

## HOUSE AMENDMENTS TO HOUSE BILL 3438

By COMMITTEE ON JUDICIARY

April 26

- 1 In line 2 of the printed bill, before the period insert “; amending ORS 144.096 and 144.102”.
- 2 Delete lines 4 through 9 and insert:
- 3 “**SECTION 1.** ORS 144.096 is amended to read:
- 4 “144.096. (1)(a) The Department of Corrections shall prepare a proposed release plan for an in-
- 5 mate prior to the inmate’s release from prison.
- 6 “(b) The department shall submit the proposed release plan to the State Board of Parole and
- 7 Post-Prison Supervision not less than 75 days prior to the inmate’s release.
- 8 “(c) If the proposed release plan is not approved by the board, the board shall return the plan
- 9 to the department with its recommended modifications. The department shall submit a revised plan
- 10 to the board not less than 25 days prior to the inmate’s release.
- 11 “(d) If the revised plan is not acceptable to the board, the board shall determine the provisions
- 12 of the final plan prior to the inmate’s release.
- 13 “(e) If an inmate was sentenced under section 29, chapter 649, Oregon Laws 2013, and the re-
- 14 lease plan recommends that the inmate participate in a reentry court, the board shall provide a copy
- 15 of the release plan to the reentry court.
- 16 “(2) The local supervisory authority that is responsible for correctional services for an inmate
- 17 shall prepare a proposed release plan for the inmate prior to the inmate’s release from jail. The local
- 18 supervisory authority shall approve the release plan under its rules. If the inmate was sentenced
- 19 under section 29, chapter 649, Oregon Laws 2013, and the supervisory authority recommends that
- 20 the inmate participate in a reentry court, the supervisory authority shall provide a copy of the re-
- 21 lease plan to the reentry court.
- 22 “(3) A release plan prepared under subsection (1) or (2) of this section must include:
- 23 “(a) A description of support services and program opportunities available to the inmate, **in-**
- 24 **cluding any transitional housing or treatment programs to which the inmate has been ac-**
- 25 **cepted;**
- 26 “(b) The recommended conditions of post-prison supervision;
- 27 “(c) The level of supervision that shall be consistent with the inmate’s risk assessment classi-
- 28 fication;
- 29 “(d) Any other conditions and requirements as may be necessary to promote public safety;
- 30 “(e) For all inmates whose sentence to make restitution under ORS 137.106 has been suspended
- 31 for the term of imprisonment, a restitution payment schedule; and
- 32 “(f) Any conditions necessary to assist the reformation of the inmate.
- 33 “**SECTION 2.** ORS 144.096, as amended by section 35, chapter 649, Oregon Laws 2013, is
- 34 amended to read:
- 35 “144.096. (1)(a) The Department of Corrections shall prepare a proposed release plan for an in-

1 mate prior to the inmate's release from prison.

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

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

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

9 "(2) The local supervisory authority that is responsible for correctional services for an inmate  
10 shall prepare a proposed release plan for the inmate prior to the inmate's release from jail. The local  
11 supervisory authority shall approve the release plan under its rules.

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

13 "(a) A description of support services and program opportunities available to the inmate, **in-**  
14 **cluding any transitional housing or treatment programs to which the inmate has been ac-**  
15 **cepted;**

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

17 "(c) The level of supervision that shall be consistent with the inmate's risk assessment classi-  
18 fication;

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

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

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

23 "**SECTION 3.** ORS 144.102 is amended to read:

24 "144.102. (1) The State Board of Parole and Post-Prison Supervision or local supervisory au-  
25 thority responsible for correctional services for a person shall specify in writing the conditions of  
26 post-prison supervision imposed under ORS 144.096. A copy of the conditions must be given to the  
27 person upon release from prison or jail.

28 "(2) The board or the supervisory authority shall determine, and may at any time modify, the  
29 conditions of post-prison supervision, which may include, among other conditions, that the person  
30 shall:

31 "(a) Comply with the conditions of post-prison supervision as specified by the board or supervi-  
32 sory authority.

33 "(b) Be under the supervision of the Department of Corrections and its representatives or other  
34 supervisory authority and abide by their direction and counsel.

35 "(c) Answer all reasonable inquiries of the board, the department or the supervisory authority.

36 "(d) Report to the parole officer as directed by the board, the department or the supervisory  
37 authority.

38 "(e) Not own, possess or be in control of any weapon.

39 "(f) Respect and obey all municipal, county, state and federal laws.

40 "(g) Understand that the board or supervisory authority may, at its discretion, punish violations  
41 of post-prison supervision.

