

House Bill 2335

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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**.

Prohibits State Board of Parole and Post-Prison Supervision from considering release of certain prisoners on parole less than five years from previous denial of release or postponement of release date. Authorizes reduction of five-year period under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; and amending ORS 144.125, 144.228 and 144.232.

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

4 **SECTION 1. (1) The State Board of Parole and Post-Prison Supervision may not grant to**
5 **a prisoner sentenced for a crime committed prior to November 1, 1989, a hearing:**

6 **(a) Under ORS 144.122 (1)(a) less than five years following the board's denial of a request**
7 **to reset a parole release date under ORS 144.122, unless the board finds substantial and**
8 **compelling reasons to reduce the five-year period.**

9 **(b) Under ORS 163.105 (2) or 163.115 (5)(c), notwithstanding ORS 163.105 (5) or 163.115**
10 **(5)(f), less than five years following the board's denial of a petition for a change in the terms**
11 **of the prisoner's confinement, unless the board finds substantial and compelling reasons to**
12 **reduce the five-year period.**

13 **(2) The board may not reduce the five-year period described in this section to less than**
14 **two years, unless a prisoner who is subject to subsection (1)(a) of this section would be held**
15 **beyond the maximum sentence less good time credits imposed by the court.**

16 **SECTION 2. ORS 144.125 is amended to read:**

17 144.125. (1) Prior to the scheduled release of any prisoner on parole and prior to release re-
18 scheduled under this section, the State Board of Parole and Post-Prison Supervision may upon re-
19 quest of the Department of Corrections or on its own initiative interview the prisoner to review the
20 prisoner's parole plan and psychiatric or psychological report, if any, and the record of the prison-
21 er's conduct during confinement. To accommodate such review by the board, the Department of
22 Corrections shall provide to the board any psychiatric or psychological reports held by the depart-
23 ment regarding the prisoner. However, if the psychiatrist or psychologist who prepared any report
24 or any treating psychiatrist or psychologist determines that disclosure to the prisoner of the con-
25 tents of the report would be detrimental to the prisoner's mental or emotional health, the psychia-
26 trist or psychologist may indorse upon the report a recommendation that it not be disclosed to the
27 prisoner. The department may withhold from the board any report so indorsed.

28 (2) The board shall postpone a prisoner's scheduled release date if it finds, after a hearing, that
29 the prisoner engaged in serious misconduct during confinement. The board shall adopt rules defining
30 serious misconduct and specifying periods of postponement for such misconduct.

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 (3)(a) If the board finds the prisoner has a present severe emotional disturbance such as to
 2 constitute a danger to the health or safety of the community, the board may order the postponement
 3 of the scheduled parole release until a specified future date.

4 (b) If the board finds the prisoner has a present severe emotional disturbance such as to con-
 5 stitute a danger to the health or safety of the community, but also finds that the prisoner can be
 6 adequately controlled with supervision and mental health treatment and that the necessary super-
 7 vision and treatment are available, the board may order the prisoner released on parole subject to
 8 conditions that are in the best interests of community safety and the prisoner's welfare.

9 (4) Each prisoner shall furnish the board with a parole plan prior to the scheduled release of
 10 the prisoner on parole. The board shall adopt rules specifying the elements of an adequate parole
 11 plan and may defer release of the prisoner for not more than three months if it finds that the parole
 12 plan is inadequate. The Department of Corrections shall assist prisoners in preparing parole plans.

13 **(5) The board may not postpone a prisoner's scheduled release date under this section**
 14 **to a date less than five years after the date of a hearing described in this section, unless:**

15 **(a) The prisoner would be held beyond the maximum sentence less good time credits**
 16 **imposed by the court; or**

17 **(b) The board finds substantial and compelling reasons to reschedule the release date to**
 18 **an earlier date. The board may not reduce the five-year period to less than two years under**
 19 **this paragraph.**

20 **SECTION 3.** ORS 144.228 is amended to read:

21 144.228. (1)(a) Within six months after commitment to the custody of the Department of Cor-
 22 rections of any person sentenced under ORS 161.725 and 161.735 as a dangerous offender, the State
 23 Board of Parole and Post-Prison Supervision shall set a date for a parole consideration hearing in-
 24 stead of an initial release date as otherwise required under ORS 144.120 and 144.125. The parole
 25 consideration hearing date shall be the time the prisoner would otherwise be eligible for parole
 26 under the board's rules.

27 (b) At the parole consideration hearing, the prisoner shall be given a release date in accordance
 28 with the rules of the board if the board finds the prisoner no longer dangerous or finds that the
 29 prisoner remains dangerous but can be adequately controlled with supervision and mental health
 30 treatment and that the necessary resources for supervision and treatment are available to the pris-
 31 oner. If the board is unable to make such findings, reviews will be conducted at least once every
 32 [two] **five** years until the board is able to make such findings, at which time release on parole shall
 33 be ordered if the prisoner is otherwise eligible under the rules. In no event shall the prisoner be
 34 held beyond the maximum sentence less good time credits imposed by the court.

