

§ 181.820<sup>1</sup>

Relief from reporting requirement

(1)(a) No sooner than 10 years after termination of supervision on probation, conditional release, parole or post-prison supervision, a person required to report under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state) may file a petition in circuit court for an order relieving the person of the duty to report. The person must pay the filing fee established under ORS 21.135 (Standard filing fee). A petition may be filed under this section only if:

- (A) The person has only one conviction for a sex crime;
- (B) The sex crime was a misdemeanor or Class C felony or, if committed in another state, would have been a misdemeanor or Class C felony if committed in this state; and
- (C) The person has not been determined to be a predatory sex offender as described in ORS 181.838 (Juvenile predatory sex offender defined).

(b)(A) Except as otherwise provided in this paragraph, the petition must be filed in the circuit court of the county in which the person was convicted of the sex crime.

(B) If the person was convicted of the sex crime in another state, the petition must be filed in the circuit court of the county in which the person resides.

(c) The district attorney of the county in which the petition is filed shall be named and served as the respondent in the petition.

(2) The court shall hold a hearing on the petition. In determining whether to grant the relief requested, the court shall consider:

- (a) The nature of the offense that required reporting;
- (b) The age and number of victims;
- (c) The degree of violence involved in the offense;
- (d) Other criminal and relevant noncriminal behavior of the petitioner both before and after the conviction that required reporting;
- (e) The period of time during which the petitioner has not reoffended;

(f) Whether the petitioner has successfully completed a court-approved sex offender treatment program; and

(g) Any other relevant factors.

(3) If the court is satisfied by clear and convincing evidence that the petitioner is rehabilitated and that the petitioner does not pose a threat to the safety of the public, the court shall enter an order relieving the petitioner of the duty to report. When the court enters an order under this subsection, the petitioner shall send a certified copy of the court order to the Department of State Police. [Formerly 181.600; 2009 c.8 §1; 2011 c.271 §19; 2012 c.48 §9]

Note: 181.820 (Relief from reporting requirement) is repealed January 1, 2017. See section 34, chapter 708, Oregon Laws 2013.

§ 181.821<sup>1</sup>

Relief from reporting obligation for sex offenders classified under ORS 181.800

- reclassification
- procedure

(1)(a) A person who is required to report as a sex offender under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state) due to a conviction for a sex crime and is classified as a level one sex offender under ORS 181.800 (Risk assessment tool) (1) may petition the State Board of Parole and Post-Prison Supervision to relieve the person from the obligation to report as a sex offender under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state).

(b) A person who is required to report as a sex offender under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state) due to being found guilty except for insanity under ORS 161.295 (Effect of mental disease or defect) for a sex crime, and is classified as a level one sex offender under ORS 181.800 (Risk assessment tool) (1), may petition the Psychiatric Security Review Board to relieve the person from the

obligation to report as a sex offender under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state).

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

(B) A person who was reclassified under subsection (2) of this section from a level two sex offender under ORS 181.800 (Risk assessment tool) (2) to a level one sex offender under ORS 181.800 (Risk assessment tool) (1) may file the petition no sooner than five years after the date of reclassification.

(d) Notwithstanding paragraph (c) of this subsection, if a person is required to report because of a conviction or finding of guilty except for insanity from another United States court as that term is defined in ORS 181.805 (Definitions for 181.800 to 181.845), the person may not petition for relief from reporting as a sex offender in Oregon unless the laws of the jurisdiction where the person was convicted or found guilty except for insanity would permit a petition for relief from reporting as a sex offender.

(2)(a) A person who is required to report as a sex offender under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state) due to a conviction for a sex crime and is classified as a level three sex offender under ORS 181.800 (Risk assessment tool) (3) may petition the State Board of Parole and Post-Prison Supervision to reclassify the person as a level two sex offender under ORS 181.800 (Risk assessment tool) (2).

