

CRIMINAL LAW REVISION COMMISSION
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CRIMINAL PROCEDURE

PART V. POST-TRIAL PROVISIONS

ARTICLE 11. PAROLE, PROBATION AND RELATED PROVISIONS

Reprieves, Commutations and Pardons;

Remission of Penalties and Forfeitures.

Board of Parole and Probation; Work Release Program

Preliminary Draft No. 1; September 1972

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Subcommittee No. 3

ARTICLE 11. PAROLE, PROBATION AND RELATED PROVISIONS

Reprieves, Commutations and Pardons;

Remission of Penalties and Forfeitures

Preliminary Draft No. 1; September 1972

(ORS 143.010 is not affected by this draft.)

143.010 Granting reprieves, commutations and pardons generally; remission of penalties and forfeitures. Upon such conditions and with such restrictions and limitations as he thinks proper, the Governor may grant reprieves, commutations and pardons, after convictions, for all crimes and may remit, after judgment therefor, all penalties and forfeitures.

Section 1. ORS 143.040 is amended to read:

143.040. (Notice of intention to apply for pardon, commutation or remission; proof of service.) At least 20 days before an application for a pardon, commutation or remission is made to the Governor, written notice of the intention to apply therefor, signed by the person applying, and stating briefly the grounds of the application, shall be served upon the district attorney of the county where the conviction was had and upon the Director of Parole [and Probation] and the Corrections Division Administrator. Proof by affidavit of the service shall be presented to the Governor.

COMMENTARY

The statute as amended would require notice of intention to apply for a pardon, commutation or remission to be served upon the Corrections Division, as well as the Parole Board. This would ensure that both agencies, either of which might have an interest in the petition, would be duly advised.

(ORS 143.050 and 143.060 are not affected by this draft.)

143.050 Communication to legislature by Governor. The Governor shall communicate to the Legislative Assembly at its next regular session thereafter each case of reprieve, commutation or pardon, with the reason for granting the same, stating the name of the applicant, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve. He shall communicate a like statement of particulars in relation to each case of remission of a penalty or forfeiture, with the amount remitted.

[Amended by 1965 c.616 §91]

143.060 Filing of papers by Governor. When the Governor grants a reprieve, commutation or pardon or remits a fine or forfeiture, he shall within 10 days thereafter file all the papers presented to him in relation thereto in the office of the Secretary of State, by whom they shall be kept as public records, open to public inspection.

Section 2. ORS 144.005 is amended to read:

144.005 State Board of Parole and Probation; term of office; compensation; Administrator of Corrections Division as member.

(1) A State Board of Parole [and Probation] of three members hereby is created.

(2) Members of the board shall be appointed by the Governor and serve for a term of four years. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term. The Governor at any time may remove any member for inefficiency, neglect of duty or malfeasance in office.

(3) Each member shall devote his entire time to the performance of the duties imposed on the board and shall not engage in any partisan political activity.

(4) The members shall receive a salary set by the Governor. In addition, all members may receive actual and necessary travel and other expenses incurred in the performance of their official duties within limits as provided by law or under ORS 292.220 and 292.230.

(5) The Administrator of the Corrections Division shall serve as an ex officio non-voting member of the board.

[1969 c.597 §102]

COMMENTARY

The Parole Board does not have any probation functions. The Corrections Division recommends and the subcommittee concurs that this statute and other statutes in this chapter be amended to delete the reference to probation.

Section 3. ORS 144.015 is amended to read:

144.015 Confirmation by Senate. The appointment of a member of the State Board of Parole [and Probation] is subject to confirmation by the Senate as provided in ORS 171.570. If an appointment is made in the interim between legislative sessions, the Senate shall act through the Committee on Executive Appointments under ORS 171.560. [1969 c.597 §107]

COMMENTARY

See commentary to s. 2.

Section 4. ORS 144.025 is amended to read:

144.025 Chairman; quorum. (1) The State Board of Parole [and Probation] shall select one of its members as chairman, for such terms and with duties and powers necessary for the performance of the function of such office as the board determines.

(2) A majority of the members of the board constitutes a quorum for the transaction of business.

