

House Bill 2933

Amendments to the Oregon Sentencing Guidelines



Ken Sanchagrin
Executive Director

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Oregon Sentencing Guidelines

INTRODUCTION & BACKGROUND

Oregon Felony Sentencing Grid												
Crime Seriousness	A	B	C	D	E	F	G	H	I	Prob Term	Max Depart	PPS
11	225-269	196-224	178-194	164-177	149-163	135-148	129-134	122-128	120-121	5 Years		3 Years
10	121-130	116-120	111-115	91-110	81-90	71-80	66-70	61-65	58-60			
9	66-72	61-65	56-60	51-55	46-50	41-45	39-40	37-38	34-36			
8	41-45	35-40	29-34	27-28	25-26	23-24	21-22	19-20	16-18	3 Years	18 Mos.	
7	31-36	25-30	21-24	19-20	16-18	180-90	180-90	180-90	180-90			
6	25-30	19-24	15-18	13-14	10-12	180-90	180-90	180-90	180-90	2 Years	12 Mos.	2 Years
5	15-16	13-14	11-12	9-10	6-8	180-90	120-60	120-60	120-60			
4	10-11	8-9	120-60	120-60	120-60	120-60	120-60	120-60	120-60	2 Years		
3	120-60	120-60	120-60	120-60	120-60	120-60	90-30	90-30	90-30			
2	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	1 ½ Years	6 Mos.	1 Year
1	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30			

- Twenty-five states, the District of Columbia, and the Federal Government use sentencing guidelines to guide at least a portion of their criminal sentencing decisions.
- Oregon first promulgated its Sentencing Guidelines in 1989, when the Legislature approved the work of the State Sentencing Guidelines Board via HB 2250 (1989).
- In 1995, the Oregon Criminal Justice Commission was created and was given the responsibility for maintaining the Oregon Sentencing Guidelines in ORS 137.667.

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- The grid works by identifying the intersection of an individual’s criminal history and the seriousness of the crime of conviction.
 - Yellow cells are presumptive prison sentences and represent months of incarceration.
 - Non-yellow cells are presumptive probation.

A	3 or more person felonies over lifetime
B	2 person felonies over lifetime
C	1 person felony, and 1 or more non-person felony
D	1 person felony, but no non-person felony
E	4 or more non-person felonies, but no person felony
F	2 or 3 non-person felonies, but no person felony
G	4 or more Class A misd. or 1 non-person felony; and no person
H	No more than 3 non-person felonies, and no person felony
I	No felony or Class A misdemeanors

Oregon Sentencing Guidelines

RESPONSIBILITIES OF THE STATE SENTENCING COMMISSION

- Under ORS 137.667(1), all legislation that creates new crimes or modifies existing crimes must be reviewed by the CJC. During this review, the CJC determines whether:
 - The new/modified crime needs to be assigned a **crime seriousness** designation (ranging from 1 to 11); and/or
 - The new/modified crime needs to be designated as a **person felony** or **person misdemeanor** (for A misdemeanors).
- Under ORS 137.667(2) and (3), the CJC must submit modifications to the guidelines to the Legislature for approval. If a guideline amendment is not approved, then it does not go into effect and is null and void. All modifications must be submitted except:
 - Modifications that were required by statute;
 - Modifications to rules that are merely technical (i.e., if statutes are re-numbered, subsections are rearranged, etc.); or
 - Modifications that do not alter the sense, meaning, effect or substance of the rule amended.

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AMENDMENTS MADE DURING THE 2023-2025 BIENNIUM

OAR 213-003-0001(14): “Person Crime” Designations

- Sexual Abuse by Fraudulent Misrepresentation (ORS 163.429; Senate Bill 974 (2023));
- Domestic Terrorism in the First Degree, *if the conduct places persons at risk of harm*, (ORS 166.125(1)(a)); House Bill 2772 (2023))
- Domestic Terrorism in the Second Degree, *if the conduct places persons at risk of harm* (ORS 166.128(1)(a) and (1)(d)); House Bill 2772 (2023)).

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AMENDMENTS MADE DURING THE 2023-2025 BIENNIUM

OAR 213-003-0001(14): “Person Crime” Designations

- Unlawful Possession by Person 21 Years or Older (ORS 475C.337(3)(d)) as defined in Crime Category 8 (Senate Bill 326 (2023))
- Unlawful Possession by Person Under 21 Years of Age (ORS 475C.341(4)) as defined in Crime Category 8 (Senate Bill 326 (2023))
- Unlawful Manufacture of Marijuana Item (ORS 475C.349(3)(c)(B) and 475C.349(3)(c)(C)) as defined in Crime Category 8 (pursuant to Senate Bill 326 (2023))

Each of these three statutes cover possession of large amounts of marijuana that is likely involved in black market as well as behaviors tied to marijuana trafficking.

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AMENDMENTS MADE DURING THE 2023-2025 BIENNIUM

OAR 213-003-0001(14): “Person Crime” Designations

- Sexual Assault of an Animal (ORS 167.333)
- Contributing to Sexual Delinquency of Minor (ORS 163.435)
- Sexual Misconduct (if person over age 18) (ORS 163.445)

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AMENDMENTS MADE DURING THE 2023-2025 BIENNIUM

OAR 213-007-0004: Crime Seriousness Category 8

- Reckless Interference with Aircraft (ORS 837.374(3); Senate Bill 810 (2023))
 - ORS 837.374(3) involves possessing or controlling an unmanned aircraft system and knowingly, intentionally or recklessly causing death or serious physical injury to a person by (a) directing a laser at an aircraft while it is flying, (b) crashing into a flying aircraft, or (c) preventing an aircraft from taking off or landing.

OAR 213-007-0005: Crime Seriousness Category 7

- Animal Neglect in the First Degree (ORS 167.330, subsections (c) and (d); House Bill 4043 (2023))
 - Designates animal neglect as a person crime when (c) the person committing the offense acts intentionally, knowingly, or recklessly as to the serious physical injury or death of the animal, or (d) the offense is knowingly committed in the presence of a minor child.

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AMENDMENTS MADE DURING THE 2023-2025 BIENNIUM

OAR 213-007-0006: Crime Seriousness Category 6

- Manufacture, Importation, Sale, or Transfer of Undetectable Firearm (ORS 166.264; House Bill 2005 (2023))
- Sale, Transfer or Possession of Firearm Without Serial Number (ORS 166.266; House Bill 2005 (2023))
- Importation, Sale, Transfer, or Possession of Unfinished Frame or Receiver (ORS 166.267; House Bill 2005 (2023))
- The Commission sought to be consistent with other firearm related offenses, which are ranked as Crime Seriousness Category 6:
 - Felon in Possession of a Firearm (ORS 166.270);
 - Manufacture, importation or sale of firearms (ORS 166.410)
 - Possession of firearm or dangerous weapon in public building or court facility (ORS 166.370)
 - Unlawful Possession of a Firearm (166.272)

Questions



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