Chapter 144

2013 EDITION

Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports

ADMINISTRATION

(Board)

144.005 State Board of Parole and Post-Prison Supervision; membership; compensation

144.015 Confirmation by Senate

144.025 Chairperson; quorum

144.035 Board hearings; panels; exception

144.040 Board to determine parole and post-prison supervision violations

144.050 Power of board to authorize parole; rules

144.054 When board decision must be reviewed by full board

(Generally)

144.059 State Board of Parole and Post-Prison Supervision Account

144.060 Acceptance of funds or property; contracts with federal government and others

144.075 Payment of expenses of returning violators of parole or post-prison supervision, conditional pardon or commutation

144.079 Determination of total term of certain consecutive sentences of imprisonment; summing of sentences; exceptions

144.085 Active parole and post-prison supervision; minimum amounts; extension

144.087 "Supervisory authority" defined

POST-PRISON SUPERVISION

144.096 Release plan; contents

144.098 Review of release plan

Note Reentry courts--2013 c.649 §§29,33,38(2)

144.101 Board's jurisdiction over conditions of post-prison supervision; reentry court jurisdiction

144.102 Conditions of post-prison supervision

144.103 Term of active post-prison supervision for person convicted of certain offenses

144.104 Supervisory authority; revising conditions

144.106 Violation of post-prison supervision conditions; sanctions

144.107 Sanctions for violations of conditions of post-prison supervision; rules

144.108 Recommitment to prison for certain violations; procedure; effect of recommitment

144.109 Violation of post-prison supervision by sexually violent dangerous offender; maximum period of sanction

PAROLE PROCESS

144.110 Restriction on parole of persons sentenced to minimum terms

144.120 Initial parole hearing; setting initial parole release date; deferral of setting initial date

144.122 Advancing initial release date; requirements; exceptions; rules

144.123 Who may accompany person to parole hearing; rules

144.125 Review of parole plan, psychological reports and conduct prior to release; release postponement; elements of parole plan; Department of Corrections assistance; rules

144.126 Advancing release date of prisoner with severe medical condition including terminal illness or who is elderly and permanently incapacitated; rules

144.130 Prisoner to have access to written materials considered at hearings or interviews; access procedures

144.135 Bases of parole decisions to be in writing

144.140 Rules

144.185 Records and information available to board

144.223 Examination by psychiatrist or psychologist of parole candidate; report; copies to affected persons

144.226 Examination by psychiatrist or psychologist of person sentenced as dangerous offender; report

144.228 Periodic parole consideration hearings for dangerous offenders; setting of parole date; information to be considered

144.232 Release of dangerous offender to post-prison supervision; eligibility; hearing

144.245 Date of release on parole; effect of release order

144.260 Notice of prospective release on parole or post-prison supervision of inmate

144.270 Conditions of parole

144.275 Parole of inmates sentenced to pay compensatory fines or make restitution; schedule of payments

144.280 Hearing after parole denied to prisoner sentenced for crime committed prior to November 1, 1989; rules

144.285 Hearing after petition for change in terms of confinement denied to prisoner convicted of aggravated murder or murder; rules

TERMINATION OF PAROLE

144.315 Evidence admissible before board; procedures

144.317 Appointment of attorneys; payment

144.331 Suspension of parole or post-prison supervision; custody of violator; revocation hearing before suspension

144.334 Use of citations for parole or post-prison supervision violators; conditions; appearance

144.335 Appeal from order of board to Court of Appeals; appointment of master; costs
144.337 Public Defense Services Commission to provide counsel for eligible petitioners
144.340 Power to retake and return violators of parole and post-prison supervision
144.341 Procedure upon arrest of violator
144.343 Hearing required on revocation; procedure
144.345 Revocation of parole; effect of conviction for crime
144.346 Parole revocation sanctions; rules
144.347 Subpoena power of board; reimbursement for costs; contempt proceedings
144.349 When ORS 144.343 does not apply
144.350 Order for arrest and detention of escapee or violator of parole, post-prison supervision, probation, conditional pardon or other conditional release; investigation by department
144.360 Effect of order for arrest and detention of violator
144.370 Suspension of parole or post-prison supervision following order for arrest and detention; hearing
144.374 Deputization of persons in other states to act in returning Oregon violators
144.376 Contracts for sharing expense with other states of cooperative returns of violators
144.380 Violator as fugitive from justice
144.395 Rerelease of persons whose parole has been revoked; rules

SEIZURE OF PROPERTY BY PAROLE AND PROBATION OFFICERS

144.404 Department of Corrections authority to receive, hold and dispose of property
144.405 Duty of officer upon seizure; disposition of property if no claim to rightful possession is established
144.406 Petition for return of things seized
144.407 Grounds for valid claim to rightful possession
144.408 Hearing on petition
144.409 Granting petition for return of things seized; judicial review

WORK RELEASE PROGRAM

144.410 Definitions for ORS 144.410 to 144.525
144.420 Department of Corrections to administer work release program; purposes of release; housing of parolee
144.430 Duties of department in administering program
144.440 Recommendation by sentencing court
144.450 Approval or rejection of recommendations; rules; exemptions from Administrative Procedures Act
144.460 Contracts for quartering of enrollees
144.470 Disposition of enrollee's compensation under program; rules
144.480 Protections and benefits for enrollees
144.490 Status of enrollees
144.500 Effect of violation or unexcused absence by enrollee
144.515 Release terminates enrollment; continued employment
144.522 Revolving fund
144.525 Custody of enrollee earnings deducted or otherwise retained by department

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

144.600 Interstate Compact for Adult Offender Supervision
144.602 Short title
144.603 Withdrawal from compact
144.605 Fee for application to transfer supervision

UNIFORM ACT FOR OUT-OF-STATE SUPERVISION

144.610 Out-of-state supervision of parolees; contract with other states
144.613 Notice when parole or probation violated; hearing; report to sending state; taking person into custody
144.615 Hearing procedure
144.617 Hearing on violation in another state; effect of record in such hearing
144.620 Short title
144.622 "Parole" and "parolee" defined for Uniform Act for Out-of-State Supervision

SEX OFFENDERS; SPECIAL PROVISIONS

(Sexually Violent Dangerous Offenders)

144.635 Intensive supervision; duration
144.637 Rules
144.639 Projecting number of persons to be classified as sexually violent dangerous offenders; budgeting

(Sex Offender Residence Requirements)

144.641 Definitions
144.642 Criteria for determining residence; Department of Corrections; rules; matrix
144.644 Criteria for determining residence; State Board of Parole and Post-Prison Supervision; rules; matrix
144.646 Use of rules and matrix by community corrections agency

EXECUTIVE CLEMENCY

144.649 Granting reprieves, commutations and pardons generally; remission of penalties and forfeitures
144.650 Notice of intention to apply for pardon, commutation or remission; proof of service
144.660 Report to legislature by Governor
144.670 Filing of papers by Governor

MISCELLANEOUS PROVISIONS

144.710 Cooperation of public officials with State Board of Parole and Post-Prison Supervision and Department of Corrections
144.720 Judge's power to suspend execution of sentence or grant probation prior to commitment
144.730 Failure to complete treatment program
144.750 Victim's rights

ADVISORY COMMISSION ON PRISON TERMS AND PAROLE STANDARDS

144.775 Commission members; terms; compensation; rules on duration of prison terms

144.780 Rules on duration of imprisonment; objectives; considerations in prescribing rules

144.783 Duration of term of imprisonment when prisoner is sentenced to consecutive terms

144.785 Rules on duration of prison terms when aggravating or mitigating circumstances exist; limitation on terms; dangerous offenders

144.787 Rules on age or physical disability of victim constituting aggravating circumstance

PRESENTENCE REPORTS

144.791 Presentence report in felony conviction cases; when required

ADMINISTRATION

(Board)

144.005 State Board of Parole and Post-Prison Supervision; membership; compensation. (1) A State Board of Parole and Post-Prison Supervision of at least three but no more than five members hereby is created. At least one member must be a woman.

(2) Members of the board shall be appointed by the Governor and serve for a term of four years. If the number of members falls below three for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term. The Governor at any time may remove any member for inefficiency, neglect of duty or malfeasance in office.

(3) Each member shall devote the member's entire time to the performance of the duties imposed on the board and shall not engage in any partisan political activity.

(4) The members shall receive a salary set by the Governor. In addition, all members may receive actual and necessary travel and other expenses incurred in the performance of their official duties within limits as provided by law or under ORS 292.220 and 292.230.

(5) The Director of the Department of Corrections shall serve as an ex officio nonvoting member of the board. [1969 c.597 §102; 1973 c.836 §281; 1975 c.217 §1; 1987 c.320 §47; 1989 c.790 §22; 1991 c.126 §1]

144.010 [Amended by 1953 c.223 §2; 1959 c.327 §1; 1967 c.526 §1; repealed by 1969 c.597 §281]

144.015 Confirmation by Senate. The appointment of a member of the State Board of Parole and Post-Prison Supervision is subject to confirmation by the Senate as provided in ORS 171.562 and 171.565. [1969 c.597 §107; 1973 c.836 §282; 1985 c.565 §15]

144.020 [Repealed by 1969 c.597 §281]

144.025 Chairperson; quorum. (1) The Governor shall select one of the members of the State Board of Parole and Post-Prison Supervision as chairperson and another member as vice chairperson, for such terms and with duties and powers, in addition to those established by law, necessary for the performance of the function of such office as the Governor determines.

(2) A majority of the members of the board constitutes a quorum for decisions concerning rules and policies.

(3) Except as otherwise provided in this chapter, decisions affecting individuals under the jurisdiction of the board shall be made as designated by the rules of the board. [1969 c.597 §106; 1973 c.836 §283; 1975 c.217 §3; 1981 c.644 §3; 1989 c.589 §1; 1991 c.126 §2]

144.030 [Repealed by 1969 c.597 §281]

144.035 Board hearings; panels; exception. (1) In hearings conducted by the State Board of Parole and Post-Prison Supervision, the board may sit together or in panels.

(2) Panels may consist of one or two board members or of one member and one hearings officer, appointed by the chairperson as a designated representative of the board. A panel consisting of one member or of one member and one hearings officer shall be used only when considering inmates convicted of non person-to-person crimes as defined in the rules of the Oregon Criminal Justice Commission. The chairperson of the board from time to time shall make assignments of members to the panels. The chairperson of the board may participate on any panel.

(3) The chairperson shall apportion matters for decision to the panels. Each panel shall have the authority to hear and determine all questions before it. However:

(a) If there is a division in the panel so that a decision is not unanimous, another member shall vote after administrative review of the record.

(b) In case of a panel consisting of one board member, another member shall vote after administrative review of the record.

(c) If the original panel was made up of one board member and the member voting after administrative review of the record disagrees with the decision, the matter shall be reassigned to a panel made up of the remaining board members. If this second panel agrees with neither member of the original panel, the matter will be referred to a hearing before the full board.

(4) The provisions of subsections (1) to (3) of this section shall not apply to a decision to release a prisoner sentenced under ORS 144.110 (1). In such cases, the board shall release the prisoner only upon affirmative vote of a majority of the board.

(5) The chairperson may elect to conduct the hearings described in this section by conference call with the prisoner. [1975 c.217 §4; 1977 c.372 §15; 1989 c.105 §1; 1989 c.589 §2; 1991 c.126 §3]

144.040 Board to determine parole and post-prison supervision violations. The State Board of Parole and Post-Prison Supervision shall determine whether violation of conditions of parole or post-prison supervision exists in specific cases. [Amended by 1955 c.688 §3; 1969 c.597 §108; 1973 c.836 §284; 1989 c.790 §24]

144.045 [1967 c.560 §2; repealed by 1969 c.597 §281]

144.050 Power of board to authorize parole; rules. Subject to applicable laws, the State Board of Parole and Post-Prison Supervision may authorize any inmate, who

is committed to the legal and physical custody of the Department of Corrections for an offense committed prior to November 1, 1989, to go upon parole subject to being arrested and detained under written order of the board or as provided in ORS 144.350. The state board may establish rules applicable to parole. [Amended by 1959 c.101 §1; 1967 c.372 §7; 1969 c.597 §109; 1971 c.633 §10; 1973 c.694 §2; 1973 c.836 §285; 1974 c.36 §3; 1981 c.243 §1; 1987 c.320 §48; 1989 c.790 §25]

144.054 When board decision must be reviewed by full board. Whenever the State Board of Parole and Post-Prison Supervision makes a decision affecting a person sentenced to life imprisonment or convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the person with causing the death of the victim, the decision affecting such person must be reviewed by the full membership of the board. [1975 c.217 §5]

144.055 [1955 c.660 §12; repealed by 1969 c.597 §281]

(Generally)

144.059 State Board of Parole and Post-Prison Supervision Account. The State Board of Parole and Post-Prison Supervision Account is established separate and distinct from the General Fund. All moneys received by the State Board of Parole and Post-Prison Supervision, other than appropriations from the General Fund, shall be deposited into the account and are continuously appropriated to the board to carry out the duties, functions and powers of the board. [2001 c.716 §2]

Note: 144.059 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.060 Acceptance of funds or property; contracts with federal government and others. The Department of Corrections, with the written consent of the Governor, shall:

(1) Accept from the United States of America, or any of its agencies, such funds, equipment and supplies as may be made available to this state to carry out any of the functions of the department and shall enter into such contracts and agreements with the United States, or any of its agencies, as may be necessary, proper and convenient, not contrary to the laws of this state.

(2) Enter into an agreement with the county court or board of county commissioners of any county, or with the governing officials of any municipality of this state having a population of 300,000 or less for the payment by the county or municipality of all or any part of the cost of the performance by the Department of Corrections or State Board of Parole and Post-Prison Supervision of any parole, post-prison supervision or probation services or of the supervision of any parole, post-prison supervision or probation case arising within the county or municipality.

(3) Accept any grant or donation of land or any gift of money or other valuable thing made to the state to carry out any of the functions of the department.

(4) Enter into an agreement with the county court or board of county commissioners of each county within the boundaries of which the largest part of a city having a population of more than 300,000 is situated for the payment by the county of all or any part of the cost of the performance by the department of all or any part of the responsibility for prisoners transferred to the county by section 13, chapter 633, Oregon Laws 1971. [Amended by 1969 c.597 §112; 1971 c.633 §11; 1973 c.836 §286; 1974 c.36 §4; 1987 c.320 §49; 1989 c.790 §26]

144.070 [Repealed by 1969 c.597 §281]

144.075 Payment of expenses of returning violators of parole or post-prison supervision, conditional pardon or commutation. Any expense incurred by the state for returning to the Department of Corrections any parole or post-prison supervision violator or violator of a conditional commutation or conditional pardon shall be paid out of the biennial appropriations made for the payment of the state's portion of the expenses incident to such transportation. [1953 c.191 §1; 1973 c.836 §287; 1987 c.320 §50; 1989 c.790 §27]

144.079 Determination of total term of certain consecutive sentences of imprisonment; summing of sentences; exceptions. (1)(a) If a prisoner is sentenced to terms of imprisonment that are consecutive to one another and result from crimes committed during the period before the prisoner's first initial parole hearing, or if a prisoner is sentenced to terms of imprisonment that are consecutive to one another and result from crimes committed during the period between any two initial parole hearings, the total term resulting from the crimes committed during each such separate period shall be determined by the State Board of Parole and Post-Prison Supervision as follows, except as provided in subsection (2) of this section, and the total terms so determined shall then be summed as provided in ORS 144.783 (1):

(A) First, the board shall establish the appropriate range for the felony determined by the board, according to its rules, to be the most serious of the felonies committed during the period. If two or more felonies are determined to be equally the most serious, the board shall establish the appropriate

range under this paragraph only for one of those felonies.

(B) Second, the board shall establish a range for each of the remaining felonies committed during the same period. For purposes of establishing the ranges for the remaining felonies under this paragraph, the board shall not consider prior criminal history.

(C) Third, the board shall determine the total range applicable in the offender's case for crimes committed during the same period by summing the ranges established under subparagraph (B) of this paragraph with the range established under subparagraph (A) of this paragraph and shall determine an appropriate term within that range.

(D) Finally, the board shall vary the term determined under subparagraph (C) of this paragraph according to rules established under ORS 144.785 (1), if the board finds aggravating or mitigating factors in the case. The board shall consider as an aggravating factor the fact that the prisoner has been sentenced to consecutive terms of imprisonment.

(b) Whenever a prisoner is committed to the custody of the Department of Corrections for a crime that was committed during a period already considered at an initial parole hearing and upon a sentence consecutive to any sentence imposed for crimes committed during that period, the board shall conduct a hearing to consider the previously unconsidered crime. The hearing shall be a hearing supplemental to the original initial hearing concerning crimes committed during the period. Time limitations and other procedural provisions applicable to initial hearings shall apply to a supplemental hearing under this subsection. Upon conclusion of the supplemental hearing, the board shall redetermine the appropriate total term for the period. The redetermination shall be conducted de novo under the provisions of subsection (2) of this section.

(2) The method established by this section for determining, where applicable, the total term resulting from the summing of consecutive sentences shall apply only if none of the crimes involved is:

(a) Murder, as defined in ORS 163.115 or any aggravated form thereof;

(b) Assault in the first degree, as defined in ORS 163.185;

(c) Kidnapping in the first degree, as defined in ORS 163.235;

(d) Rape in the first degree, as defined in ORS 163.375;

(e) Sodomy in the first degree, as defined in ORS 163.405;

(f) Unlawful sexual penetration, as defined in ORS 163.411;

(g) Arson in the first degree, as defined in ORS 164.325; or

(h) Treason, as defined in ORS 166.005.

(3) The duration of imprisonment pursuant to consecutive sentences may be less than the sum of the terms under subsection (1) of this section if the board finds, by affirmative vote of a majority of its members that consecutive sentences are not appropriate penalties for the criminal offenses involved and that the combined terms of imprisonment are not necessary to protect community security.

(4) The State Board of Parole and Post-Prison Supervision shall use the method set forth in subsections (1) to (3) of this section to determine the parole release date for any person serving a sentence in the custody of the Department of Corrections for crimes committed before or after July 11, 1987. [1987 c.634 §§4,7; 1989 c.641 §1; 1991 c.126 §4; 1991 c.386 §7]

Note: 144.079 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.080 [Amended by 1955 c.688 §4; repealed by 1969 c.597 §281]

144.085 Active parole and post-prison supervision; minimum amounts; extension. (1) All prisoners sentenced to prison for more than 12 months shall serve active periods of parole or post-prison supervision as follows:

(a) Six months of active parole or post-prison supervision for crimes in crime categories one to three;

(b) Twelve months of active parole or post-prison supervision for crimes in crime categories four to 10;

(c) Prisoners sentenced as dangerous offenders under ORS 161.725 and 161.735, for aggravated murder under ORS 163.105 or for murder under ORS 163.115 shall serve at least three years of active parole or post-prison supervision;

(d) Prisoners sentenced for violating or attempting to violate ORS 163.365, 163.375, 163.395, 163.405, 163.408, 163.411, 163.425 or 163.427 shall serve a term of active parole that extends for the entire term of the offender's sentence or a term of active post-prison supervision as provided in ORS 144.103; and

(e) Prisoners sentenced for robbery in the first degree under ORS 164.415 or for arson in the first degree under ORS 164.325 shall serve three years of active parole or post-prison supervision.

