

Enrolled
House Bill 3194

Sponsored by JOINT COMMITTEE ON PUBLIC SAFETY

CHAPTER

AN ACT

Relating to crime; creating new provisions; amending ORS 40.015, 137.540, 137.717, 144.096, 144.101, 144.106, 166.065, 173.029, 182.515, 182.525, 184.351, 421.168, 423.483, 475.900 and 811.182; repealing ORS 475.933 and sections 22 and 23, chapter 660, Oregon Laws 2009; appropriating money; and declaring an emergency.

Whereas the Seventy-seventh Legislative Assembly finds that a commitment to investing in local public safety infrastructure will ensure that the State of Oregon continues to focus prison resources on violent offenders while protecting the public and holding all offenders accountable; and

Whereas the State of Oregon has led the nation by implementing evidence-based community supervision practices that are cost-effective and reduce recidivism; and

Whereas increasing investments in local law enforcement agencies, community correction agencies, victims' services and specialty courts will provide local communities with the resources necessary to hold offenders accountable and reduce future criminal conduct; and

Whereas the State of Oregon can maintain an effective and sustainable public safety system by directing savings that result from averted prison growth toward investments in our local communities; and

Whereas the passage of this 2013 Act will allow the Seventy-seventh Legislative Assembly to invest in our local communities by upgrading our existing local public safety infrastructure; and

Whereas the Seventy-seventh Legislative Assembly declares that future savings resulting from the passage of this 2013 Act must continue to be invested in our local public safety systems; now, therefore,

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

MARIJUANA OFFENSES

SECTION 1. ORS 475.900 is amended to read:

475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

(a) The violation constitutes delivery or manufacture of a controlled substance and involves substantial quantities of a controlled substance. For purposes of this paragraph, the following amounts constitute substantial quantities of the following controlled substances:

(A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

(B) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

(C) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;

[(D) One hundred grams or more of a mixture or substance containing a detectable amount of hashish;]

[(E) One hundred and fifty grams or more of a mixture or substance containing a detectable amount of marijuana;]

[(F)] (D) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

[(G)] (E) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

[(H)] (F) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(i) 3,4-methylenedioxyamphetamine;

(ii) 3,4-methylenedioxymethamphetamine; or

(iii) 3,4-methylenedioxy-N-ethylamphetamine.

(b) The violation constitutes possession, delivery or manufacture of a controlled substance and the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at least three of the following factors:

(A) The delivery was of heroin, cocaine, *[hashish, marijuana,]* methamphetamine, lysergic acid diethylamide, psilocybin or psilocin and was for consideration;

(B) The offender was in possession of \$300 or more in cash;

(C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a controlled substance offense;

(D) The offender was in possession of materials being used for the packaging of controlled substances such as scales, wrapping or foil, other than the material being used to contain the substance that is the subject of the offense;

(E) The offender was in possession of drug transaction records or customer lists;

(F) The offender was in possession of stolen property;

(G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled substance offense;

(H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power generating equipment;

(I) The offender was using public lands for the manufacture of controlled substances;

(J) The offender had constructed fortifications or had taken security measures with the potential of injuring persons; or

(K) The offender was in possession of controlled substances in an amount greater than:

(i) Three grams or more of a mixture or substance containing a detectable amount of heroin;

(ii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;

(iii) Eight grams or more of a mixture or substance containing a detectable amount of methamphetamine;

[(iv) Eight grams or more of a mixture or substance containing a detectable amount of hashish;]

[(v) One hundred ten grams or more of a mixture or substance containing a detectable amount of marijuana;]

[(vi)] (iv) Twenty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

[(vii)] (v) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

[(viii)] (vi) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(I) 3,4-methylenedioxyamphetamine;

- (II) 3,4-methylenedioxyamphetamine; or
- (III) 3,4-methylenedioxy-N-ethylamphetamine.

(c) The violation constitutes a violation of ORS 475.848, 475.852, [475.858,] 475.862, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

(d) The violation constitutes manufacturing methamphetamine and the manufacturing consists of:

(A) A chemical reaction involving one or more precursor substances for the purpose of manufacturing methamphetamine; or

(B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of manufacturing methamphetamine.

(e) The violation constitutes a violation of ORS 475.860 (4)(a) or **a violation of ORS 475.906 (1) or (2) that is not described in ORS 475.907.**

(2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

(a) The violation constitutes delivery of heroin, cocaine, methamphetamine or 3,4-methylenedioxyamphetamine, 3,4-methylenedioxyamphetamine or 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

(b) The violation constitutes possession of:

(A) Five grams or more of a mixture or substance containing a detectable amount of heroin;

(B) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;

(C) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine;

[*(D) One hundred grams or more of a mixture or substance containing a detectable amount of hashish;*]

[*(E) One hundred fifty grams or more of a mixture or substance containing a detectable amount of marijuana;*]

[*(F)*] **(D)** Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

[*(G)*] **(E)** Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or

[*(H)*] **(F)** Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(i) 3,4-methylenedioxyamphetamine;

(ii) 3,4-methylenedioxyamphetamine; or

(iii) 3,4-methylenedioxy-N-ethylamphetamine.

(3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection (1) or (2) of this section shall be classified as:

(a) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves delivery or manufacture of a controlled substance; or

(b) Crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves possession of a controlled substance.

(4) In order to prove a commercial drug offense, the state shall plead in the accusatory instrument sufficient factors of a commercial drug offense under subsections (1) and (2) of this section. The state has the burden of proving each factor beyond a reasonable doubt.

(5) As used in this section, "mixture or substance" means any mixture or substance, whether or not the mixture or substance is in an ingestible or marketable form at the time of the offense.

SECTION 2. (1) The amendments to ORS 475.900 by section 1 of this 2013 Act apply to sentences imposed on or after August 1, 2013.

(2) Notwithstanding subsection (1) of this section, the amendments to ORS 475.900 by section 1 of this 2013 Act do not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason.

CRIMINAL DRIVING WHILE SUSPENDED OR REVOKED

SECTION 3. ORS 811.182 is amended to read:

811.182. (1) A person commits the offense of criminal driving while suspended or revoked if the person violates ORS 811.175 and the suspension or revocation is one described in this section, or if the hardship or probationary permit violated is based upon a suspension or revocation described in subsection (3) or (4) of this section.

(2) Affirmative defenses to the offense described in this section are established under ORS 811.180.

(3) The offense described in this section, criminal driving while suspended or revoked, is a Class B felony if the suspension or revocation resulted from any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle, if the suspension or revocation resulted from aggravated vehicular homicide or aggravated driving while suspended or revoked or if the revocation resulted from a conviction for felony driving while under the influence of intoxicants.

(4) The offense described in this section, criminal driving while suspended or revoked, is a Class A misdemeanor if the suspension or revocation is any of the following:

(a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree of recklessly endangering another person, menacing or criminal mischief, resulting from the operation of a motor vehicle.

(b) A revocation under ORS 809.409 (4) resulting from perjury or the making of a false affidavit to the Department of Transportation.

(c) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content of:

(A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

(B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(d) A suspension of a commercial driver license under ORS 809.413 (1) resulting from failure to perform the duties of a driver under ORS 811.700 while driving a commercial motor vehicle.

(e) A suspension of a commercial driver license under ORS 809.413 (12) where the person's commercial driving privileges have been suspended or revoked by the other jurisdiction for failure of or refusal to take a chemical test to determine the alcoholic content of the person's blood under a statute that is substantially similar to ORS 813.100.

(f) A suspension of a commercial driver license under ORS 809.404.

(g) A revocation resulting from habitual offender status under ORS 809.640.

(h) A suspension resulting from any crime punishable as a felony with proof of a material element involving the operation of a motor vehicle, other than a crime described in subsection (3) of this section.

(i) A suspension for failure to perform the duties of a driver under ORS 811.705.

(j) A suspension for reckless driving under ORS 811.140.

(k) A suspension for fleeing or attempting to elude a police officer under ORS 811.540.

(L) A suspension or revocation resulting from misdemeanor driving while under the influence of intoxicants under ORS 813.010.

(m) A suspension for use of a commercial motor vehicle in the commission of a crime punishable as a felony.

(5) In addition to any other sentence that may be imposed, if a person is convicted of the offense described in this section and the underlying suspension resulted from driving while under the influence of intoxicants, the court shall impose a minimum fine of at least \$1,000 if it is the person's first conviction for criminal driving while suspended or revoked and a minimum fine of at least \$2,000 if it is the person's second or subsequent conviction.

