

# Senate Bill 1070

Sponsored by Senator CAMPOS, Representatives GRAYBER, HARTMAN; Senators FREDERICK, GOLDEN, Representatives HUDSON, REYNOLDS, TRAN

## 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**.

Requires sentencing court to consider as mitigation evidence whether defendant was subjected to domestic abuse that was contributing factor in criminal behavior. Provides that such evidence constitutes substantial and compelling reasons justifying downward departure sentence. Authorizes court to impose lesser sentence even if sentence is mandatory or otherwise required by law.

Creates procedure by which person currently serving sentence may petition court for resentencing if person was subjected to domestic abuse that was contributing factor in criminal behavior.

Establishes Task Force on Services and Support for Incarcerated Domestic Violence Survivors.  
Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to domestic abuse survivor defendants; creating new provisions; amending ORS 137.635,  
3 137.690, 137.700, 137.707, 137.717, 138.105, 138.115, 144.110, 161.620, 163.107, 163.115, 163.155,  
4 420.240, 421.121, 421.168 and 475.930; prescribing an effective date; and providing for criminal  
5 sentence reduction that requires approval by a two-thirds majority.

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

## SENTENCING MITIGATION FINDINGS

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10 **SECTION 1.** (1) **At sentencing, in determining mitigation the court shall consider**  
11 **whether:**

12 (a) **The defendant was subjected to domestic abuse by a family or household member;**

13 (b) **The abuse was a contributing factor to the defendant's criminal behavior; and**

14 (c) **Sentencing the defendant to a presumptive or mandatory sentence would be unduly**  
15 **harsh in light of the circumstances of the crime, the circumstances of the defendant and the**  
16 **abuse the defendant suffered.**

17 (2) **If court finds that the three circumstances described in subsection (1) of this section**  
18 **have been established by the defendant by a preponderance of the evidence, the finding shall**  
19 **constitute substantial and compelling reasons justifying a downward dispositional departure**  
20 **or a downward durational departure under the rules of the Oregon Criminal Justice Com-**  
21 **mission.**

22 (3) **The Oregon Criminal Justice Commission shall adopt rules in accordance with this**  
23 **section.**

24 (4) **As used in this section:**

25 (a) **"Domestic abuse" means a pattern of behavior in a relationship by which one person**  
26 **in the relationship gains or maintains control over the other person, consisting of physical,**  
27 **sexual, emotional, economic or psychological actions or threats of action that influence the**

**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 **other person, including but not limited to actions or threats of action that frighten, intim-**  
 2 **idate, terrorize, manipulate, hurt, humiliate, blame, injure or wound the other person.**

3 **(b) “Family or household member” means:**

4 **(A) Spouses.**

5 **(B) Former spouses.**

6 **(C) Adult persons related by blood or marriage.**

7 **(D) Persons cohabiting with each other.**

8 **(E) Persons who have cohabited with each other or who have been involved in a sexually**  
 9 **intimate relationship.**

10 **(F) Unmarried parents of a minor child.**

11 **SECTION 2.** ORS 137.635 is amended to read:

12 137.635. (1) When, in the case of a felony described in subsection (2) of this section, a court  
 13 sentences a convicted defendant who has previously been convicted of any felony designated in  
 14 subsection (2) of this section, the sentence shall not be an indeterminate sentence to which the de-  
 15 fendant otherwise would be subject under ORS 137.120, but, unless it imposes a death penalty under  
 16 ORS 163.105, the court shall impose a determinate sentence, the length of which the court shall  
 17 determine, to the custody of the Department of Corrections. Any mandatory minimum sentence  
 18 otherwise provided by law shall apply. The sentence shall not exceed the maximum sentence other-  
 19 wise provided by law in such cases. The convicted defendant who is subject to this section shall not  
 20 be eligible for probation. The convicted defendant shall serve the entire sentence imposed by the  
 21 court and shall not, during the service of such a sentence, be eligible for parole or any form of  
 22 temporary leave from custody. The person shall not be eligible for any reduction in sentence pur-  
 23 suant to ORS 421.120 or for any reduction in term of incarceration pursuant to ORS 421.121.

24 (2) Felonies to which subsection (1) of this section applies include and are limited to:

25 (a) Murder in any degree, as defined in ORS 163.107 or 163.115, and any aggravated form  
 26 thereof.

27 (b) Manslaughter in the first degree, as defined in ORS 163.118.

28 (c) Assault in the first degree, as defined in ORS 163.185.

29 (d) Kidnapping in the first degree, as defined in ORS 163.235.

30 (e) Rape in the first degree, as defined in ORS 163.375.

31 (f) Sodomy in the first degree, as defined in ORS 163.405.

32 (g) Unlawful sexual penetration in the first degree, as defined in ORS 163.411.

33 (h) Burglary in the first degree, as defined in ORS 164.225.

34 (i) Arson in the first degree, as defined in ORS 164.325.

35 (j) Robbery in the first degree, as defined in ORS 164.415.

36 (3) When the court imposes a sentence under this section, the court shall indicate in the judg-  
 37 ment that the defendant is subject to this section.

38 **(4) Notwithstanding any other provision of this section, when a person is convicted of one**  
 39 **of the offenses listed in subsection (2) of this section and the court finds substantial and**  
 40 **compelling reasons justifying a lesser sentence under section 1 of this 2023 Act, the court is**  
 41 **not obligated to impose the sentence described in subsection (1) of this section and may in-**  
 42 **stead impose any other sentence in accordance with the rules of the Oregon Criminal Justice**  
 43 **Commission. If the court imposes a sentence under this subsection, unless the court orders**  
 44 **otherwise under ORS 137.750, the person is eligible for a reduction in sentence under ORS**  
 45 **421.121 and any form of temporary leave from custody, work release or program of condi-**

1 **tional or supervised release.**

2 **SECTION 2a.** ORS 137.690 is amended to read:

3 137.690. [a.] (1) **Except as provided in subsection (2) of this section,** any person who is con-  
4 victed of a major felony sex crime, who has one [(or more)] **or more** previous [conviction of] **con-**  
5 **victions for** a major felony sex crime, shall be imprisoned for a mandatory minimum term of 25  
6 years.

7 **(2) When a person is convicted as described in subsection (1) of this section and the court**  
8 **finds substantial and compelling reasons justifying a lesser sentence under section 1 of this**  
9 **2023 Act, the court is not obligated to impose the sentence described in subsection (1) of this**  
10 **section and may instead impose any other sentence in accordance with the rules of the**  
11 **Oregon Criminal Justice Commission. If the court imposes a sentence under this subsection,**  
12 **unless the court orders otherwise under ORS 137.750, the person is eligible for a reduction**  
13 **in sentence under ORS 421.121 and any form of temporary leave from custody, work release**  
14 **or program of conditional or supervised release.**

15 [b.] (3) **As used in this section:**

16 (a) "Major felony sex crime" means rape in the first degree [(ORS 163.375)] **under ORS**  
17 **163.375,** sodomy in the first degree [(ORS 163.405)] **under ORS 163.405,** unlawful sexual penetration  
18 in the first degree [(ORS 163.411),] **under ORS 163.411** or using a child in a display of sexually ex-  
19 plicit conduct [(ORS 163.670)] **under ORS 163.670.**

20 [c.] (b) "Previous conviction" includes a conviction for the statutory counterpart of a major  
21 felony sex crime in any jurisdiction, and includes a conviction in the same sentencing proceeding  
22 if the conviction is for a separate criminal episode as defined in ORS 131.505.

23 **SECTION 3.** ORS 137.700 is amended to read:

24 137.700. (1)(a) Notwithstanding ORS 161.605, when a person is convicted of one of the offenses  
25 listed in subsection (2)(a) of this section and the offense was committed on or after April 1, 1995,  
26 or of one of the offenses listed in subsection (2)(b) of this section and the offense was committed on  
27 or after October 4, 1997, or of the offense described in subsection (2)(c) of this section and the of-  
28 fense was committed on or after January 1, 2008, the court shall impose, and the person shall serve,  
29 at least the entire term of imprisonment listed in subsection (2) of this section. The person is not,  
30 during the service of the term of imprisonment, eligible for release on post-prison supervision or any  
31 form of temporary leave from custody. The person is not eligible for any reduction in[, or based  
32 on,] the minimum sentence for any reason whatsoever under ORS 421.121 or any other statute. The  
33 court may impose a greater sentence if otherwise permitted by law, but may not impose a lower  
34 sentence than the sentence specified in subsection (2) of this section.

