Chapter 137

1957 REPLACEMENT PART

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JUDGMENT

137.010 Duty of court to ascertain and impose punishment. The statutes that declare certain crimes punishable as therein mentioned impose a duty upon the court authorized to pass sentence, to determine and impose the punishment prescribed and, whenever such punishment is left undetermined between certain limits or kinds, to determine the punishment to be inflicted.

137.020 Time for pronouncing judgment. (1) After a plea or verdict of guilty, or after a verdict against the defendant on a plea of former conviction or acquittal, if the judgment is not arrested or a new trial granted, the court shall appoint a time for pronouncing judgment.

(2) The time appointed shall be at least two days after the verdict, if the court intends to remain in session so long, or if not, as remote a time as can reasonably be allowed; but in no case can the judgment be given, except by the consent of the defendant, in less than six hours after the verdict.

137.030 Presence of defendant at pronouncement of judgment. For the purpose of giving judgment, if the conviction is for a felony, the defendant shall be personally present; but if it is for a misdemeanor, judgment may be given in his absence.

137.040 Bringing defendant in custody to pronouncement of judgment. If the defendant is in custody, the court shall direct the officer in whose custody he is to bring him before it for judgment; and the officer shall do so accordingly.

137.050 Nonattendance at pronouncement of judgment of defendant who has given bail or deposited money; bench warrant. (1) If the defendant has given bail or deposited money in lieu thereof and does not appear for judgment when his personal attendance is necessary, the court may forfeit the undertaking of bail or the money deposited. In addition, the court may direct the clerk to issue a bench warrant for the defendant's arrest.

(2) At any time after the making of the order for the bench warrant, the clerk, on the application of the district attorney, shall issue such warrant, as by the order directed, whether the court is sitting or not.

137.060 Form of bench warrant. The bench warrant shall be substantially in the following form:

CIRCUIT (OR DISTRICT) COURT FOR THE COUNTY OF ———, STATE OF OREGON
IN THE NAME OF THE STATE OF OREGON

To any sheriff or his deputy of this state, greeting:

A B having been on the ——— day of ———, 19—, convicted in this court of the crime of (designating it generally), you are commanded to arrest the above-named defendant forthwith and bring him before such court for judgment or, if the court has adjourned for the term, deliver him into the custody of the jailor of this county. By order of the court.

Witness my hand and seal of said circuit (or district) court, affixed at ———, in said county, this ——— day of ———, 19—.

[L. S.] C D, Clerk of the Court

[Amended by 1957 c.659 §1]

137.070 Counties to which bench warrant may issue; service. The bench warrant mentioned in ORS 137.050 may issue to one or more counties of the state and may be served in the same manner as provided in ORS 135.180, in case of a bench warrant upon an indictment.

137.080 Consideration of circumstances in aggravation or mitigation of punishment. After a plea or verdict of guilty, or after a verdict against the defendant on a plea of former conviction or acquittal, in a case where a discretion is conferred upon the court as to the extent of the punishment to be inflicted, the court, upon the suggestion of either party that there are circumstances which may be properly considered in aggravation or mitigation of the punishment, may, in its discretion, hear the same summarily at a specified time and upon such notice to the adverse party as it may direct.

137.090 Proof of circumstances. The circumtances which are alleged to justify aggravation or mitigation of the punishment shall be presented by the testimony of witnesses examined in open court, except that when a witness is so sick or infirm as to be unable to attend, his deposition may be taken out of court at such time and place, and upon such notice to the adverse party, and before such person authorized to take depositions, as the court directs.

137.100 Defendant as witness in relation to circumstances. If the defendant consents thereto, he may be examined as a witness in relation to the circumstances which are alleged to justify aggravation or mitigation of the punishment; but if he gives his testimony at his own request, then he must submit to be examined generally by the adverse party.

137.110 Other evidence of circumstances not admissible. No affidavit or testimony or representation of any kind, verbal or written, can be offered to or received by the court in aggravation or mitigation of the punishment, except as provided in ORS 137.080 to 137.100.

