

# Senate Bill 1027

Sponsored by COMMITTEE ON JUDICIARY

## 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 **as introduced**.

Modifies hearing process before State Board of Parole and Post-Prison Supervision for persons convicted of murder or aggravated murder who are sentenced to life imprisonment with possibility of parole, work release or release to post-prison supervision. Directs board to set release date at murder review hearing upon finding that person is capable of rehabilitation and that terms of person's confinement should be changed to life imprisonment with possibility of parole, work release or release to post-prison supervision. Provides that release to post-prison supervision is limited to crimes committed on or after November 1, 1989. Specifies that release date occur 60 days after date of hearing. Provides that person with release date set at murder review hearing is not subject to prison term hearing or postponement of release date at exit interview hearing.

## A BILL FOR AN ACT

1  
2 Relating to parole hearings; creating new provisions; and amending ORS 144.110, 144.120, 144.125,  
3 163.105, 163.107, 163.115 and 163.155.

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

5 **SECTION 1.** ORS 163.105 is amended to read:

6 163.105. Notwithstanding the provisions of ORS chapter 144 and ORS 421.450 to 421.490:

7 (1)(a) Except as otherwise provided in ORS 137.707, when a defendant is convicted of aggravated  
8 murder as defined by ORS 163.095, the defendant shall be sentenced, pursuant to ORS 163.150, to  
9 death, life imprisonment without the possibility of release or parole or life imprisonment.

10 (b) A person sentenced to life imprisonment without the possibility of release or parole under  
11 this section shall not have that sentence suspended, deferred or commuted by any judicial officer,  
12 and the State Board of Parole and Post-Prison Supervision may not parole the [*prisoner*] **person** nor  
13 reduce the period of confinement in any manner whatsoever. The Department of Corrections or any  
14 executive official may not permit the [*prisoner*] **person** to participate in any sort of release or  
15 furlough program.

16 (c) If sentenced to life imprisonment, the court shall order that the defendant shall be confined  
17 for a minimum of 30 years without possibility of parole or release to post-prison supervision except  
18 as provided in ORS 144.397, and without the possibility of release on work release or any form of  
19 temporary leave or employment at a forest or work camp.

20 (2) At any time after completion of a minimum period of confinement pursuant to subsection  
21 (1)(c) of this section, the State Board of Parole and Post-Prison Supervision, upon the petition of [*a*  
22 *prisoner*] **an adult in custody** so confined, shall hold a hearing to determine if the [*prisoner*] **adult**  
23 **in custody** is likely to be rehabilitated within a reasonable period of time. The sole issue is whether  
24 or not the [*prisoner*] **adult in custody** is likely to be rehabilitated within a reasonable period of  
25 time. At the hearing, the [*prisoner*] **adult in custody** has:

26 (a) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation  
27 within a reasonable period of time;

**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 (b) The right, if the [*prisoner*] **adult in custody** is without sufficient funds to employ an attorney,  
2 ney, to be represented by legal counsel, appointed by the board, at board expense; and

3 (c) The right to a subpoena upon a showing of the general relevance and reasonable scope of  
4 the evidence sought, provided that any subpoena issued on behalf of the [*prisoner*] **adult in custody**  
5 must be issued by the State Board of Parole and Post-Prison Supervision pursuant to rules adopted  
6 by the board.

7 (3) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-  
8 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting  
9 members, finds that the [*prisoner*] **adult in custody** is capable of rehabilitation and that the terms  
10 of the [*prisoner's*] confinement **of the adult in custody** should be changed to life imprisonment with  
11 the possibility of parole, release to post-prison supervision or work release, it shall enter an order  
12 to that effect and the order shall convert the terms of the [*prisoner's*] confinement **of the adult in**  
13 **custody** to life imprisonment with the possibility of parole, release to post-prison supervision **for**  
14 **crimes committed on or after November 1, 1989**, or work release, and [*may*] **shall** set a release  
15 date **to occur 60 days after the date of the hearing**. Otherwise the board shall deny the relief  
16 sought in the petition.