(2) Except as authorized in subsections (3) and (4) of this section, when an offender has served the active period of parole or post-prison supervision established under subsection (1)(a) or (b) of this section, the supervisory authority shall place the offender on inactive supervision status.

(3) No sooner than 30 days prior to the expiration of an offender's active parole or post-prison supervision period as provided in subsection (1) of this section, the supervisory authority may send to the State Board of Parole and Post-Prison Supervision a report requesting the board to extend the active supervision period or to return the offender to active supervision status, not to exceed the supervision term imposed by the sentencing court under the rules of the Oregon Criminal Justice Commission and applicable laws, if the offender has not substantially fulfilled the supervision conditions or has failed to complete payment of restitution. The report shall include:

(a) An evaluation of the offender's compliance with supervision conditions;

(b) The status of the offender's court-ordered monetary obligations, including fines and restitution, if any;

(c) The offender's employment status;

(d) The offender's address;

(e) Treatment program outcome;

(f) Any new criminal activity; and

(g) A recommendation that the board extend the supervision period or return the offender to active supervision status.

(4) After reviewing the report submitted under subsection (3) of this section, the board may extend the active supervision period or return the offender to active supervision status, not to exceed the supervision term imposed by the sentencing court under the rules of the Oregon Criminal Justice Commission and applicable laws, if it finds the offender has not substantially fulfilled the supervision conditions or has failed to complete payment of restitution.

(5) During the pendency of any violation proceedings, the running of the supervision period and the sentence is stayed, and the board has jurisdiction over the offender until the proceedings are resolved.

(6) The board shall send written notification to the supervised offender of the expiration of the sentence. [1993 c.680 §4; 1995 c.202 §1; 1995 c.423 §22; 1999 c.161 §2; 2006 c.1 §4; 2013 c.708 §30]

Note: 144.085 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: Sections 22 and 23, chapter 660, Oregon Laws 2009, were repealed July 25, 2013. See section 18, chapter 649, Oregon Laws 2013. The repeal applies to sentences imposed on or after August 1, 2013, but does not apply to certain persons originally sentenced before August 1, 2013, and who are resentenced on or after August 1, 2013. See section 19, chapter 649, Oregon Laws 2013. The text that applies to sentences imposed before August 1, 2013, and to certain persons resentenced on or after August 1, 2013, is set forth for the user's convenience.

Sec. 22. Section 23 of this 2009 Act is added to and made a part of ORS chapter 144. [2009 c.660 §22; repealed by 2013 c.649 §18]

Sec. 23. (1) All persons sentenced to the legal and physical custody of the supervisory authority under ORS 137.124 (2) shall serve active periods of post-prison supervision as follows:

(a) Six months of active post-prison supervision for crimes in crime categories 1 to 3; and

(b) Twelve months of active post-prison supervision for crimes in crime categories 4 to 10.

(2) Except as authorized in subsections (3) and (4) of this section, when an offender has served the active period of post-prison supervision established under subsection (1) of this section, the supervisory authority shall place the offender on inactive supervision status.

(3) No sooner than 30 days prior to the expiration of an offender's active post-prison supervision period as provided in subsection (1) of this section, the parole and probation officer responsible for supervising the offender may send to the supervisory authority a report requesting the supervisory authority to extend the active post-prison supervision period or to return the offender to active supervision status, not to exceed the supervision term imposed by the sentencing court under the rules of the Oregon Criminal Justice Commission and applicable laws, if the offender has not substantially fulfilled the supervision conditions or has failed to complete payment of restitution. The report shall include:

(a) An evaluation of the offender's compliance with supervision conditions;

(b) The status of the offender's court-ordered monetary obligations, including fines and restitution, if any;

(c) The offender's employment status;

(d) The offender's address;

(e) Treatment program outcome;

(f) Any new criminal activity; and

(g) A recommendation that the supervisory authority extend the supervision period or return the offender to active supervision status.

(4) After reviewing the report submitted under subsection (3) of this section, the supervisory authority may extend the active post-prison supervision period or return the offender to active supervision status, not to exceed the supervision term imposed by the sentencing court under the rules of the Oregon Criminal Justice Commission and applicable laws, if the supervisory authority finds that the offender has not substantially fulfilled the supervision conditions or has failed to complete payment of restitution.

(5) During the pendency of any violation proceedings, the running of the supervision period and the sentence is stayed, and the supervisory authority has jurisdiction over the offender until the proceedings are resolved.

(6) The supervisory authority shall send written notification to the supervised offender of the expiration of the sentence.

(7) The Department of Corrections may adopt rules to carry out the provisions of this section. A community corrections agency shall comply with the rules adopted under this subsection. [2009 c.660 §23; repealed by 2013 c.649 §18]

Note: Section 19, chapter 649, Oregon Laws 2013, provides:

Sec. 19. (1) Section 17 of this 2013 Act [137.633] and the repeal of sections 22 and 23, chapter 660, Oregon Laws 2009, by section 18 of this 2013 Act apply to sentences imposed on or after August 1, 2013.

(2) Notwithstanding subsection (1) of this section, section 17 of this 2013 Act and the repeal of sections 22 and 23, chapter 660, Oregon Laws 2009, by section 18 of this 2013 Act do not apply to persons who were originally sentenced before August 1, 2013, and who are subsequently resentenced on or after August 1, 2013, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason. [2013 c.649 §19]

144.087 "Supervisory authority" defined. (1) As used in ORS 137.124, 144.085 and 423.478, ORS chapter 144 and this section, "supervisory authority" means the state or local corrections agency or official designated in each county by that county's board of county commissioners or county court to operate corrections supervision services, custodial facilities or both.

(2) Except as provided in ORS 137.124, 137.593 (2)(d) and 423.478, all terms of imprisonment or incarceration of 12 months or less must be served at the direction of the supervisory authority.

(3) Nothing in this section is intended to repeal ORS 169.320 to 169.360, or in any way affect the sheriff's authority, duties and liabilities set forth in ORS 169.320 to 169.360. [1995 c.423 §27; 1996 c.4 §11]

Note: 144.087 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.090 [Amended by 1969 c.502 §4; repealed by 1969 c.597 §281]

144.095 [1967 c.526 §3; 1969 c.314 §7; repealed by 1969 c.597 §281]

POST-PRISON SUPERVISION

144.096 Release plan; contents. (1)(a) The Department of Corrections shall prepare a proposed release plan for an inmate prior to the inmate's release from prison.

(b) The department shall submit the proposed release plan to the State Board of Parole and Post-Prison Supervision not less than 75 days prior to the inmate's release.

(c) If the proposed release plan is not approved by the board, the board shall return the plan to the department with its recommended modifications. The department shall submit a revised plan to the board not less than 25 days prior to the inmate's release.

(d) If the revised plan is not acceptable to the board, the board shall determine the provisions of the final plan prior to the inmate's release.

(e) If an inmate was sentenced under section 29, chapter 649, Oregon Laws 2013, and the release plan recommends that the inmate participate in a reentry court, the board shall provide a copy of the release plan to the reentry court.

(2) The local supervisory authority that is responsible for correctional services for an inmate shall prepare a proposed release plan for the inmate prior to the inmate's release from jail. The local supervisory authority shall approve the release plan under its rules. If the inmate was sentenced under section 29, chapter 649, Oregon Laws 2013, and the supervisory authority recommends that the inmate participate in a reentry court, the supervisory authority shall provide a copy of the release plan to the reentry court.

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

(a) A description of support services and program opportunities available to the inmate;

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

(c) The level of supervision that shall be consistent with the inmate's risk assessment classification;

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

(e) For all inmates whose sentence to make restitution under ORS 137.106 has been suspended for the term of imprisonment, a restitution payment schedule; and

(f) Any conditions necessary to assist the reformation of the inmate. [1989 c.790 §32; 1997 c.525 §6; 2013 c.649 §30]

Note: The amendments to 144.096 by section 35, chapter 649, Oregon Laws 2013, become operative July 1, 2023. See section 38, chapter 649, Oregon Laws 2013. The text that is operative on and after July 1, 2023, is set forth for the user's convenience.

144.096. (1)(a) The Department of Corrections shall prepare a proposed release plan for an inmate prior to the inmate's release from prison.

(b) The department shall submit the proposed release plan to the State Board of Parole and Post-Prison Supervision not less than 60 days prior to the inmate's release.

(c) If the proposed release plan is not approved by the board, the board shall return the plan to the department with its recommended modifications. The department shall submit a revised plan to the board not less than 10 days prior to the inmate's release.

(d) If the revised plan is not acceptable to the board, the board shall determine the provisions of the final plan prior to the inmate's release.

(2) The local supervisory authority that is responsible for correctional services for an inmate shall prepare a proposed release plan for the inmate prior to the inmate's release from jail. The local supervisory authority shall approve the release plan under its rules.

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

(a) A description of support services and program opportunities available to the inmate;

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

(c) The level of supervision that shall be consistent with the inmate's risk assessment classification;

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

(e) For all inmates whose sentence to make restitution under ORS 137.106 has been suspended for the term of imprisonment, a restitution payment schedule; and

(f) Any conditions necessary to assist the reformation of the inmate.

Note: Section 31, chapter 790, Oregon Laws 1989, provides:

Sec. 31. Sections 32 to 36 of this 1989 Act [144.096, 144.098, 144.102, 144.104, 144.106 and 144.108] apply only to defendants convicted of a felony committed on or after November 1, 1989. [1989 c.790 §31]

144.098 Review of release plan. (1) When the State Board of Parole and Post-Prison Supervision or a local supervisory authority responsible for correctional services for an inmate reviews an inmate's release plan prior to approval of the plan as required by ORS 144.096, it may interview the inmate and may review the following information:

(a) Reports of any physical, psychiatric or psychological examinations of the inmate;

(b) The presentence investigation report specified by ORS 144.791 or, if no such report has been prepared, a report of similar content prepared by institutional staff;

(c) The record of the inmate's conduct during confinement; and

(d) Any other information relevant to the inmate's reintegration into the community that may be submitted by the inmate, the inmate's attorney, the victim of the crime, the Department of Corrections, local corrections agencies or any other person.

(2) If the board reviews a release plan, the board must attempt to notify the victim before the review of the release plan by sending written notice to the victim if the victim requests to be notified and furnishes the board with a current address. The notice must inform the victim that the victim may submit information concerning the inmate and the crime to the board for the board's consideration.

(3) The department or local corrections agency shall provide to the board or local supervisory authority reviewing the release plan any psychiatric or psychological reports held by the department or local corrections agency regarding the inmate. However, if the psychiatrist or psychologist who prepared the report or any treating psychiatrist or psychologist determines that disclosure to the inmate of the contents of the report would be detrimental to the inmate's mental or emotional health, the psychiatrist or psychologist may indorse upon the report a recommendation that it not be disclosed to the inmate. The department or local corrections agency may withhold from the board or supervisory authority reviewing the plan any report so indorsed. [1989 c.790 §32b; 1997 c.525 §7]

Note: See second note under 144.096.

Note: Sections 29, 33 and 38 (2), chapter 649, Oregon Laws 2013, provide:

Sec. 29. Reentry courts. (1) When a circuit court in a participating county sentences a person to a term of imprisonment, the court may order that the person participate in a reentry court, subject to admission under subsection (3) of this section, as a condition of post-prison supervision.

(2) At any time prior to the termination of post-prison supervision, the supervisory authority may provide a report to the reentry court recommending that a person sentenced under subsection (1) of this section be admitted into the reentry court.

(3) When a reentry court receives a report described in subsection (2) of this section, or an inmate release plan prepared under ORS 144.096, that recommends the admission of a person sentenced under subsection (1) of this section into a reentry court, the court may enter an order admitting the person into the reentry court.

(4) Notwithstanding ORS 137.124 and 423.478 and any other provision of law, when a court enters an order admitting a person into a reentry court, the court may:

(a) Issue a warrant and cause the person to be arrested for violating a condition of post-prison supervision.

(b) Appoint counsel to represent the person in accordance with ORS 135.050, if the person is financially eligible.

(c) Determine whether the conditions of post-prison supervision have been violated and impose sanctions for the violations.

(5)(a) When the court conducts a post-prison supervision violation hearing under this section, the person may admit or deny alleged violations of conditions of post-prison supervision. The person and the state may present evidence at the hearing.

(b) If the court determines by a preponderance of the evidence that a person admitted into a reentry court has violated the conditions of post-prison supervision, the court may impose sanctions for the violations that are consistent with the rules adopted under ORS 144.106 and 144.107, except that the court may not impose a sanction of imprisonment in a correctional facility that exceeds 12 months.

(6)(a) When a court issues a warrant under this section and causes a person admitted into a reentry court to be arrested and taken into custody for violating a condition of post-prison supervision, the person shall be brought before a magistrate during the first 36 hours in custody, excluding Saturdays, Sundays and holidays. The magistrate may order the person held pending a violation hearing or transferred to the county in which the reentry court is located, or may release the person upon the condition that the person appear in court at a later date for a post-prison violation hearing. If the person is held on an out-of-county warrant, the magistrate may order the person released subject to an additional order that the person report within seven calendar days to the reentry court.

(b) Except for good cause shown, if the person is held in custody and the violation hearing is not held

within 14 calendar days following the person's arrest, the person shall be released from custody.

(7) As used in this section, "participating county" means a county:

(a) That has applied for and received a grant under section 53 of this 2013 Act to administer a reentry court; and

(b) For which the presiding judge of the judicial district in which the county is located issues an order establishing a reentry court steering committee consisting of:

(A) A circuit court judge;

(B) A district attorney;

(C) A criminal defense attorney;

(D) A parole and probation officer;

(E) A representative of the business community;

(F) A representative of the education community; and

(G) Any other person the presiding judge determines is appropriate. [2013 c.649 §29]

Sec. 33. Section 29 of this 2013 Act is repealed on July 1, 2023. [2013 c.649 §33]

Sec. 38. (2) The repeal of section 29 of this 2013 Act by section 33 of this 2013 Act and the amendments to ORS 40.015, 144.096, 144.101 and 144.106 by sections 34 to 37 of this 2013 Act do not affect the jurisdiction of a reentry court over a person sentenced under section 29 of this 2013 Act. [2013 c.649 §38(2)]

144.100 [Repealed by 1967 c.419 §68]

144.101 Board's jurisdiction over conditions of post-prison supervision; reentry court jurisdiction. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person convicted of a felony if:

(a) The term of imprisonment imposed on the person is more than 12 months;

(b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;

(c) The person is subject to a sentence under ORS 137.700 or 137.707;

(d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;

(e) The person is subject to a term of post-prison supervision under ORS 144.103;

(f) The person is committed to the custody of the Department of Corrections under ORS 137.124;

(g) The responsibility for correctional services for the person has reverted to the department under ORS 423.483; or

(h) No local supervisory authority is responsible for correctional services for the person under the laws of this state.

(2) Except as provided in subsection (1) of this section, a local supervisory authority has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person sentenced to a term of imprisonment of 12 months or less.

(3) If a local supervisory authority imposes conditions of post-prison supervision or sanctions for violations of those conditions, the person may request the board to review the conditions or sanctions. The board shall review the request and may, at its discretion, review the conditions and sanctions, under rules adopted by the board.

(4) If a circuit court in a participating county, as defined in section 29, chapter 649, Oregon Laws 2013, enters an order admitting a person into a reentry court under section 29 (3), chapter 649, Oregon Laws 2013, the reentry court has concurrent jurisdiction over the imposition of sanctions for violations of the conditions of post-prison supervision.

(5) Nothing in this section affects the jurisdiction of the board over the imposition of conditions of parole and sanctions for violations of those conditions. [1997 c.525 §3; 1999 c.59 §28; 2006 c.1 §5; 2013 c.649 §28]

Note: The amendments to 144.101 by section 34, chapter 649, Oregon Laws 2013, become operative July 1, 2023. See section 38, chapter 649, Oregon Laws 2013. The text that is operative on and after July 1, 2023, is set forth for the user's convenience.

144.101. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person convicted of a felony if:

(a) The term of imprisonment imposed on the person is more than 12 months;

(b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;

(c) The person is subject to a sentence under ORS 137.700 or 137.707;

(d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;

(e) The person is subject to a term of post-prison supervision under ORS 144.103;

(f) The person is committed to the custody of the Department of Corrections under ORS 137.124;

(g) The responsibility for correctional services for the person has reverted to the department under ORS 423.483; or

(h) No local supervisory authority is responsible for correctional services for the person under the laws of this state.

(2) Except as provided in subsection (1) of this section, a local supervisory authority has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person sentenced to a term of imprisonment of 12 months or less.

(3) If a local supervisory authority imposes conditions of post-prison supervision or sanctions for violations of those conditions, the person may request the board to review the conditions or sanctions. The board shall review the request and may, at its discretion, review the conditions and sanctions, under rules adopted by the board.

(4) Nothing in this section affects the jurisdiction of the board over the imposition of conditions of parole and sanctions for violations of those conditions.

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

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

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

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

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

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

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

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

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

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

(3) If the person is required to report as a sex offender under ORS 181.806, the board or supervisory authority shall include as a condition of post-prison supervision that the person report with the Department of State Police, a city police department, a county sheriff's office or the supervising agency:

(a) When supervision begins;

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

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

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

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

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

(b) If the person is on post-prison supervision following conviction of a sex crime, as defined in ORS 181.805, the board or supervisory authority shall include all of the following as special conditions of the person's post-prison supervision:

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

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

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

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

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

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

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

(H) Unless otherwise indicated for the treatment required under subparagraph (F)

of this paragraph, a prohibition against viewing, listening to, owning or possessing sexually stimulating visual or auditory materials that are relevant to the person's deviant behavior.

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

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

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

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

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

(c)(A) If the person is on post-prison supervision following conviction of a sex crime, as defined in ORS 181.805, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the board or supervisory authority, if requested by the victim, shall include as a special condition of the person's post-prison supervision that the person not reside within three miles of the victim unless:

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

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

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

(iv) The person resides in a halfway house.

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

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

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

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

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

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

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

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

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

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

for a felony at the time of the offense that resulted in the imprisonment.