(6)(a) The Oregon Criminal Justice Commission shall classify a violation of this section that is a felony as crime category [6] 4 of the rules of the [*Oregon Criminal Justice*] commission.

(b) **Notwithstanding paragraph (a) of this subsection, the commission shall classify a violation of this section that is a felony as crime category 6 of the rules of the commission, if the suspension or revocation resulted from:**

(A) **Any degree of murder, manslaughter or criminally negligent homicide or an assault that causes serious physical injury, resulting from the operation of a motor vehicle; or**

(B) **Aggravated vehicular homicide or aggravated driving while suspended or revoked.**

SECTION 4. (1) **The amendments to ORS 811.182 by section 3 of this 2013 Act apply to sentences imposed on or after August 1, 2013.**

(2) **Notwithstanding subsection (1) of this section, the amendments to ORS 811.182 by section 3 of this 2013 Act do not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason.**

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SECTION 5. ORS 137.717 is amended to read:

137.717. (1) When a court sentences a person convicted of:

(a) Aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225[, robbery in the third degree under ORS 164.395, identity theft under ORS 165.800] or aggravated identity theft under ORS 165.803, the presumptive sentence is 24 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS 164.135, mail theft or receipt of stolen mail under ORS 164.162, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS 164.377, **robbery in the third degree under ORS 164.395**, forgery in the first degree under ORS 165.013, criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b), **identity theft under ORS 165.800**, possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310, the presumptive sentence is 18 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(2) The crimes to which subsection (1) of this section applies are:

- (a) Theft in the second degree under ORS 164.045;
- (b) Theft in the first degree under ORS 164.055;
- (c) Aggravated theft in the first degree under ORS 164.057;
- (d) Unauthorized use of a vehicle under ORS 164.135;
- (e) Mail theft or receipt of stolen mail under ORS 164.162;
- (f) Burglary in the second degree under ORS 164.215;
- (g) Burglary in the first degree under ORS 164.225;
- (h) Criminal mischief in the second degree under ORS 164.354;
- (i) Criminal mischief in the first degree under ORS 164.365;
- (j) Computer crime under ORS 164.377;
- (k) Forgery in the second degree under ORS 165.007;
- (L) Forgery in the first degree under ORS 165.013;
- (m) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- (n) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- (o) Fraudulent use of a credit card under ORS 165.055;
- (p) Identity theft under ORS 165.800;
- (q) Possession of a stolen vehicle under ORS 819.300;
- (r) Trafficking in stolen vehicles under ORS 819.310; and
- (s) Any attempt to commit a crime listed in this subsection.

(3)(a) A presumptive sentence described in subsection (1) of this section shall be increased by two months for each previous conviction the person has that:

(A) Was for any of the crimes listed in subsection (1) or (2) of this section; and

(B) Was not used as a predicate for the presumptive sentence described in subsection (1) of this section.

(b) Previous convictions may not increase a presumptive sentence described in subsection (1) of this section by more than 12 months under this subsection.

(4) The court may impose a sentence other than the sentence provided by subsection (1) or (3) of this section if the court imposes:

(a) A longer term of incarceration that is otherwise required or authorized by law; or

(b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure allowed for a person sentenced under this subsection is double the presumptive sentence provided in subsection (1) or (3) of this section.

(5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under subsection (4) of this section to a term of incarceration that exceeds the period of time described in ORS 161.605.

(6) The court shall sentence a person under this section to at least the presumptive sentence described in subsection (1) or (3) of this section, unless the parties stipulate otherwise or the court finds that:

(a) The person was not on probation, parole or post-prison supervision for a crime listed in subsection (1) of this section at the time of the commission of the current crime of conviction;

(b) The person has not previously received a downward departure from a presumptive sentence for a crime listed in subsection (1) of this section;

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

(d) In consideration of the nature of the offense and the harm to the victim, a downward departure will:

- (A) Increase public safety;
- (B) Enhance the likelihood that the person will be rehabilitated; and
- (C) Not unduly reduce the appropriate punishment.

(7)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(8) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

(9) As used in this section:

(a) "Downward departure" means a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission.

(b) "Previous conviction" includes:

(A) Convictions occurring before, on or after July 1, 2003; and

(B) Convictions entered in any other state or federal court for comparable offenses.

SECTION 6. (1) The amendments to ORS 137.717 by section 5 of this 2013 Act apply to sentences imposed on or after August 1, 2013.

(2) Notwithstanding subsection (1) of this section, the amendments to ORS 137.717 by section 5 of this 2013 Act do not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason.

SECTION 7. ORS 137.717, as amended by section 5 of this 2013 Act, is amended to read:

137.717. (1) When a court sentences a person convicted of:

(a) Aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225, **robbery in the third degree under ORS 164.395, identity theft under ORS 165.800** or aggravated identity theft under ORS 165.803, the presumptive sentence is 24 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS 164.135, mail theft or receipt of stolen mail under ORS 164.162, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS 164.377, [*robbery in the third degree under ORS 164.395,*] forgery in the first degree under ORS 165.013, criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b), [*identity theft under ORS 165.800,*] possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310, the presumptive sentence is 18 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery

in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(2) The crimes to which subsection (1) of this section applies are:

- (a) Theft in the second degree under ORS 164.045;
- (b) Theft in the first degree under ORS 164.055;
- (c) Aggravated theft in the first degree under ORS 164.057;
- (d) Unauthorized use of a vehicle under ORS 164.135;
- (e) Mail theft or receipt of stolen mail under ORS 164.162;
- (f) Burglary in the second degree under ORS 164.215;
- (g) Burglary in the first degree under ORS 164.225;
- (h) Criminal mischief in the second degree under ORS 164.354;
- (i) Criminal mischief in the first degree under ORS 164.365;
- (j) Computer crime under ORS 164.377;
- (k) Forgery in the second degree under ORS 165.007;
- (L) Forgery in the first degree under ORS 165.013;
- (m) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- (n) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- (o) Fraudulent use of a credit card under ORS 165.055;
- (p) Identity theft under ORS 165.800;
- (q) Possession of a stolen vehicle under ORS 819.300;
- (r) Trafficking in stolen vehicles under ORS 819.310; and
- (s) Any attempt to commit a crime listed in this subsection.

(3)(a) A presumptive sentence described in subsection (1) of this section shall be increased by two months for each previous conviction the person has that:

(A) Was for any of the crimes listed in subsection (1) or (2) of this section; and

(B) Was not used as a predicate for the presumptive sentence described in subsection (1) of this section.

(b) Previous convictions may not increase a presumptive sentence described in subsection (1) of this section by more than 12 months under this subsection.

(4) The court may impose a sentence other than the sentence provided by subsection (1) or (3) of this section if the court imposes:

(a) A longer term of incarceration that is otherwise required or authorized by law; or

(b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure allowed for a person sentenced under this subsection is double the presumptive sentence provided in subsection (1) or (3) of this section.

(5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under subsection (4) of this section to a term of incarceration that exceeds the period of time described in ORS 161.605.

(6) The court shall sentence a person under this section to at least the presumptive sentence described in subsection (1) or (3) of this section, unless the parties stipulate otherwise or the court finds that:

(a) The person was not on probation, parole or post-prison supervision for a crime listed in subsection (1) of this section at the time of the commission of the current crime of conviction;

(b) The person has not previously received a downward departure from a presumptive sentence for a crime listed in subsection (1) of this section;

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

(d) In consideration of the nature of the offense and the harm to the victim, a downward departure will:

(A) Increase public safety;

(B) Enhance the likelihood that the person will be rehabilitated; and

(C) Not unduly reduce the appropriate punishment.

(7)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(8) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

(9) As used in this section:

(a) "Downward departure" means a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission.

(b) "Previous conviction" includes:

(A) Convictions occurring before, on or after July 1, 2003; and

(B) Convictions entered in any other state or federal court for comparable offenses.

SECTION 8. (1) The amendments to ORS 137.717 by section 7 of this 2013 Act become operative on July 1, 2023.

(2) The amendments to ORS 137.717 by section 7 of this 2013 Act apply to crimes committed on or after July 1, 2023.

SECTION 9. ORS 475.933 is repealed.

SECTION 10. (1) The repeal of ORS 475.933 by section 9 of this 2013 Act applies to sentences imposed on or after August 1, 2013.

(2) Notwithstanding subsection (1) of this section, the repeal of ORS 475.933 by section 9 of this 2013 Act does not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason.

SECTION 11. (1) When a court sentences a person convicted of a crime listed in subsection (2) of this section, the court may not impose a sentence of optional probation or grant a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission if the person has a previous conviction for any of the crimes listed in subsection (2) of this section.