17 (4) If the board denies the relief sought in the petition, the board shall determine the date of the  
18 subsequent hearing, and the [*prisoner*] **adult in custody** may petition for an interim hearing, in ac-  
19 cordance with ORS 144.285.

20 (5) The board's final order shall be accompanied by findings of fact and conclusions of law. The  
21 findings of fact shall consist of a concise statement of the underlying facts supporting the findings  
22 as to each contested issue of fact and as to each ultimate fact required to support the board's order.

23 **SECTION 2.** ORS 163.107 is amended to read:

24 163.107. (1) "Murder in the first degree" means murder in the second degree as defined in ORS  
25 163.115 which is committed under, or accompanied by, any of the following circumstances:

26 (a) The defendant committed the murder pursuant to an agreement that the defendant receive  
27 money or other thing of value for committing the murder.

28 (b) The defendant solicited another to commit the murder and paid or agreed to pay the person  
29 money or other thing of value for committing the murder.

30 (c) The defendant committed murder after having been convicted previously in any jurisdiction  
31 of any homicide, the elements of which constitute the crime of aggravated murder as defined in ORS  
32 163.095, murder in the first degree under this section, murder in the second degree as defined in  
33 ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118.

34 (d) There was more than one murder victim in the same criminal episode as defined in ORS  
35 131.505.

36 (e) The homicide occurred in the course of or as a result of intentional maiming or torture of  
37 the victim.

38 (f) The victim of the intentional homicide was a person under the age of 14 years.

39 (g) The victim was one of the following and the murder was related to the performance of the  
40 victim's official duties in the justice system:

41 (A) A police officer as defined in ORS 181A.355;

42 (B) A correctional, parole and probation officer or other person charged with the duty of cus-  
43 tody, control or supervision of convicted persons;

44 (C) A member of the Oregon State Police;

45 (D) A judicial officer as defined in ORS 1.210;

1 (E) A juror or witness in a criminal proceeding;

2 (F) An employee or officer of a court of justice;

3 (G) A member of the State Board of Parole and Post-Prison Supervision; or

4 (H) A regulatory specialist.

5 (h) The defendant was confined in a state, county or municipal penal or correctional facility or  
6 was otherwise in custody when the murder occurred.

7 (i) The defendant committed murder by means of an explosive as defined in ORS 164.055.

8 (j) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed the  
9 homicide under the circumstances set forth in ORS 163.115 (1)(b).

10 (k) The murder was committed in an effort to conceal the commission of a crime, or to conceal  
11 the identity of the perpetrator of a crime.

12 (L) The murder was committed after the defendant had escaped from a state, county or municip-  
13 al penal or correctional facility and before the defendant had been returned to the custody of the  
14 facility.

15 (2)(a) Except as otherwise provided in ORS 163.155 and paragraph (b) of this subsection, the  
16 court shall sentence a person convicted of murder in the first degree, who was at least 15 years of  
17 age at the time of committing the murder, to life imprisonment. The court shall order that the de-  
18 fendant be confined for a minimum of 30 years without possibility of parole or release to post-prison  
19 supervision except as provided in ORS 144.397, and without the possibility of release on work re-  
20 lease or any form of temporary leave or employment at a forest or work camp.

21 (b) The court may sentence the person to life imprisonment without the possibility of parole if  
22 the person was at least 18 years of age at the time of committing the murder. The court shall state  
23 on the record the reasons for imposing the sentence. A person sentenced to life imprisonment  
24 without the possibility of release or parole under this paragraph shall not have that sentence sus-  
25 pended, deferred or commuted by any judicial officer, and the State Board of Parole and Post-Prison  
26 Supervision may not parole the [prisoner] **person** nor reduce the period of confinement in any  
27 manner whatsoever. The Department of Corrections or any executive official may not permit the  
28 [prisoner] **person** to participate in any sort of release or furlough program.

