

A-Engrossed
House Bill 3634

Ordered by the House February 11
Including House Amendments dated February 11

Sponsored by Representative BARKER; Representative WHISNANT (Presession filed.)

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.

Provides victims of crime with certain rights in [*habeas corpus proceedings, direct*] appeals, post-conviction relief proceedings, proceedings conducted by the Psychiatric Security Review Board and proceedings conducted by the State Board of Parole and Post-Prison Supervision.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to victims' rights; creating new provisions; amending ORS 144.108, 144.120, 144.343, 161.325,
3 161.326, 181.601 and 419C.529; and declaring an emergency.

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

5 **SECTION 1. (1) To accord crime victims due dignity and respect, a victim in a criminal**
6 **proceeding described in subsection (2) of this section has, upon request to the district at-**
7 **torney before a judgment of conviction is entered, the following rights:**

8 (a) **The right to be notified by the district attorney of the victims' rights described in this**
9 **section and sections 2 and 4 of this 2010 Act;**

10 (b) **The right to reasonable, accurate and timely notice from the Attorney General when**
11 **an appeal is taken in the criminal proceeding;**

12 (c) **The right to reasonable, accurate and timely notice from the counsel for the state**
13 **when a conviction in the criminal proceeding is the subject of a petition for post-conviction**
14 **relief filed under ORS 138.510 to 138.680;**

15 (d) **The right to attend any public hearing related to the criminal proceeding that is**
16 **conducted by an appellate court; and**

17 (e) **The right to be reasonably protected from the offender, if the offender is present, at**
18 **any related appellate or post-conviction relief proceeding.**

19 (2) **The provisions of this section apply only to criminal proceedings involving a defendant**
20 **charged with or convicted of:**

21 (a) **A person felony, as that term is defined in the rules of the Oregon Criminal Justice**
22 **Commission;**

23 (b) **A person Class A misdemeanor, as that term is defined in the rules of the Oregon**
24 **Criminal Justice Commission;**

25 (c) **Burglary in the first degree under ORS 164.225;**

26 (d) **A sex crime as defined in ORS 181.594; or**

27 (e) **An attempt, conspiracy or solicitation to commit a crime described in paragraph (a)**

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 or (b) of this subsection.

2 (3) As used in this section, "victim" has the meaning given that term in ORS 131.007.

3 **SECTION 2.** (1) To accord crime victims due dignity and respect, a victim of a crime that
4 is the subject of a petition for post-conviction relief filed under ORS 138.510 to 138.680 has,
5 upon request, the following rights:

6 (a) The right to have the victim's schedule taken into account in scheduling the post-
7 conviction proceedings;

8 (b) The right to inspect, in advance of the post-conviction proceedings, any public record
9 on which the disposition of the petition will be based;

10 (c) The right to be heard, either orally or in writing, at the hearing;

11 (d) The right to consult with counsel for the state regarding the post-conviction pro-
12 ceeding, including, if applicable, notice of and the opportunity to consult regarding a settle-
13 ment agreement; and

14 (e) The right to be informed by counsel for the state of the manner in which the petition
15 was disposed.

16 (2) As used in this section, "victim" has the meaning given that term in ORS 131.007.

17 **SECTION 3.** Section 4 of this 2010 Act is added to and made a part of ORS chapter 144.

18 **SECTION 4.** (1) To accord crime victims due dignity and respect, a victim of a crime that
19 is the subject of a proceeding conducted by the State Board of Parole and Post-Prison
20 Supervision has the following rights:

21 (a) The right to be reasonably protected from the offender during the proceeding;

22 (b) The right to attend the proceeding in person or, at the discretion of the victim and
23 with advance notice to the board, to attend the proceeding by alternative means; and

24 (c) The right to request the district attorney of the county in which the offender was
25 convicted, in the discretion of the district attorney, to participate in the proceeding.

26 (2)(a) The board must make a reasonable effort to notify the district attorney of the
27 county in which the offender was convicted and the victim, if the victim requests to be no-
28 tified and furnishes the board a current address, of any hearing conducted by the board. The
29 board shall send written notice to the current addresses of the district attorney and the
30 victim no later than 30 days before the hearing.

31 (b) The victim, personally or by counsel, and the district attorney of the county in which
32 the offender was convicted have the right to appear at a hearing conducted by the board and
33 may submit written and oral statements adequately and reasonably expressing any views
34 concerning the crime and the offender.