(2) The crimes to which subsection (1) of this section applies are:

(a) Manufacture or delivery of a controlled substance, other than marijuana, under ORS 475.752 (1);

(b) Creation or delivery of a counterfeit substance, other than marijuana, under ORS 475.752 (2);

(c) Manufacture or delivery of heroin under ORS 475.846, 475.848, 475.850 or 475.852;

(d) Manufacture or delivery of 3,4-methylenedioxymethamphetamine under ORS 475.866, 475.868, 475.870 or 475.872;

(e) Manufacture or delivery of cocaine under ORS 475.876, 475.878, 475.880 or 475.882;

(f) Manufacture or delivery of methamphetamine under ORS 475.886, 475.888, 475.890 or 475.892;

(g) Manufacture or delivery of a controlled substance within 1,000 feet of a school under ORS 475.904;

(h) Delivery of a controlled substance to a person under 18 years of age under ORS 475.906; and

(i) Possession of a precursor substance with intent to manufacture a controlled substance under ORS 475.967.

(3)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of sentence. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(4) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

(5) As used in this section, "previous conviction" includes convictions entered in any other state or federal court for comparable offenses.

SECTION 12. (1) Section 11 of this 2013 Act becomes operative on July 1, 2023.

(2) Section 11 of this 2013 Act applies to crimes committed on or after July 1, 2023.

TRANSITIONAL LEAVE AUGUST 1, 2013 - JULY 1, 2023

SECTION 13. ORS 421.168 is amended to read:

421.168. (1) The [*Director of the*] Department of Corrections shall establish [*by rule*] a short-term transitional leave program. The program shall provide inmates with an opportunity to secure appropriate transitional support when necessary for successful reintegration into the community prior to the inmate's discharge to post-prison supervision.

(2) [*An inmate may submit a transition plan to the Department of Corrections. The plan shall indicate that the inmate has secured*] **The Department of Corrections shall identify each inmate who is eligible for the short-term transitional leave program and shall, in conjunction with the supervisory authority for the county to which the inmate will be released, assist each eligible inmate in preparing a transition plan and in identifying and applying for an employment, educational or other transitional opportunity in the community [to which the offender will be released and that a leave of up to 30 days is an essential part of the offender's successful reintegration into the community].**

(3) [*Upon verification of*] **If the inmate's transition plan is approved by the department and is an essential part of the inmate's successful reintegration into the community, the department may grant a transitional leave no more than [30] 90 days prior to the inmate's discharge date.**

(4) [*No inmate shall be*] **An inmate is not eligible for transitional leave before having served six months of prison incarceration.**

(5) The department shall [*establish by rule*] **adopt rules to carry out the provisions of this section. The rules must include** a set of release conditions for [*offenders*] **inmates** released on transitional leave status. An [*offender*] **inmate** on transitional leave status [*shall be*] **is** subject to immediate return to prison for any violation of the conditions of release.

(6) The provisions of this section do not apply to inmates whose sentences were imposed under ORS 137.635, 137.700 or 137.707 or any other provision of law that prohibits release on any form of temporary leave from custody.

SECTION 14. (1) The amendments to ORS 421.168 by section 13 of this 2013 Act apply to sentences imposed on or after August 1, 2013.

(2) Notwithstanding subsection (1) of this section, the amendments to ORS 421.168 by section 13 of this 2013 Act do not apply to persons who were originally sentenced before

August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction proceeding or for any other reason.

SECTION 15. ORS 421.168, as amended by section 13 of this 2013 Act, is amended to read:

421.168. (1) The Department of Corrections shall establish a short-term transitional leave program. The program shall provide inmates with an opportunity to secure appropriate transitional support when necessary for successful reintegration into the community prior to the inmate's discharge to post-prison supervision.

(2) The Department of Corrections shall identify each inmate who is eligible for the short-term transitional leave program and shall, in conjunction with the supervisory authority for the county to which the inmate will be released, assist each eligible inmate in preparing a transition plan and in identifying and applying for an employment, educational or other transitional opportunity in the community.

(3) If the inmate's transition plan is approved by the department and is an essential part of the inmate's successful reintegration into the community, the department may grant a transitional leave no more than [90] **30** days prior to the inmate's discharge date.

(4) An inmate is not eligible for transitional leave before having served six months of prison incarceration.

(5) The department shall adopt rules to carry out the provisions of this section. The rules must include a set of release conditions for inmates released on transitional leave status. An inmate on transitional leave status is subject to immediate return to prison for any violation of the conditions of release.

(6) The provisions of this section do not apply to inmates whose sentences were imposed under ORS 137.635, 137.700 or 137.707 or any other provision of law that prohibits release on any form of temporary leave from custody.

SECTION 16. (1) The amendments to ORS 421.168 by section 15 of this 2013 Act become operative on July 1, 2023.

(2) The amendments to ORS 421.168 by section 15 of this 2013 Act apply to crimes committed on or after July 1, 2023.

EARNED DISCHARGE

SECTION 17. (1) A person convicted of a felony and sentenced to probation or to the legal and physical custody of the supervisory authority under ORS 137.124 (2) is eligible for a reduction in the period of supervision for complying with terms of supervision, including the payment of restitution and participation in recidivism reduction programs.

(2) The maximum amount of time credits earned under this section may not exceed 50 percent of the period of supervision imposed.

(3) Time credits may not be used to shorten the period of supervision to less than six months.

(4)(a) The Department of Corrections shall adopt rules to carry out the provisions of this section. The rules must establish a process for granting, retracting and restoring time credits earned under this section.

(b) The supervisory authority shall comply with the rules adopted under this section.

SECTION 18. Sections 22 and 23, chapter 660, Oregon Laws 2009, are repealed.

SECTION 19. (1) Section 17 of this 2013 Act and the repeal of sections 22 and 23, chapter 660, Oregon Laws 2009, by section 18 of this 2013 Act apply to sentences imposed on or after August 1, 2013.

(2) Notwithstanding subsection (1) of this section, section 17 of this 2013 Act and the repeal of sections 22 and 23, chapter 660, Oregon Laws 2009, by section 18 of this 2013 Act do not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason.

SECTION 20. ORS 423.483 is amended to read:

423.483. (1)(a) The baseline funding for biennia beginning after June 30, 1999, is the current service level for the expenses of providing management, support services, supervision and sanctions for offenders described in ORS 423.478 (2). At a minimum, each biennium's appropriation must be established at this baseline.

(b) **The baseline funding described in paragraph (a) of this subsection:**

(A) **May not be decreased as a result of time credits earned under section 17 of this 2013 Act.**

(B) **May not be increased as a result of community-based sanctions, services and programs that are funded under section 53 of this 2013 Act.**

(2) If the total state community corrections appropriation is less than the baseline calculated under subsection (1) of this section, a county may discontinue participation by written notification to the director 180 days prior to implementation of the change. If a county discontinues participation, the responsibility for correctional services transferred to the county, and the portion of funding made available to the county under ORS 423.530 reverts to the Department of Corrections. In no case does responsibility for supervision and provision of correctional services to misdemeanor offenders revert to the department.

(3) As used in this section, "current service level" means the calculated cost of continuing current legislatively funded programs, phased in programs and increased caseloads minus one-time costs, decreased caseloads, phased out programs and pilot programs with the remainder adjusted for inflation as determined by the Legislative Assembly in its biennial appropriation to the Department of Corrections.

SECTION 21. The amendments to ORS 423.483 by section 20 of this 2013 Act become operative on July 1, 2015.

SECTION 22. ORS 423.483, as amended by section 20 of this 2013 Act, is amended to read:

423.483. (1)(a) The baseline funding for biennia beginning after June 30, 1999, is the current service level for the expenses of providing management, support services, supervision and sanctions for offenders described in ORS 423.478 (2). At a minimum, each biennium's appropriation must be established at this baseline.

(b) The baseline funding described in paragraph (a) of this subsection[:]

[(A)] may not be decreased as a result of time credits earned under section 17 of this 2013 Act.

[(B) *May not be increased as a result of community-based sanctions, services and programs that are funded under section 53 of this 2013 Act.*]

(2) If the total state community corrections appropriation is less than the baseline calculated under subsection (1) of this section, a county may discontinue participation by written notification to the director 180 days prior to implementation of the change. If a county discontinues participation, the responsibility for correctional services transferred to the county, and the portion of funding made available to the county under ORS 423.530 reverts to the Department of Corrections. In no case does responsibility for supervision and provision of correctional services to misdemeanor offenders revert to the department.

