

SB 469-1
(LC 1994)
4/2/25 (VSR/ps)

Requested by COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 469**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; and amending ORS 144.110, 144.120, 144.125, 163.105, 163.107, 163.115
3 and 163.155”.

4 Delete lines 4 through 8 and insert:

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

6 “163.105. Notwithstanding the provisions of ORS chapter 144 and ORS
7 421.450 to 421.490:

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

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

19 “(c) If sentenced to life imprisonment, the court shall order that the de-
20 fendant shall be confined for a minimum of 30 years without possibility of
21 parole or release to post-prison supervision except as provided in ORS

1 144.397, and without the possibility of release on work release or any form
2 of temporary leave or employment at a forest or work camp.

3 “(2) At any time after completion of a minimum period of confinement
4 pursuant to subsection (1)(c) of this section, the State Board of Parole and
5 Post-Prison Supervision, upon the petition of [*a prisoner*] **an adult in cus-**
6 **tody** so confined, shall hold a hearing to determine if the [*prisoner*] **adult**
7 **in custody** is likely to be rehabilitated within a reasonable period of time.
8 The sole issue is whether or not the [*prisoner*] **adult in custody** is likely to
9 be rehabilitated within a reasonable period of time. At the hearing, the
10 [*prisoner*] **adult in custody** has:

11 “(a) The burden of proving by a preponderance of the evidence the like-
12 lihood of rehabilitation within a reasonable period of time;

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

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

21 “(3)(a) **Upon request by the board, the department shall conduct a**
22 **psychological evaluation of the adult in custody and furnish a report**
23 **on the evaluation to the board before the hearing.**

24 “(b) If, upon hearing all of the evidence, the board, upon a unanimous
25 vote of three board members or, if the chairperson requires all voting mem-
26 bers to participate, a unanimous vote of all voting members, finds that the
27 [*prisoner*] **adult in custody** is capable of rehabilitation and that the terms
28 of the [*prisoner's*] confinement **of the adult in custody** should be changed
29 to life imprisonment with the possibility of parole, release to post-prison
30 supervision or work release, it shall enter an order to that effect and the

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

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

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

15 **“SECTION 2.** ORS 163.107 is amended to read:

16 “163.107. (1) ‘Murder in the first degree’ means murder in the second de-
17 gree as defined in ORS 163.115 which is committed under, or accompanied
18 by, any of the following circumstances:

19 “(a) The defendant committed the murder pursuant to an agreement that
20 the defendant receive money or other thing of value for committing the
21 murder.

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

25 “(c) The defendant committed murder after having been convicted previ-
26 ously in any jurisdiction of any homicide, the elements of which constitute
27 the crime of aggravated murder as defined in ORS 163.095, murder in the first
28 degree under this section, murder in the second degree as defined in ORS
29 163.115 or manslaughter in the first degree as defined in ORS 163.118.

30 “(d) There was more than one murder victim in the same criminal episode

1 as defined in ORS 131.505.

2 “(e) The homicide occurred in the course of or as a result of intentional
3 maiming or torture of the victim.

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

6 “(g) The victim was one of the following and the murder was related to
7 the performance of the victim’s official duties in the justice system:

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

9 “(B) A correctional, parole and probation officer or other person charged
10 with the duty of custody, control or supervision of convicted persons;

11 “(C) A member of the Oregon State Police;

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

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

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

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

16 or

17 “(H) A regulatory specialist.

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

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

22 “(j) Notwithstanding ORS 163.115 (1)(b), the defendant personally and in-
23 tentionally committed the homicide under the circumstances set forth in ORS
24 163.115 (1)(b).

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

27 “(L) The murder was committed after the defendant had escaped from a
28 state, county or municipal penal or correctional facility and before the de-
29 fendant had been returned to the custody of the facility.

30 “(2)(a) Except as otherwise provided in ORS 163.155 and paragraph (b) of

1 this subsection, the court shall sentence a person convicted of murder in the
2 first degree, who was at least 15 years of age at the time of committing the
3 murder, to life imprisonment. The court shall order that the defendant be
4 confined for a minimum of 30 years without possibility of parole or release
5 to post-prison supervision except as provided in ORS 144.397, and without the
6 possibility of release on work release or any form of temporary leave or
7 employment at a forest or work camp.

