

Senate Bill 648

Sponsored by Senator GIROD

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 sex offenders released on probation, parole or post-prison supervision from residing in location where police officer is not on duty at all times.

A BILL FOR AN ACT

1
2 Relating to sex offenders; creating new provisions; and amending ORS 137.540, 144.102, 144.270,
3 144.642 and 144.644.

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

5 **SECTION 1.** ORS 137.540 is amended to read:

6 137.540. (1) The court may sentence the defendant to probation subject to the following general
7 conditions unless specifically deleted by the court. The probationer shall:

8 (a) Pay supervision fees, fines, restitution or other fees ordered by the court.

9 (b) Not use or possess controlled substances except pursuant to a medical prescription.

10 (c) Submit to testing for controlled substance or alcohol use if the probationer has a history of
11 substance abuse or if there is a reasonable suspicion that the probationer has illegally used con-
12 trolled substances.

13 (d) Participate in a substance abuse evaluation as directed by the supervising officer and follow
14 the recommendations of the evaluator if there are reasonable grounds to believe there is a history
15 of substance abuse.

16 (e) Remain in the State of Oregon until written permission to leave is granted by the Depart-
17 ment of Corrections or a county community corrections agency.

18 (f) If physically able, find and maintain gainful full-time employment, approved schooling, or a
19 full-time combination of both. Any waiver of this requirement must be based on a finding by the
20 court stating the reasons for the waiver.

21 (g) Change neither employment nor residence without prior permission from the Department of
22 Corrections or a county community corrections agency.

23 (h) Permit the parole and probation officer to visit the probationer or the probationer's work
24 site or residence and to conduct a walk-through of the common areas and of the rooms in the resi-
25 dence occupied by or under the control of the probationer.

26 (i) Consent to the search of person, vehicle or premises upon the request of a representative of
27 the supervising officer if the supervising officer has reasonable grounds to believe that evidence of
28 a violation will be found, and submit to fingerprinting or photographing, or both, when requested
29 by the Department of Corrections or a county community corrections agency for supervision pur-
30 poses.

31 (j) Obey all laws, municipal, county, state and federal.

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 (k) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections
2 or a county community corrections agency.

3 (L) Not possess weapons, firearms or dangerous animals.

4 (m) If recommended by the supervising officer, successfully complete a sex offender treatment
5 program approved by the supervising officer and submit to polygraph examinations at the direction
6 of the supervising officer if the probationer:

7 (A) Is under supervision for a sex offense under ORS 163.305 to 163.467;

8 (B) Was previously convicted of a sex offense under ORS 163.305 to 163.467; or

9 (C) Was previously convicted in another jurisdiction of an offense that would constitute a sex
10 offense under ORS 163.305 to 163.467 if committed in this state.

11 (n) Participate in a mental health evaluation as directed by the supervising officer and follow
12 the recommendation of the evaluator.

13 (o) Report as required and abide by the direction of the supervising officer.

14 (p) If required to report as a sex offender under ORS 181.596, report with the Department of
15 State Police, a city police department, a county sheriff's office or the supervising agency:

16 (A) When supervision begins;

17 (B) Within 10 days of a change in residence;

18 (C) Once each year within 10 days of the probationer's date of birth;

19 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an
20 institution of higher education; and

21 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher
22 education.

23 (2) In addition to the general conditions, the court may impose any special conditions of pro-
24 bation that are reasonably related to the crime of conviction or the needs of the probationer for the
25 protection of the public or reformation of the probationer, or both, including, but not limited to, that
26 the probationer shall:

27 (a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after
28 November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence
29 or to the premises thereof, or be subject to any combination of such confinement and restriction,
30 such confinement or restriction or combination thereof to be for a period not to exceed one year
31 or one-half of the maximum period of confinement that could be imposed for the offense for which
32 the defendant is convicted, whichever is the lesser.

33 (b) For felonies committed on or after November 1, 1989, be confined in the county jail, or be
34 subject to other custodial sanctions under community supervision, or both, as provided by rules of
35 the Oregon Criminal Justice Commission.

36 (c) For crimes committed on or after December 5, 1996, sell any assets of the probationer as
37 specifically ordered by the court in order to pay restitution.

38 (3) When a person who is a sex offender is released on probation, the court shall impose as a
39 special condition of probation that the person not reside:

40 (a) **In any location where the local law enforcement agency having jurisdiction does not**
41 **have a police officer on duty at all times.**

42 (b) In any dwelling in which another sex offender who is on probation, parole or post-prison
43 supervision resides, without the approval of the person's supervising parole and probation officer,
44 or in which more than one other sex offender who is on probation, parole or post-prison supervision
45 resides, without the approval of the director of the probation agency that is supervising the person

1 or of the county manager of the Department of Corrections, or a designee of the director or man-
2 ager. As soon as practicable, the supervising parole and probation officer of a person subject to the
3 requirements of this subsection shall review the person's living arrangement with the person's sex
4 offender treatment provider to ensure that the arrangement supports the goals of offender rehabili-
5 tation and community safety. [*As used in this subsection:*]

6 [(a) "Dwelling" has the meaning given that term in ORS 469.160.]