(3) As used in this section, "current service level" means the calculated cost of continuing current legislatively funded programs, phased in programs and increased caseloads minus one-time costs, decreased caseloads, phased out programs and pilot programs with the remainder adjusted for inflation as determined by the Legislative Assembly in its biennial appropriation to the Department of Corrections.

SECTION 23. The amendments to ORS 423.483 by section 22 of this 2013 Act become operative on July 1, 2025.

PROBATION CONDITIONS

SECTION 24. ORS 137.540 is amended to read:

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

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

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

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

(d) Submit to a risk and needs assessment as directed by the supervising officer;

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

[(e)] (f) Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency.

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

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

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

[(i)] (j) Consent to the search of person, vehicle or premises upon the request of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.

[(j)] (k) Obey all laws, municipal, county, state and federal.

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

[(L)] (m) Not possess weapons, firearms or dangerous animals.

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

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

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

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

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

[(o)] (p) Report as required and abide by the direction of the supervising officer.

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

(A) When supervision begins;

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

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

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

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

(2) In addition to the general conditions, the court may impose any special conditions of probation that are reasonably related to the crime of conviction or the needs of the probationer for the

protection of the public or reformation of the probationer, or both, including, but not limited to, that the probationer shall:

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

(b) For felonies committed on or after November 1, 1989[,]:

(A) Be confined in the county jail, or be subject to other custodial sanctions under community supervision, or both, as provided by rules of the Oregon Criminal Justice Commission[.]; and

(B) Comply with any special conditions of probation that are imposed by the supervising officer in accordance with subsection (8) of this section.

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

(3) When a person who is a sex offender is released on probation, the court shall impose as a special condition of probation that the person not reside in any dwelling in which another sex offender who is on probation, parole or post-prison supervision resides, without the approval of the person's supervising parole and probation officer, or in which more than one other sex offender who is on probation, parole or post-prison supervision resides, without the approval of the director of the probation agency that is supervising the person or of the county manager of the Department of Corrections, or a designee of the director or manager. As soon as practicable, the supervising parole and probation officer of a person subject to the requirements of this subsection shall review the person's living arrangement with the person's sex offender treatment provider to ensure that the arrangement supports the goals of offender rehabilitation and community safety. As used in this subsection:

(a) "Dwelling" has the meaning given that term in ORS 469B.100.

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

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

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

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

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

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

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

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

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

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

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

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

(7) The court may order that probation be supervised by the court. If the court orders that probation be supervised by the court, the defendant shall pay a fee of \$100 to the court. Fees imposed under this subsection in the circuit court shall be deposited by the clerk of the court in the General Fund. Fees imposed in a justice court under this subsection shall be paid to the county treasurer. Fees imposed in a municipal court under this subsection shall be paid to the city treasurer.

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

(b) When the court orders a defendant placed under the supervision of the Department of Corrections or a community corrections agency, the supervising officer may file with the court a proposed modification to the special conditions of probation. The supervising officer shall provide a copy of the proposed modification to the district attorney and the probationer. If the district attorney:

(A) Files an objection to the proposed modification less than five judicial days after the proposed modification was filed, the court shall schedule a hearing no later than 10 judicial days after the proposed modification was filed, unless the court finds good cause to schedule a hearing at a later time.

(B) Does not file an objection to the proposed modification less than five judicial days after the proposed modification was filed, the proposed modification becomes effective five judicial days after the proposed modification was filed.

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

(10) It is not a cause for revocation of probation that the probationer failed to apply for or accept employment at any workplace where there is a labor dispute in progress. As used in this subsection, "labor dispute" has the meaning for that term provided in ORS 662.010.

(11) If the court determines that a defendant has violated the terms of probation, the court shall collect a \$25 fee from the defendant. The fee becomes part of the judgment and may be collected in the same manner as a fine. Fees collected under this subsection in the circuit court shall be deposited by the clerk of the court in the General Fund. Fees collected in a justice court under this subsection shall be paid to the county treasurer. Fees collected in a municipal court under this subsection shall be paid to the city treasurer.

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

SECTION 25. The amendments to ORS 137.540 by section 24 of this 2013 Act apply to crimes committed on or after August 1, 2013.

HARASSMENT

SECTION 26. ORS 166.065 is amended to read:

166.065. (1) A person commits the crime of harassment if the person intentionally:

(a) Harasses or annoys another person by:

(A) Subjecting such other person to offensive physical contact; [*or*]

(B) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response; or

(C) Distributing a visual recording, as defined in ORS 163.665, of the other person engaged in sexually explicit conduct, as defined in ORS 163.665, or in a state of nudity, as defined in ORS 163.700, when the other person is under 18 years of age at the time of the recording;

(b) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or

(c) Subjects another to alarm by conveying a telephonic, electronic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.

(2)(a) A person is criminally liable for harassment if the person knowingly permits any telephone or electronic device under the person's control to be used in violation of subsection (1) of this section.

(b) Harassment that is committed under the circumstances described in subsection (1)(c) of this section is committed in either the county in which the communication originated or the county in which the communication was received.

(3) Harassment is a Class B misdemeanor.

(4) Notwithstanding subsection (3) of this section, harassment is a Class A misdemeanor if a person violates:

(a) Subsection (1)(a)(A) of this section by subjecting another person to offensive physical contact and the offensive physical contact consists of touching the sexual or other intimate parts of the other person; [or]

(b) Subsection (1)(a)(C) of this section; or

[(b)] (c) Subsection (1)(c) of this section and:

(A) The person has a previous conviction under subsection (1)(c) of this section and the victim of the current offense was the victim or a member of the family of the victim of the previous offense;

(B) At the time the offense was committed, the victim was protected by a stalking protective order, a restraining order as defined in ORS 24.190 or any other court order prohibiting the person from contacting the victim;

(C) At the time the offense was committed, the person reasonably believed the victim to be under 18 years of age and more than three years younger than the person; or

(D)(i) The person conveyed a threat to kill the other person or any member of the family of the other person;

(ii) The person expressed the intent to carry out the threat; and

(iii) A reasonable person would believe that the threat was likely to be followed by action.

(5) It is not a defense to a charge under subsection (1)(a)(C) of this section that the defendant did not know the age of the victim.

[(5)] (6) As used in this section, "electronic threat" means a threat conveyed by electronic mail, the Internet, a telephone text message or any other transmission of information by wire, radio, optical cable, cellular system, electromagnetic system or other similar means.

SECTION 27. The amendments to ORS 166.065 by section 26 of this 2013 Act apply to crimes committed on or after August 1, 2013.

REENTRY COURTS AUGUST 1, 2013 - JULY 1, 2023

SECTION 28. ORS 144.101 is amended to read:

144.101. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over the imposition of conditions of post-prison supervision and [sanctioning] **sanctions** for violations of those conditions for a person convicted of a felony if:

- (a) The term of imprisonment imposed on the person is more than 12 months;
- (b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;
- (c) The person is subject to a sentence under ORS 137.700 or 137.707;
- (d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;
- (e) The person is subject to a term of post-prison supervision under ORS 144.103;
- (f) The person is committed to the custody of the Department of Corrections under ORS 137.124;
- (g) The responsibility for correctional services for the person has reverted to the department under ORS 423.483; or
- (h) No local supervisory authority is responsible for correctional services for the person under the laws of this state.

(2) Except as provided in subsection (1) of this section, a local supervisory authority has jurisdiction over **the** imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person sentenced to a term of imprisonment of 12 months or less.

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

(4) If a circuit court in a participating county, as defined in section 29 of this 2013 Act, enters an order admitting a person into a reentry court under section 29 (3) of this 2013 Act, the reentry court has concurrent jurisdiction over the imposition of sanctions for violations of the conditions of post-prison supervision.

[~~(4)~~] (5) Nothing in this section affects the jurisdiction of the board over **the** imposition of conditions of parole and [~~sanctioning~~] **sanctions** for violations of those conditions.

SECTION 29. (1) When a circuit court in a participating county sentences a person to a term of imprisonment, the court may order that the person participate in a reentry court, subject to admission under subsection (3) of this section, as a condition of post-prison supervision.

(2) At any time prior to the termination of post-prison supervision, the supervisory authority may provide a report to the reentry court recommending that a person sentenced under subsection (1) of this section be admitted into the reentry court.

(3) When a reentry court receives a report described in subsection (2) of this section, or an inmate release plan prepared under ORS 144.096, that recommends the admission of a person sentenced under subsection (1) of this section into a reentry court, the court may enter an order admitting the person into the reentry court.

