

House Bill 2002

Sponsored by Representative BYNUM, Senators MANNING JR, JAMA, Representatives CAMPOS, PHAM, RUIZ, Senator FREDERICK; Representatives SALINAS, SANCHEZ (at the request of Partnership for Safety and Justice, Latino Network, Coalition of Communities of Color, Central City Concern, Red Lodge Transition Services, Bridges to Change, Sponsors, Inc, OCDLA, ACLU of Oregon)

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**.

Converts mandatory minimum sentences for specified felonies other than murder to presumptive sentences. Reduces presumptive sentences for certain crimes. Authorizes court to impose greater or lesser sentence according to sentencing guidelines of Oregon Criminal Justice Commission. Authorizes person receiving presumptive sentence to be eligible for certain programs and sentence reductions.

Appropriates moneys from General Fund to Oregon Department of Administrative Services for distribution to Northwest Health Foundation for deposit into Reimagine Safety Fund.

Prohibits arrest without warrant for misdemeanor other than person Class A misdemeanor unless offense committed in presence of law enforcement officer. Requires law enforcement officers to issue citation in lieu of arrest for specified crimes. Prohibits traffic stop based solely on specified traffic violations.

Prohibits parole and probation officers from carrying firearm while performing official duties in certain locations. Requires certain continuing education for parole and probation officers.

Expands earned reduction in term of probation or post-prison supervision. Modifies general conditions of probation and post-prison supervision. Prohibits revocation of probation or post-prison supervision unless person willfully absconds or is convicted of new felony or person Class A misdemeanor. Prohibits supervision fees.

Modifies Justice Reinvestment Program grant distribution.

Directs Oregon Criminal Justice Commission to collect certain data on imposition of supervision conditions, persons on supervision and expenditures of Justice Reinvestment Program funds and biennially report on data to Legislative Assembly.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to public safety; creating new provisions; amending ORS 133.310, 133.865, 137.010, 137.124, 137.128, 137.525, 137.540, 137.595, 137.620, 137.630, 137.633, 137.700, 137.707, 137.751, 138.045, 138.105, 138.115, 144.089, 144.101, 144.102, 144.103, 144.108, 144.397, 161.620, 165.072, 166.263, 169.105, 181A.530, 420.011, 420.240, 420A.203, 421.121 and 421.168 and section 53, chapter 649, Oregon Laws 2013; repealing ORS 137.712 and 423.570; declaring an emergency; and providing for criminal sentence reduction that requires approval by a two-thirds majority.

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

CHANGES TO BALLOT MEASURE 11 (1994) SENTENCES (Sentences Are Presumptive, Not Mandatory)

SECTION 1. ORS 137.700 is amended to read:

137.700. (1)(a) Notwithstanding ORS 161.605, when a person is convicted of one of the offenses listed in subsection (2)(a)(A) or (B) of this section and the offense was committed on or after April 1, 1995, [*or of one of the offenses listed in subsection (2)(b) of this section and the offense was committed on or after October 4, 1997, or of the offense described in subsection (2)(c) of this section and the offense was committed on or after January 1, 2008,*] the court shall impose, and the person shall

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 serve, at least the entire term of imprisonment listed in subsection (2)(a)(A) or (B) of this section.
2 The person is not, during the service of the term of imprisonment, eligible for release on post-prison
3 supervision or any form of temporary leave from custody. The person is not eligible for any re-
4 duction in[, or based on,] the minimum sentence for any reason whatsoever under ORS 421.121 or
5 any other statute. The court may impose a greater sentence if otherwise permitted by law, but may
6 not impose a lower sentence than the sentence specified in subsection (2)(a)(A) or (B) of this sec-
7 tion.

8 **(b) Notwithstanding ORS 161.605, when a person is convicted of one of the offenses listed**
9 **in subsection (2)(a)(C) to (S), (b) or (c) of this section, the presumptive sentence is the cor-**
10 **responding term of imprisonment listed with each offense. The court may impose a greater**
11 **or lesser sentence as permitted under the sentencing guidelines of the Oregon Criminal**
12 **Justice Commission. The person may request that the court, pursuant to ORS 137.751, de-**
13 **termine the person’s eligibility for release on post-prison supervision under ORS 421.508.**
14 **Unless the court orders otherwise under ORS 137.750, and provided that the person is oth-**
15 **erwise eligible, during the service of the term of imprisonment the person may be considered**
16 **for any form of temporary leave from custody, work release, conditional or supervised re-**
17 **lease program or reduction in sentence under ORS 421.121 or any other statute.**

18 (2) The offenses to which subsection (1) of this section applies and the applicable [*mandatory*
19 *minimum*] sentences are:



- 22 (a)(A) Murder in the second
- 23 degree, as defined in
- 24 ORS 163.115.....300 months
- 25 (B) Murder in the first
- 26 degree, as defined
- 27 in ORS 163.107.....360 months
- 28 (C) Attempt or conspiracy
- 29 to commit aggravated
- 30 murder, as defined
- 31 in ORS 163.095.....120 months
- 32 (D) Attempt or conspiracy
- 33 to commit murder
- 34 in any degree.....90 months
- 35 (E) Manslaughter in the
- 36 first degree, as defined
- 37 in ORS 163.118.....120 months
- 38 (F) Manslaughter in the
- 39 second degree, as defined
- 40 in ORS 163.125.....75 months
- 41 (G) Assault in the first
- 42 degree, as defined in
- 43 ORS 163.185.....90 months
- 44 (H) Assault in the second
- 45 degree, as defined in

- 1 ORS 163.175.....[70] **30** months
- 2 (I) Except as provided in
- 3 paragraph (b)(G) of
- 4 this subsection,
- 5 kidnapping in the first
- 6 degree, as defined
- 7 in ORS 163.235.....90 months
- 8 (J) Kidnapping in the second
- 9 degree, as defined in
- 10 ORS 163.225.....70 months
- 11 (K) Rape in the first degree,
- 12 as defined in ORS 163.375
- 13 (1)(a), (c) or (d).....100 months
- 14 (L) Rape in the second degree,
- 15 as defined in
- 16 ORS 163.365.....75 months
- 17 (M) Sodomy in the first degree,
- 18 as defined in ORS 163.405
- 19 (1)(a), (c) or (d).....100 months
- 20 (N) Sodomy in the second
- 21 degree, as defined in
- 22 ORS 163.395.....75 months
- 23 (O) Unlawful sexual penetration
- 24 in the first degree, as
- 25 defined in ORS 163.411
- 26 (1)(a) or (c).....100 months
- 27 (P) Unlawful sexual penetration
- 28 in the second degree, as
- 29 defined in ORS 163.408.....75 months
- 30 (Q) Sexual abuse in the first
- 31 degree, as defined in
- 32 ORS 163.427.....[75] **30** months
- 33 (R) Robbery in the first degree,
- 34 as defined in
- 35 ORS 164.415.....90 months
- 36 (S) Robbery in the second
- 37 degree, as defined in
- 38 ORS 164.405.....[70] **30** months
- 39 (b)(A) Arson in the first degree,
- 40 as defined in ORS 164.325,
- 41 when the offense represented
- 42 a threat of serious
- 43 physical injury.90 months
- 44 (B) Using a child in a display
- 45 of sexually explicit

- 1 conduct, as defined in
- 2 ORS 163.670.....70 months
- 3 (C) Compelling prostitution,
- 4 as defined in
- 5 ORS 167.017.....70 months
- 6 (D) Rape in the first degree,
- 7 as defined in
- 8 ORS 163.375 (1)(b).300 months
- 9 (E) Sodomy in the first degree,
- 10 as defined in
- 11 ORS 163.405 (1)(b).300 months
- 12 (F) Unlawful sexual penetration
- 13 in the first degree, as
- 14 defined in
- 15 ORS 163.411 (1)(b).300 months
- 16 (G) Kidnapping in the first
- 17 degree, as defined in
- 18 ORS 163.235, when the
- 19 offense is committed in
- 20 furtherance of the commission
- 21 or attempted commission of an
- 22 offense listed in subparagraph
- 23 (D), (E) or (F) of
- 24 this paragraph.....300 months
- 25 (c) Aggravated vehicular
- 26 homicide, as defined in
- 27 ORS 163.149.....240 months

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SECTION 2. ORS 137.707 is amended to read:

31 137.707. (1)(a) When a person waived under ORS 419C.349 (1)(a) is convicted of an offense listed
32 in subsection (4)(a)(A) or (B) of this section, the court shall impose at least the presumptive term
33 of imprisonment provided for the offense in subsection (4)(a)(A) or (B) of this section. The court
34 may impose a greater presumptive term if otherwise permitted by law, but may not impose a lesser
35 term. The person is not, during the service of the term of imprisonment, eligible for release on
36 post-prison supervision or any form of temporary leave from custody. The person is not eligible for
37 any reduction in the minimum sentence for any reason under ORS 421.121 or any other provision
38 of law. The person is eligible for a hearing and conditional release under ORS 420A.203 and
39 420A.206.

40 **(b) When a person waived under ORS 419C.349 (1)(a) is convicted of an offense listed in**
41 **subsection (4)(a)(C) to (S), (b) or (c) of this section, the presumptive sentence is the corre-**
42 **sponding term of imprisonment listed with each offense. The court may impose a greater or**
43 **lesser sentence as permitted under the sentencing guidelines of the Oregon Criminal Justice**
44 **Commission. The person may request that the court, pursuant to ORS 137.751, determine the**
45 **person’s eligibility for release on post-prison supervision under ORS 421.508. Unless the court**

1 orders otherwise under ORS 137.750, and provided that the person is otherwise eligible, dur-
2 ing the service of the term of imprisonment the person may be considered for any form of
3 temporary leave from custody, work release, conditional or supervised release program or
4 reduction in sentence under ORS 421.121 or any other statute. The person is eligible for a
5 hearing and conditional release under ORS 420A.203 and 420A.206.

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

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

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



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- (a)(A) Murder in the second degree, as defined in
ORS 163.115.....300 months
- (B) Murder in the first
degree, as defined
in ORS 163.107.....360 months
- (C) Attempt or conspiracy
to commit aggravated
murder, as defined
in ORS 163.095.....120 months
- (D) Attempt or conspiracy
to commit murder
in any degree.....90 months
- (E) Manslaughter in the
first degree, as defined
in ORS 163.118.....120 months
- (F) Manslaughter in the
second degree, as defined
in ORS 163.125.....75 months
- (G) Assault in the first
degree, as defined
in ORS 163.185.....90 months
- (H) Assault in the second
degree, as defined
in ORS 163.175.....[70] 30 months
- (I) Kidnapping in the first
degree, as defined in
ORS 163.235.....90 months
- (J) Kidnapping in the second
degree, as defined in
ORS 163.225.....70 months
- (K) Rape in the first degree,

- 1 as defined in ORS 163.375....100 months
- 2 (L) Rape in the second
- 3 degree, as defined in
- 4 ORS 163.365.....75 months
- 5 (M) Sodomy in the first
- 6 degree, as defined in
- 7 ORS 163.405.....100 months
- 8 (N) Sodomy in the second
- 9 degree, as defined in
- 10 ORS 163.395.....75 months
- 11 (O) Unlawful sexual
- 12 penetration in the first
- 13 degree, as defined
- 14 in ORS 163.411.....100 months
- 15 (P) Unlawful sexual
- 16 penetration in the
- 17 second degree, as
- 18 defined in ORS 163.408.75 months
- 19 (Q) Sexual abuse in the first
- 20 degree, as defined in
- 21 ORS 163.427.....[75] 30 months
- 22 (R) Robbery in the first
- 23 degree, as defined in
- 24 ORS 164.415.....90 months
- 25 (S) Robbery in the second
- 26 degree, as defined in
- 27 ORS 164.405.....[70] 30 months
- 28 (b)(A) Arson in the first degree,
- 29 as defined in
- 30 ORS 164.325, when
- 31 the offense represented
- 32 a threat of serious
- 33 physical injury.90 months
- 34 (B) Using a child in a display
- 35 of sexually explicit
- 36 conduct, as defined in
- 37 ORS 163.670.....70 months
- 38 (C) Compelling prostitution,
- 39 as defined in ORS 167.017
- 40 (1)(a), (b) or (d).....70 months
- 41 (c) Aggravated vehicular
- 42 homicide, as defined in
- 43 ORS 163.149.....240 months

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

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

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

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

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

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

15 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS
 16 419C.067 and 419C.411; and

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

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

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

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

25 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS
 26 419C.067 and 419C.411; and

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

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

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

41 (b) If a person charged and tried as provided in subsection (6) of this section is not found guilty
 42 of aggravated murder or an offense listed in subsection (4) of this section, but is found guilty of one
 43 of the other charges that constitutes an offense for which waiver is authorized under ORS 419C.349
 44 (1)(b), the court, upon motion of the district attorney, shall hold a hearing to determine whether
 45 to retain jurisdiction or to transfer the case to juvenile court for disposition. In determining whether

1 to retain jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court
 2 retains jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If
 3 the court does not retain jurisdiction, the court shall:

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

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

7 (C) Enter an order transferring the case to the juvenile court for disposition under ORS
 8 419C.067 and 419C.411; and

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

12
 13 **(Conforming Amendments)**
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15 **SECTION 3.** ORS 137.124 is amended to read:

16 137.124. (1) If the court imposes a sentence upon conviction of a felony that includes a term of
 17 incarceration that exceeds 12 months:

18 (a) The court shall not designate the correctional facility in which the defendant is to be con-
 19 fined but shall commit the defendant to the legal and physical custody of the Department of Cor-
 20 rections; and

21 (b) If the judgment provides that the term of incarceration be served consecutively to a term
 22 of incarceration of 12 months or less that was imposed in a previous proceeding by a court of this
 23 state upon conviction of a felony, the defendant shall serve any remaining part of the previously
 24 imposed term of incarceration in the legal and physical custody of the Department of Corrections.

25 (2)(a) If the court imposes a sentence upon conviction of a felony that includes a term of
 26 incarceration that is 12 months or less, the court shall commit the defendant to the legal and
 27 physical custody of the supervisory authority of the county in which the crime of conviction oc-
 28 curred.