137.111 Sentence for indeterminate term upon conviction for certain sexual offenses. After the presentence hearing and upon the consideration of the psychiatric report required by ORS 137.112 to 137.116, the court may, in its discretion, in lieu of any other sentence authorized by law for such crime, sentence any person convicted under ORS 163.210, 163.220, 163.270, 167.035, 167.040 or 167.045 to an indeterminate term not exceeding the natural life of such person if:

(1) The offense involved a child under the age of 16 years; and

(2) The court finds that such person has a mental or emotional disturbance, deficiency or condition predisposing him to the commission of any crime punishable under ORS 163.210, 163.220, 163.270, 167.035, 167.040 or 167.045 to a degree rendering the person a menace to the health or safety of others. [1955 c.636 §3]

137.112 Psychiatric examination required after conviction of person for certain sexual offenses. (1) Every person convicted of any crime punishable under ORS 163.210 or 167.040, or any crime involving any child under the age of 16 years punishable under ORS 163.220, 163.270, 167.035 or 167.045, shall, upon conviction and before sentence, forthwith be given a complete psychiatric examination. The court shall order that such person be taken by the sheriff to a state hospital designated by the Oregon State Board of Control for the examination. When the examination is completed, the superintendent of the institution to which the person was taken shall notify the sheriff, who shall go to the institution and the superintendent shall deliver the person to the sheriff. Thereafter the sheriff shall retain custody of such person, subject to further order of the court.

(2) The superintendent of the institution to which a person is taken under subsection (1) of this section shall designate a qualified psychiatrist, who may be either a member of the hospital staff or a psychiatrist engaged in private practice, to conduct the examination of such person. All costs connected with the examination, including the examination by the psychiatrist at the presentence hearing under ORS 137.114, shall be paid by the county in which such person was convicted. [1953 c.641 §2; 1955 c.252 §1; 1955 c.636 §1]

137.113 Report of findings after psychiatric examination. Within 60 days after the conviction, the examining psychiatrist appointed pursuant to ORS 137.112 shall file with the superintendent appointing him a written report of his findings and conclusions relative to the examination. 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, deficiency or condition predisposing him to the commission of any crime to a degree rendering the convicted person a menace to the health or safety of others. The report shall also contain any other information which the examining psychiatrist believes may aid the court in sentencing. The superintendent shall immediately forward the report to the court in which such person was convicted. A certified copy of the report shall be sent by registered mail by the clerk of the court to the convicted person, his attorney and the district attorney. [1953 c.641 §3; 1955 c.252 §2]

137.114 Presentence hearing concerning psychiatric examination and report. Upon the filing of the report by the examining psychiatrist, the court shall set a time for a presentence hearing, unless the district attorney and the convicted person waive a presentence hearing. At the presentence hearing, the district attorney and the convicted person may examine the psychiatrist who filed the report with reference to the psychiatric examination and report. [1953 c.641 §4]

137.115 Immunities surrounding statements made in connection with psychiatric

examination and report. (1) No statement made by a convicted person in the course of an examination made under ORS 137.112 to 137.114 shall be used against him in any civil proceeding or in any other criminal proceeding.

(2) No person shall, without the consent of the convicted person, be examined in any civil or any other criminal proceeding as to any statement made by the convicted person in the course of the examination.

(3) No statement contained in any report made by an examining psychiatrist under ORS 137.112 to 137.114 shall be the subject of any civil suit or action. [1953 c.641 §5]

137.116 Psychiatric examination permitted after conviction of person for other sexual offenses; sentence for indeterminate term in certain cases. (1) If any person is convicted of any crime other than those specified in ORS 137.112, and the judge of the court finds, or has reason to believe, that sexual stimulation was the motivating factor in the commission of the crime, the judge may order a psychiatric examination of the person before sentence, as provided in ORS 137.112 to 137.115. All costs connected with the examination, including the examination by the psychiatrist at the presentence hearing under ORS 137.114, shall be paid by the county in which such person was convicted.