(4) Notwithstanding ORS 137.124 and 423.478 and any other provision of law, when a court enters an order admitting a person into a reentry court, the court may:

(a) Issue a warrant and cause the person to be arrested for violating a condition of post-prison supervision.

(b) Appoint counsel to represent the person in accordance with ORS 135.050, if the person is financially eligible.

(c) Determine whether the conditions of post-prison supervision have been violated and impose sanctions for the violations.

(5)(a) When the court conducts a post-prison supervision violation hearing under this section, the person may admit or deny alleged violations of conditions of post-prison supervision. The person and the state may present evidence at the hearing.

(b) If the court determines by a preponderance of the evidence that a person admitted into a reentry court has violated the conditions of post-prison supervision, the court may impose sanctions for the violations that are consistent with the rules adopted under ORS 144.106 and 144.107, except that the court may not impose a sanction of imprisonment in a correctional facility that exceeds 12 months.

(6)(a) When a court issues a warrant under this section and causes a person admitted into a reentry court to be arrested and taken into custody for violating a condition of post-prison supervision, the person shall be brought before a magistrate during the first 36 hours in custody, excluding Saturdays, Sundays and holidays. The magistrate may order the person held pending a violation hearing or transferred to the county in which the reentry court is located, or may release the person upon the condition that the person appear in court at a later date for a post-prison violation hearing. If the person is held on an out-of-county warrant, the magistrate may order the person released subject to an additional order that the person report within seven calendar days to the reentry court.

(b) Except for good cause shown, if the person is held in custody and the violation hearing is not held within 14 calendar days following the person's arrest, the person shall be released from custody.

(7) As used in this section, "participating county" means a county:

(a) That has applied for and received a grant under section 53 of this 2013 Act to administer a reentry court; and

(b) For which the presiding judge of the judicial district in which the county is located issues an order establishing a reentry court steering committee consisting of:

(A) A circuit court judge;

(B) A district attorney;

(C) A criminal defense attorney;

(D) A parole and probation officer;

(E) A representative of the business community;

(F) A representative of the education community; and

(G) Any other person the presiding judge determines is appropriate.

SECTION 30. ORS 144.096 is amended to read:

144.096. (1)(a) The Department of Corrections shall prepare a proposed release plan for an inmate prior to the inmate's release from prison.

(b) The department shall submit the proposed release plan to the State Board of Parole and Post-Prison Supervision not less than [60] **75** days prior to the inmate's release.

(c) If the proposed release plan is not approved by the board, the board shall return the plan to the department with its recommended modifications. The department shall submit a revised plan to the board not less than [10] **25** days prior to the inmate's release.

(d) If the revised plan is not acceptable to the board, the board shall determine the provisions of the final plan prior to the inmate's release.

(e) If an inmate was sentenced under section 29 of this 2013 Act and the release plan recommends that the inmate participate in a reentry court, the board shall provide a copy of the release plan to the reentry court.

(2) The local supervisory authority that is responsible for correctional services for an inmate shall prepare a proposed release plan for the inmate prior to the inmate's release from jail. The local supervisory authority shall approve the release plan under its rules. **If the inmate was sentenced under section 29 of this 2013 Act and the supervisory authority recommends that the inmate participate in a reentry court, the supervisory authority shall provide a copy of the release plan to the reentry court.**

(3) A release plan prepared under subsection (1) or (2) of this section must include:

(a) A description of support services and program opportunities available to the inmate;

(b) The recommended conditions of post-prison supervision;

(c) The level of supervision that shall be consistent with the inmate's risk assessment classification;

(d) Any other conditions and requirements as may be necessary to promote public safety;

(e) For all inmates whose sentence to make restitution under ORS 137.106 has been suspended for the term of imprisonment, a restitution payment schedule; and

(f) Any conditions necessary to assist the reformation of the inmate.

SECTION 31. ORS 144.106 is amended to read:

144.106. (1) Except as otherwise provided by rules of the Department of Corrections and the State Board of Parole and Post-Prison Supervision concerning parole and post-prison supervision violators, the supervisory authority shall use a continuum of administrative sanctions for violations of the conditions of post-prison supervision.

(2) The sanction continuum shall include adjustments to the level of supervision and, as approved by the board or the local supervisory authority that imposed the initial conditions of post-prison supervision:

(a) Modification of or additions to the conditions of supervision; and

(b) Any other appropriate available local sanctions including, but not limited to, jail, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day centers or other local sanctions established by agreement with the supervisory authority.

(3) An offender may not be confined in a restitution center, work release center or jail for more than 15 days for a violation of conditions of post-prison supervision unless:

(a) The Department of Corrections, county corrections agency or supervisory authority imposes a local sanction under subsection (1) of this section; *[or]*

(b) A reentry court imposes a local sanction under section 29 of this 2013 Act; or

[(b)] (c) The board or its designated representative initiates a hearing for the purpose of imposing a sanction under ORS 144.107 or 144.108.

(4) A hearing before the board is not required if the department, a county corrections agency, *[or]* the supervisory authority **or the court** imposes a local sanction under subsection (3) of this section. However, the board may conduct a hearing under the procedures in ORS 144.343 and 144.347 and impose a different sanction on the offender than that imposed by the department, a county corrections agency, *[or]* the supervisory authority **or the court**.

SECTION 32. ORS 40.015 is amended to read:

40.015. (1) The Oregon Evidence Code applies to all courts in this state except for:

(a) A hearing or mediation before a magistrate of the Oregon Tax Court as provided by ORS 305.501;

(b) The small claims department of a circuit court as provided by ORS 46.415; and

(c) The small claims department of a justice court as provided by ORS 55.080.

(2) The Oregon Evidence Code applies generally to civil actions, suits and proceedings, criminal actions and proceedings and to contempt proceedings except those in which the court may act summarily.

(3) ORS 40.225 to 40.295 relating to privileges apply at all stages of all actions, suits and proceedings.

(4) ORS 40.010 to 40.210 and 40.310 to 40.585 do not apply in the following situations:

(a) The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under ORS 40.030.

(b) Proceedings before grand juries, except as required by ORS 132.320.

(c) Proceedings for extradition, except as required by ORS 133.743 to 133.857.

(d) Sentencing proceedings, except proceedings under ORS 138.012 and 163.150, as required by ORS 137.090 or proceedings under ORS 136.765 to 136.785.

(e) Proceedings to revoke probation, except as required by ORS 137.090.

(f) Proceedings conducted in a reentry court under section 29 of this 2013 Act.

[(f)] (g) Issuance of warrants of arrest, bench warrants or search warrants.

[(g)] (h) Proceedings under ORS chapter 135 relating to conditional release, security release, release on personal recognizance, or preliminary hearings, subject to ORS 135.173.

[(h)] (i) Proceedings to determine proper disposition of a child in accordance with ORS 419B.325 (2) and 419C.400 (4).

[(i)] (j) Proceedings under ORS 813.210, 813.215, 813.220, 813.230, 813.250 and 813.255 to determine whether a driving while under the influence of intoxicants diversion agreement should be allowed or terminated.

[(j)] **(k)** Proceedings under ORS 147.530 relating to victims' rights, except for the provisions of ORS 40.105 and 40.115.

SECTION 33. Section 29 of this 2013 Act is repealed on July 1, 2023.

SECTION 34. ORS 144.101, as amended by section 28 of this 2013 Act, is amended to read:

144.101. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person convicted of a felony if:

- (a) The term of imprisonment imposed on the person is more than 12 months;
- (b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;
- (c) The person is subject to a sentence under ORS 137.700 or 137.707;
- (d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;
- (e) The person is subject to a term of post-prison supervision under ORS 144.103;
- (f) The person is committed to the custody of the Department of Corrections under ORS 137.124;
- (g) The responsibility for correctional services for the person has reverted to the department under ORS 423.483; or
- (h) No local supervisory authority is responsible for correctional services for the person under the laws of this state.

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

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

[(4) *If a circuit court in a participating county, as defined in section 29 of this 2013 Act, enters an order admitting a person into a reentry court under section 29 (3) of this 2013 Act, the reentry court has concurrent jurisdiction over the imposition of sanctions for violations of the conditions of post-prison supervision.*]

[(5)] **(4)** Nothing in this section affects the jurisdiction of the board over the imposition of conditions of parole and sanctions for violations of those conditions.

SECTION 35. ORS 144.096, as amended by section 30 of this 2013 Act, is amended to read:

144.096. (1)(a) The Department of Corrections shall prepare a proposed release plan for an inmate prior to the inmate's release from prison.