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

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

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

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

(ii) Records maintained by the Department of Revenue;

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

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

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

(vi) Records maintained by the Oregon Health Authority.

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

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

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

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

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

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

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

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

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

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

(8) As used in this section:

(a) "Attends," "carries on a vocation," "institution of higher education" and "works" have the meanings given those terms in ORS 181.805.

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

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

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

(d) "Labor dispute" has the meaning given that term in ORS 662.010. [1989 c.790 §32a; 1991 c.597 §1; 1995 c.423 §23; 1997 c.525 §8; 1997 c.526 §1; 1999 c.474 §1; 1999 c.626 §12; amendments by 1999 c.626 §35 repealed by 2001 c.884 §1; 2001 c.731 §§1,2; 2005 c.532 §1; 2005 c.567 §9; 2005 c.576 §2; 2005 c.642 §2a; 2007 c.71 §37; 2009 c.204 §6; 2009 c.595 §99; 2009 c.713 §12; 2011 c.258 §1; 2011 c.547 §30]

Note: See second note under 144.096.

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

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

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

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

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

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

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

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

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

(4) Any costs incurred as a result of this section shall be paid by increased post-prison supervision fees under ORS 423.570. [1991 c.831 §1; 1993 c.301 §4; 1999 c.161 §1; 1999 c.163 §5; subsection (2) of 2005 Edition enacted as 2005 c.513 §2; 2006 c.1 §2; 2013 c.708 §31]

Note: 144.103 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.104 Supervisory authority; revising conditions. (1) Upon release from prison, the person shall be supervised by the Department of Corrections or other supervisory authority.

(2) During the period of post-prison supervision, the supervisory authority may adjust the level of supervision and recommend to the State Board of Parole and Post-Prison Supervision revisions to the conditions of supervision appropriate to the released person's conduct in the community. [1989 c.790 §§33,34; 1995 c.423 §24]

Note: See second note under 144.096.

144.105 [1967 c.560 §4; repealed by 1969 c.597 §281]

144.106 Violation of post-prison supervision conditions; sanctions. (1) Except as otherwise provided by rules of the Department of Corrections and the State Board of Parole and Post-Prison Supervision concerning parole and post-prison supervision violators, the supervisory authority shall use a continuum of administrative sanctions for violations of the conditions of post-prison supervision.

(2) The sanction continuum shall include adjustments to the level of supervision and, as approved by the board or the local supervisory authority that imposed the initial conditions of post-prison supervision:

(a) Modification of or additions to the conditions of supervision; and

(b) Any other appropriate available local sanctions including, but not limited to, jail, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day centers or other local sanctions established by agreement with the supervisory authority.

(3) An offender may not be confined in a restitution center, work release center or jail for more than 15 days for a violation of conditions of post-prison supervision unless:

(a) The Department of Corrections, county corrections agency or supervisory authority imposes a local sanction under subsection (1) of this section;

(b) A reentry court imposes a local sanction under section 29, chapter 649, Oregon Laws 2013; or

(c) The board or its designated representative initiates a hearing for the purpose of imposing a sanction under ORS 144.107 or 144.108.

(4) A hearing before the board is not required if the department, a county corrections agency, the supervisory authority or the court imposes a local sanction under subsection (3) of this section. However, the board may conduct a hearing under the procedures in ORS 144.343 and 144.347 and impose a different sanction on the offender than that imposed by the department, a county corrections agency, the supervisory authority or the court. [1989 c.790 §35; 1991 c.836 §1; 1997 c.525 §4; 2013 c.649 §31]

Note: The amendments to 144.106 by section 36, chapter 649, Oregon Laws 2013, become operative July 1, 2023. See section 38, chapter 649, Oregon Laws 2013. The text that is operative on and after July 1, 2023, is set forth for the user's convenience.

144.106. (1) Except as otherwise provided by rules of the Department of Corrections and the State Board of Parole and Post-Prison Supervision concerning parole and post-prison supervision violators, the supervisory authority shall use a continuum of administrative sanctions for violations of the conditions of post-prison supervision.

(2) The sanction continuum shall include adjustments to the level of supervision and, as approved by the board or the local supervisory authority that imposed the initial conditions of post-prison supervision:

(a) Modification of or additions to the conditions of supervision; and

(b) Any other appropriate available local sanctions including, but not limited to, jail, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day centers or other local sanctions established by agreement with the supervisory authority.

(3) An offender may not be confined in a restitution center, work release center or jail for more than 15 days for a violation of conditions of post-prison supervision unless:

(a) The Department of Corrections, county corrections agency or supervisory authority imposes a local sanction under subsection (1) of this section; or

(b) The board or its designated representative initiates a hearing for the purpose of imposing a sanction under ORS 144.107 or 144.108.

(4) A hearing before the board is not required if the department, a county corrections agency or the supervisory authority imposes a local sanction under subsection (3) of this section. However, the board may conduct a hearing under the procedures in ORS 144.343 and 144.347 and impose a different sanction on the offender than that imposed by the department, a county corrections agency or the supervisory authority.

Note: See second note under 144.096.

144.107 Sanctions for violations of conditions of post-prison supervision; rules. (1) The State Board of Parole and Post-Prison Supervision and the Department of Corrections, in consultation with local supervisory authorities, shall jointly adopt rules under this section to establish sanctions and procedures to impose sanctions for a violation of the conditions of post-prison supervision for a person serving a term of post-prison supervision subject to subsections (2) and (3) of this section.

(2) The rules adopted under subsection (1) of this section apply only to a person serving a term of post-prison supervision for a felony committed on or after July 14, 1997.

(3) In addition to the limitation under subsection (2) of this section, the rules adopted under subsection (1) of this section apply only to a person serving a term of post-prison supervision:

(a) That follows the completion of a sentence to a term of imprisonment that exceeds 12 months;

(b) That is imposed for a felony that is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;

(c) That is imposed as part of a sentence under ORS 137.700 or 137.707;

(d) That is imposed as part of a sentence as a dangerous offender under ORS 161.725 and 161.737; or

(e) That is subject to ORS 144.103.

(4) The board shall adopt rules under subsection (1) of this section that include, but need not be limited to, a sanction under ORS 144.108 of imprisonment in a correctional facility for a period that may exceed 12 months. The rules adopted by the board may not allow the imposition of more than 24 months of imprisonment as a sanction without a subsequent hearing to determine whether additional imprisonment is appropriate. A subsequent hearing must follow the same procedures as those used in an initial hearing under ORS 144.108.

(5) The rules adopted under subsection (1) of this section must provide that the total time served in Department of Corrections institutions by an offender who is sanctioned under the rules, including the time served on the initial sentence and all periods of incarceration served as sanctions in Department of Corrections institutions, may not exceed the greater of:

(a) The length of incarceration plus the length of post-prison supervision imposed by the court unless the offender was sentenced under ORS 137.765;

(b) A maximum term of imprisonment imposed by the court; or

(c) If the offender was sentenced under ORS 137.765, the length of the maximum statutory indeterminate sentence for the crime of conviction.

(6) As used in this section, "Department of Corrections institutions" has the same meaning given that term in ORS 421.005. [1997 c.525 §2; 1999 c.163 §6; 2006 c.1 §6]

144.108 Recommitment to prison for certain violations; procedure; effect of recommitment. (1) If the violation of post-prison supervision is new criminal activity or if the supervisory authority finds that the continuum of sanctions is insufficient punishment for a violation of the conditions of post-prison supervision, the supervisory authority may:

(a) Impose the most restrictive sanction available, including incarceration in jail;

(b) Request the State Board of Parole and Post-Prison Supervision to impose a sanction under subsection (2) of this section; or

(c) Request the board to impose a sanction under ORS 144.107.

(2) If so requested, the board or its designated representative shall hold a hearing to determine whether incarceration in a jail or state correctional facility is appropriate. Except as otherwise provided by rules of the board and the Department of Corrections concerning parole and post-prison supervision violators, the board may impose a sanction up to the maximum provided by rules of the Oregon Criminal Justice Commission. In conducting a hearing pursuant to this subsection, the board or its designated representative shall follow the procedures and the offender shall have all the rights described in ORS 144.343 and 144.347 relating to revocation of parole.

(3) A person who is ordered to serve a term of incarceration in a jail or state correctional facility as a sanction for a post-prison supervision violation is not eligible for:

(a) Earned credit time as described in ORS 169.110 or 421.121;

(b) Transitional leave as defined in ORS 421.168; or

(c) Temporary leave as described in ORS 169.115 or 421.165 (1987 Replacement Part).

(4) A person who is ordered to serve a term of incarceration in a state correctional facility as a sanction for a post-prison supervision violation shall receive credit for time served on the post-prison supervision violation prior to the board's imposition of the term of incarceration. [1989 c.790 §36; 1995 c.423 §17; 1997 c.313 §13; 1997 c.525 §5; 2009 c.178 §29; 2010 c.89 §12]

Note: See second note under 144.096.

144.109 Violation of post-prison supervision by sexually violent dangerous offender; maximum period of sanction. When a person has been sentenced as a sexually violent dangerous offender under ORS 137.765, the maximum period of local custody to which the State Board of Parole and Post-Prison Supervision or the local supervisory authority may sanction the offender for any violation of post-prison supervision is 180 days. Notwithstanding ORS 161.605, the sanction may be imposed repeatedly during the term of the post-prison supervision for subsequent post-prison supervision violations. However, the board or local supervisory authority may impose only a single sanction for all violations known to the board or local supervisory authority as of the date that the sanction is imposed. [1999 c.163 §2]

Note: 144.109 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PAROLE PROCESS

144.110 Restriction on parole of persons sentenced to minimum terms. (1) In any felony case, the court may impose a minimum term of imprisonment of up to one-half of the sentence it imposes.

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

(a) The State Board of Parole and Post-Prison Supervision shall not release a prisoner on parole who has been sentenced under subsection (1) of this section until the minimum term has been served, except upon affirmative vote of a majority of the members of the board.

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

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

(B) Who has been convicted of murder under the provisions of ORS 163.115, except as provided in ORS 163.115 (5)(c) to (f). [1977 c.372 §4; 1991 c.126 §5; 1999 c.782 §1; 2001 c.104 §47; 2007 c.717 §3]

Note: Section 28, chapter 790, Oregon Laws 1989, provides:

Sec. 28. The provisions of ORS 144.110, 144.120, 144.122, 144.125, 144.130, 144.135, 144.185, 144.223, 144.245 and 144.270 apply only to offenders convicted of a crime committed prior to November 1, 1989, and to offenders convicted of aggravated murder or murder regardless of the date of the crime. [1989 c.790 §28; 1999 c.782 §2]

144.120 Initial parole hearing; setting initial parole release date; deferral of setting initial date. (1)(a) Within six months of the admission of a prisoner to any Department of Corrections institution, with the exception of those prisoners sentenced to a term of imprisonment for life or for more than five years, the State Board of Parole and Post-Prison Supervision shall conduct a parole hearing to interview the prisoner and set the initial date of release on parole pursuant to subsection (2) of this section. For those prisoners sentenced to a term of imprisonment for more than five years but less than 15 years, the board shall conduct the parole hearing and set the initial date of release within eight months following admission of the prisoner to the institution. For those prisoners sentenced to a term of imprisonment for life or for 15 years or more, with the exception of those sentenced for aggravated murder or murder, the board shall conduct the parole hearing, and shall set the initial release date, within one year following admission of the prisoner to the institution. Release shall be contingent upon satisfaction of the requirements of ORS 144.125.

(b) Those prisoners sentenced to a term of imprisonment for less than 15 years for commission of an offense designated by rule by the board as a non person-to-person offense may waive their rights to the parole hearing. When a prisoner waives the parole hearing, the initial date of release on parole may be set administratively by the board pursuant to subsections (2) to (6) of this section. If the board is not satisfied that the waiver was made knowingly or intelligently or if it believes more information is necessary before making its decision, it may order a hearing.

(2) In setting the initial parole release date for a prisoner pursuant to subsection (1) of this section, the board shall apply the appropriate range established pursuant to ORS 144.780. Variations from the range shall be in accordance with ORS 144.785.

(3) In setting the initial parole release date for a prisoner pursuant to subsection (1) of this section, the board shall consider the presentence investigation report specified in ORS 144.791 or, if no such report has been prepared, a report of similar content prepared by the Department of Corrections.

(4) Notwithstanding subsection (1) of this section, in the case of a prisoner whose offense included particularly violent or otherwise dangerous criminal conduct or whose offense was preceded by two or more convictions for a Class A or Class B felony or whose record includes a psychiatric or psychological diagnosis of severe emotional disturbance such as to constitute a danger to the health or safety of the community, the board may choose not to set a parole date.

(5) After the expiration of six months after the admission of the prisoner to any Department of Corrections institution, the board may defer setting the initial parole release date for the prisoner for a period not to exceed 90 additional days pending receipt of psychiatric or psychological reports, criminal records or other information essential to formulating the release decision.

(6) When the board has set the initial parole release date for a prisoner, it shall inform the sentencing court of the date. [1977 c.372 §5; 1981 c.426 §1; 1985 c.283 §2; 1987 c.2 §14; 1987 c.320 §51; 1987 c.881 §1; 1989 c.589 §3; 1991 c.126 §6; 1993 c.294 §5; 1999 c.782 §3; 2001 c.104 §48; 2010 c.89 §11]

Note: See note under 144.110.

144.122 Advancing initial release date; requirements; exceptions; rules. (1) After the initial parole release date has been set under ORS 144.120 and after a minimum period of time established by the State Board of Parole and Post-Prison Supervision under subsection (2)(a) of this section, the prisoner may request that the parole release date be reset to an earlier date. The board may grant the request upon a determination by the board that continued incarceration is cruel and inhumane and that resetting the release date to an earlier date is not incompatible with the best interests of the prisoner and society and that the prisoner:

(a) Has demonstrated an extended course of conduct indicating outstanding reformation;

(b) Suffers from a severe medical condition including terminal illness; or

(c) Is elderly and is permanently incapacitated in such a manner that the prisoner is unable to move from place to place without the assistance of another person.

(2) The Advisory Commission on Prison Terms and Parole Standards may propose to the board and the board shall adopt rules:

(a) Establishing minimum periods of time to be served by prisoners before application may be made for a reset of release date under subsection (1) of this section;

(b) Detailing the criteria set forth under subsection (1) of this section for the resetting of a parole release date; and

(c) Establishing criteria for parole release plans for prisoners released under this section that, at a minimum, must insure appropriate supervision and services for the person released.

(3) The provisions of subsection (1)(b) of this section apply to prisoners sentenced in accordance with ORS 161.610.

(4) The provisions of this section do not apply to prisoners sentenced to life imprisonment without the possibility of release or parole under ORS 138.012 or 163.150. [1983 c.489 §2; 1991 c.133 §1; 1993 c.198 §1; 1999 c.1055 §13; 2001 c.104 §49]

Note: See note under 144.110.

144.123 Who may accompany person to parole hearing; rules. When appearing before the State Board of Parole and Post-Prison Supervision an inmate shall have the right to be accompanied by a person of the inmate's choice pursuant to rule promulgated jointly by the State Board of Parole and Post-Prison Supervision and the Department of Corrections. [1981 c.644 §1; 1987 c.320 §52]

Note: 144.123 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.125 Review of parole plan, psychological reports and conduct prior to release; release postponement; elements of parole plan; Department of Corrections assistance; rules. (1) Prior to the scheduled release of any prisoner on parole and prior to release rescheduled under this section, the State Board of Parole and Post-Prison Supervision may upon request of the Department of Corrections or on its own initiative interview the prisoner to review the prisoner's parole plan and psychiatric or psychological report, if any, and the record of the prisoner's conduct during confinement. To accommodate such review by the board, the Department of Corrections shall provide to the board any psychiatric or psychological reports held by the department regarding the prisoner. However, if the psychiatrist or psychologist who prepared any report or any treating psychiatrist or psychologist determines that disclosure to the prisoner of the contents of the report would be detrimental to the prisoner's mental or emotional health, the psychiatrist or psychologist may indorse upon the report a recommendation that it not be disclosed to the prisoner. The depart-

ment may withhold from the board any report so indorsed.

(2) The board shall postpone a prisoner's scheduled release date if it finds, after a hearing, that the prisoner engaged in serious misconduct during confinement. The board shall adopt rules defining serious misconduct and specifying periods of postponement for such misconduct.

(3)(a) If the board finds the prisoner has a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the board may order the postponement of the scheduled parole release until a specified future date. The board may not postpone a prisoner's scheduled release date to a date that is less than two years, or more than 10 years, from the date of the hearing, unless the prisoner would be held beyond the maximum sentence. The board shall determine the scheduled release date, and the prisoner may petition for interim review, in accordance with ORS 144.280.

(b) If the board finds the prisoner has a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, but also finds that the prisoner can be adequately controlled with supervision and mental health treatment and that the necessary supervision and treatment are available, the board may order the prisoner released on parole subject to conditions that are in the best interests of community safety and the prisoner's welfare.

(4) Each prisoner shall furnish the board with a parole plan prior to the scheduled release of the prisoner on parole. The board shall adopt rules specifying the elements of an adequate parole plan and may defer release of the prisoner for not more than three months if it finds that the parole plan is inadequate. The Department of Corrections shall assist prisoners in preparing parole plans. [1977 c.372 §6; 1981 c.426 §2; 1987 c.320 §53; 1989 c.790 §68; 1993 c.334 §1; 1999 c.141 §1; 2009 c.660 §3]

Note: See note under 144.110.

144.126 Advancing release date of prisoner with severe medical condition including terminal illness or who is elderly and permanently incapacitated; rules. (1) The State Board of Parole and Post-Prison Supervision may advance the release date of a prisoner who was sentenced in accordance with rules of the Oregon Criminal Justice Commission or ORS 161.610. The release date may be advanced if the board determines that continued incarceration is cruel and inhumane and that advancing the release date of the prisoner is not incompatible with the best interests of the prisoner and society and that the prisoner is:

(a) Suffering from a severe medical condition including terminal illness; or

(b) Elderly and permanently incapacitated in such a manner that the prisoner is unable to move from place to place without the assistance of another person.

(2) The board shall adopt rules establishing criteria for release plans for prisoners released under this section that, at a minimum, must insure appropriate supervision and services for the person released.

(3) The provisions of this section do not apply to prisoners sentenced to life imprisonment without the possibility of release or parole under ORS 138.012 or 163.150. [1989 c.790 §27a; 1991 c.133 §2; 1993 c.198 §2; 1999 c.1055 §14]

Note: 144.126 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.130 Prisoner to have access to written materials considered at hearings or interviews; access procedures. (1) Notwithstanding the provisions of ORS 179.495, prior to a parole hearing or other personal interview, each prisoner shall have access to the written materials which the board shall consider with respect to the release of the prisoner on parole, with the exception of materials exempt from disclosure under ORS 192.502 (5).

