

House Bill 3135

Sponsored by Representative NOBLE (at the request of Governor's Advisory Committee on DUII)

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**.

Creates 24/7 sobriety program. Authorizes court, State Board of Parole and Post-Prison Supervision and local supervisory authorities to require person convicted of driving while under influence of intoxicants four times or more to participate in program as condition of probation, post-prison supervision or parole.

Establishes 24/7 Sobriety Program Fund.

A BILL FOR AN ACT

1
2 Relating to driving while under the influence of intoxicants; creating new provisions; and amending
3 ORS 137.540, 144.102, 144.270 and 809.235.

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

5 **SECTION 1. 24/7 sobriety program.** (1) As used in this section, “remote electronic alcohol
6 monitoring” means continuous alcohol monitoring through the use of an installed electronic
7 bracelet capable of taking alcohol readings from a person’s skin to determine alcohol con-
8 sumption 24 hours per day that may be monitored at another location by way of an analog
9 telephone line, electronic digital transmission or computer download.

10 (2) The Department of Transportation shall establish a 24/7 sobriety program to encour-
11 age abstinence from alcohol and drug use.

12 (3) The department shall adopt rules that specify requirements for participation in the
13 program and establish user fees. The rules may require a person participating in the pro-
14 gram to submit to any of the following:

15 (a) Remote electronic alcohol monitoring.

16 (b) Twice-per-day chemical testing of the person’s breath, at least 12 hours apart.

17 (c) Urine analysis.

18 (d) Use of transdermal drug patches.

19 (4) A person sentenced to probation, parole or post-prison supervision, and required un-
20 der ORS 137.540, 144.102 or 144.270 to participate in the program, shall be required to pay
21 user fees to offset costs of participating in the program.

22 (5) All user fees collected from participants in the program shall be distributed as fol-
23 lows:

24 (a) Fees collected by the department shall be deposited by the department in the 24/7
25 Sobriety Program Fund established under section 2 of this 2021 Act.

26 (b) Fees collected by the State Board of Parole and Post-Prison Supervision shall be de-
27 posited by the board in the State Board of Parole and Post-Prison Supervision Account es-
28 tablished under ORS 144.059.

29 (c) Fees collected by a local supervisory authority shall be paid to the county treasurer.

30 (6) In cases of financial hardship or when otherwise advisable in the interest of the re-

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 **leased person's rehabilitation:**

2 (a) **The State Board of Parole and Post-Prison Supervision or local supervisory authority**
 3 **may waive or reduce the amount of the user fees.**

4 (b) **The sentencing court may waive or reduce the amount of the user fees for any person**
 5 **whom the court has sentenced to probation. If any of the fee requirement is reduced by the**
 6 **court, only the court may restore the requirement.**

7 **SECTION 2. 24/7 Sobriety Program Fund. (1) The 24/7 Sobriety Program Fund is estab-**
 8 **lished in the State Treasury, separate and distinct from the General Fund. The 24/7 Sobriety**
 9 **Program Fund consists of moneys the Department of Transportation collects or receives for**
 10 **the purpose of paying the expenses of coordinating the 24/7 sobriety program established**
 11 **under section 1 of this 2021 Act. Moneys in the fund are continuously appropriated to the**
 12 **department for the purposes of carrying out the provisions of section 1 of this 2021 Act.**

13 **(2) The department may receive moneys for the purposes set forth in subsection (1) of**
 14 **this section from any public or private source.**

15 **SECTION 3. ORS 137.540 is amended to read:**

16 137.540. (1) The court may sentence the defendant to probation subject to the following general
 17 conditions unless specifically deleted by the court. The probationer shall:

18 (a) Pay supervision fees, **user fees**, fines, restitution or other fees ordered by the court.

19 (b) Not use or possess controlled substances except pursuant to a medical prescription.

20 (c) Submit to testing for controlled substance, cannabis or alcohol use if the probationer has a
 21 history of substance abuse or if there is a reasonable suspicion that the probationer has illegally
 22 used controlled substances.