[1969 c.597 §106]

COMMENTARY

See commentary to s. 2.

Section 5. ORS 144.040 is amended to read:

144.040. (Power of board to determine parole violations.) The State Board of Parole [and Probation] shall determine whether violation of conditions of parole [, conditional pardon, probation or other conditional release] exists in specific cases.

COMMENTARY

The amendments delete the reference to probation in the title of the Parole Board and eliminate reference to "conditional pardon, probation or other conditional release" which are not considered by the Board.

Section 6. ORS 144.050 is amended to read:

144.050 Power of board to parole inmates. Subject to applicable laws, the State Board of Parole [and Probation] may authorize any inmate, who is confined in any county jail for a period of six months or more or committed to the legal and physical custody of the Corrections Division, to go upon parole subject to being arrested and detained as provided in ORS 144.350. The state board may establish rules and regulations applicable to parole.

[Amended by 1959 c.101 §1; 1967 c.372 §7; 1969 c.597 §109]

COMMENTARY

See commentary to s. 2.

Section 7. ORS 144.060 is amended to read:

144.060 Acceptance of funds, grants or donations; contracts with Federal Government and others. The Corrections Division, with the written consent of the Governor, shall:

(1) Accept from the United States of America, or any of its agencies, such funds, equipment and supplies as may be made available to this state to carry out any of the functions of the division and shall enter into such contracts and agreements with the United States, or any of its agencies, as may be necessary, proper and convenient, not contrary to the laws of this state.

(2) Enter into an agreement with the county court or board of county commissioners of any county, or with the governing officials of any municipality of this state for the payment by the county or municipality of all or any part of the cost of the performance by the [board] Corrections Division or Board of Parole of any parole or probation services [,] or of the supervision of any parole or probation case arising within the county or municipality [or of the maintenance therein of work camps as authorized by subsection (1) of ORS 144.560].

(3) Accept any grant or donation of land or any gift of money or other valuable thing made to the state to carry out any of the functions of the division.

COMMENTARY

The amendments insert the correct references for the Corrections Division and the Parole Board, and delete an obsolete reference to work camps.

Section 8. ORS 144.075 is amended to read:

144.075. (Expenses of returning violators of parole, conditional pardon or commutation to penitentiary, how paid.) Any expense incurred by the state for returning to the [state penitentiary] Corrections Division any parole violator or violator of a conditional commutation or conditional pardon shall be paid out of the biennial appropriations made for the payment of the state's portion of the expenses incident to [the] such transportation [of convicts to the penitentiary].

COMMENTARY

The amendments are requested by the Corrections Division to bring the statute up to date.

Section 9. ORS 144.210 is amended to read:

144.210 Statement and information about inmate and his crime from judge, district attorney and others. After a person convicted of a felony is committed to the legal and physical custody of the Corrections Division, the State Board of Parole [and Probation] shall obtain from the sentencing judge, the district attorney and the sheriff or arresting agency a statement of all the facts concerning such convicted person's crime and any other information which they may have concerning the convicted person. The sentencing judge, the district attorney, the sheriff and the arresting agency shall give the board such information and indicate to the board what, in their judgment, should be the duration of such convicted person's confinement. All such statements and information shall be made available to the Corrections Division.
[Amended by 1959 c.101 §2; 1967 c.372 §8; 1969 c.597 §113]

COMMENTARY

See commentary to s. 2.

Section 10. ORS 144.220 is amended to read:

144.220 Bringing information about inmates before board. Within six months after the admission to the state penitentiary of a convicted person, and from time to time, the State Board of Parole [and Probation] shall cause to be brought before it all information regarding such convicted person.

COMMENTARY

See commentary to s. 2.

Section 11. ORS 144.226 is amended to read:

144.226 Examination by psychiatrist of persons sentenced to an indeterminate term; report thereon. (1) Any person sentenced under ORS 161.725 and 161.735 as a dangerous offender shall at least every two years be given a complete physical, mental and psychiatric examination by a psychiatrist appointed by the Superintendent of the Oregon State Hospital. Within 60 days after the examination, the examining psychiatrist shall file a written report of his findings and conclusions relative to the examination with the Administrator of the Corrections Division and Chairman of the State Board of Parole and Probation.

