

**Enrolled**  
**Senate Bill 1095**

Sponsored by Senator WHITSETT; Senators DEVLIN, FERRIOLI, G GEORGE, L GEORGE, NELSON, STARR, WINTERS, Representatives BOONE, CAMERON, CLEM, COWAN, D EDWARDS, FLORES, GELSER, NELSON, ROBLAN, SCHAUFLER, TOMEI, WHISNANT (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to methamphetamine.

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

**SECTION 1. (1) When a defendant is charged with an offense described in subsection (7) of this section, the court may not release the defendant on any form of release other than a security release and shall set a security amount of not less than \$500,000 if the court finds:**

**(a) Except when the defendant is charged by indictment, that there is probable cause to believe that the defendant committed the crime; and**

**(b) By clear and convincing evidence that there is a danger that the defendant will:**

**(A) Fail to appear in court at all appropriate times;**

**(B) Commit a new criminal offense; or**

**(C) Pose a threat to the reasonable protection of the public.**

**(2) If the defendant wants to have a hearing on the issue of release, the defendant must request the hearing at the time of arraignment in circuit court. If the defendant requests a release hearing, the court must hold the hearing within five days of the request.**

**(3) At the release hearing, unless the state stipulates to the setting of a security amount less than \$500,000, the court shall make the inquiry set forth in subsection (1) of this section. The state has the burden of producing evidence at the release hearing subject to ORS 40.015 (4).**

**(4) The defendant may be represented by counsel and may present evidence on any relevant issue. However, the hearing may not be used for purposes of discovery.**

**(5) If the court determines that the defendant is eligible for a security amount of less than \$500,000, the court shall reduce the security amount to an amount not less than \$50,000 and may set other appropriate conditions of release.**

**(6) When a defendant who has been released after posting the security amount described in subsection (5) of this section violates a condition of release and the violation:**

**(a) Constitutes a new criminal offense, the court shall cause the defendant to be taken back into custody and shall impose a security amount of not less than \$500,000.**

**(b) Does not constitute a new criminal offense, the court may order the defendant to be taken back into custody, may order the defendant held pending trial and may set a security amount of not less than \$250,000.**

**(7) The offenses to which subsection (1) of this section applies are:**

- (a) Manufacture of methamphetamine under ORS 475.886.
- (b) Manufacture of methamphetamine within 1,000 feet of a school under ORS 475.888.
- (c) Delivery of methamphetamine within 1,000 feet of a school under ORS 475.892.
- (d) Delivery of methamphetamine under ORS 475.890 if the delivery involves:
  - (A) Substantial quantities of methamphetamine under ORS 475.900 (1)(a)(C); or
  - (B) A commercial drug offense under ORS 475.900 (1)(b).
- (e) Delivery of methamphetamine to a minor under ORS 475.906.
- (8) Nothing in this section affects the ability of a county court or board of commissioners of a county to adopt or implement a jail capacity limit and action plan under ORS 169.042 to 169.046.

**SECTION 2.** Section 1 of this 2008 Act is added to and made a part of ORS 135.230 to 135.290.

Passed by Senate February 15, 2008

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 Secretary of Senate  
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 President of Senate

Passed by House February 22, 2008

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 Speaker of House

Received by Governor:

.....M.,....., 2008

Approved:

.....M.,....., 2008

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 Governor

Filed in Office of Secretary of State:

.....M.,....., 2008

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 Secretary of State