

2010 Oregon Sentencing Guidelines Grid

Crime Seriousness	Three or more person felonies (juvenile or adult)	Two person felonies (juvenile or adult)	One person felony plus one or more non-person felony	One adult or juvenile person felony and no other felony	Four or more adult non-person felonies	Two or three adult non-person felonies	4+ adult "A" misdos or one adult non-person felony or 3+ juvenile non-person felonies	No more than 3 adults "A" misdos or two juvenile non-person felonies	No juvenile felonies or adult "A" misdos	Upward Dispositional Departure Maximum Sentence (for presumptive probation cases)	Post Prison Supervision
	A	B	C	D	E	F	G	H	I	Prob Term	
11	225-269	196-224	178-194	164-177	149-163	135-148	129-134	122-128	120-121	5 years (levels 9-11)	3 years (levels 7-11)
10	121-130	116-120	111-115	91-110	81-90	71-80	66-70	61-65	58-60		
9	66-72	61-65	56-60	51-55	46-50	41-45	39-40	37-38	34-36	3 years (levels 6-8)	2 years (levels 4-6)
8	41-45	35-40	29-34	27-28	25-26	23-24	21-22*	19-20*	16-18*		
7	31-36	25-30	21-24	19-20	16-18	180-90	180-90	180-90	180-90	2 years (levels 3-5)	1 year (levels 1-3)
6	25-30	19-24	15-18	13-14	10-12	180-90	180-90	180-90	180-90		
5	15-16	13-14	11-12	9-10	6-8	180-90	120-60	120-60	120-60	18 mos. (levels 1-2)	18 mos. (levels 1-2)
4	10-11	8-9	120-60	120-60	120-60	120-60	120-60	120-60	120-60		
3	120-60	120-60	120-60	120-60	120-60	120-60	90-30	90-30	90-30	18 mos. (levels 1-2)	18 mos. (levels 1-2)
2	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30		
1	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30		

Durational departure maximum is double the presumptive maximum or dispositional departure maximum. For validity of departures, see *State v. Wedge* and *Blakely v. Washington*.

* Eligible for optional probation (see back side for eligibility criteria).

Crime (Non-Measure 11)	Crime Seriousness
Abandon Child 163.535	7, 3*
Abuse of Corpse 1 166.087	5
Abuse of Corpse 2 166.085	5
Aggravated Animal Abuse 1 167.322	3
Aggravated Driving While Suspended or Revoked Or Laws 2009, ch 783	7
Aggravated Harassment Or Laws 2009, ch 783	6
Aggravated Identity Theft 165.803	5
Aggravated Murder 163.095	See 163.105
Aggravated Veh. Homicide 163.149	10
Alteration of Document of Gift 97.982	4
Animal Abuse 1/Felony 167.320(4)	3
Arson 1 164.325 (see Measure 11 table)	10, 9, 8, 7*
Arson 2 164.315	Property*
Assault 3 163.165	8, 6*
Assault 4/Felony 163.160(3)	6
Assault Law Enforcement Animal 167.339	6
Assault Pub. Safety Officer 163.208	6
Attempt CS 3-11	2 Below Crime
Class A or B Felony 161.405	
Attempt CS 1-2 Class A or B Felony 161.405	1
Attempt to Elude, Felony 811.540(1)(b)(A)	2
Ballot Buying/Selling 260.718	Unranked

Bigamy 163.515	1
Blue Sky/Securities ORS ch 59	Property*
Bribe Give/Receive/Sports 165.085 165.090	2
Bribe Giving/Receiving Pub Serv-Witness 162.015 162.025 162.265 162.275	6
Burglary 1 164.225	9, 8, 7*
Burglary 2 164.215	Property*
Buying/Selling Custody Minor 163.537	8, 5*
Causing Another's Cont Subst Ingest 475.984	9, 8*
Cellular Counterfeiting 1 165.581	4
Cellular Counterfeiting 2 165.579	2
Cheating at Gambling 167.167	2
Child Neglect 1 163.547	6
Coercion 163.275	7, 6*
Computer Crimes 164.377	Property*
Conspiracy 161.450	Unranked
Criminal Mischief 1 164.365	Property*
Criminal Mistreatment 1 163.205	7
Criminal Nonsupport 163.555	3
Crim Negligent Homicide 163.145	9, 9*
Del Crim Poss of Rented or Leased Veh 164.138	Property*
Custodial Interference 1 163.257	6
Custodial Interference 2 163.245	4
Custodial Sexual Miscond 1 163.452	7**
Dealing Drugs to Minor 475.906	4*
Del Marijuana to Minor 475.906	4*
Del Cont Sub W/in 1000 ft School 475.904	8
Del/Manuf Fake Cont Subst 475.840(2)	8, 6, 4*
Discharge/Att Firearm/Sch 166.370(3)(a)	6
Disorderly Conduct 1 163.023	4**
Disposing of Meth Waste 475.977	4
Distribute Equip intent to Manuf Cont Subst 475.962	8
Distribute Tobacco Products w/out Lic ORS ch 323	1
Dogfighting 167.365	Unranked
Dogfighting, Participation 167.370	Unranked
Dogfighting, Poss Paraph 167.372	Unranked
Drug Pos/Manuf/Del 474.840(1),(3) See Substances Table*	6**
DUI/Felony 813.010(5)	6**

