

(To Resolve Conflicts)

B-Engrossed
House Bill 3419

Ordered by the Senate June 27
Including House Amendments dated May 18 and Senate Amendments
dated June 27 to resolve conflicts

Sponsored by Representative KITTS; Representatives NELSON, RILEY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Provides that sex offender on probation, parole or post-prison supervision may not reside in dwelling where another sex offender who is on probation, parole or post-prison supervision resides without approval of specified persons.

A BILL FOR AN ACT

1
2 Relating to sex offenders; amending ORS 137.540, 144.102, 144.270, 144.641, 144.642 and 144.644.

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

4 **SECTION 1.** ORS 137.540 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 probationer
10 has a history of substance abuse or if there is a reasonable suspicion that the probationer has ille-
11 gally 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 of
21 Corrections or a county community corrections agency.

22 (h) Permit the probation officer to visit the probationer or the probationer's work site or resi-
23 dence and to conduct a walk-through of the common areas and of the rooms in the residence occu-
24 pied 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 of
26 the supervising officer if the supervising officer has reasonable grounds to believe that evidence of

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 a violation will be found, and submit to fingerprinting or photographing, or both, when requested
2 by the Department of Corrections or a county community corrections agency for supervision pur-
3 poses.

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

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

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

8 (m) If under supervision for, or previously convicted of, a sex offense under ORS 163.305 to
9 163.467, and if recommended by the supervising officer, successfully complete a sex offender treat-
10 ment program approved by the supervising officer and submit to polygraph examinations at the di-
11 rection of the supervising officer.

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

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

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

17 (A) When supervision begins;

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

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

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

24 (a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after
25 November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence
26 or to the premises thereof, or be subject to any combination of such confinement and restriction,
27 such confinement or restriction or combination thereof to be for a period not to exceed one year
28 or one-half of the maximum period of confinement that could be imposed for the offense for which
29 the defendant is convicted, whichever is the lesser.

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

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

35 **(3) When a person who is a sex offender is released on probation, the court shall impose**
36 **as a special condition of probation that the person not reside in any dwelling in which an-**
37 **other sex offender who is on probation, parole or post-prison supervision resides, without the**
38 **approval of the person's supervising probation officer, or in which more than one other sex**
39 **offender who is on probation, parole or post-prison supervision resides, without the approval**
40 **of the director of the probation agency that is supervising the person or of the county**
41 **manager of the Department of Corrections, or a designee of the director or manager. As**
42 **soon as practicable, the supervising probation officer of a person subject to the requirements**
43 **of this subsection shall review the person's living arrangement with the person's sex offender**
44 **treatment provider to ensure that the arrangement supports the goals of offender rehabili-**
45 **tation and community safety. As used in this subsection:**

1 (a) “Dwelling” has the meaning given that term in ORS 469.160.

2 (b) “Dwelling” does not include a residential treatment facility or a halfway house.

3 (c) “Halfway house” means a publicly or privately operated profit or nonprofit residential
4 facility that provides rehabilitative care and treatment for sex offenders.

5 (d) “Sex offender” has the meaning given that term in ORS 181.594.

6 [(3)] (4) When a person who is a sex offender, as defined in ORS 181.594, is released on pro-
7 bation, the Department of Corrections or the county community corrections agency, whichever is
8 appropriate, shall notify the chief of police, if the person is going to reside within a city, and the
9 county sheriff of the county in which the person is going to reside of the person’s release and the
10 conditions of the person’s release.

11 [(4)] (5) Failure to abide by all general and special conditions imposed by the court and super-
12 vised by the Department of Corrections or a county community corrections agency may result in
13 arrest, modification of conditions, revocation of probation or imposition of structured, intermediate
14 sanctions in accordance with rules adopted under ORS 137.595.

15 [(5)] (6) The court may at any time modify the conditions of probation.

16 [(6)] (7) A court may not order revocation of probation as a result of the probationer’s failure
17 to pay restitution unless the court determines from the totality of the circumstances that the pur-
18 poses of the probation are not being served.

19 [(7)] (8) It shall not be a cause for revocation of probation that the probationer failed to apply
20 for or accept employment at any workplace where there is a labor dispute in progress. As used in
21 this subsection, “labor dispute” has the meaning for that term provided in ORS 662.010.

