

## Chapter 144

### State Board of Parole and Probation; Work Release Program

#### Chapter 144

#### 144.250

##### NOTES OF DECISIONS

Constitutionality of parole board is a state question. *Miller v. Gladden*, (1964) 228 F Supp 802.

CASE CITATIONS: *Rightnour v. Gladden*, (1959) 219 Or 342, 347 P2d 103.

#### 144.270

ATTY. GEN. OPINIONS: Authority of superintendent of Oregon Fairview Home to grant leaves to inmates, 1964-66, p 102; parole under three consecutive life sentences, (1971) Vol 35, p 787.

CASE CITATIONS: *State ex rel. Gilmore v. Cupp*, (1969) 1 Or App 22, 458 P2d 711; *Thompson v. Cupp*, (1971) 5 Or App 393, 484 P2d 858.

#### 144.005

CASE CITATIONS: *Miller v. Gladden*, (1965) 341 F2d 972; *Miller v. Gladden*, (1967) 248 Or 107, 432 P2d 518.

ATTY. GEN. OPINIONS: Parole under consecutive sentences of 10 years and life, 1966-68, p 549.

#### 144.040

ATTY. GEN. OPINIONS: Persons supervised by court's probation officers, 1956-58, p 56; arrest of out-of-state parolees arriving in this state, 1956-58, p 276; matters allowable in appropriation bills, 1966-68, p 289.

#### 144.310

##### NOTES OF DECISIONS

The legislature may delegate to the parole board the authority to decide whether the conditions of parole are fulfilled. *Greenwood v. Gladden*, (1962) 231 Or 396, 373 P2d 417.

#### 144.050

CASE CITATIONS: *Fehl v. Martin*, (1937) 155 Or 455, 64 P2d 631; *Fehl v. Lewis*, (1937) 155 Or 499, 64 P2d 648; *State v. Chilton*, (1970) 1 Or App 593, 465 P2d 495; *State v. Fraley*, (1970) 2 Or App 238, 467 P2d 683.

ATTY. GEN. OPINIONS: Effect of 1963 amendment on persons previously sentenced to life imprisonment and paroled, 1964-66, p 236; parole under consecutive sentences of 10 years and life, 1966-68, p 549; parole under three consecutive life sentences, (1971) Vol 35, p 787.

ATTY. GEN. OPINIONS: Concurrent authority of sentencing magistrate to grant parole, 1952-54, p 240; revocation of parole granted by committing magistrate, 1962-64, p 366; retaking probationers under Out-of-State Supervision Compact, (1969) Vol 34, p 502; responsibility for medical expenses incurred for parole violator held by sheriff, (1970) Vol 34, p 1150.

LAW REVIEW CITATIONS: 45 OLR 1-36.

#### 144.075

ATTY. GEN. OPINIONS: Responsibility for medical expenses incurred for parole violator held by sheriff, (1970) Vol 34, p 1150.

#### 144.330

CASE CITATIONS: *Jennings v. Cupp*, (1969) 1 Or App 57, 458 P2d 704.

ATTY. GEN. OPINIONS: Revocation of parole granted by committing magistrate, 1962-64, p 366; rules governing parole of "sexually dangerous" persons, 1964-66, p 93; parole under consecutive sentences of 10 years and life, 1966-68, p 549; right to retake parolee without extradition proceedings, (1968) Vol 34, p 51; responsibility for medical expenses incurred for parole violator held by sheriff, (1970) Vol 34, p 1150.

#### 144.240

##### NOTES OF DECISIONS

The State Board of Parole and Probation has no authority to parole an inmate except that set forth in the statutes. *Harris v. Cupp*, (1971) 5 Or App 566, 485 P2d 1113.

#### 144.340 to 144.400

ATTY. GEN. OPINIONS: Return for violation of parole by "sexually dangerous" person, 1964-66, p 93.

FURTHER CITATIONS: *Rightnour v. Gladden*, (1959) 219 Or 342, 347 P2d 103.

#### 144.350

ATTY. GEN. OPINIONS: Parole under consecutive sentences of 10 years and life, 1966-68, p 549; authority to parole a penitentiary inmate to the Oregon State Hospital, (1969) Vol 34, p 412.

ATTY. GEN. OPINIONS: Out-of-state parolees, 1956-58, p 276; revocation of parole granted by committing magistrate, 1962-64, p 366; responsibility for medical expenses incurred for parole violator held by sheriff, (1970) Vol 34, p 1150.

## 144.370

## NOTES OF DECISIONS

No authority holds that due process compels a hearing or counsel on revocation of parole. *Whalen v. Gladden*, (1968) 249 Or 12, 436 P2d 560; *State ex rel. Gilmore v. Cupp*, (1969) 1 Or App 22, 458 P2d 711; *Thompson v. Cupp*, (1971) 5 Or App 393, 484 P2d 858.

The legislature may delegate to the parole board the authority to decide whether the conditions of parole are fulfilled. *Greenwood v. Gladden*, (1962) 231 Or 396, 373 P2d 417.

Failure to act within 15 days merely authorizes release from custody, not dismissal of revocation proceedings. *West v. Gladden*, (1968) 249 Or 18, 436 P2d 556.

In habeas corpus proceeding challenging the action of parole board's revocation of parole, burden of proof of arbitrariness is on person whose parole is revoked. *State ex rel. Gilmore v. Cupp*, (1969) 1 Or App 22, 458 P2d 711.

