

**WHAT GOES INTO OREGON LAW AS THE RESULT OF  
THE PASSAGE OF BALLOT MEASURE 57 OVER BALLOT MEASURE 61**

**A. Sections 1 through 12 of Enrolled Senate Bill 1087 (2008 Oregon Laws, chapter 14), referred to and passed by the voters as Ballot Measure 57, provide:**

**SECTION 1.** The Legislative Assembly finds and declares that:

(1) The manufacturing and dealing of methamphetamine, heroin, cocaine and ecstasy are especially damaging to our community.

(2) Many Oregonians are addicted to these drugs. Some of these drug-addicted persons present a danger to public safety by committing crimes to feed their addictions.

(3) In order to reduce the risk of future criminal activity, these drug-addicted offenders need the opportunity to change their behavior through effective drug treatment.

(4) Sections 2 to 5 and 6 of this 2008 Act and the amendments to ORS 137.717 and 164.162 by sections 7 and 10 of this 2008 Act increase the punishment for offenders who commit high-level or repeat drug and property crimes.

(5) Section 8 of this 2008 Act increases the availability of treatment for drug-addicted offenders.

(6) Section 9 of this 2008 Act requires swift and certain punishment for offenders who refuse or fail to successfully complete treatment as a condition of probation, parole or post-prison supervision.

**SECTION 2.** When a person is convicted of the unlawful delivery or manufacture of a controlled substance, the court shall sentence the person to a term of incarceration ranging from:

(1) 58 months to 130 months, depending on the person's criminal history, if the delivery or manufacture involves:

(a) 500 grams or more of a mixture or substance containing a detectable amount of cocaine;

(b) 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;

(c) 100 grams or more of a mixture or substance containing a detectable amount of heroin; or

(d) 100 grams or more or 500 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of ecstasy.

(2) 34 months to 72 months, depending on the person's criminal history, if the delivery or manufacture involves:

(a) 100 grams or more of a mixture or substance containing a detectable amount of cocaine;

(b) 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;

(c) 50 grams or more of a mixture or substance containing a detectable amount of heroin; or

(d) 50 grams or more or 250 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of ecstasy.

**SECTION 3.** (1) When a person is convicted of the unlawful delivery of cocaine, methamphetamine, heroin or ecstasy to a person under 18 years of age, the court shall sentence the person to a term of incarceration ranging from 34 months to 72 months, depending on the person's criminal history.

(2) The sentence described in subsection (1) of this section does not apply to a person who is less than three years older than the person under 18 years of age to whom the controlled substance was delivered, unless the person has a previous conviction for delivery of cocaine, methamphetamine, heroin or ecstasy to a person under 18 years of age.

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**SECTION 4.** When a person is convicted of aggravated theft in the first degree under ORS 164.057, the court shall sentence the person to a term of incarceration ranging from 16 months to 45 months, depending on the person's criminal history, if:

(1) The victim of the theft was 65 years of age or older at the time of the commission of the offense; and

(2) The value of the property stolen from the victim described in subsection (1) of this section, in a single or aggregate transaction, is \$10,000 or more.

**SECTION 5.** As used in sections 2 to 5 of this 2008 Act:

(1) "Controlled substance" means:

(a) Cocaine;

(b) Methamphetamine;

(c) Heroin; or

(d) Ecstasy.

(2) "Ecstasy" means:

(a) 3,4-methylenedioxymethamphetamine;

(b) 3,4-methylenedioxyamphetamine; or

(c) 3,4-methylenedioxy-N-ethylamphetamine.

(3) "Mixture or substance" means any mixture or substance, whether or not the mixture or substance is in an ingestible or marketable form at the time of the offense.

**SECTION 6.** (1) When a court sentences a person convicted of a crime listed in subsection (2) of this section, the court may not impose a sentence of optional probation or grant a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission if the person has a previous conviction for any of the crimes listed in subsection (2) of this section.