35 **(b) Notwithstanding any other provision of this section, when a person is convicted of**  
36 **one of the offenses listed in subsection (2) of this section and the court finds substantial and**  
37 **compelling reasons justifying a lesser sentence under section 1 of this 2023 Act, the court is**  
38 **not obligated to sentence the defendant to the sentence specified in subsection (2) of this**  
39 **section and may instead impose any other sentence in accordance with the rules of the**  
40 **Oregon Criminal Justice Commission. If the court imposes a sentence under this paragraph,**  
41 **unless the court orders otherwise under ORS 137.750, the person is eligible for a reduction**  
42 **in sentence under ORS 421.121 and any form of temporary leave from custody, work release**  
43 **or program of conditional or supervised release.**

44 (2) The offenses to which subsection (1) of this section applies and the applicable mandatory  
45 minimum sentences are:

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3 (a)(A) Murder in the second

4 degree, as defined in

5 ORS 163.115.....300 months

6 (B) Murder in the first

7 degree, as defined

8 in ORS 163.107.....360 months

9 (C) Attempt or conspiracy

10 to commit aggravated

11 murder, as defined

12 in ORS 163.095.....120 months

13 (D) Attempt or conspiracy

14 to commit murder

15 in any degree.....90 months

16 (E) Manslaughter in the

17 first degree, as defined

18 in ORS 163.118.....120 months

19 (F) Manslaughter in the

20 second degree, as defined

21 in ORS 163.125.....75 months

22 (G) Assault in the first

23 degree, as defined in

24 ORS 163.185.....90 months

25 (H) Assault in the second

26 degree, as defined in

27 ORS 163.175.....70 months

28 (I) Except as provided in

29 paragraph (b)(G) of

30 this subsection,

31 kidnapping in the first

32 degree, as defined

33 in ORS 163.235.....90 months

34 (J) Kidnapping in the second

35 degree, as defined in

36 ORS 163.225.....70 months

37 (K) Rape in the first degree,

38 as defined in ORS 163.375

39 (1)(a), (c) or (d).....100 months

40 (L) Rape in the second degree,

41 as defined in

42 ORS 163.365.....75 months

43 (M) Sodomy in the first degree,

44 as defined in ORS 163.405

45 (1)(a), (c) or (d).....100 months

- 1 (N) Sodomy in the second
- 2 degree, as defined in
- 3 ORS 163.395.....75 months
- 4 (O) Unlawful sexual penetration
- 5 in the first degree, as
- 6 defined in ORS 163.411
- 7 (1)(a) or (c).....100 months
- 8 (P) Unlawful sexual penetration
- 9 in the second degree, as
- 10 defined in ORS 163.408.....75 months
- 11 (Q) Sexual abuse in the first
- 12 degree, as defined in
- 13 ORS 163.427.....75 months
- 14 (R) Robbery in the first degree,
- 15 as defined in
- 16 ORS 164.415.....90 months
- 17 (S) Robbery in the second
- 18 degree, as defined in
- 19 ORS 164.405.....70 months
- 20 (b)(A) Arson in the first degree,
- 21 as defined in ORS 164.325,
- 22 when the offense represented
- 23 a threat of serious
- 24 physical injury. ....90 months
- 25 (B) Using a child in a display
- 26 of sexually explicit
- 27 conduct, as defined in
- 28 ORS 163.670.....70 months
- 29 (C) Compelling prostitution,
- 30 as defined in
- 31 ORS 167.017.....70 months
- 32 (D) Rape in the first degree,
- 33 as defined in
- 34 ORS 163.375 (1)(b). ....300 months
- 35 (E) Sodomy in the first degree,
- 36 as defined in
- 37 ORS 163.405 (1)(b). ....300 months
- 38 (F) Unlawful sexual penetration
- 39 in the first degree, as
- 40 defined in
- 41 ORS 163.411 (1)(b). ....300 months
- 42 (G) Kidnapping in the first
- 43 degree, as defined in
- 44 ORS 163.235, when the
- 45 offense is committed in

1 furtherance of the commission  
 2 or attempted commission of an  
 3 offense listed in subparagraph  
 4 (D), (E) or (F) of  
 5 this paragraph.....300 months  
 6 (c) Aggravated vehicular  
 7 homicide, as defined in  
 8 ORS 163.149.....240 months  
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11 **SECTION 4.** ORS 137.707 is amended to read:

12 137.707. (1)(a) When a person waived under ORS 419C.349 (1)(a) is convicted of an offense listed  
 13 in subsection (4) of this section, the court shall impose at least the presumptive term of  
 14 imprisonment provided for the offense in subsection (4) of this section. The court may impose a  
 15 greater presumptive term if otherwise permitted by law, but may not impose a lesser term. The  
 16 person is not, during the service of the term of imprisonment, eligible for release on post-prison  
 17 supervision or any form of temporary leave from custody. The person is not eligible for any re-  
 18 duction in the minimum sentence for any reason under ORS 421.121 or any other provision of law.  
 19 The person is eligible for a hearing and conditional release under ORS 420A.203 and 420A.206.

20 **(b) Notwithstanding any other provision of this section, when a person is convicted of**  
 21 **one of the offenses listed in subsection (4) of this section and the court finds substantial and**  
 22 **compelling reasons justifying a lesser sentence under section 1 of this 2023 Act, the court is**  
 23 **not obligated to sentence the defendant to the sentence specified in subsection (4) of this**  
 24 **section and may instead impose any other sentence in accordance with the rules of the**  
 25 **Oregon Criminal Justice Commission. If the court imposes a sentence under this paragraph,**  
 26 **unless the court orders otherwise under ORS 137.750, the person is eligible for a reduction**  
 27 **in sentence under ORS 421.121 and any form of temporary leave from custody, work release**  
 28 **or program of conditional or supervised release.**

29 (2) ORS 138.052, 163.105 and 163.150 apply to sentencing a person prosecuted under this section  
 30 and convicted of aggravated murder under ORS 163.095 except that a person who was under 18  
 31 years of age at the time the offense was committed is not subject to a sentence of death or life  
 32 imprisonment without the possibility of release or parole.

33 (3) The court shall commit the person to the legal and physical custody of the Department of  
 34 Corrections.

35 (4) The offenses to which this section applies and the presumptive sentences are:  
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37

38 (a)(A) Murder in the second  
 39 degree, as defined in  
 40 ORS 163.115.....300 months  
 41 (B) Murder in the first  
 42 degree, as defined  
 43 in ORS 163.107.....360 months  
 44 (C) Attempt or conspiracy  
 45 to commit aggravated

1 murder, as defined  
 2 in ORS 163.095.....120 months  
 3 (D) Attempt or conspiracy  
 4 to commit murder  
 5 in any degree.....90 months  
 6 (E) Manslaughter in the  
 7 first degree, as defined  
 8 in ORS 163.118.....120 months  
 9 (F) Manslaughter in the  
 10 second degree, as defined  
 11 in ORS 163.125.....75 months  
 12 (G) Assault in the first  
 13 degree, as defined  
 14 in ORS 163.185.....90 months  
 15 (H) Assault in the second  
 16 degree, as defined  
 17 in ORS 163.175.....70 months  
 18 (I) Kidnapping in the first  
 19 degree, as defined in  
 20 ORS 163.235.....90 months  
 21 (J) Kidnapping in the second  
 22 degree, as defined in  
 23 ORS 163.225.....70 months  
 24 (K) Rape in the first degree,  
 25 as defined in ORS 163.375....100 months  
 26 (L) Rape in the second  
 27 degree, as defined in  
 28 ORS 163.365.....75 months  
 29 (M) Sodomy in the first  
 30 degree, as defined in  
 31 ORS 163.405.....100 months  
 32 (N) Sodomy in the second  
 33 degree, as defined in  
 34 ORS 163.395.....75 months  
 35 (O) Unlawful sexual  
 36 penetration in the first  
 37 degree, as defined  
 38 in ORS 163.411.....100 months  
 39 (P) Unlawful sexual  
 40 penetration in the  
 41 second degree, as  
 42 defined in ORS 163.408. ....75 months  
 43 (Q) Sexual abuse in the first  
 44 degree, as defined in  
 45 ORS 163.427.....75 months

- 1 (R) Robbery in the first
- 2 degree, as defined in
- 3 ORS 164.415 .....90 months
- 4 (S) Robbery in the second
- 5 degree, as defined in
- 6 ORS 164.405 .....70 months
- 7 (b)(A) Arson in the first degree,
- 8 as defined in ORS 164.325,
- 9 when the offense represented
- 10 a threat of serious
- 11 physical injury. ....90 months
- 12 (B) Using a child in a display
- 13 of sexually explicit
- 14 conduct, as defined in
- 15 ORS 163.670 .....70 months
- 16 (C) Compelling prostitution,
- 17 as defined in ORS 167.017
- 18 (1)(a), (b) or (d).....70 months
- 19 (c) Aggravated vehicular
- 20 homicide, as defined in
- 21 ORS 163.149 .....240 months

22  
23

24 (5) If a person charged with an offense under this section is found guilty of a lesser included  
25 offense and the lesser included offense is:

26 (a) An offense listed in subsection (4) of this section, the court shall sentence the person as  
27 provided in subsections (1) and (2) of this section.

28 (b) Not an offense listed in subsection (4) of this section:

29 (A) But constitutes an offense for which waiver is authorized under ORS 419C.349 (1)(b), the  
30 court, upon motion of the district attorney, shall hold a hearing to determine whether to retain ju-  
31 risdiction or to transfer the case to juvenile court for disposition. In determining whether to retain  
32 jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains  
33 jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If the court  
34 does not retain jurisdiction, the court shall:

35 (i) Order that a presentence report be prepared;

36 (ii) Set forth in a memorandum any observations and recommendations that the court deems  
37 appropriate;

38 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS  
39 419C.067 and 419C.411; and

40 (iv) Enter an order providing that all court records of the case are subject to the same limita-  
41 tions on inspection, copying and disclosure of records, reports and materials as those set forth under  
42 ORS 419A.255.

43 (B) And is not an offense for which waiver is authorized under ORS 419C.349 (1)(b), the court  
44 may not sentence the person. The court shall:

45 (i) Order that a presentence report be prepared;



1 (ii) Set forth in a memorandum any observations and recommendations that the court deems  
2 appropriate;

3 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS  
4 419C.067 and 419C.411; and

5 (iv) Enter an order providing that all court records of the case are subject to the same limita-  
6 tions on inspection, copying and disclosure of records, reports and materials as those set forth under  
7 ORS 419A.255.

