

# DEPARTMENT OF CORRECTIONS

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## MISSION

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***The Mission of the Department of Corrections is to reduce the risk of criminal conduct, through a partnership with communities, with a continuum of community supervision, incarceration, sanctions and services to manage offender behavior.***

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## STRATEGIC GOALS

APR 26 1995

ACQUISITIONS

- ***Manage offenders using the least restrictive method within the continuum of probation, prison and parole consistent with public, staff and offender safety.***
- ***Maintain balance in the corrections system by ensuring that convicted criminals serve the time required by law and by providing community corrections programs and structure to effectively manage offenders under probation and parole supervision.***
- ***Ensure offender access to corrections programs and interventions that reduce the risk of future criminal behavior.***
- ***Ensure offenders completing prison sentences receive structured transition services such as work release, housing, assistance finding employment, mental health and drug and alcohol treatment so they succeed in the community.***

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Post-it <sup>®</sup> Fax Note	7671	Date	8-2	# of pages	22
To	PAT SCHOLLES	From	NORMA LAND		
Co./Dept.	NIC		CORR. DEPT. OF CORRECTIONS		
Phone #		Phone #	503-945-0950		
		Fax #			

8/27/94

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**DEPARTMENT OF CORRECTIONS****STRATEGIC PLAN SUMMARY  
JANUARY 7, 1994**

The Oregon Strategic Plan is a major victory in the effort to create a balanced corrections system coupled with effective risk reduction strategies that began with the Governor's Task Force on Corrections in 1988. The Legislature approved the plan by voting for Senate bill 139, House Bill 2481 and Senate Bill 5505, the Department's \$382.5 million budget for 1993-95.

The Strategic Plan promotes balance through:

- A major investment in community corrections structured sanctions and services,
- Expanded prison programs aimed at reducing risk, and
- Strengthened transition services to enable offenders to successfully return to their communities

The budget funds adequate prison beds for all offenders sentenced to prison under Sentencing Guidelines and offenders who commit serious violations of probation and parole.

The Strategic Plan, incorporated in Senate Bill 139, also establishes swift and sure punishment at the local level for offenders who violate the terms of their probation. Probation and parole officers will have the tools, including short-term confinement and electronic surveillance, to show offenders the consequences of violating probation or parole. These sanctions can be imposed without going to court, cutting court costs and delays in punishing violators. This strategy will help reduce the number of offenders who are revoked to prison who have not been convicted of a crime.

**The Department's budget includes \$10 million in new money, and redirects nearly \$7 million within the corrections area to pay for local sanctions and to expand critical corrections programs and services throughout the Department. New or expanded programs aimed at reducing risk include:**

- **Structured transition services including work release, supervised housing, and help finding employment for offenders completing prison sentences, so they succeed in the community;**
- **Cognitive skills programs to assist offenders to make positive, responsible choices leading to productive law-abiding lives;**
- **Alcohol and drug treatment programs to change offender behavior, so their addictions don't lead to further crimes;**
- **Short-term confinement in local work centers, jails and probation centers;**
- **Day reporting, electronic surveillance and community service projects;**
- **Regular and intensive supervision of higher-risk offenders to control these offenders in the community.**

**Senate Bill 139 also has a major impact on the need for additional prison beds and, in turn, the cost to operate the Oregon corrections system during the 1993-95 biennium. Without this legislation, the prison population would have reached 7,333 inmates by July 1995 compared to 6,603 with the legislation -- a difference of 730 beds. This is a savings of nearly \$90.0 million in prison operating and construction costs over the next two years alone for the State of Oregon.**

## DEPARTMENT OF CORRECTIONS

### HIGHLIGHTS OF SENATE BILL 139 JULY 30, 1993

**Senate Bill 139 establishes corrections policies that are critical to create a balanced criminal justice system for Oregon. This bill is the product of a negotiated process involving the criminal justice community. As a result of their hard work, the final product is supported by the District Attorneys Association, the Sheriffs Association, the State Courts, the Statewide Community Corrections Directors, the Oregon Criminal Justice Council and the Association of Oregon Counties.**

- **PRISON BEDS TO HOUSE SERIOUS OFFENDERS:**

Maintains adequate prison beds for all offenders sentenced to prison under Sentencing Guidelines and offenders who commit serious violations of probation and parole.

Senate Bill 139 has a major impact on the need for additional prison beds and, in turn, the cost to operate the corrections system. Without SB 139, the prison population would reach 7,333 inmates by July 1995 compared to 6,603 with the legislation. The 730 bed difference consists of three elements -- 357 beds by reducing probation and parole revocations, 261 beds by reclassifying selected felonies to misdemeanors and 112 beds by shortening the length of parole supervision. This is a savings of nearly \$90.0 million in prison operating and construction costs over the next two years alone for the State of Oregon.

- **IMMEDIATE PREDICTABLE CONSEQUENCES FOR OFFENDERS:**

Establishes swift and sure punishment at the local level for offenders who violate the terms of their probation. Probation and parole officers will have the tools, including short-term confinement and electronic surveillance, to show offenders the consequences of violating probation or parole. These sanctions can be imposed without going to court, cutting court costs and delays in punishing probation violators.

- **DOES NOT RELEASE OFFENDERS FROM PRISON:**

This bill does not release offenders from prison to community sanctions. Offenders sanctioned in this process are currently on probation in the community.

- **ENSURES PAROLE SUPERVISION OF ALL OFFENDERS:**

Provides for a minimum of 6-months, 12-months, and 18-months parole for offenders depending on the severity of their crimes. Supervision can be extended if the offender does not substantially comply with the conditions of supervision. Maintains extended parole for sex offenders and a minimum of three years for murderers.

Provides for extended inactive parole, which could be reactivated if an offender reoffends.

- **HELPS LOCAL SHERIFFS MANAGE THE POPULATION OF JAILS:**

Places a limit on the time offenders can be held in local jails awaiting parole violation hearings.

- **RECLASSIFIES LESSER C FELONIES TO MISDEMEANORS.**

Reclassifies five lesser felonies to misdemeanors. Currently, offenders convicted of these felonies are placed on probation under Sentencing Guidelines. Offenders sentenced for these misdemeanor offenses may receive a combination of jail time with their probation sentence.