(2) The board and the Director of the Department of Corrections shall jointly adopt procedures for a prisoner's access to written materials pursuant to this section. [1977 c.372 §8; 1987 c.320 §54; 1997 c.825 §2]

Note: See note under 144.110.

144.135 Bases of parole decisions to be in writing. The board shall state in writing the detailed bases of its decisions under ORS 144.110 to 144.125. [1977 c.372 §9]

Note: See note under 144.110.

144.140 Rules. (1) The State Board of Parole and Post-Prison Supervision may adopt rules to carry out its responsibilities under the sentencing guidelines system.

(2) The board shall comply with the rulemaking provisions of ORS chapter 183 in the adoption, amendment or repeal of rules pursuant to ORS 144.125, 144.130, 144.395 and 144.780 to 144.791 or this section. [1977 c.372 §17; 1989 c.790 §27b]

144.175 [1973 c.694 §4; repealed by 1977 c.372 §18]

144.180 [1973 c.694 §5; repealed by 1977 c.372 §18]

144.183 [Repealed by 1974 c.36 §28]

144.185 Records and information available to board. Before making a determination regarding a prisoner's release on parole as provided by ORS 144.125, the State Board of Parole and Post-Prison Supervision

may cause to be brought before it current records and information regarding the prisoner, including:

(1) Any relevant information which may be submitted by the prisoner, the prisoner's attorney, the victim of the crime, the Department of Corrections, or by other persons;

(2) The presentence investigation report specified in ORS 144.791 or if no such report has been prepared, a report of similar content prepared by institutional staff;

(3) The reports of any physical, mental and psychiatric examinations of the prisoner;

(4) The prisoner's parole plan; and

(5) Other relevant information concerning the prisoner as may be reasonably available. [1973 c.694 §6; 1981 c.426 §3; 1985 c.283 §3; 1987 c.320 §55]

Note: See note under 144.110.

144.210 [Amended by 1959 c.101 §2; 1967 c.372 §8; 1969 c.597 §113; 1973 c.836 §288; repealed by 1985 c.283 §1]

144.220 [Amended by 1959 c.101 §3; 1973 c.836 §289; repealed by 1975 c.564 §1 (144.221 enacted in lieu of 144.220)]

144.221 [1975 c.564 §2 (enacted in lieu of 144.220); repealed by 1977 c.372 §18]

144.223 Examination by psychiatrist or psychologist of parole candidate; report; copies to affected persons. (1) The State Board of Parole and Post-Prison Supervision may require any prisoner being considered for parole to be examined by a psychiatrist or psychologist before being released on parole.

(2) Within 60 days after the examination, the examining psychiatrist or psychologist shall file a written report of the findings and conclusions of the psychiatrist or psychologist relative to the examination with the chairperson of the State Board of Parole and Post-Prison Supervision. A certified copy of the report shall be sent to the convicted person, to the attorney of the convicted person and to the executive officer of the Department of Corrections institution in which the convicted person is confined. [1977 c.379 §2; 1987 c.320 §56]

Note: See note under 144.110.

144.226 Examination by psychiatrist or psychologist of person sentenced as dangerous offender; report. (1) Any person sentenced under ORS 161.725 and 161.735 as a dangerous offender shall within 120 days prior to the parole consideration hearing under ORS 144.228 or the last day of the required incarceration term established under ORS 161.737 and at least every two years thereafter be given a complete mental and psychiatric or psychological examination by a psychiatrist or psychologist appointed by the State Board of Parole and Post-Prison Supervision. Within 60 days after the examination, the examining psychiatrist or psychologist shall file a written report of findings and conclusions relative to the examination with the Director of the Department of Corrections and chairperson of the State Board of Parole and Post-Prison Supervision.

(2) The examining psychiatrist or psychologist shall include in the report a statement as to whether or not in the psychiatrist's or psychologist's opinion the convicted person has mental retardation or any mental or emotional disturbance, condition or disorder predisposing the person to the commission of any crime to a degree rendering the examined person a danger to the health or safety of others. The report shall also contain any other information which the examining psychiatrist or psychologist believes will aid the State Board of Parole and Post-Prison Supervision in determining whether the examined person is eligible for release. The report shall also state the progress or changes in the condition of the examined person as well as any recommendations for treatment. A certified copy of the report shall be sent to the convicted person, to the convicted person's attorney and to the executive officer of the Department of Corrections institution in which the convicted person is confined. [1955 c.636 §4; 1961 c.424 §5; 1969 c.597 §114; 1971 c.743 §338; 1973 c.836 §290; 1981 c.644 §4; 1987 c.320 §57; 1989 c.790 §78; 1991 c.318 §1; 1993 c.334 §2; 2005 c.481 §1; 2007 c.70 §36]

144.228 Periodic parole consideration hearings for dangerous offenders; setting of parole date; information to be considered. (1)(a) Within six months after commitment to the custody of the Department of Corrections of any person sentenced under ORS 161.725 and 161.735 as a dangerous offender, the State Board of Parole and Post-Prison Supervision shall set a date for a parole consideration hearing instead of an initial release date as otherwise required under ORS 144.120 and 144.125. The parole consideration hearing date shall be the time the prisoner would otherwise be eligible for parole under the board's rules.

(b)(A) At the parole consideration hearing, the prisoner shall be given a release date in accordance with the rules of the board if the board finds the prisoner no longer dangerous or finds that the prisoner remains dangerous but can be adequately controlled with supervision and mental health treatment and that the necessary resources for supervision and treatment are available to the prisoner. If the board is unable to make such findings, a review will be conducted no less than two years, and no more than 10 years, from the date of the previous review, until the board is able to

make such findings, at which time release on parole shall be ordered if the prisoner is otherwise eligible under the rules.

(B) The board may not grant the prisoner a review hearing that is more than two years from the date of the previous hearing unless the board finds that it is not reasonable to expect that the prisoner would be granted a release date before the date of the subsequent hearing.

(C) The board shall determine the date of the review hearing in accordance with rules adopted by the board. Rules adopted under this subparagraph must be based on the foundation principles of criminal law described in section 15, Article I of the Oregon Constitution.

(D) In no event shall the prisoner be held beyond the maximum sentence less good time credits imposed by the court.

(c) Nothing in this section precludes a prisoner from submitting a request for a parole consideration hearing prior to the earliest time the prisoner is eligible for parole. If the board grants a prisoner a review hearing that is more than two years from the date of the previous hearing, the prisoner may submit a request for an interim review hearing not earlier than the date that is two years from the date of the previous hearing and at intervals of not less than two years thereafter. Should the board find, based upon a request described in this paragraph, that there is a reasonable cause to believe that the prisoner is no longer dangerous or that necessary supervision and treatment are available based upon the information provided in the request, it shall conduct a review as soon as is reasonably convenient.

(d) When the board grants a prisoner a review hearing that is more than two years from the date of the previous hearing and when the board denies a petition for an interim hearing, the board shall issue a final order. The order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order. Unless the prisoner bears the burden of persuasion, the order shall include findings necessary to deny the prisoner a release date for any period of time when the prisoner would be presumed to be eligible for a release date.

(2) For the parole consideration hearing, the board shall cause to be brought before it and consider all information regarding such person. The information shall include:

(a) The written report of the examining psychiatrist or psychologist which shall contain all the facts necessary to assist the State Board of Parole and Post-Prison Supervision in making its determination. The report of the examining psychiatrist or psychologist shall be made within two months of the date of its consideration; and

(b) A written report to be made by the executive officer of the Department of Corrections institution in which the person has been confined. The executive officer's report shall contain:

(A) A detailed account of the person's conduct while confined, all infractions of rules and discipline, all punishment meted out to the person and the circumstances connected therewith, as well as the extent to which the person has responded to the efforts made in the institution to improve the person's mental and moral condition.

(B) A statement as to the person's present attitude toward society, toward the sentencing judge, toward the prosecuting district attorney, toward the arresting police officer and toward the person's previous criminal career.

(C) The work and program record of the person while in or under the supervision of the Department of Corrections. The program history shall include a summary of any psychological or substance abuse treatment and other activities that will assist the board in understanding the psychological adjustment and social skills and habits of the person and that will assist the board in determining the likelihood for successful community reentry. [1955 c.636 §5; 1961 c.424 §6; 1971 c.743 §339; 1973 c.836 §291; 1981 c.644 §5; 1985 c.283 §4; 1987 c.320 §58; 1991 c.318 §2; 1993 c.334 §3; 2009 c.660 §4]

144.230 [Amended by 1963 c.625 §1; repealed by 1971 c.743 §432]

144.232 Release of dangerous offender to post-prison supervision; eligibility; hearing. (1) A person sentenced under ORS 161.725 and 161.735 as a dangerous offender for felonies committed on or after November 1, 1989, shall be considered for release to post-prison supervision. The offender is eligible for release to post-prison supervision after having served the required incarceration term established under ORS 161.737.

(2) The State Board of Parole and Post-Prison Supervision shall hold a release hearing no later than 10 days prior to the date on which the offender becomes eligible for release on post-prison supervision as provided in subsection (1) of this section.

(3) The dangerous offender's eligibility for and release to post-prison supervision shall be determined in a manner consistent with the procedures and criteria required by ORS 144.228 for the parole determination process applicable to dangerous offenders

sentenced for crimes committed prior to November 1, 1989.

(4) An offender released under this section shall serve the remainder of the sentence term imposed under ORS 161.725, 161.735 and 161.737 on post-prison supervision, however:

(a) Notwithstanding ORS 137.010 or the rules of the Oregon Criminal Justice Commission, the State Board of Parole and Post-Prison Supervision may sanction an offender to the supervision of the local authority for a maximum period of 180 days for any supervision violation. The sanction may be imposed repeatedly during the term of post-prison supervision for subsequent supervision violations.

(b) After release under this section, the board may at any time return the offender to prison and require the offender to submit to a psychiatric or psychological examination as provided for in ORS 144.226. If the board finds that the offender's dangerousness has returned and cannot be adequately controlled with supervision and mental and physical health treatment, or that resources for supervision and treatment are not available to the offender, the board may defer the offender's release from prison for an indefinite period of time. An offender returned to prison under this paragraph is entitled to periodic reviews for possible release to post-prison supervision as provided by subsection (3) of this section. [1989 c.790 §80; 1993 c.334 §4; 1995 c.423 §18; 2009 c.660 §5]

144.240 [Repealed by 1973 c.694 §26]

144.245 Date of release on parole; effect of release order. (1) When the State Board of Parole and Post-Prison Supervision has set a date on which a prisoner is to be released upon parole, the prisoner shall be released on that date unless the prisoner on that date remains subject to an unexpired minimum term during which the prisoner is not eligible for parole, in which case the prisoner shall not be released until the expiration of the minimum term.

(2) When the board has not set a date on which a prisoner is to be released upon parole, the prisoner shall be released upon a date six months prior to the expiration of the prisoner's term as computed under ORS 421.120 and 421.122 unless the prisoner on that date remains subject to an unexpired minimum term during which the prisoner is not eligible for parole, in which case the prisoner shall not be released until the expiration of the minimum term.

(3) In no case does a prisoner have a right to refuse an order granting the prisoner release upon parole. [1985 c.53 §§2,3]

Note: See note under 144.110.

144.250 [Amended by 1973 c.836 §292; repealed by 1973 c.694 §26; see 144.183]

144.260 Notice of prospective release on parole or post-prison supervision of inmate. (1) Prior to the release on parole or post-prison supervision of a convicted person from a Department of Corrections institution, the chairperson of the State Board of Parole and Post-Prison Supervision shall inform the Department of Corrections, the district attorney and the sheriff or arresting agency of the prospective date of release and of any special conditions thereof and shall inform the sentencing judge and the trial counsel upon request. If the person is a sex offender, as defined in ORS 181.805, the chairperson shall also inform the chief of police, if the person is going to reside within a city, and the county sheriff of the county in which the person is going to reside of the person's release and the conditions of the person's release.

(2) At least 30 days prior to the release from actual physical custody of any convicted person, other than by parole or post-prison supervision, whether such release is pursuant to work release, institutional leave, or any other means, the Department of Corrections shall notify the district attorney of the impending release and shall notify the sentencing judge upon request.

(3) The victim may request notification of the release and if the victim has requested notification, the State Board of Parole and Post-Prison Supervision or the Department of Corrections, as the case may be, shall notify the victim in the same fashion and under the same circumstances it is required to give notification to other persons under this section. [Amended by 1969 c.597 §115; 1973 c.836 §293; 1983 c.635 §1; 1987 c.2 §15; 1987 c.320 §59; 1989 c.790 §29; 1993 c.492 §1; 2001 c.884 §6]

144.270 Conditions of parole. (1) The State Board of Parole and Post-Prison Supervision, in releasing a person on parole, shall specify in writing the conditions of the parole. A copy of the conditions must be given to the person paroled.

(2) The board shall determine, and may at any time modify, the conditions of parole, which may include, among other conditions, that the person paroled must:

(a) Accept the parole granted subject to all terms and conditions specified by the board.

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

(c) Answer all reasonable inquiries of the board or the parole officer.

(d) Report to the parole officer as directed by the board or parole officer.

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

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

(g) Understand that the board may, in its discretion, suspend or revoke parole if it determines that the parole is not in the best interest of the person paroled or of society.

(3) If the person paroled is required to report as a sex offender under ORS 181.806, the board shall include as a condition of parole that the person report with the Department of State Police, a city police department, a county sheriff's office or the supervising agency:

(a) When supervision begins;

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

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

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

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

(4)(a) The board may establish special conditions that it considers necessary because of the individual circumstances of the person paroled.

(b) If the person is on parole following conviction of a sex crime, as defined in ORS 181.805, the board shall include all of the following as special conditions of the person's parole:

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

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

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

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

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

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

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

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

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

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

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

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

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

(c)(A) If the person is on parole following conviction of a sex crime, as defined in ORS 181.805, or an assault, as defined in ORS

163.175 or 163.185, and the victim was under 18 years of age, the board, if requested by the victim, shall include as a special condition of the person's parole that the person not reside within three miles of the victim unless:

(i) The victim resides in a county having a population of less than 130,000 and the person is required to reside in that county under subsection (6) of this section;

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

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

(iv) The person resides in a halfway house.

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

(C) If the board imposes the special condition of parole described in this paragraph and if at any time during the period of parole the victim moves to within three miles of the parolee's residence, the board may not require the parolee to change the parolee's residence in order to comply with the special condition of parole.

(5) It is not a cause for revocation of parole that the person paroled failed to apply for or accept employment at a workplace where there is a labor dispute in progress.

(6)(a) When the board grants a person parole from the custody of the Department of Corrections, the board shall order, as a condition of parole, that the person reside for the first six months in the county that last supervised the person, if the person was on active supervision as an adult for a felony at the time of the offense that resulted in the imprisonment.

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

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

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

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

(ii) Records maintained by the Department of Revenue;

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

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

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

(vi) Records maintained by the Oregon Health Authority.

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

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

(D) If the person is being rereleased after revocation of parole, the county of residence shall be determined according to the date of the arrest resulting in a conviction of the underlying offense.

(E) In determining the person's county of residence, a conviction for an offense that the inmate committed while incarcerated in a state correctional institution may not be considered.

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

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

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

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

(D) As another condition of parole, the person is required to participate in a treat-

ment program that is not available or located in the county of residence;

(E) The person requests to be paroled to another state; or

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

(7) As used in this section:

(a) "Attends," "carries on a vocation," "institution of higher education" and "works" have the meanings given those terms in ORS 181.805.

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

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

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

(d) "Labor dispute" has the meaning given that term in ORS 662.010. [Amended by 1973 c.694 §7; 1973 c.836 §294; 1974 c.36 §5; 1987 c.320 §60; 1987 c.780 §4; 1989 c.1023 §1; 1991 c.278 §1; 1999 c.239 §3; 1999 c.626 §13; amendments by 1999 c.626 §36 repealed by 2001 c.884 §1; 2001 c.731 §§3,4; 2005 c.532 §2; 2005 c.567 §10; 2005 c.576 §3; 2005 c.642 §3a; 2007 c.71 §38; 2009 c.204 §7; 2009 c.595 §100; 2009 c.713 §13; 2011 c.258 §2; 2011 c.547 §31]

Note: See note under 144.110.

144.275 Parole of inmates sentenced to pay compensatory fines or make restitution; schedule of payments. Whenever the State Board of Parole and Post-Prison Supervision orders the release on parole of an inmate who has been ordered to pay compensatory fines pursuant to ORS 137.101 or to make restitution pursuant to ORS 137.106, but with respect to whom payment of all or a portion of the fine or restitution was suspended until the release of the inmate from imprisonment, the board may establish a schedule by which payment of the compensatory fine or restitution shall be resumed. In fixing the schedule and supervising the paroled inmate's performance thereunder, the board shall consider the factors specified in ORS 137.106 (4). The board shall provide to the sentencing court a copy of the schedule and any modifications thereof. [1977 c.271 §6; 1989 c.46 §1; 2003 c.670 §2]

Note: 144.275 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.280 Hearing after parole denied to prisoner sentenced for crime committed prior to November 1, 1989; rules. (1)(a) If the State Board of Parole and Post-Prison Supervision denies parole to a prisoner sentenced for a crime committed prior to November 1, 1989, the board may not grant the prisoner a subsequent hearing that is less than two years, or more than 10 years, from the date parole is denied, unless the two-year period would exceed the maximum sentence imposed by the court.

(b) The board may not grant the prisoner a hearing that is more than two years from the date parole is denied unless the board finds that it is not reasonable to expect that the prisoner would be granted parole before the date of the subsequent hearing.

(c) The board shall determine the date of the subsequent hearing pursuant to rules adopted by the board. Rules adopted under this paragraph must be based on the foundation principles of criminal law described in section 15, Article I of the Oregon Constitution.

(2) If the board grants a prisoner a hearing that is more than two years from the date parole is denied, the prisoner may submit a request for an interim hearing not earlier than the date that is two years from the date parole is denied and at intervals of not less than two years thereafter. If the board finds, based upon a request for an interim hearing, that there is reasonable cause to believe that the prisoner may be granted parole, the board shall conduct a hearing as soon as is reasonably convenient.

(3) When the board grants a prisoner a hearing that is more than two years from the date parole is denied and when the board denies a petition for an interim hearing, the board shall issue a final order. The order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order. Unless the prisoner bears the burden of persuasion, the order shall include findings necessary to deny the prisoner parole for any period of time when the prisoner would be presumed to be eligible for parole. [2009 c.660 §2]

Note: 144.280 and 144.285 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.285 Hearing after petition for change in terms of confinement denied to prisoner convicted of aggravated murder or murder; rules. (1)(a) If the State Board of Parole and Post-Prison Supervision denies a petition for a change in the terms of confinement filed by a prisoner convicted of aggravated murder or murder, the board may not grant the prisoner a subsequent hearing that is less than two years, or more than 10 years, from the date the petition is denied.