(2) The crimes to which subsection (1) of this section applies are:

(a) Manufacture or delivery of a controlled substance, other than marijuana, under ORS 475.840 (1);

(b) Creation or delivery of a counterfeit substance, other than marijuana, under ORS 475.840 (2);

(c) Manufacture or delivery of heroin under ORS 475.846, 475.848, 475.850 or 475.852;

(d) Manufacture or delivery of 3,4-methylenedioxymethamphetamine under ORS 475.866, 475.868, 475.870 or 475.872;

(e) Manufacture or delivery of cocaine under ORS 475.876, 475.878, 475.880 or 475.882;

(f) Manufacture or delivery of methamphetamine under ORS 475.886, 475.888, 475.890 or 475.892;

(g) Manufacture or delivery of a controlled substance within 1,000 feet of a school under ORS 475.904;

(h) Delivery of a controlled substance to a person under 18 years of age under ORS 475.906; and

(i) Possession of a precursor substance with intent to manufacture a controlled substance under ORS 475.967.

(3)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of sentence. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

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(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(4) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

(5) As used in this section, “previous conviction” means:

(a) Convictions occurring before, on or after the effective date of this 2008 Act; and

(b) Convictions entered in any other state or federal court for comparable offenses.

**SECTION 7.** ORS 137.717 is amended to read:

137.717. (1) When a court sentences a person convicted of:

(a) Aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225, **robbery in the third degree under ORS 164.395, identity theft under ORS 165.800** or aggravated identity theft under ORS 165.803, the presumptive sentence is [19] **24** months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary in the first degree under ORS 164.225, **robbery in the third degree under ORS 164.395**, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated identity theft under ORS 165.803; [or]

(B) [Four] **Two or more** previous convictions for any combination of the [other] crimes listed in subsection (2) of this section[.]; **or**

(C) **A previous conviction for a crime listed in subsection (2) of this section if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.**

(b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS 164.135, **mail theft or receipt of stolen mail under ORS 164.162**, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS 164.377, forgery in the first degree under ORS 165.013, **criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b)**, [*identity theft under ORS 165.800,*] possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310, the presumptive sentence is [13] **18** months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, **robbery in the third degree under ORS 164.395**, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803; [or]

(B) [Four] **Two or more** previous convictions for any combination of the [other] crimes listed in subsection (2) of this section[.]; **or**

(C) **A previous conviction for a crime listed in subsection (2) of this section if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.**

(2) The crimes to which subsection (1) of this section applies are:

(a) Theft in the second degree under ORS 164.045;

(b) Theft in the first degree under ORS 164.055;

(c) Aggravated theft in the first degree under ORS 164.057;

(d) Unauthorized use of a vehicle under ORS 164.135;

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**(e) Mail theft or receipt of stolen mail under ORS 164.162;**

[(e)] **(f) Burglary in the second degree under ORS 164.215;**

[(f)] **(g) Burglary in the first degree under ORS 164.225;**

[(g)] **(h) Criminal mischief in the second degree under ORS 164.354;**

[(h)] **(i) Criminal mischief in the first degree under ORS 164.365;**

[(i)] **(j) Computer crime under ORS 164.377;**

[(j)] **(k) Forgery in the second degree under ORS 165.007;**

[(k)] **(L) Forgery in the first degree under ORS 165.013;**

[(L)] **(m) Criminal possession of a forged instrument in the second degree under ORS 165.017;**

[(m)] **(n) Criminal possession of a forged instrument in the first degree under ORS 165.022;**

[(n)] **(o) Fraudulent use of a credit card under ORS 165.055;**

[(o)] **(p) Identity theft under ORS 165.800;**

[(p)] **(q) Possession of a stolen vehicle under ORS 819.300; [and]**

[(q)] **(r) Trafficking in stolen vehicles under ORS 819.310[.]; and**

**(s) Any attempt to commit a crime listed in this subsection.**

**(3)(a) A presumptive sentence described in subsection (1) of this section shall be increased by two months for each previous conviction the person has that:**