29 (b) Notwithstanding paragraph (a) of this subsection, when the court imposes a sentence upon
 30 conviction of a felony that includes a term of incarceration that is 12 months or less, the court shall
 31 commit the defendant to the legal and physical custody of the Department of Corrections if the court
 32 orders that the term of incarceration be served consecutively to a term of incarceration that ex-
 33 ceeds 12 months that was imposed in a previous proceeding or in the same proceeding by a court
 34 of this state upon conviction of a felony.

35 (3) After assuming custody of the convicted person the Department of Corrections may transfer
 36 adults in custody from one correctional facility to another such facility for the purposes of diagnosis
 37 and study, rehabilitation and treatment, as best seems to fit the needs of the adult in custody and
 38 for the protection and welfare of the community and the adult in custody.

39 (4) If the court imposes a sentence of imprisonment upon conviction of a misdemeanor, it shall
 40 commit the defendant to the custody of the supervisory authority of the county in which the crime
 41 of conviction occurred.

42 (5)(a) When a person under 18 years of age at the time of committing the offense and under 20
 43 years of age at the time of sentencing is committed to the Department of Corrections under ORS
 44 137.707 or due to the fact that criminal proceedings were initiated after the person attained 18 years
 45 of age, the Department of Corrections shall transfer the physical custody of the person to the

1 Oregon Youth Authority as provided in ORS 420.011 if:

2 (A) The person will complete the sentence imposed before the person attains 25 years of age;

3 (B) The Department of Corrections and the Oregon Youth Authority determine that, because of
4 the person's age, immaturity, mental or emotional condition or risk of physical harm to the person,
5 the person should not be incarcerated initially in a Department of Corrections institution; or

6 (C) The person is under 18 years of age at the time of sentencing and commitment.

7 (b) A person placed in the custody of the Oregon Youth Authority under this subsection who is
8 at least 18 years of age shall be returned to the physical custody of the Department of Corrections
9 whenever the Director of the Oregon Youth Authority, after consultation with the Department of
10 Corrections, determines that the conditions or circumstances that warranted the transfer of custody
11 under this subsection are no longer present.

12 (c) Notwithstanding ORS 137.320, the sheriff may by agreement with the Department of Cor-
13 rections transfer the person described in this subsection directly to a youth correction facility for
14 physical custody without first delivering the person to the Department of Corrections. As part of the
15 agreement with the Department of Corrections, the sheriff may designate the county juvenile de-
16 partment or the Oregon Youth Authority to conduct the direct transfer described in this paragraph
17 if the sheriff has entered into a written agreement with the county juvenile department, the Oregon
18 Youth Authority, or both, to provide the direct transfer.

19 (6)(a) When a person under 18 years of age at the time of committing the offense and under 20
20 years of age at the time of sentencing is committed to the legal and physical custody of the De-
21 partment of Corrections or the supervisory authority of a county following waiver under ORS
22 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b)
23 [or 137.712], the Department of Corrections or the supervisory authority of a county shall transfer
24 the person to the physical custody of the Oregon Youth Authority for placement as provided in ORS
25 420.011 (3). The terms and conditions of the person's incarceration and custody are governed by ORS
26 420A.200 to 420A.206. Notwithstanding ORS 137.320, the sheriff may by agreement with the Depart-
27 ment of Corrections or the supervisory authority of a county transfer the person described in this
28 subsection directly to a youth correction facility for physical custody without first delivering the
29 person to the Department of Corrections or supervisory authority of the county. As part of the
30 agreement with the Department of Corrections or supervisory authority of the county, the sheriff
31 may designate the county juvenile department or the Oregon Youth Authority to conduct the direct
32 transfer described in this paragraph if the sheriff has entered into a written agreement with the
33 county juvenile department, the Oregon Youth Authority, or both, to provide the direct transfer.

34 (b) Notwithstanding ORS 137.320, when a person under 16 years of age is waived under ORS
35 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370 and subsequently is sentenced to a term of
36 imprisonment in the county jail, the sheriff shall transfer the person to a youth correction facility
37 for physical custody as provided in ORS 420.011 (3).

38 (7) Notwithstanding the provisions of subsection (5)(a)(A) of this section, the department or the
39 supervisory authority of a county may not transfer the physical custody of the person under sub-
40 subsection (5)(a)(A) of this section if the Director of the Oregon Youth Authority, after consultation
41 with the Department of Corrections or the supervisory authority of a county, determines that, be-
42 cause of the person's age, mental or emotional condition or risk of physical harm to other persons,
43 the person should not be incarcerated in a youth correction facility.

44 (8) Notwithstanding any other provision of this section, under no circumstances may a person
45 under 18 years of age be incarcerated in a Department of Corrections institution.

1 (9) If a defendant is transferred under subsection (5) of this section, the defendant shall also be
 2 transferred after a resentencing on the same charges resulting from an appellate decision or a
 3 post-conviction relief proceeding or for any other reason, even if the defendant is 20 years of age
 4 or older at the time of the resentencing.

5 (10) For the purposes of determining the person's age at the time of committing an offense under
 6 this section:

7 (a) If the person is convicted of two or more offenses occurring on different days, the person's
 8 age shall be calculated using the earliest date.

9 (b) If the person is convicted of an offense occurring within a range of dates, the person's age
 10 shall be calculated using the date at the beginning of the range.

11 **SECTION 4.** ORS 137.751 is amended to read:

12 137.751. (1) When a court sentences a defendant to a term of incarceration that exceeds one
 13 year, the defendant may request a determination of the defendant's eligibility for release on post-
 14 prison supervision under ORS 421.508 (4). The court shall order in the judgment that the Department
 15 of Corrections may release the defendant on post-prison supervision under ORS 421.508 (4) only if,
 16 after a hearing, the court finds that:

17 (a) The defendant meets the eligibility requirements of subsections (2) and (3) of this section;

18 (b) The defendant was not on probation, parole or post-prison supervision for an offense listed
 19 in ORS [137.712 (4) or] 811.705 (3)(b) at the time of the commission of the current crime of con-
 20 viction;

21 (c) The defendant has not previously been released on post-prison supervision under ORS 421.508
 22 (4);

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

24 (e) The crime was not part of an organized criminal operation; and

25 (f) After considering the nature of the offense and the harm to the victim, the defendant's suc-
 26 cessful completion of the program would:

27 (A) Increase public safety;

28 (B) Enhance the likelihood that the defendant would be rehabilitated; and

29 (C) Not unduly reduce the appropriate punishment.

30 (2) Except as provided in subsection (4) of this section, a defendant may not be released on
 31 post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime under
 32 ORS 163.145, 163.165 (1)(a) or (b), 163.525 or 811.705 (3)(b).

33 (3) A defendant may not be released on post-prison supervision under ORS 421.508 (4) if the de-
 34 fendant is being sentenced for a crime listed in ORS 137.700 **(2)(a)(A) or (B)**, 137.707 **(4)(a)(A) or**
 35 **(B)** or 163.095 or a sex crime as defined in ORS 163A.005.

36 (4) Notwithstanding subsection (1) of this section, the parties may stipulate to a defendant's el-
 37 igibility for release on post-prison supervision under ORS 421.508 (4). If the court accepts the stip-
 38 ulation, the court does not need to make explicit findings regarding the factors described in
 39 subsection (1)(b) to (f) of this section. The parties may not stipulate to the defendant's release on
 40 post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime de-
 41 scribed in subsection (3) of this section.

42 (5) If the court makes the findings described in subsection (1) of this section or accepts the
 43 stipulation of the parties under subsection (4) of this section, the court shall:

44 (a) Order on the record in open court as part of the sentence imposed that the defendant may
 45 be considered by the department for release on post-prison supervision under ORS 421.508 (4); and

1 (b) Include the order described in paragraph (a) of this subsection in the judgment.

2 (6) Subject to the requirements of this section, the court may order that the defendant serve a
 3 minimum period of incarceration before the defendant is released on post-prison supervision under
 4 ORS 421.508 (4). Nothing in this section authorizes the release of the defendant on post-prison
 5 supervision before the defendant has served the period of time described in ORS 421.508 (4)(b).

6 **SECTION 5.** ORS 138.045 is amended to read:

7 138.045. (1) The state may take an appeal from the circuit court, or from a municipal court or
 8 a justice court that has become a court of record under ORS 51.025 or 221.342, to the Court of Ap-
 9 peals from:

10 (a) An order made prior to trial dismissing or setting aside one or more counts in the accusatory
 11 instrument;

12 (b) An order allowing a demurrer;

13 (c) An order arresting the judgment;

14 (d) An order made prior to trial suppressing evidence;

15 (e) An order made prior to trial for the return or restoration of things seized;

16 (f) For a felony committed on or after November 1, 1989, a judgment, amended judgment or
 17 corrected judgment of conviction;

18 (g) For any felony, a judgment, amended judgment, supplemental judgment, corrected judgment
 19 or post-judgment order, that denied restitution or awarded less than the amount of restitution re-
 20 quested by the state;

21 *[(h) An order or judgment in a probation revocation hearing finding that a defendant who was*
 22 *sentenced to probation under ORS 137.712 has not violated a condition of probation by committing a*
 23 *new crime;]*

24 *[(i)]* (h) An order made after a guilty finding dismissing or setting aside one or more counts in
 25 the accusatory instrument; or

26 *[(j)]* (i) An order granting a new trial.

27 (2) Notwithstanding subsection (1) of this section, when the state chooses to appeal an order
 28 described in subsection (1)(a), (b) or (d) of this section, the state shall take the appeal to the Su-
 29 preme Court if the defendant is charged with murder or aggravated murder.

30 **SECTION 6.** ORS 138.105 is amended to read:

31 138.105. (1) On appeal by a defendant, the appellate court has authority to review the judgment
 32 or order being appealed, subject to the provisions of this section.

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

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

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

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

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

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

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

45 (b) The appellate court has authority to review whether the trial court erred by not merging

1 determinations of guilt of two or more offenses, unless the entry of separate convictions results from
 2 an agreement between the state and the defendant.

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

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

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

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

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

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

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

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

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

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

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

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

29 (B) In imposing or failing to impose a minimum sentence prescribed by ORS 137.700 (1)(a) or
 30 137.707 (1)(a).

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

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

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

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

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

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

3 **SECTION 7.** ORS 138.115 is amended to read:

4 138.115. (1) On appeal by the state, the appellate court has authority to review the judgment or
5 order being appealed, subject to the provisions of this section.

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

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

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

13 (b) The appellate court has authority to review whether the trial court erred in merging deter-
14 minations of guilt of two or more offenses, unless the merger of determinations of guilt resulted from
15 an agreement between the state and the defendant.

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

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

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

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

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

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

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

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

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

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

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

40 (B) In imposing or failing to impose a minimum sentence prescribed by ORS 137.700 (1)(a) or
41 137.707 (1)(a).

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

44 (8)(a) On appeal from a corrected or amended judgment that is entered before expiration of the
45 applicable period under ORS 138.071 (1) or (2) during which the original judgment can be appealed,

1 the appellate court has authority to review the judgment, including the corrections or amendments,
 2 as provided in this section.

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

8 (c) As used in this subsection, “judgment” means any appealable judgment or order.

9 **SECTION 8.** ORS 144.101 is amended to read:

10 144.101. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over the
 11 imposition of conditions of post-prison supervision and sanctions for violations of those conditions
 12 for a person convicted of a felony if:

13 (a) The term of imprisonment imposed on the person is more than 12 months;

14 (b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of
 15 the Oregon Criminal Justice Commission;

16 (c) The person is [*subject to a sentence under*] **sentenced for an offense described in ORS**
 17 **137.700 or 137.707;**

18 (d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;

19 (e) The person is subject to a term of post-prison supervision under ORS 144.103;

20 (f) The person is committed to the custody of the Department of Corrections under ORS 137.124;

21 (g) The responsibility for correctional services for the person has reverted to the department
 22 under ORS 423.483; or

23 (h) No local supervisory authority is responsible for correctional services for the person under
 24 the laws of this state.

25 (2) Except as provided in subsection (1) of this section, a local supervisory authority has juris-
 26 diction over the imposition of conditions of post-prison supervision and sanctions for violations of
 27 those conditions for a person sentenced to a term of imprisonment of 12 months or less.

28 (3) If a local supervisory authority imposes conditions of post-prison supervision or sanctions for
 29 violations of those conditions, the person may request the board to review the conditions or sanc-
 30 tions. The board shall review the request and may, at its discretion, review the conditions and
 31 sanctions, under rules adopted by the board.

32 (4) If a circuit court in a participating county, as defined in section 29, chapter 649, Oregon
 33 Laws 2013, enters an order admitting a person into a reentry court under section 29 (3), chapter 649,
 34 Oregon Laws 2013, the reentry court has concurrent jurisdiction over the imposition of sanctions
 35 for violations of the conditions of post-prison supervision.

36 (5) Nothing in this section affects the jurisdiction of the board over the imposition of conditions
 37 of parole and sanctions for violations of those conditions.

38 **SECTION 9.** ORS 144.101, as amended by section 34, chapter 649, Oregon Laws 2013, is
 39 amended to read:

40 144.101. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over the
 41 imposition of conditions of post-prison supervision and sanctions for violations of those conditions
 42 for a person convicted of a felony if:

43 (a) The term of imprisonment imposed on the person is more than 12 months;

44 (b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of
 45 the Oregon Criminal Justice Commission;

1 (c) The person is [*subject to a sentence under*] **sentenced for an offense described in ORS**
 2 **137.700 or 137.707;**

3 (d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;

4 (e) The person is subject to a term of post-prison supervision under ORS 144.103;

5 (f) The person is committed to the custody of the Department of Corrections under ORS 137.124;

6 (g) The responsibility for correctional services for the person has reverted to the department
 7 under ORS 423.483; or

8 (h) No local supervisory authority is responsible for correctional services for the person under
 9 the laws of this state.

10 (2) Except as provided in subsection (1) of this section, a local supervisory authority has juris-
 11 diction over the imposition of conditions of post-prison supervision and sanctions for violations of
 12 those conditions for a person sentenced to a term of imprisonment of 12 months or less.

13 (3) If a local supervisory authority imposes conditions of post-prison supervision or sanctions for
 14 violations of those conditions, the person may request the board to review the conditions or sanc-
 15 tions. The board shall review the request and may, at its discretion, review the conditions and
 16 sanctions, under rules adopted by the board.

17 (4) Nothing in this section affects the jurisdiction of the board over the imposition of conditions
 18 of parole and sanctions for violations of those conditions.