22 **SECTION 1a. If House Bill 2145 becomes law, section 1 of this 2005 Act (amending ORS**
23 **137.540) is repealed and ORS 137.540, as amended by section 3, chapter _____, Oregon Laws**
24 **2005 (Enrolled House Bill 2145), is amended to read:**

25 137.540. (1) The court may sentence the defendant to probation, which shall be subject to the
26 following general conditions unless specifically deleted by the court. The probationer shall:

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

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

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

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

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

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

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

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

45 (i) Consent to the search of person, vehicle or premises upon the request of a representative of

1 the supervising officer if the supervising officer has reasonable grounds to believe that evidence of
2 a violation will be found, and submit to fingerprinting or photographing, or both, when requested
3 by the Department of Corrections or a county community corrections agency for supervision pur-
4 poses.

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

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

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

9 (m) If under supervision for, or previously convicted of, a sex offense under ORS 163.305 to
10 163.467, and if recommended by the supervising officer, successfully complete a sex offender treat-
11 ment program approved by the supervising officer and submit to polygraph examinations at the di-
12 rection of the supervising officer.

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

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

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

18 (A) When supervision begins;

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

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

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

25 (a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after
26 November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence
27 or to the premises thereof, or be subject to any combination of such confinement and restriction,
28 such confinement or restriction or combination thereof to be for a period not to exceed one year
29 or one-half of the maximum period of confinement that could be imposed for the offense for which
30 the defendant is convicted, whichever is the lesser.

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

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

36 **(3) When a person who is a sex offender is released on probation, the court shall impose**
37 **as a special condition of probation that the person not reside in any dwelling in which an-**
38 **other sex offender who is on probation, parole or post-prison supervision resides, without the**
39 **approval of the person's supervising parole and probation officer, or in which more than one**
40 **other sex offender who is on probation, parole or post-prison supervision resides, without the**
41 **approval of the director of the probation agency that is supervising the person or of the**
42 **county manager of the Department of Corrections, or a designee of the director or manager.**
43 **As soon as practicable, the supervising parole and probation officer of a person subject to**
44 **the requirements of this subsection shall review the person's living arrangement with the**
45 **person's sex offender treatment provider to ensure that the arrangement supports the goals**

1 **of offender rehabilitation and community safety. As used in this subsection:**

2 (a) **“Dwelling” has the meaning given that term in ORS 469.160.**

3 (b) **“Dwelling” does not include a residential treatment facility or a halfway house.**

4 (c) **“Halfway house” means a publicly or privately operated profit or nonprofit residential**
5 **facility that provides rehabilitative care and treatment for sex offenders.**

6 (d) **“Sex offender” has the meaning given that term in ORS 181.594.**

7 [(3)] (4) When a person who is a sex offender, as defined in ORS 181.594, is released on pro-
8 bation, the Department of Corrections or the county community corrections agency, whichever is
9 appropriate, shall notify the chief of police, if the person is going to reside within a city, and the
10 county sheriff of the county in which the person is going to reside of the person’s release and the
11 conditions of the person’s release.

12 [(4)] (5) Failure to abide by all general and special conditions imposed by the court and super-
13 vised by the Department of Corrections or a county community corrections agency may result in
14 arrest, modification of conditions, revocation of probation or imposition of structured, intermediate
15 sanctions in accordance with rules adopted under ORS 137.595.

16 [(5)] (6) The court may at any time modify the conditions of probation.

17 [(6)] (7) A court may not order revocation of probation as a result of the probationer’s failure
18 to pay restitution unless the court determines from the totality of the circumstances that the pur-
19 poses of the probation are not being served.

20 [(7)] (8) It shall not be a cause for revocation of probation that the probationer failed to apply
21 for or accept employment at any workplace where there is a labor dispute in progress. As used in
22 this subsection, “labor dispute” has the meaning for that term provided in ORS 662.010.

23 **SECTION 2.** ORS 144.102 is amended to read:

24 144.102. (1) The State Board of Parole and Post-Prison Supervision or local supervisory authority
25 responsible for correctional services for a person shall specify in writing the conditions of post-
26 prison supervision imposed under ORS 144.096. A copy of the conditions shall be given to the person
27 upon release from prison or jail.

