

House Bill 3583

Sponsored by Representative HARTMAN, Senator GELSER BLOUIN; Representatives BOICE, DOBSON, LEVY E, SCHARF, Senator PATTERSON

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes sentencing for people who are domestic violence survivors. The Act takes effect on the 91st day after sine die. (Flesch Readability Score: 61.0).

Requires the sentencing court to consider as mitigation evidence whether the defendant was subjected to domestic violence that was ongoing when the criminal behavior occurred and was a significant factor in the criminal behavior, and the criminal behavior was directed against the domestic violence perpetrator. Provides that such evidence constitutes substantial and compelling reasons justifying a downward departure sentence. Authorizes the court to impose a lesser sentence even if there is a mandatory minimum sentence or a sentence otherwise required by law.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to domestic violence survivor defendants; creating new provisions; amending ORS 137.635,
3 137.690, 137.700, 137.707, 137.717, 138.105, 138.115, 144.110, 161.620, 163.107, 163.115, 163.155,
4 420.240, 421.121, 421.168 and 475.930; prescribing an effective date; and providing for criminal
5 sentence reduction that requires approval by a two-thirds majority.

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

SENTENCING MITIGATION FINDINGS

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10 **SECTION 1. (1) At sentencing, in determining mitigation the court shall consider**
11 **whether:**

12 **(a) The defendant was subjected to domestic violence;**

13 **(b) The domestic violence was ongoing when the defendant's criminal behavior occurred**
14 **and was a significant factor in the criminal behavior;**

15 **(c) The defendant's criminal behavior was directed against the perpetrator of the do-**
16 **mestic violence; and**

17 **(d) Sentencing the defendant to a presumptive or mandatory sentence would be unduly**
18 **harsh in light of the circumstances of the crime, the circumstances of the defendant and the**
19 **domestic violence the defendant suffered.**

20 **(2) If the court finds that the four circumstances described in subsection (1) of this sec-**
21 **tion have been established by the defendant by a preponderance of the evidence, the finding**
22 **shall constitute substantial and compelling reasons justifying a downward dispositional de-**
23 **parture or a downward durational departure under the rules of the Oregon Criminal Justice**
24 **Commission.**

25 **(3) The Oregon Criminal Justice Commission shall adopt rules in accordance with this**
26 **section.**

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 **(4) As used in this section, “domestic violence” has the meaning given that term in ORS**
 2 **135.230.**

3 **SECTION 2.** ORS 137.635 is amended to read:

4 137.635. (1) When, in the case of a felony described in subsection (2) of this section, a court
 5 sentences a convicted defendant who has previously been convicted of any felony designated in
 6 subsection (2) of this section, the sentence shall not be an indeterminate sentence to which the de-
 7 fendant otherwise would be subject under ORS 137.120, but, unless it imposes a death penalty under
 8 ORS 163.105, the court shall impose a determinate sentence, the length of which the court shall
 9 determine, to the custody of the Department of Corrections. Any mandatory minimum sentence
 10 otherwise provided by law shall apply. The sentence shall not exceed the maximum sentence other-
 11 wise provided by law in such cases. The convicted defendant who is subject to this section shall not
 12 be eligible for probation. The convicted defendant shall serve the entire sentence imposed by the
 13 court and shall not, during the service of such a sentence, be eligible for parole or any form of
 14 temporary leave from custody. The person shall not be eligible for any reduction in sentence pur-
 15 suant to ORS 421.120 or for any reduction in term of incarceration pursuant to ORS 421.121.

16 (2) Felonies to which subsection (1) of this section applies include and are limited to:

17 (a) Murder in any degree, as defined in ORS 163.107 or 163.115, and any aggravated form
 18 thereof.

19 (b) Manslaughter in the first degree, as defined in ORS 163.118.

20 (c) Assault in the first degree, as defined in ORS 163.185.

21 (d) Kidnapping in the first degree, as defined in ORS 163.235.

22 (e) Rape in the first degree, as defined in ORS 163.375.

23 (f) Sodomy in the first degree, as defined in ORS 163.405.

24 (g) Unlawful sexual penetration in the first degree, as defined in ORS 163.411.

25 (h) Burglary in the first degree, as defined in ORS 164.225.

26 (i) Arson in the first degree, as defined in ORS 164.325.

27 (j) Robbery in the first degree, as defined in ORS 164.415.

28 (3) When the court imposes a sentence under this section, the court shall indicate in the judg-
 29 ment that the defendant is subject to this section.

30 **(4) Notwithstanding any other provision of this section, when a person is convicted of one**
 31 **of the offenses listed in subsection (2) of this section and the court finds substantial and**
 32 **compelling reasons justifying a lesser sentence under section 1 of this 2025 Act, the court is**
 33 **not obligated to impose the sentence described in subsection (1) of this section and may in-**
 34 **stead impose any other sentence in accordance with the rules of the Oregon Criminal Justice**
 35 **Commission. If the court imposes a sentence under this subsection, unless the court orders**
 36 **otherwise under ORS 137.750, the person is eligible for a reduction in sentence under ORS**
 37 **421.121 and any form of temporary leave from custody, work release or program of condi-**
 38 **tional or supervised release.**

39 **SECTION 3.** ORS 137.690 is amended to read:

40 137.690. [a.] (1) **Except as provided in subsection (2) of this section,** any person who is con-
 41 victed of a major felony sex crime, who has one [(or more)] **or more** previous [conviction of] **con-**
 42 **victions for** a major felony sex crime, shall be imprisoned for a mandatory minimum term of 25
 43 years.

44 **(2) When a person is convicted as described in subsection (1) of this section and the court**
 45 **finds substantial and compelling reasons justifying a lesser sentence under section 1 of this**

1 **2025 Act, the court is not obligated to impose the sentence described in subsection (1) of this**
2 **section and may instead impose any other sentence in accordance with the rules of the**
3 **Oregon Criminal Justice Commission. If the court imposes a sentence under this subsection,**
4 **unless the court orders otherwise under ORS 137.750, the person is eligible for a reduction**
5 **in sentence under ORS 421.121 and any form of temporary leave from custody, work release**
6 **or program of conditional or supervised release.**

7 [b.] (3) **As used in this section:**

8 (a) "Major felony sex crime" means rape in the first degree [(ORS 163.375)] **under ORS**
9 **163.375**, sodomy in the first degree [(ORS 163.405)] **under ORS 163.405**, unlawful sexual penetration
10 in the first degree [(ORS 163.411),] **under ORS 163.411** or using a child in a display of sexually ex-
11 plicit conduct [(ORS 163.670)] **under ORS 163.670**.

12 [c.] (b) "Previous conviction" includes a conviction for the statutory counterpart of a major
13 felony sex crime in any jurisdiction, and includes a conviction in the same sentencing proceeding
14 if the conviction is for a separate criminal episode as defined in ORS 131.505.

15 **SECTION 4.** ORS 137.700 is amended to read:

16 137.700. (1)(a) Notwithstanding ORS 161.605, when a person is convicted of one of the offenses
17 listed in subsection (2)(a) of this section and the offense was committed on or after April 1, 1995,
18 or of one of the offenses listed in subsection (2)(b) of this section and the offense was committed on
19 or after October 4, 1997, or of the offense described in subsection (2)(c) of this section and the of-
20 fense was committed on or after January 1, 2008, the court shall impose, and the person shall serve,
21 at least the entire term of imprisonment listed in subsection (2) of this section. The person is not,
22 during the service of the term of imprisonment, eligible for release on post-prison supervision or any
23 form of temporary leave from custody. The person is not eligible for any reduction in[, or based
24 on,] the minimum sentence for any reason whatsoever under ORS 421.121 or any other statute. The
25 court may impose a greater sentence if otherwise permitted by law, but may not impose a lower
26 sentence than the sentence specified in subsection (2) of this section.