(2) The examining psychiatrist shall include in his report a statement as to whether or not in his opinion the convicted person has any mental or emotional disturbance or deficiency or condition predisposing him to the commission of any crime to a degree rendering the examined person a menace to the health or safety of others. The report shall also contain any other information which the examining psychiatrist believes will aid the State Board of Parole and Probation in determining whether the examined person is eligible for parole or release. The report shall also state the progress or changes in the condition of the examined person as well as any recommendations for treatment. A certified copy of the report shall be sent to the convicted person, to his attorney and to the executive officer of the penal or correctional institution in which the convicted person is confined.

COMMENTARY

See commentary to s. 2.

Section 12. ORS 144.228 is amended to read:

144.228 Periodic review by board of persons sentenced to indeterminate term. (1) Within six months after conviction and at least once every two years thereafter during the term of any person sentenced under ORS 161.725 and 161.735 as a dangerous offender, the State Board of Parole and Probation shall cause to be brought before it and consider all information regarding such person. The information shall include the written report of the examining psychiatrist which shall contain all the facts necessary to assist the State Board of Parole and Probation in making its determination. The report of the examining psychiatrist shall be made within two months of the date of its consideration.

(2) In addition to the report of the examining psychiatrist, the board shall also consider a written report to be made by the executive officer of the penal or correctional institution in which the person has been confined. The executive officer's report shall contain:

(a) A detailed account of the person's conduct while confined, all infractions of rules and discipline, all punishment meted out to the person and the circumstances connected therewith, as well as the extent to which the person has responded to the efforts made in the institution to improve his mental and moral condition.

(b) A statement as to the person's present attitude towards society, towards the judge who sentenced him, towards the district attorney who prosecuted him, towards the policeman who arrested him and towards his previous criminal career.

(c) The industrial record of the person while in or under the supervision of the institution, showing the average number of hours per day that he has been employed, the nature of his occupations and a recommendation as to the kind of work, if any, he is best fitted to perform and at which he is most likely to succeed when he leaves the institution in which he has been confined.

COMMENTARY

See commentary to s. 2.

(ORS 144.240 and 144.250 are not affected by this draft.)

144.240 Standards for parole. No prisoner in the state penitentiary shall be paroled unless it is the opinion of the board that, within a reasonable probability, the prisoner will, after parole, remain outside the institution without violating the law and that such release is not incompatible with the welfare of society.

144.250 Factors considered by board in granting parole. Good conduct and efficient performance of duties assigned in the state penitentiary will be factors considered by the State Board of Parole and Probation in granting parole.

Section 13. ORS 144.260 is amended to read:

144.260 Chairman to inform judge, district attorney and others of prospective release on parole of inmate. Prior to the release on parole from the state penitentiary or correctional institution of any convicted person, the Chairman of the State Board of Parole [and Probation] shall inform the sentencing judge, district attorney, sheriff or arresting agency of the prospective date of release and of any special conditions thereof. All such information shall be made available to the Corrections Division.

COMMENTARY

See commentary to s. 2.

Section 14. ORS 144.270 is amended to read:

144.270 Conditions of parole shall be in writing; delivery of copy thereof to parolee. The State Board of Parole [and Probation], in releasing a person on parole, shall specify in writing the conditions of his parole and a copy of such conditions shall be given to the person paroled.

COMMENTARY

See commentary to s. 2.

Section 15. ORS 144.310 is amended to read:

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

COMMENTARY

See commentary to s. 2.

Section 16. ORS 144.330 is amended to read:

144.330 Written order by board to take violator of parole, conditional pardon or probation into custody. Whenever the State Board of Parole [and Probation] finds that a prisoner has violated the conditions of his [conditional pardon] parole [or probation], or whenever the board has been advised in writing by the Governor that the prisoner has violated the terms of a conditional pardon, the written order of the board is sufficient warrant for any law enforcement officer to take into custody such person. All sheriffs, police, constables, parole and probation officers, prison officials and other peace officers shall execute such order.