(b) A person who is required to report as a sex offender under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state) due to being found guilty except for insanity under ORS 161.295 (Effect of mental disease or defect) for a sex crime, and

is classified as a level three sex offender under ORS 181.800 (Risk assessment tool) (3), may petition the Psychiatric Security Review Board to reclassify the person as a level two sex offender under ORS 181.800 (Risk assessment tool) (2).

(c) A person who is required to report as a sex offender under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state) due to a conviction for a sex crime and is classified as a level two sex offender under ORS 181.800 (Risk assessment tool) (2) may petition the State Board of Parole and Post-Prison Supervision to reclassify the person as a level one sex offender under ORS 181.800 (Risk assessment tool) (1).

(d) A person who is required to report as a sex offender under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state) due to being found guilty except for insanity under ORS 161.295 (Effect of mental disease or defect) for a sex crime, and is classified as a level two sex offender under ORS 181.800 (Risk assessment tool) (2), may petition the Psychiatric Security Review Board to reclassify the person as a level one sex offender under ORS 181.800 (Risk assessment tool) (1).

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

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

(b) The appropriate board shall deny a petition filed under subsection (2)(c) or (d) of this section if the board has previously reclassified the person as a level two sex offender under ORS 181.800 (Risk assessment tool) (2) as the result of a petition filed under subsection (2)(a) or (b) of this section.

(4)(a) Except as otherwise provided in subsection (3) of this section, if a person files a petition under subsection (1) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an order relieving the person of the obligation to report as a sex offender under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state) if the board determines, by clear and convincing evidence, that the person:

(A) Is statistically unlikely to reoffend; and

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

(b)(A) Except as otherwise provided in subsection (3) of this section, if a person files a petition under subsection (2)(a) or (b) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an order reclassifying the person as a level two sex offender under ORS 181.800 (Risk assessment tool) (2) if, after completion of a new risk assessment utilizing the risk assessment tool described in ORS 181.800 (Risk assessment tool), the person is classified as presenting a low or moderate risk of reoffending and the board determines that a lower level of notification is sufficient to protect public safety.

(B) Except as otherwise provided in subsection (3) of this section, if a person files a petition under subsection (2)(c) or (d) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an order reclassifying the person as a level one sex offender under ORS 181.800 (Risk assessment tool) (1) if, after completion of a new risk assessment utilizing the risk assessment tool described in ORS 181.800 (Risk assessment tool), the person is classified as presenting a low risk of reoffending and the board determines that a lower level of notification is sufficient to protect public safety.

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

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

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

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

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

(e) The persons performance on supervision for the offense that requires reporting;

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

(g) The persons stability in employment and housing;

(h) The persons community and personal support system;

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

(j) Any other relevant factors.

(6)(a) The Attorney General may represent the state at a hearing conducted under this section unless the district attorney of the county in which the person was convicted or, if the conviction for which the person is required to report as a sex offender was entered in another United States court, the district attorney of the county in which the person resides, elects to represent the state.

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

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

(7)(a) When the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board enters an order under this section relieving a person of the obligation to report as a sex offender under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state) or enters an order reclassifying a person as a level two sex offender under ORS 181.800 (Risk assessment tool) (2) or as a level one sex offender under ORS 181.800 (Risk assessment tool) (1), the board shall forward a copy of the order to the Department of State Police.

(b) Upon receipt of an order relieving a person of the obligation to report, the department shall remove from the Law Enforcement Data System the sex offender

information obtained from the sex offender registration form submitted under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state).

(c) Upon receipt of an order reclassifying a person as a level two sex offender under ORS 181.800 (Risk assessment tool) (2) or as a level one sex offender under ORS 181.800 (Risk assessment tool) (1), the department shall update the Law Enforcement Data System to reflect the reclassification.

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

(9) As used in this section, supervision means probation, parole, post-prison supervision or any other form of supervised or conditional release. [2013 c.708 §5]

Note: See notes under 181.803 (When certain classification required).