19 **SECTION 10.** ORS 144.397 is amended to read:

20 144.397. (1)(a) A person convicted of an offense or offenses committed when the person was un-
 21 der 18 years of age, who is serving a sentence of imprisonment for the offense or offenses, is eligible
 22 for release on parole or post-prison supervision as provided in this section after the person has
 23 served 15 years of imprisonment.

24 (b) Nothing in this section is intended to prevent a person from being released prior to serving
 25 15 years of imprisonment under any other provision of law.

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

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

30 (a) Sentenced to a minimum sentence under ORS 163.105, 163.107, 163.115 or 163.155.

31 (b) Sentenced to a mandatory minimum sentence under ORS 137.700 **(1)(a)**, 137.707 **(1)(a)** or
 32 137.717, a determinate sentence under ORS 137.635 or a sentence required by any other provision
 33 of law.

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

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

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

44 (5) During a hearing under this section, the board shall consider and give substantial weight to
 45 the fact that a person under 18 years of age is incapable of the same reasoning and impulse control

1 as an adult and the diminished culpability of minors as compared to that of adults. The board shall
 2 also consider the following circumstances, if relevant to the specific person and offense:

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

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

5 (c) The person's family and community circumstances at the time of the offense, including any
 6 history of abuse, trauma and involvement in the juvenile dependency system.

7 (d) The person's subsequent emotional growth and increased maturity during the person's
 8 imprisonment.

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

11 (f) A mental health diagnosis.

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

13 (6) Under no circumstances may the board consider the age of the person as an aggravating
 14 factor.

15 (7) If the board finds that, based on the consideration of the age and immaturity of the person
 16 at the time of the offense and the person's behavior thereafter, the person has demonstrated matu-
 17 rity and rehabilitation, the board shall release the person as follows:

18 (a) For a person sentenced under ORS 163.105, 163.107, 163.115 or 163.155, the board shall set
 19 a release date that is not more than 60 days from the date of the hearing and, notwithstanding
 20 section 28, chapter 790, Oregon Laws 1989, the person shall be released on parole in accordance
 21 with ORS 144.125, 144.260 and 144.270.

22 (b) A person sentenced to a term of imprisonment under a provision of law other than ORS
 23 163.105, 163.107, 163.115 or 163.155 shall be released on post-prison supervision in accordance with
 24 ORS 144.096 and 144.098 within 60 days of the date of the hearing.

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

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

30 (10) The person may waive a hearing under this section. Notwithstanding waiver of the hearing,
 31 the board shall hold a hearing under this section upon the person's written request.

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

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

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

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

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

39 **SECTION 11.** ORS 161.620 is amended to read:

40 161.620. Notwithstanding any other provision of law, a sentence imposed upon any person
 41 waived under ORS 419C.349, 419C.352, 419C.364 or 419C.370 shall not include any sentence of death
 42 or life imprisonment without the possibility of release or parole nor imposition of any mandatory
 43 minimum sentence except that a mandatory minimum sentence under:

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

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

1 (3) ORS 161.610 may be imposed.

2 **SECTION 12.** ORS 165.072 is amended to read:

3 165.072. As used in this section and ORS 165.074, unless the context requires otherwise:

4 (1) "Cardholder" means a person to whom a payment card is issued or a person who is author-
5 ized to use the payment card.

6 (2) "Credit card" means a card, plate, booklet, credit card number, credit card account number
7 or other identifying symbol, instrument or device that can be used to pay for, or to obtain on credit,
8 goods or services.

9 (3) "Financial institution" means a financial institution as that term is defined in ORS 706.008.

10 (4) "Merchant" means:

11 (a) An owner or operator of a retail mercantile establishment;

12 (b) An agent, employee, lessee, consignee, franchisee, officer, director or independent contractor
13 of an owner or operator of a retail mercantile establishment; and

14 (c) A person who receives what the person believes to be a payment card or information from
15 a payment card from a cardholder as the instrument for obtaining something of value from the per-
16 son.

17 (5) "Payment card" means a credit card, charge card, debit card, stored value card or any card
18 that is issued to a person and allows the user to obtain something of value from a merchant.

19 (6) "Payment card transaction" means a sale or other transaction or act in which a payment
20 card is used to pay for, or to obtain on credit, goods or services.

21 (7) "Payment card transaction record" means any record or evidence of a payment card trans-
22 action, including, without limitation, any paper, sales draft, instrument or other writing and any
23 electronic or magnetic transmission or record.

24 (8) "Person" does not include a financial institution or its authorized employee, representative
25 or agent.

26 (9)(a) "Previous conviction" [*has the meaning given that term in ORS 137.712*] **means a con-**
27 **viction that was entered prior to imposing sentence on the current crime provided that the**
28 **prior conviction is based on a crime committed in a separate criminal episode.**

29 (b) "Previous conviction" **does not include a conviction for a Class C felony, including an**
30 **attempt or solicitation to commit a Class B felony, or a misdemeanor, unless the conviction**
31 **was entered within the 10-year period immediately preceding the date on which the current**
32 **crime was committed.**

33 (10) "Reencoder" means an electronic device that places encoded information from one payment
34 card onto another payment card.

35 (11) "Scanning device" means an electronic device that is used to access, read, scan, obtain,
36 memorize or store, temporarily or permanently, information encoded on a payment card.

37 **SECTION 13.** ORS 420.011 is amended to read:

38 420.011. (1) Except as provided in subsections (2) and (3) of this section, admissions to the youth
39 correction facilities are limited to youth offenders who are at least 12 but less than 19 years of age,
40 found by the juvenile court to have committed an act that if committed by an adult would constitute
41 aggravated murder, murder, a felony or a Class A misdemeanor and placed in the legal custody of
42 the Oregon Youth Authority. A youth offender admitted to a youth correction facility may not be
43 transferred by administrative process to any penal or correctional institution.

44 (2)(a) In addition to the persons placed in the legal custody of the youth authority under ORS
45 419C.478 (1) or 419C.481, and with the concurrence of the Director of the Oregon Youth Authority

1 or the director's designee, persons who are committed to the Department of Corrections under ORS
2 137.124 and meet the requirements of ORS 137.124 (5) may be temporarily assigned to a youth cor-
3 rection facility as provided by ORS 137.124 (5). A person assigned on such a temporary basis remains
4 within the legal custody of the Department of Corrections and such reassignment is subject to ter-
5 mination by the Director of the Oregon Youth Authority by referring the person back to the De-
6 partment of Corrections as provided in paragraph (b) of this subsection.

7 (b) After a person is transferred to the physical custody of the youth authority under ORS
8 137.124 (5), the Director of the Oregon Youth Authority may refer the person back to the Depart-
9 ment of Corrections for physical custody and placement if the director, after consulting with the
10 Department of Corrections, determines that the person is at least 18 years of age and:

11 (A) Poses a substantial danger to youth authority staff or persons in the custody of the youth
12 authority; or

13 (B) Is not likely, in the foreseeable future, to benefit from the rehabilitation and treatment pro-
14 grams administered by the youth authority and is appropriate for placement in a Department of
15 Corrections institution.

16 (3) Any person under 18 years of age at the time of committing the crime and under 20 years
17 of age at the time of sentencing and commitment who, after waiver under ORS 419C.349 (1)(b),
18 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) [*or 137.712*], is
19 sentenced to a term of imprisonment in the custody of the Department of Corrections, and any per-
20 son under 16 years of age who after waiver under ORS 419C.349 (1)(b), 419C.352, 419C.364 or
21 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) [*or 137.712*] is sentenced to a term of
22 imprisonment in the county jail, shall be temporarily assigned to a youth correction facility by the
23 Department of Corrections, or by the sheriff to whose custody the person has been committed, pur-
24 suant to ORS 137.124 (6). The director shall designate the appropriate youth correction facility or
25 schools for such assignment. A person assigned to a youth correction facility under ORS 137.124 (6)
26 and this subsection remains within the legal custody of the Department of Corrections or sheriff to
27 whose custody the person was committed. The assignment of such a person to the youth correction
28 facility is subject, when the person is 18 years of age or older, to termination by the director by
29 referring the person back to the Department of Corrections or the sheriff to serve the balance of
30 the person's sentence. Assignment to a youth correction facility pursuant to ORS 137.124 (6) and this
31 subsection, if not terminated earlier by the director, shall terminate upon the person's attaining the
32 age specified in ORS 420A.010 (5) setting the age limits for which the Oregon Youth Authority may
33 retain legal and physical custody of the person, and the person shall be referred to the Department
34 of Corrections or the sheriff having legal custody of the person to serve the balance of the person's
35 sentence.

36 (4) Whenever a person committed to the custody of the Department of Corrections is temporarily
37 assigned to a youth correction facility pursuant to this section, the youth authority may provide
38 programs and treatment for the person, and may adopt rules relating to conditions of confinement
39 at the youth correction facility, as the youth authority determines are appropriate. However, the
40 person remains subject to laws and rules of the State Board of Parole and Post-Prison Supervision
41 relating to parole.

42 (5) For the purposes of determining the person's age at the time of committing an offense under
43 this section:

44 (a) If the person is convicted of two or more offenses occurring on different days, the person's
45 age shall be calculated using the earliest date.

1 (b) If the person is convicted of an offense occurring within a range of dates, the person's age
 2 shall be calculated using the date at the beginning of the range.

3 **SECTION 14.** ORS 420.240 is amended to read:

4 420.240. (1) The Oregon Youth Authority may establish and administer a work release program
 5 in which persons who are committed to the custody of the Department of Corrections and placed in
 6 the physical custody of the youth authority under ORS 137.124 or other statute may be authorized
 7 to leave assigned quarters for the purpose of:

8 (a) Participating in private, gainful employment;

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

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

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

14 (e) Participating in mental health programs;

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

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

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

19 (3) The provisions of this section do not apply to persons sentenced under ORS 137.635, 137.700
 20 (1)(a) or 137.707 (1)(a) or any other provision of law that prohibits eligibility for any form of tem-
 21 porary leave from custody.

22 **SECTION 15.** ORS 420A.203 is amended to read:

23 420A.203. (1)(a) This section and ORS 420A.206 apply only to a person who:

24 (A) Was under 18 years of age at the time of the commission of the offense for which the person
 25 was sentenced to a term of imprisonment, who committed the offense on or after June 30, 1995, and
 26 who was:

27 (i) Sentenced to a term of imprisonment of at least 24 months following waiver under ORS
 28 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370; or

29 (ii) Sentenced to a term of imprisonment of at least 24 months under ORS 137.707 [*or 137.712*];
 30 or

31 (B)(i) Was under 18 years of age at the time of the commission of all offenses for which the
 32 person was sentenced to a term of imprisonment;

33 (ii) Is in the physical custody of the Oregon Youth Authority; and

34 (iii) Has a projected release date, as determined by the Department of Corrections, that falls on
 35 or after the person's 25th birthday and before the person's 27th birthday.

36 (b) When a person described in paragraph (a)(A) of this subsection has served one-half of the
 37 sentence imposed or when a person described in paragraph (a)(B) of this subsection attains 24 years
 38 and six months of age, the sentencing court shall determine what further commitment or disposition
 39 is appropriate as provided in this section. As used in this subsection and subsection (2) of this sec-
 40 tion, "sentence imposed" means the total period of mandatory incarceration imposed for all con-
 41 victions resulting from a single prosecution or criminal proceeding not including any reduction in
 42 the sentence under ORS 421.121 or any other statute.

43 (2)(a) No more than 120 days and not less than 60 days before the date on which a person has
 44 served one-half of the sentence imposed or attains 24 years and six months of age, the Oregon Youth
 45 Authority or the Department of Corrections, whichever has physical custody of the person, shall file

1 in the sentencing court a notice and request that the court set a time and place for the hearing
2 required under this section. The youth authority or department shall serve the person with a copy
3 of the notice and request for hearing on or before the date of filing.

4 (b) Upon receiving the notice and request for a hearing under paragraph (a) of this subsection,
5 the sentencing court shall schedule a hearing for a date not more than 30 days after the date on
6 which the person will have served one-half of the sentence imposed or attains 24 years and six
7 months of age, or such later date as is agreed upon by the parties.

8 (c) The court shall notify the following of the time and place of the hearing:

9 (A) The person and, if the person is under 18 years of age, the person's parents;

10 (B) The records supervisor of the correctional institution in which the person is incarcerated;
11 and

12 (C) The district attorney who prosecuted the case.

13 (d) The court shall make reasonable efforts to notify the following of the time and place of the
14 hearing:

15 (A) The victim and, if the victim is under 18 years of age, the victim's parents or legal guardian;
16 and

17 (B) Any other person who has filed a written request with the court to be notified of any hear-
18 ing concerning the transfer, discharge or release of the person.

19 (e) Notwithstanding paragraph (b) of this subsection, the court may delay the hearing for good
20 cause.

21 (3) In a hearing under this section:

22 (a) The person and the state are parties to the proceeding.

23 (b) The person has the right to appear with counsel. If the person requests that the court ap-
24 point counsel and the court determines that the person is financially eligible for appointed counsel
25 at state expense, the court shall order that counsel be appointed.

26 (c) The district attorney represents the state.

27 (d) The court shall determine admissibility of evidence as if the hearing were a sentencing pro-
28 ceeding.

29 (e) The court may consider, when relevant, written reports of the Oregon Youth Authority, the
30 Department of Corrections and qualified experts, in addition to the testimony of witnesses. Within
31 a reasonable time before the hearing, as determined by the court, the person must be given the op-
32 portunity to examine all reports and other documents concerning the person that the state, the
33 Oregon Youth Authority or the Department of Corrections intends to submit for consideration by
34 the court at the hearing.

35 (f) Except as otherwise provided by law or by order of the court based on good cause, the person
36 must be given access to the records maintained in the person's case by the Oregon Youth Authority
37 and the Department of Corrections.

38 (g) The person may examine all of the witnesses called by the state, may subpoena and call
39 witnesses to testify on the person's behalf and may present evidence and argument. The court may
40 permit witnesses to appear by telephone or other two-way electronic communication device.

41 (h) The hearing must be recorded.

42 (i) The hearing and the record of the hearing are open to the public.

43 (j) The question to be decided is which of the dispositions provided in subsection (4) of this
44 section should be ordered in the case.