27 (b) **Notwithstanding any other provision of this section, when a person is convicted of**
28 **one of the offenses listed in subsection (2) of this section and the court finds substantial and**
29 **compelling reasons justifying a lesser sentence under section 1 of this 2025 Act, the court is**
30 **not obligated to sentence the defendant to the sentence specified in subsection (2) of this**
31 **section and may instead impose any other sentence in accordance with the rules of the**
32 **Oregon Criminal Justice Commission. If the court imposes a sentence under this paragraph,**
33 **unless the court orders otherwise under ORS 137.750, the person is eligible for a reduction**
34 **in sentence under ORS 421.121 and any form of temporary leave from custody, work release**
35 **or program of conditional or supervised release.**

36 (2) The offenses to which subsection (1) of this section applies and the applicable mandatory
37 minimum sentences are:

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40 (a)(A) Murder in the second
41 degree, as defined in
42 ORS 163.115.....300 months
43 (B) Murder in the first
44 degree, as defined
45 in ORS 163.107.....360 months

- 1 (C) Attempt or conspiracy
- 2 to commit aggravated
- 3 murder, as defined
- 4 in ORS 163.095.....120 months
- 5 (D) Attempt or conspiracy
- 6 to commit murder
- 7 in any degree.90 months
- 8 (E) Manslaughter in the
- 9 first degree, as defined
- 10 in ORS 163.118.....120 months
- 11 (F) Manslaughter in the
- 12 second degree, as defined
- 13 in ORS 163.125.....75 months
- 14 (G) Assault in the first
- 15 degree, as defined in
- 16 ORS 163.185.....90 months
- 17 (H) Assault in the second
- 18 degree, as defined in
- 19 ORS 163.175.....70 months
- 20 (I) Except as provided in
- 21 paragraph (b)(G) of
- 22 this subsection,
- 23 kidnapping in the first
- 24 degree, as defined
- 25 in ORS 163.235.....90 months
- 26 (J) Kidnapping in the second
- 27 degree, as defined in
- 28 ORS 163.225.....70 months
- 29 (K) Rape in the first degree,
- 30 as defined in ORS 163.375
- 31 (1)(a), (c) or (d).....100 months
- 32 (L) Rape in the second degree,
- 33 as defined in
- 34 ORS 163.365.....75 months
- 35 (M) Sodomy in the first degree,
- 36 as defined in ORS 163.405
- 37 (1)(a), (c) or (d).....100 months
- 38 (N) Sodomy in the second
- 39 degree, as defined in
- 40 ORS 163.395.....75 months
- 41 (O) Unlawful sexual penetration
- 42 in the first degree, as
- 43 defined in ORS 163.411
- 44 (1)(a) or (c).....100 months
- 45 (P) Unlawful sexual penetration

- 1 in the second degree, as
- 2 defined in ORS 163.408.75 months
- 3 (Q) Sexual abuse in the first
- 4 degree, as defined in
- 5 ORS 163.427.75 months
- 6 (R) Robbery in the first degree,
- 7 as defined in
- 8 ORS 164.415.90 months
- 9 (S) Robbery in the second
- 10 degree, as defined in
- 11 ORS 164.405.70 months
- 12 (b)(A) Arson in the first degree,
- 13 as defined in ORS 164.325,
- 14 when the offense represented
- 15 a threat of serious
- 16 physical injury.90 months
- 17 (B) Using a child in a display
- 18 of sexually explicit
- 19 conduct, as defined in
- 20 ORS 163.670.70 months
- 21 (C) Compelling prostitution,
- 22 as defined in
- 23 ORS 167.017.70 months
- 24 (D) Rape in the first degree,
- 25 as defined in
- 26 ORS 163.375 (1)(b).300 months
- 27 (E) Sodomy in the first degree,
- 28 as defined in
- 29 ORS 163.405 (1)(b).300 months
- 30 (F) Unlawful sexual penetration
- 31 in the first degree, as
- 32 defined in
- 33 ORS 163.411 (1)(b).300 months
- 34 (G) Kidnapping in the first
- 35 degree, as defined in
- 36 ORS 163.235, when the
- 37 offense is committed in
- 38 furtherance of the commission
- 39 or attempted commission of an
- 40 offense listed in subparagraph
- 41 (D), (E) or (F) of
- 42 this paragraph.300 months
- 43 (c) Aggravated vehicular
- 44 homicide, as defined in
- 45 ORS 163.149.240 months

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SECTION 5. ORS 137.707 is amended to read:

137.707. (1)(a) When a person waived under ORS 419C.349 (1)(a) is convicted of an offense listed in subsection (4) of this section, the court shall impose at least the presumptive term of imprisonment provided for the offense in subsection (4) of this section. The court may impose a greater presumptive term if otherwise permitted by law, but may not impose a lesser term. The person is not, during the service of the term of imprisonment, eligible for release on post-prison supervision or any form of temporary leave from custody. The person is not eligible for any reduction in the minimum sentence for any reason under ORS 421.121 or any other provision of law. The person is eligible for a hearing and conditional release under ORS 420A.203 and 420A.206.

(b) Notwithstanding any other provision of this section, when a person is convicted of one of the offenses listed in subsection (4) of this section and the court finds substantial and compelling reasons justifying a lesser sentence under section 1 of this 2025 Act, the court is not obligated to sentence the defendant to the sentence specified in subsection (4) of this section and may instead impose any other sentence in accordance with the rules of the Oregon Criminal Justice Commission. If the court imposes a sentence under this paragraph, unless the court orders otherwise under ORS 137.750, the person is eligible for a reduction in sentence under ORS 421.121 and any form of temporary leave from custody, work release or program of conditional or supervised release.

(2) ORS 138.052, 163.105 and 163.150 apply to sentencing a person prosecuted under this section and convicted of aggravated murder under ORS 163.095 except that a person who was under 18 years of age at the time the offense was committed is not subject to a sentence of death or life imprisonment without the possibility of release or parole.

(3) The court shall commit the person to the legal and physical custody of the Department of Corrections.

(4) The offenses to which this section applies and the presumptive sentences are:

- (a)(A) Murder in the second degree, as defined in ORS 163.115.....300 months
- (B) Murder in the first degree, as defined in ORS 163.107.....360 months
- (C) Attempt or conspiracy to commit aggravated murder, as defined in ORS 163.095.....120 months
- (D) Attempt or conspiracy to commit murder in any degree.....90 months
- (E) Manslaughter in the first degree, as defined in ORS 163.118.....120 months

- 1 (F) Manslaughter in the
- 2 second degree, as defined
- 3 in ORS 163.125.....75 months
- 4 (G) Assault in the first
- 5 degree, as defined
- 6 in ORS 163.185.....90 months
- 7 (H) Assault in the second
- 8 degree, as defined
- 9 in ORS 163.175.....70 months
- 10 (I) Kidnapping in the first
- 11 degree, as defined in
- 12 ORS 163.235.....90 months
- 13 (J) Kidnapping in the second
- 14 degree, as defined in
- 15 ORS 163.225.....70 months
- 16 (K) Rape in the first degree,
- 17 as defined in ORS 163.375....100 months
- 18 (L) Rape in the second
- 19 degree, as defined in
- 20 ORS 163.365.....75 months
- 21 (M) Sodomy in the first
- 22 degree, as defined in
- 23 ORS 163.405.....100 months
- 24 (N) Sodomy in the second
- 25 degree, as defined in
- 26 ORS 163.395.....75 months
- 27 (O) Unlawful sexual
- 28 penetration in the first
- 29 degree, as defined
- 30 in ORS 163.411.....100 months
- 31 (P) Unlawful sexual
- 32 penetration in the
- 33 second degree, as
- 34 defined in ORS 163.408.75 months
- 35 (Q) Sexual abuse in the first
- 36 degree, as defined in
- 37 ORS 163.427.....75 months
- 38 (R) Robbery in the first
- 39 degree, as defined in
- 40 ORS 164.415.....90 months
- 41 (S) Robbery in the second
- 42 degree, as defined in
- 43 ORS 164.405.....70 months
- 44 (b)(A) Arson in the first degree,
- 45 as defined in ORS 164.325,

- 1 when the offense represented
- 2 a threat of serious
- 3 physical injury.90 months
- 4 (B) Using a child in a display
- 5 of sexually explicit
- 6 conduct, as defined in
- 7 ORS 163.670.70 months
- 8 (C) Compelling prostitution,
- 9 as defined in ORS 167.017
- 10 (1)(a), (b) or (d).70 months
- 11 (c) Aggravated vehicular
- 12 homicide, as defined in
- 13 ORS 163.149.240 months

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16 (5) If a person charged with an offense under this section is found guilty of a lesser included
17 offense and the lesser included offense is:

18 (a) An offense listed in subsection (4) of this section, the court shall sentence the person as
19 provided in subsections (1) and (2) of this section.