8 (6) When a person is charged under this section, other offenses based on the same act or  
9 transaction shall be charged as separate counts in the same accusatory instrument and consolidated  
10 for trial, whether or not the other offenses are aggravated murder or offenses listed in subsection  
11 (4) of this section. If it appears, upon motion, that the state or the person charged is prejudiced by  
12 the joinder and consolidation of offenses, the court may order an election or separate trials of  
13 counts or provide whatever other relief justice requires.

14 (7)(a) If a person charged and tried as provided in subsection (6) of this section is found guilty  
15 of aggravated murder or an offense listed in subsection (4) of this section and one or more other  
16 offenses, the court shall impose the sentence for aggravated murder or the offense listed in sub-  
17 section (4) of this section as provided in subsections (1) and (2) of this section and shall impose  
18 sentences for the other offenses as otherwise provided by law.

19 (b) If a person charged and tried as provided in subsection (6) of this section is not found guilty  
20 of aggravated murder or an offense listed in subsection (4) of this section, but is found guilty of one  
21 of the other charges that constitutes an offense for which waiver is authorized under ORS 419C.349  
22 (1)(b), the court, upon motion of the district attorney, shall hold a hearing to determine whether to  
23 retain jurisdiction or to transfer the case to juvenile court for disposition. In determining whether  
24 to retain jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court  
25 retains jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If  
26 the court does not retain jurisdiction, the court shall:

27 (A) Order that a presentence report be prepared;

28 (B) Set forth in a memorandum any observations and recommendations that the court deems  
29 appropriate;

30 (C) Enter an order transferring the case to the juvenile court for disposition under ORS  
31 419C.067 and 419C.411; and

32 (D) Enter an order providing that all court records of the case are subject to the same limita-  
33 tions on inspection, copying and disclosure of records, reports and materials as those set forth under  
34 ORS 419A.255.

35 **SECTION 5.** ORS 137.717 is amended to read:

36 137.717. (1) When a court sentences a person convicted of:

37 (a) Aggravated theft in the first degree under ORS 164.057, burglary in the first degree under  
38 ORS 164.225 or aggravated identity theft under ORS 165.803, the presumptive sentence is 24 months  
39 of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer  
40 presumptive sentence, if the person has:

41 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary  
42 in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in  
43 the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated  
44 identity theft under ORS 165.803;

45 (B) Two or more previous convictions for any combination of the crimes listed in subsection (2)

1 of this section; or

2 (C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime  
 3 of conviction was committed while the defendant was on supervision for the previous conviction or  
 4 less than three years after the date the defendant completed the period of supervision for the pre-  
 5 vious conviction.

6 (b) Unauthorized use of a vehicle under ORS 164.135, mail theft or receipt of stolen mail under  
 7 ORS 164.162, burglary in the second degree under ORS 164.215, criminal mischief in the first degree  
 8 under ORS 164.365, computer crime under ORS 164.377, robbery in the third degree under ORS  
 9 164.395, forgery in the first degree under ORS 165.013, criminal possession of a forged instrument  
 10 in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b),  
 11 possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310,  
 12 the presumptive sentence is 18 months of incarceration, unless the rules of the Oregon Criminal  
 13 Justice Commission prescribe a longer presumptive sentence, if the person has:

14 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unau-  
 15 thorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery  
 16 in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in  
 17 the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in  
 18 stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803;

19 (B) Two or more previous convictions for any combination of the crimes listed in subsection (2)  
 20 of this section; or

21 (C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime  
 22 of conviction was committed while the defendant was on supervision for the previous conviction or  
 23 less than three years after the date the defendant completed the period of supervision for the pre-  
 24 vious conviction.

25 (c) Theft in the first degree under ORS 164.055 or identity theft under ORS 165.800, the  
 26 presumptive sentence is 13 months of incarceration, unless the rules of the Oregon Criminal Justice  
 27 Commission prescribe a longer presumptive sentence, if the person has:

28 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unau-  
 29 thorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery  
 30 in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession  
 31 of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggra-  
 32 vated identity theft under ORS 165.803; or

33 (B) Four or more previous convictions for any combination of crimes listed in subsection (2) of  
 34 this section.

35 (2) The crimes to which subsection (1) of this section applies are:

- 36 (a) Theft in the second degree under ORS 164.045;
- 37 (b) Theft in the first degree under ORS 164.055;
- 38 (c) Aggravated theft in the first degree under ORS 164.057;
- 39 (d) Unauthorized use of a vehicle under ORS 164.135;
- 40 (e) Mail theft or receipt of stolen mail under ORS 164.162;
- 41 (f) Burglary in the second degree under ORS 164.215;
- 42 (g) Burglary in the first degree under ORS 164.225;
- 43 (h) Criminal mischief in the second degree under ORS 164.354;
- 44 (i) Criminal mischief in the first degree under ORS 164.365;
- 45 (j) Computer crime under ORS 164.377;

- 1 (k) Forgery in the second degree under ORS 165.007;
- 2 (L) Forgery in the first degree under ORS 165.013;
- 3 (m) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- 4 (n) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- 5 (o) Fraudulent use of a credit card under ORS 165.055;
- 6 (p) Identity theft under ORS 165.800;
- 7 (q) Possession of a stolen vehicle under ORS 819.300;
- 8 (r) Trafficking in stolen vehicles under ORS 819.310; and
- 9 (s) Any attempt to commit a crime listed in this subsection.
- 10 (3)(a) A presumptive sentence described in subsection (1)(a) or (b) of this section shall be in-
- 11 creased by two months for each previous conviction the person has that:
- 12 (A) Was for any of the crimes listed in subsection (1) or (2) of this section; and
- 13 (B) Was not used as a predicate for the presumptive sentence described in subsection (1)(a) or
- 14 (b) of this section.
- 15 (b) Previous convictions may not increase a presumptive sentence described in subsection (1)(a)
- 16 or (b) of this section by more than 12 months under this subsection.
- 17 (4) The court may impose a sentence other than the sentence provided by subsection (1) or (3)
- 18 of this section if the court imposes:
- 19 (a) A longer term of incarceration that is otherwise required or authorized by law; or
- 20 (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission
- 21 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon
- 22 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-
- 23 lowed for a person sentenced under this subsection is double the presumptive sentence provided in
- 24 subsection (1) or (3) of this section.
- 25 (5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under
- 26 subsection (4) of this section to a term of incarceration that exceeds the period of time described
- 27 in ORS 161.605.
- 28 (6) The court shall sentence a person under this section to at least the presumptive sentence
- 29 described in subsection (1)(a) or (b) or (3) of this section, unless the parties stipulate otherwise, **the**
- 30 **court finds substantial and compelling reasons justifying a downward departure under sec-**
- 31 **tion 1 of this 2023 Act**, or the court finds that:
- 32 (a) The person was not on probation, parole or post-prison supervision for a crime listed in
- 33 subsection (1) of this section at the time of the commission of the current crime of conviction;
- 34 (b) The person has not previously received a downward departure from a presumptive sentence
- 35 for a crime listed in subsection (1) of this section;
- 36 (c) The harm or loss caused by the crime is not greater than usual for that type of crime; and
- 37 (d) In consideration of the nature of the offense and the harm to the victim, a downward de-
- 38 parture will:
- 39 (A) Increase public safety;
- 40 (B) Enhance the likelihood that the person will be rehabilitated; and
- 41 (C) Not unduly reduce the appropriate punishment.
- 42 (7) When the court imposes a sentence of probation for a conviction for theft in the first degree
- 43 or identity theft or under subsection (6) of this section, the supervisory authority as defined in ORS
- 44 144.087 may require the person to receive a high level of supervision for at least 12 months, and
- 45 may extend the period of high-level supervision for all or part of the remaining probationary term.

1 (8)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have  
2 occurred upon the pronouncement of sentence in open court. However, when sentences are imposed  
3 for two or more convictions arising out of the same conduct or criminal episode, none of the con-  
4 victions is considered to have occurred prior to any of the other convictions arising out of the same  
5 conduct or criminal episode.

6 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-  
7 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open  
8 court of the suspended imposition of a sentence.

9 (9) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

10 (10) As used in this section:

11 (a) "Downward departure" means a downward dispositional departure or a downward durational  
12 departure under the rules of the Oregon Criminal Justice Commission.

13 (b) "Previous conviction" includes:

14 (A) Convictions occurring before, on or after July 1, 2003; and

15 (B) Convictions entered in any other state or federal court for comparable offenses.

16 **SECTION 6.** ORS 137.717, as amended by section 7, chapter 649, Oregon Laws 2013, and section  
17 6, chapter 673, Oregon Laws 2017, is amended to read:

18 137.717. (1) When a court sentences a person convicted of:

19 (a) Aggravated theft in the first degree under ORS 164.057, burglary in the first degree under  
20 ORS 164.225, robbery in the third degree under ORS 164.395 or aggravated identity theft under ORS  
21 165.803, the presumptive sentence is 24 months of incarceration, unless the rules of the Oregon  
22 Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

23 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary  
24 in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in  
25 the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated  
26 identity theft under ORS 165.803;

27 (B) Two or more previous convictions for any combination of the crimes listed in subsection (2)  
28 of this section; or

29 (C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime  
30 of conviction was committed while the defendant was on supervision for the previous conviction or  
31 less than three years after the date the defendant completed the period of supervision for the pre-  
32 vious conviction.