COMMENTARY

See commentary to ss. 2 and 5.

Section 17. ORS 144.340 is amended to read:

144.340 Power to retake and return violators of parole, conditional pardon or probation. The Corrections Division, in accordance with the rules and regulations or directions of the State Board of Parole [and Probation] or the Governor, as the case may be, may cause to have retaken and returned persons to the institution, whether in or out of the state, whenever they have violated the conditions of their parole [probation, conditional pardon or other conditional release].

COMMENTARY

See commentary to ss. 2 and 5.

(ORS 144.350 is not affected by this draft.)

144.350 Order for arrest and detention of violator of parole, conditional pardon or probation. The Corrections Division may order the arrest and detention of any person then under the supervision or control of the division upon being informed and having reasonable grounds to believe that such person has violated the conditions of his parole, probation, conditional pardon or other conditional release from custody.

Section 18. ORS 144.360 is amended to read:

144.360. (Effect of order for arrest and detention of violator of parole, conditional pardon or probation.) Any order issued by the [Director of Parole and Probation] Corrections Division as authorized by ORS 144.350 constitutes full authority for the arrest and detention of the violator, and all the laws applicable to warrants of arrest shall apply to such orders.

COMMENTARY

The statute is amended to be consistent with ORS 144.350.

Section 19. ORS 144.370 is amended to read:

144.370. (Investigation following order for arrest and detention; revocation of parole, conditional pardon or probation or release.)

Upon issuing an order for the arrest and detention of any person under the provisions of ORS 144.350, the [Director of Parole and Probation] Corrections Division shall proceed immediately to investigate for the purposes of ascertaining whether or not the terms of the parole, probation or conditional pardon have been violated. Within 15 days after the issuance of any such order, the detained person's parole, probation or conditional pardon shall either be revoked as provided by law or such person shall be released from detention.

COMMENTARY

The amendment is to make the statute consistent with ORS 144.350.

Section 20. ORS 144.374 is amended to read:

144.374 Deputization of persons in other states to act in returning Oregon parole violators. (1) The Administrator of the Corrections Division may deputize, in writing, any person regularly employed by another state, to act as an officer and agent of this state for the return of any person who has violated the conditions of his parole, [probation] conditional pardon or other conditional release.

(2) Any person deputized pursuant to subsection (1) of this section shall have the same powers with respect to the return of any person who has violated the conditions of his parole, [probation] conditional pardon or other conditional release from custody as any peace officer of this state.

(3) Any person deputized pursuant to subsection (1) of this section shall carry formal evidence of his deputization and shall produce the same on demand.

COMMENTARY

The statute is amended as requested by the Corrections Division to delete the reference to probation violators.

(ORS 144.376 to 144.390 are not affected by this draft.)

144.376 Contracts for sharing expense with other states of cooperative returns of parole violators. The Corrections Division, with the approval of the Director of the Department of General Services, may enter into contracts with similar officials of any state, for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the conditions of his parole, probation, conditional pardon or other conditional release.

[1955 c.369 §2; 1969 c.597 §119]

144.380 After revocation of parole, conditional pardon or probation violator is fugitive from justice. After the cancellation or revocation of the parole, probation or conditional pardon of any convicted person, and until his return to custody, he shall be considered a fugitive from justice.

144.390 After revocation, time elapsed while on parole does not diminish term of sentence. A prisoner recommitted for violation of parole, conditional pardon or probation shall serve out his sentence, and the time during which he was out on parole is not a part thereof.

Section 21. ORS 144.400 is amended to read:

144.400 Power of board to parole violator again and without recommitment. The State Board of Parole [and Probation] may parole a violator of parole, conditional pardon or probation. The board may by order duly entered of record, without first returning a parole violator to the Oregon State Penitentiary, cancel a revocation of a parole previously issued by it and by such order restore the parolee to his former parole status.

COMMENTARY

The amendment deletes the reference to probation in the title of the State Board of Parole.