(2) After the presentence hearing and upon the consideration of the psychiatric report required by ORS 137.112 to 137.116, the court may, in its discretion, in lieu of any other sentence authorized by law, sentence any such person to an indeterminate term not exceeding the natural life of such person if:

(a) The offense involved a child under the age of 16 years; and

(b) The court finds that such person has a mental or emotional disturbance, deficiency or condition predisposing him to the commission of any crime punishable under ORS 163.210, 163.220, 163.270, 167.035, 167.040 or 167.045 to a degree rendering the person a menace to the health or safety of others. [1953 c.641 §6; 1955 c.252 §3; 1955 c.636 §2]

137.117 Application of psychiatric examination and indeterminate term statutes to prisoners transferred to mental institutions. ORS 137.111, 137.112, 137.116 and 167.050 do not apply to any person transferred to any institution for the mentally ill or mentally deficient under ORS 421.235. [1955 c.636 §10]

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 in the penitentiary or of death, 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 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) 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.

137.125 Sentence to Oregon State Correctional Institution. (1) Upon conviction of a crime which is punishable by imprisonment in the Oregon State Penitentiary, the court may sentence and commit a male person so convicted to the Oregon State Correctional Institution if, in the opinion of the court, rehabilitation of the defendant can best be attained by such commitment and it appears that the best interest of the defendant and of the public and the ends of justice would thereby be served.

(2) In making its determination under this section the court shall take into consideration age, giving preference to persons under the age of 26, prior criminal record, reformability, education and family background of the defendant, together with any other circumstances which may be disclosed if a presentence investigation is made by the court. [1955 c.660 §3]

137.127 Persons not eligible for original court commitment to correctional institu-

tion. The following persons are not eligible for original court commitment to the Oregon State Correctional Institution:

(1) Any person who has been convicted of the crime of murder, rape where actual force is involved or treason.

(2) Any person who has been convicted of a crime and is sentenced by the court for a term of imprisonment of more than 10 years.

(3) Any person who has served a term of imprisonment in the Oregon State Correctional Institution or the Oregon State Penitentiary, or who has been convicted of a crime amounting to a felony and has served a term of imprisonment in a penitentiary or prison of the United States, any state or territory. [1955 c.660 §5]

137.130 Imprisonment when there is no county jail. Whenever there is no jail in a county, every judicial or other officer of the county who has power to order, sentence or deliver any person to the county jail may order, sentence or deliver such person to the jail of an adjoining county or, if there is no jail in any adjoining county, to the nearest county jail.

137.140 Imprisonment when county jail is not suitable for safe confinement. Whenever it appears to the court, at the time of giving judgment of imprisonment in the county jail, that there is no sufficient jail in the proper county, as provided in ORS 137.330, suitable for the safe confinement of the defendant, the court may order the judgment to be executed in the jail of any county in the state.

137.150 Fines; imprisonment until fine is satisfied. A judgment that the defendant pay a fine shall also direct that he be imprisoned in the county jail until the fine is satisfied, specifying the extent of the imprisonment, which cannot exceed one day for every $25 of the fine. In case the entry of judgment should omit to direct the imprisonment and the extent thereof, the judgment to pay the fine shall operate to require the imprisonment of the defendant until the fine is satisfied at the rate above mentioned.

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137.160 Imprisonment for two or more crimes; cumulative sentences; commencement of term of defendant already imprisoned. If the defendant is convicted of two or more crimes before judgment on either, the judgment shall be that the imprisonment upon any one may commence at the expiration of the imprisonment upon any other of such crimes. If the defendant is in imprisonment upon a previous judgment on a conviction for a crime, the judgment shall be that the imprisonment shall commence at the expiration of the term limited by the previous judgment.

137.170 Entry of judgment on conviction. When judgment upon a conviction is given, the clerk shall enter the same in the journal, stating briefly the crime for which the conviction has been had. Such entry may be made at any time during the term, as of the day's proceedings upon which the judgment was given.

