

# House Bill 3194

Sponsored by JOINT COMMITTEE ON PUBLIC SAFETY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies sentences imposed for felony marijuana offenses and for felony driving while suspended.

Eliminates mandatory minimum sentences for all offenders convicted of sexual abuse in first degree, assault in second degree and robbery in second degree. Eliminates mandatory adult prosecution of persons who are 15, 16 or 17 years of age and alleged to have committed sexual abuse in first degree, assault in second degree or robbery in second degree.

Provides court with range of presumptive prison sentences when sentencing repeat property offenders. Eliminates mandatory minimum sentences applicable to certain repeat drug offenders.

Increases maximum period of short-term transitional leave program and requires Department of Corrections to proactively assist inmates in applying for program.

Provides for 30 percent reduction in term of imprisonment for eligible offenders who meet rigorous conditions.

Requires court to allow eligible offenders to participate in alternative incarceration program unless court finds substantial and compelling reasons to prohibit participation.

Authorizes judicial review of certain mandatory minimum sentences for conditional release when persons who were 15, 16 or 17 years of age at time of crime have served one-half and three-fourths of sentence imposed.

Authorizes offenders supervised by local supervisory authority to obtain reduction in term of supervision under certain circumstances. Modifies baseline for purposes of determining amount of community corrections grants.

Prohibits court from prohibiting imposition of structured sanctions by supervising authority when certain offenders sentenced to probation.

Requires supervisory authority to impose special conditions of probation when person sentenced to probation for felony.

Establishes Task Force on Public Safety Oversight to review provisions of Act.

Requires public bodies to use statutory definition of "recidivism" when evaluating rate at which persons convicted of crime reoffend.

Directs Oregon Criminal Justice Commission to adopt rules applicable to specialty courts.

Requires Oregon Department of Administrative Services to include margin of error and certain explanatory information in state corrections population forecasts.

Modifies manner of evaluating evidence-based correctional programs.

Modifies requirements for fiscal impact statements prepared for proposed criminal laws.

Creates Community Corrections Incentive Grant Program. Authorizes Oregon Criminal Justice Commission to award grants to counties that reduce use of prison resources while preserving public safety or that incarcerate and supervise offenders sentenced to term of incarceration of 15 months or less.

Appropriates moneys to commission for biennium beginning July 1, 2013, for purposes of program.

Establishes Community Corrections Incentive Grant Account. Continuously appropriates moneys in account to Oregon Criminal Justice Commission for purpose of making incentive grants to qualifying counties.

Directs Department of Corrections to identify cost-containment solutions for purpose of meeting five percent reduction in operating costs over 10-year period.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

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Relating to crime; creating new provisions; amending ORS 135.760, 135.767, 137.523, 137.540, 137.545, 137.553, 137.593, 137.595, 137.700, 137.707, 137.712, 137.717, 137.750, 137.751, 137.752, 137.924, 144.087, 144.101, 161.585, 173.029, 182.515, 182.525, 183.315, 184.351, 420.011, 420A.203, 420A.206, 421.121, 421.168, 421.508, 421.510, 423.478, 423.483, 475.900, 475.933 and 811.182; repealing ORS 137.599 and sections 22 and 23, chapter 660, Oregon Laws 2009; appropriating money; declaring an emergency; and providing for criminal sentence reduction that requires approval by a two-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 thirds majority.

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

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4 **I. WEIGHT THRESHOLDS FOR MARIJUANA**

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6 **SECTION 1.** ORS 475.900 is amended to read:

7 475.900. (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified  
8 as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:

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

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

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

14 (C) Ten grams or more of a mixture or substance containing a detectable amount of metham-  
15 phetamine, its salts, isomers or salts of its isomers;

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

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

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

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

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

26 (i) 3,4-methylenedioxyamphetamine;

27 (ii) 3,4-methylenedioxymethamphetamine; or

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

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

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

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

36 (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS  
37 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous  
38 weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly  
39 or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a  
40 controlled substance offense;

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

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

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

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

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

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

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

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

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

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

11 (iii) Eight grams or more of a mixture or substance containing a detectable amount of metham-  
 12 phetamine;

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

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

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

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

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

22 (I) 3,4-methylenedioxyamphetamine;

23 (II) 3,4-methylenedioxymethamphetamine; or

24 (III) 3,4-methylenedioxy-N-ethylamphetamine.

25 (c) The violation constitutes a violation of ORS 475.848, 475.852, *[475.858, 475.862,]* 475.868,  
 26 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

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

29 (A) A chemical reaction involving one or more precursor substances for the purpose of manu-  
 30 facturing methamphetamine; or

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

33 (e) The violation constitutes a violation of ORS *[475.860 (4)(a) or]* 475.906 (1) or (2) **and is not**  
 34 **a violation described in ORS 475.907.**

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

37 (a) The violation constitutes delivery of heroin, cocaine, methamphetamine or  
 38 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or  
 39 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

40 (b) The violation constitutes possession of:

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

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

43 (C) Ten grams or more of a mixture or substance containing a detectable amount of metham-  
 44 phetamine;

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

1 *hashish;*

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

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

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

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

10 (i) 3,4-methylenedioxyamphetamine;

11 (ii) 3,4-methylenedioxymethamphetamine; or

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

13 (3) **A felony violation of ORS 475.856, 475.858, 475.860, 475.862 or 475.864 shall be classified**  
 14 **as:**

15 (a) **Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice**  
 16 **Commission if the violation involves the possession, delivery or manufacture of less than one**  
 17 **kilogram of a mixture or substance containing a detectable amount of marijuana.**

18 (b) **Crime category 5 of the sentencing guidelines grid of the Oregon Criminal Justice**  
 19 **Commission if the violation involves the possession, delivery or manufacture of one kilogram**  
 20 **or more and less than five kilograms of a mixture or substance containing a detectable**  
 21 **amount of marijuana.**

22 (c) **Crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice**  
 23 **Commission if the violation is described in ORS 475.860 (4)(a).**

24 (d) **Crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice**  
 25 **Commission if the violation involves the possession, delivery or manufacture of five kilo-**  
 26 **grams or more and less than 20 kilograms of a mixture or substance containing a detectable**  
 27 **amount of marijuana.**

28 (e) **Crime category 9 of the sentencing guidelines grid of the Oregon Criminal Justice**  
 29 **Commission if the violation involves the possession, delivery or manufacture of 20 kilograms**  
 30 **or more and less than 50 kilograms of a mixture or substance containing a detectable**  
 31 **amount of marijuana.**

32 (f) **Crime category 10 of the sentencing guidelines grid of the Oregon Criminal Justice**  
 33 **Commission if the violation involves the possession, delivery or manufacture of 50 kilograms**  
 34 **or more of a mixture or substance containing a detectable amount of marijuana.**

35 [(3)] (4) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection  
 36 (1) [or (2)], (2) or (3) of this section shall be classified as:

37 (a) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commis-  
 38 sion if the violation involves delivery or manufacture of a controlled substance; or

39 (b) Crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commis-  
 40 sion if the violation involves possession of a controlled substance.

41 [(4)] (5) In order to prove a commercial drug offense, the state shall plead in the accusatory  
 42 instrument sufficient factors of a commercial drug offense under subsections (1) and (2) of this sec-  
 43 tion. The state has the burden of proving each factor beyond a reasonable doubt.

44 [(5)] (6) As used in this section, "mixture or substance" means any mixture or substance,  
 45 whether or not the mixture or substance is in an ingestible or marketable form at the time of the

1 offense.

2 **SECTION 2.** (1) The amendments to ORS 475.900 by section 1 of this 2013 Act apply to  
 3 sentences imposed on or after the effective date of this 2013 Act.

4 (2) Notwithstanding subsection (1) of this section, the amendments to ORS 475.900 by  
 5 section 1 of this 2013 Act do not apply to persons who were originally sentenced prior to the  
 6 effective date of this 2013 Act and who are subsequently resentenced as the result of an ap-  
 7 pellate decision, a post-conviction relief proceeding or for any other reason.

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 9 **II. PRESUMPTIVE SENTENCES FOR DRIVING WHILE SUSPENDED**

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 11 **SECTION 3.** ORS 811.182 is amended to read:

12 811.182. (1) A person commits the offense of criminal driving while suspended or revoked if the  
 13 person violates ORS 811.175 and the suspension or revocation is one described in this section, or if  
 14 the hardship or probationary permit violated is based upon a suspension or revocation described in  
 15 subsection (3) or (4) of this section.

16 (2) Affirmative defenses to the offense described in this section are established under ORS  
 17 811.180.

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

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

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

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

31 (c) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS  
 32 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content  
 33 of:

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

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

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

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

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

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

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

45 (h) A suspension resulting from any crime punishable as a felony with proof of a material ele-

1 ment involving the operation of a motor vehicle, other than a crime described in subsection (3) of  
 2 this section.

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

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

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

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

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

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

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

17 **SECTION 4. (1) The amendments to the rules of the Oregon Criminal Justice Commission**  
 18 **required by the amendments to ORS 811.182 by section 3 of this 2013 Act apply to crimes**  
 19 **committed on or after the effective date of this 2013 Act.**

20 **(2) Notwithstanding subsection (1) of this section, the amendments to the rules of the**  
 21 **Oregon Criminal Justice Commission required by the amendments to ORS 811.182 by section**  
 22 **3 of this 2013 Act do not apply to persons who were originally sentenced prior to the effective**  
 23 **date of this 2013 Act and who are subsequently resentenced as the result of an appellate**  
 24 **decision, a post-conviction relief proceeding or for any other reason.**

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 26 **III. SENTENCES FOR**  
 27 **ROBBERY IN SECOND DEGREE, ASSAULT IN SECOND DEGREE**  
 28 **AND SEXUAL ABUSE IN FIRST DEGREE -**  
 29 **M11 MODIFICATION (INCLUDING ADDITIONAL AMENDMENTS**  
 30 **RELATED TO VIII. EARNED REVIEW FOR YOUTH OFFENDERS:**  
 31 **"SECOND LOOK")**  
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33 **SECTION 5.** ORS 137.700 is amended to read:

34 137.700. (1) Notwithstanding ORS 161.605, when a person is convicted of one of the offenses  
 35 listed in subsection [(2)(a) of this section and the offense was committed on or after April 1, 1995, or  
 36 of one of the offenses listed in subsection (2)(b) of this section and the offense was committed on or after  
 37 October 4, 1997, or of the offense described in subsection (2)(c) of this section and the offense was  
 38 committed on or after January 1, 2008,] **(2) of this section**, the court shall impose, and the person  
 39 shall serve, at least the entire term of imprisonment listed in subsection (2) of this section. The  
 40 person is not, during the service of the term of imprisonment, eligible for release on post-prison  
 41 supervision or any form of temporary leave from custody. The person is not eligible for any re-  
 42 duction in, or based on, the minimum sentence for any reason whatsoever under ORS 421.121 or any  
 43 other statute. The court may impose a greater sentence if otherwise permitted by law, but may not  
 44 impose a lower sentence than the sentence specified in subsection (2) of this section.

45 (2) The offenses to which subsection (1) of this section applies and the applicable mandatory

1 minimum sentences are:

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- (a)(A) Murder, as defined in  
ORS 163.115 .....300 months
  - (B) Attempt or conspiracy  
to commit aggravated  
murder, as defined  
in ORS 163.095 .....120 months
  - (C) Attempt or conspiracy  
to commit murder, as  
defined in ORS 163.115. ....90 months
  - (D) Manslaughter in the  
first degree, as defined  
in ORS 163.118 .....120 months
  - (E) Manslaughter in the  
second degree, as defined  
in ORS 163.125 .....75 months
  - (F) Assault in the first  
degree, as defined in  
ORS 163.185 .....90 months
  - [(G) *Assault in the second  
degree, as defined in  
ORS 163.175 .....70 months*]
  - [(H)] (G) Except as provided in  
paragraph (b)(G) of  
this subsection,  
kidnapping in the first  
degree, as defined  
in ORS 163.235 .....90 months
  - [(I)] (H) Kidnapping in the second  
degree, as defined in  
ORS 163.225 .....70 months
  - [(J)] (I) Rape in the first degree,  
as defined in ORS 163.375  
(1)(a), (c) or (d) .....100 months
  - [(K)] (J) Rape in the second degree,  
as defined in ORS 163.365 .....75 months
  - [(L)] (K) Sodomy in the first degree,  
as defined in ORS 163.405  
(1)(a), (c) or (d) .....100 months
  - [(M)] (L) Sodomy in the second  
degree, as defined in  
ORS 163.395 .....75 months
  - [(N)] (M) Unlawful sexual penetration

- 1           in the first degree, as
- 2           defined in ORS 163.411
- 3           (1)(a) or (c). .....100 months
- 4    [(O)] (N) Unlawful sexual penetration
- 5           in the second degree, as
- 6           defined in ORS 163.408. ....75 months
- 7    [(P)] *Sexual abuse in the first*
- 8           *degree, as defined in*
- 9           *ORS 163.427.....75 months]*
- 10 [(Q)] (O) Robbery in the first degree,
- 11          as defined in ORS 164.415.....90 months
- 12 [(R)] *Robbery in the second*
- 13          *degree, as defined in*
- 14          *ORS 164.405.....70 months]*
- 15 (b)(A) Arson in the first degree,
- 16          as defined in ORS 164.325,
- 17          when the offense represented
- 18          a threat of serious
- 19          physical injury. ....90 months
- 20 (B) Using a child in a display
- 21          of sexually explicit
- 22          conduct, as defined in
- 23          ORS 163.670. ....70 months
- 24 (C) Compelling prostitution,
- 25          as defined in ORS 167.017.....70 months
- 26 (D) Rape in the first degree,
- 27          as defined in
- 28          ORS 163.375 (1)(b). ....300 months
- 29 (E) Sodomy in the first degree,
- 30          as defined in
- 31          ORS 163.405 (1)(b). ....300 months
- 32 (F) Unlawful sexual penetration
- 33          in the first degree, as
- 34          defined in
- 35          ORS 163.411 (1)(b). ....300 months
- 36 (G) Kidnapping in the first
- 37          degree, as defined in
- 38          ORS 163.235, when the
- 39          offense is committed in
- 40          furtherance of the commission
- 41          or attempted commission of an
- 42          offense listed in subparagraph
- 43          (D), (E) or (F) of
- 44          this paragraph.....300 months
- 45 (c) Aggravated vehicular



1 homicide, as defined in  
2 ORS 163.149.....240 months

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5 **SECTION 6.** ORS 137.707 is amended to read:

6 137.707. (1)(a) Notwithstanding any other provision of law, when a person charged with aggra-  
7 vated murder, as defined in ORS 163.095, or an offense listed in subsection [(4)(a)] **(4)** of this section  
8 is 15, 16 or 17 years of age at the time the offense is **alleged to have been** committed, [ *and the*  
9 *offense is committed on or after April 1, 1995, or when a person charged with an offense listed in*  
10 *subsection (4)(b) of this section is 15, 16 or 17 years of age at the time the offense is committed, and*  
11 *the offense is committed on or after October 4, 1997, or when a person charged with the offense de-*  
12 *scribed in subsection (4)(c) of this section is 15, 16 or 17 years of age at the time the offense is com-*  
13 *mitted and the offense is committed on or after January 1, 2008,*] the person shall be prosecuted as  
14 an adult in criminal court.

15 (b) A district attorney, the Attorney General or a juvenile department counselor may not file in  
16 juvenile court a petition alleging that a person has committed an act that, if committed by an adult,  
17 would constitute aggravated murder or an offense listed in subsection (4) of this section if the person  
18 was 15, 16 or 17 years of age at the time the act [*was*] **is alleged to have been** committed.

19 (2)(a) When a person charged under this section is convicted of an offense listed in subsection  
20 (4) of this section, the court shall impose at least the presumptive term of imprisonment provided for  
21 the offense in subsection (4) of this section. The court may impose a greater presumptive term if  
22 otherwise permitted by law, but may not impose a lesser term. [*The person is not, during the service*  
23 *of the term of imprisonment, eligible for release on post-prison supervision or any form of temporary*  
24 *leave from custody. The person is not eligible for any reduction in, or based on, the minimum sentence*  
25 *for any reason under ORS 421.121 or any other provision of law.*] ORS 138.012, 163.105 and 163.150  
26 apply to sentencing a person prosecuted under this section and convicted of aggravated murder  
27 under ORS 163.095 except that a person who was under 18 years of age at the time the offense was  
28 committed is not subject to a sentence of death.