Section 22. ORS 144.410 is amended to read:

144.410. (Definitions for ORS 144.410 to 144.525.) As used in ORS 144.410 to 144.525, unless the context requires otherwise:

- (1) "Administrator" means the Administrator of the Corrections Division.
- (2) "Division" means the Corrections Division.
- (3) "Penal and correctional institutions" means the Oregon State Penitentiary, [and] the Oregon State Correctional Institution, the Oregon Women's Correctional Center, their satellites, and community centers.

COMMENTARY

The definition of "penal and correctional institutions" is amended to include the other types of facilities that are used by the Corrections Division in administering the work release program.

Section 23. ORS 144.420 is amended to read:

144.420. (Corrections Division to administer work release program; purposes of release.) (1) The Corrections Division shall establish and administer a work release program under which a person sentenced to a term of imprisonment in a penal or correctional institution may be [granted the privilege of leaving secure custody] authorized to leave assigned quarters during necessary and reasonable hours, for the purpose of:

(a) Working in this state at gainful private employment that has been approved by the division [for such purpose].

(b) Obtaining in this state additional education, including but not limited to vocational, technical and general education.

(2) The work release program may also include, under rules developed by the Corrections Division [and approved by the board], temporary leave [for the purpose of seeking employment] for purposes consistent with good rehabilitation practices.

(3) The Corrections Division is responsible for the quartering and supervision of persons enrolled in the work release program.

COMMENTARY

The Corrections Division recommends the amendments to update the statute, delete the reference to "secure custody," delete an obsolete reference to the Board of Control and to permit temporary leave of a person in custody for purposes that are consistent with good rehabilitation practices.

Section 24. ORS 144.430 is amended to read:

144.430. (Duties of division in administering program; all state agencies to cooperate.) (1) The division shall administer the work

release program by means of such staff organization and personnel as the administrator considers necessary. In addition to other duties, the division shall:

(a) Locate employment for qualified applicants;

(b) Effect placement of persons under the work release program;

(c) Collect, account for and make disbursements from earnings of persons under the work release program; [and]

(d) Generally promote public understanding and acceptance of the work release program [.] ; and

(e) Establish and maintain community centers.

(2) [All state agencies shall cooperate with the division in carrying out this section to such extent as is consistent with their other lawful duties.] The Corrections Division may enter into agreements with other public or private agencies for providing services relating to work release programs.

(3) In carrying out the provisions of this section, the Corrections Division may enter into agreements with the Vocational Rehabilitation Division to provide such services as determined by the Corrections Division and as the Vocational Rehabilitation Division is authorized to provide under ORS 344.511 to 344.550.

COMMENTARY

The new paragraph (e) in subsection (1) authorizes the Corrections Division to set up and maintain community centers

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as part of the work release program. This amendment and the one proposed in subsection (2) allowing the division to enter into agreements with other agencies are requested by the Corrections Division. The subcommittee recommends that the existing language in subsection (2) be deleted as unnecessary.

Section 25. ORS 144.440 is amended to read:

144.440. (Recommendation by sentencing court.) When a person is sentenced to [a term of imprisonment in the penitentiary or the correctional institution] the custody of the Corrections Division, the court may recommend to the Administrator of the Corrections Division that the person so sentenced be granted the option of serving the sentence by enrollment in the work release program established under ORS 144.420.

COMMENTARY

The amendment makes the language of the section consistent with the sentencing statutes in ORS chapter 137.

Section 26. ORS 144.450 is amended to read:

144.450 Approval or rejection of recommendations; rules for program; specific conditions; Administrative Procedures Act not applicable. (1) The administrator shall approve or reject each recommendation under ORS 144.440 or 421.170 for enrollment in the work release program. No person may be enrolled without the consent of the person in writing. Rejection by the administrator of a recommendation does not preclude submission under ORS 421.170 of subsequent recommendations regarding enrollment of the same person.

(2) ~~The administrator shall promulgate rules for carrying out ORS 144.410 to 144.525 and 421.170.~~ [Subject to the approval of the board,]

(3) In approving a recommendation and enrolling a person in the work release program, the administrator may prescribe any specific conditions that he finds appropriate to assure compliance by the person with the general procedures and objectives of the work release program.