45 (k) The person has the burden of proving by clear and convincing evidence that the person has

1 been rehabilitated and reformed, and if conditionally released, the person would not be a threat to
 2 the safety of the victim, the victim's family or the community and that the person would comply with
 3 the release conditions.

4 (4)(a) At the conclusion of the hearing and after considering and making findings regarding each
 5 of the factors in paragraph (b) of this subsection, the court shall order one of the following dispo-
 6 sitions:

7 (A) Order that the person serve the entire remainder of the sentence of imprisonment imposed,
 8 taking into account any reduction in the sentence under ORS 421.121 or any other statute, with the
 9 person's physical custody determined under ORS 137.124, 420.011 and 420A.200.

10 (B) Order that the person be conditionally released under ORS 420A.206 at such time as the
 11 court may order, if the court finds that the person:

- 12 (i) Has been rehabilitated and reformed;
- 13 (ii) Is not a threat to the safety of the victim, the victim's family or the community; and
- 14 (iii) Will comply with the conditions of release.

15 (b) In making the determination under this section, the court shall consider:

16 (A) The experiences and character of the person before and after commitment to the Oregon
 17 Youth Authority or the Department of Corrections;

18 (B) The person's juvenile and criminal records;

19 (C) The person's mental, emotional and physical health;

20 (D) The gravity of the loss, damage or injury caused or attempted, during or as part of the
 21 criminal act for which the person was convicted and sentenced;

22 (E) The manner in which the person committed the criminal act for which the person was con-
 23 victed and sentenced;

24 (F) The person's efforts, participation and progress in rehabilitation programs since the person's
 25 conviction;

26 (G) The results of any mental health or substance abuse treatment;

27 (H) Whether the person demonstrates accountability and responsibility for past and future con-
 28 duct;

29 (I) Whether the person has made and will continue to make restitution to the victim and the
 30 community;

31 (J) Whether the person will comply with and benefit from all conditions that will be imposed if
 32 the person is conditionally released;

33 (K) The safety of the victim, the victim's family and the community;

34 (L) The recommendations of the district attorney, the Oregon Youth Authority and the Depart-
 35 ment of Corrections; and

36 (M) Any other relevant factors or circumstances raised by the state, the Oregon Youth Au-
 37 thority, the Department of Corrections or the person.

38 (5) The court shall provide copies of its disposition order under subsection (4) of this section to
 39 the parties, to the records supervisor of the correctional institution in which the person is
 40 incarcerated and to the manager of the institution-based records office of the Department of Cor-
 41 rections.

42 (6) The person or the state may appeal an order entered under this section. On appeal, the ap-
 43 pellate court's review is limited to claims that:

44 (a) The disposition is not authorized under this section;

45 (b) The court failed to comply with the requirements of this section in imposing the disposition;

1 or

2 (c) The findings of the court are not supported by substantial evidence in the record.

3 (7) A person described in subsection (1)(a)(B) of this section may waive a hearing under this
4 section.

5 **SECTION 16.** ORS 421.121 is amended to read:

6 421.121. (1) Except as provided in ORS 137.635, 137.700 (1)(a), 137.707 (1)(a), 163.105, 163.107 and
7 163.115, each adult in custody sentenced to the custody of the Department of Corrections for felonies
8 committed on or after November 1, 1989, is eligible for a reduction in the term of incarceration for:

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

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

11 (2) The maximum amount of time credits earned for appropriate institutional behavior or for
12 participation in the adult basic skills development program described in ORS 421.084 may not exceed
13 20 percent of the total term of incarceration in a Department of Corrections institution.

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

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

19 **SECTION 17.** ORS 421.168 is amended to read:

20 421.168. (1) The Department of Corrections shall establish a short-term transitional leave pro-
21 gram. The program shall provide adults in custody with an opportunity to secure appropriate tran-
22 sitional support when necessary for successful reintegration into the community prior to the adult's
23 discharge to post-prison supervision.

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

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

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

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

38 (6) The provisions of this section do not apply to adults in custody whose sentences were im-
39 posed under ORS 137.635, 137.690, 137.700 (1)(a), 137.707 (1)(a), 164.061, 475.907, 475.925, 475.930 or
40 813.011 or under a provision of law that prohibits release on any form of temporary leave from
41 custody.

42 **SECTION 18.** ORS 137.712 is repealed.

43
44 (Measure 11 Change Applicability)
45

1 **SECTION 19.** The amendments to ORS 137.124, 137.700, 137.707, 137.751, 138.045, 138.105,
2 138.115, 144.101, 144.397, 161.620, 165.072, 420.011, 420.240, 420A.203, 421.121 and 421.168 by
3 sections 1 to 17 of this 2021 Act and the repeal of ORS 137.712 by section 18 of this 2021 Act
4 apply to crimes committed on or after the effective date of this 2021 Act.

5
6 **APPROPRIATION FOR REIMAGINE SAFETY FUND**
7

8 **SECTION 20.** In addition to and not in lieu of any other appropriation, there is appro-
9 priated to the Oregon Department of Administrative Services, for the biennium beginning
10 July 1, 2021, out of the General Fund, the amount of \$2,500,000, for distribution to the
11 Northwest Health Foundation for deposit into the Reimagine Safety Fund.

12
13 **LIMITATION ON ARRESTS AND TRAFFIC STOPS**
14

15 **SECTION 21.** ORS 133.310 is amended to read:

16 133.310. (1) A peace officer may arrest a person without a warrant if the officer has probable
17 cause to believe that the person has committed any of the following:

18 (a) A felony.

19 (b) A **person Class A** misdemeanor, **as that term is defined in the rules of the Oregon**
20 **Criminal Justice Commission.**

21 (c) An unclassified offense for which the maximum penalty allowed by law is equal to or greater
22 than the maximum penalty allowed for a Class C [*misdemeanor*] **felony.**

23 (d) Any [*other*] crime committed in the officer's presence.

24 (2) A peace officer may arrest a person without a warrant when the peace officer is notified by
25 [*telegraph,*] telephone, radio or other mode of communication by another peace officer of any state
26 that there exists a duly issued warrant for the arrest of a person within the other peace officer's
27 jurisdiction.

28 (3) A peace officer shall arrest and take into custody a person without a warrant when the
29 peace officer has probable cause to believe that:

30 (a) There exists an order issued pursuant to ORS 30.866, 107.095 (1)(c) or (d), 107.716, 107.718,
31 124.015, 124.020, 133.035, 163.738, 163.765, 163.767 or 419B.845 restraining the person;

32 (b) A true copy of the order and proof of service on the person has been filed as required in
33 ORS 107.720, 124.030, 133.035, 163.741, 163.773 or 419B.845; and

34 (c) The person to be arrested has violated the terms of that order.

35 (4) A peace officer shall arrest and take into custody a person without a warrant if:

36 (a) The person protected by a foreign restraining order as defined by ORS 24.190 presents a copy
37 of the foreign restraining order to the officer and represents to the officer that the order supplied
38 is the most recent order in effect between the parties and that the person restrained by the order
39 has been personally served with a copy of the order or has actual notice of the order; and

40 (b) The peace officer has probable cause to believe that the person to be arrested has violated
41 the terms of the foreign restraining order.

42 (5) A peace officer shall arrest and take into custody a person without a warrant if:

43 (a) The person protected by a foreign restraining order as defined by ORS 24.190 has filed a copy
44 of the foreign restraining order with a court or has been identified by the officer as a party pro-
45 tected by a foreign restraining order entered in the Law Enforcement Data System or in the data-

1 bases of the National Crime Information Center of the United States Department of Justice; and

2 (b) The peace officer has probable cause to believe that the person to be arrested has violated
3 the terms of the foreign restraining order.

4 (6) A peace officer shall arrest and take into custody a person without a warrant if the peace
5 officer has probable cause to believe:

6 (a) The person has been charged with an offense and is presently released as to that charge
7 under ORS 135.230 to 135.290; and

8 (b) The person has failed to comply with a no contact condition of the release agreement.

9 **SECTION 22.** (1) Notwithstanding ORS 133.055, 133.235 and 133.310, a peace officer shall
10 issue a criminal citation to a person in lieu of arresting the person if there is no warrant for
11 the person's arrest and the peace officer has probable cause to believe the person has com-
12 mitted the following crimes:

13 (a) Unsworn falsification under ORS 162.085;

14 (b) Interfering with a peace officer or parole and probation officer under ORS 162.247
15 when there is no accompanying charge;

16 (c) Resisting arrest under ORS 162.315 when there is no accompanying charge;

17 (d) Theft in the third degree under ORS 164.043;

18 (e) Theft in the second degree under ORS 164.045;

19 (f) Criminal trespass in the second degree by a guest under ORS 164.243;

20 (g) Criminal trespass in the second degree under ORS 164.245;

21 (h) Criminal trespass at a sports event under ORS 164.278;

22 (i) Offensive littering under ORS 164.805;

23 (j) Unlawful sound recording under ORS 164.865;

24 (k) Forgery in the second degree under ORS 165.007;

25 (L) Criminal possession of a forged instrument in the second degree under ORS 165.017;

26 (m) Misrepresentation of age by a minor under ORS 165.805;

27 (n) Interfering with public transportation under ORS 166.116;

28 (o) Prostitution under ORS 167.007;

29 (p) Unlawful possession of a controlled substance under ORS 475.752 (7)(b);

30 (q) Unlawful possession of methadone under ORS 475.824 (2)(c);

31 (r) Unlawful possession of oxycodone under ORS 475.834 (2)(c);

32 (s) Unlawful possession of heroin under ORS 475.854 (2)(c);

33 (t) Unlawful possession of cocaine under ORS 475.884 (2)(c);

34 (u) Unlawful possession of methamphetamine under ORS 475.894 (2)(c); or

35 (v) An attempt to commit a crime listed in paragraphs (a) to (u) of this subsection.

36 (2) A peace officer issuing a criminal citation under this section may detain the person
37 only for such time as is reasonably necessary to investigate and verify the person's identity
38 and issue the citation.

39 **SECTION 23.** Section 24 of this 2021 Act is added to and made a part of the Oregon Ve-
40 hicle Code.

41 **SECTION 24.** Notwithstanding ORS 810.410, a police officer may not initiate a traffic vi-
42 olation stop for unlawful use or failure to use lights under ORS 811.520 or operation without
43 required lighting equipment under ORS 816.330 if the offense is based on the following cir-
44 cumstances:

45 (1) A headlight that is not in compliance with ORS 816.050 or 816.320, and the vehicle has

1 **a headlight that is in compliance;**

2 (2) **A taillight that is not in compliance with ORS 816.080 or 816.320, and the vehicle has**
 3 **a taillight that is in compliance;**

4 (3) **A brake light that is not in compliance with ORS 816.100 or 816.320, and the vehicle**
 5 **has a brake light that is in compliance;**

6 (4) **Taillights that do not emit red light as required by ORS 816.080 (2); or**

7 (5) **A registration plate light that is not in compliance with ORS 816.090 or 816.320.**

8 **SECTION 25. Sections 22 and 24 of this 2021 Act and the amendments to ORS 133.310 by**
 9 **section 21 of this 2021 Act apply to conduct alleged to constitute an offense occurring on or**
 10 **after the effective date of this 2021 Act.**

11
 12 **JAIL ADMISSION FOR ILL PERSONS**

13
 14 **SECTION 26.** ORS 169.105 is amended to read:

15 169.105. [No] **A person who is unconscious, who is showing symptoms of a contagious virus**
 16 **or who is in acute need of medical or psychiatric care [shall] may not** be admitted to custody
 17 in a facility described in ORS 169.005, but shall instead be taken immediately to the nearest appro-
 18 priate medical facility for medical diagnosis, care and treatment.

19
 20 **COMMUNITY CORRECTIONS**
 21 **(Parole and Probation Officers)**

22
 23 **SECTION 27.** ORS 137.620 is amended to read:

24 137.620. (1) As used in this section, “parole and probation officer” has the meaning given that
 25 term in ORS 181A.355.

26 (2) Parole and probation officers of the Department of Corrections or a county community cor-
 27 rections agency and those appointed by the court have the powers of peace officers in the execution
 28 of their duties, but are not active members of the regular police force. **Parole and probation offi-**
 29 **cers shall ensure that clothing worn while engaged in official duties does not resemble the**
 30 **uniform of a peace officer.**

31 (3) Each parole and probation officer appointed by the court, before entering on the duties of
 32 office, shall take an oath of office.

33 (4) Each parole and probation officer who collects or has custody of money shall execute a bond
 34 in a penal sum to be fixed by the court, with sufficient sureties approved thereby, conditioned for
 35 the honest accounting of all money received by the parole and probation officer as a parole and
 36 probation officer. The accounts of all parole and probation officers are subject to audit at any time
 37 by the proper fiscal authorities.

38 **SECTION 28.** ORS 166.263 is amended to read:

39 166.263. (1) When authorized by the officer’s employer, a parole and probation officer, as defined
 40 in ORS 181A.355, may carry a firearm while engaged in official duties if the officer has completed:

41 [(1)] (a) A firearms training program recognized by the Board on Public Safety Standards and
 42 Training; and

43 [(2)] (b) A psychological screening.

44 (2) **Notwithstanding subsection (1) of this section, a parole and probation officer may not**
 45 **carry a firearm while engaged in official duties:**

1 (a) At or in locations in which persons seek social services or public benefits; or

2 (b) At or in a supervised person's place of employment.

3 **SECTION 29.** ORS 181A.530 is amended to read:

4 181A.530. (1) Except for a person who has requested and obtained an extension from the De-
5 partment of Public Safety Standards and Training pursuant to subsection (2) of this section, a person
6 may not be employed as a parole and probation officer for more than 18 months unless the person
7 is a citizen of the United States or a nonimmigrant legally admitted to the United States under a
8 Compact of Free Association, and:

9 (a) The person has been certified as being qualified as a parole and probation officer under
10 provisions of ORS 181A.355 to 181A.670 and the certification has not lapsed or been revoked pur-
11 suant to ORS 181A.630, 181A.640 and 181A.650 (1) and not reissued under ORS 181A.650 (2); or

12 (b) The person is exempted from the certification requirement under ORS 181A.420 (1) and (2).

13 (2) The department, upon the facts contained in an affidavit accompanying the request for an
14 extension, may find good cause for failure to obtain certification within the time period described
15 in subsection (1) of this section. If the department finds that there is good cause for failure to timely
16 obtain certification, the department may extend for up to one year the period that a person may
17 serve as a parole and probation officer without certification. The grant or denial of an extension is
18 within the sole discretion of the department.