33 (b) Unauthorized use of a vehicle under ORS 164.135, mail theft or receipt of stolen mail under  
34 ORS 164.162, burglary in the second degree under ORS 164.215, criminal mischief in the first degree  
35 under ORS 164.365, computer crime under ORS 164.377, forgery in the first degree under ORS  
36 165.013, criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent  
37 use of a credit card under ORS 165.055 (4)(b), possession of a stolen vehicle under ORS 819.300 or  
38 trafficking in stolen vehicles under ORS 819.310, the presumptive sentence is 18 months of  
39 incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer  
40 presumptive sentence, if the person has:

41 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unau-  
42 thorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery  
43 in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in  
44 the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in  
45 stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803;

1 (B) Two or more previous convictions for any combination of the crimes listed in subsection (2)  
 2 of this section; or

3 (C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime  
 4 of conviction was committed while the defendant was on supervision for the previous conviction or  
 5 less than three years after the date the defendant completed the period of supervision for the pre-  
 6 vious conviction.

7 (c) Theft in the first degree under ORS 164.055 or identity theft under ORS 165.800, the  
 8 presumptive sentence is 13 months of incarceration, unless the rules of the Oregon Criminal Justice  
 9 Commission prescribe a longer presumptive sentence, if the person has:

10 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unau-  
 11 thorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery  
 12 in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession  
 13 of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggra-  
 14 vated identity theft under ORS 165.803; or

15 (B) Four or more previous convictions for any combination of crimes listed in subsection (2) of  
 16 this section.

17 (2) The crimes to which subsection (1) of this section applies are:

- 18 (a) Theft in the second degree under ORS 164.045;
- 19 (b) Theft in the first degree under ORS 164.055;
- 20 (c) Aggravated theft in the first degree under ORS 164.057;
- 21 (d) Unauthorized use of a vehicle under ORS 164.135;
- 22 (e) Mail theft or receipt of stolen mail under ORS 164.162;
- 23 (f) Burglary in the second degree under ORS 164.215;
- 24 (g) Burglary in the first degree under ORS 164.225;
- 25 (h) Criminal mischief in the second degree under ORS 164.354;
- 26 (i) Criminal mischief in the first degree under ORS 164.365;
- 27 (j) Computer crime under ORS 164.377;
- 28 (k) Forgery in the second degree under ORS 165.007;
- 29 (L) Forgery in the first degree under ORS 165.013;
- 30 (m) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- 31 (n) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- 32 (o) Fraudulent use of a credit card under ORS 165.055;
- 33 (p) Identity theft under ORS 165.800;
- 34 (q) Possession of a stolen vehicle under ORS 819.300;
- 35 (r) Trafficking in stolen vehicles under ORS 819.310; and
- 36 (s) Any attempt to commit a crime listed in this subsection.

37 (3)(a) A presumptive sentence described in subsection (1)(a) or (b) of this section shall be in-  
 38 creased by two months for each previous conviction the person has that:

39 (A) Was for any of the crimes listed in subsection (1) or (2) of this section; and

40 (B) Was not used as a predicate for the presumptive sentence described in subsection (1)(a) or  
 41 (b) of this section.

42 (b) Previous convictions may not increase a presumptive sentence described in subsection (1)(a)  
 43 or (b) of this section by more than 12 months under this subsection.

44 (4) The court may impose a sentence other than the sentence provided by subsection (1) or (3)  
 45 of this section if the court imposes:

1 (a) A longer term of incarceration that is otherwise required or authorized by law; or

2 (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission  
 3 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon  
 4 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-  
 5 lowed for a person sentenced under this subsection is double the presumptive sentence provided in  
 6 subsection (1) or (3) of this section.

7 (5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under  
 8 subsection (4) of this section to a term of incarceration that exceeds the period of time described  
 9 in ORS 161.605.

10 (6) The court shall sentence a person under this section to at least the presumptive sentence  
 11 described in subsection (1)(a) or (b) or (3) of this section, unless the parties stipulate otherwise, **the**  
 12 **court finds substantial and compelling reasons justifying a downward departure under sec-**  
 13 **tion 1 of this 2023 Act**, or the court finds that:

14 (a) The person was not on probation, parole or post-prison supervision for a crime listed in  
 15 subsection (1) of this section at the time of the commission of the current crime of conviction;

16 (b) The person has not previously received a downward departure from a presumptive sentence  
 17 for a crime listed in subsection (1) of this section;

18 (c) The harm or loss caused by the crime is not greater than usual for that type of crime; and

19 (d) In consideration of the nature of the offense and the harm to the victim, a downward de-  
 20 parture will:

21 (A) Increase public safety;

22 (B) Enhance the likelihood that the person will be rehabilitated; and

23 (C) Not unduly reduce the appropriate punishment.

24 (7) When the court imposes a sentence of probation for a conviction for theft in the first degree  
 25 or identity theft or under subsection (6) of this section, the supervisory authority as defined in ORS  
 26 144.087 may require the person to receive a high level of supervision for at least 12 months, and  
 27 may extend the period of high-level supervision for all or part of the remaining probationary term.

28 (8)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have  
 29 occurred upon the pronouncement of sentence in open court. However, when sentences are imposed  
 30 for two or more convictions arising out of the same conduct or criminal episode, none of the con-  
 31 victions is considered to have occurred prior to any of the other convictions arising out of the same  
 32 conduct or criminal episode.

33 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-  
 34 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open  
 35 court of the suspended imposition of a sentence.

36 (9) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

37 (10) As used in this section:

38 (a) “Downward departure” means a downward dispositional departure or a downward durational  
 39 departure under the rules of the Oregon Criminal Justice Commission.

40 (b) “Previous conviction” includes:

41 (A) Convictions occurring before, on or after July 1, 2003; and

42 (B) Convictions entered in any other state or federal court for comparable offenses.

43 **SECTION 7.** ORS 163.107 is amended to read:

44 163.107. (1) “Murder in the first degree” means murder in the second degree as defined in ORS  
 45 163.115 which is committed under, or accompanied by, any of the following circumstances:

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

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

5 (c) The defendant committed murder after having been convicted previously in any jurisdiction  
 6 of any homicide, the elements of which constitute the crime of aggravated murder as defined in ORS  
 7 163.095, murder in the first degree under this section, murder in the second degree as defined in  
 8 ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118.

9 (d) There was more than one murder victim in the same criminal episode as defined in ORS  
 10 131.505.

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

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

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

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

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

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

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

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

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

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

24 (H) A regulatory specialist.

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

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

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

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

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

35 (2)(a) Except as otherwise provided in ORS 163.155 and [paragraph (b)] **paragraphs (b) and (c)**  
 36 of this subsection, the court shall sentence a person convicted of murder in the first degree, who  
 37 was at least 15 years of age at the time of committing the murder, to life imprisonment. The court  
 38 shall order that the defendant be confined for a minimum of 30 years without possibility of parole  
 39 or release to post-prison supervision except as provided in ORS 144.397, and without the possibility  
 40 of release on work release or any form of temporary leave or employment at a forest or work camp.

41 (b) The court may sentence the person to life imprisonment without the possibility of parole if  
 42 the person was at least 18 years of age at the time of committing the murder. The court shall state  
 43 on the record the reasons for imposing the sentence. A person sentenced to life imprisonment  
 44 without the possibility of release or parole under this paragraph shall not have that sentence sus-  
 45 pended, deferred or commuted by any judicial officer, and the State Board of Parole and Post-Prison

1 Supervision may not parole the prisoner nor reduce the period of confinement in any manner what-  
 2 soever. The Department of Corrections or any executive official may not permit the prisoner to  
 3 participate in any sort of release or furlough program.

4 **(c) If the court finds substantial and compelling reasons justifying a lesser sentence un-**  
 5 **der section 1 of this 2023 Act, the court is not obligated to sentence the defendant to the**  
 6 **sentence specified in paragraphs (a) and (b) of this subsection and may instead impose any**  
 7 **other sentence in accordance with the rules of the Oregon Criminal Justice Commission.**

8 (3)(a) For a person sentenced to life imprisonment, at any time after completion of the minimum  
 9 period of confinement described in subsection (2)(a) of this section, the State Board of Parole and  
 10 Post-Prison Supervision, upon the petition of a prisoner so confined, shall hold a hearing to deter-  
 11 mine if the prisoner is likely to be rehabilitated within a reasonable period of time. The sole issue  
 12 is whether the prisoner is likely to be rehabilitated within a reasonable period of time. At the  
 13 hearing the prisoner has:

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

16 (B) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented  
 17 by legal counsel, appointed by the board, at board expense; and

18 (C) The right to a subpoena upon a showing of the general relevance and reasonable scope of  
 19 the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by  
 20 the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.

21 (b) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-  
 22 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting  
 23 members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's  
 24 confinement should be changed to life imprisonment with the possibility of parole, release to post-  
 25 prison supervision or work release, it shall enter an order to that effect and the order shall convert  
 26 the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release  
 27 to post-prison supervision or work release and may set a release date. Otherwise, the board shall  
 28 deny the relief sought in the petition.

29 (c) If the board denies the relief sought in the petition, the board shall determine the date of the  
 30 subsequent hearing, and the prisoner may petition for an interim hearing, in accordance with ORS  
 31 144.285.

