

**HOUSE AMENDMENTS TO
A-ENGROSSED SENATE BILL 1013
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON RULES

June 18

1 On page 1 of the printed A-engrossed bill, line 5, after “671.610” insert “and sections 25, 31 and
2 32, chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 1008); repealing section 6, chapter
3 _____, Oregon Laws 2019 (Enrolled Senate Bill 1008)”.

4 In line 21, delete the second “or”.

5 In line 22, delete the period and insert “;

6 “(c) Premeditated, committed intentionally against a police officer as defined in ORS 801.395,
7 and related to the performance of the victim’s official duties; or

8 “(d) Premeditated, committed intentionally against a correctional, parole and probation officer
9 or other person charged with the duty of custody, control or supervision of convicted persons, and
10 related to the performance of the victim’s official duties.”.

11 On page 4, after line 24, insert:

12 “**SECTION 3a.** If Senate Bill 1008 becomes law, section 3 of this 2019 Act is amended to read:

13 “**Sec. 3.** (1) ‘Murder in the first degree’ means murder in the second degree as defined in ORS
14 163.115 which is committed under, or accompanied by, any of the following circumstances:

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

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

19 “(c) The defendant committed murder after having been convicted previously in any jurisdiction
20 of any homicide, the elements of which constitute the crime of aggravated murder as defined in ORS
21 163.095, murder in the first degree under this section, murder in the second degree as defined in
22 ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118.

23 “(d) There was more than one murder victim in the same criminal episode as defined in ORS
24 131.505.

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

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

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

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

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

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

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

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

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

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

4 “(H) A regulatory specialist.

5 “(h) The defendant was confined in a state, county or municipal penal or correctional facility

6 or was otherwise in custody when the murder occurred.

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

8 “(j) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed

9 the homicide under the circumstances set forth in ORS 163.115 (1)(b).

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

11 the identity of the perpetrator of a crime.

12 “(L) The murder was committed after the defendant had escaped from a state, county or mu-

13 nicipal penal or correctional facility and before the defendant had been returned to the custody of

14 the facility.

15 “(2)(a) Except as otherwise provided in ORS 163.155 and paragraph (b) of this subsection, the

16 court shall sentence a person convicted of murder in the first degree, who was at least 15 years of

17 age at the time of committing the murder, to life imprisonment. The court shall order that the de-

18 fendant be confined for a minimum of 30 years without possibility of parole[,] **or** release to post-

19 prison supervision **except as provided in section 25, chapter _____, Oregon Laws 2019**

20 **(Enrolled Senate Bill 1008), and without the possibility of** release on work release or any form

21 of temporary leave or employment at a forest or work camp.

22 “(b) The court may sentence the person to life imprisonment without the possibility of parole if

23 the person was at least 18 years of age at the time of committing the murder. The court shall state

24 on the record the reasons for imposing the sentence. A person sentenced to life imprisonment

25 without the possibility of release or parole under this paragraph shall not have that sentence sus-

26 pended, deferred or commuted by any judicial officer, and the State Board of Parole and Post-Prison

27 Supervision may not parole the prisoner nor reduce the period of confinement in any manner what-

28 soever. The Department of Corrections or any executive official may not permit the prisoner to

29 participate in any sort of release or furlough program.

30 “(3)(a) For a person sentenced to life imprisonment, at any time after completion of the minimum

31 period of confinement described in subsection (2)(a) of this section, the State Board of Parole and

32 Post-Prison Supervision, upon the petition of a prisoner so confined, shall hold a hearing to deter-

33 mine if the prisoner is likely to be rehabilitated within a reasonable period of time. The sole issue

34 is whether the prisoner is likely to be rehabilitated within a reasonable period of time. At the

35 hearing the prisoner has:

36 “(A) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation

37 within a reasonable period of time;

38 “(B) The right, if the prisoner is without sufficient funds to employ an attorney, to be repres-

39 ented by legal counsel, appointed by the board, at board expense; and

40 “(C) The right to a subpoena upon a showing of the general relevance and reasonable scope of

41 the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by

42 the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.

