

Note: This amendment was not adopted.

See: Commission Minutes
5/14/70, p. 19, Vol. IX
Tapes #58 & 59

CRIMINAL LAW REVISION COMMISSION

AUTHORITY OF COURT IN SENTENCING

Preliminary Draft No. 1; April 1970

PROPOSED AMENDMENT

Indeterminate Sentencing

April 23, 1970

ORS 137.120 is amended to read:

137.120. Indeterminate sentence. (1) Each minimum period of imprisonment in the penitentiary which prior to June 14, 1939, was provided by law for the punishment of felonies, and each such minimum period of imprisonment for felonies, hereby is abolished.

(2) Whenever any person is convicted of a felony, the court shall, unless it imposes other than a sentence to serve a term of imprisonment in the [penitentiary] custody of the Corrections Division, sentence such person to imprisonment [in the penitentiary] for an indeterminate period of time, but stating and fixing in the judgment and sentence a maximum [penitentiary] term for the crime, which shall [not exceed] be the same as the maximum term of imprisonment provided by law therefor; and judgment shall be given accordingly. Such a sentence shall be known as an indeterminate sentence.

(3) At the time of sentencing or within 60 days after the convicted person is committed to custody under ORS 137.124 the court shall fix a time at which, in its opinion, the person should be paroled. The

court shall transmit this recommendation in writing to the State Board of Parole and Probation and also make it a part of the record of the case.

(4) This section does not affect the indictment, prosecution, trial, verdict, judgment or punishment of any felony committed before June 14, 1939, and all laws now and before that date in effect relating to such a felony are continued in full force and effect as to such a felony.

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ORS 144.210 is amended to read:

144.210. Statement and information about inmate and his crime from judge, district attorney and others. (1) 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.

(2) [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.

(3) The sentencing judge shall provide information regarding the convicted person and recommend a time for parole in accordance with subsection (3) of ORS 137.120.

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Section _____ is added to and made a part of ORS 144.210 to 144.400.

Section _____. Time of parole. A person committed to the custody of the Corrections Division shall be paroled no later than at the time recommended by the sentencing judge, unless the State Board of Parole and Probation, in applying the standards for parole and considering the factors of the particular case, is of the opinion that the person should remain in confinement beyond that time.

(2) If the Board decides not to parole the person at the time recommended by the sentencing judge, it shall notify the court in writing of its action and the reasons therefor.

(3) Nothing in this section shall prevent the Board from granting parole to a person before the time recommended by the sentencing judge, if the parole otherwise is in accordance with law.

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Section _____ is added to and made a part of ORS 137.120 to 137.220.

Section _____. Concurrent and consecutive terms of imprisonment.

(1) Except as provided in subsection (2) of this section, when multiple sentences of imprisonment are imposed on a person at the same time, or when a person who is subject to any undischarged term of imprisonment is sentenced to an additional term of imprisonment, the sentence or sentences imposed by the court shall be served concurrently.

(2) If a person who is imprisoned in a detention facility is convicted of a felony committed while he is imprisoned or during an escape from imprisonment, the maximum term of imprisonment authorized for the felony may be added to the portion of the term which remained unserved at the time of the commission of the felony. For purposes of this section, escape in the first degree is a felony committed during imprisonment.