

# Senate Bill 728

Sponsored by COMMITTEE ON JUDICIARY

## 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**.

Requires counties to assume responsibility for criminal offenders sentenced to term of incarceration of 24 months or less.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to corrections; amending ORS 137.124, 137.751, 144.085, 144.087, 144.101, 144.107, 169.053,  
3 423.475, 423.478 and 423.525; and declaring an emergency.

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

5 **SECTION 1.** ORS 137.124 is amended to read:

6 137.124. (1) If the court imposes a sentence upon conviction of a felony that includes a term of  
7 incarceration that exceeds [12] **24** months:

8 (a) The court shall not designate the correctional facility in which the defendant is to be con-  
9 fined but shall commit the defendant to the legal and physical custody of the Department of Cor-  
10 rections; and

11 (b) If the judgment provides that the term of incarceration be served consecutively to a term  
12 of incarceration of [12] **24** months or less that was imposed in a previous proceeding by a court of  
13 this state upon conviction of a felony, the defendant shall serve any remaining part of the previously  
14 imposed term of incarceration in the legal and physical custody of the Department of Corrections.

15 (2)(a) If the court imposes a sentence upon conviction of a felony that includes a term of  
16 incarceration that is [12] **24** months or less, the court shall commit the defendant to the legal and  
17 physical custody of the supervisory authority of the county in which the crime of conviction oc-  
18 curred.

19 (b) Notwithstanding paragraph (a) of this subsection, when the court imposes a sentence upon  
20 conviction of a felony that includes a term of incarceration that is [12] **24** months or less, the court  
21 shall commit the defendant to the legal and physical custody of the Department of Corrections if the  
22 court orders that the term of incarceration be served consecutively to a term of incarceration that  
23 exceeds [12] **24** months that was imposed in a previous proceeding or in the same proceeding by a  
24 court of this state upon conviction of a felony.

25 (3) After assuming custody of the convicted person the Department of Corrections may transfer  
26 inmates from one correctional facility to another such facility for the purposes of diagnosis and  
27 study, rehabilitation and treatment, as best seems to fit the needs of the inmate and for the pro-  
28 tection and welfare of the community and the inmate.

29 (4) If the court imposes a sentence of imprisonment upon conviction of a misdemeanor, it shall  
30 commit the defendant to the custody of the supervisory authority of the county in which the crime  
31 of conviction occurred.

**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 (5)(a) When a person under 18 years of age at the time of committing the offense and under 20  
2 years of age at the time of sentencing is committed to the Department of Corrections under ORS  
3 137.707, the Department of Corrections shall transfer the physical custody of the person to the  
4 Oregon Youth Authority as provided in ORS 420.011 if:

5 (A) The person will complete the sentence imposed before the person attains 25 years of age;  
6 or

7 (B) The Department of Corrections and the Oregon Youth Authority determine that, because of  
8 the person's age, immaturity, mental or emotional condition or risk of physical harm to the person,  
9 the person should not be incarcerated initially in a Department of Corrections institution.

10 (b) A person placed in the custody of the Oregon Youth Authority under this subsection shall  
11 be returned to the physical custody of the Department of Corrections whenever the Director of the  
12 Oregon Youth Authority, after consultation with the Department of Corrections, determines that the  
13 conditions or circumstances that warranted the transfer of custody under this subsection are no  
14 longer present.

15 (6)(a) When a person under 18 years of age at the time of committing the offense and under 20  
16 years of age at the time of sentencing is committed to the legal and physical custody of the De-  
17 partment of Corrections or the supervisory authority of a county following waiver under ORS  
18 419C.349, 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or  
19 137.712, the Department of Corrections or the supervisory authority of a county shall transfer the  
20 person to the physical custody of the Oregon Youth Authority for placement as provided in ORS  
21 420.011 (3). The terms and conditions of the person's incarceration and custody are governed by ORS  
22 420A.200 to 420A.206.

23 (b) When a person under 16 years of age is waived under ORS 419C.349, 419C.352, 419C.364 or  
24 419C.370 and subsequently is sentenced to a term of imprisonment in the county jail, the sheriff shall  
25 transfer the person to a youth correction facility for physical custody as provided in ORS 420.011  
26 (3).