**(A) Was for any of the crimes listed in subsection (1) or (2) of this section; and**

**(B) Was not used as a predicate for the presumptive sentence under subsection (1) of this section.**

**(b) Previous convictions may not increase a presumptive sentence described in subsection (1) of this section by more than 12 months under this subsection.**

[(3)] **(4) The court may impose a sentence other than the sentence provided by subsection (1) or (3) of this section if the court imposes:**

**(a) A longer term of incarceration that is otherwise required or authorized by law; or**

**(b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure allowed for a person sentenced under this subsection is double the presumptive sentence provided in subsection (1) or (3) of this section.**

[(4) *As used in this section, "previous conviction" includes:*

[(a) *Convictions occurring before, on or after July 1, 2003; and]*

[(b) *Convictions entered in any other state or federal court for comparable offenses.*]

**(5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under subsection (4) of this section to a term of incarceration that exceeds the period of time described in ORS 161.605.**

**(6) The court shall sentence a person under this section to at least the presumptive sentence described in subsection (1) or (3) of this section, unless the parties stipulate otherwise or the court finds that:**

**(a) The person was not on probation, parole or post-prison supervision for a crime listed in subsection (1) of this section at the time of the commission of the current crime of conviction;**

**(b) The person has not previously received a downward departure from a presumptive sentence for a crime listed in subsection (1) of this section;**

**(c) The harm or loss caused by the crime is not greater than usual for that type of crime; and**

**(d) In consideration of the nature of the offense and the harm to the victim, a downward departure will:**

**(A) Increase public safety;**

**(B) Enhance the likelihood that the person will be rehabilitated; and**

**(C) Not unduly reduce the appropriate punishment.**

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[(5)(a)] **(7)(a)** For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

[(6)] **(8)** For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

**(9) As used in this section:**

**(a) “Downward departure” means a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission.**

**(b) “Previous conviction” includes:**

**(A) Convictions occurring before, on or after July 1, 2003; and**

**(B) Convictions entered in any other state or federal court for comparable offenses.**

**SECTION 8. (1) The Department of Corrections shall:**

**(a) Provide appropriate treatment services to drug-addicted persons in the custody of the department who are at a high or medium risk of reoffending and who have moderate to severe treatment needs; and**

**(b) Make grants to counties in order to provide supplemental funding for:**

**(A) The operation of local jails;**

**(B) Appropriate treatment services for drug-addicted persons on probation, parole or post-prison supervision; or**

**(C) The intensive supervision of drug-addicted persons on probation, parole or post-prison supervision, including the incarceration of drug-addicted persons who have violated the terms and conditions of probation, parole or post-prison supervision.**

**(2) The Oregon Criminal Justice Commission shall make grants to counties in order to provide supplemental funding for drug courts for drug-addicted persons, including the costs of appropriate treatment services and the incarceration of persons who have violated the terms and conditions of a drug court.**

**(3)(a) The appropriate legislative committee shall periodically conduct oversight hearings on the effectiveness of this section.**

**(b) The Oregon Criminal Justice Commission shall periodically conduct independent evaluations of the programs funded by this section for their effectiveness in reducing criminal behavior in a cost-effective manner.**

**(4) Nothing in section 1, 2 to 5, 6, 8, 9 or 11 of this 2008 Act or the amendments to ORS 137.717 or 164.162 by sections 7 and 10 of this 2008 Act:**

**(a) Creates any claim, right of action or civil liability; or**

**(b) Requires a supervisory authority or the Department of Corrections to provide treatment to any individual under the authority’s supervision or in the department’s custody.**

**SECTION 9. If a person on probation, parole or post-prison supervision is required to successfully complete a drug or alcohol treatment program as a condition of supervision and the person refuses or otherwise fails to successfully complete the treatment program, the court or the supervising authority shall impose swift and certain punishment, including incarceration in jail.**

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**SECTION 10.** ORS 164.162 is amended to read:

164.162. (1) A person commits the crime of mail theft or receipt of stolen mail if the person intentionally:

- (a) Takes or, by fraud or deception, obtains mail from a post office, postal station, mail receptacle, authorized depository or mail carrier;
  - (b) Takes from mail any article contained therein;
  - (c) Secretes, embezzles or destroys mail or any article contained therein;
  - (d) Takes or, by fraud or deception, obtains mail that has been delivered to or left for collection on or adjacent to a mail receptacle or authorized depository; or
  - (e) Buys, receives, conceals or possesses mail or any article contained therein knowing that the mail or article has been unlawfully taken or obtained.
- (2) Mail theft or receipt of stolen mail is a Class **C felony** [*A misdemeanor*].

