

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3438**

1 In line 2 of the printed bill, before the period insert “; amending ORS  
2 144.096 and 144.102”.

3 Delete lines 4 through 9 and insert:

4 **“SECTION 1.** ORS 144.096 is amended to read:

5 “144.096. (1)(a) The Department of Corrections shall prepare a proposed  
6 release plan for an inmate prior to the inmate’s release from prison.

7 “(b) The department shall submit the proposed release plan to the State  
8 Board of Parole and Post-Prison Supervision not less than 75 days prior to  
9 the inmate’s release.

10 “(c) If the proposed release plan is not approved by the board, the board  
11 shall return the plan to the department with its recommended modifications.  
12 The department shall submit a revised plan to the board not less than 25  
13 days prior to the inmate’s release.

14 “(d) If the revised plan is not acceptable to the board, the board shall  
15 determine the provisions of the final plan prior to the inmate’s release.

16 “(e) If an inmate was sentenced under section 29, chapter 649, Oregon  
17 Laws 2013, and the release plan recommends that the inmate participate in  
18 a reentry court, the board shall provide a copy of the release plan to the  
19 reentry court.

20 “(2) The local supervisory authority that is responsible for correctional  
21 services for an inmate shall prepare a proposed release plan for the inmate

1 prior to the inmate's release from jail. The local supervisory authority shall  
2 approve the release plan under its rules. If the inmate was sentenced under  
3 section 29, chapter 649, Oregon Laws 2013, and the supervisory authority  
4 recommends that the inmate participate in a reentry court, the supervisory  
5 authority shall provide a copy of the release plan to the reentry court.

6 “(3) A release plan prepared under subsection (1) or (2) of this section  
7 must include:

8 “(a) A description of support services and program opportunities available  
9 to the inmate, **including any transitional housing or treatment pro-**  
10 **grams to which the inmate has been accepted;**

11 “(b) The recommended conditions of post-prison supervision;

12 “(c) The level of supervision that shall be consistent with the inmate's  
13 risk assessment classification;

14 “(d) Any other conditions and requirements as may be necessary to pro-  
15 mote public safety;

16 “(e) For all inmates whose sentence to make restitution under ORS  
17 137.106 has been suspended for the term of imprisonment, a restitution pay-  
18 ment schedule; and

19 “(f) Any conditions necessary to assist the reformation of the inmate.

20 **“SECTION 2.** ORS 144.096, as amended by section 35, chapter 649, Oregon  
21 Laws 2013, is amended to read:

22 “144.096. (1)(a) The Department of Corrections shall prepare a proposed  
23 release plan for an inmate prior to the inmate's release from prison.

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

27 “(c) If the proposed release plan is not approved by the board, the board  
28 shall return the plan to the department with its recommended modifications.  
29 The department shall submit a revised plan to the board not less than 10  
30 days prior to the inmate's release.

1 “(d) If the revised plan is not acceptable to the board, the board shall  
2 determine the provisions of the final plan prior to the inmate’s release.

3 “(2) The local supervisory authority that is responsible for correctional  
4 services for an inmate shall prepare a proposed release plan for the inmate  
5 prior to the inmate’s release from jail. The local supervisory authority shall  
6 approve the release plan under its rules.

7 “(3) A release plan prepared under subsection (1) or (2) of this section  
8 must include:

9 “(a) A description of support services and program opportunities available  
10 to the inmate, **including any transitional housing or treatment pro-**  
11 **grams to which the inmate has been accepted;**

12 “(b) The recommended conditions of post-prison supervision;

13 “(c) The level of supervision that shall be consistent with the inmate’s  
14 risk assessment classification;

15 “(d) Any other conditions and requirements as may be necessary to pro-  
16 mote public safety;

17 “(e) For all inmates whose sentence to make restitution under ORS  
18 137.106 has been suspended for the term of imprisonment, a restitution pay-  
19 ment schedule; and

20 “(f) Any conditions necessary to assist the reformation of the inmate.

21 **“SECTION 3.** ORS 144.102 is amended to read:

22 “144.102. (1) The State Board of Parole and Post-Prison Supervision or  
23 local supervisory authority responsible for correctional services for a person  
24 shall specify in writing the conditions of post-prison supervision imposed  
25 under ORS 144.096. A copy of the conditions must be given to the person  
26 upon release from prison or jail.