23 (d) Participate in a substance abuse evaluation as directed by the supervising officer and follow
 24 the recommendations of the evaluator if there are reasonable grounds to believe there is a history
 25 of substance abuse.

26 (e) Remain in the State of Oregon until written permission to leave is granted by the Depart-
 27 ment of Corrections or a county community corrections agency.

28 (f) If physically able, find and maintain gainful full-time employment, approved schooling, or a
 29 full-time combination of both. Any waiver of this requirement must be based on a finding by the
 30 court stating the reasons for the waiver.

31 (g) Change neither employment nor residence without prior permission from the Department of
 32 Corrections or a county community corrections agency.

33 (h) Permit the parole and probation officer to visit the probationer or the probationer's work
 34 site or residence and to conduct a walk-through of the common areas and of the rooms in the resi-
 35 dence occupied by or under the control of the probationer.

36 (i) Consent to the search of person, vehicle or premises upon the request of a representative of
 37 the supervising officer if the supervising officer has reasonable grounds to believe that evidence of
 38 a violation will be found, and submit to fingerprinting or photographing, or both, when requested
 39 by the Department of Corrections or a county community corrections agency for supervision pur-
 40 poses.

41 (j) Obey all laws, municipal, county, state and federal.

42 (k) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections
 43 or a county community corrections agency.

44 (L) Not possess weapons, firearms or dangerous animals.

45 (m) Report as required and abide by the direction of the supervising officer.

1 (n) If recommended by the supervising officer, successfully complete a sex offender treatment
 2 program approved by the supervising officer and submit to polygraph examinations at the direction
 3 of the supervising officer if the probationer:

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

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

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

8 (o) Participate in a mental health evaluation as directed by the supervising officer and follow
 9 the recommendation of the evaluator.

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

12 (A) When supervision begins;

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

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

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

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

19 (q) Submit to a risk and needs assessment as directed by the supervising officer and follow
 20 reasonable recommendations resulting from the assessment.

21 **(r) If the probationer is convicted for a fourth or subsequent time of driving while under**
 22 **the influence of intoxicants in violation of ORS 813.010 or its statutory counterpart in an-**
 23 **other jurisdiction, participate in the 24/7 sobriety program established under section 1 of this**
 24 **2021 Act.**

25 (2) In addition to the general conditions, the court may impose any special conditions of pro-
 26 bation that are reasonably related to the crime of conviction or the needs of the probationer for the
 27 protection of the public or reformation of the probationer, or both, including, but not limited to, that
 28 the probationer shall:

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

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

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

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

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

42 (d) For crimes constituting delivery of a controlled substance, as those terms are defined in ORS
 43 475.005, or for telephonic harassment under ORS 166.090, or for crimes involving domestic violence,
 44 as defined in ORS 135.230, be prohibited from using Internet websites that provide anonymous text
 45 message services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (6) When a person who is a sex offender, as defined in ORS 163A.005, is released on probation,
 45 the Department of Corrections or the county community corrections agency, whichever is appropri-

1 ate, shall notify the city police department, if the person is going to reside within a city, and the
 2 county sheriff's office of the county in which the person is going to reside of the person's release
 3 and the conditions of the person's release.

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

7 (8) The court may order that probation be supervised by the court. If the court orders that
 8 probation be supervised by the court, the defendant shall pay a fee of \$100 to the court. Fees im-
 9 posed under this subsection in the circuit court shall be deposited by the clerk of the court in the
 10 General Fund. Fees imposed in a justice court under this subsection shall be paid to the county
 11 treasurer. Fees imposed in a municipal court under this subsection shall be paid to the city treas-
 12 urer.

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

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

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

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

26 (10) A court may not order revocation of probation as a result of the probationer's failure to
 27 pay restitution unless the court determines from the totality of the circumstances that the purposes
 28 of the probation are not being served.

29 (11) It is not a cause for revocation of probation that the probationer failed to apply for or ac-
 30 cept employment at any workplace where there is a labor dispute in progress. As used in this sub-
 31 section, "labor dispute" has the meaning for that term provided in ORS 662.010.