7 [(b) "Dwelling" does not include a residential treatment facility or a halfway house.]

8 [(c) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility
9 that provides rehabilitative care and treatment for sex offenders.]

10 [(d) "Sex offender" has the meaning given that term in ORS 181.594.]

11 (4)(a) If the person is released on probation following conviction of a sex crime[, *as defined in*
12 *ORS 181.594,*] or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years
13 of age, the court, if requested by the victim, shall include as a special condition of the person's
14 probation that the person not reside within three miles of the victim unless:

15 (A) The victim resides in a county having a population of less than 130,000 and the person is
16 required to reside in that county;

17 (B) The person demonstrates to the court by a preponderance of the evidence that no mental
18 intimidation or pressure was brought to bear during the commission of the crime;

19 (C) The person demonstrates to the court by a preponderance of the evidence that imposition
20 of the condition will deprive the person of a residence that would be materially significant in aiding
21 in the rehabilitation of the person or in the success of the probation; or

22 (D) The person resides in a halfway house. [*As used in this subparagraph, "halfway house" means*
23 *a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care*
24 *and treatment for sex offenders.*]

25 (b) A victim may request imposition of the special condition of probation described in this sub-
26 section at the time of sentencing in person or through the prosecuting attorney.

27 (c) If the court imposes the special condition of probation described in this subsection and if at
28 any time during the period of probation the victim moves to within three miles of the probationer's
29 residence, the court may not require the probationer to change the probationer's residence in order
30 to comply with the special condition of probation.

31 (5) When a person who is a sex offender[, *as defined in ORS 181.594,*] is released on probation,
32 the Department of Corrections or the county community corrections agency, whichever is appropri-
33 ate, shall notify the city police department, if the person is going to reside within a city, and the
34 county sheriff's office of the county in which the person is going to reside of the person's release
35 and the conditions of the person's release.

36 (6) Failure to abide by all general and special conditions imposed by the court and supervised
37 by the Department of Corrections or a county community corrections agency may result in arrest,
38 modification of conditions, revocation of probation or imposition of structured, intermediate sanc-
39 tions in accordance with rules adopted under ORS 137.595.

40 (7) The court may order that probation be supervised by the court. If the court orders that
41 probation be supervised by the court, the defendant shall pay a fee of \$100 to the court. Fees im-
42 posed under this subsection in the circuit court shall be deposited by the clerk of the court in the
43 Judicial System Surcharge Account. Fees imposed in a justice court under this subsection shall be
44 paid to the county treasurer. Fees imposed in a municipal court under this subsection shall be paid
45 to the city treasurer.

1 (8) The court may at any time modify the conditions of probation.

2 (9) A court may not order revocation of probation as a result of the probationer’s failure to pay
 3 restitution unless the court determines from the totality of the circumstances that the purposes of
 4 the probation are not being served.

5 (10) It is not a cause for revocation of probation that the probationer failed to apply for or ac-
 6 cept employment at any workplace where there is a labor dispute in progress. [*As used in this sub-*
 7 *section, “labor dispute” has the meaning for that term provided in ORS 662.010.*]

8 (11) If the court determines that a defendant has violated the terms of probation, the court shall
 9 impose a \$25 assessment against the defendant. The assessment becomes part of the judgment and
 10 may be collected in the same manner as a fine. Assessments imposed under this subsection in the
 11 circuit court shall be deposited by the clerk of the court in the Judicial System Surcharge Account.
 12 Assessments imposed in a justice court under this subsection shall be paid to the county treasurer.
 13 Assessments imposed in a municipal court under this subsection shall be paid to the city treasurer.

14 (12) As used in this section[,]:

15 (a) “Attends,” “institution of higher education,” “**sex crime,**” “**sex offender,**” “works” and
 16 “carries on a vocation” have the meanings given those terms in ORS 181.594.

17 (b) “**Dwelling**” has the meaning given that term in ORS 469.160. “**Dwelling**” does not in-
 18 **clude a residential treatment facility or halfway house.**

19 (c) “**Halfway house**” means a publicly or privately operated profit or nonprofit residential
 20 **facility that provides rehabilitative care and treatment for sex offenders.**

21 (d) “**Labor dispute**” has the meaning given that term in ORS 662.010.

22 (e) “**Police officer**” has the meaning given that term in ORS 44.550.

23 **SECTION 2.** ORS 137.540, as amended by section 23, chapter 659, Oregon Laws 2009, is
 24 amended to read:

25 137.540. (1) The court may sentence the defendant to probation subject to the following general
 26 conditions unless specifically deleted by the court. The probationer shall:

27 (a) Pay supervision fees, fines, restitution or other fees ordered by the court.

28 (b) Not use or possess controlled substances except pursuant to a medical prescription.

29 (c) Submit to testing for controlled substance or alcohol use if the probationer has a history of
 30 substance abuse or if there is a reasonable suspicion that the probationer has illegally used con-
 31 trolled substances.