§ 181.823<sup>1</sup>

Relief from reporting requirement for juvenile offenders adjudicated in Oregon

(1) A person required to report as a sex offender under ORS 181.809 (Reporting by sex offenders adjudicated in juvenile court) (1)(a) may file a petition for an order relieving the person of the duty to report. The person must pay the filing fee established under ORS 21.135 (Standard filing fee). If the person resides:

(a) In this state and is required to report under ORS 181.809 (Reporting by sex offenders adjudicated in juvenile court) (2) or (3), the petition must be filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

(b) In another state and is required to report under ORS 181.809 (Reporting by sex offenders adjudicated in juvenile court) (4), the petition must be filed in the juvenile court in the county in which the person attends school or works.

(2) If the act giving rise to the obligation to report would constitute:

(a) A Class A or Class B felony sex crime if committed by an adult, the petition may be filed no sooner than two years after the termination of juvenile court jurisdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric Security

Review Board, no sooner than two years after the person is discharged from the jurisdiction of the board.

(b) A Class C felony sex crime if committed by an adult, the petition may be filed no sooner than 30 days before the termination of juvenile court jurisdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than 30 days before the person is discharged from the jurisdiction of the board.

(3)(a) The juvenile court in which a petition under this section is filed may transfer the matter to the juvenile court of the county that last supervised the person if the court determines that the convenience of the parties, the victim and witnesses require the transfer.

(b) The juvenile court has exclusive original jurisdiction in any proceeding under this section.

(c) The person, the district attorney and the juvenile department are parties to a hearing on a petition filed under this section.

(4) The person filing the petition has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public. In determining whether the person has met the burden of proof, the juvenile court may consider but need not be limited to considering:

(a) The extent and impact of any physical or emotional injury to the victim;

(b) The nature of the act that subjected the person to the duty of reporting as a sex offender;

(c) Whether the person used or threatened to use force in committing the act;

(d) Whether the act was premeditated;

(e) Whether the person took advantage of a position of authority or trust in committing the act;

(f) The age of any victim at the time of the act, the age difference between any victim and the person and the number of victims;

(g) The vulnerability of the victim;

(h) Other acts committed by the person that would be crimes if committed by an adult and criminal activities engaged in by the person before and after the adjudication;

(i) Statements, documents and recommendations by or on behalf of the victim or the parents of the victim;

(j) The persons willingness to accept personal responsibility for the act and personal accountability for the consequences of the act;

(k) The persons ability and efforts to pay the victims expenses for counseling and other trauma-related expenses or other efforts to mitigate the effects of the act;

(L) Whether the person has participated in and satisfactorily completed a sex offender treatment program or any other intervention, and if so the juvenile court may also consider:

(A) The availability, duration and extent of the treatment activities;

(B) Reports and recommendations from the providers of the treatment;

(C) The persons compliance with court, board or supervision requirements regarding treatment; and

(D) The quality and thoroughness of the treatment program;

(m) The persons academic and employment history;

(n) The persons use of drugs or alcohol before and after the adjudication;

(o) The persons history of public or private indecency;

(p) The persons compliance with and success in completing the terms of supervision;

(q) The results of psychological examinations of the person;

(r) The protection afforded the public by the continued existence of the records; and

(s) Any other relevant factors.

(5) In a hearing under this section, the juvenile court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 (Rule 100. Short title) to 40.210 (Rule 412. Sex offense cases) and 40.310 (Rule 601. General rule of competency) to 40.585 (Rule 1008. Functions of court and jury) if the evidence is relevant to the determination and findings required under this section. As used in this subsection, relevant evidence has the meaning given that term in ORS 40.150 (Rule 401. Definition of relevant evidence).

(6) When a petition is filed under this section, the state has the right to have a psychosexual evaluation of the person conducted. The state shall file notice with the

juvenile court of its intention to have the person evaluated. If the person objects to the evaluator chosen by the state, the juvenile court for good cause shown may direct the state to select a different evaluator.