20 (b) Not an offense listed in subsection (4) of this section:

21 (A) But constitutes an offense for which waiver is authorized under ORS 419C.349 (1)(b), the
22 court, upon motion of the district attorney, shall hold a hearing to determine whether to retain ju-
23 risdiction or to transfer the case to juvenile court for disposition. In determining whether to retain
24 jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains
25 jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If the court
26 does not retain jurisdiction, the court shall:

27 (i) Order that a presentence report be prepared;

28 (ii) Set forth in a memorandum any observations and recommendations that the court deems
29 appropriate;

30 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS
31 419C.067 and 419C.411; and

32 (iv) Enter an order providing that all court records of the case are subject to the same limita-
33 tions on inspection, copying and disclosure of records, reports and materials as those set forth under
34 ORS 419A.255.

35 (B) And is not an offense for which waiver is authorized under ORS 419C.349 (1)(b), the court
36 may not sentence the person. The court shall:

37 (i) Order that a presentence report be prepared;

38 (ii) Set forth in a memorandum any observations and recommendations that the court deems
39 appropriate;

40 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS
41 419C.067 and 419C.411; and

42 (iv) Enter an order providing that all court records of the case are subject to the same limita-
43 tions on inspection, copying and disclosure of records, reports and materials as those set forth under
44 ORS 419A.255.

45 (6) When a person is charged under this section, other offenses based on the same act or

1 transaction shall be charged as separate counts in the same accusatory instrument and consolidated
 2 for trial, whether or not the other offenses are aggravated murder or offenses listed in subsection
 3 (4) of this section. If it appears, upon motion, that the state or the person charged is prejudiced by
 4 the joinder and consolidation of offenses, the court may order an election or separate trials of
 5 counts or provide whatever other relief justice requires.

6 (7)(a) If a person charged and tried as provided in subsection (6) of this section is found guilty
 7 of aggravated murder or an offense listed in subsection (4) of this section and one or more other
 8 offenses, the court shall impose the sentence for aggravated murder or the offense listed in sub-
 9 section (4) of this section as provided in subsections (1) and (2) of this section and shall impose
 10 sentences for the other offenses as otherwise provided by law.

11 (b) If a person charged and tried as provided in subsection (6) of this section is not found guilty
 12 of aggravated murder or an offense listed in subsection (4) of this section, but is found guilty of one
 13 of the other charges that constitutes an offense for which waiver is authorized under ORS 419C.349
 14 (1)(b), the court, upon motion of the district attorney, shall hold a hearing to determine whether to
 15 retain jurisdiction or to transfer the case to juvenile court for disposition. In determining whether
 16 to retain jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court
 17 retains jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If
 18 the court does not retain jurisdiction, the court shall:

19 (A) Order that a presentence report be prepared;

20 (B) Set forth in a memorandum any observations and recommendations that the court deems
 21 appropriate;

22 (C) Enter an order transferring the case to the juvenile court for disposition under ORS
 23 419C.067 and 419C.411; and

24 (D) Enter an order providing that all court records of the case are subject to the same limita-
 25 tions on inspection, copying and disclosure of records, reports and materials as those set forth under
 26 ORS 419A.255.

27 **SECTION 6.** ORS 137.717 is amended to read:

28 137.717. (1) When a court sentences a person convicted of:

29 (a) Aggravated theft in the first degree under ORS 164.057, organized retail theft under ORS
 30 164.098, burglary in the first degree under ORS 164.225 or aggravated identity theft under ORS
 31 165.803, the presumptive sentence is 24 months of incarceration, unless the rules of the Oregon
 32 Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

33 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized
 34 retail theft under ORS 164.098, burglary in the first degree under ORS 164.225, robbery in the third
 35 degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first
 36 degree under ORS 164.415 or aggravated identity theft under ORS 165.803;

37 (B) Two or more previous convictions for any combination of the crimes listed in subsection (2)
 38 of this section; or

39 (C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime
 40 of conviction was committed while the defendant was on supervision for the previous conviction or
 41 less than three years after the date the defendant completed the period of supervision for the pre-
 42 vious conviction.

43 (b) Unauthorized use of a vehicle under ORS 164.135, mail theft or receipt of stolen mail under
 44 ORS 164.162, burglary in the second degree under ORS 164.215, criminal mischief in the first degree
 45 under ORS 164.365, computer crime under ORS 164.377, robbery in the third degree under ORS

1 164.395, forgery in the first degree under ORS 165.013, criminal possession of a forged instrument
 2 in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b),
 3 possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310,
 4 the presumptive sentence is 18 months of incarceration, unless the rules of the Oregon Criminal
 5 Justice Commission prescribe a longer presumptive sentence, if the person has:

6 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized
 7 retail theft under ORS 164.098, unauthorized use of a vehicle under ORS 164.135, burglary in the
 8 first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the sec-
 9 ond degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen
 10 vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggravated identity
 11 theft under ORS 165.803;

12 (B) Two or more previous convictions for any combination of the crimes listed in subsection (2)
 13 of this section; or

14 (C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime
 15 of conviction was committed while the defendant was on supervision for the previous conviction or
 16 less than three years after the date the defendant completed the period of supervision for the pre-
 17 vious conviction.

18 (c) Theft in the first degree under ORS 164.055 or identity theft under ORS 165.800, the
 19 presumptive sentence is 13 months of incarceration, unless the rules of the Oregon Criminal Justice
 20 Commission prescribe a longer presumptive sentence, if the person has:

21 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized
 22 retail theft under ORS 164.098, unauthorized use of a vehicle under ORS 164.135, burglary in the
 23 first degree under ORS 164.225, robbery in the second degree under ORS 164.405, robbery in the first
 24 degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen
 25 vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803; or

26 (B) Four or more previous convictions for any combination of crimes listed in subsection (2) of
 27 this section.

28 (2) The crimes to which subsection (1) of this section applies are:

- 29 (a) Theft in the second degree under ORS 164.045;
- 30 (b) Theft in the first degree under ORS 164.055;
- 31 (c) Aggravated theft in the first degree under ORS 164.057;
- 32 (d) Organized retail theft under ORS 164.098;
- 33 (e) Unauthorized use of a vehicle under ORS 164.135;
- 34 (f) Mail theft or receipt of stolen mail under ORS 164.162;
- 35 (g) Burglary in the second degree under ORS 164.215;
- 36 (h) Burglary in the first degree under ORS 164.225;
- 37 (i) Criminal mischief in the second degree under ORS 164.354;
- 38 (j) Criminal mischief in the first degree under ORS 164.365;
- 39 (k) Computer crime under ORS 164.377;
- 40 (L) Forgery in the second degree under ORS 165.007;
- 41 (m) Forgery in the first degree under ORS 165.013;
- 42 (n) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- 43 (o) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- 44 (p) Fraudulent use of a credit card under ORS 165.055;
- 45 (q) Identity theft under ORS 165.800;

- 1 (r) Possession of a stolen vehicle under ORS 819.300;
- 2 (s) Trafficking in stolen vehicles under ORS 819.310; and
- 3 (t) Any attempt to commit a crime listed in this subsection.
- 4 (3)(a) A presumptive sentence described in subsection (1)(a) or (b) of this section shall be in-
- 5 creased by two months for each previous conviction the person has that:
- 6 (A) Was for any of the crimes listed in subsection (1) or (2) of this section; and
- 7 (B) Was not used as a predicate for the presumptive sentence described in subsection (1)(a) or
- 8 (b) of this section.
- 9 (b) Previous convictions may not increase a presumptive sentence described in subsection (1)(a)
- 10 or (b) of this section by more than 12 months under this subsection.
- 11 (4) The court may impose a sentence other than the sentence provided by subsection (1) or (3)
- 12 of this section if the court imposes:
- 13 (a) A longer term of incarceration that is otherwise required or authorized by law; or
- 14 (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission
- 15 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon
- 16 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-
- 17 lowed for a person sentenced under this subsection is double the presumptive sentence provided in
- 18 subsection (1) or (3) of this section.
- 19 (5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under
- 20 subsection (4) of this section to a term of incarceration that exceeds the period of time described
- 21 in ORS 161.605.
- 22 (6) The court shall sentence a person under this section to at least the presumptive sentence
- 23 described in subsection (1)(a) or (b) or (3) of this section, unless the parties stipulate otherwise, **the**
- 24 **court finds substantial and compelling reasons justifying a downward departure under sec-**
- 25 **tion 1 of this 2025 Act**, or the court finds that:
- 26 (a) The person was not on probation, parole or post-prison supervision for a crime listed in
- 27 subsection (1) of this section at the time of the commission of the current crime of conviction;
- 28 (b) The person has not previously received a downward departure from a presumptive sentence
- 29 for a crime listed in subsection (1) of this section;
- 30 (c) The harm or loss caused by the crime is not greater than usual for that type of crime; and
- 31 (d) In consideration of the nature of the offense and the harm to the victim, a downward de-
- 32 parture will:
- 33 (A) Increase public safety;
- 34 (B) Enhance the likelihood that the person will be rehabilitated; and
- 35 (C) Not unduly reduce the appropriate punishment.
- 36 (7) When the court imposes a sentence of probation for a conviction for theft in the first degree
- 37 or identity theft or under subsection (6) of this section, the supervisory authority as defined in ORS
- 38 144.087 may require the person to receive a high level of supervision for at least 12 months, and
- 39 may extend the period of high-level supervision for all or part of the remaining probationary term.
- 40 (8)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have
- 41 occurred upon the pronouncement of sentence in open court. However, when sentences are imposed
- 42 for two or more convictions arising out of the same conduct or criminal episode, none of the con-
- 43 victions is considered to have occurred prior to any of the other convictions arising out of the same
- 44 conduct or criminal episode.
- 45 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-

1 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open
 2 court of the suspended imposition of a sentence.