29 (3)(a) For a person sentenced to life imprisonment, at any time after completion of the minimum  
30 period of confinement described in subsection (2)(a) of this section, the State Board of Parole and  
31 Post-Prison Supervision, upon the petition of [a prisoner] **an adult in custody** so confined, shall hold  
32 a hearing to determine if the [prisoner] **adult in custody** is likely to be rehabilitated within a rea-  
33 sonable period of time. The sole issue is whether the [prisoner] **adult in custody** is likely to be re-  
34 habilitated within a reasonable period of time. At the hearing the [prisoner] **adult in custody** has:

35 (A) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation  
36 within a reasonable period of time;

37 (B) The right, if the [prisoner] **adult in custody** is without sufficient funds to employ an attor-  
38 ney, to be represented by legal counsel, appointed by the board, at board expense; and

39 (C) The right to a subpoena upon a showing of the general relevance and reasonable scope of  
40 the evidence sought, provided that any subpoena issued on behalf of the [prisoner] **adult in custody**  
41 must be issued by the State Board of Parole and Post-Prison Supervision pursuant to rules adopted  
42 by the board.

43 (b) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-  
44 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting  
45 members, finds that the [prisoner] **adult in custody** is capable of rehabilitation and that the terms

1 of the [*prisoner's*] confinement **of the adult in custody** should be changed to life imprisonment with  
 2 the possibility of parole, release to post-prison supervision or work release, it shall enter an order  
 3 to that effect and the order shall convert the terms of the [*prisoner's*] confinement **of the adult in**  
 4 **custody** to life imprisonment with the possibility of parole, release to post-prison supervision **for**  
 5 **crimes committed on or after November 1, 1989**, or work release, and [*may*] **shall** set a release  
 6 date **to occur 60 days after the date of the hearing**. Otherwise, the board shall deny the relief  
 7 sought in the petition.

8 (c) If the board denies the relief sought in the petition, the board shall determine the date of the  
 9 subsequent hearing, and the [*prisoner*] **adult in custody** may petition for an interim hearing, in ac-  
 10 cordance with ORS 144.285.

11 (d) The board's final order shall be accompanied by findings of fact and conclusions of law. The  
 12 findings of fact shall consist of a concise statement of the underlying facts supporting the findings  
 13 as to each contested issue of fact and as to each ultimate fact required to support the board's order.

14 **SECTION 3.** ORS 163.115 is amended to read:

15 163.115. (1) Except as provided in ORS 163.095, 163.118 and 163.125, criminal homicide consti-  
 16 tutes murder in the second degree:

17 (a) When it is committed intentionally, except that it is an affirmative defense that, at the time  
 18 of the homicide, the defendant was under the influence of an extreme emotional disturbance;

19 (b) When it is committed by a person, acting either alone or with one or more persons, who  
 20 commits or attempts to commit any of the following crimes and in the course of and in furtherance  
 21 of the crime the person is committing or attempting to commit, or during the immediate flight  
 22 therefrom, the person, or another participant if there be any, causes the death of a person other  
 23 than one of the participants:

24 (A) Arson in the first degree as defined in ORS 164.325;

25 (B) Criminal mischief in the first degree by means of an explosive as defined in ORS 164.365;

26 (C) Burglary in the first degree as defined in ORS 164.225;

27 (D) Escape in the first degree as defined in ORS 162.165;

28 (E) Kidnapping in the second degree as defined in ORS 163.225;

29 (F) Kidnapping in the first degree as defined in ORS 163.235;

30 (G) Robbery in the first degree as defined in ORS 164.415;

31 (H) Any felony sexual offense in the first degree defined in this chapter;

32 (I) Compelling prostitution as defined in ORS 167.017; or

33 (J) Assault in the first degree, as defined in ORS 163.185, and the victim is under 14 years of  
 34 age, or assault in the second degree, as defined in ORS 163.175 (1)(a) or (b), and the victim is under  
 35 14 years of age; or

36 (c) By abuse when a person, recklessly under circumstances manifesting extreme indifference to  
 37 the value of human life, causes the death of a child under 14 years of age or a dependent person,  
 38 as defined in ORS 163.205, and:

39 (A) The person has previously engaged in a pattern or practice of assault or torture of the vic-  
 40 tim or another child under 14 years of age or a dependent person; or

41 (B) The person causes the death by neglect or maltreatment.