(7) As soon as practicable after a petition has been filed under this section, the district attorney or juvenile department shall make a reasonable effort to notify the victim of the crime that the person has filed a petition seeking relief under this section and, if the victim has requested, to inform the victim of the date, time and place of a hearing on the petition in advance of the hearing.

(8)(a) When a petition filed under this section is filed:

(A) While the person is under the jurisdiction of the juvenile court or the Psychiatric Security Review Board or less than three years after the date the jurisdiction is terminated, the court shall hold a hearing no sooner than 60 days and no later than 120 days after the date of filing.

(B) Three years or more after the date the juvenile court or board jurisdiction is terminated, the court shall hold a hearing no sooner than 90 days and no later than 150 days after the date of filing.

(b) Notwithstanding paragraph (a) of this subsection, upon a showing of good cause, the court may extend the period of time in which a hearing on the petition must be held.

(9)(a) When the person proves by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public, the court shall grant the petition.

(b) Notwithstanding paragraph (a) of this subsection, the court may not grant a petition filed under this section before the date the juvenile court or board jurisdiction over the person is terminated.

(10) When a juvenile court enters an order relieving a person of the requirement to report under ORS 181.809 (Reporting by sex offenders adjudicated in juvenile court), the person shall send a certified copy of the juvenile court order to the Department of State Police.

(11) If a person commits an act that could be charged as a sex crime listed in ORS 137.707 (Adult prosecution of 15-, 16- or 17-year-old offenders) and the person is 15, 16 or 17 years of age at the time the act is committed, the state and the person may stipulate that the person may not petition for relief under this section as part of an agreement that the person be subject to the jurisdiction of the juvenile court rather than being prosecuted as an adult under ORS 137.707 (Adult prosecution of 15-, 16- or 17-year-old offenders).

(12) When a petition is filed under subsection (2)(b) of this section before the termination of juvenile court or board jurisdiction, if the person, or the parent or guardian of the person if the person is less than 18 years of age, requests counsel and is without sufficient financial means to employ suitable counsel to represent the person, for purposes of the petition described in this section, the court shall appoint suitable counsel to represent the person. Appointment of counsel under this subsection is subject to ORS 419C.200 (Court-appointed counsel for youth), 419C.203 (Payment for compensation of counsel), 419C.206 (Compensation for counsel when youth, parent or guardian cannot pay) and 419C.209 (Applicability of other laws). [Formerly 181.607; 2011 c.595 §§94,177]

### § 181.826<sup>1</sup>

#### Relief from reporting requirement for juvenile offenders adjudicated in another United States jurisdiction

(1) Except as provided in subsection (7) of this section, a person required to report under ORS 181.809 (Reporting by sex offenders adjudicated in juvenile court) (1)(b) may file a petition in the juvenile court for an order relieving the person of the duty to report. The person must pay the filing fee established under ORS 21.135 (Standard filing fee). If the person resides:

(a) In this state and is required to report under ORS 181.809 (Reporting by sex offenders adjudicated in juvenile court) (2) or (3), the petition must be filed in the juvenile court of the county in which the person resides.

(b) In another state and is required to report under ORS 181.809 (Reporting by sex offenders adjudicated in juvenile court) (4), the petition must be filed in the juvenile court of the county in which the person attends school or works.

(2) If the act giving rise to the obligation to report would constitute:

(a) A Class A or Class B felony sex crime if committed in this state by an adult, the petition may be filed no sooner than two years after the termination of the other United States courts jurisdiction over the person.

(b) A Class C felony sex crime if committed in this state by an adult, the petition may be filed no sooner than 30 days before the termination of the other United States courts jurisdiction over the person.

(3) The person filing the petition must submit with the petition all releases and waivers necessary to allow the district attorney for the county in which the petition is filed to

obtain the following documents from the jurisdiction in which the person was adjudicated for the act for which reporting is required:

- (a) The juvenile court petition;
- (b) The dispositional report to the court;
- (c) The order of adjudication or jurisdiction;
- (d) Any other relevant court documents;
- (e) The police report relating to the act for which reporting is required;
- (f) The order terminating jurisdiction for the act for which reporting is required; and
- (g) The evaluation and treatment records or reports of the person that are related to the act for which reporting is required.