3 (9) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

4 (10) As used in this section:

5 (a) “Downward departure” means a downward dispositional departure or a downward durational
 6 departure under the rules of the Oregon Criminal Justice Commission.

7 (b) “Previous conviction” includes:

8 (A) Convictions occurring before, on or after July 1, 2003; and

9 (B) Convictions entered in any other state or federal court for comparable offenses.

10 **SECTION 7.** ORS 137.717, as amended by section 7, chapter 649, Oregon Laws 2013, section 6,
 11 chapter 673, Oregon Laws 2017, and section 3, chapter 151, Oregon Laws 2023, is amended to read:

12 137.717. (1) When a court sentences a person convicted of:

13 (a) Aggravated theft in the first degree under ORS 164.057, organized retail theft under ORS
 14 164.098, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS
 15 164.395 or aggravated identity theft under ORS 165.803, the presumptive sentence is 24 months of
 16 incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer
 17 presumptive sentence, if the person has:

18 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized
 19 retail theft under ORS 164.098, burglary in the first degree under ORS 164.225, robbery in the third
 20 degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first
 21 degree under ORS 164.415 or aggravated identity theft under ORS 165.803;

22 (B) Two or more previous convictions for any combination of the crimes listed in subsection (2)
 23 of this section; or

24 (C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime
 25 of conviction was committed while the defendant was on supervision for the previous conviction or
 26 less than three years after the date the defendant completed the period of supervision for the pre-
 27 vious conviction.

28 (b) Unauthorized use of a vehicle under ORS 164.135, mail theft or receipt of stolen mail under
 29 ORS 164.162, burglary in the second degree under ORS 164.215, criminal mischief in the first degree
 30 under ORS 164.365, computer crime under ORS 164.377, forgery in the first degree under ORS
 31 165.013, criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent
 32 use of a credit card under ORS 165.055 (4)(b), possession of a stolen vehicle under ORS 819.300 or
 33 trafficking in stolen vehicles under ORS 819.310, the presumptive sentence is 18 months of
 34 incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer
 35 presumptive sentence, if the person has:

36 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized
 37 retail theft under ORS 164.098, unauthorized use of a vehicle under ORS 164.135, burglary in the
 38 first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the sec-
 39 ond degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen
 40 vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggravated identity
 41 theft under ORS 165.803;

42 (B) Two or more previous convictions for any combination of the crimes listed in subsection (2)
 43 of this section; or

44 (C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime
 45 of conviction was committed while the defendant was on supervision for the previous conviction or

1 less than three years after the date the defendant completed the period of supervision for the pre-
 2 vious conviction.

3 (c) Theft in the first degree under ORS 164.055 or identity theft under ORS 165.800, the
 4 presumptive sentence is 13 months of incarceration, unless the rules of the Oregon Criminal Justice
 5 Commission prescribe a longer presumptive sentence, if the person has:

6 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized
 7 retail theft under ORS 164.098, unauthorized use of a vehicle under ORS 164.135, burglary in the
 8 first degree under ORS 164.225, robbery in the second degree under ORS 164.405, robbery in the first
 9 degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen
 10 vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803; or

11 (B) Four or more previous convictions for any combination of crimes listed in subsection (2) of
 12 this section.

13 (2) The crimes to which subsection (1) of this section applies are:

- 14 (a) Theft in the second degree under ORS 164.045;
- 15 (b) Theft in the first degree under ORS 164.055;
- 16 (c) Aggravated theft in the first degree under ORS 164.057;
- 17 (d) Organized retail theft under ORS 164.098;
- 18 (e) Unauthorized use of a vehicle under ORS 164.135;
- 19 (f) Mail theft or receipt of stolen mail under ORS 164.162;
- 20 (g) Burglary in the second degree under ORS 164.215;
- 21 (h) Burglary in the first degree under ORS 164.225;
- 22 (i) Criminal mischief in the second degree under ORS 164.354;
- 23 (j) Criminal mischief in the first degree under ORS 164.365;
- 24 (k) Computer crime under ORS 164.377;
- 25 (L) Forgery in the second degree under ORS 165.007;
- 26 (m) Forgery in the first degree under ORS 165.013;
- 27 (n) Criminal possession of a forged instrument in the second degree under ORS 165.017;
- 28 (o) Criminal possession of a forged instrument in the first degree under ORS 165.022;
- 29 (p) Fraudulent use of a credit card under ORS 165.055;
- 30 (q) Identity theft under ORS 165.800;
- 31 (r) Possession of a stolen vehicle under ORS 819.300;
- 32 (s) Trafficking in stolen vehicles under ORS 819.310; and
- 33 (t) Any attempt to commit a crime listed in this subsection.

34 (3)(a) A presumptive sentence described in subsection (1)(a) or (b) of this section shall be in-
 35 creased by two months for each previous conviction the person has that:

36 (A) Was for any of the crimes listed in subsection (1) or (2) of this section; and

37 (B) Was not used as a predicate for the presumptive sentence described in subsection (1)(a) or
 38 (b) of this section.

39 (b) Previous convictions may not increase a presumptive sentence described in subsection (1)(a)
 40 or (b) of this section by more than 12 months under this subsection.

41 (4) The court may impose a sentence other than the sentence provided by subsection (1) or (3)
 42 of this section if the court imposes:

43 (a) A longer term of incarceration that is otherwise required or authorized by law; or

44 (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission
 45 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon

1 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-
 2 lowed for a person sentenced under this subsection is double the presumptive sentence provided in
 3 subsection (1) or (3) of this section.

4 (5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under
 5 subsection (4) of this section to a term of incarceration that exceeds the period of time described
 6 in ORS 161.605.

7 (6) The court shall sentence a person under this section to at least the presumptive sentence
 8 described in subsection (1)(a) or (b) or (3) of this section, unless the parties stipulate otherwise, **the**
 9 **court finds substantial and compelling reasons justifying a downward departure under sec-**
 10 **tion 1 of this 2025 Act**, or the court finds that:

11 (a) The person was not on probation, parole or post-prison supervision for a crime listed in
 12 subsection (1) of this section at the time of the commission of the current crime of conviction;

13 (b) The person has not previously received a downward departure from a presumptive sentence
 14 for a crime listed in subsection (1) of this section;

15 (c) The harm or loss caused by the crime is not greater than usual for that type of crime; and

16 (d) In consideration of the nature of the offense and the harm to the victim, a downward de-
 17 parture will:

18 (A) Increase public safety;

19 (B) Enhance the likelihood that the person will be rehabilitated; and

20 (C) Not unduly reduce the appropriate punishment.

21 (7) When the court imposes a sentence of probation for a conviction for theft in the first degree
 22 or identity theft or under subsection (6) of this section, the supervisory authority as defined in ORS
 23 144.087 may require the person to receive a high level of supervision for at least 12 months, and
 24 may extend the period of high-level supervision for all or part of the remaining probationary term.

25 (8)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have
 26 occurred upon the pronouncement of sentence in open court. However, when sentences are imposed
 27 for two or more convictions arising out of the same conduct or criminal episode, none of the con-
 28 victions is considered to have occurred prior to any of the other convictions arising out of the same
 29 conduct or criminal episode.