32 (12)(a) If the court determines that a defendant has violated the terms of probation, the court
 33 shall collect a \$25 fee from the defendant and may impose a fee for the costs of extraditing the de-
 34 fendant to this state for the probation violation proceeding if the defendant left the state in violation
 35 of the conditions of the defendant's probation. The fees imposed under this subsection become part
 36 of the judgment and may be collected in the same manner as a fine.

37 (b) Probation violation fees collected under this subsection in the circuit court shall be depos-
 38 ited by the clerk of the court in the General Fund. Extradition cost fees collected in the circuit
 39 court under this subsection shall be deposited by the clerk of the court in the Arrest and Return
 40 Account established by ORS 133.865. Fees collected in a justice court under this subsection shall
 41 be paid to the county treasurer. Fees collected in a municipal court under this subsection shall be
 42 paid to the city treasurer.

43 (13) As used in this section, "attends," "institution of higher education," "works" and "carries
 44 on a vocation" have the meanings given those terms in ORS 163A.005.

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

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

5 (2) The board or the supervisory authority shall determine, and may at any time modify, the
 6 conditions of post-prison supervision, which may include, among other conditions, that the person
 7 shall:

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

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

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

13 (d) Report to the parole officer as directed by the board, the department or the supervisory au-
 14 thority.

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

16 (f) Respect and obey all municipal, county, state and federal laws.

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

19 (h) Attend a victim impact treatment session in a county that has a victim impact program. If
 20 the board or supervisory authority requires attendance under this paragraph, the board or supervi-
 21 sory authority may require the person, as an additional condition of post-prison supervision, to pay
 22 a reasonable fee to the victim impact program to offset the cost of the person's participation. The
 23 board or supervisory authority may not order a person to pay a fee in excess of \$5 under this par-
 24 agraph.

25 (i) For crimes constituting delivery of a controlled substance, as those terms are defined in ORS
 26 475.005, or for telephonic harassment under ORS 166.090, or for crimes involving domestic violence,
 27 as defined in ORS 135.230, be prohibited from using Internet websites that provide anonymous text
 28 message services.

29 **(j) If the person is convicted for a fourth or subsequent time of driving while under the**
 30 **influence of intoxicants in violation of ORS 813.010 or its statutory counterpart in another**
 31 **jurisdiction, participate in the 24/7 sobriety program established under section 1 of this 2021**
 32 **Act. If the board or supervisory authority requires participation under this paragraph, the**
 33 **board or supervisory authority may require the person, as an additional condition of post-**
 34 **prison supervision, to pay user fees to offset the cost of the person's participation.**

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

39 (a) When supervision begins;

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

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

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

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

1 (4)(a) The board or supervisory authority may establish special conditions that the board or su-
 2 pervisory authority considers necessary because of the individual circumstances of the person on
 3 post-prison supervision.

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (M) A prohibition against residing in a dwelling in which another sex offender who is on pro-
 42 bation, parole or post-prison supervision resides unless approved by the board, supervisory authority
 43 or supervising officer, or in which more than one other sex offender who is on probation, parole or
 44 post-prison supervision resides unless approved by the board or the director of the supervisory au-
 45 thority, or a designee of the board or director. As soon as practicable, the supervising officer of a

1 person subject to the requirements of this subparagraph shall review the person's living arrange-
 2 ment with the person's sex offender treatment provider to ensure that the arrangement supports the
 3 goals of offender rehabilitation and community safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (6) A person's failure to apply for or accept employment at a workplace where there is a labor

1 dispute in progress does not constitute a violation of the conditions of post-prison supervision.

2 (7)(a) When a person is released from imprisonment on post-prison supervision, the board shall
 3 order as a condition of post-prison supervision that the person reside for the first six months after
 4 release in the county that last supervised the person, if the person was on active supervision as an
 5 adult for a felony at the time of the offense that resulted in the imprisonment.