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

30 “(a) Comply with the conditions of post-prison supervision as specified by

1 the board or supervisory authority.

2 “(b) Be under the supervision of the Department of Corrections and its  
3 representatives or other supervisory authority and abide by their direction  
4 and counsel.

5 “(c) Answer all reasonable inquiries of the board, the department or the  
6 supervisory authority.

7 “(d) Report to the parole officer as directed by the board, the department  
8 or the supervisory authority.

9 “(e) Not own, possess or be in control of any weapon.

10 “(f) Respect and obey all municipal, county, state and federal laws.

11 “(g) Understand that the board or supervisory authority may, at its dis-  
12 cretion, punish violations of post-prison supervision.

13 “(h) Attend a victim impact treatment session in a county that has a  
14 victim impact program. If the board or supervisory authority requires at-  
15 tendance under this paragraph, the board or supervisory authority may re-  
16 quire the person, as an additional condition of post-prison supervision, to pay  
17 a reasonable fee to the victim impact program to offset the cost of the  
18 person’s participation. The board or supervisory authority may not order a  
19 person to pay a fee in excess of \$5 under this paragraph.

20 “(3) If the person is required to report as a sex offender under ORS  
21 163A.010, the board or supervisory authority shall include as a condition of  
22 post-prison supervision that the person report with the Department of State  
23 Police, a city police department, a county sheriff’s office or the supervising  
24 agency:

25 “(a) When supervision begins;

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

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

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

30 “(e) Within 10 days of a change in work, vocation or attendance status

1 at an institution of higher education.

2 “(4)(a) The board or supervisory authority may establish special condi-  
3 tions that the board or supervisory authority considers necessary because  
4 of the individual circumstances of the person on post-prison supervision.

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

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

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

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

17 “(D) In addition to the prohibition under subparagraph (C) of this para-  
18 graph, a prohibition against being present, without the prior written ap-  
19 proval of the board, supervisory authority or supervising officer, at, or on  
20 property adjacent to, a school, child care center, playground or other place  
21 intended for use primarily by persons under 18 years of age.

22 “(E) A prohibition against working or volunteering at a school, child care  
23 center, park, playground or other place where persons under 18 years of age  
24 regularly congregate.

25 “(F) Entry into and completion of or successful discharge from a sex  
26 offender treatment program approved by the board, supervisory authority or  
27 supervising officer. The program may include polygraph and plethysmograph  
28 testing. The person is responsible for paying for the treatment program.

29 “(G) A prohibition against direct or indirect contact with the victim, un-  
30 less approved by the victim, the person’s treatment provider and the board,

1 supervisory authority or supervising officer.

2 “(H) Unless otherwise indicated for the treatment required under subpar-  
3 agraph (F) of this paragraph, a prohibition against viewing, listening to,  
4 owning or possessing sexually stimulating visual or auditory materials that  
5 are relevant to the person’s deviant behavior.

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

11 “(J) Participation in random polygraph examinations to obtain informa-  
12 tion for risk management and treatment. The person is responsible for paying  
13 the expenses of the examinations. The results of a polygraph examination  
14 under this subparagraph may not be used in evidence in a hearing to prove  
15 a violation of post-prison supervision.

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

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

21 “(M) A prohibition against residing in a dwelling in which another sex  
22 offender who is on probation, parole or post-prison supervision resides unless  
23 approved by the board, supervisory authority or supervising officer, or in  
24 which more than one other sex offender who is on probation, parole or  
25 post-prison supervision resides unless approved by the board or the director  
26 of the supervisory authority, or a designee of the board or director. As soon  
27 as practicable, the supervising officer of a person subject to the requirements  
28 of this subparagraph shall review the person’s living arrangement with the  
29 person’s sex offender treatment provider to ensure that the arrangement  
30 supports the goals of offender rehabilitation and community safety.