27 (7) If the Director of the Oregon Youth Authority concurs in the decision, the Department of  
28 Corrections or the supervisory authority of a county shall transfer the physical custody of a person  
29 committed to the Department of Corrections or the supervisory authority of the county under sub-  
30 section (1) or (2) of this section to the Oregon Youth Authority as provided in ORS 420.011 (2) if:

31 (a) The person was at least 18 years of age but under 20 years of age at the time of committing  
32 the felony for which the person is being sentenced to a term of incarceration;

33 (b) The person is under 20 years of age at the time of commitment to the Department of Cor-  
34 rections or the supervisory authority of the county;

35 (c) The person has not been committed previously to the legal and physical custody of the De-  
36 partment of Corrections or the supervisory authority of a county;

37 (d) The person has not been convicted and sentenced to a term of incarceration for the com-  
38 mission of a felony in any other state;

39 (e) The person will complete the term of incarceration imposed before the person attains 25  
40 years of age;

41 (f) The person is likely in the foreseeable future to benefit from the rehabilitative and treatment  
42 programs administered by the Oregon Youth Authority;

43 (g) The person does not pose a substantial danger to Oregon Youth Authority staff or persons  
44 in the custody of the Oregon Youth Authority; and

45 (h) At the time of the proposed transfer, no more than 50 persons are in the physical custody

1 of the Oregon Youth Authority under this subsection.

2 (8) Notwithstanding the provisions of subsections (5)(a)(A) or (7) of this section, the department  
3 or the supervisory authority of a county may not transfer the physical custody of the person under  
4 subsection (5)(a)(A) or (7) of this section if the Director of the Oregon Youth Authority, after con-  
5 sultation with the Department of Corrections or the supervisory authority of a county, determines  
6 that, because of the person's age, mental or emotional condition or risk of physical harm to other  
7 persons, the person should not be incarcerated in a youth correction facility.

8 **SECTION 2.** ORS 423.478 is amended to read:

9 423.478. (1) The Department of Corrections shall:

10 (a) Operate prisons for offenders sentenced to terms of incarceration for more than [12] **24**  
11 months;

12 (b) Provide central information and data services sufficient to:

13 (A) Allow tracking of offenders; and

14 (B) Permit analysis of correlations between sanctions, supervision, services and programs, and  
15 future criminal conduct; and

16 (c) Provide interstate compact administration and jail inspections.

17 (2) Subject to ORS 423.483, the county, in partnership with the department, shall assume re-  
18 sponsibility for community-based supervision, sanctions and services for offenders convicted of felo-  
19 nies who are:

20 (a) On parole;

21 (b) On probation;

22 (c) On post-prison supervision;

23 (d) Sentenced[, *on or after January 1, 1997, to 12*] **to 24** months or less incarceration;

24 (e) Sanctioned[, *on or after January 1, 1997,*] by a court or the State Board of Parole and Post-  
25 Prison Supervision to [12] **24** months or less incarceration for violation of a condition of parole,  
26 probation or post-prison supervision; and

27 (f) On conditional release under ORS 420A.206.

28 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,  
29 when an offender is committed to the custody of the supervisory authority of a county under ORS  
30 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other  
31 than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority  
32 releases a person from custody under this subsection and the person is required to report as a sex  
33 offender under ORS 181.595, the supervisory authority, as a condition of release, shall order the  
34 person to report to the Department of State Police, a city police department or a county sheriff's  
35 office or to the supervising agency, if any:

36 (a) When the person is released;

37 (b) Within 10 days of a change of residence;

38 (c) Once each year within 10 days of the person's birth date;

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

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

43 (4) As used in this section, "attends," "institution of higher education," "works" and "carries  
44 on a vocation" have the meanings given those terms in ORS 181.594.

45 **SECTION 3.** ORS 423.525 is amended to read:

1       423.525. (1) A county, group of counties or intergovernmental corrections entity shall apply to  
2 the Director of the Department of Corrections in a manner and form prescribed by the director for  
3 funding made available under ORS 423.500 to 423.560. The application shall include a community  
4 corrections plan. The Department of Corrections shall provide consultation and technical assistance  
5 to counties to aid in the development and implementation of community corrections plans.

6       (2)(a) From July 1, 1995, until June 30, 1999, a county, group of counties or intergovernmental  
7 corrections entity may make application requesting funding for the construction, acquisition, ex-  
8 pansion or remodeling of correctional facilities to serve the county, group of counties or intergov-  
9 ernmental corrections entity. The department shall review the application for funding of  
10 correctional facilities in accordance with criteria that consider design, cost, capacity, need, operat-  
11 ing efficiency and viability based on the county's, group of counties' or intergovernmental cor-  
12 rections entity's ability to provide for ongoing operations.