42 (2) An accusatory instrument alleging murder by abuse under subsection (1)(c) of this section  
 43 need not allege specific incidents of assault or torture.

44 (3) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the  
 45 defendant:

1 (a) Was not the only participant in the underlying crime;

2 (b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause  
3 or aid in the commission thereof;

4 (c) Was not armed with a dangerous or deadly weapon;

5 (d) Had no reasonable ground to believe that any other participant was armed with a dangerous  
6 or deadly weapon; and

7 (e) Had no reasonable ground to believe that any other participant intended to engage in con-  
8 duct likely to result in death.

9 (4) It is an affirmative defense to a charge of violating subsection (1)(c)(B) of this section that  
10 the victim was a dependent person who was at least 18 years of age and was under care or treat-  
11 ment solely by spiritual means pursuant to the religious beliefs or practices of the dependent person  
12 or the guardian of the dependent person.

13 (5) Except as otherwise provided in ORS 144.397 and 163.155:

14 (a) A person convicted of murder in the second degree, who was at least 15 years of age at the  
15 time of committing the murder, shall be punished by imprisonment for life.

16 (b) When a defendant is convicted of murder in the second degree under this section, the court  
17 shall order that the defendant shall be confined for a minimum of 25 years without possibility of  
18 parole, release to post-prison supervision, release on work release or any form of temporary leave  
19 or employment at a forest or work camp.

20 (c) At any time after completion of a minimum period of confinement pursuant to paragraph (b)  
21 of this subsection, the State Board of Parole and Post-Prison Supervision, upon the petition of [*a*  
22 *prisoner*] **an adult in custody** so confined, shall hold a hearing to determine if the [*prisoner*] **adult**  
23 **in custody** is likely to be rehabilitated within a reasonable period of time. The sole issue is whether  
24 the [*prisoner*] **adult in custody** is likely to be rehabilitated within a reasonable period of time. At  
25 the hearing the [*prisoner*] **adult in custody** has:

26 (A) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation  
27 within a reasonable period of time;

28 (B) The right, if the [*prisoner*] **adult in custody** is without sufficient funds to employ an attor-  
29 ney, to be represented by legal counsel, appointed by the board, at board expense; and

30 (C) The right to a subpoena upon a showing of the general relevance and reasonable scope of  
31 the evidence sought, provided that any subpoena issued on behalf of the [*prisoner*] **adult in custody**  
32 must be issued by the State Board of Parole and Post-Prison Supervision pursuant to rules adopted  
33 by the board.

34 (d) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-  
35 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting  
36 members, finds that the [*prisoner*] **adult in custody** is capable of rehabilitation and that the terms  
37 of the [*prisoner's*] confinement **of the adult in custody** should be changed to life imprisonment with  
38 the possibility of parole, release to post-prison supervision or work release, it shall enter an order  
39 to that effect and the order shall convert the terms of the [*prisoner's*] confinement **of the adult in**  
40 **custody** to life imprisonment with the possibility of parole, release to post-prison supervision **for**  
41 **crimes committed on or after November 1, 1989**, or work release, and [*may*] **shall** set a release  
42 date **to occur 60 days after the date of the hearing**. Otherwise, the board shall deny the relief  
43 sought in the petition.

44 (e) If the board denies the relief sought in the petition, the board shall determine the date of the  
45 subsequent hearing, and the [*prisoner*] **adult in custody** may petition for an interim hearing, in ac-

1 cordance with ORS 144.285.

2 (f) The board's final order shall be accompanied by findings of fact and conclusions of law. The  
3 findings of fact shall consist of a concise statement of the underlying facts supporting the findings  
4 as to each contested issue of fact and as to each ultimate fact required to support the board's order.

5 (6) As used in this section:

6 (a) "Assault" means the intentional, knowing or reckless causation of physical injury to another  
7 person. "Assault" does not include the causation of physical injury in a motor vehicle accident that  
8 occurs by reason of the reckless conduct of a defendant.

