

House Bill 3195

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 certain controlled substance offenses.

Modifies sentence imposed for felony driving while suspended.

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.

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

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 corrections population forecasts.

Directs Legislative Fiscal Office to evaluate, or contract to evaluate, offender reentry and rehabilitation programs. Prohibits public bodies from funding programs that office determines are ineffective. Appropriates moneys to office for biennium beginning July 1, 2013, for purposes of evaluations.

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

Establishes Task Force on Corrections Cost Reductions.

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

Establishes grant program for counties that provide supervision-related services to certain offenders. Appropriates moneys to Oregon Criminal Justice Commission for biennium beginning July 1, 2013, for purposes of program.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 137.540, 173.029, 184.351, 423.483, 475.900,
3 475.924, 475.925 and 811.182; appropriating money; and declaring an emergency.

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

I. CONTROLLED SUBSTANCES

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

9 475.900. (1) **Except as provided in subsections (3) and (4) of this section**, a violation of ORS
10 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified as crime category 8 of the sen-
11 tencing guidelines grid of the Oregon Criminal Justice Commission if:

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

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

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

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

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

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 *hashish;*
- 2 [(E) One hundred and fifty grams or more of a mixture or substance containing a detectable
3 amount 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[.]; **or**
- 13 (G) _____ grams or more or _____ or more pills, tablets or capsules of a mixture or
14 substance containing a detectable amount of oxycodone, hydrocodone or methadone.
- 15 (b) The violation constitutes possession, delivery or manufacture of a controlled substance and
16 the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or
17 manufacture is a commercial drug offense for purposes of this subsection if it is accompanied by at
18 least three of the following factors:
- 19 (A) The delivery was of heroin, cocaine, hashish, marijuana, methamphetamine, lysergic acid
20 diethylamide, psilocybin [*or*], psilocin, **oxycodone, hydrocodone or methadone** and was for con-
21 sideration;
- 22 (B) The offender was in possession of \$300 or more in cash;
- 23 (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS
24 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous
25 weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly
26 or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a
27 controlled substance offense;
- 28 (D) The offender was in possession of materials being used for the packaging of controlled sub-
29 stances such as scales, wrapping or foil, other than the material being used to contain the substance
30 that is the subject of the offense;
- 31 (E) The offender was in possession of drug transaction records or customer lists;
- 32 (F) The offender was in possession of stolen property;
- 33 (G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled
34 substance offense;
- 35 (H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor
36 chemicals, laboratory equipment, lighting, ventilating or power generating equipment;
- 37 (I) The offender was using public lands for the manufacture of controlled substances;
- 38 (J) The offender had constructed fortifications or had taken security measures with the potential
39 of injuring persons; or
- 40 (K) The offender was in possession of controlled substances in an amount greater than:
- 41 (i) Three grams or more of a mixture or substance containing a detectable amount of heroin;
- 42 (ii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;
- 43 (iii) Eight grams or more of a mixture or substance containing a detectable amount of metham-
44 phetamine;
- 45 (iv) Eight grams or more of a mixture or substance containing a detectable amount of hashish;

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

3 (vi) Twenty or more user units of a mixture or substance containing a detectable amount of
4 lysergic acid diethylamide;

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

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

9 (I) 3,4-methylenedioxyamphetamine;

10 (II) 3,4-methylenedioxymethamphetamine; or

11 (III) 3,4-methylenedioxy-N-ethylamphetamine[.]; or

12 (ix) _____ grams or more or _____ or more pills, tablets or capsules of a mixture or
13 substance containing a detectable amount of oxycodone, hydrocodone or methadone.

14 (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.858, 475.862, 475.868,
15 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.

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

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

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

22 (e) The violation constitutes a violation of ORS 475.860 (4)(a) or 475.906 (1) or (2).

23 (2) **Except as provided in subsections (3) and (4) of this section**, a violation of ORS 475.752
24 or 475.806 to 475.894 shall be classified as crime category 6 of the sentencing guidelines grid of the
25 Oregon Criminal Justice Commission if:

26 (a) The violation constitutes delivery of heroin, cocaine, methamphetamine or
27 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or
28 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.