13       (b)(A) If the application is approved, the department shall present the application with a request  
14 to finance the facility with financing agreements to the State Treasurer and the Director of the  
15 Oregon Department of Administrative Services. Except as otherwise provided in subparagraph (B)  
16 of this paragraph, upon approval of the request by the State Treasurer and the Director of the  
17 Oregon Department of Administrative Services, the facility may be financed with financing agree-  
18 ments, and certificates of participation issued pursuant thereto, as provided in ORS 283.085 to  
19 283.092. All decisions approving or denying applications and requests for financing under this sec-  
20 tion are final. No such decision is subject to judicial review of any kind.

21       (B) If requests to finance county correctional facility projects are submitted after February 22,  
22 1996, and the requests have not been approved by the department on the date a session of the  
23 Legislative Assembly convenes, the requests are also subject to the approval of the Legislative As-  
24 sembly.

25       (c) After approval but prior to the solicitation of bids or proposals for the construction of a  
26 project, the county, group of counties or intergovernmental corrections entity and the department  
27 shall enter into a written agreement that determines the procedures, and the parties responsible, for  
28 the awarding of contracts and the administration of the construction project for the approved  
29 correctional facility. If the parties are unable to agree on the terms of the written agreement, the  
30 Governor shall decide the terms of the agreement. The Governor's decision is final.

31       (d) After approval of a construction project, the administration of the project shall be conducted  
32 as provided in the agreement required by paragraph (c) of this subsection. The agreement must re-  
33 quire at a minimum that the county, group of counties or intergovernmental corrections entity shall  
34 submit to the department any change order or alteration of the design of the project that, singly or  
35 in the aggregate, reduces the capacity of the correctional facility or materially changes the services  
36 or functions of the project. The change order or alteration is not effective until approved by the  
37 department. In reviewing the change order or alteration, the department shall consider whether the  
38 implementation of the change order or alteration will have any material adverse impact on the  
39 parties to any financing agreements or the holders of any certificates of participation issued to fund  
40 county correctional facilities under this section. In making its decision, the department may rely on  
41 the opinions of the Department of Justice, bond counsel or professional financial advisers.

42       (3) Notwithstanding ORS 283.085, for purposes of this section, "financing agreement" means a  
43 lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement  
44 to finance a correctional facility described in this section, or to refinance a previously executed fi-  
45 nancing agreement for the financing of a correctional facility. The state is not required to own or

1 operate a correctional facility in order to finance it under ORS 283.085 to 283.092 and this section.  
2 The state, an intergovernmental corrections entity, county or group of counties may enter into any  
3 agreements, including, but not limited to, leases and subleases, that are reasonably necessary or  
4 generally accepted by the financial community for purposes of acquiring or securing financing as  
5 authorized by this section. In financing county correctional facilities under this section, "property  
6 rights" as used in ORS 283.085 includes leasehold mortgages of the state's rights under leases of  
7 correctional facilities from counties.

8 (4) Notwithstanding any other provision of state law, county charter or ordinance, a county may  
9 convey or lease to the State of Oregon, acting by and through the Department of Corrections, title  
10 to interests in, or a lease of, any real property, facilities or personal property owned by the county  
11 for the purpose of financing the construction, acquisition, expansion or remodeling of a correctional  
12 facility. Upon the payment of all principal and interest on, or upon any other satisfaction of, the  
13 financing agreement used to finance the construction, acquisition, expansion or remodeling of a  
14 correctional facility, the state shall reconvey its interest in, or terminate and surrender its leasehold  
15 of, the property or facilities, including the financed construction, acquisition, expansion or remodel-  
16 ing, to the county. In addition to any authority granted by ORS 283.089, for the purposes of ob-  
17 taining financing, the state may enter into agreements under which the state may grant to trustees  
18 or lenders leases, subleases and other security interests in county property conveyed or leased to  
19 the state under this subsection and in the property or facilities financed by financing agreements.

