

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE 12TH JUDICIAL DISTRICT  
POLK COUNTY

FILED  
POLK COUNTY OREGON  
2022 JUN 30 AM 10:38  
CLERK OF COURT ADMINISTRATOR  
SIGNED BY \_\_\_\_\_

In the Matter of Pretrial Release by ) Presiding Judge Order No. 22-004  
sheriff or entity supervising the local ) ORDER REGARDING PRETRIAL RELEASE  
correctional facility ) IN POLK COUNTY

**WHEREAS**, the 2021 Legislative assembly enacted Oregon Laws 2021, Chapter 643, initially introduced as Senate Bill 48 (2021) by the Oregon Criminal Justice Commission, to reduce the reliance on security release and provide statewide guidance for local pretrial release orders; and

**WHEREAS**, Section 2 of Oregon Laws 2021, Chapter 643, now codified as ORS 135.233, requires the Presiding Judge of a judicial district shall enter a standing pretrial release order, specifying to the sheriff of the county, or to the entity supervising the local correctional facility responsible for pretrial incarceration within the judicial district, those person and the offenses that are:

- i. Subject to release on recognizance;
- ii. Subject to release with special conditions of release; and
- iii. Not eligible for release until arraignment; and

**WHEREAS**, in turn, the Chief Justice issued guidelines for Presiding Judge Orders. Additionally, the Chief Justice entered an Order that requires each Presiding Judge of a Circuit Court to enter a Pretrial Release Order as required under ORS 135.223(1) that complies with the guidelines established by the Chief Justice with an operative date of July 1, 2022;

**IT IS HEREBY ORDERED:**

**SECTION 1: AUTHORIZATION AND CRITERIA FOR PRETRIAL RELEASE**

**CRIME CATEGORY 1**

1. The Sheriff or Release Assistance Officer shall release on recognizance with a release agreement with the general conditions in ORS 135.250 all individuals charged with the following offenses:
  - a. Any non-person misdemeanor, except those offenses listed in Crime Categories 2 or 3, below;
  - b. Any non-person Class C felony, except those offenses listed in Crime Categories 2 or 3, below;
  - c. Any driving while suspended offense defined in ORS 811.182, except for aggravated driving while suspended as defined in ORS 163.196; and
  - d. Any other offense that is not included in Crime Categories 2 or 3, below.

## CRIME CATEGORY 2

2. The Sheriff or Release Assistance Officer shall release on court-imposed conditions, all individuals charged with the following offenses:
  - a. Any non-domestic violence person misdemeanor, as defined in OAR 213-003-0001(15);
  - b. Any driving under the influence of intoxicants (DUII) offense as defined in ORS 831.010 and ORS 813.011; and
  - c. Any non-domestic violence Class B felony and any non-domestic violence person Class C felony as defined in OAR 213-003-0001(14), except for those offenses included in Crime Category 3, below, to be held for arraignment; and
  - d. Aggravated driving while suspended or revoked.

## CRIME CATEGORY 3

3. The Sheriff or Release Assistance Officer shall hold for arraignment or first appearance all individuals charged with the following offenses:
  - a. Any violent felony, as defined in ORS 135.240 and any offense in ORS 137.700;
  - b. Any Class A felony;
  - c. Any sex crime, (whether designated or not), as defined in ORS 163A.005, including luring a minor, purchasing sex with a minor, and first-degree invasion of personal privacy, and any attempt to commit luring a minor, purchasing sex with a minor, and first-degree invasion of personal privacy;
  - d. Any domestic violence felony or misdemeanor, as defined in ORS 135.230;
  - e. Any felony stalking as described in ORS 163.732, any violation of a stalking protective order as described in ORS 163.750, and felony strangulation as described in ORS 163.187; and
  - f. Any of the following offenses:
    - i. Possession of a firearm or dangerous weapon in a public building or court facility, as defined in ORS 166.370 and unlawful possession of machine guns, certain short-barreled firearms, and firearm silencers, as defined in PRS 166.272;
    - ii. Failure to appear, as defined in ORS 162.195 and ORS 162.208;
    - iii. Felon in possession of a firearm, as defined in ORS 166.270;
    - iv. Fleeing or Attempting to Elude, as defined in ORS 811.540;
    - v. Resisting arrest, as defined in ORS 162.315;
    - vi. Giving false information to a peace officer, as defined in ORS 807.620 and ORS 162.385;
    - vii. Escape in any degree, as defined in ORS 162.145, ORS 162.155, and ORS 162.165, and unauthorized departure (ORS 162.175);
    - viii. Fugitive complaint in accordance with ORS 133.743 – 133.783 (Uniform Criminal Extradition Act);
    - ix. Tampering with a witness, as defined in ORS 162.285
    - x. Violation of a restraining order (FAPA, EPPDAPA, SAPO); and
    - xi. Probation or Post-Prison Supervision violations.