Ballot Measure 11 Crimes (ORS 137.700 and 137.707)

Crime	Months	CS
Arson 1 164.325 (CS 10 only)	90	10
Assault 1 163.185	90	10, 9*
Assault 2 163.175	70**	9
Att Agg Murder 163.095, 161.405	120	10
Compelling Prostitution 167.017 70		8
Conspiracy Agg Murder 163.095, 161.450	120	Unranked
Att Murder 163.115, 161.405	90	9
Conspiracy Murder 163.115, 161.450	90	Unranked
Kidnapping 1 163.235	90, 300***	10
Kidnapping 2 163.225	70**	9
Manslaughter 1 163.118	120	10
Manslaughter 2 163.125	75**	9, 8*
Murder 163.115	300	11****
Rape 1 163.375	100, 300****	10, 9*
Rape 2 163.365	75**	8
Robbery 1 164.415	90	9
Robbery 2 164.405	70**	9
Sexual Abuse 1 163.427	75**	8
Sexual Penetration 1 163.411	100, 300****	10, 9*
Sexual Penetration 2 163.408	75**	8
Sodomy 1 163.405	100, 300****	10, 9*
Sodomy 2 163.395	75**	8
Use Child Display Sex Act 163.670	70	8

* See Crime Categories on back side for Crime Seriousness Level criteria.
 ** ORS 137.712 may authorize court to impose sentence of less than Measure 11 minimum.
 *** 300-month minimum applies only to adult defendants and for crimes committed on or after April 24, 2006. See ORS 137.700 for complete information about 300-month minimum.
 **** If defendant at least 15 and knew victim was pregnant, then unranked.

DWS/R 811.182	6
Elections Fraud 247.125, 247.171(5), 247.420(2), 253.710	Unranked
Encouraging Ch Sex Abuse 1 163.684	8
Encouraging Ch Sex Abuse 2 163.686	5
Escape 1 162.155	7
Escape 2 162.155	6
Exporting Unprocessed Logs 526.992(2)(b)	Unranked
Failure to Appear 1 162.205	4
Failure to Maintain Drug Records 475.914	1
Fail to Reg Sex Offender 181.599	4
False Info Environment Agency 468.953	1
False Peace Officer ID 162.367	3
False Receipt Invoice Cigarette Sales ORS ch 323	1
False Receipt Invoice Tobacco Product Sales ORS ch 323	1
False Rpt to Evade Cig. Tax 323.480(3)	1
False Report Tobacco Products Tax ORS ch 323	1
False Swearing/Vehicle Business 822.605	1
Felon in Possession of Body Armor 166.642	2
Felon in Possession of Firearm 166.270	6
Female Genital Mutilation 163.207	8
Filing False Health Care Claim 165.692	6
Filing False Refund Claim 323.480(6)	Unranked
Firearms Alter ID Mark 166.450	1
Firearms Manuf/Import/Transfer 166.410	6
Firearms/Unlawful Possession 166.272	6
Food Stamp Fraud 411.840	2
Forcible Recovery Fighting Bird 167.439	1
Forg/Alter Vehicle Title/Reg 803.230	1
Forged Instrmt/Poss 1 165.022	Property*
Forgery 1 165.013	Property*
Forgery Device - Possession 165.032	4
Fraud/Credit Card 750+ 165.955(3)(a)	Property*
Furnish Firearm Commit Fel 166.429	7
Gambling Felonies 167.137	3
Hindering Prosecution 162.325	9, 8*
Hit & Run/Beat 830.475	6
Hit & Run/Vehicle 811.705	8, 6*
Identity Theft 165.800	Property*
Identity Theft, Agg 165.803	5
Impersonate Officer/Judge/JP 162.365(2)(b)	3
Incest 163.525	6, 1*
Inmate/Poss Firearm/Weapon 166.275	8, 7*
Interfere w/Ag. Research 164.889	Property*
Interfere w/Livestock Prod 167.388	Property*
Intimidation 1 166.165	6
Labeling Videotape 164.872	Property*
Labeling Sound Recording 164.868	Property*
Luring a Minor 167.057	6
Mail Theft/Receipt of Stolen Mail ORS 164.162	6***
Maintain Dangerous Dog/Fel 609.098	8****
Money Laundering 164.170-174	Unranked
Money Transferring 717.905	1
Negot Bad Check (2d Conv) 165.065	Property*

Continued on back side.