**SECTION 11. (1) When a court sentences a person under sections 2 to 5 of this 2008 Act:**

**(a) The court shall use the criminal history scale of the sentencing guidelines grid of the Oregon Criminal Justice Commission to determine the sentence to impose. The sentence described in:**

**(A) Section 2 (1) of this 2008 Act shall be determined utilizing crime category 10 of the sentencing guidelines grid.**

**(B) Sections 2 (2) and 3 (1) of this 2008 Act shall be determined utilizing crime category 9 of the sentencing guidelines grid.**

**(C) Section 4 of this 2008 Act shall be determined utilizing crime category 8 of the sentencing guidelines grid.**

**(b)(A) Notwithstanding ORS 161.605, the court shall impose the sentence described in sections 2 to 5 of this 2008 Act and may not impose a sentence of optional probation or grant a downward dispositional departure or a downward durational departure under the rules of the commission.**

**(B) The court may impose a sentence other than the sentence described in sections 2 to 5 of this 2008 Act if the court imposes a longer term of incarceration that is otherwise required or authorized by law.**

**(2) A person sentenced under sections 2 to 5 of this 2008 Act may not receive a reduction in the term of incarceration for appropriate institutional behavior that exceeds 20 percent of the sentence imposed.**

**SECTION 12. (1) Sections 1 to 6 and 11 of this 2008 Act and the amendments to ORS 137.717 and 164.162 by sections 7 and 10 of this 2008 Act become operative on January 1, 2009.**

**(2) Sections 2 to 6 and 11 of this 2008 Act and the amendments to ORS 137.717 and 164.162 by sections 7 and 10 of this 2008 Act apply to sentences imposed for crimes committed on or after January 1, 2009.**

**(3) Sections 8 and 9 of this 2008 Act become operative on July 1, 2009.**

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***B. Sections 8 through 10 of House Bill 3638 (2008 Oregon Laws, chapter 128), which were made contingent on the passage of Ballot Measure 57 over Ballot Measure 61, provide:***

**SECTION 8.** As used in section 8, chapter 14, Oregon Laws 2008 (Enrolled Senate Bill 1087):

(1) “Drug-addicted person” means a person who has lost the ability to control the personal use of controlled substances or alcohol, or who uses controlled substances or alcohol to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. A drug-addicted person may be physically dependent, a condition in which the body requires a continuing supply of a controlled substance or alcohol to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of a controlled substance or alcohol.

(2) “Intensive supervision” means the active monitoring of a person’s performance in a treatment program by a parole and probation officer and the imposition of sanctions, or request to a court for sanctions, if the person fails to abide by the terms and conditions of a treatment program.

**SECTION 9.** (1) The Department of Corrections shall determine which persons are eligible for treatment under section 8 (1), chapter 14, Oregon Laws 2008 (Enrolled Senate Bill 1087), using an actuarial risk assessment tool.

(2) The department shall adopt rules to administer the grant program described in section 8 (1), chapter 14, Oregon Laws 2008 (Enrolled Senate Bill 1087).

(3) Prior to adopting the rules described in subsection (2) of this section, the department shall consult with a broad-based committee that includes representatives of:

- (a) County boards of commissioners;
- (b) County sheriffs;
- (c) District attorneys;
- (d) County community corrections;
- (e) The Oregon Criminal Justice Commission;
- (f) Presiding judges of the judicial districts of this state;
- (g) Public defenders; and
- (h) Treatment providers.