30 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-
 31 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open
 32 court of the suspended imposition of a sentence.

33 (9) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

34 (10) As used in this section:

35 (a) "Downward departure" means a downward dispositional departure or a downward durational
 36 departure under the rules of the Oregon Criminal Justice Commission.

37 (b) "Previous conviction" includes:

38 (A) Convictions occurring before, on or after July 1, 2003; and

39 (B) Convictions entered in any other state or federal court for comparable offenses.

40 **SECTION 8.** ORS 163.107 is amended to read:

41 163.107. (1) "Murder in the first degree" means murder in the second degree as defined in ORS
 42 163.115 which is committed under, or accompanied by, any of the following circumstances:

43 (a) The defendant committed the murder pursuant to an agreement that the defendant receive
 44 money or other thing of value for committing the murder.

45 (b) The defendant solicited another to commit the murder and paid or agreed to pay the person

1 money or other thing of value for committing the murder.

2 (c) The defendant committed murder after having been convicted previously in any jurisdiction
 3 of any homicide, the elements of which constitute the crime of aggravated murder as defined in ORS
 4 163.095, murder in the first degree under this section, murder in the second degree as defined in
 5 ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118.

6 (d) There was more than one murder victim in the same criminal episode as defined in ORS
 7 131.505.

8 (e) The homicide occurred in the course of or as a result of intentional maiming or torture of
 9 the victim.

10 (f) The victim of the intentional homicide was a person under the age of 14 years.

11 (g) The victim was one of the following and the murder was related to the performance of the
 12 victim's official duties in the justice system:

13 (A) A police officer as defined in ORS 181A.355;

14 (B) A correctional, parole and probation officer or other person charged with the duty of cus-
 15 tody, control or supervision of convicted persons;

16 (C) A member of the Oregon State Police;

17 (D) A judicial officer as defined in ORS 1.210;

18 (E) A juror or witness in a criminal proceeding;

19 (F) An employee or officer of a court of justice;

20 (G) A member of the State Board of Parole and Post-Prison Supervision; or

21 (H) A regulatory specialist.

22 (h) The defendant was confined in a state, county or municipal penal or correctional facility or
 23 was otherwise in custody when the murder occurred.

24 (i) The defendant committed murder by means of an explosive as defined in ORS 164.055.

25 (j) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed the
 26 homicide under the circumstances set forth in ORS 163.115 (1)(b).

27 (k) The murder was committed in an effort to conceal the commission of a crime, or to conceal
 28 the identity of the perpetrator of a crime.

29 (L) The murder was committed after the defendant had escaped from a state, county or munic-
 30 pal penal or correctional facility and before the defendant had been returned to the custody of the
 31 facility.

32 (2)(a) Except as otherwise provided in ORS 163.155 and [*paragraph (b)*] **paragraphs (b) and (c)**
 33 of this subsection, the court shall sentence a person convicted of murder in the first degree, who
 34 was at least 15 years of age at the time of committing the murder, to life imprisonment. The court
 35 shall order that the defendant be confined for a minimum of 30 years without possibility of parole
 36 or release to post-prison supervision except as provided in ORS 144.397, and without the possibility
 37 of release on work release or any form of temporary leave or employment at a forest or work camp.

38 (b) The court may sentence the person to life imprisonment without the possibility of parole if
 39 the person was at least 18 years of age at the time of committing the murder. The court shall state
 40 on the record the reasons for imposing the sentence. A person sentenced to life imprisonment
 41 without the possibility of release or parole under this paragraph shall not have that sentence sus-
 42 pended, deferred or commuted by any judicial officer, and the State Board of Parole and Post-Prison
 43 Supervision may not parole the prisoner nor reduce the period of confinement in any manner what-
 44 soever. The Department of Corrections or any executive official may not permit the prisoner to
 45 participate in any sort of release or furlough program.

1 (c) If the court finds substantial and compelling reasons justifying a lesser sentence un-
 2 der section 1 of this 2025 Act, the court is not obligated to sentence the defendant to the
 3 sentence specified in paragraphs (a) and (b) of this subsection and may instead impose any
 4 other sentence in accordance with the rules of the Oregon Criminal Justice Commission.

5 (3)(a) For a person sentenced to life imprisonment, at any time after completion of the minimum
 6 period of confinement described in subsection (2)(a) of this section, the State Board of Parole and
 7 Post-Prison Supervision, upon the petition of a prisoner so confined, shall hold a hearing to deter-
 8 mine if the prisoner is likely to be rehabilitated within a reasonable period of time. The sole issue
 9 is whether the prisoner is likely to be rehabilitated within a reasonable period of time. At the
 10 hearing the prisoner has:

11 (A) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation
 12 within a reasonable period of time;

13 (B) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented
 14 by legal counsel, appointed by the board, at board expense; and

15 (C) The right to a subpoena upon a showing of the general relevance and reasonable scope of
 16 the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by
 17 the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.

18 (b) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-
 19 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting
 20 members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's
 21 confinement should be changed to life imprisonment with the possibility of parole, release to post-
 22 prison supervision or work release, it shall enter an order to that effect and the order shall convert
 23 the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release
 24 to post-prison supervision or work release and may set a release date. Otherwise, the board shall
 25 deny the relief sought in the petition.

26 (c) If the board denies the relief sought in the petition, the board shall determine the date of the
 27 subsequent hearing, and the prisoner may petition for an interim hearing, in accordance with ORS
 28 144.285.

29 (d) The board's final order shall be accompanied by findings of fact and conclusions of law. The
 30 findings of fact shall consist of a concise statement of the underlying facts supporting the findings
 31 as to each contested issue of fact and as to each ultimate fact required to support the board's order.

32 **SECTION 9.** ORS 163.115 is amended to read:

33 163.115. (1) Except as provided in ORS 163.095, 163.118 and 163.125, criminal homicide consti-
 34 tutes murder in the second degree:

35 (a) When it is committed intentionally, except that it is an affirmative defense that, at the time
 36 of the homicide, the defendant was under the influence of an extreme emotional disturbance;

37 (b) When it is committed by a person, acting either alone or with one or more persons, who
 38 commits or attempts to commit any of the following crimes and in the course of and in furtherance
 39 of the crime the person is committing or attempting to commit, or during the immediate flight
 40 therefrom, the person, or another participant if there be any, causes the death of a person other
 41 than one of the participants:

42 (A) Arson in the first degree as defined in ORS 164.325;

43 (B) Criminal mischief in the first degree by means of an explosive as defined in ORS 164.365;

44 (C) Burglary in the first degree as defined in ORS 164.225;

45 (D) Escape in the first degree as defined in ORS 162.165;

1 (E) Kidnapping in the second degree as defined in ORS 163.225;

2 (F) Kidnapping in the first degree as defined in ORS 163.235;

3 (G) Robbery in the first degree as defined in ORS 164.415;

4 (H) Any felony sexual offense in the first degree defined in this chapter;

5 (I) Compelling prostitution as defined in ORS 167.017; or

6 (J) Assault in the first degree, as defined in ORS 163.185, and the victim is under 14 years of
7 age, or assault in the second degree, as defined in ORS 163.175 (1)(a) or (b), and the victim is under
8 14 years of age; or

9 (c) By abuse when a person, recklessly under circumstances manifesting extreme indifference to
10 the value of human life, causes the death of a child under 14 years of age or a dependent person,
11 as defined in ORS 163.205, and:

12 (A) The person has previously engaged in a pattern or practice of assault or torture of the vic-
13 tim or another child under 14 years of age or a dependent person; or

14 (B) The person causes the death by neglect or maltreatment.

15 (2) An accusatory instrument alleging murder by abuse under subsection (1)(c) of this section
16 need not allege specific incidents of assault or torture.

17 (3) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the
18 defendant:

19 (a) Was not the only participant in the underlying crime;

20 (b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause
21 or aid in the commission thereof;

22 (c) Was not armed with a dangerous or deadly weapon;

23 (d) Had no reasonable ground to believe that any other participant was armed with a dangerous
24 or deadly weapon; and

25 (e) Had no reasonable ground to believe that any other participant intended to engage in con-
26 duct likely to result in death.

27 (4) It is an affirmative defense to a charge of violating subsection (1)(c)(B) of this section that
28 the victim was a dependent person who was at least 18 years of age and was under care or treat-
29 ment solely by spiritual means pursuant to the religious beliefs or practices of the dependent person
30 or the guardian of the dependent person.