29 **(b) Except as otherwise provided in ORS 420A.203 to 420A.206, a person sentenced under**  
30 **this subsection is not:**

31 **(A) During the service of the term of imprisonment, eligible for release on post-prison**  
32 **supervision or any form of temporary leave from custody; or**

33 **(B) Eligible for any reduction in, or based on, the minimum sentence for any reason.**

34 (3) The court shall commit the person to the legal and physical custody of the Department of  
35 Corrections.

36 (4) The offenses to which this section applies and the presumptive sentences are:

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39 (a)(A) Murder, as defined in  
40 ORS 163.115.....300 months

41 (B) Attempt or conspiracy  
42 to commit aggravated  
43 murder, as defined  
44 in ORS 163.095.....120 months

45 (C) Attempt or conspiracy

1 to commit murder, as  
 2 defined in ORS 163.115. ....90 months  
 3 (D) Manslaughter in the  
 4 first degree, as defined  
 5 in ORS 163.118. ....120 months  
 6 (E) Manslaughter in the  
 7 second degree, as defined  
 8 in ORS 163.125. ....75 months  
 9 (F) Assault in the first  
 10 degree, as defined  
 11 in ORS 163.185. ....90 months  
 12 [(G) *Assault in the second*  
 13 *degree, as defined*  
 14 *in ORS 163.175. ....70 months*]  
 15 [(H) (G) Kidnapping in the first  
 16 degree, as defined in  
 17 ORS 163.235. ....90 months  
 18 [(I) (H) Kidnapping in the second  
 19 degree, as defined in  
 20 ORS 163.225. ....70 months  
 21 [(J) (I) Rape in the first degree,  
 22 as defined in ORS 163.375. ....100 months  
 23 [(K) (J) Rape in the second  
 24 degree, as defined in  
 25 ORS 163.365. ....75 months  
 26 [(L) (K) Sodomy in the first  
 27 degree, as defined in  
 28 ORS 163.405. ....100 months  
 29 [(M) (L) Sodomy in the second  
 30 degree, as defined in  
 31 ORS 163.395. ....75 months  
 32 [(N) (M) Unlawful sexual  
 33 penetration in the first  
 34 degree, as defined  
 35 in ORS 163.411. ....100 months  
 36 [(O) (N) Unlawful sexual  
 37 penetration in the  
 38 second degree, as  
 39 defined in ORS 163.408. ....75 months  
 40 [(P) *Sexual abuse in the first*  
 41 *degree, as defined in*  
 42 *ORS 163.427. ....75 months*]  
 43 [(Q) (O) Robbery in the first  
 44 degree, as defined in  
 45 ORS 164.415. ....90 months

- 1 [(R) *Robbery in the second*
- 2 *degree, as defined in*
- 3 *ORS 164.405.....70 months]*
- 4 (b)(A) Arson in the first degree,
- 5 as defined in
- 6 ORS 164.325, when
- 7 the offense represented
- 8 a threat of serious
- 9 physical injury. ....90 months
- 10 (B) Using a child in a display
- 11 of sexually explicit
- 12 conduct, as defined in
- 13 ORS 163.670. ....70 months
- 14 (C) Compelling prostitution,
- 15 as defined in ORS 167.017
- 16 (1)(a), (b) or (d). ....70 months
- 17 (c) Aggravated vehicular
- 18 homicide, as defined in
- 19 ORS 163.149. ....240 months

20

21

(5) If a person charged with an offense under this section is found guilty of a lesser included offense and the lesser included offense is:

24

(a) An offense listed in subsection (4) of this section, the court shall sentence the person as provided in subsection (2) of this section.

26

(b) Not an offense listed in subsection (4) of this section:

27

(A) But constitutes an offense for which waiver is authorized under ORS 419C.349, the court, upon motion of the district attorney, shall hold a hearing to determine whether to retain jurisdiction or to transfer the case to juvenile court for disposition. In determining whether to retain jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If the court does not retain jurisdiction, the court shall:

33

(i) Order that a presentence report be prepared;

34

(ii) Set forth in a memorandum any observations and recommendations that the court deems appropriate; and

36

(iii) Enter an order transferring the case to the juvenile court for disposition under ORS 419C.067 and 419C.411.

38

(B) And is not an offense for which waiver is authorized under ORS 419C.349, the court may not sentence the person. The court shall:

40

(i) Order that a presentence report be prepared;

41

(ii) Set forth in a memorandum any observations and recommendations that the court deems appropriate; and

43

(iii) Enter an order transferring the case to the juvenile court for disposition under ORS 419C.067 and 419C.411.

45

(6) When a person is charged under this section, other offenses based on the same act or

1 transaction shall be charged as separate counts in the same accusatory instrument and consolidated  
 2 for trial, whether or not the other offenses are aggravated murder or offenses listed in subsection  
 3 (4) of this section. If it appears, upon motion, that the state or the person charged is prejudiced by  
 4 the joinder and consolidation of offenses, the court may order an election or separate trials of  
 5 counts or provide whatever other relief justice requires.

6 (7)(a) If a person charged and tried as provided in subsection (6) of this section is found guilty  
 7 of aggravated murder or an offense listed in subsection (4) of this section and one or more other  
 8 offenses, the court shall impose the sentence for aggravated murder or the offense listed in sub-  
 9 section (4) of this section as provided in subsection (2) of this section and shall impose sentences for  
 10 the other offenses as otherwise provided by law.

11 (b) If a person charged and tried as provided in subsection (6) of this section is not found guilty  
 12 of aggravated murder or an offense listed in subsection (4) of this section, but is found guilty of one  
 13 of the other charges that constitutes an offense for which waiver is authorized under ORS 419C.349,  
 14 the court, upon motion of the district attorney, shall hold a hearing to determine whether to retain  
 15 jurisdiction or to transfer the case to juvenile court for disposition. In determining whether to retain  
 16 jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains  
 17 jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If the court  
 18 does not retain jurisdiction, the court shall:

19 (A) Order that a presentence report be prepared;

20 (B) Set forth in a memorandum any observations and recommendations that the court deems  
 21 appropriate; and

22 (C) Enter an order transferring the case to the juvenile court for disposition under ORS  
 23 419C.067 and 419C.411.

24 **SECTION 7.** ORS 137.712 is amended to read:

25 137.712. (1)(a) Notwithstanding ORS 137.700 and 137.707, when a person is convicted of  
 26 manslaughter in the second degree as defined in ORS 163.125, [*assault in the second degree as defined*  
 27 *in ORS 163.175 (1)(b),*] kidnapping in the second degree as defined in ORS 163.225, rape in the second  
 28 degree as defined in ORS 163.365, sodomy in the second degree as defined in ORS 163.395[,] **or** un-  
 29 lawful sexual penetration in the second degree as defined in ORS 163.408, [*sexual abuse in the first*  
 30 *degree as defined in ORS 163.427 (1)(a)(A) or robbery in the second degree as defined in ORS*  
 31 *164.405,*] the court may impose a sentence according to the rules of the Oregon Criminal Justice  
 32 Commission that is less than the minimum sentence that otherwise may be required by ORS 137.700  
 33 or 137.707 if the court, on the record at sentencing, makes the findings set forth in subsection (2)  
 34 of this section and finds that a substantial and compelling reason under the rules of the Oregon  
 35 Criminal Justice Commission justifies the lesser sentence. When the court imposes a sentence under  
 36 this subsection, the person is eligible for a reduction in the sentence as provided in ORS 421.121 and  
 37 any other statute.

38 (b) In order to make a dispositional departure under this section, the court must make the fol-  
 39 lowing additional findings on the record:

40 (A) There exists a substantial and compelling reason not relied upon in paragraph (a) of this  
 41 subsection;

42 (B) A sentence of probation will be more effective than a prison term in reducing the risk of  
 43 offender recidivism; and

44 (C) A sentence of probation will better serve to protect society.

45 (2) A conviction is subject to subsection (1) of this section only if the sentencing court finds on

1 the record by a preponderance of the evidence:

2 (a) If the conviction is for manslaughter in the second degree:

3 (A) That the victim was a dependent person as defined in ORS 163.205 who was at least 18 years  
4 of age;

5 (B) That the defendant is the mother or father of the victim;

6 (C) That the death of the victim was the result of an injury or illness that was not caused by  
7 the defendant;

8 (D) That the defendant treated the injury or illness solely by spiritual treatment in accordance  
9 with the religious beliefs or practices of the defendant and based on a good faith belief that spiritual  
10 treatment would bring about the victim's recovery from the injury or illness;

11 (E) That no other person previously under the defendant's care has died or sustained significant  
12 physical injury as a result of or despite the use of spiritual treatment, regardless of whether the  
13 spiritual treatment was used alone or in conjunction with medical care; and

14 (F) That the defendant does not have a previous conviction for a crime listed in subsection (4)  
15 of this section or for criminal mistreatment in the second degree.

16 *[(b) If the conviction is for assault in the second degree:]*

17 *[(A) That the victim was not physically injured by means of a deadly weapon;]*

18 *[(B) That the victim did not suffer a significant physical injury; and]*

19 *[(C) That the defendant does not have a previous conviction for a crime listed in subsection (4) of  
20 this section.]*

21 *[(c) (b) If the conviction is for kidnapping in the second degree:*

22 *(A) That the victim was at least 12 years of age at the time the crime was committed; and*

23 *(B) That the defendant does not have a previous conviction for a crime listed in subsection (4)  
24 of this section.*

25 *[(d) If the conviction is for robbery in the second degree:]*

26 *[(A) That the victim did not suffer a significant physical injury;]*

27 *[(B) That, if the defendant represented by words or conduct that the defendant was armed with a  
28 dangerous weapon, the representation did not reasonably put the victim in fear of imminent significant  
29 physical injury;]*

30 *[(C) That, if the defendant represented by words or conduct that the defendant was armed with a  
31 deadly weapon, the representation did not reasonably put the victim in fear of imminent physical injury;  
32 and]*

33 *[(D) That the defendant does not have a previous conviction for a crime listed in subsection (4) of  
34 this section.]*

35 *[(e) (c) If the conviction is for rape in the second degree[,] or sodomy in the second degree [or  
36 sexual abuse in the first degree]:*

37 *(A) That the victim was at least 12 years of age, but under 14 years of age, at the time of the  
38 offense;*

39 *(B) That the defendant does not have a prior conviction for a crime listed in subsection (4) of  
40 this section;*

41 *(C) That the defendant has not been previously found to be within the jurisdiction of a juvenile  
42 court for an act that would have been a felony sexual offense if the act had been committed by an  
43 adult;*

44 *(D) That the defendant was no more than five years older than the victim at the time of the  
45 offense;*

- 1 (E) That the offense did not involve sexual contact with any minor other than the victim; and  
 2 (F) That the victim's lack of consent was due solely to incapacity to consent by reason of being  
 3 under 18 years of age at the time of the offense.
- 4 [(f)] (d) If the conviction is for unlawful sexual penetration in the second degree:  
 5 (A) That the victim was 12 years of age or older at the time of the offense;  
 6 (B) That the defendant does not have a prior conviction for a crime listed in subsection (4) of  
 7 this section;
- 8 (C) That the defendant has not been previously found to be within the jurisdiction of a juvenile  
 9 court for an act that would have been a felony sexual offense if the act had been committed by an  
 10 adult;
- 11 (D) That the defendant was no more than five years older than the victim at the time of the  
 12 offense;
- 13 (E) That the offense did not involve sexual contact with any minor other than the victim;  
 14 (F) That the victim's lack of consent was due solely to incapacity to consent by reason of being  
 15 under 18 years of age at the time of the offense; and
- 16 (G) That the object used to commit the unlawful sexual penetration was the hand or any part  
 17 thereof of the defendant.
- 18 (3) In making the findings required by subsections (1) and (2) of this section, the court may  
 19 consider any evidence presented at trial and may receive and consider any additional relevant in-  
 20 formation offered by either party at sentencing.
- 21 (4) The crimes to which subsection (2)(a)(F), [(b)(C), (c)(B), (d)(D), (e)(B) and (f)(B)] **(b)(B), (c)(B)**  
 22 **and (d)(B)** of this section refer are:  
 23 (a) A crime listed in ORS 137.700 (2) or 137.707 (4);  
 24 (b) Escape in the first degree, as defined in ORS 162.165;  
 25 (c) Aggravated murder, as defined in ORS 163.095;  
 26 (d) Criminally negligent homicide, as defined in ORS 163.145;  
 27 (e) Assault in the third degree, as defined in ORS 163.165;  
 28 (f) Criminal mistreatment in the first degree, as defined in ORS 163.205 (1)(b)(A);  
 29 (g) Rape in the third degree, as defined in ORS 163.355;  
 30 (h) Sodomy in the third degree, as defined in ORS 163.385;  
 31 (i) Sexual abuse in the second degree, as defined in ORS 163.425;  
 32 (j) Stalking, as defined in ORS 163.732;  
 33 (k) Burglary in the first degree, as defined in ORS 164.225, when it is classified as a person  
 34 felony under the rules of the Oregon Criminal Justice Commission;
- 35 (L) Arson in the first degree, as defined in ORS 164.325;  
 36 (m) Robbery in the third degree, as defined in ORS 164.395;  
 37 (n) Intimidation in the first degree, as defined in ORS 166.165;  
 38 (o) Promoting prostitution, as defined in ORS 167.012; and  
 39 (p) An attempt or solicitation to commit any Class A or B felony listed in paragraphs (a) to (L)  
 40 of this subsection.
- 41 (5) Notwithstanding ORS 137.545 [(5)(b)], if a person sentenced to probation under this section  
 42 violates a condition of probation by committing a new crime, the court shall revoke the probation  
 43 and impose the presumptive sentence of imprisonment under the rules of the Oregon Criminal Jus-  
 44 tice Commission.
- 45 (6) As used in this section:

(a) "Conviction" includes, but is not limited to:

(A) A juvenile court adjudication finding a person within the court's jurisdiction under ORS 419C.005, if the person was at least 15 years of age at the time the person committed the offense that brought the person within the jurisdiction of the juvenile court. "Conviction" does not include a juvenile court adjudication described in this subparagraph if the person successfully asserted the defense set forth in ORS 419C.522.

(B) A conviction in another jurisdiction for a crime that if committed in this state would constitute a crime listed in subsection (4) of this section.

(b) "Previous conviction" means a conviction that was entered prior to imposing sentence on the current crime provided that the prior conviction is based on a crime committed in a separate criminal episode. "Previous conviction" does not include a conviction for a Class C felony, including an attempt or solicitation to commit a Class B felony, or a misdemeanor, unless the conviction was entered within the 10-year period immediately preceding the date on which the current crime was committed.

(c) "Significant physical injury" means a physical injury that:

(A) Creates a risk of death that is not a remote risk;

(B) Causes a serious and temporary disfigurement;

(C) Causes a protracted disfigurement; or

(D) Causes a prolonged impairment of health or the function of any bodily organ.