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

31 (a) Comply with the conditions of post-prison supervision as specified by the board or supervi-
32 sory authority.

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

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

36 (d) Report to the parole officer as directed by the board, the department or the supervisory au-
37 thority.

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

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

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

42 (h) Attend a victim impact treatment session in a county that has a victim impact program. If
43 the board or supervisory authority requires attendance under this paragraph, the board or supervi-
44 sory authority may require the person, as an additional condition of post-prison supervision, to pay
45 a reasonable fee to the victim impact program to offset the cost of the person’s participation. The

1 board or supervisory authority shall not order a person to pay a fee in excess of \$5 under this
2 paragraph.

3 (i) If required to report as a sex offender under ORS 181.595, report with the Department of
4 State Police, a chief of police, a county sheriff or the supervising agency:

5 (A) When supervision begins;

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

7 (C) Once each year within 10 days of the person's date of birth.

8 (3)(a) The board or supervisory authority may establish special conditions as the board or su-
9 pervisory authority shall determine are necessary because of the individual circumstances of the
10 person on post-prison supervision.

11 (b) If the person is on post-prison supervision following conviction of a sex crime, as defined in
12 ORS 181.594, the board or supervisory authority shall include all of the following as special condi-
13 tions of the person's post-prison supervision:

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

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

18 (C) A prohibition against frequenting, without the prior written approval of the board, supervi-
19 sory authority or supervising officer, a place where persons under 18 years of age regularly con-
20 gregate.

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

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

27 (F) A prohibition against any contact with the victim, directly or indirectly, unless approved by
28 the victim, the person's treatment provider and the board, supervisory authority or supervising of-
29 ficer.

30 (G) Unless otherwise indicated for the treatment required under subparagraph (E) of this para-
31 graph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating
32 visual or auditory materials that are relevant to the person's deviant behavior.

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

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

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

43 (K) A prohibition against using a post-office box unless approved by the board, supervisory au-
44 thority or supervising officer.

45 **(L) A prohibition against residing in any dwelling in which another sex offender who is**

1 on probation, parole or post-prison supervision resides unless approved by the board, super-
2 visory authority or supervising officer, or in which more than one other sex offender who is
3 on probation, parole or post-prison supervision resides unless approved by the board or the
4 director of the supervisory authority, or a designee of the board or director. As soon as
5 practicable, the supervising officer of a person subject to the requirements of this subpara-
6 graph shall review the person's living arrangement with the person's sex offender treatment
7 provider to ensure that the arrangement supports the goals of offender rehabilitation and
8 community safety. As used in this subparagraph:

9 (i) "Dwelling" has the meaning given that term in ORS 469.160.

10 (ii) "Dwelling" does not include a residential treatment facility or a halfway house.

11 (iii) "Halfway house" means a publicly or privately operated profit or nonprofit residential
12 facility that provides rehabilitative care and treatment for sex offenders.

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

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

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

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

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

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

22 (5) A person's failure to apply for or accept employment at any workplace where there is a labor
23 dispute in progress does not constitute a violation of the conditions of post-prison supervision. As
24 used in this subsection, "labor dispute" has the meaning given that term in ORS 662.010.

25 (6)(a) When a person is released from imprisonment on post-prison supervision, the board shall
26 order, as a condition of post-prison supervision, that the person reside for the first six months after
27 release in the county where the person resided at the time of the offense that resulted in the
28 imprisonment.

29 (b) Upon motion of the board, the person, a victim or a district attorney, the board may waive
30 the residency requirement only after making a finding that one of the following conditions has been
31 met:

32 (A) The person provides proof of employment with no set ending date in a county other than the
33 established county of residence;

34 (B) The person is found to pose a significant danger to a victim of the person's crime, or a vic-
35 tim or victim's family is found to pose a significant danger to the person residing in the established
36 county of residence;

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

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

42 (E) The person desires to be released to another state; or

43 (F) The board finds other good cause, of a nature similar to the other conditions listed in this
44 paragraph, for the waiver.