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

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

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

- 13 (i) An Oregon driver license, regardless of its validity;
- 14 (ii) Records maintained by the Department of Revenue;
- 15 (iii) Records maintained by the Department of State Police;
- 16 (iv) Records maintained by the Department of Human Services;
- 17 (v) Records maintained by the Department of Corrections; and
- 18 (vi) Records maintained by the Oregon Health Authority.

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

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

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

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

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

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

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

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

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

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

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

45 (8) As used in this section:

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

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

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

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

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

8 **SECTION 5.** ORS 144.270 is amended to read:

9 144.270. (1) The State Board of Parole and Post-Prison Supervision, in releasing a person on
10 parole, shall specify in writing the conditions of the parole. A copy of the conditions must be given
11 to the person paroled.

12 (2) The board shall determine, and may at any time modify, the conditions of parole, which may
13 include, among other conditions, that the person paroled must:

14 (a) Accept the parole granted subject to all terms and conditions specified by the board.

15 (b) Be under the supervision of the Department of Corrections and its representatives and abide
16 by their direction and counsel.

17 (c) Answer all reasonable inquiries of the board or the parole officer.

18 (d) Report to the parole officer as directed by the board or parole officer.

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

20 (f) Respect and obey all municipal, county, state and federal laws.

21 (g) Understand that the board may, in its discretion, suspend or revoke parole if it determines
22 that the parole is not in the best interest of the person paroled or of society.

23 **(h) If the person paroled is convicted for a fourth or subsequent time of driving while**
24 **under the influence of intoxicants in violation of ORS 813.010 or its statutory counterpart in**
25 **another jurisdiction, participate in the 24/7 sobriety program established under section 1 of**
26 **this 2021 Act. If the board requires participation under this paragraph, the board may require**
27 **the person paroled, as an additional condition of parole, to pay user fees to offset the cost**
28 **of the person's participation.**

29 (3) If the person paroled is required to report as a sex offender under ORS 163A.010, the board
30 shall include as a condition of parole that the person report with the Department of State Police,
31 a city police department, a county sheriff's office or the supervising agency:

32 (a) When supervision begins;

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

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

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

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

39 (4)(a) The board may establish special conditions that it considers necessary because of the in-
40 dividual circumstances of the person paroled.

41 (b) If the person is on parole following conviction of a sex crime, as defined in ORS 163A.005,
42 the board shall include all of the following as special conditions of the person's parole:

43 (A) Agreement to comply with a curfew set by the board or the supervising officer.

44 (B) A prohibition against contacting a person under 18 years of age without the prior written
45 approval of the board or supervising officer.

1 (C) A prohibition against being present more than one time, without the prior written approval
 2 of the board or supervising officer, at a place where persons under 18 years of age regularly con-
 3 gregate.

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

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

10 (F) Entry into and completion of or successful discharge from a sex offender treatment program
 11 approved by the board or supervising officer. The program may include polygraph and
 12 plethysmograph testing. The person is responsible for paying for the treatment program.

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

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

18 (I) Agreement to consent to a search of the person or the vehicle or residence of the person
 19 upon the request of a representative of the board if the representative has reasonable grounds to
 20 believe that evidence of a violation of a condition of parole will be found.

21 (J) Participation in random polygraph examinations to obtain information for risk management
 22 and treatment. The person is responsible for paying the expenses of the examinations. The results
 23 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to
 24 prove a violation of parole.

25 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless
 26 approved by the board or supervising officer.

27 (L) A prohibition against using a post-office box unless approved by the board or supervising
 28 officer.

29 (M) A prohibition against residing in a dwelling in which another sex offender who is on pro-
 30 bation, parole or post-prison supervision resides unless approved by the board or supervising officer,
 31 or in which more than one other sex offender who is on probation, parole or post-prison supervision
 32 resides unless approved by the board or a designee of the board. As soon as practicable, the super-
 33 vising officer of a person subject to the requirements of this subparagraph shall review the person's
 34 living arrangement with the person's sex offender treatment provider to ensure that the arrangement
 35 supports the goals of offender rehabilitation and community safety.