(b) The board may not grant the prisoner a hearing that is more than two years from

the date a petition is denied unless the board finds that it is not reasonable to expect that the prisoner would be granted a change in the terms of confinement before the date of the subsequent hearing.

(c) The board shall determine the date of the subsequent hearing in accordance with rules adopted by the board. Rules adopted under this paragraph must be based on the foundation principles of criminal law described in section 15, Article I of the Oregon Constitution.

(2) If the board grants the prisoner a hearing that is more than two years from the date a petition is denied, the prisoner may submit a request for an interim hearing not earlier than the date that is two years from the date the petition is denied and at intervals of not less than two years thereafter. If the board finds, based upon a request for an interim hearing, that there is reasonable cause to believe that the prisoner may be granted a change in the terms of confinement, the board shall conduct a hearing as soon as is reasonably convenient.

(3) When the board grants a prisoner a hearing that is more than two years from the date a petition is denied and when the board denies a petition for an interim hearing, the board shall issue a final order. The order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order. Unless the prisoner bears the burden of persuasion, the order shall include findings necessary to deny the prisoner a change in the terms of confinement for any period of time when the prisoner would be presumed to be eligible for a change in the terms of confinement. [2009 c.660 §1]

Note: See note under 144.280.

144.305 [1987 c.2 §16; 1991 c.148 §1; repealed by 1993 c.680 §7]

144.310 [Amended by 1963 c.625 §2; 1973 c.694 §18; 1973 c.836 §295; 1974 c.36 §6; 1981 c.425 §1; 1987 c.320 §61; repealed by 1993 c.680 §7]

TERMINATION OF PAROLE

144.315 Evidence admissible before board; procedures. Evidence may be received in proceedings conducted by the State Board of Parole and Post-Prison Supervision even though inadmissible under rules of evidence applicable to court procedure and the board shall establish procedures to regulate and provide for the nature and extent of the proofs and evidence and method of taking and furnishing the same in order to afford the inmate a reasonable opportunity for a fair hearing. The procedures shall include the means of determining good cause not to allow confrontation of witnesses or disclosure of the identity of informants who would be subject to risk of harm if their identity is disclosed. [1973 c.694 §22]

144.317 Appointment of attorneys; payment. (1) The State Board of Parole and Post-Prison Supervision shall have the power to appoint attorneys, at board expense, to represent indigent parolees and offenders on post-prison supervision if the request and determination provided in ORS 144.343 (3)(f) have been made.

(2) Upon completion of the parole or post-prison supervision revocation hearing, the board shall determine whether the person for whom counsel was appointed pursuant to subsection (1) of this section is able to pay a portion of the attorney fees to be paid by the board. In determining whether the person is able to pay such portion, the board shall take into account the other financial obligations of the person, including any existing fines or orders to make restitution. If the board determines that the person is able to pay such portion, the board may order, as a condition of parole or post-prison supervision, that the person pay the portion to the appropriate officer of the state. [1973 c.694 §23; 1981 c.644 §6; 1987 c.803 §16; 1989 c.790 §40]

144.320 [Repealed by 1961 c.412 §5]

144.330 [Amended by 1973 c.836 §296; repealed by 1973 c.694 §8 (144.331 enacted in lieu of 144.330)]

144.331 Suspension of parole or post-prison supervision; custody of violator; revocation hearing before suspension. (1) The State Board of Parole and Post-Prison Supervision may suspend the parole or post-prison supervision of any person under its jurisdiction upon being informed and having reasonable grounds to believe that the person has violated the conditions of parole or post-prison supervision and may order the arrest and detention of such person. The written order of the board is sufficient warrant for any law enforcement officer to take into custody such person. A sheriff, municipal police officer, constable, parole and probation officer, prison official or other peace officer shall execute the order.

(2) The board or its designated representative may proceed to hearing as provided in ORS 144.343 without first suspending the parole or post-prison supervision or ordering the arrest and detention of any person under its jurisdiction upon being informed and having reasonable grounds to believe that the person under its jurisdiction has violated a condition of parole and that revocation of parole may be warranted or that the person under its jurisdiction has violated a condition of post-prison supervision and that in-

carceration for the violation may be warranted.

(3) During the pendency of any post-prison supervision violation proceedings, the period of post-prison supervision is stayed and the board has jurisdiction over the offender until the proceedings are resolved. [1973 c.694 §9 (enacted in lieu of 144.330); 1977 c.375 §1; 1991 c.108 §1; 2005 c.264 §13]

144.333 [Repealed by 1974 c.36 §28]

144.334 Use of citations for parole or post-prison supervision violators; conditions; appearance. (1) In addition to the authority granted under ORS 144.331 and 144.370, the State Board of Parole and Post-Prison Supervision may authorize the use of citations to direct alleged parole or post-prison supervision violators to appear before the board or its designated representative. The following apply to the use of citations under this section:

(a) The board may authorize issuance of citations only by officers who are permitted under ORS 144.350 to arrest and detain.

(b) Nothing in this subsection limits the authority, under ORS 144.350, of a supervising officer or other officer to arrest an alleged parole or post-prison supervision violator.

(2) The board may impose any conditions upon an authorization under this section that the board considers appropriate. The conditions may include, but are not limited to, requirements that citation authority be sought on a case-by-case basis, citation authority be granted in all cases that meet certain conditions, citation authority be allowed for certain types of cases or designation of certain cases be made where citations shall not be used.

(3) The cited offender shall appear before the board or its designated representative at the time, date and place specified in the citation. If the offender fails to appear as required, the board may issue a suspend and detain order upon its own motion or upon request of the supervising officer. [1991 c.836 §4]

Note: 144.334 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.335 Appeal from order of board to Court of Appeals; appointment of master; costs. (1) A person over whom the State Board of Parole and Post-Prison Supervision exercises its jurisdiction may seek judicial review of a final order of the board as provided in this section if:

(a) The person is adversely affected or aggrieved by a final order of the board; and

(b) The person has exhausted administrative review as provided by board rule.

(2) A person requesting administrative review shall provide the person's current mailing address in the request. The board shall mail its order disposing of the request for administrative review to the person at that address, unless the person has otherwise notified the board in writing of a change of address.

(3) The order of the board need not be in any special form, and the order is sufficient for purposes of judicial review if it appears that the board acted within the scope of the board's authority. The Court of Appeals may affirm, reverse or remand the order on the same basis as provided in ORS 183.482 (8). The filing of the petition shall not stay the board's order, but the board may do so, or the court may order a stay upon application on such terms as it deems proper.

(4) If a person described in subsection (1) of this section seeks judicial review of a final order of the board, the person shall file a petition for judicial review with the Court of Appeals within 60 days after the date the board mails the order disposing of the person's request for administrative review. The person shall serve a copy of the petition for judicial review on the board.

(5) Within 30 days after being served with a copy of the petition for judicial review, or such further time as the court may allow, the board shall:

(a) Submit to the court the record of the proceeding or, if the petitioner agrees, a shortened record; and

(b) Deliver a copy of the record to the petitioner or the petitioner's attorney, if the petitioner is represented by an attorney.

(6) At any time after submission of the petitioner's brief, the court, on its own motion or on motion of the board, without submission of the board's brief and without oral argument, may summarily affirm the board's order if the court determines that the judicial review does not present a substantial question of law. Notwithstanding ORS 2.570, the Chief Judge, or other judge of the Court of Appeals designated by the Chief Judge, may, on behalf of the Court of Appeals, deny or, if the petitioner does not oppose the motion, grant the board's motion for summary affirmance. A summary affirmance under this subsection constitutes a decision on the merits of the petitioner's issues on judicial review.

(7) During the pendency of judicial review of an order, if the board withdraws the order for the purpose of reconsideration and thereafter issues an order on reconsideration, and the petitioner wishes to proceed with the

judicial review, the petitioner need not seek administrative review of the order on reconsideration and need not file a new petition for judicial review. The petitioner shall file, within a time established by the court, a notice of intent to proceed with judicial review.

(8) In the case of disputed allegations of irregularities in procedure before the board not shown in the record that, if proved, would warrant reversal or remand, the Court of Appeals may refer the allegations to a master appointed by the court to take evidence and make findings of fact upon them.

(9) If the court determines that a brief filed by the petitioner, when liberally construed, fails to state a colorable claim for review, the court may order the petitioner to pay, in addition to the board's recoverable costs, attorney fees incurred by the board not to exceed $100. If the petitioner moves to dismiss the petition prior to a summary affirmance described in subsection (6) of this section, the court may not award costs or attorney fees to the board.

(10) Upon request by the board, the Department of Corrections may draw from or charge to the petitioner's trust account and pay to the board the amount of any costs or attorney fees awarded to the board by the court in any judicial review under this section.

(11) If the petitioner prevails on judicial review and is represented by an attorney funded by the Public Defense Services Commission, any recoverable costs shall be paid to the commission. [1973 c.694 §24; 1983 c.740 §18; 1989 c.790 §41; 1993 c.402 §1; 1995 c.108 §3; 1999 c.141 §3; 1999 c.618 §1; 2001 c.661 §1; 2003 c.352 §1; 2007 c.411 §1]

144.337 Public Defense Services Commission to provide counsel for eligible petitioners. (1) Pursuant to ORS 151.216 and 151.219, the Public Defense Services Commission shall provide for the representation of financially eligible persons petitioning for review under ORS 144.335.

(2) If the commission determines that a person petitioning for review under ORS 144.335 is not financially eligible for appointed counsel at state expense, the commission shall promptly notify the person of the determination and of the person's right to request review of the determination by the Court of Appeals. The person may request review of the commission's determination by filing a motion in the Court of Appeals no later than 60 days after the date of the commission's notice.

(3) The determination of the Court of Appeals under subsection (2) of this section as to whether the person is financially eligible is final. [1973 c.694 §25; 2001 c.962 §31; 2003 c.420 §1]

144.340 Power to retake and return violators of parole and post-prison supervision. (1) The Department of Corrections, in accordance with the rules and regulations or directions of the State Board of Parole and Post-Prison Supervision or the Governor, as the case may be, may cause to have retaken and returned persons to the institution, or to the supervision of the local supervisory authority, whether in or out of the state, whenever they have violated the conditions of their parole or post-prison supervision.

(2)(a) Persons retaken and returned to this state from outside the state upon order or warrant of the Department of Corrections, the State Board of Parole and Post-Prison Supervision or the Governor, for violation of conditions of parole or post-prison supervision, shall be detained in a Department of Corrections facility or a local correctional facility pending any hearing concerning the alleged violation and ultimate disposition by the State Board of Parole and Post-Prison Supervision.

(b) Persons retaken and returned to this state from outside the state upon order or warrant of a local supervisory authority for violation of conditions of post-prison supervision may be detained in a local correctional facility pending a hearing concerning the alleged violation and ultimate disposition by the local supervisory authority.

(3) Persons retaken and returned to this state from outside the state under this section are liable for the costs and expenses of retaking and returning the person upon:

(a) A finding by the State Board of Parole and Post-Prison Supervision of present or future ability to pay; and

(b) Order of the State Board of Parole and Post-Prison Supervision. [Amended by 1969 c.597 §116; 1973 c.836 §297; 1987 c.320 §62; 1989 c.790 §42; 1991 c.228 §1; 1995 c.423 §19; 1999 c.120 §1]

144.341 Procedure upon arrest of violator. (1) Except as otherwise provided in subsection (2) of this section, when the State Board of Parole and Post-Prison Supervision or the Department of Corrections orders the arrest and detention of an offender under ORS 144.331 or 144.350, the offender arrested shall be held in a county jail for no more than 15 days.

(2) An offender may be held longer than 15 days:

(a) If the offender is being held for a combination of probation and parole violation;

(b) If the offender is being held pending prosecution on new criminal charges; or

(c) Pursuant to an agreement with a local jail authority. [1993 c.680 §32]

Note: 144.341 was added to and made a part of ORS chapter 144 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

144.343 Hearing required on revocation; procedure. (1) When the State Board of Parole and Post-Prison Supervision or its designated representative has been informed and has reasonable grounds to believe that a person under its jurisdiction has violated a condition of parole and that revocation of parole may be warranted, the board or its designated representative shall conduct a hearing as promptly as convenient to determine whether there is probable cause to believe a violation of one or more of the conditions of parole has occurred and also conduct a parole violation hearing if necessary. Evidence received and the order of the court at a preliminary hearing under ORS 135.070 to 135.225 may be used by the board to determine the existence of probable cause. A waiver by the defendant of any preliminary hearing shall also constitute a waiver of probable cause hearing by the board. The location of the hearing shall be reasonably near the place of the alleged violation or the place of confinement.

(2) The board may:

(a) Reinstate or continue the alleged violator on parole subject to the same or modified conditions of parole;

(b) Revoke parole and require that the parole violator serve the remaining balance of the sentence as provided by law;

(c) Impose sanctions as provided in ORS 144.106; or

(d) Delegate the authority, in whole or in part, granted by this subsection to its designated representative as provided by rule.

(3) Within a reasonable time prior to the hearing, the board or its designated representative shall provide the parolee with written notice which shall contain the following information:

(a) A concise written statement of the suspected violations and the evidence which forms the basis of the alleged violations.

(b) The parolee's right to a hearing and the time, place and purpose of the hearing.

(c) The names of persons who have given adverse information upon which the alleged violations are based and the right of the parolee to have such persons present at the hearing for the purposes of confrontation and cross-examination unless it has been determined that there is good cause for not allowing confrontation.

(d) The parolee's right to present letters, documents, affidavits or persons with relevant information at the hearing unless it has been determined that informants would be subject to risk of harm if their identity were disclosed.

(e) The parolee's right to subpoena witnesses under ORS 144.347.

(f) The parolee's right to be represented by counsel and, if indigent, to have counsel appointed at board expense if the board or its designated representative determines, after request, that the request is based on a timely and colorable claim that:

(A) The parolee has not committed the alleged violation of the conditions upon which the parolee is at liberty;

(B) Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justify or mitigate the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or

(C) The parolee, in doubtful cases, appears to be incapable of speaking effectively on the parolee's own behalf.

(g) That the hearing is being held to determine:

(A) Whether there is probable cause to believe a violation of one or more of the conditions of parole has occurred; and

(B) If there is probable cause to believe a violation of one or more of the conditions of parole has occurred:

(i) Whether to reinstate parole;

(ii) Whether to continue the alleged violator on parole subject to the same or modified conditions of parole; or

(iii) Whether to revoke parole and require that the parole violator serve a term of imprisonment consistent with ORS 144.346.

(4) At the hearing the parolee shall have the right:

(a) To present evidence on the parolee's behalf, which shall include the right to present letters, documents, affidavits or persons with relevant information regarding the alleged violations;

(b) To confront witnesses against the parolee unless it has been determined that there is good cause not to allow confrontation;

(c) To examine information or documents which form the basis of the alleged violation unless it has been determined that informants would be subject to risk of harm if their identity is disclosed; and

(d) To be represented by counsel and, if indigent, to have counsel provided at board expense if the request and determination provided in subsection (3)(f) of this section have been made. If an indigent's request is

refused, the grounds for the refusal shall be succinctly stated in the record.

(5) Within a reasonable time after the preliminary hearing, the parolee shall be given a written summary of what transpired at the hearing, including the board's or its designated representative's decision or recommendation and reasons for the decision or recommendation and the evidence upon which the decision or recommendation was based. If an indigent parolee's request for counsel at board expense has been made in the manner provided in subsection (3)(f) of this section and refused, the grounds for the refusal shall be succinctly stated in the summary.

(6)(a) The parolee may admit or deny the violation without being physically present at the hearing if the parolee appears before the board or its designee by means of simultaneous television transmission allowing the board to observe and communicate with the parolee and the parolee to observe and communicate with the board or by telephonic communication allowing the board to communicate with the parolee and the parolee to communicate with the board.

(b) Notwithstanding paragraph (a) of this subsection, appearance by simultaneous television transmission or telephonic communication shall not be permitted unless the facilities used enable the parolee to consult privately with counsel during the proceedings.

(7) If the board or its designated representative has determined that there is probable cause to believe that a violation of one or more of the conditions of parole has occurred, the hearing shall proceed to receive evidence from which the board may determine whether to reinstate or continue the alleged parole violator on parole subject to the same or modified conditions of parole or revoke parole and require that the parole violator serve a term of imprisonment as provided by ORS 144.346.

(8) At the conclusion of the hearing if probable cause has been determined and the hearing has been held by a member of the board or by a designated representative of the board, the person conducting the hearing shall transmit the record of the hearing, together with a proposed order including findings of fact, recommendation and reasons for the recommendation to the board. The parolee or the parolee's representative shall have the right to file exceptions and written arguments with the board. The right to file exceptions and written arguments may be waived. After consideration of the record, recommendations, exceptions and arguments a quorum of the board shall enter a final order including findings of fact, its decision and reasons for the decision. [1973 c.694 §13; 1977 c.375 §2; 1981 c.644 §7; 1987 c.158 §20a; 1987 c.803 §17; 1989 c.790 §42a; 1991 c.836 §2; 1993 c.581 §3; 1997 c.313 §12; 2009 c.178 §30; 2010 c.89 §13]

144.345 Revocation of parole; effect of conviction for crime. (1) Except as provided in subsection (2) of this section, whenever the State Board of Parole and Post-Prison Supervision considers an alleged parole violator and finds such person has violated one or more conditions of parole and evidence offered in mitigation does not excuse or justify the violation, the board may revoke parole.

(2) When a person released on parole or post-prison supervision is convicted of a crime and sentenced to a term of imprisonment at any institution of the Department of Corrections or its counterpart under the laws of the United States or any other state, such conviction and sentence shall automatically terminate the person's parole or post-prison supervision as of the date of the sentence order. Notwithstanding any other provision of law, the person shall not be entitled to a hearing under ORS 144.343 and shall have a rerelease date set as provided by rule. [1973 c.694 §14; 1977 c.372 §16; 1991 c.836 §3]

144.346 Parole revocation sanctions; rules. The State Board of Parole and Post-Prison Supervision shall adopt rules to establish parole revocation sanctions for parole violations committed on or after November 1, 1989. [1989 c.790 §18b; 1997 c.525 §9]

Note: 144.346 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.347 Subpoena power of board; reimbursement for costs; contempt proceedings. (1) Upon request of any party to the hearing provided in ORS 144.343 and upon a proper showing of the general relevance and reasonable scope of the testimony to be offered, the board or its designated representatives shall issue subpoenas requiring the attendance and testimony of witnesses. In any case, the board, on its own motion, may issue subpoenas requiring the attendance and testimony of witnesses.