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137.180 Docketing of judgment to pay fine or costs. A judgment that the defendant pay money, either as a fine or as costs and disbursements of the action, or both, shall be docketed as a judgment in a civil action and with like effect, as provided in ORS 18.320, 18.350 and 18.400.

137.190 Judgment roll. (1) Immediately after the entry of judgment, the clerk shall prepare and annex together the following papers, which constitute the judgment roll:

(a) The indictment and demurrer, if there is one.

(b) A copy of the journal entry of the plea, the trial and verdict and of any order involving the merits and necessarily affecting the judgment.

(c) A copy of the journal entry of the judgment.

(d) The bill of exceptions, if there is one.

(2) In all cases the clerk shall complete and indorse such judgment roll in the manner prescribed in subsection (3) of ORS 18.330.

137.200 Costs paid by county; taxation against defendant on conviction. The costs and disbursements in a criminal action or proceeding are paid to the person rendering the service by the proper county; but in case of a judgment of conviction, such costs and disbursements shall be taxed against the defendant.

137.210 Taxation of costs against private prosecutor. (1) If, after the indorsement of the name of the private prosecutor on the complaint, information or indictment, it is found by any justice or court try-

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ing the action or hearing the proceeding that the prosecution is malicious or without probable cause, that fact shall be entered upon record in the action or proceeding by the justice or court.

(2) Upon making the entry prescribed in subsection (1) of this section, the justice or court shall immediately render judgment against the private prosecutor for the costs and disbursements of the action or proceeding.

137.220 to 137.300 [Reserved for expansion]

EXECUTION OF JUDGMENT

137.310 Authorization of execution of judgment. When a judgment, except of death, has been pronounced, a certified copy of the entry thereof upon the journal shall be forthwith furnished by the clerk to the officer whose duty it is to execute the judgment; and no other warrant or authority is necessary to justify or require its execution.

137.320 By whom judgment of imprisonment is executed. When the judgment is imprisonment in the penitentiary or the Oregon State Correctional Institution, the sheriff shall deliver the defendant, together with a copy of the entry of judgment, to the executive head of the designated institution. When the judgment is imprisonment in the county jail or a fine and that the defendant be imprisoned until it is paid, the judgment shall be executed by the sheriff of the county. [Amended by 1955 c.660 §14]

137.330 Where judgment of imprisonment in county jail is executed. (1) Except as provided in ORS 137.130 and 137.140, a judgment of imprisonment in the county jail shall be executed by confinement in the jail of the county where the judgment is given, except that when the place of trial has been changed, the confinement shall take place in the jail of the county where the action was commenced.

(2) The jailor of any county jail to which a prisoner is ordered, sentenced or delivered pursuant to ORS 137.130 or 137.140 shall receive and keep such prisoner in the same manner as if he had been ordered, sentenced or delivered to him by an officer or court of his own county; but the county in which the prisoner would be imprisoned except for the provisions of ORS 137.130 or 137.140 shall pay all the expenses of keeping and maintaining him in said jail.

137.340 Conveyance of defendant to prison; authority of sheriff to require assistance. (1) The sheriff or his deputy, while conveying the defendant to the proper prison in execution of a judgment of imprisonment, may require the assistance of any inhabitant of this state in securing the defendant and in retaking him if he escapes as if the sheriff were in his own county.

(2) No person shall refuse or neglect to assist the sheriff when so required.

137.350 Woman officer to accompany woman or girl to place of confinement. If any woman or girl charged with a crime is sentenced to any place of confinement, she shall be accompanied to such place by a woman officer who shall be appointed and compensated in the same manner as provided in ORS 133.780.

137.360 Duty of judge and sheriff to appoint woman officer to accompany woman ordered to institution. (1) Whenever an order has been made by any court of this state for the confinement of any female within any of the penal, reformatory or eleemosynary institutions of this state and by reason thereof it becomes the duty of any judge to appoint any person to accompany the female to such institution, the judge shall appoint a woman for that purpose.

