

REPRINT

House Bill 2110

Sponsored by COMMITTEE ON JUDICIARY (at the request of the Criminal Law Revision Commission)

SUMMARY

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

Revises statutory standards for parole and factors and data to be considered by State Board of Parole in granting parole to prisoners. Codifies conditions of parole. Enacts new provisions relating to suspension of parole and arrest and detention of parolees. Enacts new requirements relating to parole violation hearings. Grants subpoena power to State Board of Parole to compel attendance of witnesses at parole violation hearings. Permits State Board of Parole to discharge any parolee under certain conditions. Makes topical changes in statutes relating to parole.

Declares emergency.

NOTE: Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted; complete new sections begin with **SECTION**.

1 A BILL FOR AN ACT

2 Relating to parole procedure; creating new provisions; amending ORS
3 144.050, 144.270, 144.310, 144.370, 144.380 and 421.120; repealing ORS
4 144.240, 144.250, 144.330 and 144.400; and declaring an emergency.

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

6 Section 1. (**Power of board to parole inmates.**) ORS 144.050 is amended
7 to read:

8 144.050. Subject to applicable laws, the State Board of Parole [*and*
9 *Probation*] may authorize any inmate, who is confined in any county jail
10 for a period of six months or more or committed to the legal and physical
11 custody of the Corrections Division, to go upon parole subject to being
12 arrested and detained **under written order of the board** or as provided in
13 ORS 144.350. The state board may establish rules and regulations appli-
14 cable to parole.

15 **SECTION 2.** Sections 3 to 5 of this Act are added to and made a part
16 of ORS 144.210 to 144.270.

17 **SECTION 3. (Standards for parole.)** Whenever the State Board of
18 Parole considers the release of a prisoner who by its rules or order is
19 eligible for release on parole, it shall be the policy of the board to order
20 his release, unless the board is of the opinion that his release should be
21 deferred or denied because:

22 (1) There is a reasonable probability that the inmate will not, after
23 parole, remain outside the institution without violating the law and that
24 his release is incompatible with the welfare of society;

25 (2) There is substantial risk that he will not conform to the conditions
26 of parole;

27 (3) His release at that time would depreciate the seriousness of his
28 crime or promote disrespect for law;

29 (4) His release would have a substantially adverse effect on insti-
30 tutional discipline; or

31 (5) His continued correctional treatment, medical care or vocational
32 or other training in the institution will substantially enhance his capacity
33 to lead a law-abiding life when released at a later date.

34 **SECTION 4. (Factors considered by board in granting parole.)** In

1 making its determination regarding a prisoner's release on parole, the
2 policy of the State Board of Parole shall be to take into account each of
3 the following factors:

- 4 (1) The prisoner's personality, including his maturity, stability, sense
5 of responsibility and any apparent development in his personality which
6 may promote or hinder his conformity to law;
- 7 (2) The adequacy of the prisoner's parole plan;
- 8 (3) The prisoner's ability and readiness to assume obligations and
9 undertake responsibilities;
- 10 (4) The prisoner's intelligence and training;
- 11 (5) The prisoner's family status and whether he has relatives who
12 display an interest in him, or whether he has other close and construc-
13 tive associations in the community;
- 14 (6) The prisoner's employment history, his occupational skills, and the
15 stability of his past employment;
- 16 (7) The type of residence, neighborhood or community in which the
17 prisoner plans to live;
- 18 (8) The prisoner's past use of narcotics or dangerous drugs, or past
19 habitual and excessive use of alcoholic liquor;
- 20 (9) The prisoner's mental or physical makeup, including any disability
21 or handicap which may affect his conformity to law;
- 22 (10) The prisoner's prior criminal record, including the nature and
23 circumstances, recency and frequency of previous offenses;
- 24 (11) The prisoner's attitude toward law and authority;
- 25 (12) The prisoner's conduct in the institution, including particularly
26 whether he has taken advantage of the opportunities for self-improvement
27 afforded by the institutional program, whether he has been punished for
28 misconduct prior to his hearing or reconsideration for parole release,
29 whether he has forfeited any reductions of term during his period of im-
30 prisonment, and whether the reductions have been restored at the time
31 of hearing or reconsideration; and
- 32 (13) The prisoner's conduct and attitude during any previous expe-
33 rience of probation or parole and when the experience occurred.