32 (d) Participate in a substance abuse evaluation as directed by the supervising officer and follow
 33 the recommendations of the evaluator if there are reasonable grounds to believe there is a history
 34 of substance abuse.

35 (e) Remain in the State of Oregon until written permission to leave is granted by the Depart-
 36 ment of Corrections or a county community corrections agency.

37 (f) If physically able, find and maintain gainful full-time employment, approved schooling, or a
 38 full-time combination of both. Any waiver of this requirement must be based on a finding by the
 39 court stating the reasons for the waiver.

40 (g) Change neither employment nor residence without prior permission from the Department of
 41 Corrections or a county community corrections agency.

42 (h) Permit the parole and probation officer to visit the probationer or the probationer’s work
 43 site or residence and to conduct a walk-through of the common areas and of the rooms in the resi-
 44 dence occupied by or under the control of the probationer.

45 (i) Consent to the search of person, vehicle or premises upon the request of a representative of

1 the supervising officer if the supervising officer has reasonable grounds to believe that evidence of
 2 a violation will be found, and submit to fingerprinting or photographing, or both, when requested
 3 by the Department of Corrections or a county community corrections agency for supervision pur-
 4 poses.

5 (j) Obey all laws, municipal, county, state and federal.

6 (k) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections
 7 or a county community corrections agency.

8 (L) Not possess weapons, firearms or dangerous animals.

9 (m) If recommended by the supervising officer, successfully complete a sex offender treatment
 10 program approved by the supervising officer and submit to polygraph examinations at the direction
 11 of the supervising officer if the probationer:

12 (A) Is under supervision for a sex offense under ORS 163.305 to 163.467;

13 (B) Was previously convicted of a sex offense under ORS 163.305 to 163.467; or

14 (C) Was previously convicted in another jurisdiction of an offense that would constitute a sex
 15 offense under ORS 163.305 to 163.467 if committed in this state.

16 (n) Participate in a mental health evaluation as directed by the supervising officer and follow
 17 the recommendation of the evaluator.

18 (o) Report as required and abide by the direction of the supervising officer.

19 (p) If required to report as a sex offender under ORS 181.596, report with the Department of
 20 State Police, a city police department, a county sheriff's office or the supervising agency:

21 (A) When supervision begins;

22 (B) Within 10 days of a change in residence;

23 (C) Once each year within 10 days of the probationer's date of birth;

24 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an
 25 institution of higher education; and

26 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher
 27 education.

28 (2) In addition to the general conditions, the court may impose any special conditions of pro-
 29 bation that are reasonably related to the crime of conviction or the needs of the probationer for the
 30 protection of the public or reformation of the probationer, or both, including, but not limited to, that
 31 the probationer shall:

32 (a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after
 33 November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence
 34 or to the premises thereof, or be subject to any combination of such confinement and restriction,
 35 such confinement or restriction or combination thereof to be for a period not to exceed one year
 36 or one-half of the maximum period of confinement that could be imposed for the offense for which
 37 the defendant is convicted, whichever is the lesser.

38 (b) For felonies committed on or after November 1, 1989, be confined in the county jail, or be
 39 subject to other custodial sanctions under community supervision, or both, as provided by rules of
 40 the Oregon Criminal Justice Commission.

41 (c) For crimes committed on or after December 5, 1996, sell any assets of the probationer as
 42 specifically ordered by the court in order to pay restitution.

43 (3) When a person who is a sex offender is released on probation, the court shall impose as a
 44 special condition of probation that the person not reside:

45 (a) **In any location where the local law enforcement agency having jurisdiction does not**

1 **have a police officer on duty at all times.**

2 (b) In any dwelling in which another sex offender who is on probation, parole or post-prison
3 supervision resides, without the approval of the person's supervising parole and probation officer,
4 or in which more than one other sex offender who is on probation, parole or post-prison supervision
5 resides, without the approval of the director of the probation agency that is supervising the person
6 or of the county manager of the Department of Corrections, or a designee of the director or man-
7 ager. As soon as practicable, the supervising parole and probation officer of a person subject to the
8 requirements of this subsection shall review the person's living arrangement with the person's sex
9 offender treatment provider to ensure that the arrangement supports the goals of offender rehabili-
10 tation and community safety. *[As used in this subsection.]*

11 *[(a) "Dwelling" has the meaning given that term in ORS 469.160.]*

12 *[(b) "Dwelling" does not include a residential treatment facility or a halfway house.]*

13 *[(c) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility*
14 *that provides rehabilitative care and treatment for sex offenders.]*

15 *[(d) "Sex offender" has the meaning given that term in ORS 181.594.]*

16 (4)(a) If the person is released on probation following conviction of a sex crime[, *as defined in*
17 *ORS 181.594,*] or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years
18 of age, the court, if requested by the victim, shall include as a special condition of the person's
19 probation that the person not reside within three miles of the victim unless:

20 (A) The victim resides in a county having a population of less than 130,000 and the person is
21 required to reside in that county;

22 (B) The person demonstrates to the court by a preponderance of the evidence that no mental
23 intimidation or pressure was brought to bear during the commission of the crime;

24 (C) The person demonstrates to the court by a preponderance of the evidence that imposition
25 of the condition will deprive the person of a residence that would be materially significant in aiding
26 in the rehabilitation of the person or in the success of the probation; or

27 (D) The person resides in a halfway house. *[As used in this subparagraph, "halfway house" means*
28 *a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care*
29 *and treatment for sex offenders.]*

30 (b) A victim may request imposition of the special condition of probation described in this sub-
31 section at the time of sentencing in person or through the prosecuting attorney.