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

35 **SECTION 8.** ORS 163.115 is amended to read:

36 163.115. (1) Except as provided in ORS 163.095, 163.118 and 163.125, criminal homicide consti-  
 37 tutes murder in the second degree:

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

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

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



- 1 (B) Criminal mischief in the first degree by means of an explosive as defined in ORS 164.365;
- 2 (C) Burglary in the first degree as defined in ORS 164.225;
- 3 (D) Escape in the first degree as defined in ORS 162.165;
- 4 (E) Kidnapping in the second degree as defined in ORS 163.225;
- 5 (F) Kidnapping in the first degree as defined in ORS 163.235;
- 6 (G) Robbery in the first degree as defined in ORS 164.415;
- 7 (H) Any felony sexual offense in the first degree defined in this chapter;
- 8 (I) Compelling prostitution as defined in ORS 167.017; or
- 9 (J) Assault in the first degree, as defined in ORS 163.185, and the victim is under 14 years of
- 10 age, or assault in the second degree, as defined in ORS 163.175 (1)(a) or (b), and the victim is under
- 11 14 years of age; or
- 12 (c) By abuse when a person, recklessly under circumstances manifesting extreme indifference to
- 13 the value of human life, causes the death of a child under 14 years of age or a dependent person,
- 14 as defined in ORS 163.205, and:
  - 15 (A) The person has previously engaged in a pattern or practice of assault or torture of the vic-
  - 16 tim or another child under 14 years of age or a dependent person; or
  - 17 (B) The person causes the death by neglect or maltreatment.
- 18 (2) An accusatory instrument alleging murder by abuse under subsection (1)(c) of this section
- 19 need not allege specific incidents of assault or torture.
- 20 (3) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the
- 21 defendant:
  - 22 (a) Was not the only participant in the underlying crime;
  - 23 (b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause
  - 24 or aid in the commission thereof;
  - 25 (c) Was not armed with a dangerous or deadly weapon;
  - 26 (d) Had no reasonable ground to believe that any other participant was armed with a dangerous
  - 27 or deadly weapon; and
  - 28 (e) Had no reasonable ground to believe that any other participant intended to engage in con-
  - 29 duct likely to result in death.
- 30 (4) It is an affirmative defense to a charge of violating subsection (1)(c)(B) of this section that
- 31 the victim was a dependent person who was at least 18 years of age and was under care or treat-
- 32 ment solely by spiritual means pursuant to the religious beliefs or practices of the dependent person
- 33 or the guardian of the dependent person.
- 34 (5) Except as otherwise provided in ORS 144.397 and 163.155 **and subsection (6) of this**
- 35 **section:**
  - 36 (a) A person convicted of murder in the second degree, who was at least 15 years of age at the
  - 37 time of committing the murder, shall be punished by imprisonment for life.
  - 38 (b) When a defendant is convicted of murder in the second degree under this section, the court
  - 39 shall order that the defendant shall be confined for a minimum of 25 years without possibility of
  - 40 parole, release to post-prison supervision, release on work release or any form of temporary leave
  - 41 or employment at a forest or work camp.
  - 42 (c) At any time after completion of a minimum period of confinement pursuant to paragraph (b)
  - 43 of this subsection, the State Board of Parole and Post-Prison Supervision, upon the petition of a
  - 44 prisoner so confined, shall hold a hearing to determine if the prisoner is likely to be rehabilitated
  - 45 within a reasonable period of time. The sole issue is whether the prisoner is likely to be rehabili-

1 tated within a reasonable period of time. At the hearing the prisoner has:

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

4 (B) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented  
5 by legal counsel, appointed by the board, at board expense; and

6 (C) The right to a subpoena upon a showing of the general relevance and reasonable scope of  
7 the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by  
8 the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.

9 (d) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-  
10 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting  
11 members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's  
12 confinement should be changed to life imprisonment with the possibility of parole, release to post-  
13 prison supervision or work release, it shall enter an order to that effect and the order shall convert  
14 the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release  
15 to post-prison supervision or work release and may set a release date. Otherwise, the board shall  
16 deny the relief sought in the petition.

17 (e) If the board denies the relief sought in the petition, the board shall determine the date of the  
18 subsequent hearing, and the prisoner may petition for an interim hearing, in accordance with ORS  
19 144.285.

20 (f) 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 **(6) If the court finds substantial and compelling reasons justifying a lesser sentence un-  
24 der section 1 of this 2023 Act, the court is not obligated to sentence the defendant to the  
25 sentence specified in subsection (5) of this section and may instead impose any other sen-  
26 tence in accordance with the rules of the Oregon Criminal Justice Commission.**

27 [(6)] (7) As used in this section:

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

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

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

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

38 **SECTION 9.** ORS 163.155 is amended to read:

39 163.155. (1) **Except as provided in subsection (3) of this section**, when a defendant, who was  
40 at least 15 years of age at the time of committing the murder, is convicted of murdering a pregnant  
41 victim under ORS 163.115 (1)(a) and the defendant knew that the victim was pregnant, the defendant  
42 shall be sentenced to life imprisonment without the possibility of release or parole if the person was  
43 at least 18 years of age at the time of committing the offense or to life imprisonment. The court shall  
44 conduct a sentencing proceeding to determine whether the defendant shall be sentenced to life  
45 imprisonment without the possibility of release or parole as described in subsection [(4)] (5) of this

1 section, **sentenced** [or] to life imprisonment as described in subsection [(5)] **(6)** of this section **or**  
 2 **sentenced under subsection (3) of this section.** If the defendant waives all rights to a jury sen-  
 3 tencing proceeding, the court shall conduct the sentencing proceeding as the trier of fact. The pro-  
 4 cedure for the sentencing proceeding, whether before a court or a jury, shall follow the procedure  
 5 of ORS 163.150 (1)(a), as modified by this section.

6 (2) Following the presentation of evidence and argument under subsection (1) of this section, the  
 7 court shall instruct the jury that the trial court shall sentence the defendant to life imprisonment  
 8 without the possibility of release or parole as described in subsection [(4)] **(5)** of this section, unless  
 9 **the court sentences the person under subsection (3) of this section, or unless,** after consider-  
 10 ing all of the evidence submitted, 10 or more members of the jury find there are sufficient mitigating  
 11 circumstances to warrant life imprisonment with the possibility of release or parole as described in  
 12 subsection [(5)] **(6)** of this section. If 10 or more members of the jury do not find there are sufficient  
 13 mitigating circumstances to warrant life imprisonment with the possibility of release or parole, the  
 14 trial court shall sentence the defendant to life imprisonment without the possibility of release or  
 15 parole as described in subsection [(4)] **(5)** of this section, **unless the court sentences the defend-**  
 16 **ant under subsection (3) of this section.** If 10 or more members of the jury find there are suffi-  
 17 cient mitigating circumstances to warrant life imprisonment with the possibility of release or parole,  
 18 the trial court shall sentence the defendant to life imprisonment as described in subsection [(5)] **(6)**  
 19 of this section.

20 **(3) Notwithstanding any jury finding under subsection (2) of this section, if the court**  
 21 **finds substantial and compelling reasons justifying a lesser sentence under section 1 of this**  
 22 **2023 Act, the court is not obligated to sentence the defendant to a sentence otherwise re-**  
 23 **quired by this section, and may instead impose any other sentence in accordance with the**  
 24 **rules of the Oregon Criminal Justice Commission.**

25 [(3)] **(4)** Nothing in this section precludes the court from sentencing the defendant to life  
 26 imprisonment, as described in subsection [(5)] **(6)** of this section, or life imprisonment without the  
 27 possibility of release or parole, as described in subsection [(4)] **(5)** of this section, pursuant to a  
 28 stipulation of sentence or stipulation of sentencing facts agreed to and offered by both parties if the  
 29 defendant waives all rights to a jury sentencing proceeding.

30 [(4)] **(5)** A sentence of life imprisonment without the possibility of release or parole under this  
 31 section may not be suspended, deferred or commuted by any judicial officer, and the State Board  
 32 of Parole and Post-Prison Supervision may neither parole the prisoner nor reduce the period of  
 33 confinement in any manner whatsoever. The Department of Corrections or any executive official  
 34 may not permit the prisoner to participate in any sort of release or furlough program.

35 [(5)] **(6)** If the defendant is sentenced to life imprisonment, the court shall order that the de-  
 36 fendant be confined for a minimum of 30 years without possibility of parole or release to post-prison  
 37 supervision except as provided in ORS 144.397, and without the possibility of release on work re-  
 38 lease or any form of temporary leave or employment at a forest or work camp.

39 [(6)] **(7)** At any time after completion of the minimum period of confinement pursuant to sub-  
 40 section [(5)] **(6)** of this section, the board, upon the petition of a prisoner so confined, shall hold a  
 41 hearing to determine if the prisoner is likely to be rehabilitated within a reasonable period of time.  
 42 The sole issue shall be whether the prisoner is likely to be rehabilitated within a reasonable period  
 43 of time. The proceeding shall be conducted in the manner prescribed for a contested case hearing  
 44 under ORS chapter 183, except that:

45 (a) The prisoner has the burden of proving by a preponderance of the evidence the likelihood

1 of rehabilitation within a reasonable period of time;

2 (b) The prisoner has the right, if the prisoner is without sufficient funds to employ an attorney,  
3 to be represented by legal counsel, appointed by the board, at board expense; and

4 (c) The prisoner has the right to a subpoena upon a showing of the general relevance and rea-  
5 sonable scope of the evidence sought, provided that any subpoena issued on behalf of the prisoner  
6 must be issued by the board pursuant to rules adopted by the board.