- **FINES ARE INCREASED:**

Felony fines are increased to \$300,000 for a Class A felony and \$200,000 for a Class B Felony. The fine remains \$100,000 for a Class C felony.

Fines for misdemeanors are doubled to \$5,000 for Class A, \$2,000 for Class B, and \$1,000 for Class C.

67th OREGON LEGISLATIVE ASSEMBLY--1993 Regular Session

**Enrolled**  
**Senate Bill 139**

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Department of Corrections)

F. 680  
CHAPTER .....

NOTED

AUG 30 1993

AN ACT

Relating to crime: creating new provisions; amending ORS 131.315, 137.540, 137.550, 161.390, 161.625, 161.635, 164.045, 164.055, 164.115, 164.125, 164.215, 164.255, 165.013, 165.055, 166.715, 423.530 and 423.550 and section 4, chapter 614, Oregon Laws 1989; repealing ORS 144.305 and 144.310; limiting expenditures; and declaring an emergency.

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

**SECTION 1.** ORS 423.530 is amended to read:

423.530. (1) Financial grants for community corrections pursuant to ORS 423.500 to 423.560 shall consist of:

(a) Payments from moneys appropriated to the Department of Corrections for the purposes of management, support services and supervision of parolees, probationers and offenders subject to post-prison supervision. The department shall determine, prior to July 1 of each odd-numbered year, each county's percentage share of the amount appropriated for the purposes of this subsection. Such determination shall be made by use of a workload formula adopted by the department by rule, which formula shall be in effect beginning July 1, 1991, and which formula shall include all parole and probation appropriations subject to review and comment by the Community Corrections Advisory Board before the rule becomes final. This determination shall be based upon the community supervision workload and the difficulty and cost of servicing that workload.

(b) Enhancement grants from the department for the purpose of providing community corrections services. The department shall determine, prior to July 1 of each odd-numbered year, each county's percentage share of the amount appropriated for the purposes of this subsection. Such determination shall be *[adopted by rule and shall be based upon statewide crime and demographic data certified by a state agency other than the Department of Corrections. The data shall be subject to review and comment by the Community Corrections Advisory Board before the determination of the department.]* made by use of a workload formula adopted by the department by rule, which formula shall be in effect beginning July 1, 1993. This determination shall be based upon the community supervision workload and the difficulty and cost of servicing that workload. The formula shall be subject to review and comment by the Community Corrections Advisory Board before it becomes final.

(c) Appropriations to counties pursuant to ORS 423.550 to 423.560 approved for local government corrections programs shall not be reduced by the department except by action of the Legislative Assembly or the Emergency Board. Such reductions shall be made proportionately using the applicable allocation formula.

(2) The department shall by rule provide for computation of each county's entitlement in each biennial period in the event participation by the county is for less than a biennial period. Such

computation shall be based upon any actions approved by the Legislative Assembly relative to the timing of expenditures with respect to appropriations for purposes of subsection (1) of this section.

**SECTION 2.** ORS 423.550, as amended by section 3, chapter 614, Oregon Laws 1989, is amended to read:

423.550. (1) When a county pursuant to ORS 423.500 to 423.560 assumes responsibility for any portion of correctional services previously provided by the Department of Corrections, the county and the department shall enter into an intergovernmental agreement that includes an approved local community corrections plan, program descriptions, budget allocation, performance objectives and method of evaluation for each correctional service to be provided by either the county or the department. Funds appropriated for the provision of these corrections services shall be apportioned between the department and the county as provided for in each intergovernmental agreement drawn to effect the purposes of ORS 423.505 and this section.

(2)(a) Except as provided in paragraph (b) of this subsection, any state correctional field officer, immediate supervisor of such correctional officer or any supporting clerical personnel whose job involves rendering services assumed by the county may transfer to employment by the county or may remain in the employment of the department and provide field services to the county under the terms of a contract for services between the county and the department. The county shall pay the department for any services rendered by such employees on an actual cost basis.

(b) In any county having a population of 200,000 persons or more, at the discretion of the county, all state correctional field officers, immediate supervisors of such correctional officers and any supporting clerical personnel whose jobs involve rendering services assumed by the county shall transfer to county employment. An employee who is involuntarily transferred under this paragraph may, within two years of the transfer, terminate county employment and immediately return to employment with the Department of Corrections in a vacant position. The termination and reemployment of the employee is subject to the provisions of ORS 236.605 to 236.650 as those statutes apply to sick leave, vacation leave, retirement systems, preexisting conditions under health insurance plans and seniority.

(c) Any such employee transferring to county employment under this section shall not suffer any reduction in salary or retirement eligibility. Any such employee shall be considered a transferred employee and shall be subject to the provisions of ORS 236.610 to 236.650.

(3) Any such employee who transfers employment pursuant to subsection (2) of this section shall be entitled to reenter state employment within 30 days if the county to which the employee has transferred withdraws from participation under ORS 423.500 to 423.560 or if funds are not appropriated to carry out the purposes of ORS 423.500 to 423.560. The employee shall reenter state employment at the same status and seniority that the employee held prior to the transfer. The return transfer right shall be exercised in accordance with ORS 236.610 to 236.650 and the applicable collective bargaining agreement.

**SECTION 3.** Section 4, chapter 614, Oregon Laws 1989, is amended to read:

Sec. 4. The amendments to ORS 423.550 by section 3, [of this Act] chapter 614, Oregon Laws 1989, and section 2 of this 1993 Act apply only to counties that assume responsibility for correctional services pursuant to ORS 423.500 to 423.560 on or after [the effective date of this Act] October 3, 1989.

**SECTION 4.** (1) The State Board of Parole and Post-Prison Supervision shall adopt rules providing for periods of supervised parole and post-prison supervision subject to the following:

(a) All prisoners shall serve at least:

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

(B) Twelve months of supervised parole or post-prison supervision for crimes in crime categories four to six; and

(C) Eighteen months of supervised parole or post-prison supervision for crimes in crime categories seven to eleven;



(b) 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 supervised parole or post-prison supervision; and

(c) Prisoners sentenced for violating or attempting to violate ORS 163.375, 163.405, 163.408, 163.411, 163.425 or 163.427 shall serve a term of post-prison supervision as provided in ORS 144.103.

