

A-Engrossed
Senate Bill 199

Ordered by the Senate April 3
Including Senate Amendments dated April 3

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D.)

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.

Requires State Board of Parole and Post-Prison Supervision to notify victim, if requested, prior to hearing or administrative decision to reset or advance release date of prisoner for outstanding reformation, severe medical condition or age-related incapacity. [*Specifies rights of victim at hearing or during administrative decision making process.*]

A BILL FOR AN ACT

1
2 Relating to prisoners of the Department of Corrections; amending ORS 144.122, 144.126 and 144.750.

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

4 **SECTION 1.** ORS 144.122 is amended to read:

5 144.122. (1) After the initial parole release date has been set under ORS 144.120 and after a
6 minimum period of time established by the State Board of Parole and Post-Prison Supervision under
7 subsection (2)(a) of this section, the prisoner may request that the parole release date be reset to
8 an earlier date. The board may grant the request upon a determination by the board that continued
9 incarceration is cruel and inhumane and that resetting the release date to an earlier date is not
10 incompatible with the best interests of the prisoner and society and that the prisoner:

11 (a) Has demonstrated an extended course of conduct indicating outstanding reformation;

12 (b) Suffers from a severe medical condition including terminal illness; or

13 (c) Is elderly and is permanently incapacitated in such a manner that the prisoner is unable to
14 move from place to place without the assistance of another person.

15 (2) The Advisory Commission on Prison Terms and Parole Standards may propose to the board
16 and the board shall adopt rules:

17 (a) Establishing minimum periods of time to be served by prisoners before application may be
18 made for a reset of release date under subsection (1) of this section;

19 (b) Detailing the criteria set forth under subsection (1) of this section for the resetting of a
20 parole release date; and

21 (c) Establishing criteria for parole release plans for prisoners released under this section that,
22 at a minimum, must [*insure*] **ensure** appropriate supervision and services for the person released.

23 (3) The provisions of subsection (1)(b) of this section apply to prisoners sentenced in accordance
24 with ORS 161.610.

25 (4) The provisions of this section do not apply to prisoners sentenced to life imprisonment
26 without the possibility of release or parole under ORS 138.012 or 163.150.

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

1 **(5) If the victim has requested notification of the release of the prisoner, the board shall**
2 **notify the victim as described in ORS 144.750 (3) prior to any hearing or administrative de-**
3 **cision under this section.**

4 **SECTION 2.** ORS 144.126 is amended to read:

5 144.126. (1) The State Board of Parole and Post-Prison Supervision may advance the release date
6 of a prisoner who was sentenced in accordance with rules of the Oregon Criminal Justice Commis-
7 sion or ORS 161.610. The release date may be advanced if the board determines that continued
8 incarceration is cruel and inhumane and that advancing the release date of the prisoner is not in-
9 compatible with the best interests of the prisoner and society and that the prisoner is:

10 (a) Suffering from a severe medical condition including terminal illness; or

11 (b) Elderly and permanently incapacitated in such a manner that the prisoner is unable to move
12 from place to place without the assistance of another person.

13 (2) The board shall adopt rules establishing criteria for release plans for prisoners released un-
14 der this section that, at a minimum, must insure appropriate supervision and services for the person
15 released.

16 (3) The provisions of this section do not apply to prisoners sentenced to life imprisonment
17 without the possibility of release or parole under ORS 138.012 or 163.150.

18 **(4) If the victim has requested notification of the release of the prisoner, the board shall**
19 **notify the victim as described in ORS 144.750 (3) prior to any hearing or administrative de-**
20 **cision under this section.**

21 **SECTION 3.** ORS 144.750 is amended to read:

22 144.750. (1) To accord crime victims due dignity and respect, a victim of a crime that is the
23 subject of a proceeding conducted by the State Board of Parole and Post-Prison Supervision has the
24 following rights:

25 (a) The right to be reasonably protected from the offender during the proceeding;

26 (b) The right to attend the proceeding in person or, at the discretion of the victim and with
27 advance notice to the board, to attend the proceeding by alternative means; and

28 (c) The right to request the district attorney of the county in which the offender was convicted,
29 in the discretion of the district attorney, to participate in the proceeding.

30 (2)(a) The board must make a reasonable effort to notify the district attorney of the county in
31 which the offender was convicted and the victim, if the victim requests to be notified and furnishes
32 the board a current address, of any hearing conducted by the board. The board shall send written
33 notice to the current addresses of the district attorney and the victim no later than 30 days before
34 the hearing.

35 (b) The victim, personally or by counsel, and the district attorney of the county in which the
36 offender was convicted have the right to appear at a hearing conducted by the board and may sub-
37 mit written and oral statements adequately and reasonably expressing any views concerning the
38 crime and the offender.

39 (c) The victim, personally or by counsel, and the district attorney of the county in which the
40 offender was convicted shall be given access to the information that the board will rely upon in the
41 hearing. The victim and the district attorney shall be given adequate time to rebut the information.
42 The victim or the district attorney may request that the board, in the discretion of the board, obtain
43 and consider additional records, evaluations or other documents.

44 **(3) The board must make a reasonable effort to notify the victim, if the victim requests**
45 **to be notified and furnishes the board with a current address, of any hearing or administra-**

1 **tive decision making process resetting or advancing a release date pursuant to ORS 144.122**
2 **or 144.126.**

3 [(3)(a)] (4)(a) A supervisory authority must make a reasonable effort to notify the victim, if the
4 victim requests to be notified and furnishes the supervisory authority a current address, of any
5 contested hearing conducted by the supervisory authority. The supervisory authority shall send
6 written notice to the current address of the victim as soon as practicable.

7 (b) The victim, personally or by counsel, has the right to appear at a contested hearing con-
8 ducted by the supervisory authority and may submit written and oral statements adequately and
9 reasonably expressing any views concerning the crime and the offender.

10 (c) The victim, personally or by counsel, shall be given access to information that the supervi-
11 sory authority will rely upon in the contested hearing. The victim shall be given adequate time to
12 rebut the information. The victim may request that the supervisory authority, in the discretion of
13 the supervisory authority, obtain and consider additional records, evaluations or other documents.

14 [(4)] (5) For purposes of this section, the victim may appear personally through the victim's next
15 of kin or a representative selected by the victim.

16