19 (3) The certification of a parole and probation officer shall lapse upon the passage of more than
20 three consecutive months during which period the officer is not employed as a parole and probation
21 officer, unless the officer is on leave from a law enforcement unit. Upon reemployment as a parole
22 and probation officer, the person whose certification has lapsed may apply for certification in the
23 manner provided in ORS 181A.355 to 181A.670.

24 (4) In order to maintain certification, a parole and probation officer [*who is employed part-time*]
25 must complete annually at least 20 hours of continuing education approved by the Department of
26 Public Safety Standards and Training. **The continuing education must include training in pro-
27 viding trauma-informed care, culturally specific services and de-escalation techniques.**

28 (5) The requirement of citizenship imposed under subsection (1) of this section does not apply
29 to a person employed as a parole and probation officer on September 27, 1987, who continues to
30 serve as a parole and probation officer.

31
32 **(Expansion of Earned Reduction in Supervision)**

33
34 **SECTION 30.** ORS 137.633 is amended to read:

35 137.633. (1) A person convicted of a felony or a designated drug-related misdemeanor and sen-
36 tenced to probation or to the legal and physical custody of the supervisory authority under ORS
37 137.124 (2), **or a person sentenced to probation under the supervision of the court**, is eligible
38 for a reduction in the period of probation or local control post-prison supervision [*for complying with*
39 *terms of probation or post-prison supervision, including the payment of restitution and participation in*
40 *recidivism reduction programs*] **as provided in subsection (2) of this section.**

41 [*(2) The maximum reduction under this section may not exceed 50 percent of the period of probation*
42 *or local control post-prison supervision imposed.*]

43 [*(3) A reduction under this section may not be used to shorten the period of probation or local*
44 *control post-prison supervision to less than six months.*]

45 **(2) Notwithstanding ORS 144.085 and 144.103, for every 30 days that the person does not**

1 **willfully abscond from supervision or is not convicted of a new felony or person Class A**
 2 **misdemeanor, the person shall receive a 30-day reduction in the term of supervision.**

3 **(3) A person who has successfully completed an alternative incarceration program under**
 4 **ORS 421.508 or short-term transitional leave under ORS 421.168 shall have the person’s term**
 5 **of post-prison supervision reduced to one year beginning on the date of the person’s release**
 6 **from custody.**

7 (4)(a) The Department of Corrections shall adopt rules to carry out the provisions of this sec-
 8 tion.

9 (b) The supervisory authority shall comply with the rules adopted under this section.

10 (5) As used in this section:

11 (a) “Designated drug-related misdemeanor” has the meaning given that term in ORS 423.478.

12 (b) “Local control post-prison supervision” means post-prison supervision that is supervised by
 13 a local supervisory authority pursuant to ORS 144.101.

14 (c) **“Person Class A misdemeanor” has the meaning given that term in the rules of the**
 15 **Oregon Criminal Justice Commission.**

16
 17 **(Changes to Supervision Conditions)**

18
 19 **SECTION 31.** ORS 137.540 is amended to read:

20 137.540. (1) The court may sentence the defendant to probation subject to **any of** the following
 21 *[general] conditions [unless specifically deleted by the court] if necessary and appropriate in a*
 22 **particular case.** The probationer shall:

23 (a) Pay *[supervision fees,]* fines, restitution or other fees ordered by the court.

24 *[(b) Not use or possess controlled substances except pursuant to a medical prescription.]*

25 *[(c)]* (b) Submit to testing for controlled substance, cannabis or alcohol use if the probationer
 26 has a history of substance abuse or if there is a reasonable suspicion that the probationer has ille-
 27 gally used controlled substances.

28 *[(d)]* (c) Participate in a substance abuse evaluation as directed by the supervising officer and
 29 follow the recommendations of the evaluator if there are reasonable grounds to believe there is a
 30 history of substance abuse.

31 *[(e)]* (d) Remain in the State of Oregon until written permission to leave is granted by the De-
 32 partment of Corrections or a county community corrections agency.

33 *[(f)]* (e) If physically able, find and maintain gainful full-time employment, approved schooling,
 34 or a full-time combination of both. Any waiver of this requirement must be based on a finding by the
 35 court stating the reasons for the waiver.

36 *[(g)]* (f) Change neither employment nor residence without prior permission from the Department
 37 of Corrections or a county community corrections agency.

38 *[(h)]* (g) Permit the parole and probation officer to visit the probationer or the probationer’s
 39 work site or residence and to conduct a walk-through of the common areas and of the rooms in the
 40 residence occupied by or under the control of the probationer.

41 *[(i)]* (h) Consent to the search of person, vehicle or premises upon the request of a represen-
 42 tative of the supervising officer if the supervising officer has reasonable grounds to believe that
 43 evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when
 44 requested by the Department of Corrections or a county community corrections agency for super-
 45 vision purposes.

1 [(j)] (i) Obey all laws, municipal, county, state and federal, **except that with regard to the**
 2 **possession and use of controlled substances, the probationer shall follow state law.**

3 [(k)] (j) Promptly and truthfully answer all reasonable inquiries by the Department of Cor-
 4 rections or a county community corrections agency.

5 [(L)] (k) Not possess weapons, firearms or dangerous animals.

6 [(m)] (L) Report as required, **whether in person or electronically**, and abide by the direction
 7 of the supervising officer.

8 [(n)] (m) If recommended by the supervising officer, successfully complete a sex offender treat-
 9 ment program approved by the supervising officer and submit to polygraph examinations at the di-
 10 rection of the supervising officer if the probationer:

11 (A) Is under supervision for a sex offense under ORS 163.305 to 163.467;

12 (B) Was previously convicted of a sex offense under ORS 163.305 to 163.467; or

13 (C) Was previously convicted in another jurisdiction of an offense that would constitute a sex
 14 offense under ORS 163.305 to 163.467 if committed in this state.

15 [(o)] (n) Participate in a mental health evaluation as directed by the supervising officer and
 16 follow the recommendation of the evaluator.

17 [(p)] (o) If required to report as a sex offender under ORS 163A.015, report with the Department
 18 of State Police, a city police department, a county sheriff's office or the supervising agency:

19 (A) When supervision begins;

20 (B) Within 10 days of a change in residence;

21 (C) Once each year within 10 days of the probationer's date of birth;

22 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an
 23 institution of higher education; and

24 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher
 25 education.

26 [(q)] (p) Submit to a risk and needs assessment as directed by the supervising officer and follow
 27 reasonable recommendations resulting from the assessment.

28 (2) In addition to the [general] conditions **described in subsection (1) of this section**, the court
 29 may impose any special conditions of probation that are reasonably related to the crime of con-
 30 viction or the needs of the probationer for the protection of the public or reformation of the
 31 probationer, or both, including, but not limited to, that the probationer shall:

32 (a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after
 33 November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence
 34 or to the premises thereof, or be subject to any combination of such confinement and restriction,
 35 such confinement or restriction or combination thereof to be for a period not to exceed one year
 36 or one-half of the maximum period of confinement that could be imposed for the offense for which
 37 the defendant is convicted, whichever is the lesser.

38 (b) For felonies committed on or after November 1, 1989:

39 (A) Be confined in the county jail, or be subject to other custodial sanctions under community
 40 supervision, or both, as provided by rules of the Oregon Criminal Justice Commission; and

41 (B) Comply with any special conditions of probation that are imposed by the supervising officer
 42 in accordance with subsection (9) of this section.

43 (c) For crimes committed on or after December 5, 1996, sell any assets of the probationer as
 44 specifically ordered by the court in order to pay restitution.

45 (d) For crimes constituting delivery of a controlled substance, as those terms are defined in ORS

1 475.005, or for telephonic harassment under ORS 166.090, or for crimes involving domestic violence,
 2 as defined in ORS 135.230, be prohibited from using Internet websites that provide anonymous text
 3 message services.

4 (3)(a) If a person is released on probation following conviction of stalking under ORS 163.732
 5 (2)(b) or violating a court's stalking protective order under ORS 163.750 (2)(b), the court may include
 6 as a special condition of the person's probation reasonable residency restrictions.

7 (b) If the court imposes the special condition of probation described in this subsection and if at
 8 any time during the period of probation the victim moves to a location that causes the probationer
 9 to be in violation of the special condition of probation, the court may not require the probationer
 10 to change the probationer's residence in order to comply with the special condition of probation.

11 (4) When a person who is a sex offender is released on probation, the court shall impose as a
 12 special condition of probation that the person not reside in any dwelling in which another sex
 13 offender who is on probation, parole or post-prison supervision resides, without the approval of the
 14 person's supervising parole and probation officer, or in which more than one other sex offender who
 15 is on probation, parole or post-prison supervision resides, without the approval of the director of the
 16 probation agency that is supervising the person or of the county manager of the Department of
 17 Corrections, or a designee of the director or manager. As soon as practicable, the supervising parole
 18 and probation officer of a person subject to the requirements of this subsection shall review the
 19 person's living arrangement with the person's sex offender treatment provider to ensure that the
 20 arrangement supports the goals of offender rehabilitation and community safety. As used in this
 21 subsection:

22 (a) "Dwelling" has the meaning given that term in ORS 469B.100.

23 (b) "Dwelling" does not include a residential treatment facility or a halfway house.

24 (c) "Halfway house" means a publicly or privately operated profit or nonprofit residential facil-
 25 ity that provides rehabilitative care and treatment for sex offenders.

26 (d) "Sex offender" has the meaning given that term in ORS 163A.005.

27 (5)(a) If the person is released on probation following conviction of a sex crime, as defined in
 28 ORS 163A.005, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18
 29 years of age, the court, if requested by the victim, shall include as a special condition of the person's
 30 probation that the person not reside within three miles of the victim unless:

31 (A) The victim resides in a county having a population of less than 130,000 and the person is
 32 required to reside in that county;

33 (B) The person demonstrates to the court by a preponderance of the evidence that no mental
 34 intimidation or pressure was brought to bear during the commission of the crime;

35 (C) The person demonstrates to the court by a preponderance of the evidence that imposition
 36 of the condition will deprive the person of a residence that would be materially significant in aiding
 37 in the rehabilitation of the person or in the success of the probation; or

38 (D) The person resides in a halfway house. As used in this subparagraph, "halfway house" means
 39 a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative
 40 care and treatment for sex offenders.

41 (b) A victim may request imposition of the special condition of probation described in this sub-
 42 section at the time of sentencing in person or through the prosecuting attorney.

43 (c) If the court imposes the special condition of probation described in this subsection and if at
 44 any time during the period of probation the victim moves to within three miles of the probationer's
 45 residence, the court may not require the probationer to change the probationer's residence in order

1 to comply with the special condition of probation.

2 (6) When a person who is a sex offender, as defined in ORS 163A.005, is released on probation,
3 the Department of Corrections or the county community corrections agency, whichever is appropri-
4 ate, shall notify the city police department, if the person is going to reside within a city, and the
5 county sheriff's office of the county in which the person is going to reside of the person's release
6 and the conditions of the person's release.

7 (7) Failure to abide by [*all general and special*] **the** conditions of probation may result in arrest,
8 modification of conditions, revocation of probation or imposition of structured, intermediate sanc-
9 tions in accordance with rules adopted under ORS 137.595.

10 (8) The court may order that probation be supervised by the court. [*If the court orders that*
11 *probation be supervised by the court, the defendant shall pay a fee of \$100 to the court. Fees imposed*
12 *under this subsection in the circuit court shall be deposited by the clerk of the court in the General*
13 *Fund. Fees imposed in a justice court under this subsection shall be paid to the county treasurer. Fees*
14 *imposed in a municipal court under this subsection shall be paid to the city treasurer.*]

15 (9)(a) The court may at any time modify the conditions of probation.

16 (b) When the court orders a defendant placed under the supervision of the Department of Cor-
17 rections or a community corrections agency, the supervising officer may file with the court a pro-
18 posed modification to the special conditions of probation. The supervising officer shall provide a
19 copy of the proposed modification to the district attorney and the probationer. If the district attor-
20 ney:

21 (A) Files an objection to the proposed modification less than five judicial days after the proposed
22 modification was filed, the court shall schedule a hearing no later than 10 judicial days after the
23 proposed modification was filed, unless the court finds good cause to schedule a hearing at a later
24 time.

25 (B) Does not file an objection to the proposed modification less than five judicial days after the
26 proposed modification was filed, the proposed modification becomes effective five judicial days after
27 the proposed modification was filed.

28 (10) A court may [*not*] order revocation of probation [*as a result of the probationer's failure to*
29 *pay restitution unless the court determines from the totality of the circumstances that the purposes of*
30 *the probation are not being served*] **only for willfully absconding probation or the commission**
31 **of a felony or a person Class A misdemeanor, as that term is defined in the rules of the**
32 **Oregon Criminal Justice Commission, while on probation.**

33 [(11) *It is not a cause for revocation of probation that the probationer failed to apply for or accept*
34 *employment at any workplace where there is a labor dispute in progress. As used in this subsection,*
35 *"labor dispute" has the meaning for that term provided in ORS 662.010.*]

36 [(12)(a) *If the court determines that a defendant has violated the terms of probation, the court shall*
37 *collect a \$25 fee from the defendant and may impose a fee for the costs of extraditing the defendant to*
38 *this state for the probation violation proceeding if the defendant left the state in violation of the con-*
39 *ditions of the defendant's probation. The fees imposed under this subsection become part of the judg-*
40 *ment and may be collected in the same manner as a fine.*]

41 [(b) *Probation violation fees collected under this subsection in the circuit court shall be deposited*
42 *by the clerk of the court in the General Fund. Extradition cost fees collected in the circuit court under*
43 *this subsection shall be deposited by the clerk of the court in the Arrest and Return Account estab-*
44 *lished by ORS 133.865. Fees collected in a justice court under this subsection shall be paid to the*
45 *county treasurer. Fees collected in a municipal court under this subsection shall be paid to the city*

1 *treasurer.]*

2 [(13)] (11) As used in this section, “attends,” “institution of higher education,” “works” and
 3 “carries on a vocation” have the meanings given those terms in ORS 163A.005.