32 (c) If the court imposes the special condition of probation described in this subsection and if at
33 any time during the period of probation the victim moves to within three miles of the probationer's
34 residence, the court may not require the probationer to change the probationer's residence in order
35 to comply with the special condition of probation.

36 (5) When a person who is a sex offender[, *as defined in ORS 181.594,*] is released on probation,
37 the Department of Corrections or the county community corrections agency, whichever is appropri-
38 ate, shall notify the city police department, if the person is going to reside within a city, and the
39 county sheriff's office of the county in which the person is going to reside of the person's release
40 and the conditions of the person's release.

41 (6) Failure to abide by all general and special conditions imposed by the court and supervised
42 by the Department of Corrections or a county community corrections agency may result in arrest,
43 modification of conditions, revocation of probation or imposition of structured, intermediate sanc-
44 tions in accordance with rules adopted under ORS 137.595.

45 (7) The court may at any time modify the conditions of probation.

1 (8) A court may not order revocation of probation as a result of the probationer’s failure to pay
 2 restitution unless the court determines from the totality of the circumstances that the purposes of
 3 the probation are not being served.

4 (9) It is not a cause for revocation of probation that the probationer failed to apply for or accept
 5 employment at any workplace where there is a labor dispute in progress. *[As used in this subsection,*
 6 *“labor dispute” has the meaning for that term provided in ORS 662.010.]*

7 (10) As used in this section[,]:

8 (a) “Attends,” “institution of higher education,” “sex crime,” “sex offender,” “works” and
 9 “carries on a vocation” have the meanings given those terms in ORS 181.594.

10 (b) **“Dwelling” has the meaning given that term in ORS 469.160. “Dwelling” does not in-**
 11 **clude a residential treatment facility or halfway house.**

12 (c) **“Halfway house” means a publicly or privately operated profit or nonprofit residential**
 13 **facility that provides rehabilitative care and treatment for sex offenders.**

14 (d) **“Labor dispute” has the meaning given that term in ORS 662.010.**

15 (e) **“Police officer” has the meaning given that term in ORS 44.550.**

16 **SECTION 3.** ORS 144.102 is amended to read:

17 144.102. (1) The State Board of Parole and Post-Prison Supervision or local supervisory authority
 18 responsible for correctional services for a person shall specify in writing the conditions of post-
 19 prison supervision imposed under ORS 144.096. A copy of the conditions shall be given to the person
 20 upon release from prison or jail.

21 (2) The board or the supervisory authority shall determine, and may at any time modify, the
 22 conditions of post-prison supervision, which may include, among other conditions, that the person
 23 shall:

24 (a) Comply with the conditions of post-prison supervision as specified by the board or supervi-
 25 sory authority.

26 (b) Be under the supervision of the Department of Corrections and its representatives or other
 27 supervisory authority and abide by their direction and counsel.

28 (c) Answer all reasonable inquiries of the board, the department or the supervisory authority.

29 (d) Report to the parole officer as directed by the board, the department or the supervisory au-
 30 thority.

31 (e) Not own, possess or be in control of any weapon.

32 (f) Respect and obey all municipal, county, state and federal laws.

33 (g) Understand that the board or supervisory authority may, at its discretion, punish violations
 34 of post-prison supervision.

35 (h) Attend a victim impact treatment session in a county that has a victim impact program. If
 36 the board or supervisory authority requires attendance under this paragraph, the board or supervi-
 37 sory authority may require the person, as an additional condition of post-prison supervision, to pay
 38 a reasonable fee to the victim impact program to offset the cost of the person’s participation. The
 39 board or supervisory authority may not order a person to pay a fee in excess of \$5 under this par-
 40 agraph.

41 (i) If required to report as a sex offender under ORS 181.595, report with the Department of
 42 State Police, a city police department, a county sheriff’s office or the supervising agency:

43 (A) When supervision begins;

44 (B) Within 10 days of a change in residence;

45 (C) Once each year within 10 days of the person’s date of birth;

1 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an
2 institution of higher education; and

3 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher
4 education.

5 (3)(a) The board or supervisory authority may establish special conditions as the board or su-
6 pervisory authority determines necessary because of the individual circumstances of the person on
7 post-prison supervision.

8 (b) If the person is on post-prison supervision following conviction of a sex crime, [*as defined in*
9 *ORS 181.594,*] the board or supervisory authority shall include all of the following as special con-
10 ditions of the person's post-prison supervision:

11 (A) Agreement to comply with any curfew set by the board, the supervisory authority or the
12 supervising officer.