1 **SECTION 5. (Data to be considered in determining parole release.)**

2 Before making a determination regarding a prisoner's release on parole,
3 the State Board of Parole may cause to be brought before it records and
4 information regarding the prisoner, including:

5 (1) The reports, statements and information specified in ORS 144.210;

6 (2) Any relevant information which may be submitted by the pris-
7 oner, his attorney, the victim of the crime, or by other persons;

8 (3) A report prepared by the institutional parole staff, relating to the
9 personality, social history and adjustment to authority of the prisoner,
10 including any recommendations which the institutional staff may make;

11 (4) All official reports of the prisoner's criminal record, including
12 reports and records of earlier probation and parole experiences;

13 (5) The presentence investigation report of the sentencing court or
14 the Corrections Division;

15 (6) The reports of any physical, mental and psychiatric examinations
16 of the prisoner;

17 (7) The prisoner's parole plan; and

18 (8) Other relevant information concerning the prisoner as may be
19 reasonably available.

20 Section 6. (Conditions of parole shall be in writing; delivery of copy
21 thereof to parolee.) ORS 144.270 is amended to read:

22 144.270. (1) The State Board of Parole [*and Probation*], in releasing
23 a person on parole, shall specify in writing the conditions of his parole
24 and a copy of such conditions shall be given to the person paroled.

25 (2) The board shall determine, and may at any time modify, the con-
26 ditions of parole, which may include, as well as any others, that the parolee
27 shall:

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

30 (b) Be under the supervision of the Corrections Division and its repre-
31 sentatives and abide by their direction and counsel.

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

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

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

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

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

6 (3) The board may establish such special conditions as it shall deter-
7 mine are necessary because of the individual circumstances of the parolee.

8 SECTION 7. ORS 144.330 is repealed and section 8 of this Act is
9 enacted in lieu thereof.

10 SECTION 8. (Suspension of parole; arrest and detention.) The State
11 Board of Parole may suspend the parole of any person under its jurisdiction
12 upon being informed and having reasonable grounds to believe that the
13 person has violated the conditions of his parole and may order the arrest
14 and detention of such person. The written order of the board is sufficient
15 warrant for any law enforcement officer to take into custody such person.
16 A sheriff, municipal police officer, constable, parole or probation officer,
17 prison official or other peace officer shall execute the order.

18 Section 9. (Investigation following order for arrest and detention;
19 suspension of parole or revocation of conditional pardon or release.) ORS
20 144.370 is amended to read:

21 144.370. Upon issuing an order for the arrest and detention of any
22 person under the provisions of ORS 144.350, the [*Director of Parole and Pro-*
23 *bation*] **Corrections Division** shall proceed immediately to investigate
24 for the purposes of ascertaining whether or not the terms of the parole,
25 probation or conditional pardon have been violated. Within 15 days after
26 the issuance of any such order, the detained person's parole [,] shall be
27 suspended by order of the board and probation or conditional pardon
28 shall either be revoked as provided by law or such person shall be released
29 from detention.

30 Section 10. (After suspension of parole or revocation of conditional
31 pardon or probation, violator is fugitive from justice.) ORS 144.380 is
32 amended to read:

33 144.380. After the [*cancellation*] suspension of parole or revocation of

1 [the parole,] probation or conditional pardon of any convicted person, and
2 until his return to custody, he shall be considered a fugitive from justice.

3 **SECTION 11.** Sections 12 to 15 of this Act are added to and made a
4 part of ORS 144.310 to 144.400.