43 “(b) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board

44 members or, if the chairperson requires all voting members to participate, a unanimous vote of all

45 voting members, finds that the prisoner is capable of rehabilitation and that the terms of the

1 prisoner's confinement should be changed to life imprisonment with the possibility of parole, release
2 to post-prison supervision or work release, it shall enter an order to that effect and the order shall
3 convert the terms of the prisoner's confinement to life imprisonment with the possibility of parole,
4 release to post-prison supervision or work release and may set a release date. Otherwise, the board
5 shall deny the relief sought in the petition.

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

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

12 "**SECTION 3b.** If Senate Bill 1008 becomes law, section 31, chapter _____, Oregon Laws 2019
13 (Enrolled Senate Bill 1008), is amended to read:

14 "**Sec. 31.** (1) Sections 24 and 25 [of this 2019 Act], **chapter _____, Oregon Laws 2019 (En-**
15 **rolled Senate Bill 1008)**, and the amendments to ORS 137.071, 137.124, 137.705, 137.707, 137.712,
16 144.185, 161.610, 161.620, 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321,
17 419C.005, 419C.050, 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361, 420.011, 420.081 and
18 420A.203 **and section 3 of this 2019 Act** by sections 1 to 23 and 26 to 29 [of this 2019 Act], **chapter**
19 **_____ , Oregon Laws 2019 (Enrolled Senate Bill 1008), and section 3a of this 2019 Act** become
20 operative on January 1, 2020.

21 "(2) The State Board of Parole and Post-Prison Supervision, the Oregon Youth Authority, the
22 Department of Corrections and the Judicial Department may take any action before the operative
23 date specified in subsection (1) of this section that is necessary to enable the board, authority or
24 department to exercise, on and after the operative date specified in subsection (1) of this section,
25 all of the duties, functions and powers conferred on the board, authority or department by sections
26 24 and 25 [of this 2019 Act], **chapter _____, Oregon Laws 2019 (Enrolled Senate Bill 1008)**, and
27 the amendments to ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185, 161.610, 161.620, 163.105,
28 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005, 419C.050, 419C.346, 419C.349,
29 419C.352, 419C.355, 419C.358, 419C.361, 420.011, 420.081 and 420A.203 **and section 3 of this 2019**
30 **Act** by sections 1 to 23 and 26 to 29 [of this 2019 Act], **chapter _____, Oregon Laws 2019 (En-**
31 **rolled Senate Bill 1008) and section 3a of this 2019 Act.**

32 "**SECTION 3c.** If Senate Bill 1008 becomes law, section 32, chapter _____, Oregon Laws 2019
33 (Enrolled Senate Bill 1008), is amended to read:

34 "**Sec. 32.** Sections 24 and 25 [of this 2019 Act], **chapter _____, Oregon Laws 2019 (Enrolled**
35 **Senate Bill 1008)**, and the amendments to ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185,
36 161.610, 161.620, 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005,
37 419C.050, 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361, 420.011, 420.081 and 420A.203
38 **and section 3 of this 2019 Act** by sections 1 to 23 and 26 to 29 [of this 2019 Act], **chapter**
39 **_____ , Oregon Laws 2019 (Enrolled Senate Bill 1008), and section 3a of this 2019 Act** apply
40 to sentences imposed on or after January 1, 2020.

41 "**SECTION 3d.** If Senate Bill 1008 becomes law, section 25, chapter _____, Oregon Laws 2019
42 (Enrolled Senate Bill 1008), is amended to read:

43 "**Sec. 25.** (1)(a) A person convicted of an offense or offenses committed when the person was
44 under 18 years of age, who is serving a sentence of imprisonment for the offense or offenses, is eli-
45 gible for release on parole or post-prison supervision as provided in this section after the person has

1 served 15 years of imprisonment.

2 “(b) Nothing in this section is intended to prevent a person from being released prior to serving
3 15 years of imprisonment under any other provision of law.

4 “(c) As used in this subsection, ‘served 15 years of imprisonment’ means that 15 years have
5 passed since the person began serving the sentence, including pretrial incarceration but not in-
6 cluding any reduction in sentence under ORS 421.121 or any other statute.