1 “(c)(A) If the person is on post-prison supervision following conviction of  
2 a sex crime, as defined in ORS 163A.005, or an assault, as defined in ORS  
3 163.175 or 163.185, and the victim was under 18 years of age, the board or  
4 supervisory authority, if requested by the victim, shall include as a special  
5 condition of the person’s post-prison supervision that the person not reside  
6 within three miles of the victim unless:

7 “(i) The victim resides in a county having a population of less than  
8 130,000 and the person is required to reside in that county under subsection  
9 (7) of this section;

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

13 “(iii) The person demonstrates to the board or supervisory authority by  
14 a preponderance of the evidence that imposition of the condition will deprive  
15 the person of a residence that would be materially significant in aiding in  
16 the rehabilitation of the person or in the success of the post-prison super-  
17 vision; or

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

19 “(B) A victim may request imposition of the special condition of post-  
20 prison supervision described in this paragraph at the time of sentencing in  
21 person or through the prosecuting attorney. A victim’s request may be in-  
22 cluded in the judgment document.

23 “(C) If the board or supervisory authority imposes the special condition  
24 of post-prison supervision described in this paragraph and if at any time  
25 during the period of post-prison supervision the victim moves to within three  
26 miles of the person’s residence, the board or supervisory authority may not  
27 require the person to change the person’s residence in order to comply with  
28 the special condition of post-prison supervision.

29 “(5)(a) The board or supervisory authority may require the person to pay,  
30 as a condition of post-prison supervision, compensatory fines, restitution or

1 attorney fees:

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

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

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

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

9 “(B) Has not fully paid the restitution by the time the person has com-  
10 pleted the period of post-prison supervision imposed for the offense for which  
11 the restitution was ordered.

12 “(6) A person’s failure to apply for or accept employment at a workplace  
13 where there is a labor dispute in progress does not constitute a violation of  
14 the conditions of post-prison supervision.

15 “(7)(a) When a person is released from imprisonment on post-prison  
16 supervision, the board shall order as a condition of post-prison supervision  
17 that the person reside for the first six months after release in the county  
18 that last supervised the person, if the person was on active supervision as  
19 an adult for a felony at the time of the offense that resulted in the  
20 imprisonment.

21 “(b) If the person was not on active supervision as an adult for a felony  
22 at the time of the offense that resulted in the imprisonment, the board shall  
23 order as a condition of post-prison supervision that the person reside for the  
24 first six months after release in the county where the person resided at the  
25 time of the offense that resulted in the imprisonment.

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

27 “(A) The board shall determine the county where the person resided at  
28 the time of the offense by examining records such as:

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

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

1       “(iii) Records maintained by the Department of State Police;  
2       “(iv) Records maintained by the Department of Human Services;  
3       “(v) Records maintained by the Department of Corrections; and  
4       “(vi) Records maintained by the Oregon Health Authority.

5       “(B) If the person did not have an identifiable address at the time of the  
6 offense, or the address cannot be determined, the person is considered to  
7 have resided in the county where the offense occurred.

8       “(C) If the person is serving multiple sentences, the county of residence  
9 is determined according to the date of the last arrest resulting in a con-  
10 viction.

11       “(D) In determining the person’s county of residence, the board may not  
12 consider offenses committed by the person while the person was incarcerated  
13 in a Department of Corrections facility.

14       “(d) Upon motion of the board, the supervisory authority, the person, a  
15 victim or a district attorney, the board may waive the residency condition  
16 under paragraph (b) of this subsection only after making a finding that one  
17 of the following conditions has been met:

18       “(A) The person provides proof of employment with no set ending date in  
19 a county other than the county of residence determined under paragraph (c)  
20 of this section;

21       “(B) The person is found to pose a significant danger to a victim of the  
22 person’s crime residing in the county of residence, or a victim or victim’s  
23 family residing in the county of residence is found to pose a significant  
24 danger to the person;

25       “(C) The person has a spouse or biological or adoptive family residing in  
26 a county other than the county of residence who will be materially signif-  
27 icant in aiding in the rehabilitation of the person and in the success of the  
28 post-prison supervision;

29       “(D) As another condition of post-prison supervision, the person is re-  
30 quired to participate in a treatment program that is not available in the

1 county of residence;

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

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

4 **“(e) The board shall consider eligibility for transitional housing**  
5 **programs and residential treatment programs when determining**  
6 **whether to waive the residency condition under paragraph (b) of this**  
7 **subsection, and the acceptance of the person into a transitional hous-**  
8 **ing program or a residential treatment program constitutes good cause**  
9 **as described in paragraph (d)(F) of this subsection.**

10 “(8) As used in this section:

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

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

14 “(B) ‘Dwelling’ does not mean a residential treatment facility or a half-  
15 way house.

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

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

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