35 (c) Nothing in this section shall preclude a prisoner from submitting a request for a parole
 36 consideration hearing prior to the earliest time the prisoner is eligible for parole or a [two-year]
 37 **five-year** review. Should the board find, based upon the request, that there is a reasonable cause
 38 to believe that the prisoner is no longer dangerous or that necessary supervision and treatment are
 39 available based upon the information provided in the request, it shall conduct a review as soon as
 40 is reasonably convenient.

41 (2) For the parole consideration hearing, the board shall cause to be brought before it and
 42 consider all information regarding such person. The information shall include:

43 (a) The written report of the examining psychiatrist or psychologist which shall contain all the
 44 facts necessary to assist the State Board of Parole and Post-Prison Supervision in making its de-
 45 termination. The report of the examining psychiatrist or psychologist shall be made within two

1 months of the date of its consideration; and

2 (b) A written report to be made by the executive officer of the Department of Corrections in-
 3 stitution in which the person has been confined. The executive officer's report shall contain:

4 (A) A detailed account of the person's conduct while confined, all infractions of rules and dis-
 5 cipline, all punishment meted out to the person and the circumstances connected therewith, as well
 6 as the extent to which the person has responded to the efforts made in the institution to improve
 7 the person's mental and moral condition.

8 (B) A statement as to the person's present attitude towards society, towards the sentencing
 9 judge, towards the prosecuting district attorney, towards the arresting police officer and towards the
 10 person's previous criminal career.

11 (C) The work and program record of the person while in or under the supervision of the De-
 12 partment of Corrections. The program history shall include a summary of any psychological or sub-
 13 stance abuse treatment and other activities that will assist the board in understanding the
 14 psychological adjustment and social skills and habits of the person and that will assist the board in
 15 determining the likelihood for successful community reentry.

16 **SECTION 4.** ORS 144.232 is amended to read:

17 144.232. (1) A person sentenced under ORS 161.725 and 161.735 as a dangerous offender for fel-
 18 onies committed on or after November 1, 1989, shall be considered for release to post-prison super-
 19 vision. The offender is eligible for release to post-prison supervision after having served the required
 20 incarceration term established under ORS 161.737.

21 (2) The State Board of Parole and Post-Prison Supervision shall hold a release hearing no later
 22 than 10 days prior to the date on which the offender becomes eligible for release on post-prison
 23 supervision as provided in subsection (1) of this section.

24 ~~[(3)]~~ **(3)(a) Except as provided in paragraph (b) of this subsection,** the dangerous offender's
 25 eligibility for and release to post-prison supervision shall be determined in a manner consistent with
 26 the procedures and criteria required by ORS 144.228 for the parole determination process applicable
 27 to dangerous offenders sentenced for crimes committed prior to November 1, 1989.

28 **(b) The board shall conduct the reviews described in ORS 144.228 (1)(b) at least once ev-**
 29 **ery two years for dangerous offenders sentenced for a crime committed on or after Novem-**
 30 **ber 1, 1989.**

31 (4) An offender released under this section shall serve the remainder of the sentence term im-
 32 posed under ORS 161.725, 161.735 and 161.737 on post-prison supervision, however:

33 (a) Notwithstanding ORS 137.010 or the rules of the Oregon Criminal Justice Commission, the
 34 State Board of Parole and Post-Prison Supervision may sanction an offender to the supervision of
 35 the local authority for a maximum period of 180 days for any supervision violation. The sanction
 36 may be imposed repeatedly during the term of post-prison supervision for subsequent supervision
 37 violations.

38 (b) After release under this section, the board may at any time return the offender to prison and
 39 require the offender to submit to a psychiatric or psychological examination as provided for in ORS
 40 144.226. If the board finds that the offender's dangerousness has returned and cannot be adequately
 41 controlled with supervision and mental and physical health treatment, or that resources for super-
 42 vision and treatment are not available to the offender, the board may defer the offender's release
 43 from prison for an indefinite period of time. An offender returned to prison under this paragraph is
 44 entitled to periodic reviews once every two years for possible release to post-prison supervision as
 45 provided by subsection (3) of this section.

1 **SECTION 5. Section 1 of this 2009 Act and the amendments to ORS 144.125, 144.228 and**
2 **144.232 by sections 2 to 4 of this 2009 Act apply to prisoners:**

3 (1) Whose request to reset a release date under ORS 144.122 or petition to change the
4 terms of confinement under ORS 163.105 or 163.115 is denied on or after the effective date
5 of this 2009 Act.

6 (2) Whose release date is rescheduled under ORS 144.125 on or after the effective date
7 of this 2009 Act.

8 (3) For whom the board is unable to give a release date under ORS 144.228 (1)(b) on or
9 after the effective date of this 2009 Act.

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