(2) No sooner than 30 days prior to the minimum supervision date of an offender's supervised parole or post-prison supervision, the supervising officer may send to the board a closing summary if the offender has substantially fulfilled the supervision conditions. The summary 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 place the offender on unsupervised parole or post-prison supervision.

(3) Upon completion of the period of supervision and after reviewing the closing summary submitted under subsection (2) of this section, the board may:

(a) Order a period of inactive parole or post-prison supervision that shall continue until the expiration of the sentence; or

(b) Extend the supervision period if it finds the offender has not substantially fulfilled the supervision conditions or has failed to complete payment of restitution.

(4) 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.

(5) The board shall send written notification to the supervised offender of the expiration of the sentence.

**SECTION 5.** The State Sentencing Guidelines Board shall amend its rules regarding post-prison supervision sanctions to provide graduated periods of maximum sanctions based on the length of the supervision term as follows:

(1) Six months if the term of supervision is one year;

(2) Nine months if the term of supervision is two years; and

(3) Twelve months if the term of supervision is three years.

**SECTION 6.** Section 5 of this Act is repealed on November 1, 1995.

**SECTION 7.** ORS 144.305 and 144.310 are repealed.

**SECTION 8.** The Legislative Assembly finds that:

(1) To protect the public, the criminal justice system must compel compliance with the conditions of probation by responding to violations with swift, certain and fair punishments.

(2) Decisions to incarcerate offenders in state prisons for violation of the conditions of probation must be made upon a reasonably systematic basis that will insure that available prison space is used to house those offenders who constitute a serious threat to the public, taking into consideration the availability of both prison space and local resources.

**SECTION 9.** (1) Sections 10 to 15 of this Act and the amendments to ORS 137.540 by section 16 of this Act apply to:

(a) All persons on probation for felonies committed on or after September 1, 1993.

(b) All persons on probation for felonies committed prior to September 1, 1993, if:

(A) The sentencing judge orders, on or after September 1, 1993, that the person be subject to sections 10 to 15 of this Act and the amendments to ORS 137.540 by section 16 of this Act; and

(B) The probationer consents in writing or on the record to be subject to sections 10 to 15 of this Act and the amendments to ORS 137.540 by section 16 of this Act.

(2) If it cannot be determined whether the felony was committed on or after September 1, 1993, the crime shall be deemed, for purposes of sections 10 to 15 of this Act and the amendments to ORS 137.540 by section 16 of this Act, to have been committed prior to September 1, 1993.

**SECTION 10.** (1) Except as otherwise provided in subsection (2) of this section, when a court suspends the imposition or execution of sentence and places a defendant on probation, or sentences a defendant to probation under the rules of the State Sentencing Guidelines Board and orders a defendant placed under the supervision of the Department of Corrections or a county community corrections agency, the Department of Corrections or the county community corrections agency shall impose structured, intermediate sanctions for the violation of conditions of probation in accordance with rules adopted under section 11 of this Act. Under no circumstances may the Department of Corrections or a county community corrections agency revoke probation.

(2) The sentencing judge shall retain authority:

(a) To revoke probation and receive recommendations regarding revocation of probation from the supervising officer made in accordance with rules adopted under section 11 of this Act;

(b) To determine whether conditions of probation have been violated and to impose sanctions for the violations if the court, at the time of sentencing, states on the record that the court is retaining such authority; and

(c) To cause a probationer to be brought before the court for a hearing upon motion of the district attorney or the court's own motion prior to the imposition of any structured, intermediate sanctions or within four judicial days after receiving notice that a structured, intermediate sanction has been imposed on the probationer pursuant to rules adopted under section 11 of this Act and to revoke probation or impose such other or additional sanctions or modify the conditions of probation as authorized by law.

(3) In no case may the sentencing judge cause a probationer to be brought before the court for a hearing and revoke probation or impose other or additional sanctions after the probationer has completed a structured, intermediate sanction imposed by the Department of Corrections or a county community corrections agency pursuant to rules adopted under section 11 of this Act.

**SECTION 11.** (1) The Department of Corrections shall adopt rules to carry out the purposes of this Act by establishing a system of structured, intermediate probation violation sanctions that may be imposed by the Department of Corrections or a county community corrections agency, taking into consideration the severity of the violation behavior, the prior violation history, the severity of the underlying criminal conviction, the criminal history of the offender, protection of the community, deterrence, the effective capacity of the state prisons and the availability of appropriate local sanctions including, but not limited to, jail, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day reporting centers or other local sanctions.

(2) Rules adopted by the Department of Corrections under this section shall establish:

(a) A system of structured, intermediate probation violation sanctions that may be imposed by the Department of Corrections or a county community corrections agency on a probationer who waives in writing a probation violation hearing, admits or affirmatively chooses not to contest the violations alleged in a probation violation report and consents to the sanctions;

(b) Procedures to provide a probationer with written notice of the probationer's right to a hearing before the court to determine whether the probationer violated the conditions of probation alleged in a probation violation report, and if so, whether to continue the probationer on probation subject to the same or modified conditions, or order sanctions for

any violations and the right to be represented by counsel at the hearing if the probationer is indigent;

(c) Procedures for a probationer to waive in writing a probation violation hearing, admit or not contest the violations alleged in the probation violation report and consent to the imposition of structured, intermediate sanctions by the Department of Corrections or a county community corrections agency;

(d) The level and type of sanctions that may be imposed by probation officers and by supervisory personnel;

(e) The level and type of violation behavior warranting a recommendation to the court that probation be revoked;

(f) Procedures for notifying district attorneys and the courts of probation violations admitted by probationers and the sanctions imposed by the Department of Corrections or county community corrections agencies; and

(g) Such other policies or procedures as are necessary to carry out the purposes of this Act.

(3) Jail confinement imposed as a custodial sanction by the Department of Corrections or a county community corrections agency pursuant to rules adopted under this section shall not exceed 30 days per violation report. The total number of days of jail confinement for all violation reports per conviction shall not exceed the maximum number of available jail custody units under rules adopted by the State Sentencing Guidelines Board.

(4) Nonjail confinement imposed as a custodial sanction by the Department of Corrections or a county community corrections agency pursuant to rules adopted under this section shall not exceed the maximum number of available nonjail custody units under rules adopted by the State Sentencing Guidelines Board.