36 (c)(A) If the person is on parole following conviction of a sex crime, as defined in ORS 163A.005,
 37 or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the
 38 board, if requested by the victim, shall include as a special condition of the person's parole that the
 39 person not reside within three miles of the victim unless:

40 (i) The victim resides in a county having a population of less than 130,000 and the person is
 41 required to reside in that county under subsection (6) of this section;

42 (ii) The person demonstrates to the board by a preponderance of the evidence that no mental
 43 intimidation or pressure was brought to bear during the commission of the crime;

44 (iii) The person demonstrates to the board by a preponderance of the evidence that imposition
 45 of the condition will deprive the person of a residence that would be materially significant in aiding

1 in the rehabilitation of the person or in the success of the parole; or

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

3 (B) A victim may request imposition of the special condition of parole described in this para-
 4 graph at the time of sentencing in person or through the prosecuting attorney. A victim's request
 5 may be included in the judgment document.

6 (C) If the board imposes the special condition of parole described in this paragraph and if at any
 7 time during the period of parole the victim moves to within three miles of the parolee's residence,
 8 the board may not require the parolee to change the parolee's residence in order to comply with the
 9 special condition of parole.

10 (5) It is not a cause for revocation of parole that the person paroled failed to apply for or accept
 11 employment at a workplace where there is a labor dispute in progress.

12 (6)(a) When the board grants a person parole from the custody of the Department of Corrections,
 13 the board shall order, as a condition of parole, that the person reside for the first six months in the
 14 county that last supervised the person, if the person was on active supervision as an adult for a
 15 felony at the time of the offense that resulted in the imprisonment.

16 (b) If the person paroled was not on active supervision as an adult for a felony at the time of
 17 the offense that resulted in the imprisonment, the board shall order as a condition of parole that the
 18 person reside for the first six months in the county where the person resided at the time of the of-
 19 fense that resulted in the imprisonment.

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

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

- 23 (i) An Oregon driver license, regardless of its validity;
- 24 (ii) Records maintained by the Department of Revenue;
- 25 (iii) Records maintained by the Department of State Police;
- 26 (iv) Records maintained by the Department of Human Services;
- 27 (v) Records maintained by the Department of Corrections; and
- 28 (vi) Records maintained by the Oregon Health Authority.

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

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

34 (D) If the person is being rereleased after revocation of parole, the county of residence shall be
 35 determined according to the date of the arrest resulting in a conviction of the underlying offense.

36 (E) In determining the person's county of residence, a conviction for an offense that the adult
 37 in custody committed while incarcerated in a state correctional institution may not be considered.

38 (d) Upon motion of the board, the supervisory authority, the person paroled, a victim or a dis-
 39 trict attorney, the board may waive the residency condition under paragraph (b) of this subsection
 40 only after making a finding that one of the following conditions has been met:

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

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

1 (C) The person has a spouse or biological or adoptive family residing in a county other than the
 2 county of residence who will be materially significant in aiding in the rehabilitation of the person
 3 and in the success of the parole;

4 (D) As another condition of parole, the person is required to participate in a treatment program
 5 that is not available or located in the county of residence;

6 (E) The person requests to be paroled to another state; or

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

8 (7) As used in this section:

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

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

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

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

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

16 **SECTION 6.** ORS 809.235 is amended to read:

17 809.235. (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving
 18 privileges be permanently revoked if the person is convicted of any degree of murder and the court
 19 finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the
 20 death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in
 21 the first or second degree resulting from the operation of a motor vehicle, criminally negligent
 22 homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from
 23 the operation of a motor vehicle.

24 (b) The court shall order that a person's driving privileges be permanently revoked if the person
 25 is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010
 26 or if the person is convicted for a third or subsequent time of any of the following offenses in any
 27 combination:

28 (A) Driving while under the influence of intoxicants in violation of:

29 (i) ORS 813.010; or

30 (ii) The statutory counterpart to ORS 813.010 in another jurisdiction.