(4) In determining which grant proposals to fund within each county, the department shall:

- (a) Consult with the committee described in subsection (3) of this section;
- (b) Give priority to those proposals that are best designed to reduce crime and drug addiction;

and

(c) Be guided by evidence-based practices, risk assessment tools or other research based considerations.

**SECTION 10.** Nothing in section 1, 7, 8 or 9 of this 2008 Act or the amendments to ORS 137.281, 137.750, 421.502, 421.508 or 421.510 by sections 2, 3, 4, 5 and 6 of this 2008 Act:

(1) Creates any claim, right of action or civil liability; or

(2) Requires a supervisory authority or the Department of Corrections to provide treatment to any individual under the authority’s supervision or in the custody of the department.

**SECTION 11.** (1) Section 1 of this 2008 Act and the amendments to ORS 137.750, 421.502, 421.508 and 421.510 by sections 2 to 5 of this 2008 Act apply to persons sentenced for a crime committed on or after January 1, 2009.

(2) Section 7 of this 2008 Act and the amendments to ORS 137.281 by section 6 of this 2008 Act apply to persons incarcerated on or after January 1, 2009.

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**WHAT WENT INTO OREGON LAW REGARDLESS OF THE  
PASSAGE OF BALLOT MEASURE 57 OVER BALLOT MEASURE 61**

**C. Sections 1 through 7 of House Bill 3638 (2008 Oregon Laws, chapter 128) provide:**

**SECTION 1.** (1) When a court sentences a defendant to a term of incarceration that exceeds one year, the defendant may request a determination of the defendant's eligibility for release on post-prison supervision under ORS 421.508 (4). The court shall order in the judgment that the Department of Corrections may release the defendant on post-prison supervision under ORS 421.508 (4) only if, after a hearing, the court finds that:

(a) The defendant meets the eligibility requirements of subsections (2) and (3) of this section;  
(b) The defendant was not on probation, parole or post-prison supervision for an offense listed in ORS 137.712 (4) or 811.705 (2)(b) at the time of the commission of the current crime of conviction;  
(c) The defendant has not previously been released on post-prison supervision under ORS 421.508 (4);

(d) The harm or loss caused by the crime is not greater than usual for that type of crime;  
(e) The crime was not part of an organized criminal operation; and  
(f) After considering the nature of the offense and the harm to the victim, the defendant's successful completion of the program would:

- (A) Increase public safety;  
(B) Enhance the likelihood that the defendant would be rehabilitated; and  
(C) Not unduly reduce the appropriate punishment.

(2) Except as provided in subsection (4) of this section, a defendant may not be released on post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime under ORS 163.145, 163.165 (1)(a) or (b), 163.525 or 811.705 (2)(b).

(3) A defendant may not be released on post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime listed in ORS 137.700, 137.707, 163.095 or 181.594 (4).

(4) Notwithstanding subsection (1) of this section, the parties may stipulate to a defendant's eligibility for release on post-prison supervision under ORS 421.508 (4). If the court accepts the stipulation, the court does not need to make explicit findings regarding the factors described in subsection (1)(b) to (f) of this section. The parties may not stipulate to the defendant's release on post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime described in subsection (3) of this section.

(5) If the court makes the findings described in subsection (1) of this section or accepts the stipulation of the parties under subsection (4) of this section, the court shall:

(a) Order on the record in open court as part of the sentence imposed that the defendant may be considered by the department for release on post-prison supervision under ORS 421.508 (4); and  
(b) Include the order described in paragraph (a) of this subsection in the judgment.

(6) Subject to the requirements of this section, the court may order that the defendant serve a minimum period of incarceration before the defendant is released on post-prison supervision under ORS 421.508 (4). Nothing in this section authorizes the release of the defendant on post-prison supervision before the defendant has served the period of time described in ORS 421.508 (4)(b).