9 (b) "Neglect or maltreatment" means a violation of ORS 163.535, 163.545 or 163.547 or a failure  
10 to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or  
11 welfare of a child under 14 years of age or a dependent person. This paragraph is not intended to  
12 replace or affect the duty or standard of care required under ORS chapter 677.

13 (c) "Pattern or practice" means one or more previous episodes.

14 (d) "Torture" means the intentional infliction of intense physical pain upon an unwilling victim  
15 as a separate objective apart from any other purpose.

16 **SECTION 4.** ORS 163.155 is amended to read:

17 163.155. (1) When a defendant, who was at least 15 years of age at the time of committing the  
18 murder, is convicted of murdering a pregnant victim under ORS 163.115 (1)(a) and the defendant  
19 knew that the victim was pregnant, the defendant shall be sentenced to life imprisonment without  
20 the possibility of release or parole if the person was at least 18 years of age at the time of com-  
21 mitting the offense or to life imprisonment. The court shall conduct a sentencing proceeding to de-  
22 termine whether the defendant shall be sentenced to life imprisonment without the possibility of  
23 release or parole as described in subsection (4) of this section or to life imprisonment as described  
24 in subsection (5) of this section. If the defendant waives all rights to a jury sentencing proceeding,  
25 the court shall conduct the sentencing proceeding as the trier of fact. The procedure for the sen-  
26 tencing proceeding, whether before a court or a jury, shall follow the procedure of ORS 163.150  
27 (1)(a), as modified by this section.

28 (2) Following the presentation of evidence and argument under subsection (1) of this section, the  
29 court shall instruct the jury that the trial court shall sentence the defendant to life imprisonment  
30 without the possibility of release or parole as described in subsection (4) of this section, unless after  
31 considering all of the evidence submitted, 10 or more members of the jury find there are sufficient  
32 mitigating circumstances to warrant life imprisonment with the possibility of release or parole as  
33 described in subsection (5) of this section. If 10 or more members of the jury do not find there are  
34 sufficient mitigating circumstances to warrant life imprisonment with the possibility of release or  
35 parole, the trial court shall sentence the defendant to life imprisonment without the possibility of  
36 release or parole as described in subsection (4) of this section. If 10 or more members of the jury  
37 find there are sufficient mitigating circumstances to warrant life imprisonment with the possibility  
38 of release or parole, the trial court shall sentence the defendant to life imprisonment as described  
39 in subsection (5) of this section.

40 (3) Nothing in this section precludes the court from sentencing the defendant to life  
41 imprisonment, as described in subsection (5) of this section, or life imprisonment without the possi-  
42 bility of release or parole, as described in subsection (4) of this section, pursuant to a stipulation  
43 of sentence or stipulation of sentencing facts agreed to and offered by both parties if the defendant  
44 waives all rights to a jury sentencing proceeding.

45 (4) A sentence of life imprisonment without the possibility of release or parole under this section

1 may not be suspended, deferred or commuted by any judicial officer, and the State Board of Parole  
 2 and Post-Prison Supervision may neither parole the [prisoner] **person** nor reduce the period of con-  
 3 finement in any manner whatsoever. The Department of Corrections or any executive official may  
 4 not permit the [prisoner] **person** to participate in any sort of release or furlough program.

5 (5) If the defendant is sentenced to life imprisonment, the court shall order that the defendant  
 6 be confined for a minimum of 30 years without possibility of parole or release to post-prison super-  
 7 vision except as provided in ORS 144.397, and without the possibility of release on work release or  
 8 any form of temporary leave or employment at a forest or work camp.