**SECTION 12.** Subject to rules adopted under section 11 of this Act, after receiving written notification of rights, a probationer may waive in writing a probation violation hearing, admit or not contest the violations alleged in the probation violation report and consent to the imposition of structured, intermediate sanctions by the Department of Corrections or a county community corrections agency pursuant to rules adopted under section 11 of this Act.

**SECTION 13.** Prior to the imposition of any structured, intermediate sanction or within four judicial days after receiving notice that a structured, intermediate sanction has been imposed on a probationer pursuant to rules adopted under section 11 of this Act, the court, upon motion of the district attorney or on its own motion, may cause the probationer to be brought before the court for a hearing, and may revoke probation or impose such other or additional sanctions or modify the conditions of probation as authorized by law. In no case may the sentencing judge cause a probationer to be brought before the court for a hearing and revoke probation or impose other or additional sanctions after the probationer has completed a structured, intermediate sanction imposed by the Department of Corrections or a county community corrections agency pursuant to rules adopted under section 11 of this Act.

**SECTION 14.** The State Sentencing Guidelines Board shall adopt rules to provide additional nonjail custody units to be used as sanctions for violations of conditions imposed as part of a probationary sentence. The rules shall provide for up to 30 nonjail custody units for offenses classified in Crime Seriousness Categories 1 and 2 and grid blocks 3G, 3H and 3I; up to 60 nonjail custody units for offenses classified in grid blocks 3A through 3F, 4C through 4I and 5G through 5I; and up to 90 nonjail custody units for offenses classified in grid blocks 5F, 6F through 6I, 7F through 7I and offenses in which a sentence of probation was imposed as a dispositional departure or as an optional probation.

**SECTION 15.** The State Sentencing Guidelines Board shall adopt rules to limit the number of jail custody units that a sentencing judge may impose immediately upon sentencing as part of a probationary sentence to no more than one-third of the total jail custody units. The remaining jail custody units may be used to sanction violations of conditions imposed

as part of the probationary sentence. A sentencing judge may exceed these limitations without departure upon a finding of adequate jail space.

**SECTION 16.** ORS 137.540 is amended to read:

137.540. (1) The court may place the defendant on probation, which shall be subject to the following general conditions unless specifically deleted by the court. The probationer shall:

*[(a) Remain under the supervision and control of the probation department.]*

*[(b) Abide by the direction of the probation department and its representatives.]*

*[(c) Promptly and truthfully answer all reasonable inquiries of the probation officer relating to probation performance.]*

*[(d) Truthfully report monthly at times and in a manner specified by the probation department or its representative.]*

(a) Pay supervision fees, fines, restitution or other fees ordered by the court.

(b) Not use or possess controlled substances except pursuant to a medical prescription.

(c) Submit to testing of breath or urine for controlled substance or alcohol use if the probationer has a history of substance abuse or if there is a reasonable suspicion that the probationer has illegally used controlled substances.

(d) Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.

(e) Remain in the State of Oregon until written permission to leave is granted by the [probation department] Department of Corrections or a county community corrections agency [or its representatives].

(f) If physically able, find and maintain gainful full-time employment, approved schooling, or a full-time combination of both. Any waiver of this requirement must be based on a finding by the court stating the reasons for the waiver.

(g) Change neither employment nor residence without [promptly informing the probation department] prior permission from the Department of Corrections or a county community corrections agency [or its representatives].

(h) Permit the probation officer to visit the probationer or the probationer's residence or work site, and report as required and abide by the direction of the supervising officer.

*[(i) Submit to fingerprinting or photographing, or both, when requested by the probation department for supervision purposes.]*

(i) Consent to the search of person, vehicle or premises upon the request of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.

(j) Obey all laws, municipal, county, state and federal.

*[(k) Pay fines, costs including probation costs, attorney fees or restitution or any combination thereof ordered by the court on a schedule of payments determined by the court.]*

(k) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections or a county community corrections agency.

(L) Not possess weapons, firearms or dangerous animals.

(m) If under supervision for, or previously convicted of, a sex offense under ORS 163.305 to 163.465, and if recommended by the supervising officer, successfully complete a sex offender treatment program approved by the supervising officer and submit to polygraph examinations at the direction of the supervising officer.

(n) Participate in a mental health evaluation as directed by the supervising officer and follow the recommendation of the evaluator.

(2) In addition to the general conditions, the court may impose any special conditions of probation that are reasonably related to the crime of conviction or the needs of the defendant

for the protection of the public or reformation of the offender, or both, including, but not limited to, that the probationer shall:

(a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence or to the premises thereof, or be subject to any combination of such confinement and restriction, such confinement or restriction or combination thereof to be for a period not to exceed one year or one-half of the maximum period of confinement that could be imposed for the offense for which the defendant is convicted, whichever is the lesser. *[However, the court shall not order restriction to residence or premises thereof in the case of a defendant convicted of a crime in the course of which the defendant used or threatened to use any weapon or in the course of which the defendant caused, attempted to cause or threatened to cause, physical injury to another.]*

(b) For felonies committed on or after November 1, 1989, be confined in the county jail, or be subject to other custodial sanctions under community supervision, or both, as provided by rules of the State Sentencing Guidelines Board. *[The court shall not order restriction to residence or premises thereof in the case of a defendant convicted of a crime in the course of which the defendant used or threatened to use any weapon or in the course of which the defendant caused, attempted to cause or threatened to cause physical injury to another.]*

*[(c) Submit to polygraph examination by a qualified polygraph examiner designated by the court or probation officer under terms and conditions set by the court.]*

*[(d) Enroll, participate and successfully complete designated residential treatment programs for drug, alcohol or mental health problems.]*

*[(e) Abstain from or limit the use of intoxicants.]*

*[(f) Submit to random urinalysis at the direction of probation officer.]*

*[(g) Refrain from knowingly associating with persons who use or possess controlled substances illegally, or from frequenting places where such substances are kept or sold.]*

*[(h) Refrain from knowingly associating with:]*

*[(A) Codefendants or crime partners.]*

*[(B) Persons known by the probationer to be engaged in criminal activities.]*

*[(C) Persons under a specified age except under specific circumstances specified in writing by the court or probation officer.]*

*[(D) Other designated persons.]*

*[(i) Undergo medical, psychological or therapy treatment.]*

*[(j) Take Antabuse, if medically approved.]*

*[(k) Submit to breath test or blood test to determine blood alcohol content upon request of a probation officer having reasonable grounds to believe the results would disclose evidence of a probation violation. This condition may be set when it is reasonably related to the nature of the offense or treatment of the offender.]*