**SECTION 2.** ORS 137.750 is amended to read:

137.750. (1) When a court sentences a defendant to a term of incarceration upon conviction of a crime, the court shall order on the record in open court as part of the sentence imposed that the defendant may be considered by the executing or releasing authority for any form of temporary leave from custody, reduction in sentence, work release[, *alternative incarceration program*] or program of conditional or supervised release authorized by law for which the defendant is otherwise eligible at the time of sentencing,

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unless the court finds on the record in open court substantial and compelling reasons to order that the defendant not be considered for such leave, release or [programs] **program**.

(2) The executing or releasing authority may consider the defendant for [the programs] **a program** described in subsection (1) of this section only upon order of the sentencing court appearing in the judgment.

(3) As used in this section:

(a) “Executing or releasing authority” means the Department of Corrections, State Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board, sentencing court or supervisory authority.

(b) “Supervisory authority” has the meaning given that term in ORS 144.087.

**SECTION 3.** ORS 421.502 is amended to read:

421.502. As used in ORS 421.502 to 421.512:

(1) “Cognitive restructuring” means any rehabilitation process that redirects the thinking of an offender into more socially acceptable directions and that is generally accepted by rehabilitation professionals.

(2) “Department” means the Department of Corrections.

[(3)(a) “Offender” includes a person who:]

[(A) Is in the custody of the department; and]

[(B) Is at least 18 years of age at the time of entry into the program.]

[(b) “Offender” includes a person who is under 18 years of age and has been convicted of a crime upon remand from the juvenile court.]

[(c) “Offender” does not include a person convicted of a crime described in ORS 163.095, 163.115, 163.118, 163.235, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 163.435, 163.525, 164.325 or 164.415.]

[(4)] **(3)** “Program” means the special alternative incarceration program established under ORS 421.504 and the intensive alternative incarceration addiction program established under ORS 421.506.

**SECTION 4.** ORS 421.508 is amended to read:

421.508. (1)(a) The Department of Corrections is responsible for determining which offenders are eligible to participate in, and which offenders are accepted for, a program. **However, the department may not release an offender under subsection (4) of this section unless authorized to do so as provided in section 1 of this 2008 Act.** [However, the department may not consider an offender for a program unless authorized to do so as provided in ORS 137.750.]

(b) The department may not accept an offender into a program unless the offender submits a written request to participate. The request must contain a signed statement providing that the offender:

(A) Is physically and mentally able to withstand the rigors of the program; and

(B) Has reviewed the program description provided by the department and agrees to comply with each of the requirements of the program.

(c) The department may deny, for any reason, a request to participate in a program. The department shall make the final determination regarding an offender’s physical or mental ability to withstand the rigors of the program.

(d) If the department determines that an offender’s participation in a program is consistent with the safety of the community, the welfare of the applicant, the program objectives and the rules of the department, the department may, in its discretion, accept the offender into the program.

(2) The department may suspend **or remove** an offender from a program for administrative or disciplinary reasons.

**(3) The department may not accept an offender into a program if:**

**(a) The department has removed the offender from a program during the term of incarceration for which the offender is currently sentenced; or**

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**(b) The offender has a current detainer from any jurisdiction that will not expire prior to the offender's release from the custody of the department.**

[(3)] **(4) When an offender has successfully completed a program, the department may release the offender on post-prison supervision if:**

**(a) The court has entered the order described in section 1 of this 2008 Act; and**

**(b) The offender has served a term of incarceration of at least one year.**

**(5) An offender may not be released on post-prison supervision under subsection (4) of this section if the release would reduce the term of incarceration the offender would otherwise be required to serve by more than 20 percent.**

**(6) For the purposes of calculating the term of incarceration served under subsection (4)(b) of this section, the department shall include:**

**(a) The time that an offender is confined under ORS 137.370 (2)(a); and**

**(b) The time for which an offender is granted nonprison leave under ORS 421.510.**

**(7) Successful completion of a program does not relieve the offender from fulfilling any other obligations imposed as part of the sentence including, but not limited to, the payment of restitution and fines.**