8 “(b) The court may sentence the person to life imprisonment without the
9 possibility of parole if the person was at least 18 years of age at the time
10 of committing the murder. The court shall state on the record the reasons
11 for imposing the sentence. A person sentenced to life imprisonment without
12 the possibility of release or parole under this paragraph shall not have that
13 sentence suspended, deferred or commuted by any judicial officer, and the
14 State Board of Parole and Post-Prison Supervision may not parole the [*pris-*
15 *oner*] **person** nor reduce the period of confinement in any manner whatso-
16 ever. The Department of Corrections or any executive official may not permit
17 the [*prisoner*] **person** to participate in any sort of release or furlough pro-
18 gram.

19 “(3)(a) For a person sentenced to life imprisonment, at any time after
20 completion of the minimum period of confinement described in subsection
21 (2)(a) of this section, the State Board of Parole and Post-Prison Supervision,
22 upon the petition of [*a prisoner*] **an adult in custody** so confined, shall hold
23 a hearing to determine if the [*prisoner*] **adult in custody** is likely to be re-
24 habilitated within a reasonable period of time. The sole issue is whether the
25 [*prisoner*] **adult in custody** is likely to be rehabilitated within a reasonable
26 period of time. At the hearing the [*prisoner*] **adult in custody** has:

27 “(A) The burden of proving by a preponderance of the evidence the like-
28 lihood of rehabilitation within a reasonable period of time;

29 “(B) The right, if the [*prisoner*] **adult in custody** is without sufficient
30 funds to employ an attorney, to be represented by legal counsel, appointed

1 by the board, at board expense; and

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

7 “(b) Upon request by the board, the department shall conduct a
8 **psychological evaluation of the adult in custody and furnish a report**
9 **on the evaluation to the board before the hearing.**

10 “[*b*] (c) If, upon hearing all of the evidence, the board, upon a unani-
11 mous vote of three board members or, if the chairperson requires all voting
12 members to participate, a unanimous vote of all voting members, finds that
13 the [*prisoner*] **adult in custody** is capable of rehabilitation and that the
14 terms of the [*prisoner’s*] confinement **of the adult in custody** should be
15 changed to life imprisonment with the possibility of parole, release to post-
16 prison supervision or work release, it shall enter an order to that effect and
17 the order shall convert the terms of the [*prisoner’s*] confinement **of the adult**
18 **in custody** to life imprisonment with the possibility of parole, release to
19 post-prison supervision **for crimes committed on or after November 1,**
20 **1989,** or work release, and [*may*] **shall** set a release date **to occur 60 days**
21 **after the date of the hearing.** Otherwise, the board shall deny the relief
22 sought in the petition.

23 “[*c*] (d) If the board denies the relief sought in the petition, the board
24 shall determine the date of the subsequent hearing, and the [*prisoner*] **adult**
25 **in custody** may petition for an interim hearing, in accordance with ORS
26 144.285.

27 “[*d*] (e) The board’s final order shall be accompanied by findings of fact
28 and conclusions of law. The findings of fact shall consist of a concise state-
29 ment of the underlying facts supporting the findings as to each contested
30 issue of fact and as to each ultimate fact required to support the board’s

1 order.

2 **“SECTION 3.** ORS 163.115 is amended to read:

3 “163.115. (1) Except as provided in ORS 163.095, 163.118 and 163.125,
4 criminal homicide constitutes murder in the second degree:

5 “(a) When it is committed intentionally, except that it is an affirmative
6 defense that, at the time of the homicide, the defendant was under the in-
7 fluence of an extreme emotional disturbance;

8 “(b) When it is committed by a person, acting either alone or with one
9 or more persons, who commits or attempts to commit any of the following
10 crimes and in the course of and in furtherance of the crime the person is
11 committing or attempting to commit, or during the immediate flight there-
12 from, the person, or another participant if there be any, causes the death of
13 a person other than one of the participants:

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

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

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

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

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

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

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

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

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

24 “(J) Assault in the first degree, as defined in ORS 163.185, and the victim
25 is under 14 years of age, or assault in the second degree, as defined in ORS
26 163.175 (1)(a) or (b), and the victim is under 14 years of age; or

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

30 “(A) The person has previously engaged in a pattern or practice of assault

1 or torture of the victim or another child under 14 years of age or a dependent
2 person; or

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

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

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

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

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

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

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

14 “(e) Had no reasonable ground to believe that any other participant in-
15 tended to engage in conduct likely to result in death.