## **SECTION 2: CRITERIA FOR CONDITIONAL RELEASES:**

4. In addition to the crimes listed in Crime Category 2, the following circumstances would lead to Special Conditions of Release:
  - a. Any Category 1 offense with a named victim or location;
  - b. Any offense committed with a Co-Defendant;
  - c. The individual is visibly intoxicated at interview; or
  - d. Substance misuse is indicated in the Probable Cause Affidavit

## **SECTION 3: CRITERIA FOR OVERRIDING CIRCUMSTANCES:**

5. The following person-specific criteria require holding the individual for arraignment, regardless of crime category:
  - a. Multiple charges over multiple incidents in the 48 hours prior to arrest or multiple charges arising out of one incident;
  - b. Any prior Failure to Appear including on the current case;
  - c. Outstanding warrants or holds;
  - d. The individual made a threat of violence to a victim, law enforcement officer, or anyone else connected with the case;
  - e. Current or prior contempt or probation violation adjudications;
  - f. Arresting officer checked the box on the Probable Cause Affidavit calling for a behavioral health evaluation;
  - g. Three convictions for the same charge within the last five years;
  - h. Arrest or conviction for the same charge within the last 30 days
  - i. Individual is unable to comprehend the release process, participate in the release assessment process, or sign a release agreement;
  - j. If the current charge is a property crime and the individual has a conviction for a property crime;
  - k. If the current charge is a trespass and the individual has a conviction for a trespass;
  - l. A non-DV charge where the victim is a family or household member;
  - m. Any incident where the alleged victim is a peace or parole officer;
  - n. Any incident where the alleged victim is a minor;
  - o. The individual is subject to an active restraining order;
  - p. If the individual is currently on a release agreement for another case.

## **SECTION 4: RELEASE DECISION PROCESS:**

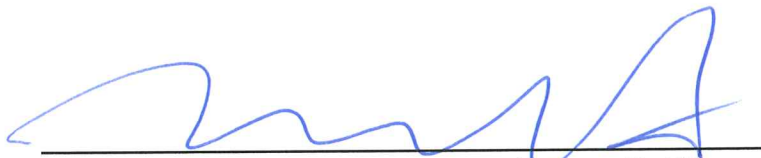
6. Release decisions made by the Sheriff or Release Assistance Officer shall be made in a two-step process:
  - STEP 1:** Identify the crime the individual is charged with and the Crime Category of that charge.
  - STEP 2:** Determine if there are any overriding circumstances that require that the individual be held or released on conditions when they otherwise wouldn't.
7. OJD has set out a list of offenses, found here: [Release guidelines categorization list \(oregon.gov\)](https://www.oregon.gov/ojd/Release-guidelines-categorization-list), which is to be used in Step 1, to determine the Crime Category that the

charge the individual is facing falls into. OJD's list is hereby incorporated into this Order.

8. Attached to this Order is Exhibit A, to be used in Step 2 which includes a chart of overriding circumstances, and what action should be taken if they apply. Exhibit B is hereby incorporated into this Order.
9. Attached to this Order is Exhibit B, which is a series of charts to be used in Step 2, to determine any required conditions of release. Exhibit C is hereby incorporated into this Order.

This Presiding Judge Order supersedes all previous orders on the same subject and shall remain in effect until further Order of this Court.