31 (5) Except as otherwise provided in ORS 144.397 and 163.155 **and subsection (6) of this**
32 **section:**

33 (a) A person convicted of murder in the second degree, who was at least 15 years of age at the
34 time of committing the murder, shall be punished by imprisonment for life.

35 (b) When a defendant is convicted of murder in the second degree under this section, the court
36 shall order that the defendant shall be confined for a minimum of 25 years without possibility of
37 parole, release to post-prison supervision, release on work release or any form of temporary leave
38 or employment at a forest or work camp.

39 (c) At any time after completion of a minimum period of confinement pursuant to paragraph (b)
40 of this subsection, the State Board of Parole and Post-Prison Supervision, upon the petition of a
41 prisoner so confined, shall hold a hearing to determine if the prisoner is likely to be rehabilitated
42 within a reasonable period of time. The sole issue is whether the prisoner is likely to be rehabili-
43 tated within a reasonable period of time. At the hearing the prisoner has:

44 (A) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation
45 within a reasonable period of time;

1 (B) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented
 2 by legal counsel, appointed by the board, at board expense; and

3 (C) The right to a subpoena upon a showing of the general relevance and reasonable scope of
 4 the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by
 5 the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.

6 (d) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-
 7 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting
 8 members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's
 9 confinement should be changed to life imprisonment with the possibility of parole, release to post-
 10 prison supervision or work release, it shall enter an order to that effect and the order shall convert
 11 the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release
 12 to post-prison supervision or work release and may set a release date. Otherwise, the board shall
 13 deny the relief sought in the petition.

14 (e) If the board denies the relief sought in the petition, the board shall determine the date of the
 15 subsequent hearing, and the prisoner may petition for an interim hearing, in accordance with ORS
 16 144.285.

17 (f) The board's final order shall be accompanied by findings of fact and conclusions of law. The
 18 findings of fact shall consist of a concise statement of the underlying facts supporting the findings
 19 as to each contested issue of fact and as to each ultimate fact required to support the board's order.

20 **(6) If the court finds substantial and compelling reasons justifying a lesser sentence un-**
 21 **der section 1 of this 2025 Act, the court is not obligated to sentence the defendant to the**
 22 **sentence specified in subsection (5) of this section and may instead impose any other sen-**
 23 **tence in accordance with the rules of the Oregon Criminal Justice Commission.**

24 [(6)] (7) As used in this section:

25 (a) "Assault" means the intentional, knowing or reckless causation of physical injury to another
 26 person. "Assault" does not include the causation of physical injury in a motor vehicle accident that
 27 occurs by reason of the reckless conduct of a defendant.

28 (b) "Neglect or maltreatment" means a violation of ORS 163.535, 163.545 or 163.547 or a failure
 29 to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
 30 welfare of a child under 14 years of age or a dependent person. This paragraph is not intended to
 31 replace or affect the duty or standard of care required under ORS chapter 677.

32 (c) "Pattern or practice" means one or more previous episodes.

33 (d) "Torture" means the intentional infliction of intense physical pain upon an unwilling victim
 34 as a separate objective apart from any other purpose.

35 **SECTION 10.** ORS 163.155 is amended to read:

36 163.155. (1) **Except as provided in subsection (3) of this section**, when a defendant, who was
 37 at least 15 years of age at the time of committing the murder, is convicted of murdering a pregnant
 38 victim under ORS 163.115 (1)(a) and the defendant knew that the victim was pregnant, the defendant
 39 shall be sentenced to life imprisonment without the possibility of release or parole if the person was
 40 at least 18 years of age at the time of committing the offense or to life imprisonment. The court shall
 41 conduct a sentencing proceeding to determine whether the defendant shall be sentenced to life
 42 imprisonment without the possibility of release or parole as described in subsection [(4)] (5) of this
 43 section, **sentenced** [or] to life imprisonment as described in subsection [(5)] (6) of this section **or**
 44 **sentenced under subsection (3) of this section**. If the defendant waives all rights to a jury sen-
 45 tencing proceeding, the court shall conduct the sentencing proceeding as the trier of fact. The pro-

1 cedure for the sentencing proceeding, whether before a court or a jury, shall follow the procedure
2 of ORS 163.150 (1)(a), as modified by this section.

3 (2) Following the presentation of evidence and argument under subsection (1) of this section, the
4 court shall instruct the jury that the trial court shall sentence the defendant to life imprisonment
5 without the possibility of release or parole as described in subsection [(4)] (5) of this section, unless
6 **the court sentences the person under subsection (3) of this section, or unless**, after consider-
7 ing all of the evidence submitted, 10 or more members of the jury find there are sufficient mitigating
8 circumstances to warrant life imprisonment with the possibility of release or parole as described in
9 subsection [(5)] (6) of this section. If 10 or more members of the jury do not find there are sufficient
10 mitigating circumstances to warrant life imprisonment with the possibility of release or parole, the
11 trial court shall sentence the defendant to life imprisonment without the possibility of release or
12 parole as described in subsection [(4)] (5) of this section, **unless the court sentences the defend-**
13 **ant under subsection (3) of this section.** If 10 or more members of the jury find there are suffi-
14 cient mitigating circumstances to warrant life imprisonment with the possibility of release or parole,
15 the trial court shall sentence the defendant to life imprisonment as described in subsection [(5)] (6)
16 of this section, **unless the court sentences the defendant under subsection (3) of this section.**

17 (3) **Notwithstanding any jury finding under subsection (2) of this section, if the court**
18 **finds substantial and compelling reasons justifying a lesser sentence under section 1 of this**
19 **2025 Act, the court is not obligated to sentence the defendant to a sentence otherwise re-**
20 **quired by this section, and may instead impose any other sentence in accordance with the**
21 **rules of the Oregon Criminal Justice Commission.**

22 [(3)] (4) Nothing in this section precludes the court from sentencing the defendant to life
23 imprisonment, as described in subsection [(5)] (6) of this section, or life imprisonment without the
24 possibility of release or parole, as described in subsection [(4)] (5) of this section, pursuant to a
25 stipulation of sentence or stipulation of sentencing facts agreed to and offered by both parties if the
26 defendant waives all rights to a jury sentencing proceeding.

27 [(4)] (5) A sentence of life imprisonment without the possibility of release or parole under this
28 section may not be suspended, deferred or commuted by any judicial officer, and the State Board
29 of Parole and Post-Prison Supervision may neither parole the prisoner nor reduce the period of
30 confinement in any manner whatsoever. The Department of Corrections or any executive official
31 may not permit the prisoner to participate in any sort of release or furlough program.

32 [(5)] (6) If the defendant is sentenced to life imprisonment, the court shall order that the de-
33 fendant be confined for a minimum of 30 years without possibility of parole or release to post-prison
34 supervision except as provided in ORS 144.397, and without the possibility of release on work re-
35 lease or any form of temporary leave or employment at a forest or work camp.

36 [(6)] (7) At any time after completion of the minimum period of confinement pursuant to sub-
37 section [(5)] (6) of this section, the board, upon the petition of a prisoner so confined, shall hold a
38 hearing to determine if the prisoner is likely to be rehabilitated within a reasonable period of time.
39 The sole issue shall be whether the prisoner is likely to be rehabilitated within a reasonable period
40 of time. The proceeding shall be conducted in the manner prescribed for a contested case hearing
41 under ORS chapter 183, except that:

42 (a) The prisoner has the burden of proving by a preponderance of the evidence the likelihood
43 of rehabilitation within a reasonable period of time;

44 (b) The prisoner has the right, if the prisoner is without sufficient funds to employ an attorney,
45 to be represented by legal counsel, appointed by the board, at board expense; and

1 (c) The prisoner has the right to a subpoena upon a showing of the general relevance and rea-
 2 sonable scope of the evidence sought, provided that any subpoena issued on behalf of the prisoner
 3 must be issued by the board pursuant to rules adopted by the board.

4 [(7)] (8) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board
 5 members or, if the chairperson requires all voting members to participate, a unanimous vote of all
 6 voting members, finds that the prisoner is capable of rehabilitation and that the terms of the
 7 prisoner’s confinement should be changed to life imprisonment with the possibility of parole, release
 8 on post-prison supervision or work release, it shall enter an order to that effect and the order shall
 9 convert the terms of the prisoner’s confinement to life imprisonment with the possibility of parole,
 10 release on post-prison supervision or work release and may set a release date. Otherwise the board
 11 shall deny the relief sought in the petition.