**SECTION 8. (1) The amendments to 137.700, 137.707 and 137.712 by sections 5 to 7 of this 2013 Act apply to sentences imposed on or after the effective date of this 2013 Act.**

**(2) Notwithstanding subsection (1) of this section:**

**(a) The amendments to ORS 137.700, 137.707 and 137.712 by sections 5 to 7 of this 2013 Act do not apply to persons who were originally sentenced prior to the effective date of this 2013 Act and who are subsequently resentenced as the result of an appellate decision, a post-conviction relief proceeding or for any other reason.**

**(b) The amendments to ORS 137.707 by section 6 of this 2013 Act do not affect the jurisdiction of the circuit court over a defendant who is prosecuted as an adult based on an accusatory instrument filed before the effective date of this 2013 Act.**

**IV. SENTENCES FOR CERTAIN REPEAT PROPERTY AND DRUG OFFENSES - M57 MODIFICATION**

**SECTION 9.** 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]* **a term of incarceration, determined by the court, that is equal to or greater than 19 months and does not exceed 24 months**, 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;

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

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

7 (b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS  
 8 164.135, mail theft or receipt of stolen mail under ORS 164.162, burglary in the second degree under  
 9 ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS  
 10 164.377, forgery in the first degree under ORS 165.013, criminal possession of a forged instrument  
 11 in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b),  
 12 possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310,  
 13 the presumptive sentence is [*18 months*] **a term** of incarceration, **determined by the court, that**  
 14 **is equal to or greater than 13 months and does not exceed 18 months**, unless the rules of the  
 15 Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

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

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

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

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

- 28 (a) Theft in the second degree under ORS 164.045;
- 29 (b) Theft in the first degree under ORS 164.055;
- 30 (c) Aggravated theft in the first degree under ORS 164.057;
- 31 (d) Unauthorized use of a vehicle under ORS 164.135;
- 32 (e) Mail theft or receipt of stolen mail under ORS 164.162;
- 33 (f) Burglary in the second degree under ORS 164.215;
- 34 (g) Burglary in the first degree under ORS 164.225;
- 35 (h) Criminal mischief in the second degree under ORS 164.354;
- 36 (i) Criminal mischief in the first degree under ORS 164.365;
- 37 (j) Computer crime under ORS 164.377;
- 38 (k) Forgery in the second degree under ORS 165.007;
- 39 (L) Forgery in the first degree under ORS 165.013;
- 40 (m) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- 41 (n) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- 42 (o) Fraudulent use of a credit card under ORS 165.055;
- 43 (p) Identity theft under ORS 165.800;
- 44 (q) Possession of a stolen vehicle under ORS 819.300;
- 45 (r) Trafficking in stolen vehicles under ORS 819.310; and



- 1 (s) Any attempt to commit a crime listed in this subsection.
- 2 (3)(a) A presumptive sentence described in subsection (1) of this section shall be increased by  
3 two months for each previous conviction the person has that:
- 4 (A) Was for any of the crimes listed in subsection (1) or (2) of this section; and  
5 (B) Was not used as a predicate for the presumptive sentence described in subsection (1) of this  
6 section.
- 7 (b) Previous convictions may not increase a presumptive sentence described in subsection (1)  
8 of this section by more than 12 months under this subsection.
- 9 (4) The court may impose a sentence other than the sentence provided by subsection (1) or (3)  
10 of this section if the court imposes:
- 11 (a) A longer term of incarceration that is otherwise required or authorized by law; or  
12 (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission  
13 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon  
14 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-  
15 lowed for a person sentenced under this subsection is double the presumptive sentence provided in  
16 subsection (1) or (3) of this section.
- 17 (5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under  
18 subsection (4) of this section to a term of incarceration that exceeds the period of time described  
19 in ORS 161.605.
- 20 (6) The court shall sentence a person under this section to at least the presumptive sentence  
21 described in subsection (1) or (3) of this section, unless the parties stipulate otherwise or the court  
22 finds that:
- 23 (a) The person was not on probation, parole or post-prison supervision for a crime listed in  
24 subsection (1) of this section at the time of the commission of the current crime of conviction;  
25 (b) The person has not previously received a downward departure from a presumptive sentence  
26 for a crime listed in subsection (1) of this section;  
27 (c) The harm or loss caused by the crime is not greater than usual for that type of crime; and  
28 (d) In consideration of the nature of the offense and the harm to the victim, a downward de-  
29 parture will:
- 30 (A) Increase public safety;  
31 (B) Enhance the likelihood that the person will be rehabilitated; and  
32 (C) Not unduly reduce the appropriate punishment.
- 33 (7)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have  
34 occurred upon the pronouncement of sentence in open court. However, when sentences are imposed  
35 for two or more convictions arising out of the same conduct or criminal episode, none of the con-  
36 victions is considered to have occurred prior to any of the other convictions arising out of the same  
37 conduct or criminal episode.
- 38 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-  
39 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open  
40 court of the suspended imposition of a sentence.
- 41 (8) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.
- 42 (9) As used in this section:
- 43 (a) “Downward departure” means a downward dispositional departure or a downward durational  
44 departure under the rules of the Oregon Criminal Justice Commission.
- 45 (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 10.** ORS 475.933 is amended to read:

475.933. (1) When a court sentences a person convicted of *[a crime listed in subsection (2) of this section]* **the unlawful delivery of a controlled substance, other than marijuana, to a person under 18 years of age under ORS 475.906**, 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 **the unlawful delivery of a controlled substance, other than marijuana, to a person under 18 years of age under ORS 475.906**. *[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)]* **(2)(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)]* **(3)** For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

*[(5)]* **(4)** As used in this section, “previous conviction” *[means:]*

*[(a) Convictions occurring before, on or after July 1, 2009; and]*

*[(b) includes]* convictions entered in any other state or federal court for comparable offenses.

**SECTION 11.** (1) **The amendments to ORS 137.717 and 475.933 by sections 9 and 10 of this 2013 Act apply to:**

**(a) Sentences imposed for crimes committed on or after the effective date of this 2013 Act; and**

**(b) Previous convictions entered before, on or after the effective date of this 2013 Act.**

1 (2) Notwithstanding subsection (1) of this section, the amendments to ORS 137.717 and  
 2 475.933 by sections 9 and 10 of this 2013 Act do not apply to persons who were originally  
 3 sentenced prior to the effective date of this 2013 Act and who are subsequently resentenced  
 4 as the result of an appellate decision, a post-conviction relief proceeding or for any other  
 5 reason.

6  
 7 **V. TRANSITIONAL LEAVE**

8  
 9 **SECTION 12.** ORS 421.168 is amended to read:

10 421.168. (1) The Director of the Department of Corrections shall establish [*by rule*] a short-term  
 11 transitional leave program. The program shall provide inmates with an opportunity to secure ap-  
 12 propriate transitional support when necessary for successful reintegration into the community prior  
 13 to the inmate's discharge to post-prison supervision.

14 (2) [*An inmate may submit a transition plan to the Department of Corrections. The plan shall in-*  
 15 *dicade that the inmate has secured*] **The Department of Corrections shall identify each inmate**  
 16 **who is eligible for the short-term transitional leave program described in this section and**  
 17 **shall, in conjunction with the supervisory authority for the county in which the inmate will**  
 18 **be released on parole or post-prison supervision, assist each eligible inmate in identifying and**  
 19 **securing** an employment, educational or other transitional opportunity in the community to which  
 20 the offender will be released [*and that a leave of up to 30 days is an essential part of the offender's*  
 21 *successful reintegration into the community*].

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

26 (4) No inmate shall be eligible for transitional leave before having served six months of prison  
 27 incarceration.

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

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

35 **SECTION 13.** (1) **The amendments to ORS 421.168 by section 12 of this 2013 Act apply to**  
 36 **inmates sentenced on or after the effective date of this 2013 Act.**

37 (2) Notwithstanding subsection (1) of this section, the amendments to ORS 421.168 by  
 38 section 12 of this 2013 Act do not apply to persons who were originally sentenced prior to the  
 39 effective date of this 2013 Act and who are subsequently resentenced as the result of an ap-  
 40 pellate decision, a post-conviction relief proceeding or for any other reason.

41  
 42 **VI. EARNED TIME**

43  
 44 **SECTION 14.** ORS 421.121 is amended to read:

45 421.121. (1) Except as [*provided in ORS 137.635*] **otherwise provided by law**, each inmate sen-

1 tenced to the custody of the Department of Corrections for felonies committed on or after November  
2 1, 1989, is eligible for a reduction in the term of incarceration for:

3 (a) Appropriate institutional behavior, as defined by rule of the Department of Corrections; and

4 (b)(A) Participation in the adult basic skills development program described in ORS 421.084; or

5 (B) Obtaining a high school diploma, a General Educational Development (GED) certificate, a  
6 certificate or degree from a post-secondary education institution as defined in ORS 337.511 or a  
7 journey level certification from a registered apprenticeship program as defined in ORS 660.010. The  
8 reduction described in this subparagraph may not exceed a period of 60 days.

9 (2)(a) The maximum amount of time credits earned for appropriate institutional behavior, for  
10 participation in the adult basic skills development program described in ORS 421.084 or for obtain-  
11 ing a diploma, certificate or degree described in subsection (1)(b)(B) of this section may not exceed  
12 30 percent of the total term of incarceration in a Department of Corrections institution.

13 *[(b) Notwithstanding paragraph (a) of this subsection, the maximum amount of time credits earned*  
14 *under this section may not exceed 20 percent of the total term of incarceration in a Department of*  
15 *Corrections institution that is imposed in a criminal action described in subsection (3) of this section.]*

16 *[(3) Subsection (2)(b) of this section applies to the total term of incarceration that is imposed in a*  
17 *criminal action in which:]*

18 *[(a) The parties stipulate that the inmate is subject to subsection (2)(b) of this section;]*

19 *[(b) The inmate is convicted of an offense that was committed less than five years after the inmate*  
20 *completed serving a sentence for:]*

21 *[(A) A person felony; or]*

22 *[(B) A crime described in paragraph (e) of this subsection;]*

23 *[(c) The inmate is convicted of a person felony;]*

24 *[(d) The inmate is convicted of an offense involving the use or threatened use of a firearm; or]*

25 *[(e) The inmate is convicted of any of the following crimes:]*

26 *[(A) Subjecting another person to involuntary servitude in the second degree under ORS 163.263;]*

27 *[(B) Subjecting another person to involuntary servitude in the first degree under ORS 163.264;]*

28 *[(C) Trafficking in persons under ORS 163.266;]*

29 *[(D) Coercion under ORS 163.275;]*

30 *[(E) Online sexual corruption of a child in the second degree under ORS 163.432;]*

31 *[(F) Online sexual corruption of a child in the first degree under ORS 163.433;]*

32 *[(G) Aggravated theft in the first degree under ORS 164.057, if:]*

33 *[(i) The victim of the theft was 65 years of age or older at the time of the commission of the offense;*  
34 *and]*

35 *[(ii) The value of the property stolen from the victim described in sub-subparagraph (i) of this*  
36 *subparagraph, in a single or aggregate transaction, is \$10,000 or more;]*

37 *[(H) Treason under ORS 166.005;]*

38 *[(I) Abuse of a corpse in the second degree under ORS 166.085;]*

39 *[(J) Racketeering activities under ORS 166.720;]*

40 *[(K) Luring a minor under ORS 167.057;]*

41 *[(L) Assaulting a law enforcement animal under ORS 167.339;]*

42 *[(M) A sex crime as defined in ORS 181.594;]*

43 *[(N) Causing another person to ingest a controlled substance under ORS 475.908;]*

44 *[(O) Applying a controlled substance to the body of another person under ORS 475.910;]*

45 *[(P) Driving while under the influence of intoxicants under ORS 813.010 (5); or]*

1        [(Q) *An attempt, conspiracy or solicitation to commit an offense described in this paragraph or in*  
 2 *paragraph (c) or (d) of this subsection.*]

3        [(4)] (3)(a) The time credits may not be used to shorten the term of actual prison confinement  
 4 to less than six months.

5        **(b) If an inmate is serving a sentence that is ineligible for earned time, the department**  
 6 **may not grant the inmate earned time on any other sentence that is imposed concurrently**  
 7 **with the ineligible sentence.**

8        [(5)] (4) The department shall adopt rules pursuant to the rulemaking provisions of ORS chapter  
 9 183 to establish a process for granting, retracting and restoring the time credits earned by the  
 10 offender as allowed in subsections (1) to [(4)] (3) of this section. **Rules adopted under this section**  
 11 **must impose rigorous conditions on the granting of earned time.**

12        [(6) *As used in this section:*]

13        [(a) *“Completed serving a sentence” includes the completion of any term of probation, parole or*  
 14 *post-prison supervision.*]

15        [(b) *“Person felony” has the meaning given that term in the rules of the Oregon Criminal Justice*  
 16 *Commission.*]

17        **SECTION 15.** ORS 421.121, as amended by section 3, chapter 2, Oregon Laws 2010, is amended  
 18 to read:

19        421.121. (1) Except as [*provided in ORS 137.635*] **otherwise provided by law**, each inmate sen-  
 20 tenced to the custody of the Department of Corrections for felonies committed on or after November  
 21 1, 1989, is eligible for a reduction in the term of incarceration for:

22        (a) Appropriate institutional behavior, as defined by rule of the Department of Corrections; and

23        (b)(A) Participation in the adult basic skills development program described in ORS 421.084; or

24        (B) Obtaining a high school diploma, a General Educational Development (GED) certificate, a  
 25 certificate or degree from a post-secondary education institution as defined in ORS 337.511 or a  
 26 journey level certification from a registered apprenticeship program as defined in ORS 660.010. The  
 27 reduction described in this subparagraph may not exceed a period of 60 days.

28        (2) The maximum amount of time credits earned for appropriate institutional behavior, for par-  
 29 ticipation in the adult basic skills development program described in ORS 421.084 or for obtaining  
 30 a diploma, certificate or degree described in subsection (1)(b)(B) of this section may not exceed  
 31 [20] **30** percent of the total term of incarceration in a Department of Corrections institution.

32        (3)(a) The time credits may not be used to shorten the term of actual prison confinement to less  
 33 than six months.

34        **(b) If an inmate is serving a sentence that is ineligible for earned time, the department**  
 35 **may not grant the inmate earned time on any other sentence that is imposed concurrently**  
 36 **with the ineligible sentence.**

37        (4) The department shall adopt rules pursuant to the rulemaking provisions of ORS chapter 183  
 38 to establish a process for granting, retracting and restoring the time credits earned by the offender  
 39 as allowed in subsections (1) to (3) of this section. **Rules adopted under this section must impose**  
 40 **rigorous conditions on the granting of earned time.**

41        **SECTION 16.** (1) **The amendments to ORS 421.121 by sections 14 and 15 of this 2013 Act**  
 42 **apply to sentences imposed on or after the effective date of this 2013 Act.**

43        (2) **Notwithstanding subsection (1) of this section, the amendments to ORS 421.121 by**  
 44 **sections 14 and 15 of this 2013 Act do not apply to persons who were originally sentenced**  
 45 **prior to the effective date of this 2013 Act and who are subsequently resentenced as the re-**

1 **sult of an appellate decision, a post-conviction relief proceeding or for any other reason.**

2  
3 **VII. ALTERNATIVE INCARCERATION PROGRAM**  
4 **(INCLUDING ADDITIONAL AMENDMENTS RELATED TO**  
5 **IX. COMMUNITY CORRECTIONS EARNED DISCHARGE)**  
6

7 **SECTION 17.** ORS 137.750 is amended to read:

8 137.750. (1) When a court sentences a defendant to a term of incarceration upon conviction of  
9 a crime, the court shall order on the record in open court as part of the sentence imposed that the  
10 defendant may be considered by the executing or releasing authority for any form of temporary  
11 leave from custody, reduction in sentence, work release, **alternative incarceration program** or  
12 program of conditional or supervised release authorized by law for which the defendant is otherwise  
13 eligible at the time of sentencing, unless the court finds on the record in open court substantial and  
14 compelling reasons to order that the defendant not be considered for such leave, release or program.

15 (2) The executing or releasing authority may consider the defendant for a program described in  
16 subsection (1) of this section only upon order of the sentencing court appearing in the judgment.

17 (3) As used in this section:

18 (a) "Executing or releasing authority" means the Department of Corrections, State Board of  
19 Parole and Post-Prison Supervision, Psychiatric Security Review Board, Oregon Health Authority,  
20 sentencing court or supervisory authority.

21 (b) "Supervisory authority" has the meaning given that term in ORS 144.087.