16 “(4) It is an affirmative defense to a charge of violating subsection
17 (1)(c)(B) of this section that the victim was a dependent person who was at
18 least 18 years of age and was under care or treatment solely by spiritual
19 means pursuant to the religious beliefs or practices of the dependent person
20 or the guardian of the dependent person.

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

22 “(a) A person convicted of murder in the second degree, who was at least
23 15 years of age at the time of committing the murder, shall be punished by
24 imprisonment for life.

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

30 “(c) At any time after completion of a minimum period of confinement

1 pursuant to paragraph (b) of this subsection, the State Board of Parole and
2 Post-Prison Supervision, upon the petition of [*a prisoner*] **an adult in cus-**
3 **tody** so confined, shall hold a hearing to determine if the [*prisoner*] **adult**
4 **in custody** is likely to be rehabilitated within a reasonable period of time.
5 The sole issue is whether the [*prisoner*] **adult in custody** is likely to be re-
6 habilitated within a reasonable period of time. At the hearing the [*prisoner*]
7 **adult in custody** has:

8 “(A) The burden of proving by a preponderance of the evidence the like-
9 lihood of rehabilitation within a reasonable period of time;

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

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

18 “(d) **Upon request by the board, the Department of Corrections shall**
19 **conduct a psychological evaluation of the adult in custody and furnish**
20 **a report on the evaluation to the board before the hearing.**

21 “[*d*] (e) If, upon hearing all of the evidence, the board, upon a unani-
22 mous vote of three board members or, if the chairperson requires all voting
23 members to participate, a unanimous vote of all voting members, finds that
24 the [*prisoner*] **adult in custody** is capable of rehabilitation and that the
25 terms of the [*prisoner’s*] confinement **of the adult in custody** should be
26 changed to life imprisonment with the possibility of parole, release to post-
27 prison supervision or work release, it shall enter an order to that effect and
28 the order shall convert the terms of the [*prisoner’s*] confinement **of the adult**
29 **in custody** to life imprisonment with the possibility of parole, release to
30 post-prison supervision **for crimes committed on or after November 1,**

1 **1989**, or work release, and [*may*] **shall** set a release date **to occur 60 days**
2 **after the date of the hearing**. Otherwise, the board shall deny the relief
3 sought in the petition.

4 “[*e*)] (**f**) If the board denies the relief sought in the petition, the board
5 shall determine the date of the subsequent hearing, and the [*prisoner*] **adult**
6 **in custody** may petition for an interim hearing, in accordance with ORS
7 144.285.

8 “[*f*)] (**g**) The board’s final order shall be accompanied by findings of fact
9 and conclusions of law. The findings of fact shall consist of a concise state-
10 ment of the underlying facts supporting the findings as to each contested
11 issue of fact and as to each ultimate fact required to support the board’s
12 order.

13 “(6) As used in this section:

14 “(a) ‘Assault’ means the intentional, knowing or reckless causation of
15 physical injury to another person. ‘Assault’ does not include the causation
16 of physical injury in a motor vehicle accident that occurs by reason of the
17 reckless conduct of a defendant.

18 “(b) ‘Neglect or maltreatment’ means a violation of ORS 163.535, 163.545
19 or 163.547 or a failure to provide adequate food, clothing, shelter or medical
20 care that is likely to endanger the health or welfare of a child under 14 years
21 of age or a dependent person. This paragraph is not intended to replace or
22 affect the duty or standard of care required under ORS chapter 677.

23 “(c) ‘Pattern or practice’ means one or more previous episodes.

24 “(d) ‘Torture’ means the intentional infliction of intense physical pain
25 upon an unwilling victim as a separate objective apart from any other pur-
26 pose.