42 "(h) Attend a victim impact treatment session in a county that has a victim impact program. If  
43 the board or supervisory authority requires attendance under this paragraph, the board or supervi-  
44 sory authority may require the person, as an additional condition of post-prison supervision, to pay  
45 a reasonable fee to the victim impact program to offset the cost of the person's participation. The

1 board or supervisory authority may not order a person to pay a fee in excess of \$5 under this par-  
2 agraph.

3 “(3) If the person is required to report as a sex offender under ORS 163A.010, the board or su-  
4 pervisory authority shall include as a condition of post-prison supervision that the person report  
5 with the Department of State Police, a city police department, a county sheriff’s office or the  
6 supervising agency:

7 “(a) When supervision begins;

8 “(b) Within 10 days of a change in residence;

9 “(c) Once each year within 10 days of the person’s date of birth;

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

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

14 “(4)(a) The board or supervisory authority may establish special conditions that the board or  
15 supervisory authority considers necessary because of the individual circumstances of the person on  
16 post-prison supervision.

17 “(b) If the person is on post-prison supervision following conviction of a sex crime, as defined  
18 in ORS 163A.005, the board or supervisory authority shall include all of the following as special  
19 conditions of the person’s post-prison supervision:

20 “(A) Agreement to comply with a curfew set by the board, the supervisory authority or the  
21 supervising officer.

22 “(B) A prohibition against contacting a person under 18 years of age without the prior written  
23 approval of the board, supervisory authority or supervising officer.

24 “(C) A prohibition against being present more than one time, without the prior written approval  
25 of the board, supervisory authority or supervising officer, at a place where persons under 18 years  
26 of age regularly congregate.

27 “(D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition  
28 against being present, without the prior written approval of the board, supervisory authority or  
29 supervising officer, at, or on property adjacent to, a school, child care center, playground or other  
30 place intended for use primarily by persons under 18 years of age.

31 “(E) A prohibition against working or volunteering at a school, child care center, park, play-  
32 ground or other place where persons under 18 years of age regularly congregate.

33 “(F) Entry into and completion of or successful discharge from a sex offender treatment program  
34 approved by the board, supervisory authority or supervising officer. The program may include  
35 polygraph and plethysmograph testing. The person is responsible for paying for the treatment pro-  
36 gram.

37 “(G) A prohibition against direct or indirect contact with the victim, unless approved by the  
38 victim, the person’s treatment provider and the board, supervisory authority or supervising officer.

39 “(H) Unless otherwise indicated for the treatment required under subparagraph (F) of this par-  
40 agraph, a prohibition against viewing, listening to, owning or possessing sexually stimulating visual  
41 or auditory materials that are relevant to the person’s deviant behavior.

42 “(I) Agreement to consent to a search of the person or the vehicle or residence of the person  
43 upon the request of a representative of the board or supervisory authority if the representative has  
44 reasonable grounds to believe that evidence of a violation of a condition of post-prison supervision  
45 will be found.

1 “(J) Participation in random polygraph examinations to obtain information for risk management  
2 and treatment. The person is responsible for paying the expenses of the examinations. The results  
3 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to  
4 prove a violation of post-prison supervision.

5 “(K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless  
6 approved by the board, supervisory authority or supervising officer.

7 “(L) A prohibition against using a post-office box unless approved by the board, supervisory  
8 authority or supervising officer.

9 “(M) A prohibition against residing in a dwelling in which another sex offender who is on pro-  
10 bation, parole or post-prison supervision resides unless approved by the board, supervisory authority  
11 or supervising officer, or in which more than one other sex offender who is on probation, parole or  
12 post-prison supervision resides unless approved by the board or the director of the supervisory au-  
13 thority, or a designee of the board or director. As soon as practicable, the supervising officer of a  
14 person subject to the requirements of this subparagraph shall review the person’s living arrange-  
15 ment with the person’s sex offender treatment provider to ensure that the arrangement supports the  
16 goals of offender rehabilitation and community safety.

17 “(c)(A) If the person is on post-prison supervision following conviction of a sex crime, as defined  
18 in ORS 163A.005, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18  
19 years of age, the board or supervisory authority, if requested by the victim, shall include as a special  
20 condition of the person’s post-prison supervision that the person not reside within three miles of the  
21 victim unless:

22 “(i) The victim resides in a county having a population of less than 130,000 and the person is  
23 required to reside in that county under subsection (7) of this section;

24 “(ii) The person demonstrates to the board or supervisory authority by a preponderance of the  
25 evidence that no mental intimidation or pressure was brought to bear during the commission of the  
26 crime;

27 “(iii) The person demonstrates to the board or supervisory authority by a preponderance of the  
28 evidence that imposition of the condition will deprive the person of a residence that would be  
29 materially significant in aiding in the rehabilitation of the person or in the success of the post-prison  
30 supervision; or

31 “(iv) The person resides in a halfway house.