22 **SECTION 18.** ORS 137.751 is amended to read:

23 137.751. (1) **Except as otherwise provided in ORS 137.750**, when a court sentences a defendant  
24 to a term of incarceration that exceeds one year, [*the defendant may request a determination of the*  
25 *defendant's eligibility for release on post-prison supervision under ORS 421.508 (4).*] the court shall  
26 order in the judgment that the Department of Corrections may release the defendant on post-prison  
27 supervision under ORS 421.508 (4) [*only if*] **unless**, after a hearing, the court finds that:

28 [*(a) The defendant meets the eligibility requirements of subsections (2) and (3) of this section;*]

29 [*(b)*] (a) The defendant was [*not*] on probation, parole or post-prison supervision for an offense  
30 listed in ORS 137.712 (4) or 811.705 (2)(b) at the time of the commission of the current crime of  
31 conviction;

32 [*(c)*] (b) The defendant has [*not*] previously been released on post-prison supervision under ORS  
33 421.508 (4);

34 [*(d)*] (c) The harm or loss caused by the crime is [*not*] greater than usual for that type of crime;

35 [*(e)*] (d) The crime was [*not*] part of an organized criminal operation; [*and*]

36 [*(f)*] (e) After considering the nature of the offense and the harm to the victim, the defendant's  
37 successful completion of the program would:

38 (A) [*Increase*] **Decrease** public safety;

39 (B) [*Enhance*] **Decrease** the likelihood that the defendant would be rehabilitated; [*and*] **or**

40 (C) [*Not*] Unduly reduce the appropriate punishment;[.]

41 [(2)] (f) [*Except as provided in subsection (4) of this section, a defendant may not be released on*  
42 *post-prison supervision under ORS 421.508 (4) if*] The defendant is being sentenced for a crime under  
43 ORS 163.145, 163.165 (1)(a) or (b), 163.525 or 811.705 (2)(b)[.]; **or**

44 [(3)] (g) [*A defendant may not be released on post-prison supervision under ORS 421.508 (4) if*]  
45 The defendant is being sentenced for a crime listed in ORS 137.700, 137.707 or 163.095 or a sex crime

1 as defined in ORS 181.594.

2 [(4)] (2) Notwithstanding subsection (1) of this section, the parties may stipulate to a defendant's  
 3 eligibility for release on post-prison supervision under ORS 421.508 (4). *[If the court accepts the stip-*  
 4 *ulation, the court does not need to make explicit findings regarding the factors described in subsection*  
 5 *(1)(b) to (f) of this section.]* The parties may not stipulate to the defendant's release on post-prison  
 6 supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime described in sub-  
 7 section [(3)] (1)(g) of this section.

8 [(5) *If the court makes the findings described in subsection (1) of this section or accepts the stipu-*  
 9 *lation of the parties under subsection (4) of this section, the court shall:]*

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

12 [(b) *Include the order described in paragraph (a) of this subsection in the judgment.]*

13 [(6)] (3) Subject to the requirements of this section, the court may order that the defendant serve  
 14 a minimum period of incarceration before the defendant is released on post-prison supervision under  
 15 ORS 421.508 (4). Nothing in this section authorizes the release of the defendant on post-prison  
 16 supervision before the defendant has served the period of time described in ORS 421.508 (4)(b).

17 **SECTION 19.** ORS 421.508 is amended to read:

18 421.508. (1)(a) The Department of Corrections is responsible for determining which offenders are  
 19 eligible to participate in, and which offenders are accepted for, a program. *[However]* **Except as**  
 20 **provided in ORS 137.751 (3)**, the department may *[not]* release an offender under subsection (4) of  
 21 this section *[unless]* **when** authorized to do so as provided in ORS *[137.751]* **137.750**.

22 (b) The department may not accept an offender into a program unless the offender submits a  
 23 written request to participate. The request must contain a signed statement providing that the  
 24 offender:

25 (A) Is physically and mentally able to withstand the rigors of the program; and

26 (B) Has reviewed the program description provided by the department and agrees to comply with  
 27 each of the requirements of the program.

28 (c) The department may deny, for any reason, a request to participate in a program. The de-  
 29 partment shall make the final determination regarding an offender's physical or mental ability to  
 30 withstand the rigors of the program.

31 (d) If the department determines that an offender's participation in a program is consistent with  
 32 the safety of the community, the welfare of the applicant, the program objectives and the rules of  
 33 the department, the department may, in its discretion, accept the offender into the program.

34 (2) The department may suspend or remove an offender from a program for administrative or  
 35 disciplinary reasons.

36 (3) The department may not accept an offender into a program if:

37 (a) The department has removed the offender from a program during the term of incarceration  
 38 for which the offender is currently sentenced; or

39 (b) The offender has a current detainer from any jurisdiction that will not expire prior to the  
 40 offender's release from the custody of the department.

41 (4) When an offender has successfully completed a program, the department may release the  
 42 offender on post-prison supervision if:

43 (a) The court has entered the order described in ORS *[137.751]* **137.750**; and

44 (b) The offender has served a term of incarceration of at least one year.

45 (5) An offender may not be released on post-prison supervision under subsection (4) of this sec-

tion if the release would reduce the term of incarceration the offender would otherwise be required to serve by more than 20 percent.

(6) For the purposes of calculating the term of incarceration served under subsection (4)(b) of this section, the department shall include:

(a) The time that an offender is confined under ORS 137.370 (2)(a); and

(b) The time for which an offender is granted nonprison leave under ORS 421.510.

(7) Successful completion of a program does not relieve the offender from fulfilling any other obligations imposed as part of the sentence including, but not limited to, the payment of restitution and fines.

**SECTION 20.** ORS 421.510 is amended to read:

421.510. (1) The Department of Corrections may consider an offender for nonprison leave under this section if the court has entered the order described in ORS [137.751] **137.750**.

(2) Nonprison leave shall provide offenders with an opportunity to secure appropriate transitional support when necessary for successful reintegration into the community prior to the offenders' discharge to post-prison supervision.

(3) An offender may submit a nonprison leave plan to the Department of Corrections. The plan shall indicate that the offender has secured an employment, educational or other transitional opportunity in the community to which the offender will be released and that a leave of up to 90 days is an essential part of the offender's successful reintegration into the community.

(4) Upon verification of the offender's nonprison leave plan, the department may grant nonprison leave no more than 90 days prior to the offender's date of release on post-prison supervision under ORS 421.508 (4).

(5) The department shall establish by rule a set of conditions for offenders released on nonprison leave. An offender on nonprison leave shall be subject to immediate return to prison for any violation of the conditions of nonprison leave.

(6) During the period of nonprison leave, the offender must reside in, and be supervised within, the state.

**SECTION 21.** (1) **The amendments to ORS 137.750, 137.751, 421.508 and 421.510 by sections 17 to 20 of this 2013 Act apply to defendants sentenced for crimes committed on or after the effective date of this 2013 Act.**

**(2) Notwithstanding subsection (1) of this section, the amendments to ORS 137.750, 137.751, 421.508 and 421.510 by sections 17 to 20 of this 2013 Act do not apply to persons who were originally sentenced prior to the effective date of this 2013 Act and who are subsequently resentenced as the result of an appellate decision, a post-conviction relief proceeding or for any other reason.**

**VIII. EARNED REVIEW FOR YOUTH OFFENDERS:  
"SECOND LOOK"**

**SECTION 22.** ORS 420A.203 is amended to read:

420A.203. (1)(a) [This section and] ORS **420A.203** to 420A.206 apply only to persons who were under 18 years of age at the time of the commission of the offense for which the persons were sentenced to a term of imprisonment, who committed the offense on or after June 30, 1995, and who were **sentenced to a term of imprisonment:**

(A) [Sentenced to a term of imprisonment] Of at least 24 months following waiver under ORS



1 419C.349, 419C.352, 419C.364 or 419C.370; [or]

2 (B) [*Sentenced to a term of imprisonment*] Of at least 24 months under ORS 137.707 (5)(b)(A) or  
 3 (7)(b); **or**

4 (C) **Under ORS 137.707 (4) for an offense other than murder.**

5 (b) When a person described in paragraph (a) of this subsection has served one-half of the sen-  
 6 tence imposed, the sentencing court shall determine what further commitment or disposition is ap-  
 7 propriate as provided in this section. [*As used in this subsection and subsection (2) of this section,*  
 8 *“sentence imposed” means the total period of mandatory incarceration imposed for all convictions re-*  
 9 *sulting from a single prosecution or criminal proceeding not including any reduction in the sentence*  
 10 *under ORS 421.121 or any other statute.*]

11 (2)(a) No more than 120 days and not less than 60 days before the date on which a person has  
 12 served one-half of the sentence imposed, the Oregon Youth Authority or the Department of Cor-  
 13 rections, whichever has physical custody of the person, shall file in the sentencing court a notice  
 14 and request that the court set a time and place for the hearing required under this section. The  
 15 youth authority or department shall serve the person with a copy of the notice and request for  
 16 hearing on or before the date of filing.

17 (b) Upon receiving the notice and request for a hearing under paragraph (a) of this subsection,  
 18 the sentencing court shall schedule a hearing for a date not more than 30 days after the date on  
 19 which the person will have served one-half of the sentence imposed or such later date as is agreed  
 20 upon by the parties.

21 (c) The court shall notify the following of the time and place of the hearing:

22 (A) The person and, **if the person is a minor**, the person’s parents;

23 (B) The records supervisor of the correctional institution in which the person is incarcerated;  
 24 and

25 (C) The district attorney who prosecuted the case.

26 (d) The court shall make reasonable efforts to notify the following of the time and place of the  
 27 hearing:

28 (A) The victim and, **if the victim is a minor**, the victim’s parents or legal guardian; and

29 (B) Any other person who has filed a written request with the court to be notified of any hear-  
 30 ing concerning the transfer, discharge or release of the person.

31 (3) In a hearing under this section:

32 (a) The person and the state are parties to the proceeding.

33 (b) The person has the right to appear with counsel. If the person requests that the court ap-  
 34 point counsel and the court determines that the person is financially eligible for appointed counsel  
 35 at state expense, the court shall order that counsel be appointed.

36 (c) The district attorney represents the state.

37 (d) The court shall determine admissibility of evidence as if the hearing were a sentencing pro-  
 38 ceeding.

39 (e) The court may consider, when relevant, written reports of the Oregon Youth Authority, the  
 40 Department of Corrections and qualified experts, in addition to the testimony of witnesses. Within  
 41 a reasonable time before the hearing, as determined by the court, the person must be given the op-  
 42 portunity to examine all reports and other documents concerning the person that the state, the  
 43 Oregon Youth Authority or the Department of Corrections intends to submit for consideration by  
 44 the court at the hearing.

45 (f) Except as otherwise provided by law or by order of the court based on good cause, the person

1 must be given access to the records maintained in the person's case by the Oregon Youth Authority  
 2 and the Department of Corrections.

3 (g) The person may examine all of the witnesses called by the state, may subpoena and call  
 4 witnesses to testify on the person's behalf and may present evidence and argument. The court may  
 5 permit witnesses to appear by telephone or other two-way electronic communication device.

6 (h) The hearing must be recorded.

7 (i) The hearing and the record of the hearing are open to the public.

8 (j) The question to be decided is which of the dispositions provided in subsection (4) of this  
 9 section should be ordered in the case.

10 (k) The person has the burden of proving by clear and convincing evidence that the person has  
 11 been rehabilitated and reformed, and if conditionally released, the person would not be a threat to  
 12 the safety of the victim, the victim's family or the community and that the person would comply with  
 13 the release conditions.

14 (4)(a) At the conclusion of the hearing and after considering and making findings regarding each  
 15 of the factors in paragraph (b) of this subsection, the court shall order one of the following dispo-  
 16 sitions:

17 (A) Order that the person serve the entire remainder of the sentence of imprisonment imposed,  
 18 **subject to section 24 of this 2013 Act and** taking into account any reduction in the sentence **for**  
 19 **which the person is eligible** under ORS 421.121 or any other statute, with the person's physical  
 20 custody determined under ORS 137.124, 420.011 and 420A.200.

21 (B) Order that the person be conditionally released under ORS 420A.206 at such time as the  
 22 court may order, if the court finds that the person:

23 (i) Has been rehabilitated and reformed;

24 (ii) Is not a threat to the safety of the victim, the victim's family or the community; and

25 (iii) Will comply with the conditions of release.

26 (b) In making the determination under this section, the court shall consider:

27 (A) The experiences and character of the person before and after commitment to the Oregon  
 28 Youth Authority or the Department of Corrections;

29 (B) The person's juvenile and criminal records;

30 (C) The person's mental, emotional and physical health;

31 (D) The gravity of the loss, damage or injury caused or attempted, during or as part of the  
 32 criminal act for which the person was convicted and sentenced;

33 (E) The manner in which the person committed the criminal act for which the person was con-  
 34 victed and sentenced;

35 (F) The person's efforts, participation and progress in rehabilitation programs since the person's  
 36 conviction;

37 (G) The results of any mental health or substance abuse treatment;

38 (H) Whether the person demonstrates accountability and responsibility for past and future con-  
 39 duct;

40 (I) Whether the person has made and will continue to make restitution to the victim and the  
 41 community;

42 (J) Whether the person will comply with and benefit from all conditions that will be imposed if  
 43 the person is conditionally released;

44 (K) The safety of the victim, the victim's family and the community;

45 (L) The recommendations of the district attorney, the Oregon Youth Authority and the Depart-

1 ment of Corrections; and

2 (M) Any other relevant factors or circumstances raised by the state, the Oregon Youth Au-  
 3 thority, the Department of Corrections or the person.

4 (5) The court shall provide copies of its disposition order under subsection (4) of this section to  
 5 the parties, to the records supervisor of the correctional institution in which the person is  
 6 incarcerated and to the manager of the institution-based records office of the Department of Cor-  
 7 rections.

8 (6) The person or the state may appeal an order entered under this section. On appeal, the ap-  
 9 pellate court’s review is limited to claims that:

10 (a) The disposition is not authorized under this section;

11 (b) The court failed to comply with the requirements of this section in imposing the disposition;

12 or

13 (c) The findings of the court are not supported by substantial evidence in the record.

14 (7) **As used in ORS 420A.203 to 420A.206, “sentence imposed” means the total period of**  
 15 **mandatory incarceration imposed for all convictions resulting from a single prosecution or**  
 16 **criminal proceeding, not including any reduction in the sentence for which the person is el-**  
 17 **igible under ORS 421.121 or any other statute.**

18 **SECTION 23. Section 24 of this 2013 Act is added to and made a part of ORS 420A.203 to**  
 19 **420A.206.**

20 **SECTION 24. (1) When the court enters an order denying a person conditional release**  
 21 **under ORS 420A.203 (4)(a)(A), the sentencing court shall determine what further commit-**  
 22 **ment or disposition is appropriate when the person has served three-fourths of the sentence**  
 23 **imposed.**

24 (2) **The provisions of ORS 420A.203 and 420A.206 apply to proceedings conducted under**  
 25 **this section except that:**

26 (a) **The Oregon Youth Authority or the Department of Corrections, whichever has phys-**  
 27 **ical custody of the person, shall file in the sentencing court a notice and request that the**  
 28 **court set a time and place for the hearing required under this section no more than 120 days**  
 29 **and not less than 60 days before the date on which the person has served three-fourths of**  
 30 **the sentence imposed; and**

31 (b) **Upon receiving the notice and request for a hearing under paragraph (a) of this sub-**  
 32 **section, the sentencing court shall schedule a hearing for a date not more than 30 days after**  
 33 **the date on which the person will have served three-fourths of the sentence imposed or such**  
 34 **later date as is agreed upon by the parties.**

35 **SECTION 25. ORS 420A.206 is amended to read:**

36 420A.206. (1)(a) If, after *[the]* a hearing required by ORS 420A.203 to 420A.206, the court deter-  
 37 mines that conditional release is the appropriate disposition, the court shall direct the Department  
 38 of Corrections to prepare a proposed release plan. The Department of Corrections shall submit the  
 39 release plan no later than 45 days after completion of the hearing. The Department of Corrections  
 40 shall incorporate any conditions recommended by the court and shall consider any recommendations  
 41 made by the Oregon Youth Authority. The release plan submitted to the court must include:

42 (A) A description of support services and program opportunities available to the person;

43 (B) The recommended conditions of the release and supervision;

44 (C) The level of supervision required;

45 (D) Conditions or requirements that provide for the safety of the victim, the victim’s family and

1 the community;

2 (E) For persons whose sentences include a requirement to make restitution or to pay  
3 compensatory fines or attorney fees and who have not yet made full payment, a payment schedule;

4 (F) Any conditions reasonably necessary to further the reform and rehabilitation of the person  
5 and to ensure compliance with the other conditions imposed; and

6 (G) Any special conditions necessary because of the person's individual circumstances.

