

Requested by Representative WILLIAMSON

**PROPOSED AMENDMENTS TO  
A-ENGROSSED SENATE BILL 1013**

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

5 In line 21, delete the second “or”.

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

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

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

14 On page 4, after line 24, insert:

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

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

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

1 murder.

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

5 “(c) The defendant committed murder after having been convicted previ-  
6 ously in any jurisdiction of any homicide, the elements of which constitute  
7 the crime of aggravated murder as defined in ORS 163.095, murder in the first  
8 degree under this section, murder in the second degree as defined in ORS  
9 163.115 or manslaughter in the first degree as defined in ORS 163.118.

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

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

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

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

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

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

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

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

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

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

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

26 or

27 “(H) A regulatory specialist.

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

30 “(i) The defendant committed murder by means of an explosive as defined

1 in ORS 164.055.

2 “(j) Notwithstanding ORS 163.115 (1)(b), the defendant personally and in-  
3 tentionally committed the homicide under the circumstances set forth in ORS  
4 163.115 (1)(b).

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

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

10 “(2)(a) Except as otherwise provided in ORS 163.155 and paragraph (b) of  
11 this subsection, the court shall sentence a person convicted of murder in the  
12 first degree, who was at least 15 years of age at the time of committing the  
13 murder, to life imprisonment. The court shall order that the defendant be  
14 confined for a minimum of 30 years without possibility of parole[,] **or** release  
15 to post-prison supervision **except as provided in section 25, chapter**  
16 **——, Oregon Laws 2019 (Enrolled Senate Bill 1008), and without the**  
17 **possibility of** release on work release or any form of temporary leave or  
18 employment at a forest or work camp.

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

29 “(3)(a) For a person sentenced to life imprisonment, at any time after  
30 completion of the minimum period of confinement described in subsection

1 (2)(a) of this section, the State Board of Parole and Post-Prison Supervision,  
2 upon the petition of a prisoner so confined, shall hold a hearing to determine  
3 if the prisoner is likely to be rehabilitated within a reasonable period of  
4 time. The sole issue is whether the prisoner is likely to be rehabilitated  
5 within a reasonable period of time. At the hearing the prisoner has:

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

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

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

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

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

28 “(d) The board’s final order shall be accompanied by findings of fact and  
29 conclusions of law. The findings of fact shall consist of a concise statement  
30 of the underlying facts supporting the findings as to each contested issue of

1 fact and as to each ultimate fact required to support the board’s order.

2 **“SECTION 3b.** If Senate Bill 1008 becomes law, section 31, chapter  
3 \_\_\_\_\_, Oregon Laws 2019 (Enrolled Senate Bill 1008), is amended to read:

4 **“Sec. 31.** (1) Sections 24 and 25 [*of this 2019 Act*], **chapter \_\_\_\_\_,**  
5 **Oregon Laws 2019 (Enrolled Senate Bill 1008),** and the amendments to  
6 ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185, 161.610, 161.620,  
7 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321,  
8 419C.005, 419C.050, 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361,  
9 420.011, 420.081 and 420A.203 **and section 3 of this 2019 Act** by sections 1  
10 to 23 and 26 to 29 [*of this 2019 Act*], **chapter \_\_\_\_\_, Oregon Laws 2019**  
11 **(Enrolled Senate Bill 1008), and section 3a of this 2019 Act** become op-  
12 erative on January 1, 2020.

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

27 **“SECTION 3c.** If Senate Bill 1008 becomes law, section 32, chapter  
28 \_\_\_\_\_, Oregon Laws 2019 (Enrolled Senate Bill 1008), is amended to read:

29 **“Sec. 32.** Sections 24 and 25 [*of this 2019 Act*], **chapter \_\_\_\_\_, Oregon**  
30 **Laws 2019 (Enrolled Senate Bill 1008),** and the amendments to ORS 137.071,

1 137.124, 137.705, 137.707, 137.712, 144.185, 161.610, 161.620, 163.105, 163.115,  
2 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005, 419C.050,  
3 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361, 420.011, 420.081 and  
4 420A.203 **and section 3 of this 2019 Act** by sections 1 to 23 and 26 to 29  
5 [of this 2019 Act], **chapter \_\_\_\_\_, Oregon Laws 2019 (Enrolled Senate**  
6 **Bill 1008), and section 3a of this 2019 Act** apply to sentences imposed on  
7 or after January 1, 2020.

8 **“SECTION 3d.** If Senate Bill 1008 becomes law, section 25, chapter  
9 \_\_\_\_\_, Oregon Laws 2019 (Enrolled Senate Bill 1008), is amended to read:

10 **“Sec. 25.** (1)(a) A person convicted of an offense or offenses committed  
11 when the person was under 18 years of age, who is serving a sentence of  
12 imprisonment for the offense or offenses, is eligible for release on parole or  
13 post-prison supervision as provided in this section after the person has  
14 served 15 years of imprisonment.

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

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

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

24 “(a) Sentenced to a minimum sentence under ORS 163.105, 163.115 or  
25 163.155 **or section 3 of this 2019 Act.**

26 “(b) Sentenced to a mandatory minimum sentence under ORS 137.700,  
27 137.707 or 137.717, a determinate sentence under ORS 137.635 or a sentence  
28 required by any other provision of law.