*[(L) Neither own, possess nor control any firearm or any other specified weapon.]*

*[(m) Submit person, residence, vehicle and property to search by a probation officer having reasonable grounds to believe such search will disclose evidence of a probation violation. This condition may be set when it is reasonably related to the nature of the offense or treatment of the offender.]*

*[(3)(a) As a condition of probation, the court may require the defendant to report to any state or local mental health facility or other appropriate mental health program for evaluation. Whenever medical, psychiatric or psychological treatment is recommended, the court may order the defendant, as a condition of probation, to cooperate with and accept the treatment from the facility or program.]*

*[(b) The facility or program to which the defendant has been referred for evaluation shall perform such evaluation and submit a written report of its findings to the court. If the facility or program finds that treatment of the defendant is appropriate, it shall include its recommendations for treatment in the report to the court.]*

*[(c) Whenever treatment is provided by the facility or program, it shall furnish reports to the court on a regular basis concerning the progress of the defendant.]*

[(d) Copies of all reports submitted to the court pursuant to this section shall be furnished to the defendant and the counsel of the defendant. The confidentiality of these reports shall be determined pursuant to ORS 192.501 to 192.505.]

[(e) Whenever treatment is provided pursuant to this subsection, the court may order, as an additional condition of probation, that the defendant pay the reasonable cost of the treatment to the mental health facility or program providing the treatment.]

[(4) As a condition of probation, the court may order the defendant to pay to the provider the reasonable cost of psychiatric or psychological treatment or other counseling services provided to the victim or victims and the victim's family resulting from or related to the crime or crimes of which the defendant was convicted.]

[(5)(a) As a condition of probation, the court may require the defendant to:]

[(A) Be evaluated as provided in ORS 137.227. If the evaluation finds the defendant to be an alcoholic or a drug-dependent person, and if public or private resources are available, the court shall order, as an additional condition of probation, the defendant to enroll, participate in and successfully complete an appropriate treatment program for alcohol or drug dependency problems. An evaluation will not be required if the court has entered a finding that the defendant is an alcoholic or a drug-dependent person under ORS 137.228.]

[(B) Enroll, participate in and successfully complete a designated treatment program for alcohol or drug dependency problems if the court finds that the defendant is an alcoholic or a drug-dependent person under ORS 137.228.]

[(b) Whenever evaluation or treatment is required under this subsection, the court may order, as an additional condition of probation, that the defendant pay the reasonable cost of the evaluation or treatment to the provider of the evaluation or treatment.]

[(6)] (3) Failure to abide by all general and special conditions imposed by the court and supervised by the [probation department and its representatives; Department of Corrections or a county community corrections agency may result in arrest, modification of conditions, revocation of probation or imposition of structured, intermediate sanctions in accordance with rules adopted under section 11 of this 1993 Act [or notification of the violation to the sentencing court].

[(7)] (4) The court may at any time modify the conditions of probation.

[(8)] (5) It shall not be a cause for revocation of probation that the probationer failed to apply for or accept employment at any workplace where there is a labor dispute in progress. As used in this subsection, "labor dispute" has the meaning for that term provided in ORS 662.010.

**SECTION 17.** ORS 137.550 is amended to read:

137.550. (1) Subject to the limitations in ORS 137.010 and to rules of the State Sentencing Guidelines Board for felonies committed on or after November 1, 1989:

(a) The period of probation shall be such as the court determines and may, in the discretion of the court, be continued or extended.

(b) The court may at any time discharge a person from probation.

(2) At any time during the probation period, the court may issue a warrant and cause a defendant to be arrested for violating any of the conditions of probation. Any probation officer, police officer or other officer with power of arrest may arrest a probationer without a warrant for violating any condition of probation, and a statement by the probation officer setting forth that the probationer has, in the judgment of the probation officer, violated the conditions of probation is sufficient warrant for the detention of the probationer in the county jail until the probationer can be brought before the court or until the probation officer or supervisory personnel impose and the offender agrees to structured, intermediate sanctions in accordance with the rules adopted under section 11 of this 1993 Act. Such disposition shall be made during the first 36 hours in custody, excluding Saturdays, Sundays and holidays, unless later disposition is authorized by supervisory personnel. If authorized by supervisory personnel, the disposition shall take place in no more than five judicial days. If the offender does not consent to structured, intermediate sanctions imposed by the probation officer or supervisory personnel in accordance with the rules adopted under section 11 of this 1993 Act, [.] the probation officer,

as soon as practicable, but within one judicial day, shall report such arrest or detention to the court that imposed the probation. The probation officer shall promptly submit to the court a report showing in what manner the probationer has violated the conditions of probation.

(3) Except for good cause shown or at the request of the probationer, the probationer shall be brought before a magistrate during the first 36 hours of custody, excluding holidays, Saturdays and Sundays. That magistrate, in the exercise of discretion, may order the probationer held pending revocation hearing or pending transfer to the jurisdiction of another court where the probation was imposed. In lieu of an order that the probationer be held, the magistrate may release the probationer upon the condition that the probationer appear in court at a later date for a probation violation or revocation hearing. If the probationer is being held on an out-of-county warrant, the magistrate may order the probationer released subject to an additional order to the probationer that the probationer report within seven calendar days to the court that imposed the probation.

(4)(a) For defendants sentenced for felonies committed prior to November 1, 1989, and for any misdemeanor, the court that imposed the probation, after summary hearing, may revoke the probation:

(A) If the execution of sentence has been suspended, the court shall cause the sentence imposed to be executed.

(B) If no sentence has been imposed, the court may impose any sentence which originally could have been imposed.

(b) For defendants sentenced for felonies committed on or after November 1, 1989, the court that imposed the probationary sentence may revoke probation supervision and impose a sanction as provided by rules of the State Sentencing Guidelines Board.

(5) Except for good cause shown, if the revocation hearing is not conducted within 14 calendar days following the arrest or detention of the probationer, the probationer shall be released from custody.

(6) A defendant who has been previously confined in the county jail as a condition of probation pursuant to ORS 137.540 or as part of a probationary sentence pursuant to the rules of the State Sentencing Guidelines Board may be given credit for all time thus served in any order or judgment of confinement resulting from revocation of probation.