32 “(B) A victim may request imposition of the special condition of post-prison supervision de-  
33 scribed in this paragraph at the time of sentencing in person or through the prosecuting attorney.  
34 A victim’s request may be included in the judgment document.

35 “(C) If the board or supervisory authority imposes the special condition of post-prison super-  
36 vision described in this paragraph and if at any time during the period of post-prison supervision the  
37 victim moves to within three miles of the person’s residence, the board or supervisory authority may  
38 not require the person to change the person’s residence in order to comply with the special condi-  
39 tion of post-prison supervision.

40 “(5)(a) The board or supervisory authority may require the person to pay, as a condition of  
41 post-prison supervision, compensatory fines, restitution or attorney fees:

42 “(A) As determined, imposed or required by the sentencing court; or

43 “(B) When previously required as a condition of any type of supervision that is later revoked.

44 “(b) The board may require a person to pay restitution as a condition of post-prison supervision  
45 imposed for an offense other than the offense for which the restitution was ordered if the person:

1           “(A) Was ordered to pay restitution as a result of another conviction; and

2           “(B) Has not fully paid the restitution by the time the person has completed the period of post-

3           prison supervision imposed for the offense for which the restitution was ordered.

4           “(6) A person’s failure to apply for or accept employment at a workplace where there is a labor

5           dispute in progress does not constitute a violation of the conditions of post-prison supervision.

6           “(7)(a) When a person is released from imprisonment on post-prison supervision, the board shall

7           order as a condition of post-prison supervision that the person reside for the first six months after

8           release in the county that last supervised the person, if the person was on active supervision as an

9           adult for a felony at the time of the offense that resulted in the imprisonment.

10          “(b) If the person was not on active supervision as an adult for a felony at the time of the of-

11          fense that resulted in the imprisonment, the board shall order as a condition of post-prison super-

12          vision that the person reside for the first six months after release in the county where the person

13          resided at the time of the offense that resulted in the imprisonment.

14          “(c) For purposes of paragraph (b) of this subsection:

15          “(A) The board shall determine the county where the person resided at the time of the offense

16          by examining records such as:

17               “(i) An Oregon driver license, regardless of its validity;

18               “(ii) Records maintained by the Department of Revenue;

19               “(iii) Records maintained by the Department of State Police;

20               “(iv) Records maintained by the Department of Human Services;

21               “(v) Records maintained by the Department of Corrections; and

22               “(vi) Records maintained by the Oregon Health Authority.

23          “(B) If the person did not have an identifiable address at the time of the offense, or the address

24          cannot be determined, the person is considered to have resided in the county where the offense oc-

25          curred.

26          “(C) If the person is serving multiple sentences, the county of residence is determined according

27          to the date of the last arrest resulting in a conviction.

28          “(D) In determining the person’s county of residence, the board may not consider offenses com-

29          mitted by the person while the person was incarcerated in a Department of Corrections facility.

30          “(d) Upon motion of the board, the supervisory authority, the person, a victim or a district at-

31          torney, the board may waive the residency condition under paragraph (b) of this subsection only

32          after making a finding that one of the following conditions has been met:

33               “(A) The person provides proof of employment with no set ending date in a county other than

34               the county of residence determined under paragraph (c) of this section;

35               “(B) The person is found to pose a significant danger to a victim of the person’s crime residing

36               in the county of residence, or a victim or victim’s family residing in the county of residence is found

37               to pose a significant danger to the person;

38               “(C) The person has a spouse or biological or adoptive family residing in a county other than

39               the county of residence who will be materially significant in aiding in the rehabilitation of the per-

40               son and in the success of the post-prison supervision;

41               “(D) As another condition of post-prison supervision, the person is required to participate in a

42               treatment program that is not available in the county of residence;

43               “(E) The person requests release to another state; or

44               “(F) The board finds other good cause for the waiver.

45          “(e) **The board shall consider eligibility for transitional housing programs and residential**

1 **treatment programs when determining whether to waive the residency condition under par-**  
2 **agraph (b) of this subsection, and the acceptance of the person into a transitional housing**  
3 **program or a residential treatment program constitutes good cause as described in para-**  
4 **graph (d)(F) of this subsection.**

5 “(8) As used in this section:

6 “(a) ‘Attends,’ ‘carries on a vocation,’ ‘institution of higher education’ and ‘works’ have the  
7 meanings given those terms in ORS 163A.005.

8 “(b)(A) ‘Dwelling’ has the meaning given that term in ORS 469B.100.

9 “(B) ‘Dwelling’ does not mean a residential treatment facility or a halfway house.

10 “(c) ‘Halfway house’ means a residential facility that provides rehabilitative care and treatment  
11 for sex offenders.

12 “(d) ‘Labor dispute’ has the meaning given that term in ORS 662.010.”.  
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