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

15 [(8)] (9) Not less than two years after the denial of the relief sought in a petition under this  
16 section, the prisoner may petition again for a change in the terms of confinement. Further petitions  
17 for a change may be filed at intervals of not less than two years thereafter.

18 **SECTION 10.** ORS 475.930 is amended to read:

19 475.930. (1) **Except as provided in subsection (3) of this section**, when a court sentences a  
20 person under ORS 164.061, 475.907, 475.924 [and] or 475.925:

21 (a) The court shall use the criminal history scale of the sentencing guidelines grid of the Oregon  
22 Criminal Justice Commission to determine the sentence to impose. The sentence described in:

23 (A) ORS 475.925 (1) shall be determined utilizing crime category 10 of the sentencing guidelines  
24 grid.

25 (B) ORS 475.907 (1) and 475.925 (2) shall be determined utilizing crime category 9 of the sen-  
26 tencing guidelines grid.

27 (C) ORS 164.061 shall be determined utilizing crime category 8 of the sentencing guidelines grid.

28 (b)(A) Notwithstanding ORS 161.605, the court shall impose the sentence described in ORS  
29 164.061, 475.907, 475.924 [and] or 475.925 and may not impose a sentence of optional probation or  
30 grant a downward dispositional departure or a downward durational departure under the rules of  
31 the commission.

32 (B) The court may impose a sentence other than the sentence described in ORS 164.061, 475.907,  
33 475.924 [and] or 475.925 if the court imposes a longer term of incarceration that is otherwise re-  
34 quired or authorized by law.

35 (2) A person sentenced under ORS 164.061, 475.907, 475.924 [and] or 475.925 may not receive a  
36 reduction in the term of incarceration for appropriate institutional behavior that exceeds 20 percent  
37 of the sentence imposed.

38 (3) **Notwithstanding ORS 164.061, 475.907, 475.924 and 475.925, when a court sentences a**  
39 **person under ORS 164.061, 475.907, 475.924 or 475.925 and the court finds substantial and**  
40 **compelling reasons justifying a lesser sentence under section 1 of this 2023 Act, the court is**  
41 **not obligated to sentence the person to the sentence specified in ORS 164.061, 475.907, 475.924**  
42 **or 475.925 and may instead impose any other sentence in accordance with the rules of the**  
43 **Oregon Criminal Justice Commission.**

44  
45 **PROCEDURE FOR PERSONS PREVIOUSLY SENTENCED**

1       **SECTION 11.** (1) Except as provided in subsection (9) of this subsection, a person serving  
2 a sentence of imprisonment after conviction of a felony is eligible to be resentenced under  
3 this section if:

4       (a) The person was sentenced to, and is currently serving, a term of imprisonment for  
5 the felony conviction;

6       (b) The person was subjected to domestic abuse by a family or household member;

7       (c) The abuse was a contributing factor to the person's criminal behavior; and

8       (d) The sentence the person received is unduly harsh in light of the circumstances of the  
9 crime, the circumstances of the person, the abuse the person suffered and the likely sen-  
10 tence the person would receive if the person were sentenced under current law and sen-  
11 tencing philosophy.

12       (2)(a) A person described in subsection (1) of this section may file a petition for resen-  
13 tencing in the county in which the person was originally convicted and sentenced.

14       (b) The petition shall include:

15       (A) The specific counts for which the person is requesting resentencing; and

16       (B) A factual statement explaining how the person meets the eligibility requirements  
17 described in subsection (1) of this section.

18       (3)(a) Upon filing the petition, the person shall serve a copy of the petition on the district  
19 attorney.

20       (b) Upon receipt of the petition, the district attorney shall make reasonable efforts to  
21 inform the victim:

22       (A) That the person has petitioned the court for a resentencing;

23       (B) Of the victim's rights implicated by the resentencing; and

24       (C) That the victim has the right to appear at the resentencing and be heard.

25       (4)(a) Upon receiving the petition, the sentencing court shall determine whether the facts  
26 stated in the petition, assuming those facts are uncontested and are established in court by  
27 a preponderance of evidence, are sufficient to support a finding that the person meets the  
28 eligibility requirements described in subsection (1) of this section.

29       (b) If the court determines that the facts stated in the petition are sufficient, the court  
30 shall set a resentencing hearing within 60 days of the date the petition is filed with the court,  
31 unless the court finds good cause to hold the hearing at a later date.

32       (c) If the court determines that the facts stated in the petition are insufficient, the court  
33 shall enter an order denying the petition and shall cause a copy of the order to be provided  
34 to the person.

35       (d) If a petition is denied under paragraph (c) of this subsection, upon the request of the  
36 person, the court shall appoint counsel for the person for the purpose of assisting the person  
37 in preparing an amended petition. Pursuant to ORS 151.216 and 151.219, the Public Defense  
38 Services Commission shall provide for the representation of a person for whom counsel is  
39 appointed under this paragraph.

40       (5)(a) When the court sets a resentencing hearing under subsection (4) of this section,  
41 the court shall appoint counsel for the person and notify the person, the person's counsel,  
42 the Department of Corrections and the district attorney of the hearing date. Upon receipt  
43 of the notice, the district attorney shall make reasonable efforts to inform the victim of:

44       (A) The hearing date; and

45       (B) The victim's rights implicated in the resentencing hearing.

1       **(b) Pursuant to ORS 151.216 and 151.219, the Public Defense Services Commission shall**  
2 **provide for the representation of a person for whom counsel is appointed under this sub-**  
3 **section.**

4       **(6)(a) At the hearing, the person has the burden of proving by a preponderance of the**  
5 **evidence that:**

6           **(A) The person was subjected to domestic abuse by a family or household member;**

7           **(B) The abuse was a contributing factor to the person's criminal behavior; and**

8           **(C) The sentence the person received is unduly harsh in light of the circumstances of the**  
9 **crime, the circumstances of the person, the abuse the person suffered and the likely sen-**  
10 **tence the person would receive if the person were sentenced under current law and sen-**  
11 **tencing philosophy.**

12       **(b) The district attorney may introduce evidence at the hearing.**

13       **(c) Upon the conclusion of the hearing, if the court finds that the person has met the**  
14 **burden of proof, the court shall find that there exists substantial and compelling reasons**  
15 **justifying a downward durational departure or a downward dispositional departure from any**  
16 **presumptive or mandatory sentence and shall resentence the defendant to an appropriate**  
17 **sentence under the rules of the Oregon Criminal Justice Commission.**

18       **(d) The court may not resentence a person under this section to a more severe sentence**  
19 **than originally imposed.**

20       **(e) ORS 40.010 to 40.210 and 40.310 to 40.585 do not apply to a hearing conducted under**  
21 **this section.**

22       **(f) The sentencing court has jurisdiction to modify its judgment and resentence the de-**  
23 **fendant as provided in this subsection.**

24       **(7) Unless the court orders otherwise, a person shall appear at a hearing described in**  
25 **subsection (6) of this section by simultaneous electronic transmission as defined in ORS**  
26 **131.045.**

27       **(8) A person whose petition is denied under subsection (4) of this section after filing an**  
28 **amended petition, or who is not resentenced after a hearing under subsection (6) of this**  
29 **section, may file a new petition under this section only if the new petition is based on the**  
30 **following evidence not previously considered by the court:**

31           **(a) Evidence that did not exist at the time the previous petition was filed; or**

32           **(b) Evidence that existed at the time the previous petition was filed, but could not have**  
33 **been discovered with reasonable diligence.**

34       **(9) A person serving a sentence for aggravated murder as defined in ORS 163.095 is not**  
35 **eligible to file a petition under this section unless the conduct leading to the conviction would**  
36 **constitute murder in the first degree under ORS 163.107 or murder in the second degree**  
37 **under ORS 163.115 under current law.**

38       **(10) The filing of a petition under this section operates as a stay on any proceeding re-**  
39 **lated to or based on the sentence imposed on the person, including a proceeding under ORS**  
40 **138.510 to 138.680.**

41       **(11) As used in this section:**

42           **(a) "Domestic abuse" means a pattern of behavior in a relationship by which one person**  
43 **in the relationship gains or maintains control over the other person, consisting of physical,**  
44 **sexual, emotional, economic or psychological actions or threats of action that influence the**  
45 **other person, including but not limited to actions or threats of action that frighten, intim-**

1 **idate, terrorize, manipulate, hurt, humiliate, blame, injure or wound the other person.**

2 **(b) "Family or household member" means:**

3 **(A) Spouses.**

4 **(B) Former spouses.**

5 **(C) Adult persons related by blood or marriage.**

6 **(D) Persons cohabiting with each other.**

7 **(E) Persons who have cohabited with each other or who have been involved in a sexually**  
8 **intimate relationship.**

9 **(F) Unmarried parents of a minor child.**

10 **(c) "Reasonable efforts to inform the victim" has the meaning given that phrase in ORS**  
11 **147.500.**

12 **(d) "Victim" has the meaning given that term in ORS 147.500.**

13  
14 **CONFORMING AMENDMENTS**

15  
16 **SECTION 12.** ORS 138.105 is amended to read:

17 138.105. (1) On appeal by a defendant, the appellate court has authority to review the judgment  
18 or order being appealed, subject to the provisions of this section.