7 (b) If the court does not approve the proposed release plan, the court shall return the plan to  
8 the Department of Corrections with recommended modifications and additions. The Department of  
9 Corrections shall submit a revised plan to the court no later than 15 days after receipt of the court's  
10 recommended modifications and additions.

11 (c) If the court does not approve the revised plan, the court shall make any changes that the  
12 court deems appropriate and prepare the final release plan. The final release plan must require, in  
13 addition to any other conditions, that the person:

14 (A) Comply with the conditions of post-release supervision;

15 (B) Be under the supervision of the Department of Corrections and its representatives and follow  
16 the direction and counsel of the Department of Corrections and its representatives;

17 (C) Answer all reasonable inquiries of the court or the supervisory authority of the Department  
18 of Corrections;

19 (D) Report to the supervision officer as directed by the court or the supervisory authority of the  
20 Department of Corrections;

21 (E) Not own, possess or be in control of any dangerous weapon or deadly weapon, as those terms  
22 are defined in ORS 161.015, or any dangerous animal;

23 (F) Respect and obey all municipal, county, state and federal laws;

24 (G) Participate in a victim impact treatment program; and

25 (H) Pay any restitution, compensatory fine or attorney fees ordered and regularly perform any  
26 community service ordered.

27 (2) When the court has approved a final release plan, the court shall enter an order condi-  
28 tionally releasing the person. The order of conditional release shall:

29 (a) State the conditions of release;

30 (b) Require the person to comply fully with all of the conditions of release;

31 (c) Confirm that the person has been given a copy of the conditions of release;

32 (d) Continue the person's commitment to the legal custody of the Department of Corrections;

33 (e) Provide that the Department of Corrections or its designee shall supervise the person;

34 (f) Provide that the period of supervision is the entire remainder of the sentence of imprisonment  
35 imposed, taking into account any reduction in the sentence **for which the person is eligible** under  
36 ORS 421.121 or any other statute, unless the conditional release is revoked or suspended; and

37 (g) Require that the Department of Corrections or its designee submit a report to the court no  
38 later than 90 days after the person is conditionally released and at least every 180 days thereafter  
39 informing the court of the person's circumstances and progress on conditional release.

40 (3)(a) A person conditionally released under this section remains within the jurisdiction of the  
41 sentencing court for the period of the conditional release.

42 (b) At any time after the entry of an order of conditional release, the court, on its own motion  
43 or on motion of the Department of Corrections, may amend the conditional release order to modify  
44 the conditions of the person's release and supervision, providing that the modifications are consist-  
45 ent with the requirements for conditions of release in subsections (1) and (2) of this section. Before

1 entering an amended order under this paragraph, the court shall provide the Department of Cor-  
 2 rections and the person with a reasonable amount of time to comment on the proposed modifications.  
 3 The court shall serve the Department of Corrections and the person with a copy of the amended  
 4 order at least 15 days before the order takes effect.

5 (c) The Department of Corrections and the supervisory authority may adjust the level of the  
 6 person's supervision as is appropriate to the person's progress and conduct in the community.

7 (4)(a) If an officer of the Department of Corrections or the supervisory authority or a law  
 8 enforcement officer has reasonable grounds to believe that a person released under this section has  
 9 violated a condition of the release, the officer may take the person into custody and detain the  
 10 person pending a hearing on the alleged violation as provided in paragraph (c) of this subsection.  
 11 No later than 24 hours after a person is taken into custody under this subsection, the Department  
 12 of Corrections or the supervisory authority shall file a notice and affidavit with the court as pro-  
 13 vided in paragraph (b) of this subsection and serve a copy of the notice and affidavit on the person.

14 (b) When a notice and affidavit is filed under paragraph (a) of this subsection and if the court  
 15 finds that the notice and affidavit state reasonable grounds to believe the person has violated a  
 16 condition of the release, the court shall issue an order that the person appear and show cause why  
 17 the conditional release should not be revoked or suspended as a sanction for the alleged violation.  
 18 When a court issues an order under this paragraph, the court shall:

19 (A) Serve a copy of the order to show cause on the person and the district attorney; and

20 (B) Provide the person with written notice containing the following information:

21 (i) The time, place and purpose of the hearing;

22 (ii) That the person has the right to have adverse witnesses present at the hearing for purpose  
 23 of confrontation and cross-examination unless the court determines that good cause exists for not  
 24 permitting confrontation;

25 (iii) That the person has the right to subpoena witnesses and present documentary evidence and  
 26 testimony of witnesses;

27 (iv) That the person has the right to be represented by counsel and, if financially eligible, to  
 28 have counsel appointed at state expense as provided in paragraph (d) of this subsection; and

29 (v) The possible sanction authorized if the court determines that the person has violated the  
 30 conditions of release.

31 (c) The court shall hold the hearing no more than 15 days after issuing the order to appear and  
 32 show cause. The court may order the person to be detained pending the hearing and disposition.

33 (d) In a hearing under this subsection:

34 (A) The person has the right to be represented by counsel and, if financially eligible, to have  
 35 counsel appointed at state expense if the court determines, after request, that the request is based  
 36 on a timely and colorable claim that:

37 (i) The person has not committed the alleged violation of the release conditions;

38 (ii) Even if the violation is a matter of public record or is uncontested, there are substantial  
 39 reasons that justify or mitigate the violation and make revocation inappropriate and the reasons are  
 40 complex or otherwise difficult to develop or present; or

41 (iii) The person, in doubtful cases, appears to be incapable of speaking effectively on the  
 42 person's own behalf;

43 (B) The Department of Corrections or the supervisory authority has the burden of proving the  
 44 alleged violation by a preponderance of the evidence;

45 (C) The state is a party and is represented by the district attorney;

1 (D) The standards for the introduction and admissibility of evidence in contested case hearings  
 2 under ORS 183.450 (1) and (2) apply in the hearing;

3 (E) If the court finds that the person has violated the conditions of release and that subsection  
 4 (5) of this section does not apply, the person has the burden of establishing good cause why the  
 5 conditional release should not be revoked or suspended; and

6 (F) At the conclusion of the hearing, the court shall enter an order containing findings of fact  
 7 and, if the court finds that the person violated a condition of release, stating what sanctions are  
 8 imposed.

9 (e) Except as provided in subsection (5) of this section, when the court finds that the person has  
 10 violated a condition of release, the court shall impose one or more of the following sanctions:

11 (A) Adjustments to the level of supervision;

12 (B) Modifications of the conditions of release;

13 (C) Any appropriate available local sanctions including, but not limited to, community service  
 14 work, house arrest, electronic surveillance, restitution centers, work release centers or day centers;

15 (D) Suspension of conditional release for up to 180 days; or

16 (E) Revocation of conditional release.

17 (5) At the conclusion of the hearing, the court shall revoke the person's conditional release and  
 18 order the person committed to the physical custody of the Department of Corrections to be confined  
 19 for the entire remainder of the sentence of imprisonment imposed, taking into account any reduction  
 20 in the sentence **for which the person is eligible** under ORS 421.121 or any other statute, if the  
 21 court finds that:

22 (a) The person has been convicted of a new criminal offense;

23 (b) The person has violated the condition prohibiting ownership, possession or control of a  
 24 dangerous weapon or deadly weapon, as those terms are defined in ORS 161.015, or a dangerous  
 25 animal; or

26 (c) The person's conditional release has been suspended twice under this section within the past  
 27 18 months.

28 (6)(a) The state, the Department of Corrections or the person may appeal from an order of con-  
 29 ditional release under this section. The appellate court's review is limited to claims that the court  
 30 failed to comply with the requirements of law in ordering the conditional release.

31 (b) The state, the Department of Corrections or the person may appeal from an order of the  
 32 court entered under subsection (4) or (5) of this section. The appellate court's review is limited to  
 33 claims that:

34 (A) The disposition is not authorized under this section;

35 (B) The court failed to comply with the requirements of law; and

36 (C) The finding of the court that the person did or did not violate a condition of release is not  
 37 supported by substantial evidence in the record.

38 **SECTION 26. (1) Section 24 of this 2013 Act and the amendments to ORS 420A.203 and**  
 39 **420A.206 by sections 22 and 25 of this 2013 Act apply to crimes committed on or after the**  
 40 **effective date of this 2013 Act.**

41 **(2) Notwithstanding subsection (1) of this section, section 24 of this 2013 Act and the**  
 42 **amendments to ORS 420A.203 and 420A.206 by sections 22 and 25 of this 2013 Act do not apply**  
 43 **to persons who were originally sentenced prior to the effective date of this 2013 Act and who**  
 44 **are subsequently resentenced as the result of an appellate decision, a post-conviction relief**  
 45 **proceeding or for any other reason.**

**IX. COMMUNITY CORRECTIONS EARNED DISCHARGE**

**SECTION 27.** (1) A person sentenced to felony probation or the legal and physical custody of the supervisory authority under ORS 137.124 (2) or section 54 (2) of this 2013 Act is eligible for a reduction in the period of supervision for:

- (a) Complying with the terms of supervision, including the payment of restitution; and
- (b) Participating 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 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 28.** (1) Section 27 of this 2013 Act applies to sentences imposed on or after the effective date of this 2013 Act.

(2) Notwithstanding subsection (1) of this section, section 27 of this 2013 Act does not apply to persons who were originally sentenced prior to the effective date of this 2013 Act and who are subsequently resentenced as the result of an appellate decision, a post-conviction relief proceeding or for any other reason.

**SECTION 29.** Sections 22 and 23, chapter 660, Oregon Laws 2009, are repealed.

**SECTION 30.** ORS 423.483 is amended to read:

423.483. (1) 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.

(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. **Caseloads under this subsection shall be determined by reference to the number of offenders who are sentenced to the legal and physical custody of the supervisory authority under ORS 137.124 (2).**

**SECTION 31.** The amendments to ORS 423.483 by section 30 of this 2013 Act become operative on July 1, 2013.

**X. STRUCTURED SANCTIONS**

**SECTION 32.** ORS 137.593 is amended to read:

137.593. (1) Except as otherwise provided in [subsection (2) of] this section, when a court suspends the imposition or execution of sentence and places a defendant on probation, or sentences a defendant to probation under the rules of the Oregon Criminal Justice Commission and orders a defendant placed under the supervision of the Department of Corrections or a county community corrections agency, the Department of Corrections or the county community corrections agency shall impose structured, intermediate sanctions for the violation of conditions of probation in accordance with rules adopted under ORS 137.595. Under no circumstances may the Department of Corrections or a county community corrections agency revoke probation.

(2) Notwithstanding ORS 137.124 and 423.478 and any other provision of law, the sentencing judge shall retain authority[.] **to cause a probationer described in subsection (1) of this section to be brought before the court for a probation violation hearing:**

(a) **When a supervising officer or agency requests a hearing concerning an alleged violation of probation;**

(b) **When the probationer does not consent to structured, intermediate sanctions and exercises the right to a probation violation hearing before the court; or**

(c) **On the court's own motion when an accusatory instrument is filed alleging that the probationer has committed a criminal offense.**

**(3) When a probationer is brought before the court in accordance with subsection (2) of this section, the court may:**

(a) [To] Revoke probation and receive recommendations regarding revocation of probation from the supervising officer made in accordance with rules adopted under ORS 137.595;

(b) [To] Determine whether conditions of probation have been violated and [to] impose sanctions for the violations; **and** [if the court, at the time of sentencing, states on the record that the court is retaining such authority;]

[(c) To cause a probationer to be brought before the court for a hearing upon motion of the district attorney or the court's own motion prior to the imposition of any structured, intermediate sanctions or within four judicial days after receiving notice that a structured, intermediate sanction has been imposed on the probationer pursuant to rules adopted under ORS 137.595 and to revoke probation or impose such other or additional sanctions or modify the conditions of probation as authorized by law; and]

[(d)] (c) [To] Impose and require an offender to serve a period of incarceration not to exceed 180 days as a sanction for revocation of probation.

[(3)] **(4)** In no case may the sentencing judge cause a probationer to be brought before the court for a hearing and revoke probation or impose other or additional sanctions after the probationer has completed a structured, intermediate sanction imposed by the Department of Corrections or a county community corrections agency pursuant to rules adopted under ORS 137.595.

**SECTION 33.** ORS 137.595 is amended to read:

137.595. (1) The Department of Corrections shall adopt rules to carry out the purposes of chapter 680, Oregon Laws 1993, by establishing a system of structured, intermediate probation violation sanctions that may be imposed by the Department of Corrections or a county community corrections agency, taking into consideration the severity of the violation behavior, the prior violation history, the severity of the underlying criminal conviction, the criminal history of the offender, protection of the community, deterrence, the effective capacity of the state prisons and the availability of appropriate local sanctions including, but not limited to, jail, community service work, house arrest,



1 electronic surveillance, restitution centers, work release centers, day reporting centers or other lo-  
2 cal sanctions.

3 (2) Rules adopted by the Department of Corrections under this section shall establish:

4 (a) A system of structured, intermediate probation violation sanctions that may be imposed by  
5 the Department of Corrections or a county community corrections agency on a probationer who  
6 waives in writing a probation violation hearing, admits or affirmatively chooses not to contest the  
7 violations alleged in a probation violation report and consents to the sanctions;

8 (b) Procedures to provide a probationer with written notice of the probationer's right to a  
9 hearing before the court to determine whether the probationer violated the conditions of probation  
10 alleged in a probation violation report, and if so, whether to continue the probationer on probation  
11 subject to the same or modified conditions, or order sanctions for any violations and the right to  
12 be represented by counsel at the hearing if the probationer is financially eligible;

13 (c) Procedures for a probationer to waive in writing a probation violation hearing, admit or not  
14 contest the violations alleged in the probation violation report and consent to the imposition of  
15 structured, intermediate sanctions by the Department of Corrections or a county community cor-  
16 rections agency;

17 (d) The level and type of sanctions that may be imposed by parole and probation officers and  
18 by supervisory personnel;

19 **(e) The level and type of violation behavior warranting a request for a hearing under ORS**  
20 **137.593 (2)(a);**

21 ~~[(e)]~~ **(f)** The level and type of violation behavior warranting a recommendation to the court that  
22 probation be revoked;

23 ~~[(f)]~~ **(g)** Procedures for notifying district attorneys and the courts of probation violations ad-  
24 mitted by probationers and the sanctions imposed by the Department of Corrections or county  
25 community corrections agencies; and

26 ~~[(g)]~~ **(h)** Such other policies or procedures as are necessary to carry out the purposes of chapter  
27 680, Oregon Laws 1993.

28 (3) Jail confinement imposed as a custodial sanction by the Department of Corrections or a  
29 county community corrections agency pursuant to rules adopted under this section may not exceed  
30 60 days per violation report. The total number of days of jail confinement for all violation reports  
31 per conviction may not exceed the maximum number of available jail custody units under rules  
32 adopted by the Oregon Criminal Justice Commission.

33 (4) Nonjail confinement imposed as a custodial sanction by the Department of Corrections or a  
34 county community corrections agency pursuant to rules adopted under this section may not exceed  
35 the maximum number of available nonjail custody units under rules adopted by the Oregon Criminal  
36 Justice Commission.

37 **SECTION 34. ORS 137.599 is repealed.**

38 **SECTION 35. (1) The amendments to ORS 137.593 and 137.595 by sections 32 and 33 of this**  
39 **2013 Act and the repeal of ORS 137.599 by section 34 of this 2013 Act apply to persons con-**  
40 **vinced of a crime committed on or after the effective date of this 2013 Act.**

41 **(2) Notwithstanding subsection (1) of this section, the amendments to ORS 137.593 and**  
42 **137.595 by sections 32 and 33 of this 2013 Act and the repeal of ORS 137.599 by section 34 of**  
43 **this 2013 Act do not apply to persons who were originally sentenced prior to the effective**  
44 **date of this 2013 Act and who are subsequently resentenced as the result of an appellate**  
45 **decision, a post-conviction relief proceeding or for any other reason.**

**XI. SUPERVISION CONDITIONS  
(INCLUDING ADDITIONAL AMENDMENTS  
RELATED TO X. STRUCTURED SANCTIONS)**

**SECTION 36.** 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) 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) 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) 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) Change neither employment nor residence without prior permission from the Department of Corrections or a county community corrections agency.