27 “**SECTION 4.** ORS 163.155 is amended to read:

28 “163.155. (1) When a defendant, who was at least 15 years of age at the
29 time of committing the murder, is convicted of murdering a pregnant victim
30 under ORS 163.115 (1)(a) and the defendant knew that the victim was preg-

1 nant, the defendant shall be sentenced to life imprisonment without the
2 possibility of release or parole if the person was at least 18 years of age at
3 the time of committing the offense or to life imprisonment. The court shall
4 conduct a sentencing proceeding to determine whether the defendant shall
5 be sentenced to life imprisonment without the possibility of release or parole
6 as described in subsection (4) of this section or to life imprisonment as de-
7 scribed in subsection (5) of this section. If the defendant waives all rights
8 to a jury sentencing proceeding, the court shall conduct the sentencing pro-
9 ceeding as the trier of fact. The procedure for the sentencing proceeding,
10 whether before a court or a jury, shall follow the procedure of ORS 163.150
11 (1)(a), as modified by this section.

12 “(2) Following the presentation of evidence and argument under sub-
13 section (1) of this section, the court shall instruct the jury that the trial
14 court shall sentence the defendant to life imprisonment without the possi-
15 bility of release or parole as described in subsection (4) of this section, un-
16 less after considering all of the evidence submitted, 10 or more members of
17 the jury find there are sufficient mitigating circumstances to warrant life
18 imprisonment with the possibility of release or parole as described in sub-
19 section (5) of this section. If 10 or more members of the jury do not find there
20 are sufficient mitigating circumstances to warrant life imprisonment with
21 the possibility of release or parole, the trial court shall sentence the de-
22 fendant to life imprisonment without the possibility of release or parole as
23 described in subsection (4) of this section. If 10 or more members of the jury
24 find there are sufficient mitigating circumstances to warrant life
25 imprisonment with the possibility of release or parole, the trial court shall
26 sentence the defendant to life imprisonment as described in subsection (5)
27 of this section.

28 “(3) Nothing in this section precludes the court from sentencing the de-
29 fendant to life imprisonment, as described in subsection (5) of this section,
30 or life imprisonment without the possibility of release or parole, as described

1 in subsection (4) of this section, pursuant to a stipulation of sentence or
2 stipulation of sentencing facts agreed to and offered by both parties if the
3 defendant waives all rights to a jury sentencing proceeding.

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

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

16 “(6) At any time after completion of the minimum period of confinement
17 pursuant to subsection (5) of this section, the board, upon the petition of [*a*
18 *prisoner*] **an adult in custody** so confined, shall hold a hearing to determine
19 if the [*prisoner*] **adult in custody** is likely to be rehabilitated within a rea-
20 sonable period of time. The sole issue shall be whether the [*prisoner*] **adult**
21 **in custody** is likely to be rehabilitated within a reasonable period of time.
22 The proceeding shall be conducted in the manner prescribed for a contested
23 case hearing under ORS chapter 183, except that:

24 “(a) The [*prisoner*] **adult in custody** has the burden of proving by a pre-
25 ponderance of the evidence the likelihood of rehabilitation within a reason-
26 able period of time;

27 “(b) The [*prisoner*] **adult in custody** has the right, if the [*prisoner*] **adult**
28 **in custody** is without sufficient funds to employ an attorney, to be repres-
29 ented by legal counsel, appointed by the board, at board expense; and

30 “(c) The [*prisoner*] **adult in custody** has the right to a subpoena upon a

1 showing of the general relevance and reasonable scope of the evidence
2 sought, provided that any subpoena issued on behalf of the [prisoner] **adult**
3 **in custody** must be issued by the board pursuant to rules adopted by the
4 board.

5 **“(7)(a) Upon request by the board, the department shall conduct a**
6 **psychological evaluation of the adult in custody and furnish a report**
7 **on the evaluation to the board before the hearing.**

8 **“(b) If, upon hearing all of the evidence, the board, upon a unanimous**
9 **vote of three board members or, if the chairperson requires all voting mem-**
10 **bers to participate, a unanimous vote of all voting members, finds that the**
11 **[prisoner] adult in custody is capable of rehabilitation and that the terms**
12 **of the [prisoner’s] confinement of the adult in custody should be changed**
13 **to life imprisonment with the possibility of parole, release on post-prison**
14 **supervision or work release, it shall enter an order to that effect and the**
15 **order shall convert the terms of the [prisoner’s] confinement of the adult**
16 **in custody to life imprisonment with the possibility of parole, release on**
17 **post-prison supervision for crimes committed on or after November 1,**
18 **1989, or work release, and [may] shall set a release date to occur 60 days**
19 **after the date of the hearing.** Otherwise the board shall deny the relief
20 sought in the petition.