(4) ORS 183.310 to 183.510 does not apply to actions taken or rules promulgated under this section.

COMMENTARY

The amendment in subsection (2) deletes an obsolete reference to the Board of Control.

Section 27. ORS 144.460 is amended to read:

144.460 Contracts for quartering of enrollees; suitable facilities required. (1) The division may contract with the governing bodies of political subdivisions in this state, with the Federal Government and with any private agencies approved by the division for the quartering in suitable local facilities of persons enrolled in work release programs. Each such facility must satisfy standards established by the division to assure adequate supervision and custody of persons quartered therein.

(2) The division may not enroll any person in the work release program unless the division has determined that suitable facilities for quartering the person are available in the locality where the person has employment or the offer of employment.

COMMENTARY

The Corrections Division recommends that subsection (2) be deleted to remove the restriction on enrolling persons in the work release program unless suitable facilities for quartering the person are available in the locality where employment is found.

Section 28. ORS 144.470 is amended to read:

144.470 Disposition of enrollee's earnings under program. (1) Each person enrolled in the work release program shall promptly surrender to the division all his earnings as he receives them, other than amounts involuntarily withheld by his employer. The division shall:

(a) Deduct from his earnings an amount determined to be the cost of quartering, feeding and clothing the person;

(b) Allow the person a sufficient amount of money from his earnings to cover incidental expenses arising out of his employment;

(c) Make provision for payment of the person's debts and fines incurred prior to his enrollment in the program, as directed by the sentencing court; and

(d) Cause to be paid, to the person's dependents, such part of any balance of the person's earnings remaining after deductions under paragraphs (a) to (c) of this subsection as are necessary for the support of such dependents.

(2) Any balance of a person's earnings remaining after all deductions have been made under this section shall be:

(a) Paid to the person upon his release [from secure custody] under ORS 144.515; or

(b) Credited to his account in the penal or correctional institution if he is returned under ORS 144.500.

COMMENTARY

This section contains a conforming amendment in paragraph (a) of subsection (2) to delete the reference to "secure custody."

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(ORS 144.480 to 144.500 are not affected by this draft.)

144.480 Protections and benefits for enrollees. (1) Persons enrolled in a work release program are entitled to the protection and benefits of ORS 653.265, 653.305 and 653.310 to 653.545 and ORS chapters 651, 652, 654, 656, 659 and 660 to the same extent as other employes of their employer. Compensation paid under ORS chapter 656 that is not expended on medical services shall be treated in the same manner as the person's earnings are treated under ORS 144.470.

(2) Persons enrolled in a work release program are not entitled to benefits:

(a) Under ORS 655.505 to 655.550 arising out of any employment during their enrollment if they are eligible for benefits under ORS chapter 656 pursuant to subsection (1) of this section; or

(b) Under ORS chapter 657 during their enrollment.

[1965 c.463 §10; 1969 c.597 §122a; 1969 c.678 §2]

144.490 Status of enrollees. (1) A person enrolled in the work release program is not an agent, employe or servant of a penal or correctional institution, the division or this state:

(a) While working in employment under the program, or seeking such employment; or

(b) While going to such employment from the place where he is quartered, or while returning therefrom.

(2) For purposes of chapter 463, Oregon Laws 1963, a person enrolled in the work release program established under ORS 144.420 is considered to be an inmate of a penitentiary or correctional institution.

[1965 c.463 §§11, 13]

144.500 Effect of violation or unexcused absence by enrollee. (1) If a person enrolled in the work release program violates any law, or any rule or specific condition applicable to him under ORS 144.450, the division may immediately terminate that person's enrollment in the work release program and transfer him to a penal or correctional institution for the remainder of his sentence.

(2) Absence, without a reason that is acceptable to the administrator, of a person enrolled in a work release program from his place of employment or his designated quarters, at any time contrary to the rules or specific conditions applicable to him under ORS 144.450:

(a) Immediately terminates his enrollment in the work release program.

(b) Constitutes an escape from a correctional facility under ORS 162.155.