19 (2) The appellate court has authority to review only questions of law appearing on the record.

20 (3) Except as otherwise provided in this section, the appellate court has authority to review any  
21 intermediate decision of the trial court.

22 (4) On appeal from a judgment of conviction and sentence, the appellate court has authority to  
23 review:

24 (a) The denial of a motion for new trial based on juror misconduct or newly discovered evidence;  
25 and

26 (b) The denial of a motion in arrest of judgment.

27 (5) The appellate court has no authority to review the validity of the defendant's plea of guilty  
28 or no contest, or a conviction based on the defendant's plea of guilty or no contest, except that:

29 (a) The appellate court has authority to review the trial court's adverse determination of a  
30 pretrial motion reserved in a conditional plea of guilty or no contest under ORS 135.335.

31 (b) The appellate court has authority to review whether the trial court erred by not merging  
32 determinations of guilt of two or more offenses, unless the entry of separate convictions results from  
33 an agreement between the state and the defendant.

34 (6) On appeal from a judgment ordering payment of restitution but not specifying the amount  
35 of restitution, the appellate court has no authority to review the decision to award restitution.

36 (7) Except as otherwise provided in subsections (8) and (9) of this section, the appellate court  
37 has authority to review any sentence to determine whether the trial court failed to comply with  
38 requirements of law in imposing or failing to impose a sentence.

39 (8) Except as otherwise provided in subsection (9) of this section, for a sentence imposed on  
40 conviction of a felony committed on or after November 1, 1989:

41 (a) The appellate court has no authority to review:

42 (A) A sentence that is within the presumptive sentence prescribed by the rules of the Oregon  
43 Criminal Justice Commission.

44 (B) A sentence of probation when the rules of the Oregon Criminal Justice Commission prescribe  
45 a presumptive sentence of imprisonment but allow a sentence of probation without departure.

1 (C) A sentence of imprisonment when the rules of the Oregon Criminal Justice Commission  
2 prescribe a presumptive sentence of imprisonment but allow a sentence of probation without depar-  
3 ture.

4 (b) If the trial court imposed a sentence that departs from the presumptive sentence prescribed  
5 by the rules of the Oregon Criminal Justice Commission, the appellate court's authority to review  
6 is limited to whether the trial court's findings of fact and reasons justifying a departure from the  
7 sentence prescribed by the rules of the Oregon Criminal Justice Commission:

8 (A) Are supported by the evidence in the record; and

9 (B) Constitute substantial and compelling reasons for departure.

10 (c) Notwithstanding paragraph (a) of this subsection, the appellate court has authority to review  
11 whether the sentencing court erred:

12 (A) In ranking the crime seriousness classification of the current crime or in determining the  
13 appropriate classification of a prior conviction or juvenile adjudication for criminal history pur-  
14 poses.

15 (B) In imposing or failing to impose a minimum sentence prescribed by ORS 137.700 (1)(a) or  
16 137.707 (1)(a).

17 (9) The appellate court has no authority to review any part of a sentence resulting from a  
18 stipulated sentencing agreement between the state and the defendant.

19 (10)(a) On appeal from a corrected or amended judgment that is entered before expiration of the  
20 applicable period under ORS 138.071 (1) or (2) during which the original judgment can be appealed,  
21 the appellate court has authority to review the judgment, including the corrections or amendments,  
22 as provided in this section.

23 (b) On appeal from a corrected or amended judgment that is entered after expiration of the ap-  
24 plicable period under ORS 138.071 (1) or (2) during which the original judgment was or could have  
25 been appealed, the appellate court has authority to review, as provided in this section, only the  
26 corrected or amended part of the judgment, any part of the judgment affected by the correction or  
27 amendment, or the trial court's decision under ORS 137.172 not to correct or amend the judgment.

28 (c) As used in this subsection, "judgment" means any appealable judgment or order.

29 (11)(a) On a defendant's cross-appeal under ORS 138.035 (5), the appellate court may, in its dis-  
30 cretion, limit review to any decision by the trial court that is inextricably linked, either factually  
31 or legally, to the state's appeal.

32 (b) The failure to file a cross-appeal under ORS 138.035 (5) does not waive a defendant's right  
33 to assign error to a particular ruling of the trial court on appeal from a judgment.

34 **SECTION 13.** ORS 138.115 is amended to read:

35 138.115. (1) On appeal by the state, the appellate court has authority to review the judgment or  
36 order being appealed, subject to the provisions of this section.

37 (2) The appellate court has authority to review only questions of law appearing on the record.

38 (3) Except as otherwise provided in this section, the appellate court has authority to review any  
39 intermediate decision involving the merits of, or necessarily affecting, the judgment or order from  
40 which the appeal is taken.

41 (4)(a) Except as provided in paragraph (b) of this subsection, on appeal from a judgment of  
42 conviction of any felony, the appellate court has authority to review only the sentence as provided  
43 by subsections (5) and (6) of this section.

44 (b) The appellate court has authority to review whether the trial court erred in merging deter-  
45 minations of guilt of two or more offenses, unless the merger of determinations of guilt resulted from



1 an agreement between the state and the defendant.

2 (5) Except as otherwise provided in subsections (6) and (7) of this section, the appellate court  
3 has authority to review the sentence imposed on conviction of any felony to determine whether the  
4 trial court failed to comply with requirements of law in imposing or failing to impose a sentence.

5 (6) Except as otherwise provided in subsection (7) of this section, for a sentence imposed on  
6 conviction of a felony committed on or after November 1, 1989:

7 (a) The appellate court has no authority to review:

8 (A) A sentence that is within the presumptive sentence prescribed by the rules of the Oregon  
9 Criminal Justice Commission.

10 (B) A sentence of probation when the rules of the Oregon Criminal Justice Commission prescribe  
11 a presumptive sentence of imprisonment but allow a sentence of probation without departure.

12 (C) A sentence of imprisonment when the rules of the Oregon Criminal Justice Commission  
13 prescribe a presumptive sentence of imprisonment but allow a sentence of probation without depar-  
14 ture.

15 (b) If the trial court imposed a sentence that departs from the presumptive sentence prescribed  
16 by the rules of the Oregon Criminal Justice Commission, the appellate court's authority to review  
17 is limited to whether the trial court's findings of fact and reasons justifying a departure from the  
18 sentence prescribed by the rules of the Oregon Criminal Justice Commission:

19 (A) Are supported by the evidence in the record; and

20 (B) Constitute substantial and compelling reasons for departure.

21 (c) Notwithstanding paragraph (a) of this subsection, the appellate court has authority to review  
22 whether the sentencing court erred:

23 (A) In ranking the crime seriousness classification of the current crime or in determining the  
24 appropriate classification of a prior conviction or juvenile adjudication for criminal history pur-  
25 poses.

26 (B) In imposing or failing to impose a minimum sentence prescribed by ORS 137.700 (1)(a) or  
27 137.707 (1)(a).

28 (7) The appellate court has no authority to review any part of a sentence resulting from a  
29 stipulated sentencing agreement between the state and the defendant.

30 (8)(a) On appeal from a corrected or amended judgment that is entered before expiration of the  
31 applicable period under ORS 138.071 (1) or (2) during which the original judgment can be appealed,  
32 the appellate court has authority to review the judgment, including the corrections or amendments,  
33 as provided in this section.

34 (b) On appeal from a corrected or amended judgment that is entered after expiration of the ap-  
35 plicable period under ORS 138.071 (1) or (2) during which the original judgment was or could have  
36 been appealed, the appellate court has authority to review, as provided in this section, only the  
37 corrected or amended part of the judgment, any part of the judgment affected by the correction or  
38 amendment, or the trial court's decision under ORS 137.172 not to correct or amend the judgment.

39 (c) As used in this subsection, "judgment" means any appealable judgment or order.

40 **SECTION 14.** ORS 144.110 is amended to read:

41 144.110. (1) In any felony case, the court may impose a minimum term of imprisonment of up to  
42 one-half of the sentence it imposes.

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

44 (a) The State Board of Parole and Post-Prison Supervision shall not release a prisoner on parole  
45 who has been sentenced under subsection (1) of this section until the minimum term has been served,

1 except upon affirmative vote of a majority of three board members or, if the chairperson requires  
 2 all voting members to participate, a majority of all voting members.

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

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

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

8 (C) Who has been convicted of murder in the second degree under the provisions of ORS 163.115,  
 9 except as provided in ORS 163.115 (5)(c) to (f) or 163.155 [*(6) to (8)*] **(7) to (9)**.

10 **(3) This section does not apply to a person sentenced under ORS 163.107 (2)(c), 163.115 (6)**  
 11 **or 163.155 (3).**

12 **SECTION 15.** ORS 161.620 is amended to read:

13 161.620. Notwithstanding any other provision of law, a sentence imposed upon any person  
 14 waived under ORS 419C.349, 419C.352, 419C.364 or 419C.370 shall not include any sentence of death  
 15 or life imprisonment without the possibility of release or parole nor imposition of any mandatory  
 16 minimum sentence except that a mandatory minimum sentence under:

17 (1) ORS 137.707 **(1)(a)** shall be imposed, except as provided in ORS 137.712;

18 (2) ORS 163.105 (1)(c) shall be imposed; and

19 (3) ORS 161.610 may be imposed.