21 **“(8) The board’s final order shall be accompanied by findings of fact**
22 **and conclusions of law. The findings of fact shall consist of a concise**
23 **statement of the underlying factors supporting the findings as to each**
24 **contested issue of fact and as to each ultimate fact required to support**
25 **the board’s order.**

26 **“[(8)] (9) Not less than two years after the denial of the relief sought in**
27 **a petition under this section, the [prisoner] adult in custody may petition**
28 **again for a change in the terms of confinement. Further petitions for a**
29 **change may be filed at intervals of not less than two years thereafter.**

30 **“SECTION 5.** ORS 144.120 is amended to read:

1 “144.120. (1)(a) Within six months of the admission of a *[prisoner]* **person**
2 to any Department of Corrections institution, with the exception of those
3 *[prisoners]* **persons** sentenced to a term of imprisonment for life or for more
4 than five years, the State Board of Parole and Post-Prison Supervision shall
5 conduct a parole hearing to interview the *[prisoner]* **person** and set the ini-
6 tial date of release on parole pursuant to subsection (2) of this section. For
7 those *[prisoners]* **persons** sentenced to a term of imprisonment for more than
8 five years but less than 15 years, the board shall conduct the parole hearing
9 and set the initial date of release within eight months following admission
10 of the *[prisoner]* **person** to the institution. For those *[prisoners]* **persons**
11 sentenced to a term of imprisonment for life or for 15 years or more, with
12 the exception of those sentenced for aggravated murder or murder, the board
13 shall conduct the parole hearing, and shall set the initial release date, within
14 one year following admission of the *[prisoner]* **person** to the institution.
15 Release shall be contingent upon satisfaction of the requirements of ORS
16 144.125.

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

25 “(2) In setting the initial parole release date for a *[prisoner]* **person** pur-
26 suant to subsection (1) of this section, the board shall apply the appropriate
27 range established pursuant to ORS 144.780. Variations from the range shall
28 be in accordance with ORS 144.785.

29 “(3) In setting the initial parole release date for a *[prisoner]* **person** pur-
30 suant to subsection (1) of this section, the board shall consider the presen-

1 tence investigation report specified in ORS 144.791 or, if no such report has
2 been prepared, a report of similar content prepared by the Department of
3 Corrections.

4 “(4) Notwithstanding subsection (1) of this section, in the case of a
5 [prisoner] **person** whose offense included particularly violent or otherwise
6 dangerous criminal conduct or whose offense was preceded by two or more
7 convictions for a Class A or Class B felony or whose record includes a psy-
8 chiatric or psychological diagnosis of severe emotional disturbance such as
9 to constitute a danger to the health or safety of the community, the board
10 may choose not to set a parole date.

11 “(5) After the expiration of six months after the admission of the
12 [prisoner] **person** to any Department of Corrections institution, the board
13 may defer setting the initial parole release date for the [prisoner] **person** for
14 a period not to exceed 90 additional days pending receipt of psychiatric or
15 psychological reports, criminal records or other information essential to
16 formulating the release decision.

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

19 “(7) **This section does not apply to a person with a release date set**
20 **under ORS 163.105 (3)(b), 163.107 (3)(c), 163.115 (5)(e) or 163.155 (7)(b).**

21 “**SECTION 6.** ORS 144.125 is amended to read:

22 “144.125. (1) Prior to the scheduled release of any [prisoner] **adult in**
23 **custody** on parole and prior to release rescheduled under this section, the
24 State Board of Parole and Post-Prison Supervision may upon request of the
25 Department of Corrections or on its own initiative interview the [prisoner]
26 **adult in custody** to review the [prisoner’s] parole plan and psychiatric or
27 psychological report **of the adult in custody**, if any, and the record of the
28 [prisoner’s] conduct **of the adult in custody** during confinement. To ac-
29 commodate such review by the board, the Department of Corrections shall
30 provide to the board any psychiatric or psychological reports held by the