13 (B) A prohibition against contacting a person under 18 years of age without the prior written
14 approval of the board, supervisory authority or supervising officer.

15 (C) A prohibition against being present more than one time, without the prior written approval
16 of the board, supervisory authority or supervising officer, at a place where persons under 18 years
17 of age regularly congregate.

18 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition
19 against being present, without the prior written approval of the board, supervisory authority or
20 supervising officer, at, or on property adjacent to, a school, child care center, playground or other
21 place intended for use primarily by persons under 18 years of age.

22 (E) A prohibition against working or volunteering at a school, child care center, park, play-
23 ground or other place where persons under 18 years of age regularly congregate.

24 (F) Entry into and completion of or successful discharge from a sex offender treatment program
25 approved by the board, supervisory authority or supervising officer. The program may include
26 polygraph and plethysmograph testing. The person is responsible for paying for the treatment pro-
27 gram.

28 (G) A prohibition against any contact with the victim, directly or indirectly, unless approved
29 by the victim, the person's treatment provider and the board, supervisory authority or supervising
30 officer.

31 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-
32 graph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating
33 visual or auditory materials that are relevant to the person's deviant behavior.

34 (I) Agreement to consent to a search of the person or the vehicle or residence of the person
35 upon the request of a representative of the board or supervisory authority if the representative has
36 reasonable grounds to believe that evidence of a violation of a condition of post-prison supervision
37 will be found.

38 (J) Participation in random polygraph examinations to obtain information for risk management
39 and treatment. The person is responsible for paying the expenses of the examinations. The results
40 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to
41 prove a violation of post-prison supervision.

42 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless
43 approved by the board, supervisory authority or supervising officer.

44 (L) A prohibition against using a post-office box unless approved by the board, supervisory au-
45 thority or supervising officer.

1 **(M) A prohibition against residing in any location where the local law enforcement**
 2 **agency having jurisdiction does not have a police officer on duty at all times.**

3 [(M)] **(N) A prohibition against residing in any dwelling in which another sex offender who is**
 4 **on probation, parole or post-prison supervision resides unless approved by the board, supervisory**
 5 **authority or supervising officer, or in which more than one other sex offender who is on probation,**
 6 **parole or post-prison supervision resides unless approved by the board or the director of the super-**
 7 **visory authority, or a designee of the board or director. As soon as practicable, the supervising of-**
 8 **ficer of a person subject to the requirements of this subparagraph shall review the person's living**
 9 **arrangement with the person's sex offender treatment provider to ensure that the arrangement**
 10 **supports the goals of offender rehabilitation and community safety. [As used in this subparagraph:]**

11 (i) *"Dwelling" has the meaning given that term in ORS 469.160.*

12 (ii) *"Dwelling" does not include a residential treatment facility or a halfway house.*

13 (iii) *"Halfway house" means a publicly or privately operated profit or nonprofit residential facility*
 14 *that provides rehabilitative care and treatment for sex offenders.]*

15 (c)(A) If the person is on post-prison supervision following conviction of a sex crime[, *as defined*
 16 *in ORS 181.594,*] or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18
 17 years of age, the board or supervisory authority, if requested by the victim, shall include as a special
 18 condition of the person's post-prison supervision that the person not reside within three miles of the
 19 victim unless:

20 (i) The victim resides in a county having a population of less than 130,000 and the person is
 21 required to reside in that county under subsection (6) of this section;

22 (ii) The person demonstrates to the board or supervisory authority by a preponderance of the
 23 evidence that no mental intimidation or pressure was brought to bear during the commission of the
 24 crime;

25 (iii) The person demonstrates to the board or supervisory authority by a preponderance of the
 26 evidence that imposition of the condition will deprive the person of a residence that would be
 27 materially significant in aiding in the rehabilitation of the person or in the success of the post-prison
 28 supervision; or

29 (iv) The person resides in a halfway house. [*As used in this sub-subparagraph, "halfway house"*
 30 *means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative*
 31 *care and treatment for sex offenders.]*

32 (B) A victim may request imposition of the special condition of post-prison supervision described
 33 in this paragraph at the time of sentencing in person or through the prosecuting attorney. A victim's
 34 request may be included in the judgment document.

35 (C) If the board or supervisory authority imposes the special condition of post-prison supervision
 36 described in this paragraph and if at any time during the period of post-prison supervision the victim
 37 moves to within three miles of the person's residence, the board or supervisory authority may not
 38 require the person to change the person's residence in order to comply with the special condition
 39 of post-prison supervision.

40 (4)(a) The board or supervisory authority may require the person to pay, as a condition of
 41 post-prison supervision, any compensatory fines, restitution or attorney fees:

42 (A) As determined, imposed or required by the sentencing court; or

43 (B) When previously required as a condition of any type of supervision that is later revoked.

44 (b) The board may require a person to pay restitution as a condition of post-prison supervision
 45 imposed for an offense other than the offense for which the restitution was ordered if the person:

1 (A) Was ordered to pay restitution as a result of another conviction; and

2 (B) Has not fully paid the restitution by the time the person has completed the period of post-
3 prison supervision imposed for the offense for which the restitution was ordered.