7 “(2) This section applies notwithstanding **ORS 144.110** or the fact that the person was:

8 “(a) Sentenced to a minimum sentence under ORS 163.105, 163.115 or 163.155 **or section 3 of**
9 **this 2019 Act.**

10 “(b) Sentenced to a mandatory minimum sentence under ORS 137.700, 137.707 or 137.717, a de-
11 terminate sentence under ORS 137.635 or a sentence required by any other provision of law.

12 “(c) Sentenced to two or more consecutive sentences under ORS 137.123.

13 “(3) When a person eligible for release on parole or post-prison supervision as described in
14 subsection (1) of this section has served 15 years of imprisonment, the State Board of Parole and
15 Post-Prison Supervision shall hold a hearing. The hearing must provide the person a meaningful
16 opportunity to be released on parole or post-prison supervision.

17 “(4) The board may require the person, before holding a hearing described in this section, to be
18 examined by a psychiatrist or psychologist with expertise in adolescent development. Within 60 days
19 of the evaluation, the examining psychiatrist or psychologist shall file a written report of the
20 findings and conclusions of the examination with the board. A certified copy of the report shall be
21 provided to the person and the person’s attorney.

22 “(5) During a hearing under this section, the board shall consider and give substantial weight
23 to the fact that a person under 18 years of age is incapable of the same reasoning and impulse
24 control as an adult and the diminished culpability of minors as compared to that of adults. The
25 board shall also consider the following circumstances, if relevant to the specific person and offense:

26 “(a) The age and immaturity of the person at the time of the offense.

27 “(b) Whether and to what extent an adult was involved in the offense.

28 “(c) The person’s family and community circumstances at the time of the offense, including any
29 history of abuse, trauma and involvement in the juvenile dependency system.

30 “(d) The person’s subsequent emotional growth and increased maturity during the person’s
31 imprisonment.

32 “(e) The person’s participation in rehabilitative and educational programs while in custody if
33 such programs have been made available to the person and use of self-study for self-improvement.

34 “(f) A mental health diagnosis.

35 “(g) Any other mitigating factors or circumstances presented by the person.

36 “(6) Under no circumstances may the board consider the age of the person as an aggravating
37 factor.

38 “(7) If the board finds that, based on the consideration of the age and immaturity of the person
39 at the time of the offense and the person’s behavior thereafter, the person has demonstrated matu-
40 rity and rehabilitation, the board shall release the person as follows:

41 “(a) For a person sentenced under ORS 163.105, 163.115 or 163.155 **or section 3 of this 2019**
42 **Act**, the board shall set a release date that is not more than 60 days from the date of the hearing
43 and, notwithstanding section 28, chapter 790, Oregon Laws 1989, the person shall be released on
44 parole in accordance with ORS 144.125, 144.260 and 144.270.

45 “(b) A person sentenced to a term of imprisonment under a provision of law other than ORS

1 163.105, 163.115 or 163.155 or **section 3 of this 2019 Act** shall be released on post-prison supervision
2 in accordance with ORS 144.096 and 144.098 within 60 days of the date of the hearing.

3 “(8) Unless the context requires otherwise, the provisions of ORS 144.260 to 144.380 apply to a
4 person released on parole under subsection (7)(a) of this section.

5 “(9) If the board determines that the person has not demonstrated maturity and rehabilitation
6 under subsection (7) of this section, the board may postpone a subsequent hearing to a date that is
7 at least two years but no more than 10 years from the date of the hearing.

8 “(10) The person may waive a hearing under this section. Notwithstanding waiver of the hear-
9 ing, the board shall hold a hearing under this section upon the person’s written request.

10 “(11) The board shall provide notice of the hearing to:

11 “(a) The district attorney of the county in which the person was convicted; and

12 “(b) The victim of any offense for which the person is serving a sentence, if the victim requests
13 to be notified and furnishes the board with a current address.

14 “(12) A person has the right to counsel, including counsel appointed at board expense, at a
15 hearing under this section.

16 “(13) The board may adopt rules to carry out the provisions of this section.