1 department regarding the [*prisoner*] **adult in custody**. However, if the psy-
2 chiatrist or psychologist who prepared any report or any treating psychia-
3 trist or psychologist determines that disclosure to the [*prisoner*] **adult in**
4 **custody** of the contents of the report would be detrimental to the
5 [*prisoner's*] mental or emotional health **of the adult in custody**, the psy-
6 chiatrist or psychologist may indorse upon the report a recommendation that
7 it not be disclosed to the [*prisoner*] **adult in custody**. The department may
8 withhold from the board any report so indorsed.

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

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

23 “(b) If the board finds the [*prisoner*] **adult in custody** has a present se-
24 vere emotional disturbance such as to constitute a danger to the health or
25 safety of the community, but also finds that the [*prisoner*] **adult in custody**
26 can be adequately controlled with supervision and mental health treatment
27 and that the necessary supervision and treatment are available, the board
28 may order the [*prisoner*] **adult in custody** released on parole subject to
29 conditions that are in the best interests of community safety and the
30 [*prisoner's*] welfare **of the adult in custody**.

1 “(4) Each [*prisoner*] **adult in custody** shall furnish the board with a
2 parole plan prior to the scheduled release of the [*prisoner*] **adult in custody**
3 on parole. The board shall adopt rules specifying the elements of an adequate
4 parole plan and may defer release of the [*prisoner*] **adult in custody** for not
5 more than three months if it finds that the parole plan is inadequate. The
6 Department of Corrections shall assist [*prisoners*] **adults in custody** in
7 preparing parole plans.

8 “(5) **Subsections (2) and (3) of this section do not apply to an adult**
9 **in custody with a release date set under ORS 163.105 (3)(b), 163.107**
10 **(3)(c), 163.115 (5)(e) or 163.155 (7)(b).**

11 “**SECTION 7.** ORS 144.110 is amended to read:

12 “144.110. (1) In any felony case, the court may impose a minimum term
13 of imprisonment of up to one-half of the sentence it imposes.

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

15 “(a) The State Board of Parole and Post-Prison Supervision shall not re-
16 lease a prisoner on parole who has been sentenced under subsection (1) of
17 this section until the minimum term has been served, except upon affirmative
18 vote of a majority of three board members or, if the chairperson requires all
19 voting members to participate, a majority of all voting members.

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

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

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

26 “(C) Who has been convicted of murder in the second degree under the
27 provisions of ORS 163.115, except as provided in ORS 163.115 (5)(c) to (f) or
28 163.155 (6) to [(8)] (9).

29 “**SECTION 8.** (1) **The amendments to ORS 144.110, 144.120, 144.125,**
30 **163.105, 163.107, 163.115 and 163.155 by sections 1 to 7 of this 2025 Act**

1 apply to persons who become eligible for a hearing described in ORS
2 163.105 (3)(b), 163.107 (3)(c), 163.115 (5)(e) or 163.155 (7)(b) on or after the
3 effective date of this 2025 Act, regardless of the date of the commission
4 of the crime.

5 “(2) Notwithstanding subsection (1) of this section, if, prior to the
6 effective date of this 2025 Act, a person’s sentence has been converted
7 under ORS 163.105 (3)(b), 163.107 (3)(c), 163.115 (5)(e) or 163.155 (7)(b) to
8 a sentence of life imprisonment with the possibility of parole, release
9 to post-prison supervision or work release, and the person’s release
10 has been deferred under ORS 144.125, the amendments to ORS 144.110,
11 144.120, 144.125, 163.105, 163.107, 163.115 and 163.155 by sections 1 to 7 of
12 this 2025 Act do not apply to the person.

13 “(3) The amendments to ORS 144.110, 144.120, 144.125, 163.105, 163.107,
14 163.115 and 163.155 by sections 1 to 7 of this 2025 Act do not affect the
15 right of a person to a hearing available under the law in effect at the
16 time of the commission of the crime.”.

17