(2) Upon request of any party to the hearing provided in ORS 144.343 and upon a proper showing of the general relevance and reasonable scope of the documentary or physical evidence sought, the board or its designated representative shall issue subpoenas duces tecum. In any case, the board, on its own motion, may issue subpoenas duces tecum.

(3) Witnesses appearing under subpoena, other than the parties or state officers or employees, shall receive fees and mileage as

prescribed by law for witnesses in ORS 44.415 (2). If the board or its designated representative certifies that the testimony of a witness was relevant and material, any person who has paid fees and mileage to that witness shall be reimbursed by the board.

(4) If any person fails to comply with a subpoena issued under subsection (1) or (2) of this section or any party or witness refuses to testify regarding any matter on which the party or witness may be lawfully interrogated, the judge of the circuit court of any county, on the application of the board or its designated representative or of the party requesting the issuance of the subpoena, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued by the court. [1973 c.694 §15; 1983 c.489 §3; 1989 c.980 §7]

144.349 When ORS 144.343 does not apply. When an alleged parole or post-prison supervision violator is in custody in a state to which the alleged parole or post-prison supervision violator has not been paroled or released or in federal custody, ORS 144.343 does not apply. [1973 c.694 §16; 1989 c.790 §43]

144.350 Order for arrest and detention of escapee or violator of parole, post-prison supervision, probation, conditional pardon or other conditional release; investigation by department. (1)(a) The Department of Corrections or other supervisory authority may order the arrest and detention of any person then under the supervision, custody or control of the department or other supervisory authority upon being informed and having reasonable grounds to believe that such person has:

(A) Violated the conditions of parole, post-prison supervision, probation, conditional pardon or other conditional release from custody; or

(B) Escaped from the supervision, custody or control of the department or other supervisory authority.

(b) Before issuing an order under paragraph (a)(A) of this subsection, the department or other supervisory authority shall investigate for the purpose of ascertaining whether the terms of the parole, post-prison supervision, probation, conditional pardon or other conditional release have been violated.

(2) Notwithstanding subsection (1) of this section, the department or other supervisory authority may order the arrest and detention of any person under its supervision or control if it has reasonable grounds to believe that such person is a danger to self or to others. A hearing shall follow as promptly as convenient to the parties to determine whether probable cause exists to continue detention pending a final determination of the case.

(3) As used in this section, "escape" means the unlawful departure of a person from a correctional facility, as defined in ORS 162.135, or from the supervision, custody or control of a corrections officer or other person authorized by the department or supervisory authority to maintain supervision, custody or control of the person while the person is outside the correctional facility. [Amended by 1969 c.597 §117; 1981 c.644 §8; 1987 c.320 §63; 1989 c.790 §44; 1995 c.423 §25; 1999 c.120 §2]

144.360 Effect of order for arrest and detention of violator. Any order issued by the Department of Corrections or other supervisory authority as authorized by ORS 144.350 constitutes full authority for the arrest and detention of the violator, and all the laws applicable to warrants of arrest shall apply to such orders. [Amended by 1973 c.836 §298; 1987 c.320 §64; 1995 c.423 §26]

144.370 Suspension of parole or post-prison supervision following order for arrest and detention; hearing. Within 15 days after the issuance of an order, under the provisions of ORS 144.350, the board may order suspension of the detained person's parole or post-prison supervision. A hearing shall then be conducted as promptly as convenient pursuant to ORS 144.343. [Amended by 1973 c.694 §10; 1973 c.836 §299; 1974 c.36 §7; 1981 c.644 §9; 1983 c.740 §19; 1991 c.108 §2]

144.374 Deputization of persons in other states to act in returning Oregon violators. (1) The Director of the Department of Corrections may deputize, in writing, any person regularly employed by another state, to act as an officer and agent of this state for the return of any person who has violated the conditions of parole, post-prison supervision, conditional pardon or other conditional release.

(2) Any person deputized pursuant to subsection (1) of this section shall have the same powers with respect to the return of any person who has violated the conditions of parole, post-prison supervision, conditional pardon or other conditional release from custody as any peace officer of this state.

(3) Any person deputized pursuant to subsection (1) of this section shall carry formal evidence of deputization and shall produce the same on demand. [1955 c.369 §1; 1969 c.597 §118; 1973 c.836 §300; 1987 c.320 §65; 1989 c.790 §45]

144.376 Contracts for sharing expense with other states of cooperative returns of violators. The Department of Corrections may enter into contracts with similar officials of any state, for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the conditions of parole, post-prison super-

vision, probation, conditional pardon or other conditional release. [1955 c.369 §2; 1969 c.597 §119; 1983 c.425 §1; 1987 c.320 §66; 1989 c.790 §46]

144.380 Violator as fugitive from justice. After the suspension of parole or post-prison supervision or revocation of probation or conditional pardon of any convicted person, and until the return of the person to custody, the person shall be considered a fugitive from justice. [Amended by 1973 c.694 §11; 1989 c.790 §47]

144.390 [Amended by 1975 c.589 §1; repealed by 1989 c.790 §47a]

144.395 Rerelease of persons whose parole has been revoked; rules. The board shall adopt rules consistent with the criteria in ORS 144.780 relating to the rerelease of persons whose parole has been revoked. [1977 c.372 §7]

144.400 [Amended by 1973 c.836 §301; repealed by 1973 c.694 §26]

144.403 [Repealed by 1974 c.36 §28]

SEIZURE OF PROPERTY BY PAROLE AND PROBATION OFFICERS

144.404 Department of Corrections authority to receive, hold and dispose of property. The Department of Corrections is authorized to receive, hold and dispose of contraband, things otherwise criminally possessed or possessed in violation of parole or post-prison supervision conditions, or unclaimed goods seized by a parole and probation officer during the arrest of a suspected parole or post-prison supervision violator or during the search of the suspected violator or of the premises, vehicle or other property of the suspected violator. [1991 c.286 §1]

Note: 144.404 to 144.409 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.405 Duty of officer upon seizure; disposition of property if no claim to rightful possession is established. (1) Upon seizing property in execution of duty, a parole and probation officer shall, as soon thereafter as is reasonably possible, make a written list of the things seized and furnish a copy to the suspected parole or post-prison supervision violator. The list shall contain a notice informing the person of the right to contest the seizure by filing a petition and shall contain such other information as the Department of Corrections, by rule, may require.

(2) If no claim of rightful possession has been established under ORS 144.405 to 144.409, the Department of Corrections may order the sale, destruction or other disposition of the things seized. The department may enter into agreements with other state and local officials responsible under applicable laws for selling, destroying or otherwise disposing of contraband or unclaimed goods in official custody for ultimate disposition of the things seized. The clear proceeds, if any, generated by the disposition of things seized shall be deposited in the State Treasury to the credit of the General Fund.

(3) If things seized by a parole and probation officer in execution of duty are not needed for evidentiary purposes, and if a person having a rightful claim establishes identity and right to possession to the satisfaction of the Department of Corrections, the department may summarily return the things seized to their rightful possessor.

(4) If the things seized are contraband, the fruits of crime or things otherwise criminally possessed, the Department of Corrections may:

(a) Relinquish custody of the things seized to appropriate law enforcement officials for disposition; or

(b) Hold and safeguard the things seized until directed by appropriate law enforcement officials that the things in question are no longer needed for purposes of criminal prosecution. [1991 c.286 §2]

Note: See note under 144.404.

144.406 Petition for return of things seized. (1) Within 30 days after actual notice of any seizure, or at such later date as the Department of Corrections in its discretion may allow:

(a) An individual from whose person, property or premises things have been seized may petition the department to return the things seized to the person or premises from which they were seized.

(b) Any other person asserting a claim to rightful possession of the things seized may petition the department to restore the things seized to the person.

(2) Petitions for return or restoration of things seized shall be served on the manager of the local field services office having supervision over the suspected parole or post-prison supervision violator.

(3) Service of a petition for the return or restoration of things seized shall be made by certified or registered mail, return receipt requested. [1991 c.286 §3]

Note: See note under 144.404.

144.407 Grounds for valid claim to rightful possession. A petition for the return or restoration of things seized shall be based on the ground that the petitioner has a valid claim to rightful possession because:

(1) The things had been stolen or otherwise converted and the petitioner is the owner or rightful possessor;

(2) The things seized were not, in fact, subject to seizure in connection with the suspected parole or post-prison supervision violation;

(3) Although the things seized were subject to seizure in connection with a suspected parole or post-prison supervision violation, the petitioner is or will be entitled to their return or restoration upon a determination by the Department of Corrections or the State Board of Parole and Post-Prison Supervision that they are no longer needed for evidentiary purposes, do not constitute a parole or post-prison supervision violation or may be lawfully possessed by the petitioner; or

(4) The suspected parole or post-prison supervision violator and the department have stipulated that the things seized may be returned to the petitioner. [1991 c.286 §4]

Note: See note under 144.404.

144.408 Hearing on petition. (1) If, upon consideration of a petition for return or restoration of things seized, it appears to the Department of Corrections that the things should be returned or restored, but there is substantial question whether they should be returned to the person from whose possession they were seized or to some other person, or a substantial question among several claimants to rightful possession, the department may set a further hearing, assuring that all persons with a possible possessory interest in the things in question receive due notice and an opportunity to be heard. Upon completion of the hearing, the department shall enter an order for the return or restoration of the things seized.

(2) Instead of conducting the hearing provided for in subsection (1) of this section and returning or restoring the property, the department in its discretion, may leave the several claimants to appropriate civil process for the determination of the claims. [1991 c.286 §5]

Note: See note under 144.404.

144.409 Granting petition for return of things seized; judicial review. (1) In granting a petition for return or restoration of things seized, the Department of Corrections shall postpone execution of the order until such time as the things in question are no longer needed for evidentiary purposes in establishing either a criminal or parole or post-prison supervision violation.

(2) Judicial review of a department order for return or restoration of things seized shall be available as for review of orders in other than contested cases as provided in ORS chapter 183. [1991 c.286 §6]

Note: See note under 144.404.

WORK RELEASE PROGRAM

144.410 Definitions for ORS 144.410 to 144.525. As used in ORS 144.410 to 144.525, unless the context requires otherwise:

(1) "Director" means the Director of the Department of Corrections.

(2) "Department" means the Department of Corrections.

(3) "Department of Corrections institutions" has the meaning found in ORS 421.005. [1965 c.463 §1; 1969 c.597 §120; 1973 c.836 §302; 1987 c.320 §67]

144.420 Department of Corrections to administer work release program; purposes of release; housing of parolee. (1) The Department of Corrections shall establish and administer a work release program in which a misdemeanant or felon may participate, and if confined, be authorized to leave assigned quarters for the purpose of:

(a) Participating in an inmate work program approved by the Director of the Department of Corrections, including work with public or private agencies or persons, with or without compensation.

(b) Obtaining in this state additional education, including but not limited to vocational, technical and general education.

(c) Participating in alcohol or drug treatment programs.

(d) Participating in mental health programs.

(e) Specific treatment to develop independent living skills.

(2) The Department of Corrections is responsible for the quartering and supervision of persons enrolled in the work release program. The Department of Corrections may house for rehabilitative purposes, in a work release facility, a parolee under the jurisdiction of the State Board of Parole and Post-Prison Supervision, with the written consent of the parolee and the approval of the board, in accordance with procedures established by the department and the board. [1965 c.463 §2; 1967 c.354 §1; 1969 c.597 §138; 1973 c.242 §1; 1973 c.836 §303; 1974 c.36 §8; 1987 c.320 §68; 1989 c.790 §69; 1991 c.161 §1; 1995 c.384 §3; 1997 c.851 §1]

144.430 Duties of department in administering program. (1) The Department of Corrections shall administer the work release program by means of such staff organization and personnel as the director considers necessary. In addition to other duties, the department shall:

(a) Locate employment for qualified applicants;

(b) Effect placement of persons under the work release program;

(c) Collect, account for and make disbursements from earnings, if any, of persons under the work release program;

(d) Generally promote public understanding and acceptance of the work release program; and

(e) Establish and maintain community centers.

(2) The Department of Corrections may enter into agreements with other public or private agencies or persons for providing services relating to work release programs.

(3) In carrying out the provisions of this section, the Department of Corrections may enter into agreements with the Department of Human Services to provide such services as determined by the Department of Corrections and as the Department of Human Services is authorized to provide under ORS 344.511 to 344.550. [1965 c.463 §3; 1967 c.289 §1; 1969 c.597 §121; 1973 c.836 §304; 1987 c.320 §69; 1995 c.384 §4; 2013 c.130 §3]

144.440 Recommendation by sentencing court. When a person is sentenced to the custody of the Department of Corrections, the court may recommend to the department that the person so sentenced be granted the option of serving the sentence by enrollment in the work release program established under ORS 144.420. [1965 c.463 §4; 1973 c.836 §305; 1987 c.320 §70]

144.450 Approval or rejection of recommendations; rules; exemptions from Administrative Procedures Act. (1) The Director of the Department of Corrections shall approve or reject each recommendation under ORS 144.440 or 421.170 for enrollment in the work release program. Rejection by the director of a recommendation does not preclude submission under ORS 421.170 of subsequent recommendations regarding enrollment of the same person.

(2) An inmate may be assigned by the Department of Corrections to participate in an inmate work program, or in education, alcohol and drug treatment or mental health or other specific treatment program to develop independent living skills, without the inmate's consent.

(3) The director shall promulgate rules for carrying out ORS 144.410 to 144.525 and 421.170.

(4) In approving a recommendation and enrolling a person in the work release program, or in assigning an inmate to participate in an inmate work program or in education, alcohol and drug treatment or mental health or other specific treatment program to develop independent living skills, the director may prescribe any specific conditions that the director finds appropriate to assure compliance by the person with the general procedures and objectives of the work release program.

(5) ORS 183.410 to 183.500 do not apply to actions taken under this section. [1965 c.463 §7; 1973 c.621 §8a; 1973 c.836 §306; 1987 c.320 §70a; 1995 c.384 §5; 1997 c.851 §9]

144.460 Contracts for quartering of enrollees. The Department of Corrections may contract with the governing bodies of political subdivisions in this state, with the federal government and with any private agencies approved by the department for the quartering in suitable local facilities of persons enrolled in work release programs. [1965 c.463 §8; 1969 c.597 §122; 1969 c.678 §1; 1973 c.836 §307; 1977 c.717 §15; 1987 c.320 §71; 2007 c.71 §39; 2013 c.130 §2]

144.470 Disposition of enrollee's compensation under program; rules. (1) Each person enrolled in the work release program shall promptly surrender to the Department of Corrections all compensation the person receives, if any, other than amounts involuntarily withheld by the employer of the person.

(2) The Director of the Department of Corrections shall adopt rules providing for the disposition of any compensation earned by persons under this section. [1965 c.463 §9; 1973 c.836 §308; 1987 c.320 §72; 1995 c.384 §6; 1997 c.851 §2]

144.480 Protections and benefits for enrollees. (1) Persons assigned to participate in an inmate work program established under ORS 144.420 may be enrolled in an apprenticeship or training program under ORS 660.002 to 660.210 and are entitled to the protection and benefits of ORS 660.002 to 660.210 to the same extent as other employees of their employer, except that the Director of the Department of Corrections shall establish by rule any compensation paid to such persons and the compensation is not subject to any provision establishing or requiring a minimum or prevailing wage unless required to comply with federal law.

(2) Persons assigned to participate in an inmate work program established under ORS 144.420 are entitled to the protection and benefits of ORS 655.505 to 655.555.

(3) Persons enrolled, or assigned to participate, in a work release program are not entitled to benefits:

(a) Under ORS chapter 656; or

(b) Under ORS chapter 657 during their enrollment. [1965 c.463 §10; 1969 c.597 §122a; 1969 c.678 §2; 1995 c.384 §7; 1997 c.851 §8]

144.490 Status of enrollees. (1) A person enrolled, or assigned to participate, in the work release program is not an agent, employee or servant of a Department of Cor-

rections institution, the department or this state:

(a) While working, seeking gainful employment or otherwise participating, in an inmate work program; or

(b) While going to the place of such employment or work assignment from the place where the person is quartered, or while returning therefrom.

(2) For purposes of this chapter, a person enrolled, or assigned to participate, in the work release program established under ORS 144.420 is considered to be an inmate of a Department of Corrections institution. [1965 c.463 §§11,13; 1987 c.320 §73; 1995 c.384 §8]

144.500 Effect of violation or unexcused absence by enrollee. (1) If a person enrolled, or assigned to participate, in the work release program violates any law, or any rule or specific condition applicable to the person under ORS 144.450, the Department of Corrections may immediately terminate that person's enrollment in, or assignment to, the work release program and transfer the person to a Department of Corrections institution for the remainder of the sentence.

(2) Absence, without a reason that is acceptable to the Director of the Department of Corrections, of a person enrolled in, or assigned to, a work release program from the place of employment, work assignment or designated quarters, at any time contrary to the rules or specific conditions applicable to the person under ORS 144.450:

(a) Immediately terminates the enrollment of the person in, or assignment of the person to, the work release program.

(b) Constitutes an escape from a correctional facility under ORS 162.155. [1965 c.463 §§16,17; 1971 c.743 §340; 1987 c.320 §74; 1995 c.384 §9]

144.510 [Amended by 1961 c.656 §1; renumbered 144.560]

144.515 Release terminates enrollment; continued employment. A person's enrollment in the work release program terminates upon the release of the person from confinement pursuant to law. To the extent possible, the Department of Corrections shall cooperate with employers in making possible the continued employment of persons released. [1965 c.463 §18; 1973 c.836 §309; 1987 c.320 §75]

144.519 [1967 c.612 §§3,4; repealed by 1969 c.597 §281 and 1969 c.678 §8]

144.520 [Renumbered 144.570]

144.522 Revolving fund. (1) The Department of Corrections may request in writing the Oregon Department of Administrative Services to, and when so requested the Oregon Department of Administrative Services shall, draw a warrant on the amount available under section 6 or 7, chapter 678, Oregon Laws 1969, in favor of the department for use by the department as a revolving fund. The warrant or warrants drawn to establish or increase the revolving fund, rather than to reimburse it, shall not exceed the aggregate sum of $20,000. The revolving fund shall be deposited with the State Treasurer to be held in a special account against which the department may draw checks.

(2) The revolving fund may be used by the department for the purpose of making loans to any inmate enrolled in the work release program under ORS 144.410 to 144.525, at a rate of interest prescribed by the department, to pay costs of necessary clothing, tools, transportation and other items from the time of initial enrollment to the time the inmate receives sufficient income to repay the loan. A loan from the revolving fund shall be made only when other resources available to the enrollee to pay the costs described in this subsection are inadequate.