NOTICE: This guide should only be used to refresh the user's memory and as a reference tool to better assist one's client. It is not a substitute for reading the sentencing guidelines themselves.

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Obtaining False Pet. Signature 260.555	Unranked
Online Sexual Corruption of Child 1 163.433	8
Online Sexual Corruption of Child 2 163.432	6
Organized Retail Theft 164.098	4
Paramilitary Activity 166.660	1
Payment for Internet Gambling 167.109	3
Perjury 162.065	6
Possess Body Armor 166.643	6, 4*
Possess Fake Commun Dev 165.070	3
Possess Firearm/D Wep Pub Bldg 166.370(1)	4
Possess a Gray Machine 167.164	2
Possess Hoax Destruct Device 166.385	6
Possess/Manuf Dest Device 166.382 166.384	5
Possess Rented Prop 164.140(4)	Property*
Poss Sex Explicit Mat Re Child 1 163.688	6
Poss Sex Explicit Mat Re Child 2 168.689	4
Possess Stolen Vehicle 819.300	Property*
Promoting a Live Sex Show 167.062(4)	3
Prostitution Promotion 167.012	8
Providing Payment for Signing/ Not Signing Pet 260.558	Unranked
Public Assistance Fraud 411.630	2
Public Indecency 163.465(2)(b)	6
Public Investment Fraud 162.117	6
Publish Cert of Title 803.080	1
Purchase or Sale of Body Part 97.981	5
Racketeering 166.720	Unranked
Rape 3 163.355	6
Recording Live Performance 164.869	Property*
Riot 166.015	6
Robbery 3 164.395	5
Sexual Abuse 2 163.425	8, 7*
Simulating Legal Process 162.355	3
Sodomy 3 163.385	6
Solicit Agg Murder 163.095 161.435	10
Solicit CS 3-11 Class A or B Felony 161.435	2 Below Crime
Solicit CS 1-2 Class A or B Felony 161.435	1
Speed Racing Organizing 811.127	2
Sports Agent Violations 702.032, 702.042	1
Stalking (Felony) 163.732	8
Stalking/Viol Ct Order (Fel) 163.750	8
Subjecting Another to Invol. Servitude 1 163.264	9, 6
Subjecting Another to Invol. Servitude 2 163.263	5
Supply Contraband 162.185	7, 6, 5, 4*
Tampering with Drug Records 167.212	1
Tampering with Lottery Records 162.305(2)(b)	3
Tampering with a Witness 162.285	6
Theft 1 164.055	Property*
Theft 1/Aggravated 164.057	6, 5
Theft by Deception 164.085	Property*
Theft by Extortion 164.075	7, 6, 5, 4, 3, 2*
Theft by Receiving 164.095	5, 3
Theft of Lost/Mislaid Property 164.065	Property*
Theft of Services 164.125	Property*
Throwing Object Off Overpass 166.651	1
Trademark Counterfeiting 647.145 and .150	Property*
Trafficking in Persons 163.266	Unranked
Traffic in Stolen Vehicle 819.310	6, 5
Trans. 60,000+ Cigs. w/out Permit 323.480(4)	1
Treason 166.005	Unranked
Tree Spiking 164.877(3)	6
Tree Spiking/Injury 164.877(3) 164.877(1)	8, 6*
Unauth Use of Vehicle 164.135	Property*
Unlawful Admin Sched I or II Cont Subst 475.910(1)(a)	9
Unlawful Admin Sched III Cont Subst 475.910(1)(b)	8
Unlawful Admin Sched IV Cont Subst 475.910(1)(c)	5
Unlawful Contact w/Child 163.479	7
Unlawful Distribution Cigarettes ORS ch 323	Tobacco*
Unlawful Distribution Tobacco Products ORS ch 323	Tobacco*
Unlawful Possession Fictitious ID 165.813	2
Unlawful Possession Personal ID Device 165.810	4
Unlawful Production ODOT ID 807.500	2
Unlawful Tobacco Delivery Sales ORS ch 323	1
Unlawful Transport Untaxed Tobacco Products ORS ch 323	1
Unlawful Use of Weapon 166.220	6
Use of Vital Record 432.993	1