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

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

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

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

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

(p) If required to report as a sex offender under ORS 181.596, report with the Department of

1 State Police, a city police department, a county sheriff's office or the supervising agency:

2 (A) When supervision begins;

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

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

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

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

9 (2) In addition to the general conditions[,]:

10 (a) **When the court sentences a person convicted of a misdemeanor to probation**, the  
11 court may impose *[any]* special conditions of probation *[that are reasonably related to the crime of*  
12 *conviction or the needs of the probationer for the protection of the public or reformation of the*  
13 *probationer, or both, including, but not limited to, that the probationer shall:]*

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

20 (b) *[For felonies committed on or after November 1, 1989,]* **When the court sentences a person**  
21 **convicted of a felony to probation, the court:**

22 (A) **Shall order that the probationer submit to risk and needs assessments at the direc-**  
23 **tion of the supervising officer or agency, no later than 72 hours after the sentence is im-**  
24 **posed;**

25 (B) **Shall order that the probationer be subject to any special conditions of probation**  
26 **imposed by the supervising officer or agency;**

27 (C) **May order that the probationer** be confined in the county jail, or be subject to other  
28 custodial sanctions under community supervision, or both, as provided by rules of the Oregon  
29 Criminal Justice Commission[.]; **and**

30 *[(c) (D) [For crimes committed on or after December 5, 1996,] May order that the probationer*  
31 *sell any assets of the probationer as specifically ordered by the court in order to pay restitution.*

32 (3)(a) **Special conditions of probation imposed under this section must be reasonably re-**  
33 **lated to the crime of conviction or the needs of the probationer for the protection of the**  
34 **public or reformation of the probationer, or both.**

35 (b) **When the supervising officer or agency imposes special conditions of probation under**  
36 **this section, the supervising officer or agency shall:**

37 (A) **File the special conditions with the court no later than five judicial days after the**  
38 **sentence is imposed; and**

39 (B) **Provide a written copy of the conditions to the probationer as soon as practicable.**

40 *[(3)] (4)* When a person who is a sex offender is released on probation, the court shall impose  
41 as a *[special]* **general** condition of probation that the person not reside in any dwelling in which  
42 another sex offender who is on probation, parole or post-prison supervision resides, without the ap-  
43 proval of the person's supervising parole and probation officer, or in which more than one other sex  
44 offender who is on probation, parole or post-prison supervision resides, without the approval of the  
45 director of the probation agency that is supervising the person or of the county manager of the

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

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

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

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

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

11 [(4)(a)] **(5)(a)** If the person is released on probation following conviction of a sex crime, as de-  
 12 fined in ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under  
 13 18 years of age, the court, if requested by the victim, shall include as a [*special*] **general** condition  
 14 of the person's probation that the person not reside within three miles of the victim unless:

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

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

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

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

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

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

31 [(5)] **(6)** When a person who is a sex offender, as defined in ORS 181.594, is released on pro-  
 32 bation, the Department of Corrections or the county community corrections agency, whichever is  
 33 appropriate, shall notify the city police department, if the person is going to reside within a city,  
 34 and the county sheriff's office of the county in which the person is going to reside of the person's  
 35 release and the conditions of the person's release.

36 [(6)] **(7)** Failure to abide by all general and special conditions [*imposed by the court and super-*  
 37 *vised by the Department of Corrections or a county community corrections agency*] **of probation** may  
 38 result in arrest, modification of conditions, revocation of probation or imposition of structured,  
 39 intermediate sanctions in accordance with rules adopted under ORS 137.595.

40 [(7)] **(8) When a person is convicted of a misdemeanor**, the court may order that probation  
 41 be supervised by the court. If the court orders that probation be supervised by the court, the de-  
 42 fendant shall pay a fee of \$100 to the court. Fees imposed under this subsection in the circuit court  
 43 shall be deposited by the clerk of the court in the General Fund. Fees imposed in a justice court  
 44 under this subsection shall be paid to the county treasurer. Fees imposed in a municipal court un-  
 45 der this subsection shall be paid to the city treasurer.

1        [(8)] (9) The court may at any time modify the **general** conditions of probation.

2        [(9)] (10) A court may not order revocation of probation as a result of the probationer's failure  
3 to pay restitution unless the court determines from the totality of the circumstances that the pur-  
4 poses of the probation are not being served.

5        [(10)] (11) It is not a cause for revocation of probation that the probationer failed to apply for  
6 or accept employment at any workplace where there is a labor dispute in progress. As used in this  
7 subsection, "labor dispute" has the meaning for that term provided in ORS 662.010.

8        [(11)] (12) If the court determines that a defendant has violated the terms of probation, the court  
9 shall collect a \$25 fee from the defendant. The fee becomes part of the judgment and may be col-  
10 lected in the same manner as a fine. Fees collected under this subsection in the circuit court shall  
11 be deposited by the clerk of the court in the General Fund. Fees collected in a justice court under  
12 this subsection shall be paid to the county treasurer. Fees collected in a municipal court under this  
13 subsection shall be paid to the city treasurer.

14        [(12)] (13) As used in this section, "attends," "institution of higher education," "works" and  
15 "carries on a vocation" have the meanings given those terms in ORS 181.594.

16        **SECTION 37.** ORS 137.545 is amended to read:

17        137.545. (1) Subject to the limitations in ORS 137.010 and to rules of the Oregon Criminal Justice  
18 Commission for felonies committed on or after November 1, 1989:

19        (a) The period of probation shall be as the court determines and may, in the discretion of the  
20 court, be continued or extended.

21        (b) The court may at any time discharge a person from probation.

22        (2)(a) [*At any time during the probation period,*] **When the court orders that probation be**  
23 **supervised by the court under ORS 137.540 (8),** the court may, **at any time during the pro-**  
24 **bation period,** issue a warrant and cause a defendant to be arrested for violating any of the con-  
25 ditions of probation.

26        (b) **When a person convicted of a felony is sentenced to probation, the court may issue**  
27 **a warrant and cause a defendant to be arrested for violating any of the conditions of pro-**  
28 **bation under the circumstances described in ORS 137.593 (2).**

29        (3) Any parole and probation officer, police officer or other officer with power of arrest may  
30 arrest a probationer without a warrant for violating any condition of probation, and a statement by  
31 the parole and probation officer or arresting officer setting forth that the probationer has, in the  
32 judgment of the parole and probation officer or arresting officer, violated the conditions of probation  
33 is sufficient warrant for the detention of the probationer in the county jail until the probationer can  
34 be brought before the court or until the parole and probation officer or supervisory personnel im-  
35 pose and the offender agrees to structured, intermediate sanctions in accordance with the rules  
36 adopted under ORS 137.595. Disposition shall be made during the first 36 hours in custody, excluding  
37 Saturdays, Sundays and holidays, unless later disposition is authorized by supervisory personnel. If  
38 authorized by supervisory personnel, the disposition shall take place in no more than five judicial  
39 days. If the offender does not consent to structured, intermediate sanctions imposed by the parole  
40 and probation officer or supervisory personnel in accordance with the rules adopted under ORS  
41 137.595, the parole and probation officer, as soon as practicable, but within one judicial day, shall  
42 report the arrest or detention to the court that imposed the probation. The parole and probation  
43 officer shall promptly submit to the court a report showing in what manner the probationer has vi-  
44 olated the conditions of probation.

45        [(3)] (4) Except for good cause shown or at the request of the probationer, the probationer shall

1 be brought before a magistrate during the first 36 hours of custody, excluding holidays, Saturdays  
 2 and Sundays. *[That]* **The** magistrate, in the exercise of discretion, may order the probationer held  
 3 pending a *[violation or revocation]* **probation violation** hearing or pending transfer to the jurisdic-  
 4 tion of another court where the probation was imposed. In lieu of an order that the probationer be  
 5 held, the magistrate may release the probationer upon the condition that the probationer appear in  
 6 court at a later date for a probation violation or revocation hearing. If the probationer is being held  
 7 on an out-of-county warrant, the magistrate may order the probationer released subject to an addi-  
 8 tional order to the probationer that the probationer report within seven calendar days to the court  
 9 that imposed the probation.

10 [(4)] (5) When a probationer has been sentenced to probation in more than one county and the  
 11 probationer is being held on an out-of-county warrant for a probation violation, the court may con-  
 12 sider consolidation of some or all pending probation violation proceedings pursuant to rules made  
 13 and orders issued by the Chief Justice of the Supreme Court under ORS 137.547:

14 (a) Upon the motion of the district attorney or defense counsel in the county in which the  
 15 probationer is held; or

16 (b) Upon the court's own motion.

17 [(5)(a)] (6)(a) *[For defendants sentenced for felonies committed prior to November 1, 1989, and for*  
 18 *any misdemeanor,]* **When the court conducts a probation violation hearing involving a**  
 19 **misdemeanor**, the court that imposed the probation, after summary hearing, may revoke the pro-  
 20 bation and:

21 (A) If the execution of some other part of the sentence has been suspended, the court shall cause  
 22 the rest of the sentence imposed to be executed.

23 (B) If no other sentence has been imposed, the court may impose any other sentence which or-  
 24 iginally could have been imposed.

25 (b) *[For defendants sentenced for felonies committed on or after November 1, 1989,]* **When the**  
 26 **court conducts a probation violation hearing involving a felony**, the court that imposed the  
 27 probationary sentence may revoke probation supervision and impose a sanction as provided by rules  
 28 of the Oregon Criminal Justice Commission. If the defendant was sentenced to a presumptive period  
 29 of probation, the court may not impose a term of incarceration that exceeds 60 days as a revocation  
 30 sanction unless the revocation is the result of the defendant's conviction for a new crime.

31 [(6)] (7) Except for good cause shown, if the revocation hearing is not conducted within 14 cal-  
 32 endar days following the arrest or detention of the probationer, the probationer shall be released  
 33 from custody.

34 [(7)] (8) A defendant who has been previously confined in the county jail as a condition of pro-  
 35 bation pursuant to ORS 137.540 or as part of a probationary sentence pursuant to the rules of the  
 36 Oregon Criminal Justice Commission may be given credit for all time thus served in any order or  
 37 judgment of confinement resulting from revocation of probation.

38 [(8)] (9) In the case of any defendant whose sentence has been suspended but who has not been  
 39 sentenced to probation, the court may issue a warrant and cause the defendant to be arrested and  
 40 brought before the court at any time within the maximum period for which the defendant might or-  
 41 iginally have been sentenced. Thereupon the court, after summary hearing, may revoke the sus-  
 42 pension of sentence and cause the sentence imposed to be executed.

43 [(9)] (10) If a probationer fails to appear or report to a court for further proceedings as required  
 44 by an order under subsection [(3)] (4) of this section, the failure to appear may be prosecuted in the  
 45 county to which the probationer was ordered to appear or report.

1        [(10)] (11) The probationer may admit or deny the violation by being physically present at the  
 2 hearing or by means of simultaneous electronic transmission as described in ORS 131.045.

3        [(11)] (12) The victim has the right:

4        (a) Upon request made within the time period prescribed in the notice required by ORS 147.417,  
 5 to be notified of [*any hearing before the court that may result in the revocation of the defendant's*  
 6 *probation for*] **probation violation hearings involving** a felony or person Class A misdemeanor. The  
 7 notification shall be provided by:

8        (A) The district attorney if the defendant is not supervised by the supervisory authority [*or if*  
 9 *the defendant is supervised by the supervisory authority and the district attorney initiates a request*  
 10 *with the court for a probation violation or revocation hearing*].

11        (B) The supervisory authority if the defendant is supervised by the supervisory authority [*and*  
 12 *the supervisory authority initiates a request with the court for a probation violation or revocation*  
 13 *hearing*].

14        (b) To appear personally at the hearing.

15        (c) If present, to reasonably express any views relevant to the issues before the court.

16        [(12)] (13) As used in this section:

17        (a) "Person Class A misdemeanor" has the meaning given that term in the rules of the Oregon  
 18 Criminal Justice Commission.

19        (b) "Supervisory authority" has the meaning given that term in ORS 144.087.

20        **SECTION 38.** ORS 137.545, as amended by section 5, chapter 596, Oregon Laws 2011, is  
 21 amended to read:

22        137.545. (1) Subject to the limitations in ORS 137.010 and to rules of the Oregon Criminal Justice  
 23 Commission for felonies committed on or after November 1, 1989:

24        (a) The period of probation shall be as the court determines and may, in the discretion of the  
 25 court, be continued or extended.

26        (b) The court may at any time discharge a person from probation.

27        (2)(a) [*At any time during the probation period,*] **When the court orders that probation be**  
 28 **supervised by the court under ORS 137.540 (8),** the court may, **at any time during the pro-**  
 29 **bation period,** issue a warrant and cause a defendant to be arrested for violating any of the con-  
 30 ditions of probation.

31        **(b) When a person convicted of a felony is sentenced to probation, the court may issue**  
 32 **a warrant and cause a defendant to be arrested for violating any of the conditions of pro-**  
 33 **bation under the circumstances described in ORS 137.593 (2).**

34        (3) Any parole and probation officer, police officer or other officer with power of arrest may  
 35 arrest a probationer without a warrant for violating any condition of probation, and a statement by  
 36 the parole and probation officer or arresting officer setting forth that the probationer has, in the  
 37 judgment of the parole and probation officer or arresting officer, violated the conditions of probation  
 38 is sufficient warrant for the detention of the probationer in the county jail until the probationer can  
 39 be brought before the court or until the parole and probation officer or supervisory personnel im-  
 40 pose and the offender agrees to structured, intermediate sanctions in accordance with the rules  
 41 adopted under ORS 137.595. Disposition shall be made during the first 36 hours in custody, excluding  
 42 Saturdays, Sundays and holidays, unless later disposition is authorized by supervisory personnel. If  
 43 authorized by supervisory personnel, the disposition shall take place in no more than five judicial  
 44 days. If the offender does not consent to structured, intermediate sanctions imposed by the parole  
 45 and probation officer or supervisory personnel in accordance with the rules adopted under ORS

1 137.595, the parole and probation officer, as soon as practicable, but within one judicial day, shall  
 2 report the arrest or detention to the court that imposed the probation. The parole and probation  
 3 officer shall promptly submit to the court a report showing in what manner the probationer has vi-  
 4 olated the conditions of probation.

5 [(3)] (4) Except for good cause shown or at the request of the probationer, the probationer shall  
 6 be brought before a magistrate during the first 36 hours of custody, excluding holidays, Saturdays  
 7 and Sundays. [That] **The** magistrate, in the exercise of discretion, may order the probationer held  
 8 pending a [violation or revocation] **probation violation** hearing or pending transfer to the jurisdic-  
 9 tion of another court where the probation was imposed. In lieu of an order that the probationer be  
 10 held, the magistrate may release the probationer upon the condition that the probationer appear in  
 11 court at a later date for a probation violation or revocation hearing. If the probationer is being held  
 12 on an out-of-county warrant, the magistrate may order the probationer released subject to an addi-  
 13 tional order to the probationer that the probationer report within seven calendar days to the court  
 14 that imposed the probation.

15 [(4)] (5) When a probationer has been sentenced to probation in more than one county and the  
 16 probationer is being held on an out-of-county warrant for a probation violation, the court may con-  
 17 sider consolidation of some or all pending probation violation proceedings pursuant to rules made  
 18 and orders issued by the Chief Justice of the Supreme Court under ORS 137.547:

19 (a) Upon the motion of the district attorney or defense counsel in the county in which the  
 20 probationer is held; or

21 (b) Upon the court's own motion.

22 [(5)(a)] (6)(a) [For defendants sentenced for felonies committed prior to November 1, 1989, and for  
 23 any misdemeanor] **When the court conducts a probation violation hearing involving a**  
 24 **misdemeanor**, the court that imposed the probation, after summary hearing, may revoke the pro-  
 25 bation and:

26 (A) If the execution of some other part of the sentence has been suspended, the court shall cause  
 27 the rest of the sentence imposed to be executed.