45 (c)(A) The board shall determine the county where the person resided at the time of the offense

1 by establishing the person's last address at the time of the offense. In making its determination, the
2 board shall examine all the available information in the following records:

- 3 (i) An Oregon driver license, regardless of its validity;
- 4 (ii) Records maintained by the Department of Revenue;
- 5 (iii) Records maintained by the Department of State Police Bureau of Criminal Identification;
- 6 (iv) Records maintained by the Department of Human Services; or
- 7 (v) Records maintained by the Department of Corrections.

8 (B) When the person did not have an identifiable address of record at the time of the offense,
9 the person is considered to have resided in the county where the offense occurred.

10 (C) If the person is serving multiple sentences, the county of residence shall be determined ac-
11 cording to the date of the last arrest resulting in a conviction.

12 (D) In determining the person's county of residence for purposes of this subsection, the board
13 may not consider offenses committed by the person while the person was incarcerated in a Depart-
14 ment of Corrections facility.

15 **SECTION 3.** ORS 144.270 is amended to read:

16 144.270. (1) The State Board of Parole and Post-Prison Supervision, in releasing a person on
17 parole, shall specify in writing the conditions of the parole and a copy of such conditions shall be
18 given to the person paroled.

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

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

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

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

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

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

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

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

30 (3)(a) The board may establish such special conditions as it shall determine are necessary be-
31 cause of the individual circumstances of the parolee.

32 (b) If the person is on parole following conviction of a sex crime, as defined in ORS 181.594, the
33 board shall include all of the following as special conditions of the person's parole:

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

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

37 (C) A prohibition against frequenting, without the prior written approval of the board or
38 supervising officer, a place where persons under 18 years of age regularly congregate.

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

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

44 (F) A prohibition against any contact with the victim, directly or indirectly, unless approved by
45 the victim, the person's treatment provider and the board or supervising officer.

1 (G) Unless otherwise indicated for the treatment required under subparagraph (E) of this para-
2 graph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating
3 visual or auditory materials that are relevant to the person's deviant behavior.

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

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

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

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

15 **(L) A prohibition against residing in any dwelling in which another sex offender who is**
16 **on probation, parole or post-prison supervision resides unless approved by the board or**
17 **supervising officer, or in which more than one other sex offender who is on probation, parole**
18 **or post-prison supervision resides unless approved by the board or a designee of the board.**
19 **As soon as practicable, the supervising officer of a person subject to the requirements of this**
20 **subparagraph shall review the person's living arrangement with the person's sex offender**
21 **treatment provider to ensure that the arrangement supports the goals of offender rehabili-**
22 **tation and community safety. As used in this subparagraph:**

23 (i) "Dwelling" has the meaning given that term in ORS 469.160.

24 (ii) "Dwelling" does not include a residential treatment facility or a halfway house.

25 (iii) "Halfway house" means a publicly or privately operated profit or nonprofit residential
26 facility that provides rehabilitative care and treatment for sex offenders.

27 (4) It shall not be a cause for revocation of parole that the parolee failed to apply for or accept
28 employment at any workplace where there is a labor dispute in progress. As used in this subsection,
29 "labor dispute" has the meaning for that term provided in ORS 662.010.

30 (5)(a) When the board grants an inmate parole from the custody of the Department of Cor-
31 rections, the board shall order, as a condition of parole, that the inmate reside for the first six
32 months in the county where the inmate resided at the time of the offense that resulted in the
33 imprisonment.

34 (b) Upon motion of the board, an inmate, a victim or a district attorney, the board may waive
35 the residency requirement only after making a finding that one of the following conditions has been
36 met:

37 (A) The inmate provides proof of a job with no set ending date in a county other than the es-
38 tablished county of residence;

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

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

45 (D) As another condition of parole, the inmate is required to participate in a treatment program

1 which is not available or located in the county of residence;

2 (E) The inmate desires to be paroled to another state; or

3 (F) The board finds other good cause, of a nature similar to the other conditions listed in this
4 paragraph, for the waiver.

5 (c)(A) For purposes of this subsection, “residency” means the last address at the time of the
6 offense, as established by an examination of all the available information in the following records:

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

8 (ii) Records maintained by the Department of Revenue;

9 (iii) Records maintained by the Department of State Police, Bureau of Criminal Identification;

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

11 (v) Records maintained by the Department of Corrections.

12 (B) When an inmate did not have one identifiable address of record at the time of the offense,
13 the inmate shall be considered to have resided in the county where the offense occurred.