**SECTION 5.** ORS 421.510 is amended to read:

*421.510. [Offenders participating in a program are eligible for transitional leave as provided in ORS 421.168. Notwithstanding the 30-day maximum period allowed in ORS 421.168, the Department of Corrections may grant a transitional leave of up to 90 days for an offender in a program. The offender may not be released on transitional leave more than 90 days prior to the offender's discharge date.]*

**(1) The Department of Corrections may consider an offender for nonprison leave under this section if the court has entered the order described in section 1 of this 2008 Act.**

**(2) Nonprison leave shall provide offenders with an opportunity to secure appropriate transitional support when necessary for successful reintegration into the community prior to the offenders' discharge to post-prison supervision.**

**(3) An offender may submit a nonprison leave plan to the Department of Corrections. The plan shall indicate that the offender has secured an employment, educational or other transitional opportunity in the community to which the offender will be released and that a leave of up to 90 days is an essential part of the offender's successful reintegration into the community.**

**(4) Upon verification of the offender's nonprison leave plan, the department may grant nonprison leave no more than 90 days prior to the offender's date of release on post-prison supervision under ORS 421.508 (4).**

**(5) The department shall establish by rule a set of conditions for offenders released on nonprison leave. An offender on nonprison leave shall be subject to immediate return to prison for any violation of the conditions of nonprison leave.**

**(6) During the period of nonprison leave, the offender must reside in, and be supervised within, the state.**

**SECTION 6.** ORS 137.281 is amended to read:

*137.281. (1) In any felony case, [when the court sentences the defendant to a term of imprisonment in the custody of the Department of Corrections and execution of the sentence is not suspended, or execution is suspended upon condition that the defendant serve a term of imprisonment in the county jail,] **when the defendant is sentenced to a term of incarceration,** the defendant is deprived of all rights and privileges described in subsection (3) of this section from the date of sentencing until:*

*(a) The defendant is **released from incarceration** [discharged or paroled from imprisonment]; or*

*(b) The defendant's conviction is set aside.*

**(2) Subsection (1) of this section applies to any term of incarceration, whether the term of incarceration was imposed as a result of conviction or as a sanction or revocation resulting from the**

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**defendant's violation of the terms and conditions of probation, parole or post-prison supervision.** [*In any felony case, when the court sentences the defendant to a term of imprisonment in the custody of the Department of Corrections and execution of the sentence is suspended upon any condition other than imprisonment in the county jail, if the sentence of probation is revoked and the suspended portion of the sentence is ordered executed, the defendant is deprived of the rights and privileges described in subsection (3) of this section from the date the sentence is ordered executed until:*]

*[(a) The defendant is discharged or paroled from imprisonment; or]*

*[(b) The defendant's conviction is set aside.]*

(3) The rights and privileges of which a person may be deprived under this section are:

(a) Holding a public office or an office of a political party or becoming or remaining a candidate for either office;

(b) Holding a position of private trust;

(c) Acting as a juror; or

(d) Exercising the right to vote.

(4) If the court under subsection (1) of this section temporarily stays execution of sentence for any purpose other than probation, the defendant nonetheless is sentenced for purposes of subsection (1) of this section.

(5) A person convicted of any crime and serving a term of imprisonment in any federal correctional institution in this state is deprived of the rights to register to vote, update a registration or vote in any election in this state from the date of sentencing until:

(a) The person is discharged or paroled from imprisonment; or

(b) The person's conviction is set aside.

(6) The county clerk or county official in charge of elections in any county may cancel the registration of any person serving a term of imprisonment in any federal correctional institution in this state.

(7) Except as otherwise provided in ORS 10.030, the rights and privileges withdrawn by this section are restored automatically upon [*discharge or parole from imprisonment*] **release from incarceration**, but in the case of parole shall be automatically withdrawn upon a subsequent imprisonment for violation of the terms of the parole.

**SECTION 7. (1) During the intake process, each county shall conduct a national criminal history check on every person incarcerated in the county correctional facility.**

**(2) The county shall develop policies and procedures to ensure that the results of the national criminal history check are received before an inmate is released.**

**(3) The state shall reimburse each county for the costs of conducting the national criminal history checks.**

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