Sentencing Guidelines—Controlled Substances Table

9, 10	See OCDLA Guide: Ballot Measure 57 (Or Laws 2008, ch 14).
8	UDCS/UMCS and "substantial quantity," or UMCS/UDCS/UPCS "commercial drug offense," or UDCS Sch I, II, III to minor with more than three years age difference; or UDCS w/in 1,000 ft. of school; or UDCS marijuana to minor; or use minor in drug offense with greater than three years age difference; or distribute equipment with intent to commit UMCS; or "actual" UMCS of methamphetamine.
6	UPCS and "substantial quantity," UDCS cocaine, methamphetamine, heroin, ecstasy for consideration. Possession of precursor substance w/intent to manufacture.
4	UMCS/UDCS; Use minor drug off/less than 3 years age difference.
1	UPCS.
Unranked	UDCS/UMCS that facilitated someone's death.

Sentencing Guidelines—Property Table

	Personal Use of a Vehicle	Other than a Vehicle
6		≥ \$50,000
5		≥ \$10,000
4	\$10,000 or more	≥ \$5,000 but < \$10,000
3	≥ \$1,000 but < \$10,000	≥ \$1,000
2		All others

Optional Probation: If the offender is in grid block 8-G, H, or I, the court may impose optional probation if: (1)(a) an appropriate treatment program is likely to be more effective than a prison term in reducing the risk of recidivism; (b) a treatment program is recommended, available, and the offender can be admitted into it within a reasonable period of time; and (c) the probationary sentence will serve community safety interests by promoting offender reformation. Even if the above criteria are met, **the court may not impose optional probation if:** (2)(a) the offender used a firearm in the offense, or (b) the offender was under supervision for a felony conviction or juvenile adjudication, or (c) the conviction is for "substantial quantity" MCS/methamphetamine, or (d) the person is a repeat methamphetamine offender.

Burglary 1: Offenders sentenced for level 7 burglary 1 and who are subject to ORS 137.635 have presumptive prison sentences for the following grid blocks (in months): 7-I (11-12), 7-H (12-13), 7-G (13-14), and 7-F (14-15).

Crime Categories: (CS=Crime Seriousness Level):

Abandonment of Child: CS 7 if child placed in immediate danger by defendant's conduct. **Arson 1:** CS 10 if offense represented threat of serious physical injury. CS 9 w/ \$50,000+ and no threat of serious physical injury. CS 8 if \$25K+ and no threat of serious physical injury. Otherwise CS 7. **Assault 1:** CS 10 if violated ORS 163.185(1)(b) or if the victim did not substantially contribute to the commission of offense by precipitating the crime, otherwise CS 9. **Assault 3:** CS 8 if coupled with DUII, otherwise CS 6. **Burglary 1:** CS 9 if armed with deadly weapon, or caused or threatened physical injury to victim. CS 8 if dwelling occupied, otherwise CS 7. **Buying or Selling Custody of a Minor:** CS 8 if conduct likely to endanger the health or welfare of child, otherwise CS 5. **Causing Another to Ingest a Controlled Substance:** CS 9 if done with intent to commit or facilitate violent crime, otherwise CS 8. **Coercion:** CS 7 if defendant threatened to cause physical injury, otherwise CS 6. **Criminally Negligent Homicide:** CS 9 if DUII-related, otherwise 8. **Hit and Run/Vehicle:** CS 8 if serious physical injury or death, otherwise CS 6. **Incest:** CS 6 if one of participants is under 18 and offender +3 older than victim, otherwise CS 1. **Inmate Possess Weapon:** CS 8 if firearm, otherwise CS 7. **Manslaughter 2:** CS 9 if DUII-related, otherwise 8. **Possession of Body Armor:** CS 6 if used in committing or attempting to commit person felony or misdemeanor involving violence, otherwise CS 4. **Rape 1/Sodomy 1/Sexual Penetration 1:** CS 10 if any of the following: (1) offender used/threatened use of weapon; (2) offender caused/threatened to cause serious physical injury; (3) victim under 12; or (4) victim incapable of consent because of mental defect, incapacitation, physical helplessness. Otherwise CS 9. **Sexual Abuse 2:** CS 8 if victim under 18, defendant 21 or older and was victim's "coach"; otherwise CS 7. **Stalking:** 1st conviction = misdemeanor, 2nd conviction = CS 8. **Subjecting Another to Involuntary Servitude 1:** CS 9 if offender caused or threatened to cause death or serious physical injury, otherwise CS 6. **Supplying Contraband:** CS 7 if firearm, CS 6 if dangerous weapon, CS 5 if controlled substance. Otherwise CS

Use Minor/Drug Offense 167.262 8, 4*

Use Stun Gun, Tear Gas, Mace 1 163.213 6

Wildlife Violation Fel 496.992(3) 2

4. **Theft/Aggravated:** CS 6 if value of property is \$50,000+, otherwise CS 5. **Theft by Extortion:** CS 7 if defendant threatened to cause physical injury to some person. **Theft by Receiving:** CS 5 if organized fencing operation, otherwise CS 3. **Trafficking in Stolen Vehicles:** CS 6 if: (a) organized operation, or (b) value of property from one or more victims is \$50,000+.

