

**Enrolled**  
**House Bill 3419**

Sponsored by Representative KITTS; Representatives NELSON, RILEY

CHAPTER .....

AN ACT

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

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

**SECTION 1.** ORS 137.540 is amended to read:

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

- (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 Department of Corrections or a county community corrections agency.
- (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 prior permission from the Department of Corrections or a county community corrections agency.
- (h) Permit the probation officer to visit the probationer or the probationer's work site or residence and to conduct a walk-through of the common areas and of the rooms in the residence occupied by or under the control of the probationer.
- (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) 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 163.467, and if recommended by the supervising officer, successfully complete a sex offender treat-

ment 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.

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

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

(A) When supervision begins;

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

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

(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.

(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 Oregon Criminal Justice Commission.

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

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

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

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

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

(d) "Sex offender" has the meaning given that term in ORS 181.594.

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

[4] (5) Failure to abide by all general and special conditions imposed by the court and supervised by the 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 ORS 137.595.

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

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

[7] (8) 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 1a. If House Bill 2145 becomes law, section 1 of this 2005 Act (amending ORS 137.540) is repealed and ORS 137.540, as amended by section 3, chapter 264, Oregon Laws 2005 (Enrolled House Bill 2145), is amended to read:**

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

(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 Department of Corrections or a county community corrections agency.

(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 prior permission from the Department of Corrections or a county community corrections agency.

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

(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) 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 163.467, 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.

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

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

(A) When supervision begins;

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

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

(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.

(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 Oregon Criminal Justice Commission.

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

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

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

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

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

(d) "Sex offender" has the meaning given that term in ORS 181.594.

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

[4] (5) Failure to abide by all general and special conditions imposed by the court and supervised by the 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 ORS 137.595.

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

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

[7] (8) 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 2.** ORS 144.102 is amended to read:

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

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

(a) Comply with the conditions of post-prison supervision as specified by the board or supervisory authority.

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

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

(d) Report to the parole officer as directed by the board, the department or the supervisory authority.

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

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

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

(h) Attend a victim impact treatment session in a county that has a victim impact program. If the board or supervisory authority requires attendance under this paragraph, the board or supervisory authority may require the person, as an additional condition of post-prison supervision, to pay a reasonable fee to the victim impact program to offset the cost of the person's participation. The board or supervisory authority shall not order a person to pay a fee in excess of \$5 under this paragraph.

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

(A) When supervision begins;

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

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

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

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

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

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

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

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

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

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

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

(H) Agreement to consent to a search of the person or the vehicle or residence of the person upon the request of a representative of the board or supervisory authority if the representative has

reasonable grounds to believe that evidence of a violation of a condition of post-prison supervision will be found.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) The person desires to be released to another state; or  
(F) The board finds other good cause, of a nature similar to the other conditions listed in this paragraph, for the waiver.

(c)(A) The board shall determine the county where the person resided at the time of the offense by establishing the person's last address at the time of the offense. In making its determination, the board shall examine all the available information in the following records:

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

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

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

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

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

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

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

- (a) Accept the parole granted subject to all terms and conditions specified by the board.
- (b) Be under the supervision of the Department of Corrections and its representatives and abide by their direction and counsel.
- (c) Answer all reasonable inquiries of the board or the parole officer.
- (d) Report to the parole officer as directed by the board or parole officer.
- (e) Not own, possess or be in control of any weapon.
- (f) Respect and obey all municipal, county, state and federal laws.
- (g) Understand that the board may, in its discretion, suspend or revoke parole if it determines that the parole is not in the best interest of the parolee, or in the best interest of society.

(3)(a) The board may establish such special conditions as it shall determine are necessary because of the individual circumstances of the parolee.

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

- (A) Agreement to comply with any curfew set by the board or the supervising officer.
- (B) A prohibition against contacting a person under 18 years of age without the prior written approval of the board or supervising officer.
- (C) A prohibition against frequenting, without the prior written approval of the board or supervising officer, a place where persons under 18 years of age regularly congregate.
- (D) A prohibition against working or volunteering at a school, day care center, park, playground or other place where persons under 18 years of age regularly congregate.
- (E) Entry into and completion of or successful discharge from a sex offender treatment program approved by the board or supervising officer. The program may include polygraph and plethysmograph testing. The person is responsible for paying for the treatment program.
- (F) A prohibition against any contact with the victim, directly or indirectly, unless approved by the victim, the person's treatment provider and the board or supervising officer.
- (G) Unless otherwise indicated for the treatment required under subparagraph (E) of this paragraph, a prohibition against viewing, listening to, owning or possessing any sexually stimulating visual or auditory materials that are relevant to the person's deviant behavior.

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

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

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

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

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

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

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

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

(4) It shall not be a cause for revocation of parole that the parolee 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.

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

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

(A) The inmate provides proof of a job with no set ending date in a county other than the established county of residence;

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

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

(D) As another condition of parole, the inmate is required to participate in a treatment program which is not available or located in the county of residence;

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

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

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

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

(ii) Records maintained by the Department of Revenue;

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

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

(v) Records maintained by the Department of Corrections.

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

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

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

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

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

(a) When supervision begins;

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

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

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

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

(1) **"Dwelling" has the meaning given that term in ORS 469.160.**

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

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

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

[(2)] (5) "Sex offender" means a:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The board shall include in the rules:

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

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

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

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

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

Passed by House May 23, 2005

Received by Governor:

Repassed by House June 30, 2005

.....M.,....., 2005

Approved:

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Chief Clerk of House

.....M.,....., 2005

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Speaker of House

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Governor

Passed by Senate June 29, 2005

Filed in Office of Secretary of State:

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President of Senate

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Secretary of State