9 (6) At any time after completion of the minimum period of confinement pursuant to subsection  
 10 (5) of this section, the board, upon the petition of [a prisoner] **an adult in custody** so confined, shall  
 11 hold a hearing to determine if the [prisoner] **adult in custody** is likely to be rehabilitated within a  
 12 reasonable period of time. The sole issue shall be whether the [prisoner] **adult in custody** is likely  
 13 to be rehabilitated within a reasonable period of time. The proceeding shall be conducted in the  
 14 manner prescribed for a contested case hearing under ORS chapter 183, except that:

15 (a) The [prisoner] **adult in custody** has the burden of proving by a preponderance of the evi-  
 16 dence the likelihood of rehabilitation within a reasonable period of time;

17 (b) The [prisoner] **adult in custody** has the right, if the [prisoner] **adult in custody** is without  
 18 sufficient funds to employ an attorney, to be represented by legal counsel, appointed by the board,  
 19 at board expense; and

20 (c) The [prisoner] **adult in custody** has the right to a subpoena upon a showing of the general  
 21 relevance and reasonable scope of the evidence sought, provided that any subpoena issued on behalf  
 22 of the [prisoner] **adult in custody** must be issued by the board pursuant to rules adopted by the  
 23 board.

24 (7) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-  
 25 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting  
 26 members, finds that the [prisoner] **adult in custody** is capable of rehabilitation and that the terms  
 27 of the [prisoner's] confinement **of the adult in custody** should be changed to life imprisonment with  
 28 the possibility of parole, release on post-prison supervision or work release, it shall enter an order  
 29 to that effect and the order shall convert the terms of the [prisoner's] confinement **of the adult in**  
 30 **custody** to life imprisonment with the possibility of parole, release on post-prison supervision **for**  
 31 **crimes committed on or after November 1, 1989**, or work release, and [may] **shall** set a release  
 32 date **to occur 60 days after the date of the hearing**. Otherwise the board shall deny the relief  
 33 sought in the petition.

34 (8) **The board's final order shall be accompanied by findings of fact and conclusions of**  
 35 **law. The findings of fact shall consist of a concise statement of the underlying facts sup-**  
 36 **porting the findings as to each contested issue of fact and as to each ultimate fact required**  
 37 **to support the board's order.**

38 [(8)] (9) Not less than two years after the denial of the relief sought in a petition under this  
 39 section, the [prisoner] **adult in custody** may petition again for a change in the terms of confinement.  
 40 Further petitions for a change may be filed at intervals of not less than two years thereafter.

41 **SECTION 5.** ORS 144.120 is amended to read:

42 144.120. (1)(a) Within six months of the admission of a [prisoner] **person** to any Department of  
 43 Corrections institution, with the exception of those [prisoners] **persons** sentenced to a term of  
 44 imprisonment for life or for more than five years, the State Board of Parole and Post-Prison Super-  
 45 vision shall conduct a parole hearing to interview the [prisoner] **person** and set the initial date of

1 release on parole pursuant to subsection (2) of this section. For those [*prisoners*] **persons** sentenced  
 2 to a term of imprisonment for more than five years but less than 15 years, the board shall conduct  
 3 the parole hearing and set the initial date of release within eight months following admission of the  
 4 [*prisoner*] **person** to the institution. For those [*prisoners*] **persons** sentenced to a term of  
 5 imprisonment for life or for 15 years or more, with the exception of those sentenced for aggravated  
 6 murder or murder, the board shall conduct the parole hearing, and shall set the initial release date,  
 7 within one year following admission of the [*prisoner*] **person** to the institution. Release shall be  
 8 contingent upon satisfaction of the requirements of ORS 144.125.

9 (b) Those [*prisoners*] **persons** sentenced to a term of imprisonment for less than 15 years for  
 10 commission of an offense designated by rule by the board as a non person-to-person offense may  
 11 waive their rights to the parole hearing. When a [*prisoner*] **person** waives the parole hearing, the  
 12 initial date of release on parole may be set administratively by the board pursuant to subsections  
 13 (2) to (6) of this section. If the board is not satisfied that the waiver was made knowingly or  
 14 intelligently or if it believes more information is necessary before making its decision, it may order  
 15 a hearing.