35 (c) The victim, personally or by counsel, and the district attorney of the county in which
36 the offender was convicted shall be given access to the information that the board will rely
37 upon in the hearing. The victim and the district attorney shall be given adequate time to
38 rebut the information. The victim or the district attorney may request that the board, in the
39 discretion of the board, obtain and consider additional records, evaluations or other docu-
40 ments.

41 (3)(a) A supervisory authority must make a reasonable effort to notify the victim, if the
42 victim requests to be notified and furnishes the supervisory authority a current address, of
43 any contested hearing conducted by the supervisory authority. The supervisory authority
44 shall send written notice to the current address of the victim as soon as practicable.

45 (b) The victim, personally or by counsel, has the right to appear at a contested hearing

1 conducted by the supervisory authority and may submit written and oral statements ade-
2 quately and reasonably expressing any views concerning the crime and the offender.

3 (c) The victim, personally or by counsel, shall be given access to information that the
4 supervisory authority will rely upon in the contested hearing. The victim shall be given ad-
5 equate time to rebut the information. The victim may request that the supervisory author-
6 ity, in the discretion of the supervisory authority, obtain and consider additional records,
7 evaluations or other documents.

8 (4) For purposes of this section, the victim may appear personally through the victim's
9 next of kin or a representative selected by the victim.

10 **SECTION 5.** In any habeas corpus proceeding brought in federal court to which the State
11 of Oregon is a party, the state shall comply with the rights afforded to crime victims under
12 18 U.S.C. 3771. Remedies for violations of 18 U.S.C. 3771 are as provided under federal law.

13 **SECTION 6.** ORS 161.326 is amended to read:

14 161.326. (1) Whenever a person already under the [board's] jurisdiction of the **Psychiatric Se-**
15 **curity Review Board** commits a new crime, the court or the board shall make the findings de-
16 scribed in ORS 161.325 (2).

17 (2) If the trial court or the board determines that a victim desires notification as described in
18 ORS 161.325 (2), the board shall make a reasonable effort to notify the victim of board hearings **and**
19 **orders**, conditional release, discharge or escape. **Nothing in this subsection authorizes the**
20 **board to disseminate information that is otherwise privileged by law.**

21 (3) **When the board conducts a hearing involving a person found guilty except for insanity**
22 **of a crime for which there is a victim, the board shall afford the victim an opportunity to**
23 **be heard, either orally or in writing, at the hearing.**

24 (4)(a) **If the board fails to make a reasonable effort to notify the victim of a board hear-**
25 **ing under subsection (2) of this section or fails to afford the victim an opportunity to be**
26 **heard at the hearing under subsection (3) of this section, the victim may request that the**
27 **board reconsider the order of the board.**

28 (b) **If the board determines that the board failed to make a reasonable effort to notify**
29 **the victim or failed to afford the victim an opportunity to be heard, except as provided in**
30 **paragraph (c) of this subsection, the board shall grant the request for reconsideration. Upon**
31 **reconsideration, the board shall consider the statement of the victim and may consider any**
32 **other information that was not available to the board at the previous hearing.**

33 (c) **The board may not grant a request for reconsideration that is made:**

34 (A) **After the person has been discharged from the jurisdiction of the board;**

35 (B) **After the board has held a subsequent hearing involving the person; or**

36 (C) **If the board failed to make a reasonable effort to notify the victim of a hearing, more**
37 **than 30 days after the victim knew or reasonably should have known of the hearing.**

38 **SECTION 7.** Section 8 of this 2010 Act is added to and made a part of ORS 419C.529 to
39 419C.544.

40 **SECTION 8.** (1) **If the juvenile court or the juvenile panel of the Psychiatric Security**
41 **Review Board determines that a victim desires notification as described in ORS 419C.529, the**
42 **panel shall make a reasonable effort to notify the victim of panel hearings and orders, con-**
43 **ditional release, discharge or escape. Nothing in this subsection authorizes the panel to dis-**
44 **seminate information that is otherwise privileged by law.**

45 (2) **When the panel conducts a hearing involving a young person found responsible except**

1 for insanity for an act for which there is a victim, the panel shall afford the victim an op-
2 portunity to be heard, either orally or in writing, at the hearing.

3 (3)(a) If the panel fails to make a reasonable effort to notify the victim of a panel hearing
4 under subsection (1) of this section or fails to afford the victim an opportunity to be heard
5 under subsection (2) of this section, the victim may request that the panel reconsider the
6 order of the panel.