5 **SECTION 12. (On-site preliminary hearing.)** (1) When a parolee is
6 arrested and detained under ORS 144.330 or 144.350, the State Board of
7 Parole or its designated representative shall conduct a hearing within a
8 reasonable time from the date of arrest and detention to determine
9 whether there is probable cause to believe a violation of one or more of the
10 conditions of parole has occurred and whether the alleged parole violator
11 ought to be returned to custody regarding the matter of the alleged parole
12 violation. The location of the hearing shall be reasonably near the place
13 of the alleged violation or the place of confinement.

14 (2) The board or its designated representative shall determine whether
15 there is probable cause to believe a violation occurred which is sufficient
16 to return the alleged parole violator to custody.

17 (3) The board may:

18 (a) Reinstate or continue the alleged violator on parole subject to the
19 same or modified conditions of parole; or

20 (b) Order a return to custody for further proceedings before the board.

21 (4) Within a reasonable time before the hearing, the board shall give
22 the parolee:

23 (a) Written notice of the time, place and location of the hearing; and

24 (b) A concise written statement of the suspected violation and reasons
25 therefor.

26 (5) At the hearing the parolee shall have the right:

27 (a) To present evidence on his behalf;

28 (b) To confront witnesses against him, except for good cause;

29 (c) To examine information or documents which form the basis of
30 the alleged violation; and

31 (d) To notice from the board regarding the decision made on the
32 matter of the alleged violation of parole.

33 **SECTION 13. (Parole violation hearing.)** (1) When an alleged parole
34 violator is ordered returned to custody, the board shall conduct a parole

1 violation hearing within a reasonable time after his return to the institu-
2 tion and shall determine:

3 (a) Whether violation of parole occurred; and

4 (b) Whether the violation, if found to exist, warrants revocation of
5 parole.

6 (2) The board may:

7 (a) Reinstate or continue the alleged parole violator on parole subject
8 to the same or modified conditions of parole; or

9 (b) Revoke parole and require that he serve the remaining balance
10 of his sentence as provided by law.

11 (3) Within a reasonable time prior to the hearing, the board shall give
12 the parolee:

13 (a) Notice of the time, place and location of the hearing; and

14 (b) A concise written statement of the suspected violation and reasons
15 therefor.

16 (4) At the hearing the parolee shall have the right:

17 (a) To present evidence on his behalf.

18 (b) To confront witnesses against him, except for good cause.

19 (c) To examine information or documents which form the basis of the
20 alleged violation.

21 (d) To notice from the board regarding the decision made on the
22 matter of the alleged violation of parole.

23 **SECTION 4. (Subpena power.)** (1) Upon request of any party to the
24 hearing provided in sections 12 and 13 of this 1973 Act, the board or its
25 designated representatives shall issue, or the board on its own motion may
26 issue, subpoenas requiring the attendance and testimony of witnesses.

27 (2) Upon request of any party to the hearing provided in sections 12
28 and 13 of this 1973 Act and upon a proper showing of the general relevance
29 and reasonable scope of the documentary or physical evidence sought, the
30 board or its designated representatives shall issue, or the board on its own
31 motion may issue, subpoenas duces tecum.

32 (3) Witnesses appearing under subpoena, other than the parties or
33 state officers or employees, shall receive fees and mileage as prescribed by
34 law for witnesses in civil actions. If the board or its designated representa-

1 tive certifies that the testimony of a witness was relevant and material, any
2 person who has paid fees and mileage to that witness shall be reimbursed
3 by the board.

4 (4) If any person fails to comply with a subpoena issued under sub-
5 section (1) or (2) of this section or any party or witness refuses to testify
6 regarding any matter on which he may be lawfully interrogated, the judge
7 of the circuit court of any county, on the application of the board or its
8 designated representative or of the party requesting the issuance of the
9 subpoena, shall compel obedience by proceedings for contempt as in the
10 case of disobedience of the requirements of a subpoena issued by the
11 court.

