that determination, the judge may consider the items above<sup>22</sup> in deciding whether to continue or discontinue you on registration.

If you got off from probation, parole or other supervision before August 12, 2015, you are not entitled to this hearing and you will have to use the procedure for relief from registration discussed below at page 8.

### **What are the advantages of having a hearing at the end of probation, parole or other supervision?**

If you do not have this hearing at the end of probation, you will automatically be required to register. You will have a waiting period of two years<sup>23</sup> after that before you can ask for relief from registration.

If you have this end of probation, parole or supervision hearing, you will be entitled to a court-appointed (free) attorney, if you are unable to hire an attorney.<sup>24</sup> Your attorney can help you get information to convince the judge that you should not be required to register. You will also not have to pay for the filing fee that is required for a relief from registration case, and you can get assistance with other costs if you have a court-appointed attorney. If you seek relief from registration after this, you will not get a free attorney – you will have to hire an attorney or do the hearing on your own, without an attorney.

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<sup>19</sup> ORS 163A.030(8)(a–s).

<sup>20</sup> ORS 163A.030(a)(a)(B).

<sup>21</sup> ORS 163A.030(7)(b).

<sup>22</sup> ORS 163A.030(a)(a)(B).

<sup>23</sup> ORS 163A.130(2)(a).

<sup>24</sup> ORS 163A.030(4); ORS 419C.200

**\*\*\* IMPORTANT \*\*\***

**How well you do in treatment and on probation, parole or other supervision will be very important to the judge in determining whether you will be required to register. If you are having problems, talk to your attorney about getting help.**

**Do I have to register if I was adjudicated of a misdemeanor sex offense?**

No. Juveniles who have been adjudicated of a sex offense that would only constitute a misdemeanor, if committed by an adult<sup>25</sup>, no longer have to register and the information from all misdemeanor cases previously registered has been removed from the Law Enforcement Data System (LEDS).

**What if I am moving into this state?**

If you are moving into this state you must report in person to the Department of State Police, a city police department or the county sheriff's office.<sup>26</sup> This must occur no later than:

- Within 10 days of moving into this state for Class A or B felonies<sup>27</sup>
- Within 6 months of moving into this state for Class C felonies<sup>28</sup>

Your offense from another state may have a different name. The law enforcement agency you register with will determine whether your offense in another state qualifies you for registration in Oregon. Even if you are not required to register in the state where you were adjudicated delinquent of a sex offense, you may still be required to register in Oregon.

**What if I am attending school or working in Oregon?**

If you live in another state, but were found in a juvenile case in another state to have committed an act while under 18 years of age that would constitute a felony sex crime, and you attend school or work in Oregon, you must register as a sex offender in Oregon.<sup>29</sup>

- Within 10 days of your first day of school attendance in Oregon;
- Within 14 days of your first day of employment in Oregon, and
- Within 10 days of a change in school enrollment or employment

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<sup>25</sup> ORSS163A.025(1)(d).

<sup>26</sup> ORS 163A.020(1)(a).

<sup>27</sup> ORS 163A.020(1)(a)(A).

<sup>28</sup> ORS A.025(2)(b)(B)(i).

<sup>29</sup> ORS 163A.020(2)(a)(A-B).

# WHAT ARE SEX OFFENDER REGISTRATION REQUIREMENTS?

## How long will I have to register as a sex offender?

If you have been ordered to register as a sex offender, you will have to comply with the registration and reporting requirements for the rest of your life, unless you are successful in asking the juvenile court to excuse you, or “grant you relief”, from further registration.

## Where and when am I required to register?

You must report in person when you register. You will report to the Department of State Police, a city police department or the county sheriff’s office in the county in which you reside.<sup>30</sup> In some cases where you are under the supervision of the Oregon Youth Authority (OYA) or your county juvenile department (probation), you may be able to report to them rather than a police agency. Ask your Juvenile Court Counselor (JCC) or your OYA parole officer (PO). This must occur no later than 10 days after the juvenile court or Juvenile Psychiatric Review Board ends its jurisdiction over you and you are ordered to register.<sup>31</sup> After this initial registration, you will have to again register periodically or when certain events occur.<sup>32</sup>

## What is involved in registering?

Registration requires you to fill out a form with your personal information.<sup>33</sup> You will also be photographed.<sup>34</sup> Photographs of identifying marks like tattoos or scars may also be taken.<sup>35</sup> You will be fingerprinted if your fingerprints are not already on file with the State Police.<sup>36</sup>

You must complete the State of Oregon Sex Offender Registration form.<sup>37</sup> This form will require that you provide information including: Your full legal name, any alias you are known by, address, phone number, other addresses if you have multiple residences, your social security number, employer and/or school information, out-of-state work information, your date of birth, your sex, race, eye color, hair color, height and weight, and any physical identifier – scars, marks, tattoos, etc.<sup>38</sup>

## How often will I be required to register?

You will have to register within 10 days of any change of residence (a physical location if you are homeless or transient), including any move out of state, once each year within 10 days of your

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<sup>30</sup> ORS 163A.025(2).

<sup>31</sup> ORS 163A.025(2)(a).

<sup>32</sup> ORS 163A.025(3).

<sup>33</sup> ORS 163A.035.

<sup>34</sup> ORS 163A.025(6)(b)(A).

<sup>35</sup> ORS 163A.025(6)(b)(B).

<sup>36</sup> ORS 163A.025(6)(b)(C).

<sup>37</sup> ORS 163A.035.