16 (2) In setting the initial parole release date for a [*prisoner*] **person** pursuant to subsection (1)  
 17 of this section, the board shall apply the appropriate range established pursuant to ORS 144.780.  
 18 Variations from the range shall be in accordance with ORS 144.785.

19 (3) In setting the initial parole release date for a [*prisoner*] **person** pursuant to subsection (1)  
 20 of this section, the board shall consider the presentence investigation report specified in ORS  
 21 144.791 or, if no such report has been prepared, a report of similar content prepared by the De-  
 22 partment of Corrections.

23 (4) Notwithstanding subsection (1) of this section, in the case of a [*prisoner*] **person** whose of-  
 24 fense included particularly violent or otherwise dangerous criminal conduct or whose offense was  
 25 preceded by two or more convictions for a Class A or Class B felony or whose record includes a  
 26 psychiatric or psychological diagnosis of severe emotional disturbance such as to constitute a dan-  
 27 ger to the health or safety of the community, the board may choose not to set a parole date.

28 (5) After the expiration of six months after the admission of the [*prisoner*] **person** to any De-  
 29 partment of Corrections institution, the board may defer setting the initial parole release date for  
 30 the [*prisoner*] **person** for a period not to exceed 90 additional days pending receipt of psychiatric  
 31 or psychological reports, criminal records or other information essential to formulating the release  
 32 decision.

33 (6) When the board has set the initial parole release date for a [*prisoner*] **person**, it shall inform  
 34 the sentencing court of the date.

35 (7) **This section does not apply to a person with a release date set under ORS 163.105 (3),**  
 36 **163.107 (3)(b), 163.115 (5)(d) or 163.155 (7).**

37 **SECTION 6.** ORS 144.125 is amended to read:

38 144.125. (1) Prior to the scheduled release of any [*prisoner*] **adult in custody** on parole and prior  
 39 to release rescheduled under this section, the State Board of Parole and Post-Prison Supervision  
 40 may upon request of the Department of Corrections or on its own initiative interview the  
 41 [*prisoner*] **adult in custody** to review the [*prisoner's*] parole plan and psychiatric or psychological  
 42 report **of the adult in custody**, if any, and the record of the [*prisoner's*] conduct **of the adult in**  
 43 **custody** during confinement. To accommodate such review by the board, the Department of Cor-  
 44 rections shall provide to the board any psychiatric or psychological reports held by the department  
 45 regarding the [*prisoner*] **adult in custody**. However, if the psychiatrist or psychologist who prepared



1 any report or any treating psychiatrist or psychologist determines that disclosure to the [prisoner]  
 2 **adult in custody** of the contents of the report would be detrimental to the [prisoner's] mental or  
 3 emotional health **of the adult in custody**, the psychiatrist or psychologist may indorse upon the  
 4 report a recommendation that it not be disclosed to the [prisoner] **adult in custody**. The department  
 5 may withhold from the board any report so indorsed.

6 (2) The board shall postpone a [prisoner's] scheduled release date **of an adult in custody** if it  
 7 finds, after a hearing, that the [prisoner] **adult in custody** engaged in serious misconduct during  
 8 confinement. The board shall adopt rules defining serious misconduct and specifying periods of  
 9 postponement for such misconduct.

10 (3)(a) If the board finds the [prisoner] **adult in custody** has a present severe emotional disturb-  
 11 ance such as to constitute a danger to the health or safety of the community, the board may order  
 12 the postponement of the scheduled parole release until a specified future date. The board may not  
 13 postpone a [prisoner's] scheduled release date to a date that is less than two years, or more than  
 14 10 years, from the date of the hearing, unless the [prisoner] **adult in custody** would be held beyond  
 15 the maximum sentence. The board shall determine the scheduled release date, and the [prisoner]  
 16 **adult in custody** may petition for interim review, in accordance with ORS 144.280.

17 (b) If the board finds the [prisoner] **adult in custody** has a present severe emotional disturbance  
 18 such as to constitute a danger to the health or safety of the community, but also finds that the  
 19 [prisoner] **adult in custody** can be adequately controlled with supervision and mental health treat-  
 20 ment and that the necessary supervision and treatment are available, the board may order the  
 21 [prisoner] **adult in custody** released on parole subject to conditions that are in the best interests  
 22 of community safety and the [prisoner's] welfare **of the adult in custody**.