By habeas corpus proceedings prisoner may challenge action of parole board in revoking his parole. *Id.*

ATTY. GEN. OPINIONS: Revocation of parole granted by committing magistrate, 1962-64, p 366.

## 144.380

## NOTES OF DECISIONS

Offender whose parole has been revoked and who has been jailed on another charge shall receive credit on his unserved penitentiary sentence for the time spent in jail prior to his conviction on the other charge. *Jennings v. Cupp*, (1969) 1 Or App 57, 458 P2d 704.

## 144.390

## NOTES OF DECISIONS

It is within the power of the legislature to require a parole violator to serve out his sentence without credit for the time during which he is on parole. *Greenwood v. Gladden*, (1962) 231 Or 396, 373 P2d 417.

This section does not vest judicial power in the parole board. *Miller v. Gladden*, (1962) 233 Or 174, 377 P2d 165, cert. denied, 373 US 942, 83 S Ct 1549, 10 L Ed 2d 697.

This section was not unconstitutional as a bill of attainder. *Miller v. Gladden*, (1967) 248 Or 107, 432 P2d 518.

This section applies to persons delivered to the penitentiary prior to parole. *West v. Gladden*, (1968) 249 Or 18, 436 P2d 556.

FURTHER CITATIONS: *Miller v. Gladden*, (1964) 228 F Supp 802, 341 F2d 972; *Whalen v. Gladden*, (1968) 249 Or 12, 436 P2d 560; *Jennings v. Cupp*, (1969) 1 Or App 57, 458 P2d 704.

ATTY. GEN. OPINIONS: Credit for time spent at Oregon State Hospital, 1952-54, p 217; accumulation of good time credits while on parole, 1948-50, p 71; parole under consecutive sentences of 10 years and life, 1966-68, p 549.

LAW REVIEW CITATIONS: 6 WLJ 163-171.

## 144.400

CASE CITATIONS: *West v. Gladden*, (1968) 249 Or 18, 436 P2d 556.

## 144.410 to 144.525

CASE CITATIONS: *State v. Hutcheson*, (1968) 251 Or 589, 447 P2d 92.

ATTY. GEN. OPINIONS: Liability of state officers and employers arising from motor vehicle accidents involving work release enrollees, 1964-66, p 405; authority under program for inter-governmental delegation of duties and delegation to other agencies, 1966-68, p 194; venue for prosecution of escapee from forest work camp, (1969) Vol 34, p 540.

## 144.420

CASE CITATIONS: *State v. Hutcheson*, (1968) 251 Or 589, 447 P2d 92.

ATTY. GEN. OPINIONS: Subjecting balance of enrollee's earnings to garnishment, 1966-68, p 209; authority of division to pay for enrollees outside custodial facilities, 1966-68, p 274; venue for prosecution of escapee from forest work camp, (1969) Vol 34, p 540.

## 144.430

ATTY. GEN. OPINIONS: Subjecting balance of enrollee's earnings to garnishment, 1966-68, p 209; authority of division to pay for enrollees outside custodial facilities, 1966-68, p 274.

## 144.450

CASE CITATIONS: *State v. Hutcheson*, (1968) 251 Or 589, 447 P2d 92.

## 144.460

CASE CITATIONS: *State v. Hutcheson*, (1968) 251 Or 589, 447 P2d 92.

ATTY. GEN. OPINIONS: Authority of division to pay for enrollees outside custodial facilities, 1966-68, p 274.

## 144.470

ATTY. GEN. OPINIONS: Subjecting balance of enrollee's earnings to garnishment; payment of judgment voluntarily by division, 1966-68, p 209; authority of division to pay for enrollees outside custodial facilities, 1966-68, p 274.

## 144.490

## NOTES OF DECISIONS

At the time of his escape, defendant was in constructive custody of the superintendent of Oregon State Correctional Institution. *State v. Hutcheson*, (1968) 251 Or 589, 447 P2d 92.

Defendant was properly tried in Marion County. *Id.*

FURTHER CITATIONS: *Kneefe v. Sullivan*, (1970) 2 Or App 152, 465 P2d 741, Sup Ct review denied.

ATTY. GEN. OPINIONS: Venue for prosecution of escapee from forest work camp, (1969) Vol 34, p 540.

## 144.500

## NOTES OF DECISIONS

Escapee, who was on work release, can be tried in the county where he was physically or constructively in custody. *Kneefe v. Sullivan*, (1970) 2 Or App 152, 465 P2d 741, Sup Ct review denied.

FURTHER CITATIONS: *State v. Hutcheson*, (1968) 251 Or 589, 447 P2d 92.

144.610

ATTY. GEN. OPINIONS: Venue for prosecution of escapee from forest work camp, (1969) Vol 34, p 540.

144.610

ATTY. GEN. OPINIONS: Authority of Director of Parole and Probation to appoint agent for returning parole violator, 1950-52, p 220; authority of Director of Parole and Probation to order arrest and detention, 1956-58, p 276; right

to retake parolee without extradition proceedings, (1968) Vol 34, p 51; retaking probationers under compact supervision, (1969) Vol 34, p 502.

144.720

ATTY. GEN. OPINIONS: Authority and duties of board, when directed by the court, to return probationers to the jurisdiction of the court, 1946-48, p 369.