4 (5) A person's failure to apply for or accept employment at any workplace where there is a labor
5 dispute in progress does not constitute a violation of the conditions of post-prison supervision. [As
6 used in this subsection, "labor dispute" has the meaning given that term in ORS 662.010.]

7 (6)(a) When a person is released from imprisonment on post-prison supervision, the board shall
8 order, as a condition of post-prison supervision, that the person reside for the first six months after
9 release in the county where the person resided at the time of the offense that resulted in the
10 imprisonment.

11 (b) Upon motion of the board, the person, a victim or a district attorney, the board may waive
12 the residency requirement only after making a finding that one of the following conditions has been
13 met:

14 (A) The person provides proof of employment with no set ending date in a county other than the
15 established county of residence;

16 (B) The person is found to pose a significant danger to a victim of the person's crime, or a vic-
17 tim or victim's family is found to pose a significant danger to the person residing in the established
18 county of residence;

19 (C) The person has a spouse or biological or adoptive family residing in a county other than the
20 established county of residence who will be materially significant in aiding in the rehabilitation of
21 the person and in the success of the post-prison supervision;

22 (D) As another condition of post-prison supervision, the person is required to participate in a
23 treatment program that is not available in the established county of residence;

24 (E) The person desires to be released to another state; or

25 (F) The board finds other good cause, of a nature similar to the other conditions listed in this
26 paragraph, for the waiver.

27 (c)(A) The board shall determine the county where the person resided at the time of the offense
28 by establishing the person's last address at the time of the offense. In making its determination, the
29 board shall examine all of the following:

30 (i) An Oregon driver license, regardless of its validity;

31 (ii) Records maintained by the Department of Revenue;

32 (iii) Records maintained by the Department of State Police bureau of criminal identification;

33 (iv) Records maintained by the Department of Human Services;

34 (v) Records maintained by the Department of Corrections; and

35 (vi) Records maintained by the Oregon Health Authority.

36 (B) When the person did not have an identifiable address of record at the time of the offense,
37 the person is considered to have resided in the county where the offense occurred.

38 (C) If the person is serving multiple sentences, the county of residence shall be determined ac-
39 cording to the date of the last arrest resulting in a conviction.

40 (D) In determining the person's county of residence for purposes of this subsection, the board
41 may not consider offenses committed by the person while the person was incarcerated in a Depart-
42 ment of Corrections facility.

43 (7) As used in this section[,]:

44 (a) "Attends," "institution of higher education," "**sex crime**," "**sex offender**," "works" and
45 "carries on a vocation" have the meanings given those terms in ORS 181.594.

1 **(b) “Dwelling” has the meaning given that term in ORS 469.160. “Dwelling” does not in-**
 2 **clude a residential treatment facility or halfway house.**

3 **(c) “Halfway house” means a publicly or privately operated profit or nonprofit residential**
 4 **facility that provides rehabilitative care and treatment for sex offenders.**

5 **(d) “Labor dispute” has the meaning given that term in ORS 662.010.**

6 **(e) “Police officer” has the meaning given that term in ORS 44.550.**

7 **SECTION 4.** ORS 144.270 is amended to read:

8 144.270. (1) The State Board of Parole and Post-Prison Supervision, in releasing a person on
 9 parole, shall specify in writing the conditions of the parole and a copy of such conditions shall be
 10 given to the person paroled.

11 (2) The board shall determine, and may at any time modify, the conditions of parole, which may
 12 include, among other conditions, that the parolee shall:

13 (a) Accept the parole granted subject to all terms and conditions specified by the board.

14 (b) Be under the supervision of the Department of Corrections and its representatives and abide
 15 by their direction and counsel.

16 (c) Answer all reasonable inquiries of the board or the parole officer.

17 (d) Report to the parole officer as directed by the board or parole officer.

18 (e) Not own, possess or be in control of any weapon.

19 (f) Respect and obey all municipal, county, state and federal laws.

20 (g) Understand that the board may, in its discretion, suspend or revoke parole if it determines
 21 that the parole is not in the best interest of the parolee, or in the best interest of society.

22 (3)(a) The board may establish such special conditions as it determines are necessary because
 23 of the individual circumstances of the parolee.

24 (b) If the person is on parole following conviction of a sex crime, [*as defined in ORS 181.594,*]
 25 the board shall include all of the following as special conditions of the person’s parole:

26 (A) Agreement to comply with any curfew set by the board or the supervising officer.

27 (B) A prohibition against contacting a person under 18 years of age without the prior written
 28 approval of the board or supervising officer.

29 (C) A prohibition against being present more than one time, without the prior written approval
 30 of the board or supervising officer, at a place where persons under 18 years of age regularly con-
 31 gregate.

32 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition
 33 against being present, without the prior written approval of the board or supervising officer, at, or
 34 on property adjacent to, a school, child care center, playground or other place intended for use
 35 primarily by persons under 18 years of age.