(3) The Department of Corrections shall enforce repayment of loans under this section by any lawful means. However, the Director of the Department of Corrections may proceed under ORS 293.235 to 293.245 to write off uncollectible debts arising out of such loans.

(4) All repayments of loans from the revolving fund shall be credited to the fund. Interest earnings realized upon any loan from the revolving fund shall be credited to the fund. [1969 c.597 §122d and 1969 c.678 §5; 1975 c.411 §1; 1987 c.320 §76]

144.525 Custody of enrollee earnings deducted or otherwise retained by department. The Director of the Department of Corrections shall deposit in the State Prison Work Programs Account, as they are received, moneys surrendered to the Department of Corrections under ORS 144.470. Disbursements from the account for purposes authorized by ORS 144.470 may be made by the director, subject to approval by the Prison Industries Board, by checks or orders drawn upon the account. The director is accountable for the proper handling of the account. [1965 c.463 §21; 1987 c.320 §77; 1995 c.384 §10]

144.560 [Formerly 144.510; repealed by 1969 c.597 §281]

144.570 [Formerly 144.520; repealed by 1969 c.597 §281]

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

144.600 Interstate Compact for Adult Offender Supervision. The Legislative Assembly hereby approves and the Governor is authorized to enter into a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

ARTICLE I
PURPOSE

(a) The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner and, when necessary, return offenders to the originating jurisdictions. The compacting states also recognize that the United States Congress, by enacting 4 U.S.C. 112, has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(b) It is the purpose of this compact and the Interstate Commission created under this compact, through means of joint and cooperative action among the compacting states: To provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states.

(c) In addition, this compact is intended to: Create an Interstate Commission that will establish uniform procedures to manage the movement between states of offenders placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities or corrections or other criminal justice agencies that will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials and regular reporting of compact activities to the heads of State Councils, the state executive, judicial and legislative branches and the criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education on the regulation of interstate movement of offenders for officials involved in such activity.

(d) The compacting states recognize that there is no right of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision, subject to the provisions of this compact and the bylaws and rules promulgated under this compact. It is the policy of the compacting states that the activities conducted by the Interstate Commission are intended to formulate public policy and are therefore public business.

ARTICLE II
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(a) "Adult" means a person who is 18 years of age or older or a person under 18 years of age who is legally classified, either by statute or court order, as an adult.

(b) "Bylaws" means those bylaws established by the Interstate Commission for its governance or for directing or controlling the Interstate Commission's actions or conduct.

(c) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

(d) "Compacting state" means any state which has enacted the enabling legislation for this compact.

(e) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

(f) "Interstate Commission" means the Interstate Commission for Adult Offender Supervision created by Article III of this compact.

(g) "Member" means the commissioner of a compacting state or the commissioner's designee, who shall be an individual officially connected with the commissioner.

(h) "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

(i) "Offender" means an adult placed under or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities or

corrections or other criminal justice agencies.

(j) "Person" means any individual, corporation, business enterprise or other legal entity, either public or private.

(k) "Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact and substantially affecting interested parties in addition to the Interstate Commission, that have the force and effect of law in the compacting states.

(L) "State" means a state of the United States, the District of Columbia or any territorial possession of the United States.

(m) "State Council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article IV of this compact.

ARTICLE III
THE INTERSTATE COMMISSION
FOR ADULT OFFENDER SUPERVISION

(a) The compacting states hereby create the Interstate Commission for Adult Offender Supervision. The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers and duties set forth in this compact, including the power to sue and be sued and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(b) The Interstate Commission shall consist of commissioners selected and appointed by each state. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All noncommissioner members of the Interstate Commission shall be nonvoting members. The Interstate Commission may provide in its bylaws for such additional nonvoting members as it deems necessary.

(c) Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(d) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public, except as provided in Article VII of this compact.

(e) The Interstate Commission shall establish an executive committee that shall include commission officers, members and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and Interstate Commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws and rules and as directed by the Interstate Commission and performs other duties as directed by the Interstate Commission or as set forth in the bylaws and rules.

ARTICLE IV
THE COMPACT ADMINISTRATOR AND
STATE COUNCIL

(a) The Director of the Department of Corrections, or the director's designee, shall serve as the Compact Administrator for the State of Oregon and as Oregon's commissioner to the Interstate Commission.

(b) The Oregon State Council for Interstate Adult Offender Supervision is established, consisting of seven members. The Director of the Department of Corrections, or the director's designee, is a member of the State Council and serves as chairperson of the State Council. Of the remaining members of the State Council:

(1) The Governor shall appoint three members, one of whom must represent a crime victims' organization; and

(2) The Chief Justice of the Supreme Court, the President of the Senate and the Speaker of the House of Representatives shall each appoint one member.

(c) The term of office of a member is four years.

(d) The State Council shall meet at least once each calendar year.

(e) The State Council may advise the Compact Administrator on participation in the Interstate Commission activities and administration of the compact.

(f) Members of the State Council are entitled to expenses as provided in ORS 292.495. Any legislative members are entitled to payment of compensation and expense re-

imbursement under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(g) The State Council is subject to the provisions of ORS 291.201 to 291.222 and 291.232 to 291.260.

(h) The Department of Corrections shall provide staff support for the State Council.

ARTICLE V
POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

(a) To adopt a seal and suitable bylaws governing the management and operation of the Interstate Commission.

(b) To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

(c) To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.

(d) To enforce compliance with the compact and the rules and bylaws of the Interstate Commission, using all necessary and proper means, including, but not limited to, the use of judicial process.

(e) To establish and maintain offices.

(f) To purchase and maintain insurance and bonds.

(g) To borrow, accept or contract for the services of personnel, including, but not limited to, members and their staffs.

(h) To establish and appoint committees and hire staff that it deems necessary to carry out its functions, including, but not limited to, an executive committee as required by Article III of this compact, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties under this compact.

(i) To elect or appoint officers, attorneys, employees, agents or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel.

(j) To accept any and all donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of same.

(k) To lease, purchase, accept contributions or donations of any property, or otherwise to own, hold, improve or use any property, whether real, personal or mixed.

(L) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed.

(m) To establish a budget and make expenditures and levy dues as provided in Article X of this compact.

(n) To sue and be sued.

(o) To provide for dispute resolution among compacting states.

(p) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(q) To report annually to the legislatures, governors, judiciary and State Councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(r) To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.

(s) To establish uniform standards for the reporting, collecting and exchanging of data.

ARTICLE VI
ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall, by a majority of the members, within 12 months of the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(1) Establishing the fiscal year of the Interstate Commission.

(2) Establishing an Executive Committee and such other committees as may be necessary.

(3) Providing reasonable standards and procedures:

(i) For the establishment of committees; and

(ii) Governing any general or specific delegation of any authority or function of the Interstate Commission.

(4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting.

(5) Establishing the titles and responsibilities of the officers of the Interstate Commission.

(6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service laws or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the Interstate Commission.

(7) Providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of the Interstate Commission's debts and obligations.

(8) Providing transition rules for start-up administration of the compact.

(9) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(b)(1) The Interstate Commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(2) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission and shall hire and supervise other staff as may be authorized by the Interstate Commission, but shall not be a member of the Interstate Commission.

(c) The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

(d)(1) The liability of any member, officer, executive director, employee or agent of the Interstate Commission acting within the scope of the person's employment or duties for acts, errors or omissions occurring within Oregon may not exceed the limits set forth in ORS 30.260 to 30.300. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) Subject to approval by the Attorney General under ORS chapter 180, the Interstate Commission shall defend the commissioner of a compacting state, the commissioner's representatives or employees or the Interstate Commission's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

(3) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, the appointed representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such persons.

ARTICLE VII
ACTIVITIES OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall meet and take such actions as are consistent with the provisions of this compact.

(b) Except as otherwise provided in this compact and unless a greater percentage is required under the bylaws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

(c) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person on behalf of the compacting state and shall not delegate a

vote to another compacting state. However, the Director of the Department of Corrections may designate another individual, in the absence of the director, to cast a vote on behalf of the director at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(d) The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(e) The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent the information or records would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(f) Public notice shall be given of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission shall promulgate rules consistent with the principles contained in the Government in the Sunshine Act, 5 U.S.C. 552, as amended. The Interstate Commission and any of its committees may close a meeting to the public when the Interstate Commission determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the Interstate Commission's internal personnel practices and procedures;

(2) Disclose matters specifically exempted from disclosure by statute;

(3) Disclose trade secrets or commercial or financial information that is privileged or confidential;

(4) Involve accusing any person of a crime or formally censuring any person;

(5) Disclose information of a personal nature when such disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Disclose investigatory records compiled for law enforcement purposes;

(7) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(8) Disclose information when such premature disclosure would significantly endanger the life of a person or the stability of a regulated entity; or

(9) Specifically relate to the Interstate Commission's issuance of a subpoena or its participation in a civil action or proceeding.

(g) For every meeting closed pursuant to subsection (f) of this Article, the Interstate Commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public and shall make reference to each relevant provision authorizing closure of the meeting. The Interstate Commission shall keep minutes that fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any action taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(h) The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules that specify the data to be collected, the means of collection and data exchange and reporting requirements.

ARTICLE VIII
RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact, including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

(b) Rulemaking shall occur pursuant to the criteria set forth in this Article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C. 551 et seq., and

the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, section 1 et seq., as amended. All rules and amendments shall become binding as of the date specified in each rule or amendment.

(c) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

(d) When promulgating a rule, the Interstate Commission shall:

(1) Publish the proposed rule, stating with particularity the text of the rule that is proposed and the reason for the proposed rule;

(2) Allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

(3) Provide an opportunity for an informal hearing; and

(4) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record. Not later than 60 days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the federal district court where the Interstate Commission's principal office is located for judicial review of the rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the federal Administrative Procedure Act, 5 U.S.C. 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, section 1 et seq., as amended.

(e) Rules related to the following subjects must be addressed within 12 months after the first meeting of the Interstate Commission:

(1) Notice to victims and opportunity to be heard;

(2) Offender registration and compliance;

(3) Violations and returns;

(4) Transfer procedures and forms;

(5) Eligibility for transfer;

(6) Collection of restitution and fees from offenders;

(7) Data collection and reporting;

(8) The level of supervision to be provided by the receiving state;

(9) Transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and

(10) Mediation, arbitration and dispute resolution.

(f) The existing rules governing the operation of the previous compact superseded by this compact shall be null and void 12 months after the first meeting of the Interstate Commission created under this compact.

(g) Upon determination by the Interstate Commission that an emergency exists, the Interstate Commission may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in this Article shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the rule.

ARTICLE IX
OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

(a)(1) The Interstate Commission shall oversee the Interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states that may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

(b)(1) The compacting states shall report to the Interstate Commission on issues or activities of concern to them and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

(2) The Interstate Commission shall attempt to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and noncompacting states. The Interstate Commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII (b) of this compact.

ARTICLE X
FINANCE

(a) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(b) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state. The Interstate Commission shall promulgate a rule binding upon all compacting states that governs said assessment.

(c) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

(e)(1) The Interstate Compact for Adult Offender Supervision Fund is established, separate and distinct from the General Fund. All moneys in the fund are continuously appropriated to the Department of Corrections to be used for the purposes of meeting financial obligations imposed on the State of Oregon as a result of the state's participation in this compact.

(2) An assessment levied or any other financial obligation imposed under this compact is effective against the State of Oregon only to the extent that moneys to pay the assessment or meet the financial obligation have been appropriated and deposited in the fund established in paragraph (1) of this subsection.

ARTICLE XI
COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

(a) Any state, as defined in Article II of this compact, is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no fewer than 35 of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter, the compact shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of noncompacting states or their designees may be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the compact by all states.

(c) Amendments to the compact may be proposed by the Interstate Commission for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XII
WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

(a)(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal of the statute that enacted the compact into law.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities

incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

(b)(1) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact or the bylaws or rules of the Interstate Commission, the Interstate Commission may impose any or all of the following penalties:

(i) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

(ii) Remedial training and technical assistance as directed by the Interstate Commission;

(iii) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or chief judicial officer of the defaulting state; the majority and minority leaders of the defaulting state's legislature, and the state council.

(2) The grounds for default include, but are not limited to, failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact or the Interstate Commission bylaws or rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension. Within 60 days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the governor, the chief justice or chief judicial officer of the defaulting state, the majority and minority leaders of the defaulting state's legislature and the State Council of such termination.

(3) The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including any obligations, the performance of which extend beyond the effective date of termination.

(4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

(c) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district court where the Interstate Commission has its principal office to enforce compliance with the provisions of the compact, its rules or bylaws against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(d)(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XIII
SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIV
BINDING EFFECT OF COMPACT AND OTHER LAWS

(a)(1) Nothing in this compact prevents the enforcement of any other law of a com-

pacting state that is not inconsistent with this compact.

(2) The laws of the State of Oregon, other than the Oregon Constitution, that conflict with this compact are superseded to the extent of the conflict.

(b)(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the State of Oregon unless contrary to the Oregon Constitution.

(2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

(c) The State of Oregon is bound by the bylaws and rules promulgated under this compact only to the extent that the operation of the bylaws and rules does not impose an obligation exceeding any limitation on state power or authority contained in the Oregon Constitution as interpreted by the state courts of Oregon.

[2001 c.729 §2; 2009 c.67 §13]

Note: 144.600 to 144.603 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.602 Short title. ORS 144.600 shall be known and may be cited as the Interstate Compact for Adult Offender Supervision. [2001 c.729 §1]

Note: See note under 144.600.

144.603 Withdrawal from compact. If a state withdraws from the Interstate Compact for Adult Offender Supervision as provided in Article XII (a) of the compact, the Department of Corrections may negotiate an agreement with the withdrawing state to fulfill the purposes of ORS 144.600. [2001 c.729 §3]

Note: See note under 144.600.

144.605 Fee for application to transfer supervision. A person on probation, parole or post-prison supervision who applies to transfer supervision under the Interstate Compact for Adult Offender Supervision described in ORS 144.600 must pay an application fee in an amount determined by rule of the Department of Corrections. The fee shall be collected by the supervisory authority as defined in ORS 144.087 and forwarded to the Governor's office for deposit in the Arrest and Return Account described in ORS 133.865. [2009 c.742 §1]

Note: 144.605 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

UNIFORM ACT FOR OUT-OF-STATE SUPERVISION

144.610 Out-of-state supervision of parolees; contract with other states. The Governor of this state may execute a compact on behalf of the State of Oregon with any of the United States joining therein in the form substantially as follows:

A compact entered into by and among the contracting states signatory hereto with the consent of the Congress of the United States of America granted by an Act entitled, "An Act Granting the Consent of Congress to any Two or More States to Enter into Agreements or Compacts for Cooperative Effort and Mutual Assistance in the Prevention of Crime and for Other Purposes."

The contracting states agree:

(1) That the judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called "receiving state") while on a probation or parole, if:

(a) Such person is in fact a resident of, or has the family of the person residing within, the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having the family of the person residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has

been an actual inhabitant of such state continuously for more than one year prior to coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which the person has been convicted.

(2) That each receiving state shall assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon, and not reviewable within, the receiving state; provided, however, that if at the time when a state seeks to retake a probationer or parolee there is pending against the probationer or parolee within the receiving state any criminal charge or if the probationer or parolee is suspected of having committed within such state a criminal offense, the probationer or parolee shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states party to this compact without interference.

(5) That the Governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its execution by any state as between it and any other state so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

(7) That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

144.613 Notice when parole or probation violated; hearing; report to sending state; taking person into custody. (1) Where supervision of a parolee or probationer is being administered pursuant to the Uniform Act for Out-of-State Supervision, the appropriate judicial or administrative authorities in this state shall notify the Uniform Act for Out-of-State Supervision administrator of the sending state, as defined in ORS 144.610, whenever, in their view, consideration should be given to retaking or reincarceration for a parole or probation violation.

(2) Prior to the giving of any such notification, a hearing shall be held in accordance with ORS 144.613 to 144.617 within a reasonable time, unless such hearing is waived by the parolee or probationer. The appropriate officer or officers of this state shall, as soon as practicable following termination of any such hearing, report to the sending state, furnish a copy of the hearing record and make recommendations regarding the disposition to be made of the parolee or probationer by the sending state.

(3) Pending any proceeding pursuant to this section, the appropriate officers of this state may take custody of and detain the parolee or probationer involved for a period not to exceed 15 days prior to the hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration. [1973 c.489 §1]

144.615 Hearing procedure. (1) Any hearing pursuant to ORS 144.613 to 144.617 may be before the administrator of the Uniform Act for Out-of-State Supervision, a deputy of the Director of the Department of Corrections or any other person authorized pursuant to the laws of this state to hear cases of alleged parole or probation violation, except that no hearing officer shall be the person making the allegation of violation.

(2) With respect to any hearing pursuant to ORS 144.613 to 144.617, the parolee or probationer:

(a) Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that its

purpose is to determine whether there is probable cause to believe that the parolee or probationer has committed a violation that may lead to a revocation of parole or probation.

(b) Shall be permitted to confer with any person whose assistance the parolee or probationer reasonably desires, prior to the hearing.

(c) Shall have the right to confront and examine any persons who have made allegations against the parolee or probationer, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons.

(d) May admit, deny or explain the violation alleged and may present proof, including affidavits and other evidence, in support of the contentions of the parolee or probationer. A record of the proceedings shall be made and preserved. [1973 c.489 §§2,3; 1987 c.320 §78]

144.617 Hearing on violation in another state; effect of record in such hearing. In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Uniform Act for Out-of-State Supervision any appropriate judicial or administrative officer or agency in another state is authorized to hold a hearing on the alleged violation. Upon receipt of the record of a parole or probation violation hearing held in another state pursuant to a statute substantially similar to ORS 144.613 to 144.617, such record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this state, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this state in making disposition of the matter. [1973 c.489 §4]

144.620 Short title. ORS 144.610 may be cited as the Uniform Act for Out-of-State Supervision.

144.622 "Parole" and "parolee" defined for Uniform Act for Out-of-State Supervision. For purposes of ORS 144.610 and 144.613 to 144.617, "parole" includes but is not limited to post-prison supervision, and "parolee" includes but is not limited to persons on post-prison supervision under rules adopted by the Oregon Criminal Justice Commission. [1989 c.790 §37]

Note: 144.622 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.625 [1999 c.435 §1; repealed by 2011 c.419 §1]

144.627 [1999 c.435 §2; repealed by 2011 c.419 §1]

144.629 [1999 c.435 §3; repealed by 2011 c.419 §1]

144.631 [1999 c.435 §5; repealed by 2011 c.419 §1]

SEX OFFENDERS; SPECIAL PROVISIONS

(Sexually Violent Dangerous Offenders)

144.635 Intensive supervision; duration. (1) As used in this section and ORS 144.637:

(a) "History of sexual assault" means that a person has engaged in unlawful sexual conduct that:

(A) Is not related to the crime for which the person is currently on parole or post-prison supervision; and

(B) Seriously endangered the life or safety of another person or involved a victim under 12 years of age.