4 **SECTION 32.** ORS 144.102 is amended to read:

5 144.102. (1) The State Board of Parole and Post-Prison Supervision or local supervisory authority
 6 responsible for correctional services for a person shall specify in writing the conditions of post-
 7 prison supervision imposed under ORS 144.096. A copy of the conditions must be given to the person
 8 upon release from prison or jail.

9 (2) The board or the supervisory authority shall determine, and may at any time modify, the
 10 conditions of post-prison supervision, which may include, [*among other conditions*] **if necessary and**
 11 **appropriate for a particular case**, that the person shall:

12 (a) Comply with the conditions of post-prison supervision as specified by the board or supervi-
 13 sory authority.

14 (b) Be under the supervision of the Department of Corrections and its representatives or other
 15 supervisory authority and abide by their direction and counsel.

16 (c) Answer all reasonable inquiries of the board, the department or the supervisory authority.

17 (d) Report to the parole officer, **either in person or electronically**, as directed by the board,
 18 the department or the supervisory authority.

19 (e) Not own, possess or be in control of any weapon.

20 (f) Respect and obey all municipal, county, state and federal laws, **except that with regard to**
 21 **the possession and use of controlled substances, the person shall follow state law.**

22 (g) Understand that the board or supervisory authority may, at its discretion, punish violations
 23 of post-prison supervision.

24 (h) Attend a victim impact treatment session in a county that has a victim impact program. [*If*
 25 *the board or supervisory authority requires attendance under this paragraph, the board or supervisory*
 26 *authority may require the person, as an additional condition of post-prison supervision, to pay a rea-*
 27 *sonable fee to the victim impact program to offset the cost of the person’s participation. The board or*
 28 *supervisory authority may not order a person to pay a fee in excess of \$5 under this paragraph.*]

29 (i) For crimes constituting delivery of a controlled substance, as those terms are defined in ORS
 30 475.005, or for telephonic harassment under ORS 166.090, or for crimes involving domestic violence,
 31 as defined in ORS 135.230, be prohibited from using Internet websites that provide anonymous text
 32 message services.

33 (3) If the person is required to report as a sex offender under ORS 163A.010, the board or su-
 34 pervisory authority shall include as a condition of post-prison supervision that the person report
 35 with the Department of State Police, a city police department, a county sheriff’s office or the
 36 supervising agency:

37 (a) When supervision begins;

38 (b) Within 10 days of a change in residence;

39 (c) Once each year within 10 days of the person’s date of birth;

40 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
 41 institution of higher education; and

42 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
 43 education.

44 (4)(a) The board or supervisory authority may establish special conditions that the board or su-
 45 pervisory authority considers necessary because of the individual circumstances of the person on

1 post-prison supervision.

2 (b) If the person is on post-prison supervision following conviction of a sex crime, as defined in
3 ORS 163A.005, the board or supervisory authority shall include all of the following as special con-
4 ditions of the person's post-prison supervision:

5 (A) Agreement to comply with a curfew set by the board, the supervisory authority or the
6 supervising officer.

7 (B) A prohibition against contacting a person under 18 years of age without the prior written
8 approval of the board, supervisory authority or supervising officer.

9 (C) A prohibition against being present more than one time, without the prior written approval
10 of the board, supervisory authority or supervising officer, at a place where persons under 18 years
11 of age regularly congregate.

12 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition
13 against being present, without the prior written approval of the board, supervisory authority or
14 supervising officer, at, or on property adjacent to, a school, child care center, playground or other
15 place intended for use primarily by persons under 18 years of age.

16 (E) A prohibition against working or volunteering at a school, child care center, park, play-
17 ground or other place where persons under 18 years of age regularly congregate.

18 (F) Entry into and completion of or successful discharge from a sex offender treatment program
19 approved by the board, supervisory authority or supervising officer. The program may include
20 polygraph and plethysmograph testing. The person is responsible for paying for the treatment pro-
21 gram.

22 (G) A prohibition against direct or indirect contact with the victim, unless approved by the
23 victim, the person's treatment provider and the board, supervisory authority or supervising officer.

24 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-
25 graph, a prohibition against viewing, listening to, owning or possessing sexually stimulating visual
26 or auditory materials that are relevant to the person's deviant behavior.

27 (I) Agreement to consent to a search of the person or the vehicle or residence of the person
28 upon the request of a representative of the board or supervisory authority if the representative has
29 reasonable grounds to believe that evidence of a violation of a condition of post-prison supervision
30 will be found.

31 (J) Participation in random polygraph examinations to obtain information for risk management
32 and treatment. The person is responsible for paying the expenses of the examinations. The results
33 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to
34 prove a violation of post-prison supervision.

35 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless
36 approved by the board, supervisory authority or supervising officer.

37 (L) A prohibition against using a post-office box unless approved by the board, supervisory au-
38 thority or supervising officer.

39 (M) A prohibition against residing in a dwelling in which another sex offender who is on pro-
40 bation, parole or post-prison supervision resides unless approved by the board, supervisory authority
41 or supervising officer, or in which more than one other sex offender who is on probation, parole or
42 post-prison supervision resides unless approved by the board or the director of the supervisory au-
43 thority, or a designee of the board or director. As soon as practicable, the supervising officer of a
44 person subject to the requirements of this subparagraph shall review the person's living arrange-
45 ment with the person's sex offender treatment provider to ensure that the arrangement supports the

1 goals of offender rehabilitation and community safety.

2 (c)(A) If the person is on post-prison supervision following conviction of a sex crime, as defined
 3 in ORS 163A.005, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18
 4 years of age, the board or supervisory authority, if requested by the victim, shall include as a special
 5 condition of the person's post-prison supervision that the person not reside within three miles of the
 6 victim unless:

7 (i) The victim resides in a county having a population of less than 130,000 and the person is
 8 required to reside in that county under subsection (7) of this section;

9 (ii) The person demonstrates to the board or supervisory authority by a preponderance of the
 10 evidence that no mental intimidation or pressure was brought to bear during the commission of the
 11 crime;

12 (iii) The person demonstrates to the board or supervisory authority by a preponderance of the
 13 evidence that imposition of the condition will deprive the person of a residence that would be
 14 materially significant in aiding in the rehabilitation of the person or in the success of the post-prison
 15 supervision; or

16 (iv) The person resides in a halfway house.

17 (B) A victim may request imposition of the special condition of post-prison supervision described
 18 in this paragraph at the time of sentencing in person or through the prosecuting attorney. A victim's
 19 request may be included in the judgment document.

20 (C) If the board or supervisory authority imposes the special condition of post-prison supervision
 21 described in this paragraph and if at any time during the period of post-prison supervision the victim
 22 moves to within three miles of the person's residence, the board or supervisory authority may not
 23 require the person to change the person's residence in order to comply with the special condition
 24 of post-prison supervision.

25 (d)(A) If a person is on post-prison supervision following conviction of stalking under ORS
 26 163.732 (2)(b) or violating a court's stalking protective order under ORS 163.750 (2)(b), the board or
 27 supervisory authority may include as a special condition of the person's post-prison supervision
 28 reasonable residency restrictions.

29 (B) If the board or supervisory authority imposes the special condition of post-prison supervision
 30 described in this paragraph and if at any time during the period of post-prison supervision the victim
 31 moves to a location that causes the person to be in violation of the special condition of post-prison
 32 supervision, the board or supervisory authority may not require the person to change the person's
 33 residence in order to comply with the special condition of post-prison supervision.

34 (5)(a) The board or supervisory authority may require the person to pay, as a condition of
 35 post-prison supervision, compensatory fines, restitution or attorney fees:

36 (A) As determined, imposed or required by the sentencing court; or

37 (B) When previously required as a condition of any type of supervision that is later revoked.

38 (b) The board may require a person to pay restitution as a condition of post-prison supervision
 39 imposed for an offense other than the offense for which the restitution was ordered if the person:

40 (A) Was ordered to pay restitution as a result of another conviction; and

41 (B) Has not fully paid the restitution by the time the person has completed the period of post-
 42 prison supervision imposed for the offense for which the restitution was ordered.

43 (6) A person's failure to apply for or accept employment at a workplace where there is a labor
 44 dispute in progress does not constitute a violation of the conditions of post-prison supervision.

45 (7)(a) When a person is released from imprisonment on post-prison supervision, the board shall

1 order as a condition of post-prison supervision that the person reside for the first six months after
2 release in the county that last supervised the person, if the person was on active supervision as an
3 adult for a felony at the time of the offense that resulted in the imprisonment.

4 (b) If the person was not on active supervision as an adult for a felony at the time of the offense
5 that resulted in the imprisonment, the board shall order as a condition of post-prison supervision
6 that the person reside for the first six months after release in the county where the person resided
7 at the time of the offense that resulted in the imprisonment.

8 (c) For purposes of paragraph (b) of this subsection:

9 (A) The board shall determine the county where the person resided at the time of the offense
10 by examining records such as:

11 (i) An Oregon driver license, regardless of its validity;

12 (ii) Records maintained by the Department of Revenue;

13 (iii) Records maintained by the Department of State Police;

14 (iv) Records maintained by the Department of Human Services;

15 (v) Records maintained by the Department of Corrections; and

16 (vi) Records maintained by the Oregon Health Authority.

17 (B) If the person did not have an identifiable address at the time of the offense, or the address
18 cannot be determined, the person is considered to have resided in the county where the offense oc-
19 curred.

20 (C) If the person is serving multiple sentences, the county of residence is determined according
21 to the date of the last arrest resulting in a conviction.

22 (D) In determining the person's county of residence, the board may not consider offenses com-
23 mitted by the person while the person was incarcerated in a Department of Corrections facility.

24 (d) Upon motion of the board, the supervisory authority, the person, a victim or a district at-
25 torney, the board may waive the residency condition under paragraph (b) of this subsection only
26 after making a finding that one of the following conditions has been met:

27 (A) The person provides proof of employment with no set ending date in a county other than the
28 county of residence determined under paragraph (c) of this section;

29 (B) The person is found to pose a significant danger to a victim of the person's crime residing
30 in the county of residence, or a victim or victim's family residing in the county of residence is found
31 to pose a significant danger to the person;

32 (C) The person has a spouse or biological or adoptive family residing in a county other than the
33 county of residence who will be materially significant in aiding in the rehabilitation of the person
34 and in the success of the post-prison supervision;

35 (D) As another condition of post-prison supervision, the person is required to participate in a
36 treatment program that is not available in the county of residence;

37 (E) The person requests release to another state; or

38 (F) The board finds other good cause for the waiver.

39 (e) The board shall consider eligibility for transitional housing programs and residential treat-
40 ment programs when determining whether to waive the residency condition under paragraph (b) of
41 this subsection, and the acceptance of the person into a transitional housing program or a residen-
42 tial treatment program constitutes good cause as described in paragraph (d)(F) of this subsection.

43 (8) As used in this section:

44 (a) "Attends," "carries on a vocation," "institution of higher education" and "works" have the
45 meanings given those terms in ORS 163A.005.

1 (b)(A) "Dwelling" has the meaning given that term in ORS 469B.100.

2 (B) "Dwelling" does not mean a residential treatment facility or a halfway house.

3 (c) "Halfway house" means a residential facility that provides rehabilitative care and treatment
4 for sex offenders.

5 (d) "Labor dispute" has the meaning given that term in ORS 662.010.

6
7 **(Limit on Violation Sanctions and Conforming Amendments)**

8
9 **SECTION 33.** ORS 137.010 is amended to read:

10 137.010. (1) The statutes that define offenses impose a duty upon the court having jurisdiction
11 to pass sentence in accordance with this section or, for felonies committed on or after November
12 1, 1989, in accordance with rules of the Oregon Criminal Justice Commission unless otherwise spe-
13 cifically provided by law.

14 (2) If it cannot be determined whether the felony was committed on or after November 1, 1989,
15 the defendant shall be sentenced as if the felony had been committed prior to November 1, 1989.

16 (3) Except when a person is convicted of a felony committed on or after November 1, 1989, if
17 the court is of the opinion that it is in the best interests of the public as well as of the defendant,
18 the court may suspend the imposition or execution of any part of a sentence for any period of not
19 more than five years. The court may extend the period of suspension beyond five years in accord-
20 ance with subsection (4) of this section.

21 (4) If the court suspends the imposition or execution of a part of a sentence for an offense other
22 than a felony committed on or after November 1, 1989, the court may also impose and execute a
23 sentence of probation on the defendant for a definite or indefinite period of not more than five years.
24 However, upon a later finding that a defendant sentenced to probation for a felony has violated a
25 condition of the probation [*and in lieu of revocation*], the court may order the period of both the
26 suspended sentence and the sentence of probation extended until a date not more than six years
27 from the date of original imposition of sentence. Time during which the probationer has absconded
28 from supervision and a bench warrant has been issued for the probationer's arrest shall not be
29 counted in determining the time elapsed since imposition of the sentence of probation.

30 (5) If the court announces that it intends to suspend imposition or execution of any part of a
31 sentence, the defendant may, at that time, object and request imposition of the full sentence. In no
32 case, however, does the defendant have a right to refuse the court's order, and the court may sus-
33 pend imposition or execution of a part of the sentence despite the defendant's objection or request.
34 If the court further announces that it intends to sentence the defendant to a period of probation, the
35 defendant may, at that time, object and request that a sentence of probation or its conditions not
36 be imposed or that different conditions be imposed. In no case, however, does the defendant have
37 the right to refuse a sentence of probation or any of the conditions of the probation, and the court
38 may sentence the defendant to probation subject to conditions despite the defendant's objection or
39 request.

40 (6) The power of the judge of any court to suspend execution of any part of a sentence or to
41 sentence any person convicted of a crime to probation shall continue until the person is delivered
42 to the custody of the Department of Corrections.

43 (7) When a person is convicted of an offense and the court does not suspend the imposition or
44 execution of any part of a sentence or when a suspended sentence or sentence of probation is re-
45 voked, the court shall impose the following sentence:

- 1 (a) A term of imprisonment;
- 2 (b) A fine;
- 3 (c) Both imprisonment and a fine; or
- 4 (d) Discharge of the defendant.

5 (8) This section does not deprive the court of any authority conferred by law to enter a judg-
 6 ment for the forfeiture of property, suspend or cancel a license, remove a person from office or im-
 7 pose any other civil penalty. An order exercising that authority may be included as part of the
 8 judgment of conviction.

9 (9) When imposing sentence for a felony committed on or after November 1, 1989, the court shall
 10 submit sentencing information to the commission in accordance with rules of the commission.