28 (B) If no other sentence has been imposed, the court may impose any other sentence which ori-  
 29 ginally could have been imposed.

30 (b) [For defendants sentenced for felonies committed on or after November 1, 1989,] **When the**  
 31 **court conducts a probation violation hearing involving a felony**, the court that imposed the  
 32 probationary sentence may revoke probation supervision and impose a sanction as provided by rules  
 33 of the Oregon Criminal Justice Commission.

34 [(6)] (7) Except for good cause shown, if the revocation hearing is not conducted within 14 cal-  
 35 endar days following the arrest or detention of the probationer, the probationer shall be released  
 36 from custody.

37 [(7)] (8) A defendant who has been previously confined in the county jail as a condition of pro-  
 38 bation pursuant to ORS 137.540 or as part of a probationary sentence pursuant to the rules of the  
 39 Oregon Criminal Justice Commission may be given credit for all time thus served in any order or  
 40 judgment of confinement resulting from revocation of probation.

41 [(8)] (9) In the case of any defendant whose sentence has been suspended but who has not been  
 42 sentenced to probation, the court may issue a warrant and cause the defendant to be arrested and  
 43 brought before the court at any time within the maximum period for which the defendant might ori-  
 44 ginally have been sentenced. Thereupon the court, after summary hearing, may revoke the sus-  
 45 pension of sentence and cause the sentence imposed to be executed.



1        [(9)] (10) If a probationer fails to appear or report to a court for further proceedings as required  
 2 by an order under subsection [(3)] (4) of this section, the failure to appear may be prosecuted in the  
 3 county to which the probationer was ordered to appear or report.

4        [(10)] (11) The probationer may admit or deny the violation by being physically present at the  
 5 hearing or by means of simultaneous electronic transmission as described in ORS 131.045.

6        [(11)] (12) The victim has the right:

7        (a) Upon request made within the time period prescribed in the notice required by ORS 147.417,  
 8 to be notified of [*any hearing before the court that may result in the revocation of the defendant's*  
 9 *probation for*] **probation violation hearings involving** a felony or person Class A misdemeanor. The  
 10 notification shall be provided by:

11        (A) The district attorney if the defendant is not supervised by the supervisory authority [*or if*  
 12 *the defendant is supervised by the supervisory authority and the district attorney initiates a request*  
 13 *with the court for a probation violation or revocation hearing*].

14        (B) The supervisory authority if the defendant is supervised by the supervisory authority [*and*  
 15 *the supervisory authority initiates a request with the court for a probation violation or revocation*  
 16 *hearing*].

17        (b) To appear personally at the hearing.

18        (c) If present, to reasonably express any views relevant to the issues before the court.

19        [(12)] (13) As used in this section:

20        (a) "Person Class A misdemeanor" has the meaning given that term in the rules of the Oregon  
 21 Criminal Justice Commission.

22        (b) "Supervisory authority" has the meaning given that term in ORS 144.087.

23        **SECTION 39.** ORS 137.553 is amended to read:

24        137.553. (1) In [*addition to any authority granted under ORS*] **accordance with the provisions**  
 25 **of ORS 137.540 and** 137.545, a court may authorize the use of citations to direct [*its*] probationers  
 26 who violate conditions of probation to appear before the court. The following apply to the use of  
 27 citations under this subsection:

28        (a) A court may authorize issuance of citations under this subsection only by officers who are  
 29 permitted under ORS 137.545 to make an arrest without a warrant.

30        (b) [*Nothing in this subsection limits*] **The authority to issue a citation does not limit** the  
 31 authority[, *under ORS 137.545,*] of a parole and probation officer, police officer or other officer to  
 32 arrest for violation of conditions of probation **under ORS 137.545** [*even if the officer is authorized*  
 33 *under this section to issue a citation*].

34        (c) A court may impose any conditions upon an authorization under this subsection that the  
 35 court considers appropriate. The conditions may include, but are not limited to, requirements that  
 36 citation authority be sought on a case-by-case basis, provision for citation in all cases that meet  
 37 certain conditions, allowance of citation for certain types of cases or designation of certain cases  
 38 where citations shall not be used.

39        (2) The cited probationer shall appear before the court at the time, date and court specified in  
 40 the citation. If the probationer fails to appear at the time, date and court specified in the citation,  
 41 the court may issue a warrant of arrest, upon the request of the supervisor of probation, or upon  
 42 request of the district attorney, or upon the court's own motion.

43        **SECTION 40.** ORS 137.523 is amended to read:

44        137.523. [*For felonies committed on or after November 1, 1989:*]

45        (1) When the judge sentences [*the*] **a defendant convicted of a felony** to confinement in a county

1 jail as a condition of probation, the judge shall sentence the defendant directly to the custody of the  
 2 sheriff or the supervisory authority, as defined in rules of the Oregon Criminal Justice Commission,  
 3 with jurisdiction over the county jail.

4 (2) *[When the judge recommends a custodial facility or program other than jail as a condition of*  
 5 *probation, the judge shall]* **If, following a risk and needs assessment described in ORS 137.540**  
 6 **(2)(b), the supervisory authority determines that participation in a custodial facility or pro-**  
 7 **gram other than jail as a condition of probation is appropriate, the court may** sentence the  
 8 defendant directly to the custody of the supervisory authority, as defined in rules of the Oregon  
 9 Criminal Justice Commission, with jurisdiction over the facility or program<sup>1</sup>. *Before imposing such*  
 10 *a sentence, the judge must determine from the supervisory authority that* if space is available in the  
 11 facility or program and *[that]* the defendant meets the eligibility criteria established for the facility  
 12 or program.

13 (3) A record of the time served by the defendant in custody under community supervision during  
 14 probation shall be maintained as provided by rules adopted by the Oregon Criminal Justice Com-  
 15 mission.

16 **SECTION 41. (1) The amendments to ORS 137.523, 137.540, 137.545 and 137.553 by sections**  
 17 **36 to 40 of this 2013 Act apply to sentences imposed on or after the effective date of this 2013**  
 18 **Act.**

19 (2) **Notwithstanding subsection (1) of this section, the amendments to ORS 137.523,**  
 20 **137.540, 137.545 and 137.553 by sections 36 to 40 of this 2013 Act do not apply to:**

21 (a) **Persons who were originally sentenced prior to the effective date of this 2013 Act and**  
 22 **who are subsequently resentenced as the result of an appellate decision, a post-conviction**  
 23 **relief proceeding or for any other reason; or**

24 (b) **Crimes committed before November 1, 1989.**

25 (3) **Notwithstanding subsection (1) of this section, the amendments to ORS 137.540 (2)(c)**  
 26 **by section 36 of this 2013 Act do not apply to crimes committed before December 5, 1996.**

27  
 28 **XII. OVERSIGHT ENTITY**  
 29

30 **SECTION 42. (1) The Task Force on Public Safety Oversight is established, consisting of**  
 31 **11 members appointed as follows:**

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

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

36 (c) **The Chief Justice of the Supreme Court shall appoint two members who are judges.**

37 (d) **The Governor shall appoint four members as follows:**

38 (A) **One member shall be a district attorney.**

39 (B) **One member shall be a criminal defense attorney.**

40 (C) **One member shall be a representative of law enforcement.**

41 (D) **One member shall be a representative of community corrections directors.**

42 (e) **One member shall be a member of the public, appointed by the members of the task**  
 43 **force described in paragraphs (a) to (d) of this subsection.**

44 (2) **The task force shall review the implementation of the provisions of this 2013 Act. No**  
 45 **later than October 1, 2016, the task force shall submit a report to the Legislative Assembly**

1 in the manner provided by ORS 192.245 that describes the findings of the task force. The  
 2 report may include recommendations for legislation.

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

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

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

8 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-  
 9 ment to become immediately effective.

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

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

13 (9) The Oregon Criminal Justice Commission shall provide staff support to the task force.

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

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

24 (b) Upon the request of the task force, the Oregon Criminal Justice Commission shall,  
 25 when possible, provide the task force with data related to the rate of offender recidivism as  
 26 that term is defined in section 44 of this 2013 Act.

27 **SECTION 43.** Section 42 of this 2013 Act is repealed on the date of the convening of the  
 28 2017 regular session of the Legislative Assembly as specified in ORS 171.010.

29  
 30 **XIII. DEFINITION OF RECIDIVISM**

31  
 32 **SECTION 44.** (1) As used in this section, "recidivism" means the arrest, conviction or  
 33 incarceration of a person who has previously been convicted of a crime, if the arrest, con-  
 34 viction or incarceration occurs:

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

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

39 (2) When the Oregon Department of Administrative Services, the Department of Cor-  
 40 rections, the Oregon Criminal Justice Commission or any other public body as defined in ORS  
 41 174.109 conducts a statistical evaluation of the rate at which persons convicted of a crime  
 42 subsequently commit additional crimes, the public body shall include an evaluation of  
 43 recidivism.

44  
 45 **XIV. SPECIALTY COURT STANDARDS**



- 1 (3) “Evidence-based program” means a program that:
- 2 (a) Incorporates significant and relevant practices based on scientifically based research; and
- 3 (b) Is cost effective.
- 4 (4)(a) “Program” means a treatment or intervention program or service that is intended to:
- 5 (A) Reduce the propensity of a person to commit crimes;
- 6 (B) Improve the mental health of a person with the result of reducing the likelihood that the
- 7 person will commit a crime or need emergency mental health services; or
- 8 (C) Reduce the propensity of a person who is less than 18 years of age to engage in antisocial
- 9 behavior with the result of reducing the likelihood that the person will become a juvenile offender.
- 10 (b) “Program” does not include:
- 11 (A) An educational program or service that an agency is required to provide to meet educational
- 12 requirements imposed by state law; or
- 13 (B) A program that provides basic medical services.
- 14 (5) “Scientifically based research” means research that obtains reliable and valid knowledge by:
- 15 (a) Employing systematic, empirical methods that draw on observation or experiment;
- 16 (b) Involving rigorous data analyses that are adequate to test the stated hypotheses and justify
- 17 the general conclusions drawn; *[and]*
- 18 (c) Relying on measurements or observational methods that provide reliable and valid data
- 19 across evaluators and observers, across multiple measurements and observations and across studies
- 20 by the same or different investigators; **and**
- 21 **(d) Utilizing randomized controlled trials, when possible and appropriate.**
- 22 **SECTION 48.** ORS 182.525 is amended to read:
- 23 182.525. (1) An agency as defined in ORS 182.515 shall spend at least 75 percent of state moneys
- 24 that the agency receives for programs on evidence-based programs.
- 25 (2) The agency shall submit a biennial report containing:
- 26 (a) An assessment of each program on which the agency expends funds, including but not limited
- 27 to whether the program is an evidence-based program;
- 28 (b) The percentage of state moneys the agency receives for programs that is being expended on
- 29 evidence-based programs;
- 30 (c) The percentage of federal and other moneys the agency receives for programs that is being
- 31 expended on evidence-based programs; and
- 32 (d) A description of the efforts the agency is making to meet the requirement of subsection (1)
- 33 of this section.
- 34 (3) The agency shall submit the report required by subsection (2) of this section no later than
- 35 September 30 of each even-numbered year to the interim legislative committee dealing with judicial
- 36 matters.
- 37 (4) If an agency, in any biennium, spends more than 25 percent of the state moneys that the
- 38 agency receives for programs on programs that are not evidence based, the Legislative Assembly
- 39 shall consider the agency’s failure to meet the requirement of subsection (1) of this section in mak-
- 40 ing appropriations to the agency for the following biennium.
- 41 (5)(a) *[The] An* agency may adopt rules necessary to carry out the provisions of this section[,
- 42 *including but not limited to rules defining a reasonable period of time for purposes of determining cost*
- 43 *effectiveness*].
- 44 **(b) The Oregon Criminal Justice Commission shall adopt rules to carry out the provisions**
- 45 **of this section.**

**XVII. FISCAL IMPACT NOTES**

**SECTION 49.** 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 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 the measure would, if enacted, have on the state as well as on local governmental units for a period of 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 the measure would have on the state agency for a period of 10 years beginning on the effective date of the measure.**

**SECTION 50.** The amendments to ORS 173.029 by section 49 of this 2013 Act become operative on January 1, 2014.

**XVIII. PERFORMANCE INCENTIVE FUNDING**

**SECTION 51.** The Community Corrections Incentive Grant 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 the provisions of section 53 of this 2013 Act.

**SECTION 52.** There is appropriated to the Oregon Criminal Justice Commission, for the biennium beginning July 1, 2013, out of the general fund, the amount of \$\_\_\_\_\_ to be deposited in the Community Corrections Incentive Grant Account established in section 51 of

1 this 2013 Act.

2 **SECTION 53.** (1) The Community Corrections Incentive Grant Program is established as  
 3 provided in this section. The Oregon Criminal Justice Commission shall administer the pro-  
 4 gram. From funds appropriated for the purpose, the commission shall award grants to a  
 5 county that:

6 (a) Successfully establishes a process to assess offenders and provide a continuum of lo-  
 7 cally based sanctions, services and programs for offenders who would likely be incarcerated  
 8 in a Department of Corrections institution if the locally based sanctions, services and pro-  
 9 grams did not exist; or

10 (b) Enters into an agreement with the commission to incarcerate and supervise offenders  
 11 sentenced to incarceration of 15 months or less.

12 (2)(a) Each county that applies for a grant under subsection (1)(a) of this section must  
 13 develop a plan describing how the county will protect public safety and reduce the county's  
 14 utilization of incarceration in a Department of Corrections institution through the creation  
 15 or expansion of the use of sanctions, services and programs.

16 (b) For the purposes of making allocating funds under subsection (1)(a) of this section,  
 17 the commission shall establish a formula that rewards a county for the establishment or  
 18 expansion of sanctions, services and programs that annually divert a larger percentage of  
 19 offenders, relative to previous years, from Department of Corrections institutions and pro-  
 20 vides those offenders with locally based sanctions, services and programs.

21 (c) The commission shall distribute to the county a portion of the allocated funds upon  
 22 acceptance of the county in the Community Corrections Incentive Grant Program. There-  
 23 after, the commission shall:

24 (A) Distribute funds annually, based on the county's ability to achieve numerical targets  
 25 identified in the grant agreement; and

26 (B) Penalize counties that fail to achieve the numerical targets identified in the grant  
 27 agreement.

28 (3) When a county applies for and is awarded grant funds under subsection (1)(b) of this  
 29 section, the county shall notify the presiding judge of the judicial district in which the county  
 30 is located. The notice must identify the duration of the agreement. Upon receipt of the no-  
 31 tice, the presiding judge shall enter an order acknowledging receipt of the notice.

32 (4) No later than October 1 of each even-numbered year, the commission shall submit a  
 33 report to the Legislative Assembly in the manner provided by ORS 192.245 that describes the  
 34 effectiveness of the Community Corrections Incentive Grant Program.

35 (5) The commission shall adopt rules to carry out the provisions of this section.

36 (6) As used in this section:

37 (a) "County" includes:

38 (A) A regional collection of counties; and

39 (B) The Department of Corrections in those counties in which the department is the su-  
 40 pervisory authority as defined in ORS 144.087.

41 (b) "Sanctions, services and programs" includes management and supervision, electronic  
 42 monitoring, drug treatment and testing, and recidivism reduction programs.

43 **SECTION 54.** (1) Notwithstanding ORS 137.124 (1), if the circuit court in a participating  
 44 county imposes a sentence upon conviction of a felony that includes a term of incarceration  
 45 that exceeds 15 months:

1 (a) The court may not designate the correctional facility in which the defendant is to be  
 2 confined but shall commit the defendant to the legal and physical custody of the Department  
 3 of Corrections; and

4 (b) If the judgment provides that the term of incarceration be served consecutively to a  
 5 term of incarceration of 15 months or less that was imposed in a previous proceeding by a  
 6 court of this state upon conviction of a felony, the defendant shall serve any remaining part  
 7 of the previously imposed term of incarceration in the legal and physical custody of the De-  
 8 partment of Corrections.