14 (C) If the inmate is serving multiple sentences, the county of residence shall be determined ac-
15 cording to the date of the last arrest resulting in a conviction.

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

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

20 (6) When the board grants an inmate parole from the custody of the Department of Corrections
21 and if the inmate is required to report as a sex offender under ORS 181.595, the board, as a condi-
22 tion of parole, shall order the inmate to report with the Department of State Police, a chief of police,
23 a county sheriff or the supervising agency:

24 (a) When supervision begins;

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

26 (c) Once each year within 10 days of the inmate’s date of birth.

27 **SECTION 4.** ORS 144.641 is amended to read:

28 144.641. As used in **this section and** ORS 144.642, 144.644 and 144.646:

29 (1) **“Dwelling” has the meaning given that term in ORS 469.160.**

30 (2) **“Dwelling” does not include a residential treatment facility or a halfway house.**

31 (3) **“Halfway house” means a publicly or privately operated profit or nonprofit residential**
32 **facility that provides rehabilitative care and treatment for sex offenders.**

33 [(1)] (4) “Locations where children are the primary occupants or users” includes, but is not
34 limited to, public and private elementary and secondary schools and licensed day care centers.

35 [(2)] (5) “Sex offender” means a:

36 (a) Sexually violent dangerous offender as defined in ORS 137.765; or

37 (b) Predatory sex offender as described in ORS 181.585.

38 [(3)] (6) “Transitional housing” means housing intended to be occupied by a sex offender for 45
39 days or less immediately after release from incarceration.

40 **SECTION 5.** ORS 144.642 is amended to read:

41 144.642. (1) The Department of Corrections, in consultation with the State Board of Parole and
42 Post-Prison Supervision and community corrections agencies, shall adopt rules establishing criteria
43 to be considered in determining the permanent residence requirements for a sex offender released
44 on post-prison supervision or parole. Transitional housing is not subject to permanent residence re-
45 quirements. The department shall include in the rules:

1 (a) A general prohibition against allowing a sex offender to reside near locations where children
2 are the primary occupants or users;

3 (b) The bases upon which exceptions to the general prohibition required by paragraph (a) of this
4 subsection are authorized;

5 **(c) A prohibition against allowing a sex offender to reside in any dwelling in which an-**
6 **other sex offender on probation, parole or post-prison supervision resides unless authorized**
7 **as provided in ORS 144.102 (3)(b)(L); and**

8 [(c)] (d) A process that allows communities and community corrections agencies that would be
9 affected by a decision about the location of a sex offender's residence to be informed of the decision
10 making process before the offender is released.

11 (2) Based upon the rules adopted under subsection (1) of this section, the department shall de-
12 velop a decision matrix to be used in determining the permanent residence requirements for a sex
13 offender.

14 **SECTION 6.** ORS 144.644 is amended to read:

15 144.644. (1) The State Board of Parole and Post-Prison Supervision, in consultation with the
16 Department of Corrections and community corrections agencies, shall adopt rules establishing cri-
17 teria to be considered:

18 (a) In reviewing the proposed residence of a sex offender in a release plan under ORS 144.096
19 or a parole plan under ORS 144.125; and

20 (b) In determining the residence of a sex offender in a release plan under ORS 144.096, as a
21 condition of post-prison supervision under ORS 144.102 or as a condition of parole under ORS
22 144.270.

23 (2) The board shall include in the rules:

24 (a) A general prohibition against allowing a sex offender to reside near locations where children
25 are the primary occupants or users;

26 (b) The bases upon which exceptions to the general prohibition required by paragraph (a) of this
27 subsection are authorized;

28 **(c) A prohibition against allowing a sex offender to reside in any dwelling in which an-**
29 **other sex offender on probation, parole or post-prison supervision resides unless authorized**
30 **as provided in ORS 144.102 (3)(b)(L); and**

31 [(c)] (d) A process that allows communities and community corrections agencies that would be
32 affected by a decision about the location of a sex offender's residence to be informed of the decision
33 making process before the offender is released.

34 (3) Based upon the rules adopted under subsections (1) and (2) of this section, the board shall
35 develop a decision matrix to be used in determining the specific residence for a sex offender.

36