7 (b) If the panel determines that the panel failed to make a reasonable effort to notify the
8 victim or failed to afford the victim an opportunity to be heard, except as provided in para-
9 graph (c) of this subsection, the panel shall grant the request for reconsideration. Upon re-
10 consideration, the panel shall consider the statement of the victim and may consider any
11 other information that was not available to the panel at the previous hearing.

12 (c) The panel may not grant a request for reconsideration that is made:

13 (A) After the young person has been discharged from the jurisdiction of the Psychiatric
14 Security Review Board;

15 (B) After the panel has held a subsequent hearing involving the young person; or

16 (C) If the panel failed to make a reasonable effort to notify the victim of a hearing, more
17 than 30 days after the victim knew or reasonably should have known of the hearing.

18 **SECTION 9.** ORS 161.325 is amended to read:

19 161.325. (1) After entry of judgment of guilty except for insanity, the court shall, on the basis
20 of the evidence given at the trial or at a separate hearing, if requested by either party, make an
21 order as provided in ORS 161.327 or 161.329, whichever is appropriate.

22 (2) If the court makes an order as provided in ORS 161.327, it shall also:

23 (a) Determine on the record the offense of which the person otherwise would have been con-
24 victed;

25 (b) State on the record the mental disease or defect on which the defendant relied for the guilty
26 except for insanity defense; and

27 (c) Make specific findings on whether there is a victim of the crime for which the defendant has
28 been found guilty except for insanity and, if so, whether the victim wishes to be notified, under ORS
29 161.326 (2), of any Psychiatric Security Review Board hearings **and orders** concerning the defendant
30 and of any conditional release, discharge or escape of the defendant.

31 (3) The court shall include any such findings in its order.

32 (4) Except under circumstances described in ORS 137.076 (4), whenever a defendant charged
33 with any offense listed in ORS 137.076 (1) has been found guilty of that offense except for insanity,
34 the court shall, in any order entered under ORS 161.327 or 161.329, direct the defendant to submit
35 to the obtaining of a blood or buccal sample in the manner provided in ORS 137.076.

36 **SECTION 10.** ORS 419C.529 is amended to read:

37 419C.529. (1) After the entry of a jurisdictional order under ORS 419C.411 (2), if the court finds
38 by a preponderance of the evidence that the young person, at the time of disposition, has a serious
39 mental condition or has a mental disease or defect other than a serious mental condition and pre-
40 sents a substantial danger to others, requiring conditional release or commitment to a hospital or
41 facility designated on an individual case basis by the Department of Human Services or the Oregon
42 Health Authority as provided in subsection (6) of this section, the court shall order the young person
43 placed under the jurisdiction of the Psychiatric Security Review Board.

44 (2) The court shall determine whether the young person should be committed to a hospital or
45 facility designated on an individual case basis by the department or the authority, as provided in

1 subsection (6) of this section, or conditionally released pending a hearing before the juvenile panel
2 of the Psychiatric Security Review Board as follows:

3 (a) If the court finds that the young person is not a proper subject for conditional release, the
4 court shall order the young person committed to a secure hospital or a secure intensive community
5 inpatient facility designated on an individual case basis by the department or the authority, as
6 provided in subsection (6) of this section, for custody, supervision and treatment pending a hearing
7 before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540 and
8 419C.542 and shall order the young person placed under the jurisdiction of the board.

9 (b) If the court finds that the young person can be adequately controlled with supervision and
10 treatment services if conditionally released and that necessary supervision and treatment services
11 are available, the court may order the young person conditionally released, subject to those super-
12 visory orders of the court that are in the best interests of justice and the young person. The court
13 shall designate a qualified mental health or developmental disabilities treatment provider or state,
14 county or local agency to supervise the young person on release, subject to those conditions as the
15 court directs in the order for conditional release. Prior to the designation, the court shall notify the
16 qualified mental health or developmental disabilities treatment provider or agency to whom condi-
17 tional release is contemplated and provide the qualified mental health or developmental disabilities
18 treatment provider or agency an opportunity to be heard before the court. After receiving an order
19 entered under this paragraph, the qualified mental health or developmental disabilities treatment
20 provider or agency designated shall assume supervision of the young person subject to the direction
21 of the juvenile panel. The qualified mental health or developmental disabilities treatment provider
22 or agency designated as supervisor shall report in writing no less than once per month to the ju-
23 venile panel concerning the supervised young person's compliance with the conditions of release.