11 (10) A judgment of conviction that includes a term of imprisonment for a felony committed on
 12 or after November 1, 1989, shall state the length of incarceration and the length of post-prison
 13 supervision. The judgment of conviction shall also provide that if the defendant violates the condi-
 14 tions of post-prison supervision, the defendant shall be subject to sanctions including the possibility
 15 of additional imprisonment in accordance with rules of the commission.

16 **SECTION 34.** ORS 137.128 is amended to read:

17 137.128. (1) A judge may sentence an offender to community service either as an alternative to
 18 incarceration or fine or probation, or as a condition of probation. Prior to such order of community
 19 service the offender must consent to donate labor for the welfare of the public. The court or its
 20 delegate may select community service tasks that are within the offender's capabilities and are to
 21 be performed within a reasonable length of time during hours the offender is not working or at-
 22 tending school.

23 (2) Failure to perform a community service sentence may be grounds for *[revocation of probation*
 24 *or]* **a finding that the offender has violated the conditions of probation or** contempt of court.

25 **SECTION 35.** ORS 137.525 is amended to read:

26 137.525. (1) If a person pleads guilty or no contest to, or is found guilty of, a crime described in
 27 ORS 163.305 to 163.467, and if the court contemplates sentencing the person to probation, the court,
 28 before entering judgment, may order that the person undergo an examination by a psychiatrist or
 29 other physician found qualified and appointed by the court to determine whether available medical
 30 treatment would be likely to reduce such biological, emotional or psychological impulses, including
 31 any paraphilia, which may be the cause of the criminal conduct and, if so, whether the person is a
 32 suitable candidate medically for such treatment. Such medical treatments may include the taking
 33 of prescribed medication.

34 (2) If the examining psychiatrist or other physician reports that available medical treatment
 35 would be likely to reduce the biological, emotional or psychological impulses that were a probable
 36 cause of the criminal conduct, and that the person is a suitable candidate medically for such treat-
 37 ment, the court may include as a condition of probation that the person participate in a prescribed
 38 program of medicine and accept medical treatment at the person's own expense under the care of
 39 the psychiatrist or other physician appointed by the court and that the person faithfully participate
 40 in the prescribed program of medical treatment during the course of the probation.

41 (3) A sentence of probation under this section shall not be imposed except upon the written
 42 consent of the convicted person. *[Probation under this section may be revoked]* **A person serving**
 43 **a sentence of probation under this section may be found in violation of the conditions of**
 44 **probation** upon any failure of the *[convicted]* person to cooperate in the treatment program, in-
 45 cluding, but not limited to, any failure to meet with the treating physician as directed by the phy-

1 sician or to take medication or otherwise to participate in the prescribed program of medical
2 treatment during the course of the probation.

3 **SECTION 36.** ORS 137.595 is amended to read:

4 137.595. (1) The Department of Corrections shall adopt rules to carry out the purposes of chap-
5 ter 680, Oregon Laws 1993, by establishing a system of structured, intermediate probation violation
6 sanctions that may be imposed by the Department of Corrections or a county community corrections
7 agency, taking into consideration the severity of the violation behavior, the prior violation history,
8 the severity of the underlying criminal conviction, the criminal history of the offender, protection
9 of the community, deterrence, the effective capacity of the state prisons and the availability of ap-
10 propriate local sanctions including, but not limited to, jail, community service work, house arrest,
11 electronic surveillance, restitution centers, work release centers, day reporting centers or other lo-
12 cal sanctions.

13 (2) Rules adopted by the Department of Corrections under this section shall establish:

14 (a) A system of structured, intermediate probation violation sanctions that may be imposed by
15 the Department of Corrections or a county community corrections agency on a probationer who
16 waives in writing a probation violation hearing, admits or affirmatively chooses not to contest the
17 violations alleged in a probation violation report and consents to the sanctions;

18 (b) Procedures to provide a probationer with written notice of the probationer's right to a
19 hearing before the court to determine whether the probationer violated the conditions of probation
20 alleged in a probation violation report, and if so, whether to continue the probationer on probation
21 subject to the same or modified conditions, or order sanctions for any violations and the right to
22 be represented by counsel at the hearing if the probationer is financially eligible;

23 (c) Procedures for a probationer to waive in writing a probation violation hearing, admit or not
24 contest the violations alleged in the probation violation report and consent to the imposition of
25 structured, intermediate sanctions by the Department of Corrections or a county community cor-
26 rections agency;

27 (d) The level and type of sanctions that may be imposed by parole and probation officers and
28 by supervisory personnel, **and a prohibition on the imposition of jail confinement as a sanction**
29 **when the probation violation is based solely on the probationer's use of a controlled sub-**
30 **stance;**

31 (e) [*The level and*] **That the** type of violation behavior warranting a recommendation to the
32 court that probation be revoked **may consist only of willfully absconding from probation or**
33 **committing a new felony or person Class A misdemeanor, as that term is defined in the rules**
34 **of the Oregon Criminal Justice Commission;**

35 (f) Procedures for notifying district attorneys and the courts of probation violations admitted
36 by probationers and the sanctions imposed by the Department of Corrections or county community
37 corrections agencies; and

38 (g) Such other policies or procedures as are necessary to carry out the purposes of chapter 680,
39 Oregon Laws 1993.

40 (3) Jail confinement imposed as a custodial sanction by the Department of Corrections or a
41 county community corrections agency pursuant to rules adopted under this section may not exceed
42 60 days per violation report. The total number of days of jail confinement for all violation reports
43 per conviction may not exceed the maximum number of available jail custody units under rules
44 adopted by the Oregon Criminal Justice Commission.

45 (4) Nonjail confinement imposed as a custodial sanction by the Department of Corrections or a

1 county community corrections agency pursuant to rules adopted under this section may not exceed
 2 the maximum number of available nonjail custody units under rules adopted by the Oregon Criminal
 3 Justice Commission.

4 **SECTION 37.** ORS 144.108 is amended to read:

5 144.108. (1) If the violation of post-prison supervision is new criminal activity or if the supervi-
 6 sory authority finds that the continuum of sanctions is insufficient punishment for a violation of the
 7 conditions of post-prison supervision, the supervisory authority may:

- 8 (a) Impose the most restrictive sanction available, including incarceration in jail;
- 9 (b) Request the State Board of Parole and Post-Prison Supervision to impose a sanction under
 10 subsection (2) of this section; or
- 11 (c) Request the board to impose a sanction under ORS 144.107.

12 (2) If so requested, the board or its designated representative shall hold a hearing to determine
 13 whether incarceration in a jail or state correctional facility is appropriate. Except as otherwise
 14 provided by rules of the board and the Department of Corrections concerning parole and post-prison
 15 supervision violators, the board may impose a sanction up to the maximum provided by rules of the
 16 Oregon Criminal Justice Commission. In conducting a hearing pursuant to this subsection, the board
 17 or its designated representative shall follow the procedures and the offender shall have all the rights
 18 described in ORS 144.343 and 144.347 relating to revocation of parole.

19 **(3) Notwithstanding subsections (1) and (2) of this section, the board or supervisory au-**
 20 **thority may not revoke post-prison supervision unless the person on supervision has willfully**
 21 **absconded or committed a new felony or person Class A misdemeanor, as that term is de-**
 22 **fin**ed in the rules

23 [(3)] (4) A person who is ordered to serve a term of incarceration in a jail or state correctional
 24 facility as a sanction for a post-prison supervision violation is not eligible for:

- 25 (a) Earned credit time as described in ORS 169.110 or 421.121;
- 26 (b) Transitional leave as defined in ORS 421.168; or
- 27 (c) Temporary leave as described in ORS 169.115 or 421.165 (1987 Replacement Part).

28 [(4)] (5) A person who is ordered to serve a term of incarceration in a state correctional facility
 29 as a sanction for a post-prison supervision violation shall receive credit for time served on the
 30 post-prison supervision violation prior to the board's imposition of the term of incarceration.

31
 32 **(Abolition of Supervision Fees and Conforming Amendments)**

33
 34 **SECTION 38.** ORS 423.570 is repealed.

35 **SECTION 39.** ORS 133.865 is amended to read:

36 133.865. (1) The Arrest and Return Account is established separate and distinct from the General
 37 Fund. The account consists of moneys deposited into the account under ORS [137.540,] 144.605 and
 38 161.665, moneys allocated to the account under ORS 137.300 and other moneys received by the
 39 Governor for the purpose of paying the costs of extraditing defendants.

40 (2) Except as provided in subsection (3) of this section, moneys in the account are continuously
 41 appropriated to the Governor for the purpose of paying costs incurred in carrying out the provisions
 42 of ORS 133.743 to 133.857.

43 (3) Moneys deposited in the Arrest and Return Account under ORS 144.605 are continuously
 44 appropriated to the Governor for the purpose of paying costs incurred in retaking offenders who
 45 have transferred supervision under the Interstate Compact for Adult Offender Supervision described

1 in ORS 144.600.

2 **SECTION 40.** ORS 137.630 is amended to read:

3 137.630. (1) The duties of parole and probation officers appointed pursuant to ORS 137.590 or
4 423.500 to 423.560 are:

5 (a) To make investigations and reports under ORS 137.530 as are required by the judge of any
6 court having jurisdiction within the county, city or judicial district for which the officer is appointed
7 to serve.

8 (b) To receive under supervision any person sentenced to probation by any court in the juris-
9 diction area for which the officers are appointed to serve.

10 (c) To provide release assistance, and supervise any person placed in a diversion, work release
11 or community services alternative program, by any court in the jurisdiction area for which the of-
12 ficers are appointed to serve.

13 (d) To give each person under their supervision a statement of the conditions of probation or
14 program participation and to instruct the person regarding the conditions.

15 (e) To keep informed concerning the conduct and condition of persons under their supervision
16 by visiting, requiring reports and otherwise.

17 (f) To use all suitable methods, not inconsistent with the condition of probation or program
18 participation, to aid and encourage persons under their supervision and to effect improvement in
19 their conduct and condition.

20 (g) To keep detailed records of the work done and to make reports to the courts and to the
21 Department of Corrections as the courts require.

22 (h) To perform other duties not inconsistent with the normal and customary functions of parole
23 and probation officers as may be required by any court in the jurisdiction area for which the officers
24 are appointed to serve.

25 (2) Parole and probation officers of the Department of Corrections have duties as specified by
26 rule adopted by the Director of the Department of Corrections.

27 (3) Notwithstanding subsection (2) of this section, parole and probation officers may not be re-
28 quired to collect from persons under their supervision any fees to offset the costs of supervising the
29 probation[, *including but not limited to those ordered pursuant to ORS 137.540 or 423.570*].

30 **SECTION 41.** ORS 144.089 is amended to read:

31 144.089. (1) As used in this section:

32 (a) "Community-based organization" means a not-for-profit organization or entity or a local or
33 county government.

34 (b) "Community service" has the meaning given that term under ORS 137.126.

35 (c) "Delinquent fees or debts" means:

36 (A) Unpaid costs for conviction;

37 (B) Attorney fees;

38 (C) Costs related to criminal conviction that a person accumulated while incarcerated; or

39 (D) Fees of any judgment that includes a monetary obligation that the court or judicial branch
40 is charged with collecting as described in ORS 1.202.

41 (d) "Person" means an individual who has served a sentence in the legal and physical custody
42 of the Department of Corrections and who is serving an active period of parole or post-prison
43 supervision.

44 (e) "Supervisory authority" has the meaning given that term under ORS 144.087.

45 (2)(a) The county governing body of each county shall establish a community service exchange

1 program for the county.

2 (b) The local supervisory authority may determine whether to participate in the community
3 service exchange program.

4 (c) The local supervisory authority may determine whether a community-based organization
5 qualifies for the community service exchange program.

6 (d) A person may not participate in the community service exchange program more than once.

7 (3) The community service exchange program may not result in a waiver of unpaid balances for:

8 (a) Restitution or compensatory fines imposed under ORS 137.101 to 137.109;

9 (b) Unpaid obligations imposed by a support order under ORS chapter 25;

10 (c) Fines for misdemeanors and felonies under ORS 137.286; or

11 (d) Fines for traffic offenses.

12 (4) In order to be eligible to participate in the community service exchange program, a person
13 must:

14 (a) Enter into a written agreement with a community-based organization to perform community
15 service in exchange for a waiver of delinquent fees or debts [*and supervision fees*]; and

16 (b) Obtain the approval of the terms of the written agreement of the local supervisory authority.

17 (5) A community-based organization shall supervise and record the community service that a
18 person performs to fulfill the requirements established by the written agreement described under
19 this section. The community-based organization shall notify the local supervisory authority as soon
20 as a person has entered into the community service exchange program and when the person has
21 successfully fulfilled or failed to meet the requirements of the program.

22 (6) Within 30 days of the local supervisory authority's receiving notification that a person is
23 participating in the community service exchange program[.],

24 [(a)] the local supervisory authority shall notify the court of the county in which the person was
25 convicted. Notwithstanding ORS 137.143, upon notification from the local supervisory authority, the
26 court shall suspend all collection activity of delinquent fees or debts.

27 [(b) *If a person is under the supervision of a community corrections agency, the local supervisory*
28 *authority shall notify the community corrections agency. The community corrections agency or the local*
29 *supervisory authority shall cause all collection of supervision fees, including but not limited to those*
30 *ordered pursuant to ORS 423.570, to be ceased.*]

31 [(c) *If the person is under the supervision of the local supervisory authority, the local supervisory*
32 *authority shall cause all collection of supervision fees, including but not limited to those ordered pur-*
33 *suant to ORS 423.570, to be ceased.*]

34 (7)(a) When a person has successfully fulfilled the requirements of the community service ex-
35 change program, the community-based organization shall notify the local supervisory authority and
36 the local supervisory authority shall send a notice of completion to the court of the county in which
37 the person was convicted.

38 [(b) *If the person is under the supervision of the local supervisory authority, upon notification of*
39 *completion from the community-based organization, the local supervisory authority shall waive the*
40 *supervision fees, including but not limited to those ordered pursuant to ORS 423.570.*]

41 [(c) *If the person is under the supervision of a community corrections agency or other local super-*
42 *visory authority, upon notification of completion from the community-based organization, the local su-*
43 *pervisory authority shall notify the community corrections agency and the community corrections*
44 *agency or local supervisory authority shall waive the supervision fees, including but not limited to those*
45 *ordered pursuant to ORS 423.570, and the local supervisory authority may waive all other fees to offset*

1 *the costs of supervision.]*

2 [(d)] (b) Upon notification of completion from the local supervisory authority, the court shall
 3 update the record of monetary obligations imposed for the convictions to reflect a waiver of delin-
 4 quent fees or debts.