(4) A person filing a petition under this section has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public.

(5) Unless the court finds good cause for a continuance, the court shall hold a hearing on the petition no sooner than 90 days and no later than 150 days after the date the petition is filed.

(6) If a person who files a petition under this section is required to report as a sex offender for having committed an act that if committed in this state could have subjected the person to prosecution as an adult under ORS 137.707 (Adult prosecution of 15-, 16- or 17-year-old offenders), the court may not grant the petition notwithstanding the fact that the person has met the burden of proof established in subsection (4) of this section unless the court determines that to do so is in the interest of public safety.

(7) This section does not apply to a person who is required to register as a sex offender for life in the jurisdiction in which the offense occurred.

(8) In a hearing under this section, the court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 (Rule 100. Short title) to 40.210 (Rule 412. Sex offense cases) and 40.310 (Rule 601. General rule of competency) to 40.585 (Rule 1008. Functions of court and jury) if the evidence is relevant to the determination and findings required under this section. As used in this subsection, relevant evidence has the meaning given that term in ORS 40.150 (Rule 401. Definition of relevant evidence).

(9) If the court is satisfied by clear and convincing evidence that the person is rehabilitated and that the person does not pose a threat to the safety of the public, the court shall enter an order relieving the person of the duty to report. When the court enters an order under this subsection, the person shall send a certified copy of the court order to the Department of State Police. [Formerly 181.608; 2009 c.713 §6; 2011 c.595 §§95,178]

## § 181.830<sup>1</sup>

### Relief from reporting requirement

- circumstances
- order

A person otherwise required to report under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction), 181.808 (Reporting by certain persons upon moving into state) or 181.809 (Reporting by sex offenders adjudicated in juvenile court) is not required to report, and if currently reporting is no longer required to report, if:

(1)(a) The person has been convicted of:

(A) Rape in the third degree as defined in ORS 163.355 (Rape in the third degree);

(B) Sodomy in the third degree as defined in ORS 163.385 (Sodomy in the third degree);

(C) Sexual abuse in the third degree as defined in ORS 163.415 (Sexual abuse in the third degree);

(D) Contributing to the sexual delinquency of a minor as defined in ORS 163.435 (Contributing to the sexual delinquency of a minor);

(E) Sexual misconduct as defined in ORS 163.445 (Sexual misconduct); or

(F) An attempt to commit an offense listed in subparagraphs (A) to (E) of this paragraph;

(b) The person has been found guilty except for insanity of an offense listed in paragraph (a) of this subsection;

(c) The person has been found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute an offense listed in paragraph (a)(A) or (B) of this subsection; or

(d) The person is paroled to this state under ORS 144.610 (Out-of-state supervision of parolees) after being convicted in another United States court of a crime that would constitute an offense listed in paragraph (a) of this subsection;

(2)(a) The person is less than five years older than the victim;

(b) The victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age;

(c) The victim was at least 14 years of age at the time of the offense or act;

(d) Except for the convictions or findings described in subsection (1) of this section, the person has not been convicted of, found guilty except for insanity of, or found to be within the jurisdiction of the juvenile court based on, a sex crime or an offense, in another United States court, for conduct that if committed in this state would constitute a sex crime; and

(e) Each conviction or finding described in subsection (1) of this section involved the same victim; and

(3) The court enters an order relieving the person of the requirement to report under ORS 181.832 (Procedure for relief under ORS 181.830) or 181.833 (Procedure for relief under ORS 181.830). [2007 c.627 §1; 2009 c.205 §1; 2009 c.713 §23; 2011 c.271 §20]

## § 181.832<sup>1</sup>

### Procedure for relief under ORS 181.830

- upon conviction or adjudication

(1) When a person is convicted of an offense or adjudicated for an act described in ORS 181.830 (Relief from reporting requirement) (1), the court shall determine whether the person is required to report under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction) or 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction).