Controlled Substances Substantial Quantity, ORS 475.900(1)(a): At least 5 gr. heroin, 10 gr. cocaine/meth, 100 gr. hashish, 150 gr. marijuana, 200 units LSD, 60 gr. psilocybin/psilocin, or 5 gr. or 25 units ecstasy.

Commercial Drug Offense, ORS 475.900(1)(b): any three or more of the following: (A) delivery and for consideration, (B) possession \$300+ cash, (C) weapon poss./use or ex-con in poss., (D) possession packaging materials, (E) possession drug records or customer lists, (F) stolen property, (G) modification of structure, (H) possession manufacturing paraphernalia, (I) public lands for UMCS, (J) fortifications or dangerous security, (K) 3 gr. heroin, 8 gr. cocaine/meth/hash, 110 gr. marijuana, 20 units LSD, 10 gr. psilocybin/psilocin.

SPECIAL PRESUMPTIVE SENTENCES (predicate criminal history required and regular departure rules apply)

Repeat Property Offender—ORS 137.717

Agg Theft 1, Burglary 1, Agg ID Theft = 19 months
Priors: agg theft 1, burg 1, rob 1, rob 2, or agg ID theft; or four or more of the following: theft 1 or 2, agg theft 1, UUV, burg 1 or 2, crim misch 1 or 2, computer crime, forg 1 or 2, crim possess forged instr 1 or 2, fraud use cred card, ID theft, and possess or traffic stolen vehicle.

Theft 1, UUV, Burg 2, Crim Misch 1, Computer Crime, Forgery 1, ID Theft, Possess or Traff in Stolen Veh = 13 months

Priors: agg theft 1, UUV, burg 1, rob 1 or 2, possess or traff stolen veh; or four or more of the following: theft 1 or 2, agg theft 1, UUV, burg 1 or 2, crim misch 1 or 2, computer crime, forg 1 or 2, crim possess forged instr 1 or 2, fraud use cred card, ID theft, and possess or traffic stolen vehicle, and agg ID theft.

Repeat Sex Offender—ORS 137.719

Third conviction for felony sex offense (separate episode) = life without parole

Repeat Meth Offender—ORS 137.721

UDCS methamphetamine with two or more prior meth-related convictions (separate episodes) = 19 months

DEPARTURE SENTENCES

Mitigating Factors: (A) Victim was aggressor or participant in criminal conduct, (B) Defendant acted under duress or compulsion, (C) Diminished mental capacity (excluding drugs or alcohol), (D) Offense principally accomplished by another and defendant exhibited extreme caution or concern for victim, (E) Offender played a minor or passive role, (F) Offender cooperated with the state (except refusal to cooperate cannot be an aggravating factor), (G) Degree of harm or loss attributed to the current crime of conviction was significantly less than typical, (H) Offender conviction free for a significant period of time, (I) Same as optional-probation criteria (1)(a)-(c), see above.

Aggravating Factors: (A) Deliberate cruelty, (B) Vulnerable victim, (C) Threat of actual violence, (D) Persistent involvement in similar offenses or repetitive assaults (with consecutive-sentence exception), (E) Use of a weapon, (F) Violation of public trust or professional responsibility, (G) Multiple victims or incidents unrelated to current crime (with consecutive-sentence exception), (H) Organized criminal operation, (I) Permanent injury to the victim, (J) Harm or loss significantly greater than typical, (K) Motivated entirely or in part by the race/color/national origin/sexual orientation of the victim.

Note: **Aggravating factors** must be proved to the trier of fact beyond a reasonable doubt (unless they were admitted in pleading to the charging instrument). ORS 136.760 *et seq.*

Tobacco Crimes Table (over 90-day period)

	Number of Cigarettes	Tobacco Tax Avoided
7	> 120,000	≥ \$10,000
5	> 60,000 but ≤ 120,000	≥ \$5,000 but < \$10,000
3	> 12,000 but ≤ 60,000	≥ \$1,000 but < \$5,000
Class A Misdem	≤ 12,000	< \$1,000