

# House Bill 2375

Sponsored by Representative THATCHER (Pre-session 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 **as introduced**.

Authorizes State Board of Parole and Post-Prison Supervision to extend period of time between parole hearings based on majority vote.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to parole; amending ORS 144.228, 144.280 and 144.285; creating new provisions; and de-  
3 claring an emergency.

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

5 **SECTION 1.** ORS 144.285 is amended to read:

6 144.285. (1)(a) If the State Board of Parole and Post-Prison Supervision denies a petition for a  
7 change in the terms of confinement filed by a prisoner convicted of aggravated murder or murder,  
8 the board may not grant the prisoner a subsequent hearing that is less than two years, or more than  
9 10 years, from the date the petition is denied.

10 (b) The board may not grant the prisoner a hearing that is more than two years from the date  
11 a petition is denied unless the board finds **by a majority vote** that it is not reasonable to expect  
12 that the prisoner would be granted a change in the terms of confinement before the date of the  
13 subsequent hearing.

14 (c) The board shall determine the date of the subsequent hearing in accordance with rules  
15 adopted by the board. Rules adopted under this paragraph must be based on the foundation princi-  
16 ples of criminal law described in section 15, Article I of the Oregon Constitution.

17 (2) If the board grants the prisoner a hearing that is more than two years from the date a pe-  
18 tition is denied, the prisoner may submit a request for an interim hearing not earlier than the date  
19 that is two years from the date the petition is denied and at intervals of not less than two years  
20 thereafter. If the board finds, based upon a request for an interim hearing, that there is reasonable  
21 cause to believe that the prisoner may be granted a change in the terms of confinement, the board  
22 shall conduct a hearing as soon as is reasonably convenient.

23 (3) When the board grants a prisoner a hearing that is more than two years from the date a  
24 petition is denied and when the board denies a petition for an interim hearing, the board shall issue  
25 a final order. The order shall be accompanied by findings of fact and conclusions of law. The  
26 findings of fact shall consist of a concise statement of the underlying facts supporting the findings  
27 as to each contested issue of fact and as to each ultimate fact required to support the board's order.  
28 Unless the prisoner bears the burden of persuasion, the order shall include findings necessary to  
29 deny the prisoner a change in the terms of confinement for any period of time when the prisoner  
30 would be presumed to be eligible for a change in the terms of confinement.

31 **SECTION 2.** ORS 144.228 is amended to read:

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

7           (b)(A) At the parole consideration hearing, the prisoner shall be given a release date in ac-  
 8 cordance with the rules of the board if the board finds the prisoner no longer dangerous or finds  
 9 that the prisoner remains dangerous but can be adequately controlled with supervision and mental  
 10 health treatment and that the necessary resources for supervision and treatment are available to the  
 11 prisoner. If the board is unable to make such findings, a review will be conducted no less than two  
 12 years, and no more than 10 years, from the date of the previous review, until the board is able to  
 13 make such findings, at which time release on parole shall be ordered if the prisoner is otherwise  
 14 eligible under the rules.

15           (B) The board may not grant the prisoner a review hearing that is more than two years from  
 16 the date of the previous hearing unless the board finds **by a majority vote** that it is not reasonable  
 17 to expect that the prisoner would be granted a release date before the date of the subsequent  
 18 hearing.

19           (C) The board shall determine the date of the review hearing in accordance with rules adopted  
 20 by the board. Rules adopted under this subparagraph must be based on the foundation principles of  
 21 criminal law described in section 15, Article I of the Oregon Constitution.

22           (D) In no event shall the prisoner be held beyond the maximum sentence less good time credits  
 23 imposed by the court.

24           (c) Nothing in this section precludes a prisoner from submitting a request for a parole consid-  
 25 eration hearing prior to the earliest time the prisoner is eligible for parole. If the board grants a  
 26 prisoner a review hearing that is more than two years from the date of the previous hearing, the  
 27 prisoner may submit a request for an interim review hearing not earlier than the date that is two  
 28 years from the date of the previous hearing and at intervals of not less than two years thereafter.  
 29 Should the board find, based upon a request described in this paragraph, that there is a reasonable  
 30 cause to believe that the prisoner is no longer dangerous or that necessary supervision and treat-  
 31 ment are available based upon the information provided in the request, it shall conduct a review as  
 32 soon as is reasonably convenient.

33           (d) When the board grants a prisoner a review hearing that is more than two years from the  
 34 date of the previous hearing and when the board denies a petition for an interim hearing, the board  
 35 shall issue a final order. The order shall be accompanied by findings of fact and conclusions of law.  
 36 The findings of fact shall consist of a concise statement of the underlying facts supporting the  
 37 findings as to each contested issue of fact and as to each ultimate fact required to support the  
 38 board's order. Unless the prisoner bears the burden of persuasion, the order shall include findings  
 39 necessary to deny the prisoner a release date for any period of time when the prisoner would be  
 40 presumed to be eligible for a release date.

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

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

1 months of the date of its consideration; and

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

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

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

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

16 **SECTION 3.** ORS 144.280 is amended to read:

17 144.280. (1)(a) If the State Board of Parole and Post-Prison Supervision denies parole to a pris-  
 18 oner sentenced for a crime committed prior to November 1, 1989, the board may not grant the  
 19 prisoner a subsequent hearing that is less than two years, or more than 10 years, from the date  
 20 parole is denied, unless the two-year period would exceed the maximum sentence imposed by the  
 21 court.

22 (b) The board may not grant the prisoner a hearing that is more than two years from the date  
 23 parole is denied unless the board finds **by a majority vote** that it is not reasonable to expect that  
 24 the prisoner would be granted parole before the date of the subsequent hearing.

25 (c) The board shall determine the date of the subsequent hearing pursuant to rules adopted by  
 26 the board. Rules adopted under this paragraph must be based on the foundation principles of crimi-  
 27 nal law described in section 15, Article I of the Oregon Constitution.

28 (2) If the board grants a prisoner a hearing that is more than two years from the date parole  
 29 is denied, the prisoner may submit a request for an interim hearing not earlier than the date that  
 30 is two years from the date parole is denied and at intervals of not less than two years thereafter.  
 31 If the board finds, based upon a request for an interim hearing, that there is reasonable cause to  
 32 believe that the prisoner may be granted parole, the board shall conduct a hearing as soon as is  
 33 reasonably convenient.

34 (3) When the board grants a prisoner a hearing that is more than two years from the date parole  
 35 is denied and when the board denies a petition for an interim hearing, the board shall issue a final  
 36 order. The order shall be accompanied by findings of fact and conclusions of law. The findings of  
 37 fact shall consist of a concise statement of the underlying facts supporting the findings as to each  
 38 contested issue of fact and as to each ultimate fact required to support the board's order. Unless the  
 39 prisoner bears the burden of persuasion, the order shall include findings necessary to deny the  
 40 prisoner parole for any period of time when the prisoner would be presumed to be eligible for parole.

41 **SECTION 4.** The amendments to ORS 144.228, 144.280 and 144.285 by sections 1 to 3 of this  
 42 2013 Act apply to votes taken on or after the effective date of this 2013 Act.

43 **SECTION 5.** This 2013 Act being necessary for the immediate preservation of the public  
 44 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect  
 45 on its passage.