12 [(8)] (9) Not less than two years after the denial of the relief sought in a petition under this
 13 section, the prisoner may petition again for a change in the terms of confinement. Further petitions
 14 for a change may be filed at intervals of not less than two years thereafter.

15 **SECTION 11.** ORS 475.930 is amended to read:

16 475.930. (1) **Except as provided in subsection (3) of this section,** when a court sentences a
 17 person under ORS 164.061, 475.907, 475.924 [and] or 475.925:

18 (a) The court shall use the criminal history scale of the sentencing guidelines grid of the Oregon
 19 Criminal Justice Commission to determine the sentence to impose. The sentence described in:

20 (A) ORS 475.925 (1) shall be determined utilizing crime category 10 of the sentencing guidelines
 21 grid.

22 (B) ORS 475.907 (1) and 475.925 (2) shall be determined utilizing crime category 9 of the sen-
 23 tencing guidelines grid.

24 (C) ORS 164.061 shall be determined utilizing crime category 8 of the sentencing guidelines grid.

25 (b)(A) Notwithstanding ORS 161.605, the court shall impose the sentence described in ORS
 26 164.061, 475.907, 475.924 [and] or 475.925 and may not impose a sentence of optional probation or
 27 grant a downward dispositional departure or a downward durational departure under the rules of
 28 the commission.

29 (B) The court may impose a sentence other than the sentence described in ORS 164.061, 475.907,
 30 475.924 [and] or 475.925 if the court imposes a longer term of incarceration that is otherwise re-
 31 quired or authorized by law.

32 (2) A person sentenced under ORS 164.061, 475.907, 475.924 [and] or 475.925 may not receive a
 33 reduction in the term of incarceration for appropriate institutional behavior that exceeds 20 percent
 34 of the sentence imposed.

35 (3) **Notwithstanding ORS 164.061, 475.907, 475.924 and 475.925, when a court sentences a**
 36 **person under ORS 164.061, 475.907, 475.924 or 475.925 and the court finds substantial and**
 37 **compelling reasons justifying a lesser sentence under section 1 of this 2025 Act, the court is**
 38 **not obligated to sentence the person to the sentence specified in ORS 164.061, 475.907, 475.924**
 39 **or 475.925 and may instead impose any other sentence in accordance with the rules of the**
 40 **Oregon Criminal Justice Commission.**

41
 42 **CONFORMING AMENDMENTS**
 43

44 **SECTION 12.** ORS 138.105 is amended to read:

45 138.105. (1) On appeal by a defendant, the appellate court has authority to review the judgment

1 or order being appealed, subject to the provisions of this section.

2 (2) The appellate court has authority to review only questions of law appearing on the record.

3 (3) Except as otherwise provided in this section, the appellate court has authority to review any
4 intermediate decision of the trial court.

5 (4) On appeal from a judgment of conviction and sentence, the appellate court has authority to
6 review:

7 (a) The denial of a motion for new trial based on juror misconduct or newly discovered evidence;
8 and

9 (b) The denial of a motion in arrest of judgment.

10 (5) The appellate court has no authority to review the validity of the defendant's plea of guilty
11 or no contest, or a conviction based on the defendant's plea of guilty or no contest, except that:

12 (a) The appellate court has authority to review the trial court's adverse determination of a
13 pretrial motion reserved in a conditional plea of guilty or no contest under ORS 135.335.

14 (b) The appellate court has authority to review whether the trial court erred by not merging
15 determinations of guilt of two or more offenses, unless the entry of separate convictions results from
16 an agreement between the state and the defendant.

17 (6) On appeal from a judgment ordering payment of restitution but not specifying the amount
18 of restitution, the appellate court has no authority to review the decision to award restitution.

19 (7) Except as otherwise provided in subsections (8) and (9) of this section, the appellate court
20 has authority to review any sentence to determine whether the trial court failed to comply with
21 requirements of law in imposing or failing to impose a sentence.

22 (8) Except as otherwise provided in subsection (9) of this section, for a sentence imposed on
23 conviction of a felony committed on or after November 1, 1989:

24 (a) The appellate court has no authority to review:

25 (A) A sentence that is within the presumptive sentence prescribed by the rules of the Oregon
26 Criminal Justice Commission.

27 (B) A sentence of probation when the rules of the Oregon Criminal Justice Commission prescribe
28 a presumptive sentence of imprisonment but allow a sentence of probation without departure.

29 (C) A sentence of imprisonment when the rules of the Oregon Criminal Justice Commission
30 prescribe a presumptive sentence of imprisonment but allow a sentence of probation without depar-
31 ture.

32 (b) If the trial court imposed a sentence that departs from the presumptive sentence prescribed
33 by the rules of the Oregon Criminal Justice Commission, the appellate court's authority to review
34 is limited to whether the trial court's findings of fact and reasons justifying a departure from the
35 sentence prescribed by the rules of the Oregon Criminal Justice Commission:

36 (A) Are supported by the evidence in the record; and

37 (B) Constitute substantial and compelling reasons for departure.

38 (c) Notwithstanding paragraph (a) of this subsection, the appellate court has authority to review
39 whether the sentencing court erred:

40 (A) In ranking the crime seriousness classification of the current crime or in determining the
41 appropriate classification of a prior conviction or juvenile adjudication for criminal history pur-
42 poses.

43 (B) In imposing or failing to impose a minimum sentence prescribed by ORS 137.700 (1)(a) or
44 137.707 (1)(a).

45 (9) The appellate court has no authority to review any part of a sentence resulting from a

1 stipulated sentencing agreement between the state and the defendant.

2 (10)(a) On appeal from a corrected or amended judgment that is entered before expiration of the
 3 applicable period under ORS 138.071 (1) or (2) during which the original judgment can be appealed,
 4 the appellate court has authority to review the judgment, including the corrections or amendments,
 5 as provided in this section.

6 (b) On appeal from a corrected or amended judgment that is entered after expiration of the ap-
 7 plicable period under ORS 138.071 (1) or (2) during which the original judgment was or could have
 8 been appealed, the appellate court has authority to review, as provided in this section, only the
 9 corrected or amended part of the judgment, any part of the judgment affected by the correction or
 10 amendment, or the trial court’s decision under ORS 137.172 not to correct or amend the judgment.

11 (c) As used in this subsection, “judgment” means any appealable judgment or order.

12 (11)(a) On a defendant’s cross-appeal under ORS 138.035 (5), the appellate court may, in its dis-
 13 cretion, limit review to any decision by the trial court that is inextricably linked, either factually
 14 or legally, to the state’s appeal.

15 (b) The failure to file a cross-appeal under ORS 138.035 (5) does not waive a defendant’s right
 16 to assign error to a particular ruling of the trial court on appeal from a judgment.

17 **SECTION 13.** ORS 138.115 is amended to read:

18 138.115. (1) On appeal by the state, the appellate court has authority to review the judgment or
 19 order being appealed, subject to the provisions of this section.

20 (2) The appellate court has authority to review only questions of law appearing on the record.

21 (3) Except as otherwise provided in this section, the appellate court has authority to review any
 22 intermediate decision involving the merits of, or necessarily affecting, the judgment or order from
 23 which the appeal is taken.

24 (4)(a) Except as provided in paragraph (b) of this subsection, on appeal from a judgment of
 25 conviction of any felony, the appellate court has authority to review only the sentence as provided
 26 by subsections (5) and (6) of this section.

27 (b) The appellate court has authority to review whether the trial court erred in merging deter-
 28 minations of guilt of two or more offenses, unless the merger of determinations of guilt resulted from
 29 an agreement between the state and the defendant.

30 (5) Except as otherwise provided in subsections (6) and (7) of this section, the appellate court
 31 has authority to review the sentence imposed on conviction of any felony to determine whether the
 32 trial court failed to comply with requirements of law in imposing or failing to impose a sentence.

33 (6) Except as otherwise provided in subsection (7) of this section, for a sentence imposed on
 34 conviction of a felony committed on or after November 1, 1989:

35 (a) The appellate court has no authority to review:

36 (A) A sentence that is within the presumptive sentence prescribed by the rules of the Oregon
 37 Criminal Justice Commission.

38 (B) A sentence of probation when the rules of the Oregon Criminal Justice Commission prescribe
 39 a presumptive sentence of imprisonment but allow a sentence of probation without departure.

40 (C) A sentence of imprisonment when the rules of the Oregon Criminal Justice Commission
 41 prescribe a presumptive sentence of imprisonment but allow a sentence of probation without depar-
 42 ture.

