

# House Bill 3274

Sponsored by Representative NOBLE (at the request of Remnant Initiatives)

## 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**.

Directs Department of Corrections to develop strengths-based release planning assessment. Requires department to assess adult in custody at least 270 days prior to release. Requires assessment report to contain recommendation of county of initial residence after release.

## A BILL FOR AN ACT

1  
2 Relating to the release of adults in custody; creating new provisions; and amending ORS 144.096 and  
3 144.102.

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

5 **SECTION 1. (1) The Department of Corrections shall develop a strengths-based release**  
6 **planning assessment. The assessment must be based on and assess factors that research has**  
7 **shown to be determinative in helping adults in custody to become productive, law-abiding**  
8 **citizens after release.**

9 **(2)(a) At least 270 days prior the release of an adult in custody, the department shall**  
10 **perform, and prepare a report on, the assessment described in subsection (1) of this section.**  
11 **The assessment report must contain a recommendation, based on the results of the assess-**  
12 **ment, of the county in which the adult in custody shall reside for the first six months after**  
13 **release.**

14 **(b) If the department is unable to perform the assessment within the period of time re-**  
15 **quired by paragraph (a) of this subsection due to the release date of the adult in custody, the**  
16 **department shall perform the assessment and prepare the report as soon as practicable be-**  
17 **fore the release date.**

18 **(3) The department may adopt rules to carry out the provisions of this section.**

19 **SECTION 2. ORS 144.096 is amended to read:**

20 144.096. (1)(a) The Department of Corrections shall prepare a proposed release plan for an adult  
21 in custody and submit the proposed release plan to the State Board of Parole and Post-Prison  
22 Supervision prior to the release.

23 (b) If the proposed release plan is not approved by the board, the board shall return the plan  
24 to the department with its recommended modifications. The department shall submit a revised plan  
25 to the board prior to the release.

26 (c) If the revised plan is not acceptable to the board, the board shall determine the provisions  
27 of the final plan prior to the release.

28 (d) The department, in consultation with the board, shall by rule establish deadlines by which  
29 a proposed release plan described in paragraph (a) of this subsection and a revised plan described  
30 in paragraph (b) of this subsection must be submitted to the board prior to release.

31 (e) If an adult in custody was sentenced under section 29, chapter 649, Oregon Laws 2013, and

**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 the release plan recommends that the adult in custody participate in a reentry court, the board shall  
 2 provide a copy of the release plan to the reentry court.

3 (2) The local supervisory authority that is responsible for correctional services for an adult in  
 4 custody shall prepare a proposed release plan for the adult in custody prior to the release from jail.  
 5 The local supervisory authority shall approve the release plan under its rules. If the adult in custody  
 6 was sentenced under section 29, chapter 649, Oregon Laws 2013, and the supervisory authority re-  
 7 commends that the adult in custody participate in a reentry court, the supervisory authority shall  
 8 provide a copy of the release plan to the reentry court.

9 (3) A release plan prepared under subsection (1) or (2) of this section must include:

10 (a) A description of support services and program opportunities available to the adult in cus-  
 11 tody, including any transitional housing or treatment programs to which the adult in custody has  
 12 been accepted;

13 (b) The recommended conditions of post-prison supervision;

14 (c) The level of supervision that shall be consistent with the risk assessment classification of the  
 15 adult in custody;

16 (d) Any other conditions and requirements as may be necessary to promote public safety;

17 (e) For all adults in custody whose sentence to make restitution under ORS 137.106 has been  
 18 suspended for the term of imprisonment, a restitution payment schedule; *[and]*

19 **(f) The report resulting from the assessment described in section 1 of this 2021 Act; and**  
 20 *[(f)]* (g) Any conditions necessary to assist the reformation of the adult in custody.

21 **SECTION 3.** ORS 144.096, as amended by section 35, chapter 649, Oregon Laws 2013, section  
 22 2, chapter 40, Oregon Laws 2017, section 2, chapter 438, Oregon Laws 2017, and section 27, chapter  
 23 213, Oregon Laws 2019, is amended to read:

24 144.096. (1)(a) The Department of Corrections shall prepare a proposed release plan for an adult  
 25 in custody and submit the proposed release plan to the State Board of Parole and Post-Prison  
 26 Supervision prior to the release.

27 (b) If the proposed release plan is not approved by the board, the board shall return the plan  
 28 to the department with its recommended modifications. The department shall submit a revised plan  
 29 to the board prior to the release.

30 (c) If the revised plan is not acceptable to the board, the board shall determine the provisions  
 31 of the final plan prior to the release.

32 (d) The department, in consultation with the board, shall by rule establish deadlines by which  
 33 a proposed release plan described in paragraph (a) of this subsection and a revised plan described  
 34 in paragraph (b) of this subsection must be submitted to the board prior to release.

35 (2) The local supervisory authority that is responsible for correctional services for an adult in  
 36 custody shall prepare a proposed release plan for the adult in custody prior to the release from jail.  
 37 The local supervisory authority shall approve the release plan under its rules.

38 (3) A release plan prepared under subsection (1) or (2) of this section must include:

39 (a) A description of support services and program opportunities available to the adult in cus-  
 40 tody, including any transitional housing or treatment programs to which the adult in custody has  
 41 been accepted;

42 (b) The recommended conditions of post-prison supervision;

43 (c) The level of supervision that shall be consistent with the risk assessment classification of the  
 44 adult in custody;

45 (d) Any other conditions and requirements as may be necessary to promote public safety;

1 (e) For all adults in custody whose sentence to make restitution under ORS 137.106 has been  
2 suspended for the term of imprisonment, a restitution payment schedule; [and]

3 **(f) The report resulting from the assessment described in section 1 of this 2021 Act; and**  
4 **[(f)] (g) Any conditions necessary to assist the reformation of the adult in custody.**

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

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

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

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

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

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

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

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

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

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 supervi-  
26 sory authority may require the person, as an additional condition of post-prison supervision, to pay  
27 a reasonable fee to the victim impact program to offset the cost of the person's participation. The  
28 board or supervisory authority may not order a person to pay a fee in excess of \$5 under this par-  
29 agraph.

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

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

38 (a) When supervision begins;

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

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

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

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

45 (4)(a) The board or supervisory authority may establish special conditions that the board or su-

1 supervisory authority considers necessary because of the individual circumstances of the person on  
2 post-prison supervision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ment with the person’s sex offender treatment provider to ensure that the arrangement supports the  
 2 goals of offender rehabilitation and community safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 **(E) The report resulting from the assessment described in section 1 of this 2021 Act re-**  
 39 **commends that the person reside in a county other than the county of residence;**

40 ~~[(E)]~~ (F) The person requests release to another state; or

41 ~~[(F)]~~ (G) The board finds other good cause for the waiver.

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

1 section.

2 (8) As used in this section:

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

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

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

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

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

10