

2012 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)	18 mos. (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)	6 mos. (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)	1 year (levels 1-3)
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)	1 year (levels 1-3)
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.
 * Eligible for optional probation (see back side for eligibility criteria).

Controlled Substances (shown in green)
 (See also Substances Table on back side)
 Property Crimes (shown in blue)
 (See also Property Table on back side)
 Person Crimes (shown in red)
 Cigarette/Tobacco Crimes (shown in orange)
 (See also Cigarette/Tobacco Table on back side)

- Bribe Give/Receive/Sports 165.085 165.090
- Bribe Giving/Receiving Pub Serv-Witness 162.015 162.025 162.265 162.275
- Burglary 1 164.225
- Burglary 2 164.215
- Buying/Selling Custody Minor 163.537
- Causing Another's Cont Subst Ingest 475.984
- Cellular Counterfeiting 1 165.581
- Cellular Counterfeiting 2 165.579
- Cheating at Gambling 167.167
- Child Neglect 1 163.547
- Coercion 163.275
- Computer Crimes 164.377
- Conspiracy 161.450
- Criminal Mischief 1 164.365
- Criminal Mistreatment 1 163.205
- Criminal Nonsupport 163.555
- Crim Negligent Homicide 163.145
- Crim Poss of Rented or Leased Veh 164.138
- Custodial Interference 1 163.257
- Custodial Interference 2 163.245
- Custodial Sexual Miscond 1 163.452
- Dealing Drugs to Minor 475.906
- Del Marijuana to Minor 475.906
- Del Cont Sub W/in 1000 ft School 475.904
- Del/Manuf Fake Cont Subst 475.840(2)
- Discharge/Alt Firearm/Sch 166.370(3)(a)
- Disorderly Conduct 1 163.023
- Disposing of Meth Waste 475.977
- Distribute Equip Intent to Manuf Cont Subst 475.962 8
- Distribute Tobacco Products w/out Lic ORS ch 323 1
- Dogfighting 167.365
- Dogfighting, Participation 167.370
- Dogfighting, Poss Paraph 167.372
- Drug Pos/Manuf/Del 474.840(1),(3) See Substances Table*
- DUI/Felony 813.010(5)
- DWS/R 811.182

- 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 3
 - Aggravated Animal Abuse 1 167.322 3
 - Aggravated Driving While Suspended or Revoked 163.196 7
 - Aggravated Harassment 166.070 6
 - Aggravated Identity Theft 165.803 5
 - Aggravated Theft 1 164.057, 164.061 8, 6, 5*
 - Aggravated Murder 163.095 See 163.105
 - 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 1
 - 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*

Ballot Measure 11 Crimes (ORS 137.700 and 137.707)

Crime	Months	CS
Agg Veh. Homicide 163.149	240	10
Arson 1 164.325 (CS 10 only)	90	10
Assault 1 163.185	90	10, 9*
Assault 2 163.175	70**	9
Alt Agg Murder 163.095, 161.405	120	10
Compelling Prostitution 167.017 70		8
Conspiracy Agg Murder 163.095, 161.450	120	Unranked
Alt 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
Manlaughter 1 163.118	120	10
Manlaughter 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	75**	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.

- 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(5) 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+ 165.055(3)(a) Property*
- Furnish Firearm Commit Fel 166.429 7
- Gambling Felonies 167.137 3
- Hindering Prosecution 162.325 6
- Hit & Run/Boat 830.475 2
- Hit & Run/Vehicle 811.705 8, 8*
- Identity Theft 165.800 Property*
- 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 Transmission 717.905 1
- Negot Bad Check (2d Conv) 165.065 Property*
- Obtaining False Pet. Signature 260.555 Unranked
- Online Sexual Corruption of Child 1 163.433 8

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.

© OCCLA July 3, 2012 version (with strangulation, agg veh homicide M11). OCCLA thanks Jesse Wm. Barton for his assistance in creating this guide. To purchase copies (\$20 members, \$25 nonmembers) of the Guidelines Grid contact: Oregon Criminal Defense Lawyers Association, 96 East Broadway, Suite 5, Eugene, OR 97401, (541) 686-8716, www.occla.org, info@occla.org.

* See Crime Categories on back side for Crime Seriousness Level criteria.
 ** Classified as a person felony if requirements of OAR 213-004-0009 are met.
 *** If ORS 609.990(3)(b) criteria are met then it is a (person) felony.

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)	6
Possess a Gray Machine	167.164	2
Possess Hoax Destruct Device	166.385	6
Possess/Manuf Destr Device	166.382 166.384	6
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
Strangulation/Felony	163.187(4)	6
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 by Deception	164.085	Property*
Theft by Extortion	164.075	7, otherwise Property*
Theft by Receiving	164.095	5, 3
Theft of Lost/Misaid 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	164.886	8, 6*
Unauth Use of Vehicle	164.135	Property*
Unlawful Admin Sched I or II Cont Subst	475.910(1)(a) 9	8
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
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

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. **Aggravated Theft 1:** CS 8 if victim 65+. CS 6 if value of property is \$50,000+, otherwise CS 5. **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. **DUII/Felony:** CS 6 if defendant has 3+ prior misdemeanor DUII convictions within 10 years of date of new offense, otherwise CS 4. **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 4. **Theft by Extortion:** CS 7 if defendant threatened to cause physical injury to some person, otherwise see Property Table. **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+; otherwise CS 5. **Tree Spiking:** CS 8 if serious physical injury, otherwise CS 6. **Use Minor in Drug Offense:** CS 8 if 3+ years older than minor, otherwise 4.

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, adult criminal history required; regular departure rules apply)

Repeat Property Offender—ORS 137.717

- Agg Theft 1, Burglary 1, Robbery 3, ID Theft, Agg ID Theft = 24 months
- Theft 1, UVV, Mail Theft or Rcpt of Stolen Mail, Burg 2, Crim Misch 1, Computer Crime, Forgery 1, Poss Forged Instr 1, Fraud Use of Credit Card, Possess or Traff in Stolen Veh = 18 months

Imposition of special presumptive sentences requires prior, predicate convictions (separate episodes). Special presumptive sentences may be increased in two-month increments, up to a total increase of 12 months, based on existence of other predicate convictions.

Repeat Sex Offender—ORS 137.719

Third conviction for felony sex offense, separately sentenced = life without parole

Repeat Methamphetamine 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, (L) Disproportionate impact Theft 1 and Aggravated Theft 1.

Note: **Aggravating factors** are subject to the pleading and proof requirements of ORS 136.760 et seq. Nonenumerated factors must have been approved for use in a published opinion issued on or before offense date.

Sentencing Guidelines—Controlled Substances Table

10, 9	See ORS 475.925 and 475.930.
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 1000 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

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