(7) In the case of any defendant whose sentence has been suspended but who is not on probation, the court may issue a warrant and cause the defendant to be arrested and brought before the court at any time within the maximum period for which the defendant might originally have been sentenced. Thereupon the court, after summary hearing, may revoke the suspension of sentence and cause the sentence imposed to be executed.

(8) If a probationer fails to appear or report to a court for further proceedings as required by an order under subsection (3) of this section, the failure to appear may be prosecuted in the county to which the probationer was ordered to appear or report.

**SECTION 18.** ORS 161.390 is amended to read:

161.390. (1) The Mental Health and Developmental Disability Services Division shall promulgate rules for the assignment of persons to state mental hospitals under ORS 161.341, 161.365 and 161.370 and for establishing standards for evaluation and treatment of persons committed to a state hospital designated by the division or ordered to a community mental health and developmental disabilities program under ORS [137.540,] 161.315 to 161.351, 192.690 and 428.210.

(2) Whenever the Psychiatric Security Review Board requires the preparation of a pre-discharge or preconditional release plan before a hearing or as a condition of granting discharge or conditional release for a person committed under ORS 161.327 or 161.341 to a state hospital for custody, care and treatment, the Mental Health and Developmental Disability Services Division is responsible for and shall prepare the plan.

(3) In carrying out a conditional release plan prepared under subsection (2) of this section, the Mental Health and Developmental Disability Services Division may contract with a community mental health and developmental disabilities program, other public agency or private corporation or an individual to provide supervision and treatment for the conditionally released person.

**SECTION 19.** ORS 164.045 is amended to read:

164.045. (1) A person commits the crime of theft in the second degree if, by other than extortion, the person:

(a) Commits theft as defined in ORS 164.015; and

(b) The total value of the property in a single or aggregate transaction is \$50 or more but is under \$200 in a case of theft by receiving and under [§500] \$750 in any other case.

(2) Theft in the second degree is a Class A misdemeanor.

**SECTION 20.** ORS 164.055 is amended to read:

164.055. (1) A person commits the crime of theft in the first degree if, by other than extortion, the person commits theft as defined in ORS 164.015 and:

(a) The total value of the property in a single or aggregate transaction is \$200 or more in a case of theft by receiving, and [§500] \$750 or more in any other case; or

(b) The theft is committed during a riot, fire, explosion, catastrophe or other emergency in an area affected thereby; or

(c) The theft is theft by receiving committed by buying, selling, borrowing or lending on the security of the property; or

(d) The subject of the theft is a firearm or explosive; or

(e) The subject of the theft is a livestock animal, a companion animal or a wild animal removed from habitat or born of a wild animal removed from habitat, pursuant to ORS 497.308 (2)(c).

(2) As used in this section:

(a) "Companion animal" means a dog or cat possessed by a person, business or other entity for purposes of companionship, security, hunting, herding or providing assistance in relation to a physical disability.

(b) "Explosive" means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerine, blasting caps and nitrojelly, but excluding fireworks as defined in ORS 480.110 (1), black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

(c) "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile by the action of black powder or smokeless powder and which is readily capable of use as a weapon.

(d) "Livestock animal" means a horse, gelding, mare, stallion, colt, mule, ass, jack, bull, steer, cow, calf, goat, sheep, lamb, llama, pig or hog.

(3) Theft in the first degree is a Class C felony.

**SECTION 21.** ORS 164.125 is amended to read:

164.125. (1) A person commits the crime of theft of services if:

(a) With intent to avoid payment therefor, the person obtains services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services; or

(b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, the person uses or diverts to the use of the person or a third person such labor, equipment or facilities with intent to derive for the person or the third person a commercial benefit to which the person or the third person is not entitled.

(2) As used in this section, "services" includes, but is not limited to, labor, professional services, toll facilities, transportation, communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. "Communication service" includes, but is not limited to, use of telephone, computer and cable television systems.

(3) Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is prima facie evidence that the services were obtained with intent to avoid payment therefor. Obtaining the use of any communication system the use of which is available only for compensation, including but not limited to telephone, computer and cable television systems, or obtaining the use of any services of a public



utility nature, without payment or offer to pay for such use is prima facie evidence that the obtaining of the use of such system or the use of such services was gained with intent to avoid payment therefor.

(4) The value of single theft transactions may be added together if the thefts were committed:

(a) Against multiple victims by a similar means within a 30-day period; or

(b) Against the same victim, or two or more persons who are joint owners, within a 180-day period.

[(4)] (5) Theft of services is:

(a) A Class C misdemeanor if the aggregate total value of services that are the subject of the theft is under \$50;

(b) A Class A misdemeanor if the aggregate total value of services that are the subject of the theft is \$50 or more but is under [S500] \$750;

(c) A Class C felony if the aggregate total value of services that are the subject of the theft is [S500] \$750 or more; and

(d) A Class B felony if the aggregate total value of services that are the subject of the theft is \$10,000 or more.

**SECTION 22.** ORS 164.115 is amended to read:

164.115. For the purposes of chapter 743, Oregon Laws 1971, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, value means the market value of the property at the time and place of the crime, or if such cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value, shall be evaluated as follows:

(a) The value of an instrument constituting an evidence of debt, including, but not limited to, a check, draft or promissory note, shall be considered the amount due or collectible thereon or thereby.

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be considered the greatest amount of economic loss which the owner might reasonably suffer because of the loss of the instrument.

(3) When the value of property cannot reasonably be ascertained, it shall be presumed to be an amount less than \$50 in a case of theft, and less than \$500 in any other case.

(4) The value of single theft transactions may be added together if the thefts were committed:

(a) Against multiple victims by similar means within a 30-day period; or

(b) Against the same victim, or two or more persons who are joint owners, within a 180-day period.

**SECTION 23.** ORS 164.255 is amended to read:

164.255. (1) A person commits the crime of criminal trespass in the first degree if the person:

(a) Enters or remains unlawfully in a dwelling; or

(b) Having been denied future entry to a building pursuant to a merchant's notice of trespass, reenters the building during hours when the building is open to the public with the intent to commit theft therein.

(2) Criminal trespass in the first degree is a Class A misdemeanor.