17 “**SECTION 3e. If Senate Bill 1008 becomes law, section 6, chapter _____, Oregon Laws**
18 **2019 (Enrolled Senate Bill 1008) (amending ORS 419C.349), is repealed and ORS 419C.349, as**
19 **amended by section 23 of this 2019 Act, is amended to read:**

20 “419C.349. (1) [*The juvenile court, after a hearing*] Except as otherwise provided in ORS 419C.364
21 or 419C.370, [*may waive a youth to a circuit, justice or municipal court of competent jurisdiction for*
22 *prosecution as an adult if*] **the juvenile court shall conduct a waiver hearing when:**

23 “[*(1) The youth is 15 years of age or older at the time of the commission of the alleged offense;*]

24 “[*(2) The youth, except as otherwise provided in ORS 419C.364 and 419C.370, is alleged to have*
25 *committed a criminal offense constituting:*]

26 “(a) **The state files a motion requesting a waiver hearing in a case in which a petition**
27 **has been filed alleging that a youth has committed an act when the youth was 15, 16 or 17**
28 **years of age that, if committed by an adult, would constitute aggravated murder or an of-**
29 **fense listed in ORS 137.707; or**

30 “(b) **The state files a motion requesting a waiver hearing in a case in which a petition**
31 **has been filed alleging that a youth has committed an act when the youth was 15, 16 or 17**
32 **years of age that, if committed by an adult, would constitute:**

33 “[*(a) Murder under ORS 163.115 or section 3 of this 2019 Act or any aggravated form thereof;*]

34 “[*(b)*] (A) A Class A or Class B felony;

35 “[*(c)*] (B) Any of the following Class C felonies:

36 “[*(A)*] (i) Escape in the second degree under ORS 162.155;

37 “[*(B)*] (ii) Assault in the third degree under ORS 163.165;

38 “[*(C)*] (iii) Coercion under ORS 163.275 (1)(a);

39 “[*(D)*] (iv) Arson in the second degree under ORS 164.315; or

40 “[*(E)*] (v) Robbery in the third degree under ORS 164.395;

41 “[*(d)*] (C) Any Class C felony in which the youth used or threatened to use a firearm; or

42 “[*(e)*] (D) Any other [*felony or any misdemeanor if the youth and the state stipulate to the*
43 *waiver;*] **crime that the state and the youth stipulate is subject to waiver.**

44 “(2) **After the hearing, the juvenile court may waive the youth to a circuit, justice or**
45 **municipal court of competent jurisdiction if:**

1 “[(3)] (a) The youth at the time of the alleged offense was of sufficient sophistication and ma-
2 turity to appreciate the nature and quality of the conduct involved; and

3 “[(4)] (b) The juvenile court, after considering the following criteria, determines by a prepon-
4 derance of the evidence that retaining jurisdiction will not serve the best interests of the youth and
5 of society and therefore is not justified:

6 “[a)] (A) The amenability of the youth to treatment and rehabilitation given the techniques,
7 facilities and personnel for rehabilitation available to the juvenile court and to the criminal court
8 [which] **that** would have jurisdiction after transfer;

9 “[b)] (B) The protection required by the community, given the seriousness of the offense
10 alleged, **and whether the youth can be safely rehabilitated under the jurisdiction of the ju-**
11 **venile court;**

12 “[c)] (C) The aggressive, violent, premeditated or willful manner in which the offense was al-
13 leged to have been committed;

14 “[d)] (D) The previous history of the youth, including:

15 “[A)] (i) Prior treatment efforts and out-of-home placements; and

16 “[B)] (ii) The physical, emotional and mental health of the youth;

17 “[e)] (E) The youth’s prior record of acts [which] **that** would be crimes if committed by an
18 adult;

19 “[f)] (F) The gravity of the loss, damage or injury caused or attempted during the offense;

20 “[g)] (G) The prosecutive merit of the case against the youth; and

21 “[h)] (H) The desirability of disposing of all cases in one trial if there were adult co-offenders.

22 “(3) **The victim of the alleged offense has the right to appear at a hearing under this**
23 **section and to provide the court with any information reasonably related to the court’s de-**
24 **termination.**

25 “(4) **The right to counsel, and the appointment of counsel under ORS 419C.200, applies to**
26 **a hearing under this section.**

27 “(5) **The state has the right to have at least one psychiatrist or licensed psychologist of**
28 **its selection examine the youth concerning the determination of whether to waive the youth**
29 **under this section.”.**

30 On page 19, line 45, delete “(2)(c) to (f)” and insert “(3)”.

31