5 (8) If a person fails to meet the requirements of the community service exchange program:

6 (a) The community-based organization shall notify the local supervisory authority and, if appli-
 7 cable, the local supervisory authority shall notify the community corrections agency or other local
 8 supervisory authority. *[Upon notification, the local supervisory authority or the community corrections*
 9 *agency shall resume collection of the supervision fees, including but not limited to those ordered pur-*
 10 *suant to ORS 423.570.]*

11 (b) Within 30 days of the local supervisory authority’s receiving notification from the
 12 community-based organization, the local supervisory authority shall notify the court of the county
 13 in which the person was convicted.

14 (c) Upon notification from the local supervisory authority, the court shall resume collection of
 15 delinquent fees or debts.

16 **SECTION 42.** ORS 144.103 is amended to read:

17 144.103. (1) Except as otherwise provided in ORS 137.765 and subsection (2) of this section, any
 18 person sentenced to a term of imprisonment for violating or attempting to violate ORS 163.365,
 19 163.375, 163.395, 163.405, 163.408, 163.411, 163.425 or 163.427 shall serve a term of active post-prison
 20 supervision that continues until the term of the post-prison supervision, when added to the term of
 21 imprisonment served, equals the maximum statutory indeterminate sentence for the violation.

22 (2)(a) A person sentenced to a term of imprisonment for violating one of the offenses listed in
 23 paragraph (b) of this subsection shall serve a term of post-prison supervision that continues for the
 24 rest of the person’s life if the person was at least 18 years of age at the time the person committed
 25 the crime.

26 (b) The offenses to which paragraph (a) of this subsection applies are:

27 (A) ORS 163.375 (1)(b);

28 (B) ORS 163.405 (1)(b);

29 (C) ORS 163.411 (1)(b); and

30 (D) ORS 163.235 when the offense is committed in furtherance of the commission or attempted
 31 commission of rape in the first degree, sodomy in the first degree or unlawful sexual penetration in
 32 the first degree if the victim is under 12 years of age.

33 (c) When a person is sentenced to a term of post-prison supervision described in paragraph (a)
 34 of this subsection, the person must be actively supervised for at least the first 10 years of the
 35 post-prison supervision and actively tracked for the remainder of the term. Active tracking may be
 36 done by means of an electronic device attached to the person.

37 (3) A person sentenced to a term of imprisonment for violating ORS 163.185 (1)(b) shall serve a
 38 term of post-prison supervision that continues until the term of the post-prison supervision, when
 39 added to the term of imprisonment served, equals the maximum statutory indeterminate sentence for
 40 the violation.

41 [(4) *Any costs incurred as a result of this section shall be paid by increased post-prison supervision*
 42 *fees under ORS 423.570.]*

44 **(Applicability)**

1 **paragraph may be used for costs associated with the fiscal agent selected under subsection**
2 **(5)(a) of this section.**

3 (2) The Justice Reinvestment Grant Review Committee is established, consisting of the following
4 members:

5 (a) The Governor shall appoint the following seven members:

6 (A) One member shall be a district attorney.

7 (B) One member shall be a county sheriff.

8 (C) One member shall be a chief of police.

9 (D) One member shall be a county commissioner.

10 (E) One member shall be a community corrections director who is not a sheriff.

11 (F) Two members shall be representatives of community-based organizations that provide ser-
12 vices for underserved racial, ethnic or minority communities.

13 (b) The Chief Justice of the Supreme Court shall appoint one nonvoting member who is a judge.

14 (c) The President of the Senate shall appoint two nonvoting members from among members of
15 the Senate.

16 (d) The Speaker of the House of Representatives shall appoint two nonvoting members from
17 among members of the House of Representatives.

18 (3)(a) A majority of the voting members of the committee constitutes a quorum for the trans-
19 action of business.

20 (b) The committee shall elect one of its members to serve as chairperson.

21 (c) If there is a vacancy for any cause, the appointing authority shall make an appointment to
22 become effective immediately.

23 (d) The committee shall meet at times and places specified by the call of the chairperson or a
24 majority of the voting members of the committee.

25 (e) Legislative members of the committee shall be entitled to payment of compensation and ex-
26 penses under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

27 (4)(a) An application for a grant described in this section must be submitted by a local public
28 safety coordinating council convened under ORS 423.560.

29 (b) The grant application must include a statement of commitment, from the relevant
30 stakeholders of the service or program for which the county is requesting funding and including the
31 district attorney, presiding judge and community corrections director, to reduce recidivism and de-
32 crease the county's utilization of imprisonment in Department of Corrections facilities while pro-
33 tecting public safety and holding offenders accountable.

34 (5)(a) *[During a grant application period established by the commission, the proportion of grant*
35 *funds available to each county shall be determined in accordance with the formula used to distribute*
36 *baseline funding under ORS 423.483.]* **The commission shall convene the advisory committee**
37 **described in ORS 137.658 (3) to issue a request for proposals for a fiscal agent to distribute**
38 **Justice Reinvestment Program funds to community-based organizations and to provide**
39 **technical assistance and operational support to the organizations. No later than December**
40 **31, 2021, the advisory committee shall select, and the commission shall enter into a contract**
41 **with, a fiscal agent.**

42 (b) At the conclusion of the grant application period, the commission shall award grants to
43 counties **and to the fiscal agent described in paragraph (a) of this subsection** in accordance
44 with rules adopted by the commission.

45 (c) If unallocated funds remain at the conclusion of the grant acceptance period, the commission

1 may establish a supplemental grant period and distribute the unallocated funds.

2 (6)(a) The commission shall regularly evaluate the community-based sanctions, services and
 3 programs funded under this section. The commission shall specifically assess the extent to which
 4 each county is reducing utilization of imprisonment in Department of Corrections facilities by
 5 offenders convicted of felonies under ORS 137.717, 475.752 to 475.980, 811.182, 813.010 or 813.011.

6 (b) The commission shall report the results of an evaluation conducted under this section to a
 7 committee of the Legislative Assembly related to the judiciary.

8 (7)(a) Before applying for grant funds to administer a community-based program described in
 9 subsection (10)(a)(D) of this section, the county must obtain the consent of the presiding judge of the
 10 judicial district in which the county is located.

11 (b) A grant application to administer a community-based program described in subsection
 12 (10)(a)(D) of this section must include the costs of appointed counsel.

13 (8) After consulting with the Justice Reinvestment Grant Review Committee, the commission
 14 shall adopt rules to administer the Justice Reinvestment Program. The rules must include:

15 (a) A methodology for reviewing and approving grant applications and distributing grant funds.
 16 Rules described in this paragraph must provide the Justice Reinvestment Grant Review Committee
 17 with the ability to approve grant applications for submission for final approval by the commission.
 18 The commission may either approve the grant application or return the application for reconsideration
 19 by the committee.

20 (b) A process for evaluating the efficacy of community-based sanctions, services and programs
 21 funded under this section.

22 (c) A requirement that the grant review committee consider, when approving grant applications,
 23 each county's historical reduction of utilization of imprisonment in Department of Corrections facilities
 24 by offenders convicted of felonies under ORS 137.717, 475.752 to 475.980, 811.182, 813.010 or
 25 813.011.

26 (d) Provisions allowing the grant review committee to submit to the commission, and the commission
 27 to approve, provisional funding plans for counties applying for grants under this section.

28 (9)(a) If a county does not reduce utilization of imprisonment in Department of Corrections facilities
 29 by offenders convicted of felonies under ORS 137.717, 475.752 to 475.980, 811.182, 813.010 or
 30 813.011, upon request of the grant review committee, the commission shall decline to grant the full
 31 grant amount requested by a county, provide technical assistance, withhold approved grant funds
 32 or terminate further distribution of the grant award.

33 (b) If the commission takes an action described in paragraph (a) of this subsection, any remaining
 34 moneys may be redistributed by the commission through a supplemental grant program. Priority
 35 shall be given to counties funding programs for historically underserved communities including rural
 36 communities, racial, ethnic and minority communities and tribal communities. Rural counties may
 37 apply for supplemental grants in cooperation with other rural counties.

38 (10) As used in this section:

39 (a) "Community-based programs" includes:

40 (A) Work release programs;

41 (B) Structured, transitional leave programs;

42 (C) Evidence-based programs designed to reduce recidivism that include the balanced administration
 43 of sanctions, supervision and treatment;

44 (D) Administering a reentry court under section 29 [of this 2013 Act], **chapter 649, Oregon**
 45 **Laws 2013**; and

1 (E) Specialty courts aimed at medium-risk and high-risk offenders.

2 (b) **“Culturally responsive service” means a service that is respectful of, and relevant to,**
3 **the beliefs, practices, cultures and linguistic needs of diverse consumer or client populations**
4 **and communities whose members identify as having particular cultural or linguistic affil-**
5 **iations by virtue of their place of birth, ancestry or ethnic origin, religion, preferred lan-**
6 **guage or language spoken at home. A culturally responsive service has the capacity to**
7 **respond to the issues of diverse communities and require knowledge and capacity at**
8 **systemic, organizational, professional and individual levels of intervention.**

9 (c) **“Culturally specific organization” means an organization that serves a particular**
10 **cultural community, that is primarily staffed and led by members of that community, and**
11 **that demonstrates intimate knowledge of the lived experience of the community, including**
12 **but not limited to:**

13 (A) **The impact of structural and individual racism or discrimination directed against the**
14 **community;**

15 (B) **Specific disparities, barriers or challenges documented in the community and how**
16 **those disparities, barriers or challenges influence the structure of the organization;**

17 (C) **Commitment to the community’s strength-based and self-driven thriving and**
18 **resilience; and**

19 (D) **The ability to describe and adapt the organization’s services to the community’s**
20 **cultural practices, health and safety beliefs and practices, positive cultural identity and pride**
21 **or religious beliefs.**

22 [(b)] (d) **“County” includes a regional collection of counties.**

23
24 **CRIMINAL JUSTICE DATA REPORTING**

25
26 **SECTION 45. (1)(a) The Oregon Criminal Justice Commission shall collect data concern-**
27 **ing the disparate imposition of supervision conditions.**

28 (b) **The commission shall review the data described in paragraph (a) of this subsection**
29 **and make the data, disaggregated by race, gender identity, sexual orientation and county,**
30 **available to the public in a clear and accessible format, either in a report or on the website**
31 **of the commission,**

32 (2)(a) **The Oregon Criminal Justice Commission, in coordination with the Department of**
33 **Corrections, shall collect data concerning the number of persons on supervision, persons**
34 **revoked from supervision and sentenced to incarceration, and persons sanctioned for violat-**
35 **ing conditions of supervision and serving a sanction in a local correctional facility.**

36 (b) **The commission shall review the data described in paragraph (a) of this subsection**
37 **and make the data, disaggregated by race, gender identity, sexual orientation and county,**
38 **available to the public in a clear and accessible format, either in a report or on the website**
39 **of the commission.**

40 **SECTION 46. Section 45 of this 2021 Act is repealed on January 1, 2032.**

41 **SECTION 47. (1) No later than January 1, 2022, the Oregon Criminal Justice Commission**
42 **shall report to committees of the Legislative Assembly related to the judiciary, in the man-**
43 **ner provided under ORS 192.245, the following information:**

44 (a)(A) **The amount and percent of Justice Reinvestment Program funds provided to cul-**
45 **turally specific organizations and culturally responsive service providers;**

1 (B) The specific culturally specific organizations and culturally responsive service pro-
2 viders that received program funds; and

3 (C) The populations served by the culturally specific organizations and culturally re-
4 sponsive service providers that received program funds, disaggregated by race, gender iden-
5 tity, sexual orientation and county;

6 (b)(A) The amount and percentage of Justice Reinvestment Program funds provided to
7 counties for community-based sanctions, services and programs;

8 (B) The specific sanctions, services and programs that received program funds; and

9 (C) The populations served by the sanctions, services and programs that received pro-
10 gram funds, disaggregated by race, gender identity, sexual orientation and county; and

11 (c)(A) The amount and percentage of Justice Reinvestment Program funds provided to
12 community-based organizations that provide services to victims of crime; and

13 (B) The specific organizations that received program funds.

14 (2) No later than September 15, 2022, the commission shall provide a supplementary re-
15 port to committees of the Legislative Assembly related to the judiciary, in the manner pro-
16 vided under ORS 192.245, with updated information described in subsection (1) of this section.

17 (3) As used in this section:

18 (a) “Culturally responsive service” means a service that is respectful of, and relevant to,
19 the beliefs, practices, cultures and linguistic needs of diverse consumer or client populations
20 and communities whose members identify as having particular cultural or linguistic affil-
21 iations by virtue of their place of birth, ancestry or ethnic origin, religion, preferred lan-
22 guage or language spoken at home. A culturally responsive service has the capacity to
23 respond to the issues of diverse communities and require knowledge and capacity at
24 systemic, organizational, professional and individual levels of intervention.

25 (b) “Culturally specific organization” means an organization that serves a particular
26 cultural community, that is primarily staffed and led by members of that community, and
27 that demonstrates intimate knowledge of the lived experience of the community, including
28 but not limited to:

29 (A) The impact of structural and individual racism or discrimination directed against the
30 community;

31 (B) Specific disparities, barriers or challenges documented in the community and how
32 those disparities, barriers or challenges influence the structure of the organization;

33 (C) Commitment to the community’s strength-based and self-driven thriving and
34 resilience; and

35 (D) The ability to describe and adapt the organization’s services to the community’s
36 cultural practices, health and safety beliefs and practices, positive cultural identity and pride
37 or religious beliefs.

38 SECTION 48. Section 47 of this 2021 Act is repealed on July 1, 2023.

39
40 **CAPTIONS**

41
42 SECTION 49. The unit captions used in this 2021 Act are provided only for the conven-
43 ience of the reader and do not become part of the statutory law of this state or express any
44 legislative intent in the enactment of this 2021 Act.

EMERGENCY CLAUSE

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SECTION 50. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.