**SECTION 24.** ORS 164.215 is amended to read:

164.215. (1) Except as otherwise provided in ORS 164.255, a person commits the crime of burglary in the second degree if the person enters or remains unlawfully in a building with intent to commit a crime therein.

(2) Burglary in the second degree is a Class C felony.

**SECTION 25.** ORS 165.013 is amended to read:

165.013. (1) A person commits the crime of forgery in the first degree if the person violates ORS 165.007 and the written instrument is or purports to be any of the following:

(a) Part of an issue of money, securities, postage or revenue stamps, or other valuable instruments issued by a government or governmental agency; or

(b) Part of an issue of stock, bonds or other instruments representing interests in or claims against any property or person; or

(c) A deed, will, codicil, contract[,] or assignment; [ *commercial instrument or other document which does or may evidence, create, transfer, alter, terminate, or otherwise affect a legal right, interest, obligation or status;*] or

(d) A check for \$750 or more, a credit card purchase slip for \$750 or more, or a combination of checks and credit card purchase slips that, in the aggregate, total \$750 or more, or any other commercial instrument or other document that does or may evidence, create, transfer, alter, terminate or otherwise affect a legal right, interest, obligation or status; or

[(d)] (e) A public record.

(2) The value of single check or credit card transactions may be added together under subsection (1)(d) of this section if the transactions were committed:

(a) Against multiple victims within a 30-day period; or

(b) Against the same victim within a 180-day period.

[(2)] (3) Forgery in the first degree is a Class C felony.

**SECTION 26.** ORS 165.055 is amended to read:

165.055. (1) A person commits the crime of fraudulent use of a credit card if, with intent to injure or defraud, the person uses a credit card for the purpose of obtaining property or services with knowledge that:

(a) The card is stolen or forged; or

(b) The card has been revoked or canceled; or

(c) For any other reason the use of the card is unauthorized by either the issuer or the person to whom the credit card is issued.

(2) "Credit card" means a card, booklet, credit card number or other identifying symbol or instrument evidencing an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

(3) The value of single credit card transactions may be added together if the transactions were committed:

(a) Against multiple victims within a 30-day period; or

(b) Against the same victim within a 180-day period.

[(3)] (4) Fraudulent use of a credit card is:

(a) A Class A misdemeanor if the aggregate total amount of property or services the person obtains or attempts to obtain is under [~~\$500~~] \$750.

(b) A Class C felony if the aggregate total amount of property or services the person obtains or attempts to obtain is [~~\$500~~] \$750 or more.

**NOTE:** Section 27 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 28.** ORS 131.315 is amended to read:

131.315. (1) If conduct constituting elements of an offense or results constituting elements of an offense occur in two or more counties, trial of the offense may be held in any of the counties concerned.

(2) If a cause of death is inflicted on a person in one county and the person dies therefrom in another county, trial of the offense may be held in either county.

(3) If the commission of an offense commenced outside this state is consummated within this state, trial of the offense shall be held in the county in which the offense is consummated or the interest protected by the criminal statute in question is impaired.

(4) If an offense is committed on any body of water located in, or adjacent to, two or more counties or forming the boundary between two or more counties, trial of the offense may be held in any nearby county bordering on the body of water.

(5) If an offense is committed in or upon any railroad car, vehicle, aircraft, boat or other conveyance in transit and it cannot readily be determined in which county the offense was committed, trial of the offense may be held in any county through or over which the conveyance passed.

(6) If an offense is committed on the boundary of two or more counties or within one mile thereof, trial of the offense may be held in any of the counties concerned.

(7) A person who commits theft, burglary or robbery may be tried in any county in which the person exerts control over the property that is the subject of the crime.

(8) If the offense is an attempt or solicitation to commit a crime, trial of the offense may be held in any county in which any act that is an element of the offense is committed.

(9) If the offense is criminal conspiracy, trial of the offense may be held in any county in which any act or agreement that is an element of the offense occurs.

(10) A person who in one county commits an inchoate offense that results in the commission of an offense by another person in another county, or who commits the crime of hindering prosecution of the principal offense, may be tried in either county.

(11) A criminal nonsupport action may be tried in any county in which the dependent child is found, irrespective of the domicile of the parent, guardian or other person lawfully charged with support of the child.

(12) If the offense is theft and the offense consists of an aggregate transaction involving more than one county, trial of the offense may be held in any county in which one of the acts of theft was committed.

(13) When a prosecution is for violation of the Oregon Securities Law, the trial of the offense may be held in the county in which:

(a) The offer to purchase or sell securities took place or where the sale or purchase of securities took place; or

(b) Any act that is an element of the offense occurred.

(14) When a prosecution under ORS 411.675 and 411.990 (2) and (3) [and (4)] involves Medicaid funds, the trial of the offense may be held in the county in which the claim was submitted for payment or in the county in which the claim was paid.

**SECTION 29.** ORS 166.715 is amended to read:

166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

(1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust or other profit or nonprofit legal entity, and includes any union, association or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(3) "Investigative agency" means the Department of Justice or any district attorney.

(4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1961, and that the last of such incidents occurred within five years after a prior incident of racketeering activity.

(5) "Person" means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(6) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct which constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:

(A) ORS chapter 59, relating to securities;

