

## SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 3419

By COMMITTEE ON RULES

June 27

1 On page 3 of the printed A-engrossed bill, after line 19, insert:

2 **“SECTION 1a. If House Bill 2145 becomes law, section 1 of this 2005 Act (amending ORS**  
3 **137.540) is repealed and ORS 137.540, as amended by section 3, chapter \_\_\_\_\_, Oregon Laws**  
4 **2005 (Enrolled House Bill 2145), is amended to read:**

5 “137.540. (1) The court may sentence the defendant to probation, which shall be subject to the  
6 following general conditions unless specifically deleted by the court. The probationer shall:

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

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

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

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

15 “(e) Remain in the State of Oregon until written permission to leave is granted by the Depart-  
16 ment of Corrections or a county community corrections agency.

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

20 “(g) Change neither employment nor residence without prior permission from the Department  
21 of Corrections or a county community corrections agency.

22 “(h) Permit the parole and probation officer to visit the probationer or the probationer’s work  
23 site or residence and to conduct a walk-through of the common areas and of the rooms in the resi-  
24 dence occupied by or under the control of the probationer.

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

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

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

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

34 “(m) If under supervision for, or previously convicted of, a sex offense under ORS 163.305 to  
163.467, and if recommended by the supervising officer, successfully complete a sex offender treat-

1 ment program approved by the supervising officer and submit to polygraph examinations at the di-  
2 rection of the supervising officer.

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

5 “(o) Report as required and abide by the direction of the supervising officer.

6 “(p) If required to report as a sex offender under ORS 181.596, report with the Department of  
7 State Police, a chief of police, a county sheriff or the supervising agency:

8 “(A) When supervision begins;

9 “(B) Within 10 days of a change in residence; and

10 “(C) Once each year within 10 days of the probationer’s date of birth.

11 “(2) In addition to the general conditions, the court may impose any special conditions of pro-  
12 bation that are reasonably related to the crime of conviction or the needs of the defendant for the  
13 protection of the public or reformation of the offender, or both, including, but not limited to, that  
14 the probationer shall:

15 “(a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after  
16 November 1, 1989, be confined to the county jail or be restricted to the probationer’s own residence  
17 or to the premises thereof, or be subject to any combination of such confinement and restriction,  
18 such confinement or restriction or combination thereof to be for a period not to exceed one year  
19 or one-half of the maximum period of confinement that could be imposed for the offense for which  
20 the defendant is convicted, whichever is the lesser.

21 “(b) For felonies committed on or after November 1, 1989, be confined in the county jail, or be  
22 subject to other custodial sanctions under community supervision, or both, as provided by rules of  
23 the Oregon Criminal Justice Commission.

24 “(c) For crimes committed on or after December 5, 1996, sell any assets of the probationer as  
25 specifically ordered by the court in order to pay restitution.

26 “(3) **When a person who is a sex offender is released on probation, the court shall impose**  
27 **as a special condition of probation that the person not reside in any dwelling in which an-**  
28 **other sex offender who is on probation, parole or post-prison supervision resides, without the**  
29 **approval of the person’s supervising parole and probation officer, or in which more than one**  
30 **other sex offender who is on probation, parole or post-prison supervision resides, without the**  
31 **approval of the director of the probation agency that is supervising the person or of the**  
32 **county manager of the Department of Corrections, or a designee of the director or manager.**  
33 **As soon as practicable, the supervising parole and probation officer of a person subject to**  
34 **the requirements of this subsection shall review the person’s living arrangement with the**  
35 **person’s sex offender treatment provider to ensure that the arrangement supports the goals**  
36 **of offender rehabilitation and community safety. As used in this subsection:**

37 “(a) **‘Dwelling’ has the meaning given that term in ORS 469.160.**

38 “(b) **‘Dwelling’ does not include a residential treatment facility or a halfway house.**

39 “(c) **‘Halfway house’ means a publicly or privately operated profit or nonprofit residential**  
40 **facility that provides rehabilitative care and treatment for sex offenders.**

41 “(d) **‘Sex offender’ has the meaning given that term in ORS 181.594.**

42 “[3] (4) When a person who is a sex offender, as defined in ORS 181.594, is released on pro-  
43 bation, the Department of Corrections or the county community corrections agency, whichever is  
44 appropriate, shall notify the chief of police, if the person is going to reside within a city, and the  
45 county sheriff of the county in which the person is going to reside of the person’s release and the

1 conditions of the person's release.

2       “[(4)] (5) Failure to abide by all general and special conditions imposed by the court and  
3 supervised by the Department of Corrections or a county community corrections agency may result  
4 in arrest, modification of conditions, revocation of probation or imposition of structured, intermedi-  
5 ate sanctions in accordance with rules adopted under ORS 137.595.

6       “[(5)] (6) The court may at any time modify the conditions of probation.

7       “[(6)] (7) A court may not order revocation of probation as a result of the probationer's failure  
8 to pay restitution unless the court determines from the totality of the circumstances that the pur-  
9 poses of the probation are not being served.

10       “[(7)] (8) It shall not be a cause for revocation of probation that the probationer failed to apply  
11 for or accept employment at any workplace where there is a labor dispute in progress. As used in  
12 this subsection, 'labor dispute' has the meaning for that term provided in ORS 662.010.”.

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