24 (c) For purposes of determining whether to order commitment to a hospital or facility or con-
25 ditional release, the primary concern of the court is the protection of society.

26 (3) In determining whether a young person should be conditionally released, the court may order
27 examinations or evaluations deemed necessary.

28 (4) Upon placing a young person on conditional release and ordering the young person placed
29 under the jurisdiction of the board, the court shall notify the juvenile panel in writing of the court's
30 conditional release order, the supervisor designated and all other conditions of release pending a
31 hearing before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540
32 and 419C.542.

33 (5) When making an order under this section, the court shall:

34 (a) Determine whether the parent or guardian of the young person is able and willing to assist
35 the young person in obtaining necessary mental health or developmental disabilities services and is
36 willing to acquiesce in the decisions of the juvenile panel. If the court finds that the parent or
37 guardian:

38 (A) Is able and willing to do so, the court shall order the parent or guardian to sign an irrev-
39 ocable consent form in which the parent agrees to any placement decision made by the juvenile
40 panel.

41 (B) Is unable or unwilling to do so, the court shall order that the young person be placed in the
42 legal custody of the Department of Human Services for the purpose of obtaining necessary devel-
43 opmental disabilities services or the Oregon Health Authority for the purpose of obtaining necessary
44 mental health services.

45 (b) Make specific findings on whether there is a victim and, if so, whether the victim wishes to

1 be notified of any board hearings **and orders** concerning the young person and of any conditional
2 release, discharge or escape of the young person.

3 (c) Include in the order a list of the persons who wish to be notified of any board hearing con-
4 cerning the young person.

5 (d) Determine on the record the act committed by the young person for which the young person
6 was found responsible except for insanity.

7 (e) State on the record the mental disease or defect on which the young person relied for the
8 responsible except for insanity defense.

9 (6) When the department designates a facility for the commitment of a developmentally disabled
10 young person under this section, or the authority designates a hospital or facility for commitment
11 of a mentally ill young person under this section, the department and the authority shall take into
12 account the care and treatment needs of the young person, the resources available to the depart-
13 ment or the authority and the safety of the public.

14 **SECTION 11.** ORS 144.120 is amended to read:

15 144.120. (1)(a) Within six months of the admission of a prisoner to any Department of Cor-
16 rections institution, with the exception of those prisoners sentenced to a term of imprisonment for
17 life or for more than five years, the State Board of Parole and Post-Prison Supervision shall conduct
18 a parole hearing to interview the prisoner and set the initial date of release on parole pursuant to
19 subsection (2) of this section. For those prisoners sentenced to a term of imprisonment for more than
20 five years but less than 15 years, the board shall conduct the parole hearing and set the initial date
21 of release within eight months following admission of the prisoner to the institution. For those
22 prisoners sentenced to a term of imprisonment for life or for 15 years or more, with the exception
23 of those sentenced for aggravated murder or murder, the board shall conduct the parole hearing,
24 and shall set the initial release date, within one year following admission of the prisoner to the in-
25 stitution. Release shall be contingent upon satisfaction of the requirements of ORS 144.125.

26 (b) Those prisoners sentenced to a term of imprisonment for less than 15 years for commission
27 of an offense designated by rule by the board as a non person-to-person offense may waive their
28 rights to the parole hearing. When a prisoner waives the parole hearing, the initial date of release
29 on parole may be set administratively by the board pursuant to subsections (2) to (6) of this section.
30 If the board is not satisfied that the waiver was made knowingly or intelligently or if it believes
31 more information is necessary before making its decision, it may order a hearing.

32 (2) In setting the initial parole release date for a prisoner pursuant to subsection (1) of this
33 section, the board shall apply the appropriate range established pursuant to ORS 144.780. Vari-
34 ations from the range shall be in accordance with ORS 144.785.

35 (3) In setting the initial parole release date for a prisoner pursuant to subsection (1) of this
36 section, the board shall consider the presentence investigation report specified in ORS 144.791 or,
37 if no such report has been prepared, a report of similar content prepared by the Department of
38 Corrections.

39 (4) Notwithstanding subsection (1) of this section, in the case of a prisoner whose offense in-
40 cluded particularly violent or otherwise dangerous criminal conduct or whose offense was preceded
41 by two or more convictions for a Class A or Class B felony or whose record includes a psychiatric
42 or psychological diagnosis of severe emotional disturbance such as to constitute a danger to the
43 health or safety of the community, the board may choose not to set a parole date.