(b) "Sexually violent dangerous offender" means a person who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault, and who the State Board of Parole and Post-Prison Supervision or local supervisory authority finds presents a substantial probability of committing an offense listed in subsection (3) of this section.

(2) When a person is released from custody after serving a sentence of incarceration as a result of conviction for an offense listed in subsection (3) of this section, the board or local supervisory authority shall subject the person to intensive supervision for the full period of the person's parole or post-prison supervision if:

(a) The person was 18 years of age or older at the time the person committed the offense; and

(b) The board or local supervisory authority finds that the person is a sexually violent dangerous offender.

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

(a) Rape in the first degree and sodomy in the first degree if the victim was:

(A) Subjected to forcible compulsion by the person;

(B) Under 12 years of age; or

(C) Incapable of consent by reason of mental defect, mental incapacitation or physical helplessness;

(b) Unlawful sexual penetration in the first degree; and

(c) An attempt to commit a crime listed in paragraph (a) or (b) of this subsection. [1999 c.924 §1]

Note: 144.635 to 144.639 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 or any series therein by leg-

islative action. See Preface to Oregon Revised Statutes for further explanation.

144.637 Rules. The Department of Corrections and the State Board of Parole and Post-Prison Supervision, in consultation with local supervisory authorities, shall jointly adopt rules establishing:

(1) Procedures for identifying sexually violent dangerous offenders; and

(2) Methods of intensive supervision for sexually violent dangerous offenders. [1999 c.924 §2]

Note: See note under 144.635.

144.639 Projecting number of persons to be classified as sexually violent dangerous offenders; budgeting. Once each biennium, the Department of Corrections, the State Board of Parole and Post-Prison Supervision and local supervisory authorities shall determine the number of offenders expected to be classified as sexually violent dangerous offenders during the following biennium. The department shall use the number in calculating the budget for the community corrections division of the department for the following biennium. [1999 c.924 §4]

Note: See note under 144.635.

144.640 [Formerly 143.010; renumbered 144.649 in 2001]

(Sex Offender Residence Requirements)

144.641 Definitions. As used in this section and ORS 144.642, 144.644 and 144.646:

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

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

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

(4) "Locations where children are the primary occupants or users" includes, but is not limited to, public and private elementary and secondary schools and licensed child care centers.

(5) "Sex offender" means a:

(a) Sexually violent dangerous offender as defined in ORS 137.765;

(b) Level three sex offender under ORS 181.800 (3); or

(c) Predatory sex offender as described in ORS 181.838.

(6) "Transitional housing" means housing intended to be occupied by a sex offender for 45 days or less immediately after release from incarceration. [2001 c.365 §1; 2005 c.576 §4; 2013 c.708 §11]

Note: 144.641 to 144.646 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.642 Criteria for determining residence; Department of Corrections; rules; matrix. (1) The Department of Corrections, in consultation with the State Board of Parole and Post-Prison Supervision and community corrections agencies, shall adopt rules establishing criteria to be considered in determining the permanent residence requirements for a sex offender released on post-prison supervision or parole. Transitional housing is not subject to permanent residence requirements. The department shall include in the rules:

(a) A general prohibition against allowing a sex offender to reside near locations where children are the primary occupants or users;

(b) The bases upon which exceptions to the general prohibition required by paragraph (a) of this subsection are authorized;

(c) A prohibition against allowing a sex offender to reside in any dwelling in which another sex offender on probation, parole or post-prison supervision resides unless authorized as provided in ORS 144.102 (4)(b)(M); and

(d) A process that allows communities and community corrections agencies that would be affected by a decision about the location of a sex offender's residence to be informed of the decision making process before the offender is released.

(2) Based upon the rules adopted under subsection (1) of this section, the department shall develop a decision matrix to be used in determining the permanent residence requirements for a sex offender. [2001 c.365 §2; 2005 c.576 §5; 2011 c.258 §3]

Note: See note under 144.641.

144.644 Criteria for determining residence; State Board of Parole and Post-Prison Supervision; rules; matrix. (1) The State Board of Parole and Post-Prison Supervision, in consultation with the Department of Corrections and community corrections agencies, shall adopt rules establishing criteria to be considered:

(a) In reviewing the proposed residence of a sex offender in a release plan under ORS 144.096 or a parole plan under ORS 144.125; and

(b) In determining the residence of a sex offender in a release plan under ORS 144.096, as a condition of post-prison supervision under ORS 144.102 or as a condition of parole under ORS 144.270.

(2) The board shall include in the rules:

(a) A general prohibition against allowing a sex offender to reside near locations where children are the primary occupants or users;

(b) The bases upon which exceptions to the general prohibition required by paragraph (a) of this subsection are authorized;

(c) A prohibition against allowing a sex offender to reside in any dwelling in which another sex offender on probation, parole or post-prison supervision resides unless authorized as provided in ORS 144.102 (4)(b)(M); and

(d) A process that allows communities and community corrections agencies that would be affected by a decision about the location of a sex offender's residence to be informed of the decision making process before the offender is released.

(3) Based upon the rules adopted under subsections (1) and (2) of this section, the board shall develop a decision matrix to be used in determining the specific residence for a sex offender. [2001 c.365 §3; 2005 c.576 §6; 2011 c.258 §4]

Note: See note under 144.641.

144.646 Use of rules and matrix by community corrections agency. When a community corrections agency reviews a proposed release plan for a sex offender, the agency shall follow the rules adopted by and utilize the decision matrix developed by the Department of Corrections under ORS 144.642 in making decisions about the permanent residence of the sex offender. [2001 c.365 §4]

Note: See note under 144.641.

EXECUTIVE CLEMENCY

144.649 Granting reprieves, commutations and pardons generally; remission of penalties and forfeitures. Upon such conditions and with such restrictions and limitations as the Governor thinks proper, the Governor may grant reprieves, commutations and pardons, after convictions, for all crimes and may remit, after judgment therefor, all penalties and forfeitures. [Formerly 144.640]

144.650 Notice of intention to apply for pardon, commutation or remission; proof of service. (1) When an application for a pardon, commutation or remission is made to the Governor, a copy of the application, signed by the person applying and stating fully the grounds of the application, shall be served upon:

(a) The district attorney of the county where the conviction was had;

(b) If the person applying is housed in a correctional facility within the State of Oregon, the district attorney of the county in which the correctional facility is located;

(c) The State Board of Parole and Post-Prison Supervision; and

(d) The Director of the Department of Corrections.

(2) Proof by affidavit of the service shall be presented to the Governor.

(3) Upon receiving a copy of the application for pardon, commutation or remission, any person or agency named in subsection (1) of this section shall provide to the Governor as soon as practicable such information and records relating to the case as the Governor may request and shall provide further information and records relating to the case that the person or agency considers relevant to the issue of pardon, commutation or remission, including but not limited to:

(a) Statements by the victim of the crime or any member of the victim's immediate family, as defined in ORS 163.730;

(b) A statement by the district attorney of the county where the conviction was had; and

(c) Photos of the victim and the autopsy report, if applicable.

(4) Following receipt by the Governor of an application for pardon, commutation or remission, the Governor shall not grant the application for at least 30 days. Upon the expiration of 180 days, if the Governor has not granted the pardon, commutation or remission applied for, the application shall lapse. Any further proceedings for pardon, commutation or remission in the case shall be pursuant only to further application and notice. [Formerly 143.040; 1983 c.776 §1; 1987 c.320 §79; 1995 c.805 §1]

144.660 Report to legislature by Governor. The Governor shall report to the Legislative Assembly in the manner provided in ORS 192.245 each reprieve, commutation or pardon granted since the previous report to the Legislative Assembly required by this section. The report shall include, but not be limited to the reason for granting the reprieve, commutation or pardon, the name of the applicant, the crime of which the applicant was convicted, the sentence and its date, statements by the victim of the crime or any member of the victim's immediate family, as defined in ORS 163.730, a statement by the district attorney where the conviction was had, photos of the victim, the autopsy report, if applicable, and the date of the commutation, pardon or reprieve. The Governor shall communicate a like statement of particulars in relation to each case of remission of a penalty or forfeiture, with the amount remitted. [Formerly 143.050; 1995 c.805 §2]

144.670 Filing of papers by Governor. When the Governor grants a reprieve, commutation or pardon or remits a fine or forfeiture, the Governor shall within 10 days thereafter file all the papers presented to the Governor in relation thereto in the office of the Secretary of State, by whom they shall be kept as public records, open to public inspection. [Formerly 143.060]

MISCELLANEOUS PROVISIONS

144.710 Cooperation of public officials with State Board of Parole and Post-Prison Supervision and Department of Corrections. All public officials shall cooperate with the State Board of Parole and Post-Prison Supervision and the Department of Corrections, and give to the board or department, its officers and employees such information as may be necessary to enable them to perform their functions. [Amended by 1973 c.836 §310; 1987 c.320 §80]

144.720 Judge's power to suspend execution of sentence or grant probation prior to commitment. Nothing in ORS 144.005 to 144.025, 144.040, 144.050, 144.060, 144.075, 144.185, 144.226, 144.228, 144.260 to 144.380, 144.410 to 144.610, 144.620, 144.710 or this section shall be construed as impairing or restricting the power given by law to the judge of any court to suspend execution of any part of a sentence or to impose probation as part of a sentence to any person who is convicted of a crime before such person is committed to serve the sentence for the crime. [Amended by 1985 c.283 §5; 1989 c.790 §47b; 1993 c.14 §17]

144.730 Failure to complete treatment program. If a person on probation, parole or post-prison supervision is required to successfully complete a drug or alcohol treatment program as a condition of supervision and the person refuses or otherwise fails to successfully complete the treatment program, the court or the supervising authority shall impose swift and certain punishment, including incarceration in jail. [2009 c.660 §13]

Note: 144.730 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

144.750 Victim's rights. (1) To accord crime victims due dignity and respect, a victim of a crime that is the subject of a proceeding conducted by the State Board of Parole and Post-Prison Supervision has the following rights:

(a) The right to be reasonably protected from the offender during the proceeding;

(b) The right to attend the proceeding in person or, at the discretion of the victim and with advance notice to the board, to attend the proceeding by alternative means; and

(c) The right to request the district attorney of the county in which the offender was convicted, in the discretion of the district attorney, to participate in the proceeding.

(2)(a) The board must make a reasonable effort to notify the district attorney of the county in which the offender was convicted and the victim, if the victim requests to be notified and furnishes the board a current address, of any hearing conducted by the board. The board shall send written notice to the current addresses of the district attorney and the victim no later than 30 days before the hearing.

(b) The victim, personally or by counsel, and the district attorney of the county in which the offender was convicted have the right to appear at a hearing conducted by the board and may submit written and oral statements adequately and reasonably expressing any views concerning the crime and the offender.

(c) The victim, personally or by counsel, and the district attorney of the county in which the offender was convicted shall be given access to the information that the board will rely upon in the hearing. The victim and the district attorney shall be given adequate time to rebut the information. The victim or the district attorney may request that the board, in the discretion of the board, obtain and consider additional records, evaluations or other documents.

(3)(a) A supervisory authority must make a reasonable effort to notify the victim, if the victim requests to be notified and furnishes the supervisory authority a current address, of any contested hearing conducted by the supervisory authority. The supervisory authority shall send written notice to the current address of the victim as soon as practicable.

(b) The victim, personally or by counsel, has the right to appear at a contested hearing conducted by the supervisory authority and may submit written and oral statements adequately and reasonably expressing any views concerning the crime and the offender.

(c) The victim, personally or by counsel, shall be given access to information that the supervisory authority will rely upon in the contested hearing. The victim shall be given adequate time to rebut the information. The victim may request that the supervisory authority, in the discretion of the supervisory authority, obtain and consider additional records, evaluations or other documents.

(4) For purposes of this section, the victim may appear personally through the

victim's next of kin or a representative selected by the victim. [2010 c.89 §4]

ADVISORY COMMISSION ON PRISON TERMS AND PAROLE STANDARDS

144.775 Commission members; terms; compensation; rules on duration of prison terms. (1) There is hereby established an Advisory Commission on Prison Terms and Parole Standards. The commission shall consist of equal numbers of State Board of Parole and Post-Prison Supervision members and circuit court judges appointed by the Chief Justice of the Supreme Court. The legal counsel to the Governor shall serve as an ex officio member of the commission and shall not vote unless necessary to break a voting deadlock. The Director of the Department of Corrections shall act as an advisor to the commission.

(2) The term of office of each of the members appointed by the Chief Justice is four years. Before the expiration of the term of any of those members, the Chief Justice shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Chief Justice shall make an appointment to become immediately effective for the unexpired term.

(3) A member of the commission shall receive no compensation for services as a member. However, all members may receive actual and necessary travel and other expenses incurred in the performance of their official duties under ORS 292.495.

(4) The chairperson of the State Board of Parole and Post-Prison Supervision and a judge elected by the judicial members shall serve in alternate years as chairperson of the commission. The chairperson and a vice chairperson shall be elected prior to July 1 of each year to serve for the year following. The commission shall adopt its own bylaws and rules of procedure. A majority of the commission members shall constitute a quorum for the transaction of business. An affirmative vote of a majority of the members shall be required to make proposals to the board under ORS 144.775 to 144.791.

(5) The commission shall meet at least annually at a place and time determined by the chairperson and at such other times and places as may be specified by the chairperson or five members of the commission.

(6) The State Board of Parole and Post-Prison Supervision shall provide the commission with the necessary clerical and secretarial staff support and shall keep the members of the commission fully informed of the experience of the board in applying the standards derived from those proposed by the commission.

(7) The commission shall propose to the State Board of Parole and Post-Prison Supervision and the board shall adopt rules establishing ranges of duration of imprisonment and variations from the ranges. In establishing the ranges and variations, factors provided in ORS 144.780 and 144.785 shall be considered. [1977 c.372 §1; 1983 c.740 §20; 1987 c.320 §81; 1991 c.126 §7]

144.780 Rules on duration of imprisonment; objectives; considerations in prescribing rules. (1) The commission shall propose to the board and the board shall adopt rules establishing ranges of duration of imprisonment to be served for felony offenses prior to release on parole. The range for any offense shall be within the maximum sentence provided for that offense.

(2) The ranges shall be designed to achieve the following objectives:

(a) Punishment which is commensurate with the seriousness of the prisoner's criminal conduct; and

(b) To the extent not inconsistent with paragraph (a) of this subsection:

(A) The deterrence of criminal conduct; and

(B) The protection of the public from further crimes by the defendant.

(3) The ranges, in achieving the purposes set forth in subsection (2) of this section, shall give primary weight to the seriousness of the prisoner's present offense and criminal history. Existing correctional resources shall be considered in establishing the ranges. [1977 c.372 §2; 1985 c.163 §1]

144.783 Duration of term of imprisonment when prisoner is sentenced to consecutive terms. (1) When a prisoner is sentenced to two or more consecutive terms of imprisonment, the duration of the term of imprisonment shall be the sum of the terms set by the State Board of Parole and Post-Prison Supervision pursuant to the ranges established for the offenses, subject to ORS 144.079, and subject to the variations established pursuant to ORS 144.785 (1).

(2) The duration of imprisonment pursuant to consecutive sentences may be less than the sum of the terms under subsection (1) of this section if the board finds, by affirmative vote of a majority of its members that consecutive sentences are not appropriate penalties for the criminal offenses involved and that the combined terms of imprisonment are not necessary to protect community security. [1987 c.634 §2; 1991 c.126 §9]

144.785 Rules on duration of prison terms when aggravating or mitigating circumstances exist; limitation on terms; dangerous offenders. (1) The commission shall propose to the board and the board shall adopt rules regulating variations from the ranges, to be applied when aggravating or mitigating circumstances exist. The rules shall define types of circumstances as aggravating or mitigating and shall set the maximum variation permitted.

(2) In no event shall the duration of the actual imprisonment under the ranges or variations from the ranges exceed the maximum term of imprisonment fixed for an offense, except in the case of a prisoner who has been sentenced under ORS 161.725 as a dangerous offender, in which case the maximum term shall not exceed 30 years. [1977 c.372 §3; 1981 c.547 §1; 1987 c.634 §3]

144.787 Rules on age or physical disability of victim constituting aggravating circumstance. The Advisory Commission on Prison Terms and Parole Standards and the State Board of Parole and Post-Prison Supervision shall provide, in rules adopted under ORS 144.785, that, in the case of a crime involving a physical or sexual assault, a victim's particular vulnerability to injury in such case due to the victim's youth, advanced age or physical disability, shall constitute an aggravating circumstance justifying a variation from the range of duration of imprisonment otherwise applicable in the case. [1985 c.767 §3]

144.790 [1977 c.372 §10; 1979 c.648 §1; 1981 c.426 §4; 1983 c.723 §2; 1983 c.740 §21; 1985 c.503 §1; 1987 c.320 §82; 1989 c.790 §8a; 1991 c.270 §1; 1993 c.294 §6; 1993 c.692 §8; repealed by 1995 c.520 §3 (144.791 enacted in lieu of 144.790)]

PRESENTENCE REPORTS

144.791 Presentence report in felony conviction cases; when required. (1) When a person is convicted of a felony, including a felony sexual offense, the sentencing court may order a presentence report upon its own motion or upon the request of the district attorney or the defendant.

(2) The sentencing court shall order a presentence report if the defendant is convicted of a felony sexual offense unless:

(a) The defendant, as part of the same prosecution, is convicted of aggravated murder;

(b) The felony sexual offense requires the imposition of a mandatory minimum prison sentence and no departure is sought by the court, district attorney or defendant; or

(c) The felony sexual offense requires imposition of a presumptive prison sentence and no departure is sought by the court, district attorney or defendant.

(3) The Department of Corrections shall:

(a) Require that a presentence report provide an analysis of what disposition is most likely to reduce the offender's criminal conduct, explain why that disposition would have that effect and provide an assessment of the availability to the offender of any relevant programs or treatment in or out of custody, whether provided by the department or another entity;

(b) Determine what additional information must be included in the presentence report; and

(c) Establish a uniform presentence report form. [1995 c.520 §4 (enacted in lieu of 144.790); 2005 c.473 §1]

144.795 [1981 c.136 §2; repealed by 1985 c.503 §4]

144.800 [1985 c.503 §2; 1987 c.320 §83; 1989 c.790 §8b; repealed by 1995 c.520 §7]