[1965 c.463 §§16, 17; 1971 c.743 §340]

Section 29. ORS 144.515 is amended to read:

144.515. (Release terminates enrollment; continued employment to be sought.) A person's enrollment in the work release program terminates upon his release from [secure custody] confinement pursuant to law. To the extent possible, the division shall cooperate with employers in making possible the continued employment of persons released.

COMMENTARY

The amendment is consistent with changes made in other statutes in this chapter regarding "secure custody." A person enrolled in work release may be technically "confined" although not in secure custody in the sense of being locked up.

(ORS 144.522 to 144.620 are not affected by this draft.)

144.522 Revolving fund. (1) The Corrections Division may request in writing the Executive Department to, and when so requested the Executive Department shall, draw a warrant on the amount available under section 6 or 7, chapter 678, Oregon Laws 1969, in favor of the division for use by the division as a revolving fund. The warrant or warrants drawn to establish or increase the revolving fund, rather than to reimburse it, shall not exceed the aggregate sum of \$12,000. The revolving fund shall be deposited with the State Treasurer to be held in a special account against which the division may draw checks.

(2) The revolving fund may be used by the division for the purpose of making loans to any inmate enrolled in the work release program under ORS 144.410 to 144.525, at a rate of interest prescribed by the Corrections Division, to pay costs of necessary clothing, tools, transportation and other items from the time of his initial enrollment to the time he receives sufficient income to repay the loan. A loan from the revolving fund shall be made only when other resources available to the enrollee to pay the costs described in this subsection are inadequate.

(3) The Corrections Division shall enforce repayment of loans under this section by any lawful means. However, the Administrator of the Corrections Division may proceed under ORS 293.235 to 293.245 to write off uncollectible debts arising out of such loans.

(4) All repayments of loans from the revolving fund shall be credited to the fund. Interest earnings realized upon any loan from the revolving fund shall be credited to the fund.

144.525 Custody of enrollee earnings deducted or otherwise retained by division. The Administrator of the Corrections Division shall deposit in a trust account with the State Treasurer, as they are received, moneys surrendered to the division under ORS 144.470. The State Treasurer shall not credit moneys in the trust account to any state fund for governmental purposes. Disbursements from the trust account for purposes authorized by ORS 144.470 may be made by the administrator by checks or orders drawn upon the State Treasurer. The administrator is accountable for the proper handling of the trust account.

144.610 Out-of-state supervision of parolees; contract with other states. The Governor of this state may execute a compact on behalf of the State of Oregon with any of the United States joining therein in the form substantially as follows:

A compact entered into by and among the contracting states signatory hereto with the consent of the Congress of the United States of America granted by an Act entitled, "An Act Granting the Consent of Congress to any Two or More States to Enter into Agreements or Compacts for Cooperative Effort and Mutual Assistance in the Prevention of Crime and for Other Purposes."

The contracting states agree:

(1) That the judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called "receiving state") while on a probation or parole, if:

(a) Such person is in fact a resident of, or has his family residing within, the receiving state and can obtain employment there;

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(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving state shall assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon, and not reviewable within, the receiving state; provided, however, that if at the time when a state seeks to retake a probationer or parolee there is pending against him within the receiving state any criminal charge or if he is suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states party to this compact without interference.

(5) That the Governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its execution by any state as between it and any other state so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

(7) That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

144.620 Short title. ORS 144.610 may be cited as the Uniform Act for Out-of-State Supervision.

Section 30. ORS 144.710 is amended to read:

144.710. (Cooperation of public officials with State Board of Parole and Probation.) All public officials shall cooperate with the State Board of Parole and [Probation] Corrections Division, and give to the board or division, its officers and employes such information as may be necessary to enable [it] them to perform [its] their functions.

COMMENTARY

The amendments delete reference to probation in the title of the State Board of Parole and specifically include the Corrections Division in the statute.

(ORS 144.720 is not affected by this draft.)

144.720 Judge's power to suspend execution of sentence or grant probation prior to commitment unaffected. Nothing in this chapter shall be construed as impairing or restricting the power given by law to the judge of any court to suspend execution of sentence or to grant probation to any person who is convicted of a crime before such person is committed to serve the sentence for the crime.