44 (5) After the expiration of six months after the admission of the prisoner to any Department of
45 Corrections institution, the board may defer setting the initial parole release date for the prisoner

1 for a period not to exceed 90 additional days pending receipt of psychiatric or psychological reports,
2 criminal records or other information essential to formulating the release decision.

3 (6) When the board has set the initial parole release date for a prisoner, it shall inform the
4 sentencing court of the date.

5 *[(7) The State Board of Parole and Post-Prison Supervision must attempt to notify the victim, if the*
6 *victim requests to be notified and furnishes the board a current address, and the district attorney of*
7 *the committing county at least 30 days before all hearings by sending written notice to the current ad-*
8 *dresses of both. The victim, personally or by counsel, and the district attorney from the committing*
9 *jurisdiction shall have the right to appear at any hearing or, in their discretion, to submit a written*
10 *statement adequately and reasonably expressing any views concerning the crime and the person re-*
11 *sponsible. The victim and the district attorney shall be given access to the information that the board*
12 *or division will rely upon and shall be given adequate time to rebut the information. Both the victim*
13 *and the district attorney may present information or evidence at any hearing, subject to such reasonable*
14 *rules as may be imposed by the officers conducting the hearing. For the purpose of this subsection,*
15 *“victim” includes the actual victim, a representative selected by the victim, the victim’s next of kin or,*
16 *in the case of abuse of corpse in any degree, an appropriate member of the immediate family of the*
17 *decedent.]*

18 **SECTION 12.** ORS 144.108 is amended to read:

19 144.108. (1) If the violation of post-prison supervision is new criminal activity or if the supervi-
20 sory authority finds that the continuum of sanctions is insufficient punishment for a violation of the
21 conditions of post-prison supervision, the supervisory authority may:

22 (a) Impose the most restrictive sanction available, including incarceration in jail;

23 (b) Request the State Board of Parole and Post-Prison Supervision to impose a sanction under
24 subsection (2) of this section; or

25 (c) Request the board to impose a sanction under ORS 144.107.

26 (2) If so requested, the board or its designated representative shall hold a hearing to determine
27 whether incarceration in a jail or state correctional facility is appropriate. Except as otherwise
28 provided by rules of the board and the Department of Corrections concerning parole and post-prison
29 supervision violators, the board may impose a sanction up to the maximum provided by rules of the
30 Oregon Criminal Justice Commission. In conducting a hearing pursuant to this subsection, the board
31 or its designated representative shall follow the procedures and the offender shall have all the rights
32 described in ORS 144.343 and 144.347 relating to revocation of parole.

33 (3) A person who is ordered to serve a term of incarceration in a jail or state correctional fa-
34 cility as a sanction for a post-prison supervision violation is not eligible for:

35 (a) Earned credit time as described in ORS 169.110 or 421.121;

36 (b) Transitional leave as defined in ORS 421.168; or

37 (c) Temporary leave as described in ORS 169.115 or 421.165 (1987 Replacement Part).

38 (4) A person who is ordered to serve a term of incarceration in a state correctional facility as
39 a sanction for a post-prison supervision violation shall receive credit for time served on the post-
40 prison supervision violation prior to the board’s imposition of the term of incarceration.

41 *[(5)(a) The victim has the right:]*

42 *[(A) Upon request made within the time period prescribed in the notice required by ORS 147.417,*
43 *to be notified by the board of any hearing before the board that may result in a revocation sanction for*
44 *a post-prison supervision violation;]*

45 *[(B) To appear personally at the hearing; and]*

1 [(C) If present, to reasonably express any views relevant to the issues before the board.]

2 [(b) Except to the extent section 42 or 43, Article I of the Oregon Constitution, grants rights to, and
3 is enforceable by, a victim in a proceeding conducted by the board, the failure of the board to notify
4 the victim under paragraph (a) of this subsection or failure of the victim to appear at the hearing does
5 not affect the validity of the proceeding.]

