

Enrolled House Bill 3511

Sponsored by JOINT SPECIAL SESSION COMMITTEE

CHAPTER

AN ACT

Relating to sex offenses; creating new provisions; amending ORS 137.700, 144.085, 144.101, 144.103 and 144.107; and declaring an emergency.

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

SECTION 1. ORS 137.700 is amended to read:

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

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

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- (a)(A) Murder, as defined in
ORS 163.115.300 months
 - (B) Attempt or conspiracy
to commit aggravated
murder, as defined
in ORS 163.095.120 months
 - (C) Attempt or conspiracy
to commit murder, as
defined in ORS 163.115.90 months
 - (D) Manslaughter in the
first degree, as defined
in ORS 163.118.120 months
 - (E) Manslaughter in the
second degree, as defined
in ORS 163.125.75 months

- (F) Assault in the first degree, as defined in ORS 163.185.90 months
- (G) Assault in the second degree, as defined in ORS 163.175.70 months
- (H) **Except as provided in paragraph (b)(G) of this subsection,** kidnapping in the first degree, as defined in ORS 163.235.90 months
- (I) Kidnapping in the second degree, as defined in ORS 163.225.70 months
- (J) Rape in the first degree, as defined in ORS 163.375 **(1)(a), (c) or (d)**.100 months
- (K) Rape in the second degree, as defined in ORS 163.365.75 months
- (L) Sodomy in the first degree, as defined in ORS 163.405 **(1)(a), (c) or (d)**.100 months
- (M) Sodomy in the second degree, as defined in ORS 163.395.75 months
- (N) Unlawful sexual penetration in the first degree, as defined in ORS 163.411 **(1)(a) or (c)**.100 months
- (O) Unlawful sexual penetration in the second degree, as defined in ORS 163.408.75 months
- (P) Sexual abuse in the first degree, as defined in ORS 163.427.75 months
- (Q) Robbery in the first degree, as defined in ORS 164.415.90 months
- (R) Robbery in the second degree, as defined in ORS 164.405.70 months
- (b)(A) Arson in the first degree, as defined in ORS 164.325, when the offense represented a threat of serious physical injury.90 months
- (B) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.70 months
- (C) Compelling prostitution, as defined in ORS 167.017.70 months

- (D) Rape in the first degree,
as defined in
ORS 163.375 (1)(b).....300 months
- (E) Sodomy in the first degree,
as defined in
ORS 163.405 (1)(b).....300 months
- (F) Unlawful sexual penetration
in the first degree, as
defined in
ORS 163.411 (1)(b).....300 months
- (G) Kidnapping in the first
degree, as defined in
ORS 163.235, when the
offense is committed in
furtherance of the commission
or attempted commission of an
offense listed in subparagraph
(D), (E) or (F) of
this paragraph.....300 months

SECTION 2. ORS 144.103 is amended to read:

144.103. (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 post-prison supervision that [*shall continue*] **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. [*Any costs incurred as a result of this subsection shall be paid by increased post-prison supervision fees under ORS 423.570.*]

(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.

[2] **(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 [*shall continue*] 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 [*subsection*] section shall be paid by increased post-prison supervision fees under ORS 423.570.

SECTION 3. (1) The amendments to ORS 137.700 and 144.103 by sections 1 and 2 of this 2006 Act apply to a person convicted of a crime that was committed on or after the effective date of this 2006 Act.

(2) The amendments to ORS 137.700 by section 1 of this 2006 Act apply only to a person who was at least 18 years of age at the time the person committed an offense described in ORS 137.700 (2)(b)(D), (E), (F) or (G).

SECTION 4. ORS 144.085 is amended to read:

144.085. (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 parole that extends for the entire term of the offender's sentence or a term of post-prison supervision as provided in ORS 144.103 [(1)]; 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.

SECTION 5. ORS 144.101 is amended to read:

144.101. (1) The State Board of Parole and Post-Prison Supervision has jurisdiction over imposition of conditions of post-prison supervision and sanctioning 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 [(1)];
- (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 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 imposition of conditions of parole and sanctioning for violations of those conditions.

SECTION 6. ORS 144.107 is amended to read:

144.107. (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 [(1)].

(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.

SECTION 7. This 2006 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2006 Act takes effect on its passage.

Passed by House April 20, 2006

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 Chief Clerk of House

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 Speaker of House

Passed by Senate April 20, 2006

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 President of Senate

Received by Governor:

.....M.,....., 2006

Approved:

.....M.,....., 2006

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 Governor

Filed in Office of Secretary of State:

.....M.,....., 2006

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 Secretary of State