9 (2) Notwithstanding ORS 137.124 (2):

10 (a) If the circuit court in a participating county imposes a sentence upon conviction of  
 11 a felony that includes a term of incarceration that is 15 months or less, the court shall  
 12 commit the defendant to the legal and physical custody of the supervisory authority of the  
 13 county in which the crime of conviction occurred.

14 (b) Notwithstanding paragraph (a) of this subsection, when the circuit court in a partic-  
 15 ipating county imposes a sentence upon conviction of a felony that includes a term of  
 16 incarceration that is 15 months or less, the court shall commit the defendant to the legal  
 17 and physical custody of the Department of Corrections if the court orders that the term of  
 18 incarceration be served consecutively to a term of incarceration for which the defendant was  
 19 sentenced to the legal and physical custody of the department.

20 (3)(a) Notwithstanding ORS 144.101 (1)(a) or 423.478 (1)(a), the supervisory authority of a  
 21 participating county shall assume responsibility for community-based supervision, sanctions  
 22 and services for offenders convicted of a felony who are sentenced to incarceration of 15  
 23 months or less.

24 (b) An offender convicted of a felony who is sentenced to a term of incarceration of 15  
 25 months or less in a participating county is not subject to rules adopted under ORS 144.107  
 26 (1).

27 (4) If a participating county enters into an agreement under ORS 169.053, the agreement  
 28 may provide for the reception, detention, care and maintenance, and work assignment of  
 29 offenders convicted of a felony who are sentenced to incarceration of 15 months or less.

30 (5) As used in this section:

31 (a) "County" has the meaning given that term in section 53 of this 2013 Act.

32 (b) "Participating county" means a county:

33 (A) That has applied for and received a grant described in section 53 1(b); and

34 (B) For which the presiding judge of the judicial district in which the county is located  
 35 has entered the order described in section 53 (3) of this 2013 Act.

36 (c) "Supervisory authority" has the meaning given that term in ORS 144.087.

37 **SECTION 55.** ORS 144.087 is amended to read:

38 144.087. (1) As used in ORS 137.124, 144.085 and 423.478, ORS chapter 144 and this section,  
 39 "supervisory authority" means the state or local corrections agency or official designated in each  
 40 county by that county's board of county commissioners or county court to operate corrections  
 41 supervision services, custodial facilities or both.

42 (2) Except as provided in ORS 137.124, 137.593 [(2)(d)] (3)(c) and 423.478 and section 54 of this  
 43 2013 Act, all terms of imprisonment or incarceration of 12 months or less must be served at the  
 44 direction of the supervisory authority.

45 (3) Nothing in this section is intended to repeal ORS 169.320 to 169.360, or in any way affect the



1 sheriff's authority, duties and liabilities set forth in ORS 169.320 to 169.360.

2 **SECTION 56.** ORS 135.760 is amended to read:

3 135.760. (1) Any inmate in the custody of the Department of Corrections or of the supervisory  
4 authority of a county pursuant to a commitment under ORS 137.124 (2) **or section 54 (2) of this**  
5 **2013 Act** against whom there is pending at the time of commitment or against whom there is filed  
6 at any time during imprisonment, in any court of this state, an indictment, information or criminal  
7 complaint charging the inmate with the commission of a crime, may give written notice to the dis-  
8 trict attorney of the county in which the inmate is so charged requesting the district attorney to  
9 prosecute and bring the inmate to trial on the charge forthwith.

10 (2) The notice provided for in subsection (1) of this section shall be signed by the inmate and  
11 set forth the place and term of imprisonment. A copy of the notice shall be sent to the court in  
12 which the inmate has been charged by indictment, information or complaint.

13 **SECTION 57.** ORS 135.767 is amended to read:

14 135.767. (1) Whenever the presence of an inmate in the custody of the Department of Corrections  
15 or of the supervisory authority of a county pursuant to a commitment under ORS 137.124 (2) **or**  
16 **section 54 (2) of this 2013 Act** is necessary in any criminal proceeding under ORS 135.760 to  
17 135.773, the court wherein the inmate is charged with the commission of a crime may:

18 (a) Issue an order directing the Director of the Department of Corrections or the supervisory  
19 authority of a county to surrender the inmate to the sheriff of the county where the inmate is to  
20 be tried; or

21 (b) Ensure that arrangements for the inmate to appear by simultaneous electronic transmission  
22 as described in ORS 131.045 have been made.

23 (2) The county where an inmate is charged with commission of a crime shall pay the costs of:

24 (a) Transportation and maintenance of the inmate removed under this section; or

25 (b) Providing for the inmate to appear by simultaneous electronic transmission.

26 (3) If an inmate is transported under this section for a criminal proceeding under ORS 135.760  
27 to 135.773, at the conclusion of the proceeding, notwithstanding the provisions of ORS 137.140, the  
28 inmate shall be returned by the sheriff to the custody of the Department of Corrections or the su-  
29 pervisory authority of the county in which the inmate is imprisoned.

30 (4) The time during which an inmate is in the custody of the sheriff under this section is part  
31 of and shall be counted as time served under the original sentence.

32 **SECTION 58.** ORS 137.752 is amended to read:

33 137.752. (1) When a court commits a defendant to the custody of a supervisory authority of a  
34 county under ORS 137.124 **or section 54 of this 2013 Act**, the court shall order on the record in  
35 open court as part of the sentence imposed that the defendant may be considered by the supervisory  
36 authority for any form of alternative sanction authorized by ORS 423.478, unless the court finds on  
37 the record in open court substantial and compelling reasons to order that the defendant not be  
38 considered for alternative sanctions.

39 (2) The supervisory authority may consider the defendant for alternative sanctions only upon  
40 order of the sentencing court appearing in the judgment.

41 (3) As used in this section, "supervisory authority" has the meaning given that term in ORS  
42 144.087.

43 **SECTION 59.** ORS 137.924 is amended to read:

44 137.924. When a defendant is committed to the supervisory authority of the county pursuant to  
45 ORS 137.124 **or section 54 of this 2013 Act**, the supervisory authority shall forward the name, date

1 of birth and Social Security number of the defendant to the Director of the Employment Department  
 2 for purposes of making a determination of eligibility under ORS 657.155.

3 **SECTION 60.** ORS 144.101 is amended to read:

4 144.101. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over imposi-  
 5 tion of conditions of post-prison supervision and sanctioning for violations of those conditions for a  
 6 person convicted of a felony if:

7 (a) The term of imprisonment imposed on the person is more than 12 months;

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

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

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

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

13 (f) The person is committed to the custody of the Department of Corrections under ORS 137.124  
 14 **or section 54 of this 2013 Act;**

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

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

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

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

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

28 **SECTION 61.** ORS 161.585 is amended to read:

29 161.585. (1) When a crime punishable as a felony is also punishable by imprisonment for a max-  
 30 imum term of one year or by a fine, the crime shall be classed as a misdemeanor if the court imposes  
 31 a punishment other than imprisonment under ORS 137.124 (1) **or section 54 (1) of this 2013 Act.**

32 (2) Notwithstanding the provisions of ORS 161.525, upon conviction of a crime punishable as  
 33 described in subsection (1) of this section, the crime is a felony for all purposes until one of the  
 34 following events occurs, after which occurrence the crime is a misdemeanor for all purposes:

35 (a) Without imposing a sentence of probation, the court imposes a sentence of imprisonment  
 36 other than to the legal and physical custody of the Department of Corrections.

37 (b) Without imposing a sentence of probation, the court imposes a fine.

38 (c) Upon revocation of probation, the court imposes a sentence of imprisonment other than to  
 39 the legal and physical custody of the Department of Corrections.

40 (d) Upon revocation of probation, the court imposes a fine.

41 (e) The court declares the offense to be a misdemeanor, either at the time of imposing a sentence  
 42 of probation, upon suspension of imposition of a part of a sentence, or on application of defendant  
 43 or the parole and probation officer of the defendant thereafter.

44 (f) The court imposes a sentence of probation on the defendant without imposition of any other  
 45 sentence upon conviction and defendant is thereafter discharged without any other sentence.

1 (g) Without imposing a sentence of probation and without imposing any other sentence, the  
 2 court declares the offense to be a misdemeanor and discharges the defendant.

3 (3) The provisions of this section shall apply only to persons convicted of a felony committed  
 4 prior to November 1, 1989.

5 **SECTION 62.** ORS 183.315 is amended to read:

6 183.315. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452,  
 7 183.458, 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created  
 8 pursuant to ORS 199.430, the Department of Revenue, State Accident Insurance Fund Corporation,  
 9 Department of Consumer and Business Services with respect to its functions under ORS chapters  
 10 654 and 656, State Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board  
 11 or Oregon Health Authority with respect to its functions under ORS 161.315 to 161.351.

12 (2) This chapter does not apply with respect to actions of the Governor authorized under ORS  
 13 chapter 240 and ORS 396.125 or actions of the Adjutant General authorized under ORS 396.160 (14).

14 (3) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452, 183.458 and  
 15 183.460 do not apply to the Employment Appeals Board or the Employment Department.

16 (4) The Employment Department shall be exempt from the provisions of this chapter to the ex-  
 17 tent that a formal finding of the United States Secretary of Labor is made that such provision con-  
 18 flicts with the terms of the federal law, acceptance of which by the state is a condition precedent  
 19 to continued certification by the United States Secretary of Labor of the state's law.

20 (5) The provisions of ORS 183.415 to 183.430, 183.440 to 183.460, 183.470 to 183.485 and 183.490  
 21 to 183.500 do not apply to orders issued to persons who:

22 (a) Have been committed pursuant to ORS 137.124 **or section 54 of this 2013 Act** to the custody  
 23 of the Department of Corrections or are otherwise confined in a Department of Corrections facility;  
 24 or

25 (b) Seek to visit an inmate confined in a Department of Corrections facility.

26 (6) ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.460, 183.470 and 183.482 (3) do  
 27 not apply to the Public Utility Commission. Notwithstanding ORS 183.480 and except as provided in  
 28 ORS 757.495 and 759.390, only a party to a hearing before the Public Utility Commission is entitled  
 29 to seek judicial review of an order of the commission.

30 (7) The provisions of this chapter do not apply to the suspension, cancellation or termination  
 31 of an apprenticeship or training agreement under ORS 660.060.

32 (8) The provisions of ORS 183.413 to 183.497 do not apply to administrative proceedings con-  
 33 ducted under rules adopted by the Secretary of State under ORS 246.190.

34 **SECTION 63.** ORS 420.011 is amended to read:

35 420.011. (1) Except as provided in subsections (2) and (3) of this section, admissions to the youth  
 36 correction facilities are limited to youth offenders who are at least 12 but less than 19 years of age,  
 37 found by the juvenile court to have committed an act that if committed by an adult would constitute  
 38 aggravated murder, murder, a felony or a Class A misdemeanor and placed in the legal custody of  
 39 the Oregon Youth Authority. A youth offender admitted to a youth correction facility may not be  
 40 transferred by administrative process to any penal or correctional institution.

41 (2)(a) In addition to the persons placed in the legal custody of the youth authority under ORS  
 42 419C.478 (1) or 419C.481, and with the concurrence of the Director of the Oregon Youth Authority  
 43 or the director's designee, persons who are committed to the Department of Corrections under ORS  
 44 137.124 **or section 54 of this 2013 Act** and meet the requirements of ORS 137.124 (5) or (7) may be  
 45 temporarily assigned to a youth correction facility as provided by ORS 137.124 (5) or (7). A person

1 assigned on such a temporary basis remains within the legal custody of the Department of Cor-  
 2 rections and such reassignment is subject to termination by the Director of the Oregon Youth Au-  
 3 thority by referring the person back to the Department of Corrections as provided in paragraph (b)  
 4 of this subsection.

5 (b) After a person is transferred to the physical custody of the youth authority under ORS  
 6 137.124 (5) or (7), the Director of the Oregon Youth Authority may refer the person back to the  
 7 Department of Corrections for physical custody and placement if the director, after consulting with  
 8 the Department of Corrections, determines that the person:

9 (A) Poses a substantial danger to youth authority staff or persons in the custody of the youth  
 10 authority; or

11 (B) Is not likely, in the foreseeable future, to benefit from the rehabilitation and treatment pro-  
 12 grams administered by the youth authority and is appropriate for placement in a Department of  
 13 Corrections institution.

14 (3) Any person under 18 years of age at the time of committing the crime and under 20 years  
 15 of age at the time of sentencing and commitment who, after waiver under ORS 419C.349, 419C.352,  
 16 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712, is sentenced to  
 17 a term of imprisonment in the custody of the Department of Corrections, and any person under 16  
 18 years of age who after waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370 or sentencing  
 19 under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712 is sentenced to a term of imprisonment in the county  
 20 jail, shall be temporarily assigned to a youth correction facility by the Department of Corrections,  
 21 or by the sheriff to whose custody the person has been committed, pursuant to ORS 137.124 (6). The  
 22 director shall designate the appropriate youth correction facility or schools for such assignment. A  
 23 person assigned to a youth correction facility under ORS 137.124 (6) and this subsection remains  
 24 within the legal custody of the Department of Corrections or sheriff to whose custody the person  
 25 was committed. The assignment of such a person to the youth correction facility is subject, when  
 26 the person is 16 years of age or older, to termination by the director by referring the person back  
 27 to the Department of Corrections or the sheriff to serve the balance of the person's sentence. As-  
 28 signment to a youth correction facility pursuant to ORS 137.124 (6) and this subsection, if not ter-  
 29 minated earlier by the director, shall terminate upon the person's attaining the age specified in ORS  
 30 420A.010 (5) setting the age limits for which the Oregon Youth Authority may retain legal and  
 31 physical custody of the person, and the person shall be referred to the Department of Corrections  
 32 or the sheriff having legal custody of the person to serve the balance of the person's sentence.

33 (4) Whenever a person committed to the custody of the Department of Corrections is temporarily  
 34 assigned to a youth correction facility pursuant to this section, the youth authority may provide  
 35 programs and treatment for the person, and may adopt rules relating to conditions of confinement  
 36 at the youth correction facility, as the youth authority determines are appropriate. However, the  
 37 person remains subject to laws and rules of the State Board of Parole and Post-Prison Supervision  
 38 relating to parole.

39 **SECTION 64.** ORS 423.478 is amended to read:

40 423.478. (1) The Department of Corrections shall:

41 (a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

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

43 (A) Allow tracking of offenders; and

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

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

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

5 (a) On parole;

6 (b) On probation;

7 (c) On post-prison supervision;

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

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

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

13 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,  
 14 when an offender is committed to the custody of the supervisory authority of a county under ORS  
 15 137.124 (2) or (4) **or section 54 (2) of this 2013 Act**, the supervisory authority may execute the  
 16 sentence by imposing sanctions other than incarceration if deemed appropriate by the supervisory  
 17 authority. If the supervisory authority releases a person from custody under this subsection and the  
 18 person is required to report as a sex offender under ORS 181.595, the supervisory authority, as a  
 19 condition of release, shall order the person to report to the Department of State Police, a city police  
 20 department or a county sheriff's office or to the supervising agency, if any:

21 (a) When the person is released;

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

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

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

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

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

30  
 31 **XIX. DEPARTMENT OF CORRECTIONS COST PER INMATE**

32  
 33 **SECTION 65. (1) The Legislative Assembly finds that the per-inmate costs of**  
 34 **incarceration in Department of Corrections institutions are greater than the average per-**  
 35 **inmate costs of incarceration in the United States, and hereby establishes as a goal the re-**  
 36 **duction of the department's per-inmate costs by five percent over the 10-year period**  
 37 **beginning July 1, 2013.**

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

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

44 (a) Includes costs attributable to the provision of security and housing, health care, food  
 45 services, treatment programs and recidivism reduction programs and other direct costs re-

1 lated to institutional operations.

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

4  
5 **UNIT CAPTIONS**

6  
7 **SECTION 66.** The unit captions in this 2013 Act are provided only for the convenience  
8 of the reader and do not become a part of the statutory law of this state or express any  
9 legislative intent in the enactment of this 2013 Act.

10  
11 **EMERGENCY CLAUSE**

12  
13 **SECTION 67.** This 2013 Act being necessary for the immediate preservation of the public  
14 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect  
15 on its passage.

16 \_\_\_\_\_