12 **SECTION 15.** When an alleged parole violator is in custody in a state
13 to which he has not been paroled or in federal custody, section 12, para-
14 graph (b) of subsection (4) of section 13 of this 1973 Act and section 14
15 of this 1973 Act do not apply; and all matters regarding the alleged parole
16 violation shall be deferred until the alleged parole violator has been re-
17 turned to custody in this state.

18 **SECTION 16.** When an alleged parole violator is returned to custody
19 in this state from a state to which he was paroled, other than the State
20 of Oregon, paragraph (b) of subsection (4) of section 13 of this Act and
21 section 14 of this Act do not apply.

22 **Section 17. (Final discharge of parolee.)** ORS 144.310 is amended to
23 read:

24 144.310. When [*any*] a paroled prisoner has performed the obligations
25 of his parole for such time as satisfies the State Board of Parole [*and Pro-*
26 *bation*] that his final release is not incompatible with his welfare and that
27 of society, the board may make a final order of discharge and issue to the
28 paroled prisoner a certificate of discharge; but no such order of discharge
29 shall be made [*in the case of a person convicted of murder in the first degree*
30 *and in no other case*] within a period of less than one year after the date
31 of release on parole, except that when the period of the sentence imposed
32 by the court expires at an earlier date, a final order of discharge shall

1 be made and a certificate of discharge issued to the paroled prisoner not
2 later than the date of expiration of the sentence.

3 Section 18. (**Reduction in term of sentence of inmates.**) ORS 421.120
4 is amended to read:

5 421.120. (1) Each inmate now or hereafter confined, in execution of
6 the judgment of sentence upon any conviction, in the penal or correction-
7 al institution, for any term other than life, and whose record of conduct
8 shows that he faithfully has observed the rules of the institution, and
9 where industry and general reformation are certified to the Governor by
10 the superintendent of the penitentiary or correctional institution, shall be
11 entitled, upon the order of the Governor, to a deduction from the term of
12 his sentence to be computed as follows:

13 (a) From the term of a sentence of not less than six months nor more
14 than one year, one day shall be deducted for every six days of such
15 sentence actually served in the penal or correctional institution.

16 (b) From the term of a sentence of more than one year, one day shall
17 be deducted for every two days of such sentence actually served in the
18 penal or correctional institution.

19 (c) From the term of any sentence, one day shall be deducted for
20 every 15 days of work actually performed in prison industry, or in meri-
21 torious work in connection with prison maintenance and operation, during
22 the first year of prison employment, and one day shall be deducted for
23 every seven days of such work actually performed after the first year to
24 and including the fifth year of prison employment, and one day for every
25 six days of such work actually performed after the fifth year of prison
26 employment.

27 (d) From the term of any sentence, one day shall be deducted for
28 every 10 days of work actually performed in agriculture or at work camp
29 during the first year of prison employment, and one day for every six
30 days of such work actually performed thereafter.

31 (e) The deductions allowed in paragraphs (c) and (d) of this sub-
32 section shall be in addition to those allowed in paragraph (a) and (b) of
33 this subsection.

34 (f) In this subsection, "prison employment" includes actual work in

1 prison industry, meritorious work in connection with prison maintenance
2 and operation, actual work in agriculture and actual work at work camp.

3 (2) When a paroled inmate violates any condition of his parole, no
4 deduction from the term of his sentence, as provided in subsection (1) of
5 this section, shall be made for service by such inmate in the penal or cor-
6 rectional institution prior to his acceptance and release on parole, except
7 when authorized by the [*State Board of Parole and Probation upon rec-*
8 *ommendation of the*] superintendent thereof.

9 **SECTION 19.** ORS 144.240, 144.250 and 144.400 are repealed.

10 **SECTION 20.** This Act being necessary for the immediate preservation
11 of the public peace, health and safety, an emergency is declared to exist,
12 and this Act takes effect on its passage.