20 (5) In connection with the financing of correctional facilities, the Director of the Oregon De-  
21 partment of Administrative Services may bill the Department of Corrections, and the Department  
22 of Corrections shall pay the amounts billed, in the same manner as provided in ORS 283.089. As  
23 required by ORS 283.091, the Department of Corrections and the Oregon Department of Adminis-  
24 trative Services shall include in the Governor's budget request to the Legislative Assembly all  
25 amounts that will be due in each fiscal period under financing agreements for correctional facilities.  
26 Amounts payable by the state under a financing agreement for the construction, acquisition, ex-  
27 pansion or remodeling of a correctional facility are limited to available funds as defined in ORS  
28 283.085, and no lender, trustee, certificate holder or county has any claim or recourse against any  
29 funds of the state other than available funds.

30 (6) The director shall adopt rules that may be necessary for the administration, evaluation and  
31 implementation of ORS 423.500 to 423.560. The standards shall be sufficiently flexible to foster the  
32 development of new and improved supervision or rehabilitative practices and maximize local control.

33 (7) When a county assumes responsibility under ORS 423.500 to 423.560 for correctional services  
34 previously provided by the department, the county and the department shall enter into an inter-  
35 governmental agreement that includes a local community corrections plan consisting of program  
36 descriptions, budget allocation, performance objectives and methods of evaluating each correctional  
37 service to be provided by the county. The performance objectives must include in dominant part  
38 reducing future criminal conduct. The methods of evaluating services must include, to the extent  
39 of available information systems resources, the collection and analysis of data sufficient to deter-  
40 mine the apparent effect of the services on future criminal conduct.

41 (8) All community corrections plans shall comply with rules adopted pursuant to ORS 423.500  
42 to 423.560, and shall include but need not be limited to an outline of the basic structure and the  
43 supervision, services and local sanctions to be applied to offenders convicted of felonies who are:

44 (a) On parole;

45 (b) On probation;

1 (c) On post-prison supervision;

2 (d) Sentenced[, *on or after January 1, 1997, to 12*] **to 24** months or less incarceration;

3 (e) Sanctioned[, *on or after January 1, 1997,*] by a court or the State Board of Parole and Post-  
 4 Prison Supervision to [*12*] **24** months or less incarceration for a violation of a condition of parole,  
 5 probation or post-prison supervision; and

6 (f) On conditional release under ORS 420A.206.

7 (9) All community corrections plans shall designate a community corrections manager of the  
 8 county or counties and shall provide that the administration of community corrections under ORS  
 9 423.500 to 423.560 shall be under such manager.

10 (10) No amendment to or modification of a county-approved community corrections plan shall  
 11 be placed in effect without prior notice to the director for purposes of statewide data collection and  
 12 reporting.

13 (11) The obligation of the state to provide funding and the scheduling for providing funding of  
 14 a project approved under this section is dependent upon the ability of the state to access public  
 15 security markets to sell financing agreements.

16 (12) No later than January 1 of each odd-numbered year, the Department of Corrections shall:

17 (a) Evaluate the community corrections policy established in ORS 423.475, 423.478, 423.483 and  
 18 423.500 to 423.560; and

19 (b) Assess the effectiveness of local revocation options.

20 **SECTION 4.** ORS 423.475 is amended to read:

21 423.475. The Legislative Assembly finds and declares that:

22 (1) Passage by the voters of chapter 2, Oregon Laws 1995, has created mandatory minimum  
 23 penalties for certain violent offenses, and the probable effect thereof will be a significant increase  
 24 in the demands placed on state secure facilities.

25 (2) These demands are a shared responsibility of the State of Oregon and its county govern-  
 26 ments. The state recognizes that it is in a better position than counties to assume responsibility for  
 27 serious violent offenders and career property offenders.

28 (3) Counties are willing, in the context of a partnership with the state, to assume responsibility  
 29 for felony offenders sentenced to a term of incarceration of [*12*] **24** months or less.

30 (4) Under the terms of the partnership agreement, the counties agree to assume responsibility  
 31 for the offenders described in subsection (3) of this section, subject to the state agreeing to provide  
 32 adequate funding to the counties for this responsibility.