29 (b) The violation constitutes possession of:

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

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

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

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

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

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

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

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

44 (i) 3,4-methylenedioxyamphetamine;

45 (ii) 3,4-methylenedioxymethamphetamine; or

1 (iii) 3,4-methylenedioxy-N-ethylamphetamine[.]; or

2 (G) _____ grams or more or _____ or more pills, tablets or capsules of a mixture or
3 substance containing a detectable amount of oxycodone, hydrocodone or methadone.

4 (3) Any felony violation of ORS 475.856, 475.860 or 475.864 shall be classified as:

5 (a) Crime category 10 of the sentencing guidelines grid of the Oregon Criminal Justice
6 Commission if the violation involves:

7 (A) More than 50,000 grams of a substance or mixture containing a detectable amount
8 of marijuana; or

9 (B) More than 500 mature marijuana plants, seedlings or starts;

10 (b) Crime category 9 of the sentencing guidelines grid of the Oregon Criminal Justice
11 Commission if the violation involves:

12 (A) More than 20,000 grams, and not more than 50,000 grams, of a substance or mixture
13 containing a detectable amount of marijuana; or

14 (B) More than 200, but not more than 500, mature marijuana plants, seedlings or starts;

15 (c) Crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice
16 Commission if the violation involves:

17 (A) More than 5,000 grams, and not more than 20,000 grams, of a substance or mixture
18 containing a detectable amount of marijuana; or

19 (B) More than 50, but not more than 200, mature marijuana plants, seedlings or starts;

20 (d) Crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice
21 Commission if the violation involves:

22 (A) More than 1,000 grams, and not more than 5,000 grams, of a substance or mixture
23 containing a detectable amount of marijuana; or

24 (B) More than 10, but not more than 50, mature marijuana plants, seedlings or starts;

25 or
26 (e) Crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice
27 Commission if the violation involves:

28 (A) One thousand grams or less of a substance or mixture containing a detectable
29 amount of marijuana; or

30 (B) Ten or fewer mature marijuana plants, seedlings or starts.

31 [(3)] (4) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection
32 (1) [or], (2) or (3) of this section shall be classified as:

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

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

37 [(4)] (5) In order to prove a commercial drug offense, the state shall plead in the accusatory
38 instrument sufficient factors of a commercial drug offense under subsections (1) and (2) of this sec-
39 tion. The state has the burden of proving each factor beyond a reasonable doubt.

40 [(5)] (6) As used in this section, "mixture or substance" means any mixture or substance,
41 whether or not the mixture or substance is in an ingestible or marketable form at the time of the
42 offense.

43 **SECTION 2.** ORS 475.924 is amended to read:

44 475.924. As used in **this section** and ORS 164.061, 475.907[, 475.924] and 475.925:

45 (1) "Controlled substance" means:

- 1 (a) Cocaine;
- 2 (b) Methamphetamine;
- 3 (c) Heroin; [or]
- 4 **(d) Oxycodone; or**
- 5 [(d)] (e) Ecstasy.
- 6 (2) "Ecstasy" means:
- 7 (a) 3,4-methylenedioxyamphetamine;
- 8 (b) 3,4-methylenedioxyamphetamine; or
- 9 (c) 3,4-methylenedioxy-N-ethylamphetamine.
- 10 (3) "Mixture or substance" means any mixture or substance, whether or not the mixture or
- 11 substance is in an ingestible or marketable form at the time of the offense.

12 **(4) "Serious physical injury" has the meaning given that term in ORS 161.015.**

13 **SECTION 3.** ORS 475.925 is amended to read:

14 475.925. When a person is convicted of the unlawful delivery or manufacture of a controlled
15 substance, the court shall sentence the person to a term of incarceration ranging from:

16 (1) 58 months to 130 months, depending on the person's criminal history, if:

17 (a) The delivery or manufacture involves:

18 [(a)] (A) 500 grams or more of a mixture or substance containing a detectable amount of cocaine;

19 [(b)] (B) 500 grams or more of a mixture or substance containing a detectable amount of meth-
20 amphetamine, its salts, isomers or salts of its isomers;

21 [(c)] (C) 100 grams or more of a mixture or substance containing a detectable amount of heroin;
22 or

23 [(d)] (D) 100 grams or more or 500 or more pills, tablets or capsules of a mixture or substance
24 containing a detectable amount of ecstasy[.]; **or**