(b) The department shall submit the proposed release plan to the State Board of Parole and Post-Prison Supervision not less than [75] **60** days prior to the inmate's release.

(c) If the proposed release plan is not approved by the board, the board shall return the plan to the department with its recommended modifications. The department shall submit a revised plan to the board not less than [25] **10** days prior to the inmate's release.

(d) If the revised plan is not acceptable to the board, the board shall determine the provisions of the final plan prior to the inmate's release.

[(e) *If an inmate was sentenced under section 29 of this 2013 Act and the release plan recommends that the inmate participate in a reentry court, the board shall provide a copy of the release plan to the reentry court.*]

(2) The local supervisory authority that is responsible for correctional services for an inmate shall prepare a proposed release plan for the inmate prior to the inmate's release from jail. The local supervisory authority shall approve the release plan under its rules. *[If the inmate was sentenced under section 29 of this 2013 Act and the supervisory authority recommends that the inmate participate in a reentry court, the supervisory authority shall provide a copy of the release plan to the reentry court.]*

(3) A release plan prepared under subsection (1) or (2) of this section must include:

- (a) A description of support services and program opportunities available to the inmate;

- (b) The recommended conditions of post-prison supervision;
- (c) The level of supervision that shall be consistent with the inmate's risk assessment classification;
- (d) Any other conditions and requirements as may be necessary to promote public safety;
- (e) For all inmates whose sentence to make restitution under ORS 137.106 has been suspended for the term of imprisonment, a restitution payment schedule; and
- (f) Any conditions necessary to assist the reformation of the inmate.

SECTION 36. ORS 144.106, as amended by section 31 of this 2013 Act, is amended to read:

144.106. (1) Except as otherwise provided by rules of the Department of Corrections and the State Board of Parole and Post-Prison Supervision concerning parole and post-prison supervision violators, the supervisory authority shall use a continuum of administrative sanctions for violations of the conditions of post-prison supervision.

(2) The sanction continuum shall include adjustments to the level of supervision and, as approved by the board or the local supervisory authority that imposed the initial conditions of post-prison supervision:

- (a) Modification of or additions to the conditions of supervision; and
- (b) Any other appropriate available local sanctions including, but not limited to, jail, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day centers or other local sanctions established by agreement with the supervisory authority.

(3) An offender may not be confined in a restitution center, work release center or jail for more than 15 days for a violation of conditions of post-prison supervision unless:

(a) The Department of Corrections, county corrections agency or supervisory authority imposes a local sanction under subsection (1) of this section; **or**

[(b) A reentry court imposes a local sanction under section 29 of this 2013 Act; or]

[(c) (b) The board or its designated representative initiates a hearing for the purpose of imposing a sanction under ORS 144.107 or 144.108.

(4) A hearing before the board is not required if the department, a county corrections agency[,] **or** the supervisory authority *[or the court]* imposes a local sanction under subsection (3) of this section. However, the board may conduct a hearing under the procedures in ORS 144.343 and 144.347 and impose a different sanction on the offender than that imposed by the department, a county corrections agency[,] **or** the supervisory authority *[or the court]*.

SECTION 37. ORS 40.015, as amended by section 32 of this 2013 Act, is amended to read:

40.015. (1) The Oregon Evidence Code applies to all courts in this state except for:

(a) A hearing or mediation before a magistrate of the Oregon Tax Court as provided by ORS 305.501;

(b) The small claims department of a circuit court as provided by ORS 46.415; and

(c) The small claims department of a justice court as provided by ORS 55.080.

(2) The Oregon Evidence Code applies generally to civil actions, suits and proceedings, criminal actions and proceedings and to contempt proceedings except those in which the court may act summarily.

(3) ORS 40.225 to 40.295 relating to privileges apply at all stages of all actions, suits and proceedings.

(4) ORS 40.010 to 40.210 and 40.310 to 40.585 do not apply in the following situations:

(a) The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under ORS 40.030.

(b) Proceedings before grand juries, except as required by ORS 132.320.

(c) Proceedings for extradition, except as required by ORS 133.743 to 133.857.

(d) Sentencing proceedings, except proceedings under ORS 138.012 and 163.150, as required by ORS 137.090 or proceedings under ORS 136.765 to 136.785.

(e) Proceedings to revoke probation, except as required by ORS 137.090.

[(f) Proceedings conducted in a reentry court under section 29 of this 2013 Act.]

[(g) (f) Issuance of warrants of arrest, bench warrants or search warrants.

[(h)] (g) Proceedings under ORS chapter 135 relating to conditional release, security release, release on personal recognizance, or preliminary hearings, subject to ORS 135.173.

[(i)] (h) Proceedings to determine proper disposition of a child in accordance with ORS 419B.325 (2) and 419C.400 (4).

[(j)] (i) Proceedings under ORS 813.210, 813.215, 813.220, 813.230, 813.250 and 813.255 to determine whether a driving while under the influence of intoxicants diversion agreement should be allowed or terminated.

[(k)] (j) Proceedings under ORS 147.530 relating to victims' rights, except for the provisions of ORS 40.105 and 40.115.

SECTION 38. (1) The amendments to ORS 40.015, 144.096, 144.101 and 144.106 by sections 34 to 37 of this 2013 Act become operative on July 1, 2023.

(2) The repeal of section 29 of this 2013 Act by section 33 of this 2013 Act and the amendments to ORS 40.015, 144.096, 144.101 and 144.106 by sections 34 to 37 of this 2013 Act do not affect the jurisdiction of a reentry court over a person sentenced under section 29 of this 2013 Act.

SPECIALTY COURTS

SECTION 39. (1) As used in this section, "specialty courts" means drug court programs as defined in ORS 3.450, veterans' courts, mental health courts or any other similar court or docketing system.

(2)(a) The Oregon Criminal Justice Commission shall serve as a clearinghouse and information center for the collection, preparation, analysis and dissemination of the best practices applicable to specialty courts.

(b) After consulting with the Judicial Department, the commission shall develop evidence-based standards that may be applied to specialty courts. The standards must:

(A) Be designed to reduce recidivism in a cost-effective manner; and

(B) When appropriate, target medium-risk and high-risk offenders.

(3) The Chief Justice of the Supreme Court may issue an order applicable to specialty courts. The order may include a requirement that a circuit court that operates a specialty court review the standards described in subsection (2) of this section.

CORRECTIONS FORECAST

SECTION 40. ORS 184.351 is amended to read:

184.351. (1) The Oregon Department of Administrative Services shall issue state corrections population forecasts including, but not limited to, expected populations of prisons and jails and community corrections caseloads, to be used by:

(a) The Department of Corrections in preparing budget requests;

(b) The Oregon Criminal Justice Commission in considering amendments to sentencing guidelines; and

(c) Any other state agency concerned with the effect of offender populations or policy developments on budgeting.

(2) The Oregon Department of Administrative Services shall issue state corrections population forecasts on April 1 and October 1 of each year.

(3) When the Oregon Department of Administrative Services issues a state corrections population forecast, the forecast must, whenever possible:

(a) Identify the forecast's margin of error; and

(b) Attribute growth or decline in the forecast, relative to previously issued forecasts, to specific policies or to specific components of the baseline underlying the forecast.

(4) As used in this section, "baseline underlying the forecast" includes population demographics and crime trends.

MEASURING OUTCOMES

SECTION 41. ORS 182.515, as amended by section 37, chapter 37, Oregon Laws 2012, is amended to read:

182.515. As used in this section and ORS 182.525:

(1) "Agency" means:

- (a) The Department of Corrections;
- (b) The Oregon Youth Authority;
- (c) The Youth Development Council; and
- (d) That part of the Oregon Health Authority that deals with mental health and addiction issues.

(2) ["*Cost effective*"] "**Cost-effective**" means that [*cost savings*] **benefits** realized over a reasonable period of time are greater than costs, **as determined utilizing a cost-benefit analytical tool identified by the Oregon Criminal Justice Commission.**

(3) "Evidence-based program" means a program that:

- (a) Incorporates significant and relevant practices based on scientifically based research; and
- (b) Is [*cost effective*] **cost-effective.**

(4)(a) "Program" means a treatment or intervention program or service that is intended to:

- (A) Reduce the propensity of a person to commit crimes;
- (B) Improve the mental health of a person with the result of reducing the likelihood that the person will commit a crime or need emergency mental health services; or
- (C) Reduce the propensity of a person who is less than 18 years of age to engage in antisocial behavior with the result of reducing the likelihood that the person will become a juvenile offender.