20 **SECTION 16.** ORS 420.240 is amended to read:

21 420.240. (1) The Oregon Youth Authority may establish and administer a work release program  
 22 in which persons who are committed to the custody of the Department of Corrections and placed in  
 23 the physical custody of the youth authority under ORS 137.124 or other statute may be authorized  
 24 to leave assigned quarters for the purpose of:

25 (a) Participating in private, gainful employment;

26 (b) Participating in a work program approved by the youth authority, including work with public  
 27 or private agencies or persons, with or without compensation;

28 (c) Obtaining in this state additional education, including but not limited to vocational, technical  
 29 and general education;

30 (d) Participating in alcohol or drug treatment programs;

31 (e) Participating in mental health programs;

32 (f) Specific treatment to develop independent living skills; or

33 (g) Other purposes established by the youth authority by rule.

34 (2) After consulting with the Department of Corrections, the youth authority shall adopt rules  
 35 to carry out the provisions of ORS 420.240 to 420.265.

36 (3) The provisions of this section do not apply to persons sentenced under ORS 137.635 **(1)**,  
 37 137.700 **(1)(a)** or 137.707 **(1)(a)** or any other provision of law that prohibits eligibility for any form  
 38 of temporary leave from custody.

39 **SECTION 17.** ORS 421.121 is amended to read:

40 421.121. (1) Except as **otherwise** provided in ORS 137.635, 137.700, 137.707, 163.105, 163.107 and  
 41 163.115, each adult in custody sentenced to the custody of the Department of Corrections for felonies  
 42 committed on or after November 1, 1989, is eligible for a reduction in the term of incarceration for:

43 (a) Appropriate institutional behavior, as defined by rule of the Department of Corrections; and

44 (b) Participation in the adult basic skills development program described in ORS 421.084.

45 (2) The maximum amount of time credits earned for appropriate institutional behavior or for

1 participation in the adult basic skills development program described in ORS 421.084 may not exceed  
 2 20 percent of the total term of incarceration in a Department of Corrections institution.

3 (3) The time credits may not be used to shorten the term of actual prison confinement to less  
 4 than six months.

5 (4) The department shall adopt rules pursuant to the rulemaking provisions of ORS chapter 183  
 6 to establish a process for granting, retracting and restoring the time credits earned by the offender  
 7 as allowed in subsections (1) to (3) of this section.

8 **SECTION 18.** ORS 421.168 is amended to read:

9 421.168. (1) The Department of Corrections shall establish a short-term transitional leave pro-  
 10 gram. The program shall provide adults in custody with an opportunity to secure appropriate tran-  
 11 sitional support when necessary for successful reintegration into the community prior to the adult's  
 12 discharge to post-prison supervision.

13 (2) The Department of Corrections shall identify each adult in custody who is eligible for the  
 14 short-term transitional leave program and shall, in conjunction with the supervisory authority for  
 15 the county to which the adult in custody will be released, assist each eligible adult in custody in  
 16 preparing a transition plan and in identifying and applying for an employment, educational or other  
 17 transitional opportunity in the community.

18 (3) If the transition plan for the adult in custody is approved by the department and is an es-  
 19 sential part of successful reintegration into the community, the department may grant a transitional  
 20 leave no more than 120 days before the discharge date of the adult in custody.

21 (4) An adult in custody is not eligible for transitional leave before having served six months of  
 22 prison incarceration.

23 (5) The department shall adopt rules to carry out the provisions of this section. The rules must  
 24 include a set of release conditions for adults in custody released on transitional leave status. An  
 25 adult in custody on transitional leave status is subject to immediate return to prison for any vio-  
 26 lation of the conditions of release.

27 (6) The provisions of this section do not apply to adults in custody whose sentences were im-  
 28 posed under ORS 137.635 (1), 137.690 (1), 137.700 (1)(a), 137.707 (1)(a), 164.061, 475.907, 475.925,  
 29 475.930 (1) or 813.011 or under a provision of law that prohibits release on any form of temporary  
 30 leave from custody.

31  
 32 **TASK FORCE**  
 33

34 **SECTION 19. (1) The Task Force on Services and Support for Incarcerated Domestic Vi-**  
 35 **olence Survivors is established.**

36 (2) **The task force consists of 15 members appointed as follows:**

37 (a) **The President of the Senate shall appoint two members from among members of the**  
 38 **Senate.**

39 (b) **The Speaker of the House of Representatives shall appoint two members from among**  
 40 **members of the House of Representatives.**

41 (c) **The Director of the Department of Corrections shall appoint two members to repre-**  
 42 **sent the department.**

43 (d) **The Governor shall appoint nine members as follows:**

44 (A) **Two members who are experts on the psychological and behavioral effects of trauma.**

45 (B) **Two members who are experts on domestic violence prevention or treatment.**

1 (C) Two members who were previously incarcerated in a Department of Corrections  
2 correctional facility, including one member who was previously incarcerated at Coffee Creek  
3 Correctional Facility.

4 (D) Two members who are currently incarcerated in a Department of Corrections  
5 correctional facility, including one member who is currently incarcerated at Coffee Creek  
6 Correctional Facility.

7 (e) One member representing the Oregon Justice Resource Center.

8 (3) The purpose of task force is to make recommendations to the Department of Cor-  
9 rections concerning:

10 (a) Programs and services needed to help ensure that incarcerated domestic violence  
11 survivors return to the community in a safe and healthy manner; and

12 (b) Any changes needed in the department's facility operations, procedures and protocols  
13 to prevent further retraumatization of incarcerated domestic violence survivors.

14 (4) The task force shall:

15 (a) Conduct a review of the department's current programs and services that address  
16 domestic violence, identifying eligibility for each program or service, the duration of the  
17 program or service and the number of adults in custody who are able to participate in the  
18 program or service.

19 (b) Consult with currently incarcerated and formerly incarcerated domestic violence  
20 survivors as to programs or services needed by survivors while incarcerated, and about de-  
21 partment facility operations, procedures and protocols that are problematic for survivors.

22 (c) Consult with experts and advocates in domestic violence prevention and treatment,  
23 representing diverse populations in the community, to understand the dynamics of domestic  
24 violence and about the programs or services that should be available to incarcerated do-  
25 mestic violence survivors.

26 (d) Consider the feedback from currently incarcerated and formerly incarcerated do-  
27 mestic violence survivors about problematic department facility operations, procedures and  
28 protocols and review those operations, procedures and protocols in consultation with trauma  
29 experts.

30 (5) A majority of the voting members of the task force constitutes a quorum for the  
31 transaction of business.

32 (6) Official action by the task force requires the approval of a majority of the voting  
33 members of the task force.

34 (7) The task force shall elect one of its members to serve as chairperson.

35 (8) If there is a vacancy for any cause, the appointing authority shall make an appoint-  
36 ment to become immediately effective.

37 (9) The task force shall meet at times and places specified by the call of the chairperson  
38 or of a majority of the voting members of the task force.

39 (10) The task force may adopt rules necessary for the operation of the task force.

40 (11)(a) No later than September 15, 2024, the task force shall submit a report in the  
41 manner provided by ORS 192.245 to the interim committees of the Legislative Assembly re-  
42 lated to the judiciary. The report must contain:

43 (A) Recommendations for department programs and services needed to help ensure that  
44 incarcerated domestic violence survivors return to the community in a healthy and safe  
45 manner; and

1 (B) Recommendations for changes to department facility operations, procedures and  
2 protocols necessary to prevent further retraumatization of incarcerated domestic violence  
3 survivors.

4 (b) The department shall publish a copy of the report on the website of the department.

5 (12) The Legislative Policy and Research Director shall provide staff support to the task  
6 force.

7 (13) Members of the Legislative Assembly appointed to the task force are nonvoting  
8 members of the task force and may act in an advisory capacity only.

9 (14) Members of the task force who are not members of the Legislative Assembly are not  
10 entitled to compensation or reimbursement for expenses and serve as volunteers on the task  
11 force.

12 (15) All agencies of state government, as defined in ORS 174.111, are directed to assist  
13 the task force in the performance of the duties of the task force and, to the extent permitted  
14 by laws relating to confidentiality, to furnish information and advice the members of the task  
15 force consider necessary to perform their duties.

16 SECTION 20. Section 19 of this 2023 Act is repealed on January 2, 2025.

17  
18 **APPLICABILITY**

19  
20 SECTION 21. (1) Section 1 of this 2023 Act and the amendments to ORS 137.635, 137.690,  
21 137.700, 137.707, 137.717, 138.105, 138.115, 144.110, 161.620, 163.107, 163.115, 163.155, 420.240,  
22 421.121, 421.168 and 475.930 by sections 2 to 10 and 12 to 18 of this 2023 Act apply to sentences  
23 imposed on or after the effective date of this 2023 Act, including resentencings under section  
24 11 of this 2023 Act or any other law.

25 (2) Section 11 of this 2023 Act applies to persons serving sentences imposed before, on  
26 or after the effective date of this 2023 Act.

27  
28 **CAPTIONS**

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30 SECTION 22. The unit captions used in this 2023 Act are provided only for the conven-  
31 ience of the reader and do not become part of the statutory law of this state or express any  
32 legislative intent in the enactment of this 2023 Act.

33  
34 **EFFECTIVE DATE**

35  
36 SECTION 23. This 2023 Act takes effect on the 91st day after the date on which the 2023  
37 regular session of the Eighty-second Legislative Assembly adjourns sine die.