25 **(b) The controlled substance delivered or manufactured is heroin or oxycodone and a**
26 **person who uses the heroin or oxycodone dies as a result of that use.**

27 (2) 34 months to 72 months, depending on the person's criminal history, if:

28 (a) The delivery or manufacture involves:

29 [(a)] (A) 100 grams or more of a mixture or substance containing a detectable amount of cocaine;

30 [(b)] (B) 100 grams or more of a mixture or substance containing a detectable amount of meth-
31 amphetamine, its salts, isomers or salts of its isomers;

32 [(c)] (C) 50 grams or more of a mixture or substance containing a detectable amount of heroin;
33 or

34 [(d)] (D) 50 grams or more or 250 or more pills, tablets or capsules of a mixture or substance
35 containing a detectable amount of ecstasy[.]; **or**

36 **(b) The controlled substance delivered or manufactured is heroin or oxycodone and a**
37 **person who uses the heroin or oxycodone sustains a serious physical injury as a result of**
38 **that use.**

39 **SECTION 4.** The amendments to ORS 475.900, 475.924 and 475.925 by sections 1 to 3 of this
40 **2013 Act apply to crimes committed on or after the effective date of this 2013 Act.**

41

42

II. DRIVING WHILE SUSPENDED

43

44 **SECTION 5.** ORS 811.182 is amended to read:

45 811.182. (1) A person commits the offense of criminal driving while suspended or revoked if the

1 person violates ORS 811.175 and the suspension or revocation is one described in this section, or if
 2 the hardship or probationary permit violated is based upon a suspension or revocation described in
 3 subsection (3) or (4) of this section.

4 (2) Affirmative defenses to the offense described in this section are established under ORS
 5 811.180.

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

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

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

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

19 (c) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS
 20 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content
 21 of:

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (5) In addition to any other sentence that may be imposed, if a person is convicted of the offense
 44 described in this section and the underlying suspension resulted from driving while under the influ-
 45 ence of intoxicants, the court shall impose a minimum fine of at least \$1,000 if it is the person's first

1 conviction for criminal driving while suspended or revoked and a minimum fine of at least \$2,000 if
 2 it is the person's second or subsequent conviction.

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

5 **SECTION 6. The amendments to the rules of the Oregon Criminal Justice Commission**
 6 **required by the amendments to ORS 811.182 by section 5 of this 2013 Act apply to crimes**
 7 **committed on or after the effective date of this 2013 Act.**

8
 9 **III. EARNED DISCHARGE**

10
 11 **SECTION 7. (1) A person sentenced to felony probation or the legal and physical custody**
 12 **of the supervisory authority under ORS 137.124 (2) is eligible for a reduction in the period**
 13 **of supervision for:**

- 14 (a) **Complying with the terms of supervision, including the payment of restitution; and**
- 15 (b) **Participating in recidivism reduction programs.**

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

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

20 (4)(a) **The Department of Corrections shall adopt rules to establish a process for grant-**
 21 **ing, retracting and restoring time credits earned under this section.**

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

23 **SECTION 8. Section 7 of this 2013 Act applies to crimes committed on or after the ef-**
 24 **fective date of this 2013 Act.**

25 **SECTION 9.** ORS 423.483 is amended to read:

26 423.483. (1) The baseline funding for biennia beginning after June 30, 1999, is the current service
 27 level for the expenses of providing management, support services, supervision and sanctions for
 28 offenders described in ORS 423.478 (2). At a minimum, each biennium's appropriation must be es-
 29 tablished at this baseline.

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

37 (3) As used in this section, "current service level" means the calculated cost of continuing cur-
 38 rent legislatively funded programs, phased in programs and increased caseloads minus one-time
 39 costs, decreased caseloads, phased out programs and pilot programs with the remainder adjusted for
 40 inflation as determined by the Legislative Assembly in its biennial appropriation to the Department
 41 of Corrections. **Caseloads under this subsection shall be determined by reference to the num-**
 42 **ber of offenders who are sentenced to the legal and physical custody of the supervisory au-**
 43 **thority under ORS 137.124 (2).**

44 **SECTION 10. The amendments to ORS 423.483 by section 9 of this 2013 Act become op-**
 45 **erative on July 1, 2013.**

IV. SUPERVISION CONDITIONS

SECTION 11. 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 State Police, a city police department, a county sheriff's office or the supervising agency:

(A) When supervision begins;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 [(3)] **(4) When a person who is a sex offender is released on probation, the court shall impose
39 as a [special] general condition of probation that the person not reside in any dwelling in which
40 another sex offender who is on probation, parole or post-prison supervision resides, without the ap-
41 proval of the person's supervising parole and probation officer, or in which more than one other sex
42 offender who is on probation, parole or post-prison supervision resides, without the approval of the
43 director of the probation agency that is supervising the person or of the county manager of the
44 Department of Corrections, or a designee of the director or manager. As soon as practicable, the
45 supervising parole and probation officer of a person subject to the requirements of this subsection**

1 shall review the person's living arrangement with the person's sex offender treatment provider to
 2 ensure that the arrangement supports the goals of offender rehabilitation and community safety. As
 3 used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

29 [(5)] **(6)** When a person who is a sex offender, as defined in ORS 181.594, is released on pro-
 30 bation, the Department of Corrections or the county community corrections agency, whichever is
 31 appropriate, shall notify the city police department, if the person is going to reside within a city,
 32 and the county sheriff's office of the county in which the person is going to reside of the person's
 33 release and the conditions of the person's release.

34 [(6)] **(7)** Failure to abide by all general and special conditions [*imposed by the court and super-*
 35 *vised by the Department of Corrections or a county community corrections agency*] **of probation** may
 36 result in arrest, modification of conditions, revocation of probation or imposition of structured,
 37 intermediate sanctions in accordance with rules adopted under ORS 137.595.

38 [(7)] **(8) When a person is convicted of a misdemeanor**, the court may order that probation
 39 be supervised by the court. If the court orders that probation be supervised by the court, the de-
 40 fendant shall pay a fee of \$100 to the court. Fees imposed under this subsection in the circuit court
 41 shall be deposited by the clerk of the court in the General Fund. Fees imposed in a justice court
 42 under this subsection shall be paid to the county treasurer. Fees imposed in a municipal court un-
 43 der this subsection shall be paid to the city treasurer.

44 [(8)] **(9)** The court may at any time modify the **general** conditions of probation.

45 [(9)] **(10)** A court may not order revocation of probation as a result of the probationer's failure

1 to pay restitution unless the court determines from the totality of the circumstances that the pur-
 2 poses of the probation are not being served.

3 [(10)] (11) It is not a cause for revocation of probation that the probationer failed to apply for
 4 or accept employment at any workplace where there is a labor dispute in progress. As used in this
 5 subsection, "labor dispute" has the meaning for that term provided in ORS 662.010.

6 [(11)] (12) If the court determines that a defendant has violated the terms of probation, the court
 7 shall collect a \$25 fee from the defendant. The fee becomes part of the judgment and may be col-
 8 lected in the same manner as a fine. Fees collected under this subsection in the circuit court shall
 9 be deposited by the clerk of the court in the General Fund. Fees collected in a justice court under
 10 this subsection shall be paid to the county treasurer. Fees collected in a municipal court under this
 11 subsection shall be paid to the city treasurer.

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

14 **SECTION 12. The amendments to ORS 137.540 by section 11 of this 2013 Act apply to**
 15 **crimes committed on or after the effective date of this 2013 Act.**

16
 17 **V. DEFINITION OF RECIDIVISM**
 18

19 **SECTION 13. (1) As used in this section, "recidivism" means the arrest, conviction or**
 20 **incarceration of a person who has previously been convicted of a crime, if the arrest, con-**
 21 **viction or incarceration occurs:**

22 (a) **Three years or less after the date the person was convicted of the previous crime;**
 23 **or**

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

26 (2) **When the Oregon Department of Administrative Services, the Department of Cor-**
 27 **rections, the Oregon Criminal Justice Commission or any other public body as defined in ORS**
 28 **174.109 conducts a statistical evaluation of the rate at which persons convicted of a crime**
 29 **subsequently commit additional crimes, the public body shall include an evaluation of**
 30 **recidivism.**

31
 32 **VI. SPECIALTY COURT STANDARDS**
 33

34 **SECTION 14. (1) As used in this section, "specialty courts" means drug court programs**
 35 **as defined in ORS 3.450, veterans' courts, mental health courts and any other court or**
 36 **docketing system designed to adjudicate criminal actions involving an identified classification**
 37 **of criminal defendants.**