(b) "Program" does not include:

(A) An educational program or service that an agency is required to provide to meet educational requirements imposed by state law; or

(B) A program that provides basic medical services.

(5) "Scientifically based research" means research that obtains reliable and valid knowledge by:

- (a) Employing systematic, empirical methods that draw on observation or experiment;
- (b) Involving rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn; [*and*]

(c) Relying on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations and across studies by the same or different investigators; **and**

(d) **Utilizing randomized controlled trials when possible and appropriate.**

SECTION 42. **Before the Oregon Criminal Justice Commission identifies a cost-benefit analytical tool under ORS 182.515 (2), the commission shall consult with the Task Force on Public Safety established under section 57 of this 2013 Act.**

SECTION 43. **Section 42 of this 2013 Act is repealed on the date of the convening of the 2017 regular session of the Legislative Assembly as specified in ORS 171.010.**

SECTION 44. ORS 182.525 is amended to read:

182.525. (1) An agency [*as defined in ORS 182.515*] shall spend at least 75 percent of state moneys that the agency receives for programs on evidence-based programs.

(2) The agency shall submit a biennial report containing:

(a) An assessment of each program on which the agency expends funds, including but not limited to whether the program is an evidence-based program;

(b) The percentage of state moneys the agency receives for programs that is being expended on evidence-based programs;

(c) The percentage of federal and other moneys the agency receives for programs that is being expended on evidence-based programs; and

(d) A description of the efforts the agency is making to meet the requirement of subsection (1) of this section.

(3) The agency shall submit the report required by subsection (2) of this section no later than September 30 of each even-numbered year to the interim legislative committee dealing with judicial matters.

(4) If an agency, in any biennium, spends more than 25 percent of the state moneys that the agency receives for programs on programs that are not evidence based, the Legislative Assembly shall consider the agency's failure to meet the requirement of subsection (1) of this section in making appropriations to the agency for the following biennium.

(5) [The] **An** agency may adopt rules necessary to carry out the provisions of this section[, including but not limited to rules defining a reasonable period of time for purposes of determining cost effectiveness].

SECTION 45. (1) As used in this section, "recidivism" means the arrest, conviction or incarceration of a person who has previously been convicted of a crime, if the arrest, conviction or incarceration:

(a) Is for a new crime and occurs:

(A) Three years or less after the date the person was convicted of the previous crime; or

(B) Three years or less after the date the person was released from custody, if the person was incarcerated as a result of the conviction for the previous crime; or

(b) Is for any reason and occurs:

(A) Three years or less after the date the person was convicted of the previous crime; or

(B) Three years or less after the date the person was released from custody, if the person was incarcerated as a result of the conviction for the previous crime.

(2) When the Oregon Department of Administrative Services, the Department of Corrections, the Oregon Criminal Justice Commission or any other public body as defined in ORS 174.109 conducts a statistical evaluation of the rate at which persons convicted of a crime recidivate, the public body shall include an evaluation of recidivism as that term is defined in:

(a) Subsection (1)(a) of this section; and

(b) Subsection (1)(b) of this section.

FISCAL IMPACT STATEMENTS

SECTION 46. ORS 173.029 is amended to read:

173.029. (1) For any measure reported out of a committee of the Legislative Assembly, the effect of which is to create a new crime, [or] increase the period of incarceration allowed or required for an existing crime **or otherwise modify sentencing or state corrections policies**, the Legislative Fiscal Officer, with the aid of the Oregon Department of Administrative Services, Legislative Revenue Officer, state agencies and affected local governmental units, shall prepare a fiscal impact statement describing the fiscal impact that the measure would, if enacted, have on the state as well as on local governmental units.

(2) In particular and to the extent practicable, the Legislative Fiscal Officer shall determine and describe in the statement the following:

(a) The fiscal impact on state and local law enforcement agencies, including an estimate of the increase in anticipated number of arrests annually;

(b) The fiscal impact on state and local courts, including an estimate of the increase in the anticipated number of [trials] **cases** annually;

(c) The fiscal impact on district attorney offices, including an estimate of the increase in the anticipated number of prosecutions annually;

(d) The fiscal impact on public defense resources, including an estimate of the increase in the anticipated number of cases annually; and

(e) The fiscal impact on state and local corrections resources, including resources supporting parole and probation supervision, and also including an estimate of the increase in the anticipated number of bed-days to be used annually at both the state and local level as a result of the passage of the measure.

(3) **The fiscal impact statement required under this section must describe the fiscal impact that the measure would, if enacted, have on the state as well as on local governmental units for 10 years, beginning on the effective date of the measure.**

(4) **A state agency that prepares and submits to the Legislative Fiscal Officer fiscal impact statements or related fiscal information applicable to a measure introduced before the Legislative Assembly, the effect of which is to create a new crime, increase the period of incarceration allowed or required for an existing crime or otherwise modify sentencing or state corrections policies, shall describe the fiscal impact that the measure would have on the state agency for 10 years, beginning on the effective date of the measure.**

SECTION 47. The amendments to ORS 173.029 by section 46 of this 2013 Act become operative on January 1, 2014.

OREGON CENTER FOR POLICING EXCELLENCE

SECTION 48. Section 49 of this 2013 Act is added to and made a part of ORS 181.610 to 181.712.

SECTION 49. (1) **The Oregon Center for Policing Excellence is established within the Department of Public Safety Standards and Training.**

(2) **The primary purposes of the center are:**

(a) **To make policing in this state more effective and efficient by:**

(A) **Developing and promulgating updated skills in policing among officers, managers and administrators; and**

(B) **Making use of the body of knowledge of effective and efficient methods in the criminal justice system.**

(b) **To make communities safer.**

(c) **To reduce, through the use of police practices proven to be effective, the number of offenders entering the criminal justice system.**

(3) **To accomplish the purposes described in subsection (2) of this section, the center shall provide opportunities for:**

(a) **Practitioners to present actual problems to researchers in order to identify potential approaches to resolving the problems.**

(b) **Researchers to present to practitioners the results of research on effective and efficient methods of policing.**

(c) **Practitioners and researchers to form partnerships to test the effectiveness of practices and approaches.**

(d) **The development and delivery of training to public safety personnel in this state to enhance their skills related to:**

(A) **Problem solving;**

(B) **Leadership and facilitation;**

(C) **Effective application and use of information from reputable research; and**

(D) **Identifying and addressing future challenges affecting public safety.**

(4) **All agencies of state government, as defined in ORS 174.111, and local government, as defined in ORS 174.116, are directed to cooperate with the center in achieving the purposes described in subsection (2) of this section.**

(5) **The Director of the Department of Public Safety Standards and Training may adopt rules necessary to implement the provisions of this section.**

CORRECTIONAL COSTS

SECTION 50. (1) The Legislative Assembly hereby establishes as a goal the reduction of the Department of Corrections' per-inmate costs by five percent over the 10-year period beginning July 1, 2013.

(2) No later than October 1, 2014, the department shall submit a report to the Legislative Assembly in the manner provided by ORS 192.245 that identifies cost containment solutions designed to reduce the department's per-inmate costs by five percent over the 10-year period beginning July 1, 2013, while maintaining public safety, prison security and recidivism reduction programs.

(3) The department shall provide a copy of the report to the Task Force on Public Safety established under section 57 of this 2013 Act.

(4) As used in this section, "per-inmate costs":

(a) Includes costs attributable to the provision of security and housing, health care, food services, treatment programs and recidivism reduction programs and other direct costs related to institutional operations.

(b) Does not include costs attributable to community corrections grants, debt service, capital construction, opening new correctional facilities or inflation.

SECTION 51. Section 50 of this 2013 Act is repealed on January 2, 2015.

JUSTICE REINVESTMENT PROGRAM

SECTION 52. The Justice Reinvestment Account is established, separate and distinct from the General Fund. All moneys in the account are continuously appropriated to the Oregon Criminal Justice Commission for the purpose of making grants to counties in accordance with section 53 of this 2013 Act.

SECTION 53. (1) In consultation with the Justice Reinvestment Grant Review Committee established under subsection (2) of this section, the Oregon Criminal Justice Commission shall administer the Justice Reinvestment Program described in this section. From funds appropriated to the commission for purposes of the program, the commission shall award grants to counties that establish a process to assess offenders and provide a continuum of community-based sanctions, services and programs that are designed to reduce recidivism and decrease the county's utilization of imprisonment in a Department of Corrections institution while protecting public safety and holding offenders accountable.