33 [*5*] *The amendments to statutes made by sections 1a to 5, 7, 8, 9a, 9b, 9c, 10 to 14, 17 to 19 and*  
 34 *22 to 29, chapter 423, Oregon Laws 1995, and the provisions of ORS 423.478, 423.483 and 423.549 and*  
 35 *section 5a, chapter 423, Oregon Laws 1995, are intended to acknowledge and implement the terms of*  
 36 *the partnership between the state and the counties.]*

37 **SECTION 5.** ORS 137.751 is amended to read:

38 137.751. (1) When a court sentences a defendant to a term of incarceration that exceeds [*one*  
 39 *year*] **24 months**, the defendant may request a determination of the defendant's eligibility for release  
 40 on post-prison supervision under ORS 421.508 (4). The court shall order in the judgment that the  
 41 Department of Corrections may release the defendant on post-prison supervision under ORS 421.508  
 42 (4) only if, after a hearing, the court finds that:

43 (a) The defendant meets the eligibility requirements of subsections (2) and (3) of this section;

44 (b) The defendant was not on probation, parole or post-prison supervision for an offense listed  
 45 in ORS 137.712 (4) or 811.705 (2)(b) at the time of the commission of the current crime of conviction;

1 (c) The defendant has not previously been released on post-prison supervision under ORS 421.508  
2 (4);

3 (d) The harm or loss caused by the crime is not greater than usual for that type of crime;

4 (e) The crime was not part of an organized criminal operation; and

5 (f) After considering the nature of the offense and the harm to the victim, the defendant's suc-  
6 cessful completion of the program would:

7 (A) Increase public safety;

8 (B) Enhance the likelihood that the defendant would be rehabilitated; and

9 (C) Not unduly reduce the appropriate punishment.

10 (2) Except as provided in subsection (4) of this section, a defendant may not be released on  
11 post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime under  
12 ORS 163.145, 163.165 (1)(a) or (b), 163.525 or 811.705 (2)(b).

13 (3) A defendant may not be released on post-prison supervision under ORS 421.508 (4) if the de-  
14 fendant is being sentenced for a crime listed in ORS 137.700, 137.707 or 163.095 or a sex crime as  
15 defined in ORS 181.594.

16 (4) Notwithstanding subsection (1) of this section, the parties may stipulate to a defendant's el-  
17 igibility for release on post-prison supervision under ORS 421.508 (4). If the court accepts the stip-  
18 ulation, the court does not need to make explicit findings regarding the factors described in  
19 subsection (1)(b) to (f) of this section. The parties may not stipulate to the defendant's release on  
20 post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime de-  
21 scribed in subsection (3) of this section.

22 (5) If the court makes the findings described in subsection (1) of this section or accepts the  
23 stipulation of the parties under subsection (4) of this section, the court shall:

24 (a) Order on the record in open court as part of the sentence imposed that the defendant may  
25 be considered by the department for release on post-prison supervision under ORS 421.508 (4); and

26 (b) Include the order described in paragraph (a) of this subsection in the judgment.

27 (6) Subject to the requirements of this section, the court may order that the defendant serve a  
28 minimum period of incarceration before the defendant is released on post-prison supervision under  
29 ORS 421.508 (4). Nothing in this section authorizes the release of the defendant on post-prison  
30 supervision before the defendant has served the period of time described in ORS 421.508 (4)(b).

31 **SECTION 6.** ORS 169.053 is amended to read:

32 169.053. (1) A county may enter into an agreement with one or more other counties of this state  
33 under ORS 190.010 for the confinement and detention of offenders subject to the legal and physical  
34 custody of the county. The agreement may provide for the reception, detention, care and mainte-  
35 nance, and work assignment of:

36 (a) Pretrial detainees;

37 (b) Offenders convicted of a misdemeanor; and

38 (c) Offenders convicted of a felony who are:

39 (A) Sentenced[, *on or after January 1, 1997, to 12*] **to 24** months or less incarceration; or

40 (B) Sanctioned[, *on or after January 1, 1997,*] by a court or the State Board of Parole and Post-  
41 Prison Supervision to [*12*] **24** months or less incarceration for a violation of a condition of parole,  
42 probation or post-prison supervision.

43 (2) A county may enter into an agreement with the Department of Corrections under ORS  
44 190.110 for the confinement and detention of offenders subject to the legal and physical custody of  
45 the county. The agreement may provide for the reception, detention, care and maintenance, and

1 work assignment of:

2 (a) Offenders convicted of a misdemeanor; and

3 (b) Offenders convicted of a felony who are:

4 (A) Sentenced[, *on or after January 1, 1997, to 12*] **to 24** months or less incarceration; or

5 (B) Sanctioned[, *on or after January 1, 1997,*] by a court or the State Board of Parole and Post-  
6 Prison Supervision to [*12*] **24** months or less incarceration for a violation of a condition of parole,  
7 probation or post-prison supervision.