36 (E) A prohibition against working or volunteering at a school, child care center, park, play-
 37 ground or other place where persons under 18 years of age regularly congregate.

38 (F) Entry into and completion of or successful discharge from a sex offender treatment program
 39 approved by the board or supervising officer. The program may include polygraph and
 40 plethysmograph testing. The person is responsible for paying for the treatment program.

41 (G) A prohibition against any contact with the victim, directly or indirectly, unless approved
 42 by the victim, the person’s treatment provider and the board or supervising officer.

43 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-
 44 graph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating
 45 visual or auditory materials that are relevant to the person’s deviant behavior.

1 (I) Agreement to consent to a search of the person or the vehicle or residence of the person
 2 upon the request of a representative of the board if the representative has reasonable grounds to
 3 believe that evidence of a violation of a condition of parole will be found.

4 (J) Participation in random polygraph examinations to obtain information for risk management
 5 and treatment. The person is responsible for paying the expenses of the examinations. The results
 6 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to
 7 prove a violation of parole.

8 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless
 9 approved by the board or supervising officer.

10 (L) A prohibition against using a post-office box unless approved by the board or supervising
 11 officer.

12 **(M) A prohibition against residing in any location where the local law enforcement**
 13 **agency having jurisdiction does not have a police officer on duty at all times.**

14 ~~[(M)]~~ (N) A prohibition against residing in any dwelling in which another sex offender who is
 15 on probation, parole or post-prison supervision resides unless approved by the board or supervising
 16 officer, or in which more than one other sex offender who is on probation, parole or post-prison
 17 supervision resides unless approved by the board or a designee of the board. As soon as practicable,
 18 the supervising officer of a person subject to the requirements of this subparagraph shall review the
 19 person's living arrangement with the person's sex offender treatment provider to ensure that the
 20 arrangement supports the goals of offender rehabilitation and community safety. *[As used in this*
 21 *subparagraph:]*

22 *[(i) "Dwelling" has the meaning given that term in ORS 469.160.]*

23 *[(ii) "Dwelling" does not include a residential treatment facility or a halfway house.]*

24 *[(iii) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility*
 25 *that provides rehabilitative care and treatment for sex offenders.]*

26 (c)(A) If the person is on parole following conviction of a sex crime, as defined in ORS 181.594,
 27 or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the
 28 board, if requested by the victim, shall include as a special condition of the person's parole that the
 29 person not reside within three miles of the victim unless:

30 (i) The victim resides in a county having a population of less than 130,000 and the person is
 31 required to reside in that county under subsection (5) of this section;

32 (ii) The person demonstrates to the board by a preponderance of the evidence that no mental
 33 intimidation or pressure was brought to bear during the commission of the crime;

34 (iii) The person demonstrates to the board by a preponderance of the evidence that imposition
 35 of the condition will deprive the person of a residence that would be materially significant in aiding
 36 in the rehabilitation of the person or in the success of the parole; or

37 (iv) The person resides in a halfway house. *[As used in this sub-subparagraph, "halfway house"*
 38 *means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative*
 39 *care and treatment for sex offenders.]*

40 (B) A victim may request imposition of the special condition of parole described in this para-
 41 graph at the time of sentencing in person or through the prosecuting attorney. A victim's request
 42 may be included in the judgment document.

43 (C) If the board imposes the special condition of parole described in this paragraph and if at any
 44 time during the period of parole the victim moves to within three miles of the parolee's residence,
 45 the board may not require the parolee to change the parolee's residence in order to comply with the

1 special condition of parole.

2 (4) It is not a cause for revocation of parole that the parolee failed to apply for or accept em-
3 ployment at any workplace where there is a labor dispute in progress. [*As used in this subsection,*
4 *“labor dispute” has the meaning given that term in ORS 662.010.*]

5 (5)(a) When the board grants an inmate parole from the custody of the Department of Cor-
6 rections, the board shall order, as a condition of parole, that the inmate reside for the first six
7 months in the county where the inmate resided at the time of the offense that resulted in the
8 imprisonment.

9 (b) Upon motion of the board, an inmate, a victim or a district attorney, the board may waive
10 the residency requirement only after making a finding that one of the following conditions has been
11 met:

12 (A) The inmate provides proof of a job with no set ending date in a county other than the es-
13 tablished county of residence;

14 (B) The inmate is found to pose a significant danger to the victim of the offender’s crime, or the
15 victim or victim’s family is found to pose a significant danger to the inmate residing in the county
16 of residence;

17 (C) The inmate has a spouse or biological or adoptive family residing in other than the county
18 of residence who will be materially significant in aiding in the rehabilitation of the offender and in
19 the success of the parole;

20 (D) As another condition of parole, the inmate is required to participate in a treatment program
21 that is not available or located in the county of residence;

22 (E) The inmate desires to be paroled to another state; or

23 (F) The board finds other good cause, of a nature similar to the other conditions listed in this
24 paragraph, for the waiver.

