

Enrolled
Senate Bill 243

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CHAPTER

AN ACT

Relating to conditions of release; creating new provisions; and amending ORS 144.102 and 144.270.

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

SECTION 1. 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]* **being present more than one time**, without the prior written approval of the board, supervisory authority or supervising officer, **at a place where persons under 18 years of age regularly congregate.**

(D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition against being present, without the prior written approval of the board, supervisory authority or supervising officer, at, or on property adjacent to, a school, child care center, playground or other place intended for use primarily by persons under 18 years of age.

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

[(E)] **(F)** 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)] **(G)** 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)] **(H)** Unless otherwise indicated for the treatment required under subparagraph *[(E)]* **(F)** 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)] **(I)** 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)] **(J)** 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)] **(K)** 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)] **(L)** A prohibition against using a post-office box unless approved by the board, supervisory authority or supervising officer.

(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 2. 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*] **being present more than one time**, without the prior written approval of the board or supervising officer, **at** a place where persons under 18 years of age regularly congregate.

(D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition against being present, without the prior written approval of the board or supervising officer, at, or on property adjacent to, a school, child care center, playground or other place intended for use primarily by persons under 18 years of age.

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

[(E)] (F) 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)] (G) 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)] (H) Unless otherwise indicated for the treatment required under subparagraph [(E)] (F) 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)] (I) 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)] (J) 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)] (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless approved by the board or supervising officer.

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

(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 3. The amendments to ORS 144.102 and 144.270 by sections 1 and 2 of this 2005 Act apply to persons convicted of offenses committed before, on or after the effective date of this 2005 Act.

Passed by Senate May 9, 2005

Repassed by Senate July 5, 2005

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Secretary of Senate

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President of Senate

Passed by House June 30, 2005

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Speaker of House

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Approved:

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Governor

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Secretary of State