38 (2) **After consulting with the Judicial Department, the Oregon Criminal Justice Com-**
 39 **mission shall adopt rules applicable to specialty courts. The rules must be aligned with best**
 40 **practices, targeting medium and high risk and high needs offenders, and designed to reduce**
 41 **recidivism in a cost-effective manner. The commission shall review the rules no less than**
 42 **once each biennium to ensure that the rules incorporate the most recent research in the**
 43 **field.**

44
 45 **VII. CORRECTIONAL FORECASTS**

SECTION 15. ORS 184.351 is amended to read:

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

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

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

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

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

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

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

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

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

VIII. PROGRAM EVALUATION

SECTION 16. (1) The Legislative Fiscal Office shall periodically evaluate, or periodically contract with private parties to evaluate, the effectiveness of offender reentry and rehabilitation programs, utilizing randomized controlled trials, whenever possible.

(2) The Legislative Fiscal Office shall maintain a registry of offender reentry and rehabilitation programs operated throughout this state. For offender reentry and rehabilitation programs that have been evaluated as described in subsection (1) of this section, the office shall include in the registry the results of the evaluation.

(3) Not less than once per biennium, the Legislative Fiscal Office shall submit to the Legislative Assembly in the manner provided in ORS 192.245 a report that includes the registry described in subsection (2) of this section.

(4) If the Legislative Fiscal Office determines that an offender reentry and rehabilitation program is ineffective and is likely to remain ineffective:

(a) A public body as defined in ORS 174.109 may not expend state or local funds to support the program; and

(b) The Legislative Fiscal Officer shall take all actions necessary to ensure that state funds are not utilized to support the program.

SECTION 17. There is appropriated to the Legislative Fiscal Office, for the biennium beginning July 1, 2013, out of the General Fund, the amount of \$_____ for the purpose of carrying out the provisions of section 16 of this 2013 Act.

IX. FISCAL IMPACT NOTES

SECTION 18. ORS 173.029 is amended to read:

173.029. (1) For any measure reported out of a committee of the Legislative Assembly, the effect

1 of which is to create a new crime [or], increase the period of incarceration allowed or required for
 2 an existing crime **or otherwise modify sentencing or state corrections policies**, the Legislative
 3 Fiscal Officer, with the aid of the Oregon Department of Administrative Services, Legislative Re-
 4 venue Officer, state agencies and affected local governmental units, shall prepare a fiscal impact
 5 statement describing the fiscal impact that the measure would, if enacted, have on the state as well
 6 as on local governmental units.

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

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

11 (b) The fiscal impact on state and local courts, including an estimate of the increase in the an-
 12 ticipated number of trials annually;

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

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

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

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

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

30 **SECTION 19. The amendments to ORS 173.029 by section 18 of this 2013 Act become op-**
 31 **erative on January 1, 2014.**

32
 33 **X. CORRECTIONS COST REDUCTIONS**
 34

35 **SECTION 20. (1) The Task Force on Corrections Cost Reductions is established, consist-**
 36 **ing of five members appointed as follows:**

37 **(a) The President of the Senate shall appoint a county sheriff.**

38 **(b) The Speaker of the House of Representatives shall appoint a county sheriff.**

39 **(c) The Chief Justice of the Supreme Court shall appoint a judge.**

40 **(d) The Governor shall appoint a member of a labor organization that represents cor-**
 41 **rections officers.**

42 **(e) The Director of the Department of Corrections, who shall chair the task force.**

43 **(2) The task force shall:**

44 **(a) Establish a clear, consistent protocol to calculate daily bed costs in Department of**
 45 **Corrections institutions.**

1 (b) Not later than January 1 of each year, report daily bed costs in Department of Cor-
 2 rections institutions to the Legislative Assembly in the manner provided in ORS 192.245.

3 (c) Develop management strategies to reduce daily bed costs by five percent during the
 4 biennium beginning July 1, 2013, and to ensure that these costs increase at a rate not greater
 5 than the average cost of inflation, for the following 10-year period.

6 (d) Examine all available strategies to contain costs in the Department of Corrections,
 7 other than the use of private prisons.

8 (3) The task force may hire independent, private sector consultants to assist the task
 9 force with the development of strategies described in subsection (2)(d) of this section.

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

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

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

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

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

19 (9) The Department of Corrections shall provide staff support to the task force.