(2) The Justice Reinvestment Grant Review Committee is established, consisting of the following members:

(a) The Governor shall appoint the following five members:

(A) One member shall be a district attorney.

(B) One member shall be a county sheriff.

(C) One member shall be a chief of police.

(D) One member shall be a county commissioner.

(E) One member shall be a community corrections director who is not a sheriff.

(b) The President of the Senate shall appoint two nonvoting members from among members of the Senate.

(c) The Speaker of the House of Representatives shall appoint two nonvoting members from among members of the House of Representatives.

(3)(a) A majority of the voting members of the committee constitutes a quorum for the transaction of business.

(b) The committee shall elect one of its members to serve as chairperson.

(c) If there is a vacancy for any cause, the appointing authority shall make an appointment to become effective immediately.

(d) The committee shall meet at times and places specified by the call of the chairperson or a majority of the voting members of the committee.

(e) Legislative members of the committee shall be entitled to payment of compensation and expenses under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(4) After consulting with the Justice Reinvestment Grant Review Committee, the commission shall adopt rules to administer the Justice Reinvestment Program. The rules must include:

(a) A methodology for reviewing and approving grant applications and distributing grant funds. Rules described in this paragraph must provide the Justice Reinvestment Grant Review Committee with the ability to approve grant applications, subject to final approval by the commission.

(b) A process for evaluating the efficacy of community-based sanctions, services and programs funded under this section.

(5) Notwithstanding subsections (1) and (4) of this section, upon receipt of a letter of intent to participate in the Justice Reinvestment Program submitted by a county, the commission shall distribute to the county a proportional share of funds deposited in the Justice Reinvestment Account. The proportion shall be determined in accordance with the formula used to distribute baseline funding under ORS 423.483.

(6) Funds distributed under this section must be spent on the provision of community-based sanctions, services and programs.

SECTION 54. Section 53 of this 2013 Act is amended to read:

Sec. 53. (1)(a) In consultation with the Justice Reinvestment Grant Review Committee established under subsection (2) of this section, the Oregon Criminal Justice Commission shall administer the Justice Reinvestment Program described in this section. From funds appropriated to the commission for purposes of the program, the commission shall award grants to counties that establish a process to assess offenders and provide a continuum of community-based sanctions, services and programs that are designed to reduce recidivism and decrease the county's utilization of imprisonment in a Department of Corrections institution while protecting public safety and holding offenders accountable.

(b) Notwithstanding paragraph (a) of this subsection, no less than 10 percent of grant funds awarded under this section must be distributed to community-based nonprofit organizations that provide services to victims of crime.

(2) The Justice Reinvestment Grant Review Committee is established, consisting of the following members:

(a) The Governor shall appoint the following five members:

(A) One member shall be a district attorney.

(B) One member shall be a county sheriff.

(C) One member shall be a chief of police.

(D) One member shall be a county commissioner.

(E) One member shall be a community corrections director who is not a sheriff.

(b) The President of the Senate shall appoint two nonvoting members from among members of the Senate.

(c) The Speaker of the House of Representatives shall appoint two nonvoting members from among members of the House of Representatives.

(3)(a) A majority of the voting members of the committee constitutes a quorum for the transaction of business.

(b) The committee shall elect one of its members to serve as chairperson.

(c) If there is a vacancy for any cause, the appointing authority shall make an appointment to become effective immediately.

(d) The committee shall meet at times and places specified by the call of the chairperson or a majority of the voting members of the committee.

(e) Legislative members of the committee shall be entitled to payment of compensation and expenses under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(4) An application for a grant described in this section must be submitted by a local public safety coordinating council convened under ORS 423.560.

(5)(a) During a grant application period established by the commission, the proportion of grant funds available to each county shall be determined in accordance with the formula used to distribute baseline funding under ORS 423.483.

(b) At the conclusion of the grant application period, the commission shall award grants to counties in accordance with rules adopted by the commission. If unallocated funds remain at the conclusion of the grant acceptance period, the commission may establish a supplemental grant period and distribute the unallocated funds.

(6) The commission shall regularly evaluate the community-based sanctions, services and programs funded under this section. The commission shall report the results of an evaluation conducted under this section to a committee of the Legislative Assembly related to the judiciary.

(7)(a) Before applying for grant funds to administer a community-based program described in subsection (9)(a)(D) of this section, the county must obtain the consent of the presiding judge of the judicial district in which the county is located.

(b) A grant application to administer a community-based program described in subsection (9)(a)(D) of this section must include the costs of appointed counsel.

[(4)] (8) After consulting with the Justice Reinvestment Grant Review Committee, the commission shall adopt rules to administer the Justice Reinvestment Program. The rules must include:

(a) A methodology for reviewing and approving grant applications and distributing grant funds. Rules described in this paragraph must provide the Justice Reinvestment Grant Review Committee with the ability to approve grant applications, subject to final approval by the commission.

(b) A process for evaluating the efficacy of community-based sanctions, services and programs funded under this section.

[(5) *Notwithstanding subsections (1) and (4) of this section, upon receipt of a letter of intent to participate in the Justice Reinvestment Program submitted by a county, the commission shall distribute to the county a proportional share of funds deposited in the Justice Reinvestment Account. The proportion shall be determined in accordance with the formula used to distribute baseline funding under ORS 423.483.*]

[(6) *Funds distributed under this section must be spent on the provision of community-based sanctions, services and programs other than jails.*]

(9) As used in this section:

(a) “Community-based programs” includes:

(A) Work release programs;

(B) Structured, transitional leave programs;

(C) Evidence-based programs designed to reduce recidivism that include the balanced administration of sanctions, supervision and treatment;

(D) Administering a reentry court under section 29 of this 2013 Act; and

(E) Specialty courts aimed at medium-risk and high-risk offenders.

(b) “County” includes a regional collection of counties.

SECTION 55. The amendments to section 53 of this 2013 Act by section 54 of this 2013 Act become operative on July 1, 2015.

SECTION 56. Sections 52 and 53 of this 2013 Act are repealed on July 1, 2023.

TASK FORCE ON PUBLIC SAFETY

SECTION 57. (1) The Task Force on Public Safety is established, consisting of 13 members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate.

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives.

(c) The Chief Justice of the Supreme Court shall appoint two members.

(d) The Governor shall appoint seven members as follows:

(A) One member shall be a county commissioner.

(B) One member shall be a district attorney.

(C) One member shall be a criminal defense attorney.

(D) Two members shall be representatives of law enforcement.

(E) One member shall be a representative of community corrections directors who is not a sheriff.

(F) One member shall be a representative of a community-based organization that provides services to victims of crime.

(2) The task force shall:

(a) Review the implementation of the provisions of this 2013 Act;

(b) Consider the policy implications of establishing an earned, conditional release hearing for juvenile offenders convicted under ORS 137.707; and

(c) Evaluate the report submitted to the task force by the Department of Corrections under section 50 of this 2013 Act.

(3) No later than October 1, 2016, the task force shall submit a report to the Legislative Assembly in the manner provided by ORS 192.245 that describes the findings of the task force. The report may include recommendations for legislation. The task force shall provide a copy of the report to the Governor.

(4) A majority of the members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) Upon request, the Oregon Criminal Justice Commission, the Department of Corrections and the Oregon Department of Administrative Services shall provide staff support to the task force.

(11) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to Oregon Criminal Justice Commission for purposes of the task force.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

SECTION 58. Section 57 of this 2013 Act is repealed on the date of the convening of the 2017 regular session of the Legislative Assembly as specified in ORS 171.010.

SECTION 59. (1) Not less than once per biennium, the Oregon Criminal Justice Commission shall, in conjunction with the Department of Corrections, identify:

(a) The avoided costs to state government resulting from the passage of this 2013 Act; and

(b) Any increased costs to local governments resulting from the passage of this 2013 Act.

(2) No later than January 1 of each odd-numbered year, the commission shall submit a report to the Justice Reinvestment Grant Review Committee established under section 53 of this 2013 Act and to the Legislative Assembly in the manner provided by ORS 192.245, that includes the determinations described in subsection (1) of this section and describes the methodology employed by the commission in reaching those determinations.

(3) As used in this section, "avoided costs" includes the costs of operating correctional facilities and the costs associated with constructing additional prison capacity.

SECTION 60. Section 59 of this 2013 Act is repealed on July 1, 2023.

UNIT CAPTIONS

SECTION 61. The unit captions in this 2013 Act are provided only for the convenience of the reader and do not become a part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

EMERGENCY CLAUSE

SECTION 62. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House June 27, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate July 1, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

.....
Kate Brown, Secretary of State