Dated this 30 day of June, 2022



Norman R. Hill  
Presiding Judge

**EXHIBIT A: CRITERIA FOR OVERRIDING CIRCUMSTANCES**

| <b>OVERRIDING CIRCUMSTANCES</b>   | <b>CATEGORY 1 CHARGE</b>                 | <b>CATEGORY 2 CHARGE</b> | <b>CATEGORY 3 CHARGE</b> |
|---|--|--------------------------|--------------------------|
| Multiple charges over multiple incidences in the 48 hours prior to arrest or multiple charges arising out of one incident           | Move to Category 3                       | Move to Category 3       |                          |
| Individual is unable to comprehend the release process or participate in the release assessment process or sign a release agreement | Hold for arraignment or first appearance |                          |                          |
| A direct threat of violence to a victim, law enforcement officer, or anyone else connected to the case                              | Hold for arraignment or first appearance |                          |                          |
| Any prior contempt or probation violation adjudication  | Hold for arraignment or first appearance |                          |                          |
| Any outstanding warrants or holds   | Hold for arraignment or first appearance |                          |                          |
| Any prior FTA, including on the current case  | Move to Category 3                       | Move to Category 3       |                          |
| Three convictions for the same conduct in the last five years   | Move to Category 3                       | Move to Category 3       |                          |
| Arrest or conviction for the same conduct within the last 30 days   | Move to Category 3                       | Move to Category 3       |                          |
| Current property crime charge with conviction for a property crime  | Move to Category 3                       |                          |                          |
| Current trespass charge with a conviction for trespass  | Move to Category 3                       |                          |                          |
| Any Category 1 offense with a named victim or location  | Move to Category 2                       |                          |                          |
| Non-DV charge where the alleged victim is a family or household member  | Move to Category 3                       |                          |                          |
| Any incident where the alleged victim is a peace or parole officer  | Move to Category 3                       | Move to category 3       |                          |
| Any incident where the alleged victim is a minor  | Move to Category 3                       | Move to category 3       |                          |
| Any incident involving a Co-Defendant   | Move to Category 2                       |                          |                          |
| Arresting Officer checked the box on the PCA calling for a BH evaluation  | Hold for arraignment or first appearance |                          |                          |
| Individual is subject to an active restraining order  | Hold for arraignment or first appearance |                          |                          |
| Individual is currently on a release agreement for another case   | Hold for arraignment or first appearance |                          |                          |

## EXHIBIT B: CRITERIA FOR CONDITIONAL RELEASES

The following offense-specific criteria lead to the following conditions:

| CHARGE  | SPECIAL CONDITION OF RELEASE   |
|---|--|
| DUII  | <ul style="list-style-type: none"> <li>Absolutely no consumption of intoxicants;</li> <li>No entry into liquor stores, taverns, bars, or dispensaries.</li> </ul>  |
| Non-DV person crimes eligible for release with special conditions | <ul style="list-style-type: none"> <li>Absolutely no contact with the victim;</li> <li>No entry onto premises, business or other location occupied by the victim;</li> <li>No possession or access to firearms or other deadly weapons;</li> <li>If intoxicants are implicated in the crime, absolutely no consumption of intoxicants</li> </ul> |
| Any Category 1 offense with a named victim or location            | <ul style="list-style-type: none"> <li>No contact order for alleged victim or location</li> </ul>  |
| Any Category 2 delivery or manufacture of a controlled substance  | <ul style="list-style-type: none"> <li>Absolutely no consumption of intoxicants;</li> <li>No entry into liquor stores, taverns, bars, or dispensaries.</li> </ul>  |
| Co-Defendant  | <ul style="list-style-type: none"> <li>No contact with Co-Defendant</li> </ul>   |

The following person-specific criteria lead to the following conditions:

| CRITERIA                                      | CONDITION OF RELEASE  |
|---|---|
| Person is visibly intoxicated                 | <ul style="list-style-type: none"> <li>Absolutely no consumption of intoxicants;</li> <li>No entry into liquor stores, taverns, bars, or dispensaries.</li> </ul> |
| Substance misuse is indicated in PCA          | <ul style="list-style-type: none"> <li>Absolutely no consumption of intoxicants;</li> <li>No entry into liquor stores, taverns, bars, or dispensaries.</li> </ul> |
| Individual is placed on a conditional release | <ul style="list-style-type: none"> <li>Check in with RAO by noon on the judicial day following release, and as directed thereafter</li> </ul>                     |