6 **SECTION 13.** ORS 144.343 is amended to read:

7 144.343. (1) When the State Board of Parole and Post-Prison Supervision or its designated rep-
8 resentative has been informed and has reasonable grounds to believe that a person under its juris-
9 diction has violated a condition of parole and that revocation of parole may be warranted, the board
10 or its designated representative shall conduct a hearing as promptly as convenient to determine
11 whether there is probable cause to believe a violation of one or more of the conditions of parole
12 has occurred and also conduct a parole violation hearing if necessary. Evidence received and the
13 order of the court at a preliminary hearing under ORS 135.070 to 135.225 may be used by the board
14 to determine the existence of probable cause. A waiver by the defendant of any preliminary hearing
15 shall also constitute a waiver of probable cause hearing by the board. The location of the hearing
16 shall be reasonably near the place of the alleged violation or the place of confinement.

17 (2) The board may:

18 (a) Reinstate or continue the alleged violator on parole subject to the same or modified condi-
19 tions of parole;

20 (b) Revoke parole and require that the parole violator serve the remaining balance of the sen-
21 tence as provided by law;

22 (c) Impose sanctions as provided in ORS 144.106; or

23 (d) Delegate the authority, in whole or in part, granted by this subsection to its designated
24 representative as provided by rule.

25 (3) Within a reasonable time prior to the hearing, the board or its designated representative
26 shall provide the parolee with written notice which shall contain the following information:

27 (a) A concise written statement of the suspected violations and the evidence which forms the
28 basis of the alleged violations.

29 (b) The parolee's right to a hearing and the time, place and purpose of the hearing.

30 (c) The names of persons who have given adverse information upon which the alleged violations
31 are based and the right of the parolee to have such persons present at the hearing for the purposes
32 of confrontation and cross-examination unless it has been determined that there is good cause for
33 not allowing confrontation.

34 (d) The parolee's right to present letters, documents, affidavits or persons with relevant infor-
35 mation at the hearing unless it has been determined that informants would be subject to risk of
36 harm if their identity were disclosed.

37 (e) The parolee's right to subpoena witnesses under ORS 144.347.

38 (f) The parolee's right to be represented by counsel and, if indigent, to have counsel appointed
39 at board expense if the board or its designated representative determines, after request, that the
40 request is based on a timely and colorable claim that:

41 (A) The parolee has not committed the alleged violation of the conditions upon which the
42 parolee is at liberty;

43 (B) Even if the violation is a matter of public record or is uncontested, there are substantial
44 reasons which justify or mitigate the violation and make revocation inappropriate and that the
45 reasons are complex or otherwise difficult to develop or present; or

1 (C) The parolee, in doubtful cases, appears to be incapable of speaking effectively on the
2 parolee's own behalf.

3 (g) That the hearing is being held to determine:

4 (A) Whether there is probable cause to believe a violation of one or more of the conditions of
5 parole has occurred; and

6 (B) If there is probable cause to believe a violation of one or more of the conditions of parole
7 has occurred:

8 (i) Whether to reinstate parole;

9 (ii) Whether to continue the alleged violator on parole subject to the same or modified condi-
10 tions of parole; or

11 (iii) Whether to revoke parole and require that the parole violator serve a term of imprisonment
12 consistent with ORS 144.346.

13 (4) At the hearing the parolee shall have the right:

14 (a) To present evidence on the parolee's behalf, which shall include the right to present letters,
15 documents, affidavits or persons with relevant information regarding the alleged violations;

16 (b) To confront witnesses against the parolee unless it has been determined that there is good
17 cause not to allow confrontation;

18 (c) To examine information or documents which form the basis of the alleged violation unless
19 it has been determined that informants would be subject to risk of harm if their identity is disclosed;
20 and

21 (d) To be represented by counsel and, if indigent, to have counsel provided at board expense if
22 the request and determination provided in subsection (3)(f) of this section have been made. If an
23 indigent's request is refused, the grounds for the refusal shall be succinctly stated in the record.

24 (5) Within a reasonable time after the preliminary hearing, the parolee shall be given a written
25 summary of what transpired at the hearing, including the board's or its designated representative's
26 decision or recommendation and reasons for the decision or recommendation and the evidence upon
27 which the decision or recommendation was based. If an indigent parolee's request for counsel at
28 board expense has been made in the manner provided in subsection (3)(f) of this section and refused,
29 the grounds for the refusal shall be succinctly stated in the summary.

30 (6)(a) The parolee may admit or deny the violation without being physically present at the
31 hearing if the parolee appears before the board or its designee by means of simultaneous television
32 transmission allowing the board to observe and communicate with the parolee and the parolee to
33 observe and communicate with the board or by telephonic communication allowing the board to
34 communicate with the parolee and the parolee to communicate with the board.