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

30 “(3) When a person eligible for release on parole or post-prison super-

1 vision as described in subsection (1) of this section has served 15 years of  
2 imprisonment, the State Board of Parole and Post-Prison Supervision shall  
3 hold a hearing. The hearing must provide the person a meaningful opportu-  
4 nity to be released on parole or post-prison supervision.

5 “(4) The board may require the person, before holding a hearing described  
6 in this section, to be examined by a psychiatrist or psychologist with exper-  
7 tise in adolescent development. Within 60 days of the evaluation, the exam-  
8 ining psychiatrist or psychologist shall file a written report of the findings  
9 and conclusions of the examination with the board. A certified copy of the  
10 report shall be provided to the person and the person’s attorney.

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

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

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

19 “(c) The person’s family and community circumstances at the time of the  
20 offense, including any history of abuse, trauma and involvement in the ju-  
21 venile dependency system.

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

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

27 “(f) A mental health diagnosis.

28 “(g) Any other mitigating factors or circumstances presented by the per-  
29 son.

30 “(6) Under no circumstances may the board consider the age of the person

1 as an aggravating factor.

2 “(7) If the board finds that, based on the consideration of the age and  
3 immaturity of the person at the time of the offense and the person’s behavior  
4 thereafter, the person has demonstrated maturity and rehabilitation, the  
5 board shall release the person as follows:

6 “(a) For a person sentenced under ORS 163.105, 163.115 or 163.155 **or**  
7 **section 3 of this 2019 Act**, the board shall set a release date that is not  
8 more than 60 days from the date of the hearing and, notwithstanding section  
9 28, chapter 790, Oregon Laws 1989, the person shall be released on parole in  
10 accordance with ORS 144.125, 144.260 and 144.270.

11 “(b) A person sentenced to a term of imprisonment under a provision of  
12 law other than ORS 163.105, 163.115 or 163.155 **or section 3 of this 2019 Act**  
13 shall be released on post-prison supervision in accordance with ORS 144.096  
14 and 144.098 within 60 days of the date of the hearing.

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

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

22 “(10) The person may waive a hearing under this section. Notwithstand-  
23 ing waiver of the hearing, the board shall hold a hearing under this section  
24 upon the person’s written request.

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

26 “(a) The district attorney of the county in which the person was con-  
27 victed; and

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



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

3 “(13) The board may adopt rules to carry out the provisions of this sec-  
4 tion.

5 **“SECTION 3e. If Senate Bill 1008 becomes law, section 6, chapter**  
6 **\_\_\_\_\_, Oregon Laws 2019 (Enrolled Senate Bill 1008) (amending ORS**  
7 **419C.349), is repealed and ORS 419C.349, as amended by section 23 of**  
8 **this 2019 Act, is amended to read:**

9 “419C.349. (1) [*The juvenile court, after a hearing*] Except as otherwise  
10 provided in ORS 419C.364 or 419C.370, [*may waive a youth to a circuit, justice*  
11 *or municipal court of competent jurisdiction for prosecution as an adult if*] **the**  
12 **juvenile court shall conduct a waiver hearing when:**

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

15 “[*(2) The youth, except as otherwise provided in ORS 419C.364 and*  
16 *419C.370, is alleged to have committed a criminal offense constituting;*]

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

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

26 “[*(a) Murder under ORS 163.115 or section 3 of this 2019 Act or any ag-*  
27 *gravated form thereof;*]

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

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

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

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

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

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

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

5 “[d] (C) Any Class C felony in which the youth used or threatened to

6 use a firearm; or

7 “[e] (D) Any other *[felony or any misdemeanor if the youth and the state*

8 *stipulate to the waiver;]* **crime that the state and the youth stipulate is**

9 **subject to waiver.**

10 **“(2) After the hearing, the juvenile court may waive the youth to**

11 **a circuit, justice or municipal court of competent jurisdiction if:**

12 “[3] (a) The youth at the time of the alleged offense was of sufficient

13 sophistication and maturity to appreciate the nature and quality of the con-

14 duct involved; and

15 “[4] (b) The juvenile court, after considering the following criteria, de-

16 termines by a preponderance of the evidence that retaining jurisdiction will

17 not serve the best interests of the youth and of society and therefore is not

18 justified:

19 “[a] (A) The amenability of the youth to treatment and rehabilitation

20 given the techniques, facilities and personnel for rehabilitation available to

21 the juvenile court and to the criminal court *[which]* **that** would have juris-

22 diction after transfer;

23 “[b] (B) The protection required by the community, given the serious-

24 ness of the offense alleged, **and whether the youth can be safely reha-**

25 **bilitated under the jurisdiction of the juvenile court;**

26 “[c] (C) The aggressive, violent, premeditated or willful manner in which

27 the offense was alleged to have been committed;

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

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

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

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

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

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

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

8        **“(3) The victim of the alleged offense has the right to appear at a  
9 hearing under this section and to provide the court with any infor-  
10 mation reasonably related to the court’s determination.**

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

13        **“(5) The state has the right to have at least one psychiatrist or li-  
14 censed psychologist of its selection examine the youth concerning the  
15 determination of whether to waive the youth under this section.”.**

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

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