20 (10) Members of the task force are not entitled to compensation, but may be reimbursed
 21 for actual and necessary travel and other expenses incurred by them in the performance of
 22 their official duties in the manner and amounts provided for in ORS 292.495. Claims for ex-
 23 penses shall be paid out of funds appropriated to the Department of Corrections for purposes
 24 of the task force.

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

29
 30 **XI. OVERSIGHT ENTITY**

31
 32 **SECTION 21.** (1) The Task Force on Public Safety Oversight is established, consisting of
 33 11 members appointed as follows:

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

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

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

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

40 (A) One member shall be a district attorney.

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

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

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

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

1 (2) The task force shall review the implementation of the provisions of this 2013 Act. No
 2 later than October 1, 2016, the task force shall submit a report to the Legislative Assembly
 3 in the manner provided by ORS 192.245 that describes the findings of the task force. The
 4 report may include recommendations for legislation.

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

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

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

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

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

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

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

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

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

26 (b) Upon the request of the task force, the Oregon Criminal Justice Commission shall,
 27 when possible, provide the task force with data related to the rate of offender recidivism as
 28 that term is defined in section 13 of this 2013 Act.

29 SECTION 22. Section 21 of this 2013 Act is repealed on the date of the convening of the
 30 2017 regular session of the Legislative Assembly as specified in ORS 171.010.

31
 32 **XII. REENTRY PROGRAMS**

33
 34 SECTION 23. (1) The Oregon Criminal Justice Commission shall administer a grant pro-
 35 gram to provide counties with funding necessary to administer an offender reentry and re-
 36 habilitation program described in this section.

37 (2) A county is eligible for a grant described in this section if the county, in accordance
 38 with the rules of the commission, is able to demonstrate a current or future ability to pro-
 39 vide, at a readily accessible location or by streamlined referral, assistance to offenders who:

40 (a) Are serving a term of felony probation or a term of post-prison supervision after be-
 41 ing sentenced to the legal and physical custody of the supervisory authority under ORS
 42 137.124 (2);

43 (b) Are determined to be at a high risk to reoffend; and

44 (c) Have supervision-related service needs.

45 (3) Grant moneys awarded under this section must be used to pay the cost of providing

1 a supervision-related service or to reimburse a service provider for the provision of a
2 supervision-related service.

3 (4)(a) The commission shall annually:

4 (A) Contract with a qualified independent person or organization to conduct a scientif-
5 ically valid evaluation of the grant program described in this section to determine whether
6 the grant program is effective in reducing recidivism; and

7 (B) Conduct an audit of the grant program described in this section to ensure that grant
8 moneys are awarded solely for the purposes described in this section.

9 (b) All public bodies as defined in ORS 174.109 and persons providing or receiving
10 supervision-related services shall cooperate fully in the evaluation and audit described in this
11 subsection.

12 (c) Not later than October 1 of each year, the commission shall report to the Legislative
13 Assembly in the manner provided in ORS 192.245 on the results of the evaluation and audit.

14 (5) As used in this section, "supervision-related service" means any of the following:

15 (a) Alcohol and drug assessment and treatment;

16 (b) Obtaining food and clothing, appropriate housing or state identification;

17 (c) Obtaining employment;

18 (d) Providing transportation;

19 (e) Benefit application assistance;

20 (f) Family and community support;

21 (g) Medical, dental and mental health evaluation and referral;

22 (h) Cognitive behavioral therapy;

23 (i) Financial and computer training;

24 (j) Referrals for faith-based mentoring or self-improvement;

25 (k) Legal consultation; or

26 (L) Education and training programs.

27 SECTION 24. There is appropriated to the Oregon Criminal Justice Commission, for the
28 biennium beginning July 1, 2013, out of the General Fund, the amount of \$_____ for the
29 purposes of carrying out the provisions of section 23 of this 2013 Act.

30
31 **UNIT CAPTIONS**

32
33 SECTION 25. The unit captions used in this 2013 Act are provided only for the conven-
34 ience of the reader and do not become part of the statutory law of this state or express any
35 legislative intent in the enactment of this 2013 Act.

36
37 **EMERGENCY CLAUSE**

38
39 SECTION 26. This 2013 Act being necessary for the immediate preservation of the public
40 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
41 on its passage.

42 _____