25 (c)(A) For purposes of this subsection, “residency” means the last address at the time of the
26 offense, as established by an examination of all of the following:

27 (i) An Oregon driver license, regardless of its validity;

28 (ii) Records maintained by the Department of Revenue;

29 (iii) Records maintained by the Department of State Police bureau of criminal identification;

30 (iv) Records maintained by the Department of Human Services;

31 (v) Records maintained by the Department of Corrections; and

32 (vi) Records maintained by the Oregon Health Authority.

33 (B) When an inmate did not have one identifiable address of record at the time of the offense,
34 the inmate shall be considered to have resided in the county where the offense occurred.

35 (C) If the inmate is serving multiple sentences, the county of residence shall be determined ac-
36 cording to the date of the last arrest resulting in a conviction.

37 (D) If the inmate is being rereleased after revocation of parole, the county of residence shall
38 be determined according to the date of the arrest resulting in a conviction of the underlying offense.

39 (E) In determining the inmate’s county of residence, a conviction for an offense that the inmate
40 committed while incarcerated in a state corrections institution may not be considered.

41 (6) When the board grants an inmate parole from the custody of the Department of Corrections
42 and if the inmate is required to report as a sex offender under ORS 181.595, the board, as a condi-
43 tion of parole, shall order the inmate to report with the Department of State Police, a city police
44 department, a county sheriff’s office or the supervising agency:

45 (a) When supervision begins;

1 (b) Within 10 days of a change in residence;

2 (c) Once each year within 10 days of the inmate’s date of birth;

3 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
4 institution of higher education; and

5 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
6 education.

7 (7) As used in this section[,]:

8 (a) “Attends,” “institution of higher education,” “sex crime,” “sex offender,” “works” and
9 “carries on a vocation” have the meanings given those terms in ORS 181.594.

10 (b) **“Dwelling” has the meaning given that term in ORS 469.160. “Dwelling” does not in-**
11 **clude a residential treatment facility or halfway house.**

12 (c) **“Halfway house” means a publicly or privately operated profit or nonprofit residential**
13 **facility that provides rehabilitative care and treatment for sex offenders.**

14 (d) **“Labor dispute” has the meaning given that term in ORS 662.010.**

15 (e) **“Police officer” has the meaning given that term in ORS 44.550.**

16 **SECTION 5.** ORS 144.642 is amended to read:

17 144.642. (1) The Department of Corrections, in consultation with the State Board of Parole and
18 Post-Prison Supervision and community corrections agencies, shall adopt rules establishing criteria
19 to be considered in determining the permanent residence requirements for a sex offender released
20 on post-prison supervision or parole. Transitional housing is not subject to permanent residence re-
21 quirements. The department shall include in the rules:

22 (a) A general prohibition against allowing a sex offender to reside near locations where children
23 are the primary occupants or users;

24 (b) The bases upon which exceptions to the general prohibition required by paragraph (a) of this
25 subsection are authorized;

26 (c) A prohibition against allowing a sex offender to reside in any dwelling in which another sex
27 offender on probation, parole or post-prison supervision resides unless authorized as provided in ORS
28 144.102 [(3)(b)(M)] **(3)(b)(N)**; and

29 (d) A process that allows communities and community corrections agencies that would be af-
30 fected by a decision about the location of a sex offender’s residence to be informed of the decision
31 making process before the offender is released.

32 (2) Based upon the rules adopted under subsection (1) of this section, the department shall de-
33 velop a decision matrix to be used in determining the permanent residence requirements for a sex
34 offender.

35 **SECTION 6.** ORS 144.644 is amended to read:

36 144.644. (1) The State Board of Parole and Post-Prison Supervision, in consultation with the
37 Department of Corrections and community corrections agencies, shall adopt rules establishing cri-
38 teria to be considered:

39 (a) In reviewing the proposed residence of a sex offender in a release plan under ORS 144.096
40 or a parole plan under ORS 144.125; and

41 (b) In determining the residence of a sex offender in a release plan under ORS 144.096, as a
42 condition of post-prison supervision under ORS 144.102 or as a condition of parole under ORS
43 144.270.

44 (2) The board shall include in the rules:

45 (a) A general prohibition against allowing a sex offender to reside near locations where children

1 are the primary occupants or users;

2 (b) The bases upon which exceptions to the general prohibition required by paragraph (a) of this
3 subsection are authorized;

4 (c) A prohibition against allowing a sex offender to reside in any dwelling in which another sex
5 offender on probation, parole or post-prison supervision resides unless authorized as provided in ORS
6 144.102 [(3)(b)(M)] **(3)(b)(N)**; and

7 (d) A process that allows communities and community corrections agencies that would be af-
8 fected by a decision about the location of a sex offender's residence to be informed of the decision
9 making process before the offender is released.

10 (3) Based upon the rules adopted under subsections (1) and (2) of this section, the board shall
11 develop a decision matrix to be used in determining the specific residence for a sex offender.

12 **SECTION 7. The amendments to ORS 137.540, 144.102, 144.270, 144.642 and 144.644 by**
13 **sections 1 to 6 of this 2011 Act apply to persons convicted of a crime committed on or after**
14 **the effective date of this 2011 Act.**

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