23 (4) Each [prisoner] **adult in custody** shall furnish the board with a parole plan prior to the  
 24 scheduled release of the [prisoner] **adult in custody** on parole. The board shall adopt rules speci-  
 25 fying the elements of an adequate parole plan and may defer release of the [prisoner] **adult in**  
 26 **custody** for not more than three months if it finds that the parole plan is inadequate. The Depart-  
 27 ment of Corrections shall assist [prisoners] **adults in custody** in preparing parole plans.

28 (5) **Subsections (2) and (3) of this section do not apply to an adult in custody with a re-**  
 29 **lease date set under ORS 163.105 (3), 163.107 (3)(b), 163.115 (5)(d) or 163.155 (7).**

30 **SECTION 7.** ORS 144.110 is amended to read:

31 144.110. (1) In any felony case, the court may impose a minimum term of imprisonment of up to  
 32 one-half of the sentence it imposes.

33 (2) Notwithstanding the provisions of ORS 144.120 and 144.780:

34 (a) The State Board of Parole and Post-Prison Supervision shall not release a prisoner on parole  
 35 who has been sentenced under subsection (1) of this section until the minimum term has been served,  
 36 except upon affirmative vote of a majority of three board members or, if the chairperson requires  
 37 all voting members to participate, a majority of all voting members.

38 (b) The board shall not release a prisoner on parole:

39 (A) Who has been convicted of murder defined as aggravated murder under the provisions of  
 40 ORS 163.095, except as provided in ORS 163.105;

41 (B) Who has been convicted of murder in the first degree under the provisions of ORS 163.107,  
 42 except as provided in ORS 163.107 (3) [or 163.155 (6) to (8)]; or

43 (C) Who has been convicted of murder in the second degree under the provisions of ORS 163.115,  
 44 except as provided in ORS 163.115 (5)(c) to (f) or 163.155 (6) to [(8)] (9).

45 **SECTION 8. (1) The amendments to ORS 144.110, 144.120, 144.125, 163.105, 163.107, 163.115**

1 and 163.155 by sections 1 to 7 of this 2023 Act apply to persons who become eligible for a  
2 hearing described in ORS 163.105 (3), 163.107 (3), 163.115 (5)(c) or 163.155 (6) on or after the  
3 effective date of this 2023 Act, regardless of the date of the commission of the crime.

4 (2)(a) Notwithstanding section 28, chapter 790, Oregon Laws 1989, if, prior to the effective  
5 date of this 2023 Act, a person's sentence has been converted under ORS 163.105 (3), 163.107  
6 (3)(b), 163.115 (5)(d) or 163.155 (7) to a sentence of life imprisonment with the possibility of  
7 parole, release to post-prison supervision or work release, but the person's release has not  
8 been deferred under ORS 144.125, the board shall, within 60 days after the effective date of  
9 this 2023 Act, either hold a hearing under ORS 144.125 or set a release date to occur 60 days  
10 after the effective date of this 2023 Act.

11 (b) Notwithstanding subsection (1) of this section, if, prior to the effective date of this  
12 2023 Act, a person's sentence has been converted under ORS 163.105 (3), 163.107 (3)(b), 163.115  
13 (5)(d) or 163.155 (7) to a sentence of life imprisonment with the possibility of parole, release  
14 to post-prison supervision or work release, and the person's release has been deferred under  
15 ORS 144.125, the amendments to ORS 144.110, 144.120, 144.125, 163.105, 163.107, 163.115 and  
16 163.155 by sections 1 to 7 of this 2023 Act do not apply to the person.

17 (3) The amendments to ORS 144.110, 144.120, 144.125, 163.105, 163.107, 163.115 and 163.155  
18 by sections 1 to 7 of this 2023 Act do not affect the right of a person to a hearing available  
19 under the law in effect at the time of the commission of the crime.

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