8 (3) An agreement entered into under ORS 190.110 and subsection (2) of this section shall include  
9 a provision that the county reimburse the Department of Corrections for its costs incurred in con-  
10 fining the county inmate. Reimbursement shall be made on a per diem basis at a rate determined  
11 by the department to be its average daily incarceration cost per inmate. In lieu of reimbursement,  
12 the department and county may enter into an agreement providing for the comparable exchange of  
13 inmates as determined by the department.

14 **SECTION 7.** ORS 144.085 is amended to read:

15 144.085. (1) All prisoners sentenced to prison for more than [*12*] **24** months shall serve active  
16 periods of parole or post-prison supervision as follows:

17 (a) Six months of active parole or post-prison supervision for crimes in crime categories one to  
18 three;

19 (b) Twelve months of active parole or post-prison supervision for crimes in crime categories four  
20 to 10;

21 (c) Prisoners sentenced as dangerous offenders under ORS 161.725 and 161.735, for aggravated  
22 murder under ORS 163.105 or for murder under ORS 163.115 shall serve at least three years of ac-  
23 tive parole or post-prison supervision;

24 (d) Prisoners sentenced for violating or attempting to violate ORS 163.365, 163.375, 163.395,  
25 163.405, 163.408, 163.411, 163.425 or 163.427 shall serve a term of parole that extends for the entire  
26 term of the offender's sentence or a term of post-prison supervision as provided in ORS 144.103; and

27 (e) Prisoners sentenced for robbery in the first degree under ORS 164.415 or for arson in the  
28 first degree under ORS 164.325 shall serve three years of active parole or post-prison supervision.

29 (2) Except as authorized in subsections (3) and (4) of this section, when an offender has served  
30 the active period of parole or post-prison supervision established under subsection (1)(a) or (b) of this  
31 section, the supervisory authority shall place the offender on inactive supervision status.

32 (3) No sooner than 30 days prior to the expiration of an offender's active parole or post-prison  
33 supervision period as provided in subsection (1) of this section, the supervisory authority may send  
34 to the State Board of Parole and Post-Prison Supervision a report requesting the board to extend  
35 the active supervision period or to return the offender to active supervision status, not to exceed  
36 the supervision term imposed by the sentencing court under the rules of the Oregon Criminal Justice  
37 Commission and applicable laws, if the offender has not substantially fulfilled the supervision con-  
38 ditions or has failed to complete payment of restitution. The report shall include:

39 (a) An evaluation of the offender's compliance with supervision conditions;

40 (b) The status of the offender's court-ordered monetary obligations, including fines and  
41 restitution, if any;

42 (c) The offender's employment status;

43 (d) The offender's address;

44 (e) Treatment program outcome;

45 (f) Any new criminal activity; and

1 (g) A recommendation that the board extend the supervision period or return the offender to  
2 active supervision status.

3 (4) After reviewing the report submitted under subsection (3) of this section, the board may ex-  
4 tend the active supervision period or return the offender to active supervision status, not to exceed  
5 the supervision term imposed by the sentencing court under the rules of the Oregon Criminal Justice  
6 Commission and applicable laws, if it finds the offender has not substantially fulfilled the supervision  
7 conditions or has failed to complete payment of restitution.

8 (5) During the pendency of any violation proceedings, the running of the supervision period and  
9 the sentence is stayed, and the board has jurisdiction over the offender until the proceedings are  
10 resolved.

11 (6) The board shall send written notification to the supervised offender of the expiration of the  
12 sentence.

13 **SECTION 8.** ORS 144.087 is amended to read:

14 144.087. (1) As used in ORS 137.124, 144.085 and 423.478, ORS chapter 144 and this section,  
15 “supervisory authority” means the state or local corrections agency or official designated in each  
16 county by that county’s board of county commissioners or county court to operate corrections  
17 supervision services, custodial facilities or both.

18 (2) Except as provided in ORS 137.124, 137.593 (2)(d) and 423.478, all terms of imprisonment or  
19 incarceration of [12] 24 months or less must be served at the direction of the supervisory authority.