43 (b) If the trial court imposed a sentence that departs from the presumptive sentence prescribed
 44 by the rules of the Oregon Criminal Justice Commission, the appellate court’s authority to review
 45 is limited to whether the trial court’s findings of fact and reasons justifying a departure from the

1 sentence prescribed by the rules of the Oregon Criminal Justice Commission:

2 (A) Are supported by the evidence in the record; and

3 (B) Constitute substantial and compelling reasons for departure.

4 (c) Notwithstanding paragraph (a) of this subsection, the appellate court has authority to review
5 whether the sentencing court erred:

6 (A) In ranking the crime seriousness classification of the current crime or in determining the
7 appropriate classification of a prior conviction or juvenile adjudication for criminal history pur-
8 poses.

9 (B) In imposing or failing to impose a minimum sentence prescribed by ORS 137.700 (1)(a) or
10 137.707 (1)(a).

11 (7) The appellate court has no authority to review any part of a sentence resulting from a
12 stipulated sentencing agreement between the state and the defendant.

13 (8)(a) On appeal from a corrected or amended judgment that is entered before expiration of the
14 applicable period under ORS 138.071 (1) or (2) during which the original judgment can be appealed,
15 the appellate court has authority to review the judgment, including the corrections or amendments,
16 as provided in this section.

17 (b) On appeal from a corrected or amended judgment that is entered after expiration of the ap-
18 plicable period under ORS 138.071 (1) or (2) during which the original judgment was or could have
19 been appealed, the appellate court has authority to review, as provided in this section, only the
20 corrected or amended part of the judgment, any part of the judgment affected by the correction or
21 amendment, or the trial court’s decision under ORS 137.172 not to correct or amend the judgment.

22 (c) As used in this subsection, “judgment” means any appealable judgment or order.

23 **SECTION 14.** ORS 144.110 is amended to read:

24 144.110. (1) In any felony case, the court may impose a minimum term of imprisonment of up to
25 one-half of the sentence it imposes.

26 (2) Notwithstanding the provisions of ORS 144.120 and 144.780:

27 (a) The State Board of Parole and Post-Prison Supervision shall not release a prisoner on parole
28 who has been sentenced under subsection (1) of this section until the minimum term has been served,
29 except upon affirmative vote of a majority of three board members or, if the chairperson requires
30 all voting members to participate, a majority of all voting members.

31 (b) The board shall not release a prisoner on parole:

32 (A) Who has been convicted of murder defined as aggravated murder under the provisions of
33 ORS 163.095, except as provided in ORS 163.105;

34 (B) Who has been convicted of murder in the first degree under the provisions of ORS 163.107,
35 except as provided in ORS 163.107 (3) [*or 163.155 (6) to (8)*]; or

36 (C) Who has been convicted of murder in the second degree under the provisions of ORS 163.115,
37 except as provided in ORS 163.115 (5)(c) to (f) or 163.155 [*(6) to (8)*] **(7) to (9)**.

38 **(3) This section does not apply to a person sentenced under ORS 163.107 (2)(c), 163.115 (6)**
39 **or 163.155 (3).**

40 **SECTION 15.** ORS 161.620 is amended to read:

41 161.620. Notwithstanding any other provision of law, a sentence imposed upon any person
42 waived under ORS 419C.349, 419C.352, 419C.364 or 419C.370 shall not include any sentence of death
43 or life imprisonment without the possibility of release or parole nor imposition of any mandatory
44 minimum sentence except that a mandatory minimum sentence under:

45 (1) ORS 137.707 (1)(a) shall be imposed, except as provided in ORS 137.712;

1 (2) ORS 163.105 (1)(c) shall be imposed; and

2 (3) ORS 161.610 may be imposed.

3 **SECTION 16.** ORS 420.240 is amended to read:

4 420.240. (1) The Oregon Youth Authority may establish and administer a work release program
5 in which persons who are committed to the custody of the Department of Corrections and placed in
6 the physical custody of the youth authority under ORS 137.124 or other statute may be authorized
7 to leave assigned quarters for the purpose of:

8 (a) Participating in private, gainful employment;

9 (b) Participating in a work program approved by the youth authority, including work with public
10 or private agencies or persons, with or without compensation;

11 (c) Obtaining in this state additional education, including but not limited to vocational, technical
12 and general education;

13 (d) Participating in alcohol or drug treatment programs;

14 (e) Participating in mental health programs;

15 (f) Specific treatment to develop independent living skills; or

16 (g) Other purposes established by the youth authority by rule.

17 (2) After consulting with the Department of Corrections, the youth authority shall adopt rules
18 to carry out the provisions of ORS 420.240 to 420.265.

19 (3) The provisions of this section do not apply to persons sentenced under ORS 137.635 (1),
20 137.700 (1)(a) or 137.707 (1)(a) or any other provision of law that prohibits eligibility for any form
21 of temporary leave from custody.

22 **SECTION 17.** ORS 421.121 is amended to read:

23 421.121. (1) Except as **otherwise** provided in ORS 137.635, 137.700, 137.707, 163.105, 163.107 and
24 163.115, each adult in custody sentenced to the custody of the Department of Corrections for felonies
25 committed on or after November 1, 1989, is eligible for a reduction in the term of incarceration for:

26 (a) Appropriate institutional behavior, as defined by rule of the Department of Corrections; and

27 (b) Participation in the adult basic skills development program described in ORS 421.084.

28 (2) The maximum amount of time credits earned for appropriate institutional behavior or for
29 participation in the adult basic skills development program described in ORS 421.084 may not exceed
30 20 percent of the total term of incarceration in a Department of Corrections institution.

31 (3) The time credits may not be used to shorten the term of actual prison confinement to less
32 than six months.

33 (4) The department shall adopt rules pursuant to the rulemaking provisions of ORS chapter 183
34 to establish a process for granting, retracting and restoring the time credits earned by the offender
35 as allowed in subsections (1) to (3) of this section.

36 **SECTION 18.** ORS 421.168 is amended to read:

37 421.168. (1) The Department of Corrections shall establish a short-term transitional leave pro-
38 gram. The program shall provide adults in custody with an opportunity to secure appropriate tran-
39 sitional support when necessary for successful reintegration into the community prior to the adult's
40 discharge to post-prison supervision.

41 (2) The Department of Corrections shall identify each adult in custody who is eligible for the
42 short-term transitional leave program and shall, in conjunction with the supervisory authority for
43 the county to which the adult in custody will be released, assist each eligible adult in custody in
44 preparing a transition plan and in identifying and applying for an employment, educational or other
45 transitional opportunity in the community.

1 (3) If the transition plan for the adult in custody is approved by the department and is an es-
2 sential part of successful reintegration into the community, the department may grant a transitional
3 leave no more than 120 days before the discharge date of the adult in custody.

4 (4) An adult in custody is not eligible for transitional leave before having served six months of
5 prison incarceration.

6 (5) The department shall adopt rules to carry out the provisions of this section. The rules must
7 include a set of release conditions for adults in custody released on transitional leave status. [*An*
8 *adult in custody*] **A person** on transitional leave status is subject to immediate return to prison for
9 any violation of the conditions of release.

10 (6) The provisions of this section do not apply to adults in custody whose sentences were im-
11 posed under ORS 137.635 (1), 137.690 (1), 137.700 (1)(a), 137.707 (1)(a), 164.061, 475.907, 475.925,
12 475.930 (1) or 813.011 or under a provision of law that prohibits release on any form of temporary
13 leave from custody.

14
15 **APPLICABILITY**

16
17 **SECTION 19. Section 1 of this 2025 Act and the amendments to ORS 137.635, 137.690,**
18 **137.700, 137.707, 137.717, 138.105, 138.115, 144.110, 161.620, 163.107, 163.115, 163.155, 420.240,**
19 **421.121, 421.168 and 475.930 by sections 2 to 18 of this 2025 Act apply to sentences imposed for**
20 **crimes based on conduct occurring on or after the effective date of this 2025 Act.**

21
22 **CAPTIONS**

23
24 **SECTION 20. The unit captions used in this 2025 Act are provided only for the conven-**
25 **ience of the reader and do not become part of the statutory law of this state or express any**
26 **legislative intent in the enactment of this 2025 Act.**

27
28 **EFFECTIVE DATE**

29
30 **SECTION 21. This 2025 Act takes effect on the 91st day after the date on which the 2025**
31 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**