- (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;
- (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing governmental administration;
- (D) ORS 162.405 to 162.425, relating to abuse of public office;
- (E) ORS 162.465, relating to interference with legislative operation;
- (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;
- (G) ORS 163.160 to 163.205, relating to assault and related offenses;
- (H) ORS 163.225 and 163.235, relating to kidnapping;
- (I) ORS 163.275, relating to coercion;
- (J) ORS 163.670 to 163.680, relating to sexual conduct of children;
- (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.125, 164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and related offenses;
- (L) ORS 164.315 to 164.335, relating to arson and related offenses;
- (M) ORS 164.345 to 164.365, relating to criminal mischief;
- (N) ORS 164.395 to 164.415, relating to robbery;
- (O) ORS 164.865 and 164.875, relating to unlawful recording;
- (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and related offenses;
- (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;
- (R) ORS 165.485 to 165.515, 165.540 and 165.555, relating to communication crimes;
- (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating to firearms and other weapons;
- (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.062 to 167.080, 167.087, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.212, 167.355, 167.365 and 167.370, relating to prostitution, obscenity, gambling, computer crimes involving the Oregon State Lottery, animal fighting and related offenses;
- (U) ORS 171.990, relating to legislative witnesses;
- (V) ORS 260.542, 260.575 and 260.665, relating to election offenses;
- (W) ORS 314.075, relating to income tax;
- (X) ORS chapter 323, relating to cigarette taxes;
- (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments, and ORS 411.990 (2) and (3) [and (4)];
- (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;
- (AA) ORS 463.995, relating to boxing and wrestling, as defined in ORS 463.015;
- (BB) ORS 471.205, 471.215 to 471.289, 471.305, 471.335 to 471.345, 471.360, 471.405, 471.415, 471.425, 471.445 to 471.455, 471.460, 471.465, 471.470, 471.485, 471.490, 471.675 and 472.310, relating to alcoholic liquor;
- (CC) ORS 475.005 to 475.285, 475.295 and 475.940 to 475.995, relating to controlled substances;
- (DD) ORS 480.070, 480.210 to 480.215 and 480.235 to 480.265, relating to explosives;
- (EE) ORS 819.010, 819.020, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;
- (FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;
- (GG) ORS chapter 706, relating to banking law administration;
- (HH) ORS chapter 708, relating to banks and trusts;
- (II) ORS chapter 714, relating to branch banking;
- (JJ) ORS chapter 716, relating to mutual savings banks;
- (KK) ORS chapter 723, relating to credit unions;
- (LL) ORS chapter 726, relating to pawnbrokers;
- (MM) ORS 166.382 and 166.384 relating to destructive devices; or
- (NN) ORS 165.074.
- (b) Any conduct defined as "racketeering activity" under 18 U.S.C. 1961 (1)(B), (C) and (D).

(7) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

- (A) ORS chapter 462, relating to racing;
- (B) ORS 167.117 to 167.164, relating to gambling; or
- (C) ORS 82.010 to 82.170, relating to interest and usury.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under federal or state law.

**SECTION 30.** ORS 161.635 is amended to read:

161.635. (1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:

- (a) [~~\$2,500~~] \$5,000 for a Class A misdemeanor.
- (b) [~~\$1,000~~] \$2,000 for a Class B misdemeanor.
- (c) [~~\$500~~] \$1,000 for a Class C misdemeanor.

(2) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3) A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the court, not exceeding \$250.

(4) If a person has gained money or property through the commission of a misdemeanor or violation, then upon conviction thereof the court, instead of imposing the fine authorized for the offense under subsection (1), (2) or (3) of this section, may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply.

(5) This section shall not apply to corporations.

**SECTION 31.** Section 32 of this Act is added to and made a part of ORS chapter 144.

**SECTION 32.** (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.

**SECTION 33.** (1) Notwithstanding section 32 of this Act, until July 1, 1995, section 32 of this Act shall not be operative, but section 34 of this Act shall operate in lieu thereof.

(2) Section 34 of this Act is repealed July 1, 1995.

**SECTION 34.** (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 20 days.

(2) An offender may be held longer than 20 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.

NOTE: Section 35 was deleted by amendment. Subsequent sections were not renumbered.

**SECTION 36.** ORS 161.625 is amended to read:

161.625. (1) A sentence to pay a fine for a [Class A, B or C] felony shall be a sentence to pay an amount, fixed by the court, not exceeding:

- (a) \$300,000 for a Class A felony.
- (b) \$200,000 for a Class B felony.
- (c) \$100,000 for a Class C felony.

(2) A sentence to pay a fine for an unclassified felony shall be a sentence to pay an amount fixed by the court, as provided in the statute defining the crime.

(3)(a) If a person has gained money or property through the commission of a felony, then upon conviction thereof the court, in lieu of imposing the fine authorized for the crime under subsection (1) or (2) of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the crime.

(b) The provisions of paragraph (a) of this subsection do not apply to the felony theft of a companion animal, as defined in ORS 164.055, or a captive wild animal.

(4) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the felony, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority before the time sentence is imposed. "Value" shall be determined by the standards established in ORS 164.115.

(5) When the court imposes a fine for a felony the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding the court may conduct a hearing upon the issue.

(6) Except as provided in ORS 161.655, this section shall not apply to a corporation.

**SECTION 37.** The amendments to ORS 164.045, 164.055, 164.115, 164.125, 164.215, 164.255, 165.013 and 165.055 by sections 19 to 26 of this Act become operative on September 1, 1993.

**SECTION 38.** This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

Passed by Senate May 27, 1993

Received by Governor:

Repassed by Senate August 1, 1993

.....M....., 1993

Approved:

.....  
Secretary of Senate

.....M....., 1993

.....  
President of Senate

.....  
Governor

Passed by House July 14, 1993

Filed by Office of Secretary of State:

Repassed by House August 1, 1993

.....M....., 1993

.....  
Speaker of House

.....  
Secretary of State

(2) A sentence to pay a fine for an unclassified felony shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3)(a) If a person has gained money or property through the commission of a felony, then upon conviction thereof the court, in lieu of imposing the fine authorized for the crime under subsection (1) or (2) of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the crime.

(b) The provisions of paragraph (a) of this subsection do not apply to the felony theft of a companion animal, as defined in ORS 164.055, or a captive wild animal.

(4) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the felony, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority before the time sentence is imposed. "Value" shall be determined by the standards established in ORS 164.115.

(5) When the court imposes a fine for a felony the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding the court may conduct a hearing upon the issue.

(6) Except as provided in ORS 161.655, this section shall not apply to a corporation.

**SECTION 37.** The amendments to ORS 164.045, 164.055, 164.115, 164.125, 164.215, 164.255, 165.013 and 165.055 by sections 19 to 26 of this Act become operative on September 1, 1993.

**SECTION 38.** This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

Passed by Senate May 27, 1993

Received by Governor:

Repassed by Senate August 1, 1993

9:50 A.M. August 13, 1993

*Conna Merrill*  
Secretary of Senate

Approved:

1:31 P.M. August 18, 1993

*Bill Kelly*  
President of Senate

*Barbara Roberts*  
Governor

Passed by House July 14, 1993

Filed by Office of Secretary of State:

Repassed by House August 1, 1993

3:45 P.M. August 18, 1993

*Larry Gansau*  
Speaker of House

*Phil Henning*  
Secretary of State