<sup>38</sup> *Id.*



birthday, within 10 days of a change in work or school, including work or attendance at an institution of higher education.<sup>39</sup>

### **Does it cost anything to register?**

Yes, you will have to pay an annual fee to the Oregon State Police of \$70.<sup>40</sup> You will get a bill every year for this fee. It will be due the month of your birthday. If you are under supervision (on probation or parole), you do not have to pay this fee.

NOTE: Before you report in person, it is a good idea to call the office where you will register. Some law enforcement agencies have designated days and hours for taking registrations.

## **WHAT ARE THE PENALITIES IF I DO NOT REGISTER WHEN REQUIRED?**

There are penalties if you do not register when you are required to – including that you may be committing a Class C Felony:<sup>41</sup>

- It is a Class C Felony if you do not make an initial report;
- It is a Class C Felony, if the crime for which you are required to report is a felony and you:
  1. Fail to report that you work at, carry on a vocation at or attend an institution of higher education;
  2. Fail to report a change of school enrollment, or employment status, including enrollment, employment or vocation status at an institution of higher education;
  3. Fail to report that you have moved to a new residence and the new address;
  4. Fail to report a legal change of name
- It is a Class A Misdemeanor if you fail to report annually within 10 days of your birthday, fail to provide complete and accurate information, fail to sign the sex offender form, fail to participate in risk assessment, fail to be fingerprinted or photographed, or fail to report travel outside the U.S.
- It is a violation if you fail to sign and return an address verification form.

A Class C Felony carries a maximum term of incarceration of 5 years<sup>42</sup> and a Class

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<sup>39</sup> ORS 163A.025(3).

<sup>40</sup> ORS 163A.035(5).

<sup>41</sup> ORS 163A.040.

<sup>42</sup> ORS 161.605.

A Misdemeanor carries a maximum term of incarceration of 364 days.<sup>43</sup>

**\*\*\* IMPORTANT \*\*\***

**These are very serious consequences for disregarding your reporting requirements. If you are unsure if the requirements apply to you, contact your attorney.**

## **WHAT IF I AM ALREADY ORDERED TO REGISTER—CAN I GET OFF THE REGISTRY?**

### **What does relief mean?**

Relief means you no longer have to register and your information will no longer appear in the sex offender registry; however relief does not mean your record is expunged.

Remember: if you were convicted as an adult, even though you were still under 18 years of age, the juvenile relief from registration laws do not apply to you.

### **Am I eligible for relief from the registration requirements?**

- If you were off from probation, parole or other supervision prior to August 12, 2015 and do not qualify for a hearing under the new law, **OR**
- If you had a hearing prior to getting off from probation, parole or other supervision and were ordered to register, . . .

. . . you can still get relief from reporting requirements (i.e., having to register as a sex offender). If you were adjudicated of a Class A or Class B Felony sex offense, you must wait for 2 years after you completed probation, parole or other supervision.<sup>44</sup> If you were adjudicated of a Class C Felony sex offense you may apply as soon 30 days before you get off from probation, parole or other supervision.<sup>45</sup>

### **How can I get relief from sex offender registration?**

Under certain circumstances, you may ask (petition) the court for relief from the requirement that you must register as a sex offender.<sup>46</sup> It is best if you can hire an attorney to help you apply for relief. There is no provision for court-appointed (free) attorneys for these cases unless you are under 18 at the time you petition for relief.<sup>47</sup>

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<sup>43</sup> ORS 161.615.

<sup>44</sup> ORS 163A.130(2)(a).

<sup>45</sup> ORS 163A.130(2)(b).

<sup>46</sup> ORS 163A.130(1).

<sup>47</sup> ORS 163A.130(12).

## **What will the judge consider?**

The court may consider a number of things at your hearing, including but not limited to:<sup>48</sup>

- The extent and impact of any physical or emotional injury to your victim(s).
- The nature of the crime for which you are required to register.
- If you used or threatened to use force.
- Whether the act was premeditated.
- If you took advantage of a position of authority or trust.
- The age of your victim(s) and the age difference between you and your victim(s).
- The number of victims.
- The vulnerability of your victim(s).
- Other criminal conduct you have been involved in.
- Statements, documents and recommendations by or on behalf of your victim(s) or their parents.
- Your ability to pay the victims' counseling and medical expenses.
- Your willingness to take responsibility for your actions.
- Whether you have successfully completed sex offender treatment and the quality of that treatment.
- And anything else the court feels is important to consider.

You should be prepared to address each issue that applies to you.

## **What are the costs associated with petitioning the court for relief?**

The filing fee for a petition for relief from reporting requirements in Multnomah County is \$281.00.<sup>49</sup> This cost may vary in other counties, and fees are subject to change. You should consult with the court clerk in whatever jurisdiction applies to you to determine applicable filing fees. You may also need to pay for an updated psycho-sexual evaluation, and/or polygraph. If the juvenile court grants you relief, it is your responsibility to send a certified copy of the court's order to all offices where you were required to register, and to the Oregon Department of State Police. If you are not granted relief, you must continue to register.

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<sup>48</sup> ORS 163A.130(4)(a-s).

<sup>49</sup> ORS 21.135(1), (2)(g); ORS 163A.130(1); ORS 163A.135(1).

# ***IMPORTANT!***

- ✱ Ask for an attorney (also called a lawyer or legal counsel)
- ✱ Do not talk about your case to anyone except your attorney
- ✱ Remember — your attorney works for you

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