31 (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the
 32 impaired driving of a vehicle due to the use of intoxicating liquor, cannabis, a controlled substance,
 33 an inhalant or any combination thereof.

34 (C) A driving offense in another jurisdiction that involved operating a vehicle while having a
 35 blood alcohol content above that jurisdiction's permissible blood alcohol content.

36 (c) For the purposes of paragraph (b) of this subsection, a conviction for a driving offense in
 37 another jurisdiction based solely on a person under 21 years of age having a blood alcohol content
 38 that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years
 39 of age or older does not constitute a prior conviction.

40 (2)(a) A person whose driving privileges are revoked as described in subsection (1) of this sec-
 41 tion may file a petition in the circuit court of the county in which the person's driving privileges
 42 were revoked for an order restoring the person's driving privileges. A petition may be filed under
 43 this subsection no sooner than 10 years after the person is:

44 (A) Released on parole or post-prison supervision for the crime for which the person's driving
 45 privileges were revoked and any other crimes arising out of the same criminal episode;

1 (B) Sentenced to probation for the crime for which the person's driving privileges were revoked,
2 unless the probation is revoked, in which case the petition may be filed no sooner than 10 years
3 after the date probation is revoked; or

4 (C) Sentenced for the crime for which the person's driving privileges were revoked, if no other
5 provision of this paragraph applies.

6 (b) Notwithstanding paragraph (a) of this subsection, if during the revocation period for the
7 crime for which the person was convicted the person is convicted of a criminal offense involving a
8 motor vehicle, the person may file a petition to restore driving privileges as described in paragraph
9 (a) of this subsection no sooner than 10 years from the date of the most recent conviction involving
10 a motor vehicle.

11 (c) The district attorney of the county in which the person's driving privileges were revoked
12 shall be named and served as the respondent in the petition.

13 (3) The court shall hold a hearing on a petition filed in accordance with subsection (2) of this
14 section. In determining whether to grant the petition, the court shall consider:

15 (a) The nature of the offense for which driving privileges were revoked.

16 (b) The degree of violence involved in the offense.

17 (c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the
18 conviction that resulted in the revocation.

19 (d) The recommendation of the person's parole officer, which shall be based in part on a psy-
20 chological evaluation ordered by the court to determine whether the person is presently a threat to
21 the safety of the public.

22 (e) **Whether the person has participated in and satisfactorily completed the 24/7 sobriety**
23 **program established under section 1 of this 2021 Act, if required to participate as a condition**
24 **of probation, parole or post-prison supervision under ORS 137.540, 144.102 or 144.270.**

25 [(e)] (f) Any other relevant factors.

26 (4) The court shall order a petitioner's driving privileges restored if, after a hearing described
27 in subsection (3) of this section, the court finds by clear and convincing evidence that the petitioner:

28 (a) Is rehabilitated;

29 (b) Does not pose a threat to the safety of the public; and

30 (c) If the sentence for the crime for which the petitioner's driving privileges were revoked re-
31 quired the petitioner to complete an alcohol or drug treatment program, has completed an alcohol
32 or drug treatment program in a facility approved by the Director of the Oregon Health Authority
33 or a similar program in another jurisdiction.

34 (5) Upon receiving a court order to restore a person's driving privileges, the department may
35 reinstate driving privileges in accordance with ORS 809.390, except that the department may not
36 reinstate driving privileges of any person whose privileges are revoked under this section until the
37 person complies with future responsibility filings.

38 **SECTION 7. Sections 1 and 2 of this 2021 Act and the amendments to ORS 137.540,**
39 **144.102, 144.270 and 809.235 by sections 3 to 6 of this 2021 Act apply to conduct occurring on**
40 **or after the effective date of this 2021 Act.**

41 **SECTION 8. The section captions used in this 2021 Act are provided only for the con-**
42 **venience of the reader and do not become part of the statutory law of this state or express**
43 **any legislative intent in the enactment of this 2021 Act.**