35 (b) Notwithstanding paragraph (a) of this subsection, appearance by simultaneous television
36 transmission or telephonic communication shall not be permitted unless the facilities used enable the
37 parolee to consult privately with counsel during the proceedings.

38 (7) If the board or its designated representative has determined that there is probable cause to
39 believe that a violation of one or more of the conditions of parole has occurred, the hearing shall
40 proceed to receive evidence from which the board may determine whether to reinstate or continue
41 the alleged parole violator on parole subject to the same or modified conditions of parole or revoke
42 parole and require that the parole violator serve a term of imprisonment as provided by ORS
43 144.346.

44 (8) At the conclusion of the hearing if probable cause has been determined and the hearing has
45 been held by a member of the board or by a designated representative of the board, the person

1 conducting the hearing shall transmit the record of the hearing, together with a proposed order in-
2 cluding findings of fact, recommendation and reasons for the recommendation to the board. The
3 parolee or the parolee's representative shall have the right to file exceptions and written arguments
4 with the board. The right to file exceptions and written arguments may be waived. After consider-
5 ation of the record, recommendations, exceptions and arguments a quorum of the board shall enter
6 a final order including findings of fact, its decision and reasons for the decision.

7 *[(9)(a) The victim has the right:]*

8 *[(A) Upon request made within the time period prescribed in the notice required by ORS 147.417,*
9 *to be notified by the board of any hearing before the board that may result in the revocation of the*
10 *parolee's parole;]*

11 *[(B) To appear personally at the hearing; and]*

12 *[(C) If present, to reasonably express any views relevant to the issues before the board.]*

13 *[(b) Except to the extent section 42 or 43, Article I of the Oregon Constitution, grants rights to, and*
14 *is enforceable by, a victim in a proceeding conducted by the board, the failure of the board to notify*
15 *the victim under paragraph (a) of this subsection or failure of the victim to appear at the hearing does*
16 *not affect the validity of the proceeding.]*

17 **SECTION 14.** ORS 181.601 is amended to read:

18 181.601. (1)(a) When information about a person is first entered into the Law Enforcement Data
19 System under ORS 181.592, the person will be assigned a registry identification number.

20 (b) A victim shall be issued a victim identification number and shall be given the registry iden-
21 tification number of the person who committed the crime against the victim:

22 (A) At any time, upon request by the victim; and

23 (B) Upon verification of the identification of the victim.

24 (2) The Department of State Police shall establish a toll-free telephone number to provide vic-
25 tims with updates on the prison status, release information, parole status and any other information
26 authorized for release in ORS 181.592 (2) and (3) regarding the person who committed the crime
27 against the victim. The telephone line shall be operational within the state during normal working
28 hours.

29 (3) Access of the victim to the telephone line shall be revoked if the victim makes public, or
30 otherwise misuses, information received.

31 (4) When a victim receives notification under [*ORS 144.120 (7)*] **section 4 of this 2010 Act** of
32 upcoming parole release hearings, or at any other time that the victim is notified concerning the
33 offender, the victim shall be provided a notice of rights under this section and information about the
34 toll-free telephone number.

35 **SECTION 15.** (1) **Sections 1 to 5, 7 and 8 of this 2010 Act and the amendments to ORS**
36 **144.108, 144.120, 144.343, 161.325, 161.326, 181.601 and 419C.529 by sections 6, 9, 10, 11, 12, 13**
37 **and 14 of this 2010 Act become operative on the date that is 60 days after the effective date**
38 **of this 2010 Act.**

39 (2) **The Attorney General, the State Board of Parole and Post-Prison Supervision, the**
40 **supervisory authority as defined in ORS 144.087 and the Psychiatric Security Review Board**
41 **may adopt rules or take any other action before the operative date specified in subsection**
42 **(1) of this section that is necessary to exercise, on or after the operative date specified in**
43 **subsection (1) of this section, all the duties, functions and powers conferred on the Attorney**
44 **General, the State Board of Parole and Post-Prison Supervision, the supervisory authority**
45 **and the Psychiatric Security Review Board by sections 1 to 5, 7 and 8 of this 2010 Act and**

1 the amendments to ORS 144.108, 144.120, 144.343, 161.325, 161.326, 181.601 and 419C.529 by
2 sections 6, 9, 10, 11, 12, 13 and 14 of this 2010 Act.

3 **SECTION 16.** This 2010 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect
5 on its passage.
6