(2) The court shall enter an order relieving the person of the requirement to report, unless:

(a) The court finds by a preponderance of the evidence that the person does not meet the eligibility requirements described in ORS 181.830 (Relief from reporting requirement); or

(b) The district attorney and the person stipulate that the person is required to report.

(3) The state has the burden of proving that the person does not meet the eligibility requirements described in ORS 181.830 (Relief from reporting requirement).

(4) If the court relieves the person from the requirement to report, the person shall send a certified copy of the court order to the Department of State Police. [2007 c.627 §2; 2009 c.9 §1]

### § 181.833<sup>1</sup>

#### Procedure for relief under ORS 181.830

- after conviction or adjudication
- testimony of victim

(1) A person who meets the criteria described in ORS 181.830 (Relief from reporting requirement) and seeks relief from the requirement to report under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state) shall:

(a) If the person was convicted in this state of the offense or adjudicated in this state for the act giving rise to the obligation to report, file a motion for relief from the requirement to report and an affidavit of eligibility with the circuit court of the county in which the person was convicted or adjudicated and serve a copy of the motion and affidavit on the district attorney for that county.

(b) If the person was convicted in another United States court of the offense or adjudicated in another United States court for the act giving rise to the obligation to report, file a petition for relief from the requirement to report and an affidavit of eligibility with the circuit court of the county in which the person resides and serve a copy of the petition and affidavit on the district attorney for that county.

(2) A person filing a motion or petition under subsection (1) of this section must pay the filing fee established under ORS 21.135 (Standard filing fee). The court shall schedule a

hearing more than 90 days from the date of the filing. The court shall notify the person and the district attorney of the date of the hearing.

(3)(a) Upon receipt of the affidavit described in subsection (1) of this section, the district attorney shall determine whether the district attorney contests the request for relief.

(b) If the district attorney does not contest the request for relief, the district attorney shall submit an order to the court relieving the person of the reporting requirements described in ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state). The court shall enter the order.

(c) If the district attorney contests the request for relief, the district attorney shall notify the person of that determination within 90 days after receipt of the affidavit.

(4) At the hearing, the person has the burden of proving that the person meets the eligibility requirements described in ORS 181.830 (Relief from reporting requirement).

(5)(a) At the hearing, the victim of the offense or act giving rise to the obligation to report:

(A) May testify voluntarily upon request.

(B) May be compelled by the person to testify only if the court issues an order allowing a subpoena upon the motion of the person.

(b) A copy of the motion for a subpoena under this subsection must be served on the district attorney.

(c) The court may not issue an order allowing a subpoena under this subsection unless the person can demonstrate good cause by showing that the victims testimony is material and favorable to the persons request for relief.

(d) If the court grants an order allowing a subpoena under this subsection, the court may allow the victim to appear by telephone or other communication device approved by the court.

(6)(a) If the court finds, by a preponderance of the evidence, that the person meets the eligibility requirements described in ORS 181.830 (Relief from reporting requirement), the court shall enter an order granting the request for relief from the requirement to report.

(b) If the court does not make the finding described in paragraph (a) of this subsection, the court shall enter an order denying the request for relief.

(7)(a) If the court relieves the person from the requirement to report, the person shall send a certified copy of the court order to the Department of State Police.

(b) Upon receipt of the order, the Department of State Police shall remove from the Law Enforcement Data System the sex offender information obtained from the sex offender registration form submitted under ORS 181.806 (Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction), 181.807 (Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction) or 181.808 (Reporting by certain persons upon moving into state).

(8) The order entered under subsection (6) of this section is not subject to appeal.

(9) The Oregon Evidence Code and the Oregon Rules of Civil Procedure do not apply to the hearing described in subsection (2) of this section. [2007 c.627 §3; 2009 c.323 §1; 2009 c.713 §7; 2012 c.48 §10]