

Enrolled
Senate Bill 620

Sponsored by Senator FREDERICK; Senator MANNING JR, Representatives BYNUM, CAMPOS, DEXTER, GRAYBER, HUDSON, KOTEK, PHAM, SOLLMAN, WILDE (at the request of Multnomah County) (Presession filed.)

CHAPTER

AN ACT

Relating to supervision fees; creating new provisions; amending ORS 133.865, 137.540, 137.630, 144.089, 144.102 and 144.103; and repealing ORS 423.570.

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

SECTION 1. ORS 423.570 is repealed.

SECTION 2. ORS 133.865 is amended to read:

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

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

(3) Moneys deposited in the Arrest and Return Account under ORS 144.605 are continuously appropriated to the Governor for the purpose of paying costs incurred in retaking offenders who have transferred supervision under the Interstate Compact for Adult Offender Supervision described in ORS 144.600.

SECTION 3. ORS 137.540 is amended to read:

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

- (a) Pay [~~supervision fees,~~] fines, restitution or other fees ordered by the court.
- (b) Not use or possess controlled substances except pursuant to a medical prescription.
- (c) Submit to testing for controlled substance, cannabis or alcohol use if the probationer has a history of substance abuse or if there is a reasonable suspicion that the probationer has illegally used controlled substances.
- (d) Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.
- (e) Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency.
- (f) If physically able, find and maintain gainful full-time employment, approved schooling, or a full-time combination of both. Any waiver of this requirement must be based on a finding by the court stating the reasons for the waiver.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) When supervision begins;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) When the court orders a defendant placed under the supervision of the Department of Corrections or a community corrections agency, the supervising officer may file with the court a proposed modification to the special conditions of probation. The supervising officer shall provide a copy of the proposed modification to the district attorney and the probationer. If the district attorney:

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

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

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

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

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

[(b) Probation violation fees collected under this subsection in the circuit court shall be deposited by the clerk of the court in the General Fund. Extradition cost fees collected in the circuit court under this subsection shall be deposited by the clerk of the court in the Arrest and Return Account established by ORS 133.865. Fees collected in a justice court under this subsection shall be paid to the county treasurer. Fees collected in a municipal court under this subsection shall be paid to the city treasurer.]

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

SECTION 4. ORS 137.630 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. ORS 144.089 is amended to read:

144.089. (1) As used in this section:

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

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

(c) "Delinquent fees or debts" means:

(A) Unpaid costs for conviction;

(B) Attorney fees;

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

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

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

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

(2)(a) The county governing body of each county shall establish a community service exchange program for the county.

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

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

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

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

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

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

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

(d) Fines for traffic offenses.

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

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

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

(5) A community-based organization shall supervise and record the community service that a person performs to fulfill the requirements established by the written agreement described under this section. The community-based organization shall notify the local supervisory authority as soon

as a person has entered into the community service exchange program and when the person has successfully fulfilled or failed to meet the requirements of the program.

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

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

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

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

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

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

[(c) If the person is under the supervision of a community corrections agency or other local supervisory authority, upon notification of completion from the community-based organization, the local supervisory authority shall notify the community corrections agency and the community corrections agency or local supervisory authority shall waive the supervision fees, including but not limited to those ordered pursuant to ORS 423.570, and the local supervisory authority may waive all other fees to offset the costs of supervision.]

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

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

(a) The community-based organization shall notify the local supervisory authority and, if applicable, the local supervisory authority shall notify the community corrections agency or other local supervisory authority. *[Upon notification, the local supervisory authority or the community corrections agency shall resume collection of the supervision fees, including but not limited to those ordered pursuant to ORS 423.570.]*

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

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

SECTION 6. ORS 144.102 is amended to read:

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

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

(a) Comply with the conditions of post-prison supervision as specified by the board or supervisory authority.

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

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

(d) Report to the parole officer as directed by the board, the department or the supervisory authority.

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

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

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

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

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

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

(a) When supervision begins;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) The person resides in a halfway house.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Records maintained by the Department of Revenue;

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

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

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

(vi) Records maintained by the Oregon Health Authority.

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

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

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

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

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

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

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

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

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

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

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

(8) As used in this section:

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

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

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

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

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

SECTION 7. ORS 144.103 is amended to read:

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

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

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

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

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

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

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

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

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

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

SECTION 8. The amendments to ORS 133.865, 137.540, 137.630, 144.089, 144.102 and 144.103 by sections 2 to 7 this 2021 Act and the repeal of ORS 423.570 by section 1 of this 2021 Act apply to sentences imposed on or after the effective date of this 2021 Act.

Passed by Senate March 24, 2021

Repassed by Senate June 25, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 23, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State