20 (3) Nothing in this section is intended to repeal ORS 169.320 to 169.360, or in any way affect the  
21 sheriff’s authority, duties and liabilities set forth in ORS 169.320 to 169.360.

22 **SECTION 9.** ORS 144.101 is amended to read:

23 144.101. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over imposi-  
24 tion of conditions of post-prison supervision and sanctioning for violations of those conditions for a  
25 person convicted of a felony if:

26 (a) The term of imprisonment imposed on the person is more than [12] 24 months;

27 (b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of  
28 the Oregon Criminal Justice Commission;

29 (c) The person is subject to a sentence under ORS 137.700 or 137.707;

30 (d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;

31 (e) The person is subject to a term of post-prison supervision under ORS 144.103;

32 (f) The person is committed to the custody of the Department of Corrections under ORS 137.124;

33 (g) The responsibility for correctional services for the person has reverted to the department  
34 under ORS 423.483; or

35 (h) No local supervisory authority is responsible for correctional services for the person under  
36 the laws of this state.

37 (2) Except as provided in subsection (1) of this section, a local supervisory authority has juris-  
38 diction over imposition of conditions of post-prison supervision and sanctions for violations of those  
39 conditions for a person sentenced to a term of imprisonment of [12] 24 months or less.

40 (3) If a local supervisory authority imposes conditions of post-prison supervision or sanctions for  
41 violations of those conditions, the person may request the board to review the conditions or sanc-  
42 tions. The board shall review the request and may, at its discretion, review the conditions and  
43 sanctions, under rules adopted by the board.

44 (4) Nothing in this section affects the jurisdiction of the board over imposition of conditions of  
45 parole and sanctioning for violations of those conditions.

1        **SECTION 10.** ORS 144.107 is amended to read:

2        144.107. (1) The State Board of Parole and Post-Prison Supervision and the Department of Cor-  
3 rections, in consultation with local supervisory authorities, shall jointly adopt rules under this sec-  
4 tion to establish sanctions and procedures to impose sanctions for a violation of the conditions of  
5 post-prison supervision for a person serving a term of post-prison supervision subject to subsections  
6 (2) and (3) of this section.

7        (2) The rules adopted under subsection (1) of this section apply only to a person serving a term  
8 of post-prison supervision for a felony committed on or after July 14, 1997.

9        (3) In addition to the limitation under subsection (2) of this section, the rules adopted under  
10 subsection (1) of this section apply only to a person serving a term of post-prison supervision:

11        (a) That follows the completion of a sentence to a term of imprisonment that exceeds [12] **24**  
12 months;

13        (b) That is imposed for a felony that is classified as crime category 8, 9, 10 or 11 of the sen-  
14 tencing guidelines grid of the Oregon Criminal Justice Commission;

15        (c) That is imposed as part of a sentence under ORS 137.700 or 137.707;

16        (d) That is imposed as part of a sentence as a dangerous offender under ORS 161.725 and  
17 161.737; or

18        (e) That is subject to ORS 144.103.

19        (4) The board shall adopt rules under subsection (1) of this section that include, but need not  
20 be limited to, a sanction under ORS 144.108 of imprisonment in a correctional facility for a period  
21 that may exceed 12 months. The rules adopted by the board may not allow the imposition of more  
22 than 24 months of imprisonment as a sanction without a subsequent hearing to determine whether  
23 additional imprisonment is appropriate. A subsequent hearing must follow the same procedures as  
24 those used in an initial hearing under ORS 144.108.

25        (5) The rules adopted under subsection (1) of this section must provide that the total time served  
26 in Department of Corrections institutions by an offender who is sanctioned under the rules, includ-  
27 ing the time served on the initial sentence and all periods of incarceration served as sanctions in  
28 Department of Corrections institutions, may not exceed the greater of:

29        (a) The length of incarceration plus the length of post-prison supervision imposed by the court  
30 unless the offender was sentenced under ORS 137.765;

31        (b) A maximum term of imprisonment imposed by the court; or

32        (c) If the offender was sentenced under ORS 137.765, the length of the maximum statutory in-  
33 determinate sentence for the crime of conviction.

34        (6) As used in this section, "Department of Corrections institutions" has the same meaning given  
35 that term in ORS 421.005.

36        **SECTION 11. This 2011 Act being necessary for the immediate preservation of the public**  
37 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
38 **on its passage.**

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