(2) Whenever under the laws of this state it becomes the duty of the sheriff of any county to convey any female to any of the penal, reformatory or eleemosynary institutions of this state, the sheriff shall cause such person to be accompanied by a female attendant to the place of confinement.

137.370 Commencement of term of imprisonment in state penal or correctional institution; voluntary absence. When a person is sentenced to imprisonment in the penitentiary or the correctional institution, his term of confinement therein commences from the day of his delivery at the penitentiary or correctional institution to the proper officer thereof, and no time during which such person is voluntarily absent therefrom can be counted as a part of the term for which such person was sentenced. [Amended by 1955 c.660 §15]

137.375 Release of prisoners whose terms expire on legal holidays. When the

date of release from imprisonment of any inmate in the county or city jail or penal, correctional or reformatory institution falls on Sunday or a legal holiday, such person shall be released on the preceding day. [1953 c.532 §1; 1955 c.660 §16]

137.380 Treatment and employment of prisoners. A judgment of imprisonment in the penitentiary need only specify the duration of such confinement, and thereafter the manner of the confinement and the treatment and employment of a person sentenced to imprisonment in any penal, correctional or reformatory institution shall be regulated and governed by whatever law may be in force prescribing the discipline of such institution and the treatment and employment of persons sentenced to confinement therein. [Amended by 1955 c.32 §1; 1955 c.660 §17]

137.390 Commencement and termination of term of imprisonment in county jail; treatment of prisoners therein. The commencement and termination of a sentence of imprisonment in the county jail is to be ascertained by the rule prescribed in ORS 137.370, and the manner of such confinement and the treatment of persons so sentenced shall be governed by whatever law may be in force prescribing the discipline of county jails.

137.400 Judgment of death; warrant; delivery of defendant. (1) When judgment of death is pronounced, a warrant signed by the judge of the court and attested by the clerk, with the seal of the court affixed, shall be drawn and delivered to the sheriff of the county. It shall state the conviction and judgment and shall direct the sheriff to deliver the defendant within 20 days from the time of judgment to the Warden of the Oregon State Penitentiary pending the determination of an appeal or the automatic appeal provided in ORS 138.810.

(2) If an appeal or the automatic appeal provided by ORS 138.810, affirms the judgment of death, a warrant signed by the judge of the court in which the judgment was rendered and attested by the clerk of such court, shall be drawn and delivered to the Warden of the Oregon State Penitentiary. The warrant shall appoint a day on which the judgment is to be executed and shall authorize and command the warden to execute the judgment of the court. [Amended by 1953 c.104 §2; 1955 c.662 §6]

137.410 Delivery of warrant in case of change of place of trial. In case the place of trial has been changed, the death warrant shall be delivered to the sheriff of the county wherein the trial was had. He shall deliver the same, with the defendant, to the warden, as provided in ORS 137.400.

137.420 Inflicting punishment of death. The punishment of death shall be inflicted by the administration of lethal gas until the defendant is dead. The judgment shall be executed by the warden of the penitentiary. All executions shall take place within the inclosure of the penitentiary. The warden of the penitentiary shall be present at the execution and shall invite the presence of one or more physicians, the Attorney General, the sheriff of the county in which the judgment was rendered and at least 12 reputable citizens to be selected by him. He shall, at the request of the defendant, permit such ministers of the gospel, not exceeding two, as the defendant may name and, in the discretion of the warden, such relatives and friends of the defendant as he may designate, not to exceed five, to be present at the execution, together with such peace officers as the warden thinks expedient. No other persons than those mentioned in this section can be present at the execution, nor can any person under the age of 21 years be allowed to witness the same.

137.430 Application of ORS 137.420 to crimes committed prior to its enactment. ORS 137.420 does not affect the indictment, prosecution, trial, verdict, judgment or punishment of any crimes committed before June 7, 1937, but all laws before that date in effect relating thereto are continued in full force and effect as to such crimes.

137.440 Return of officer executing judgment; annexation to judgment roll. When a judgment in a criminal action has been executed, the sheriff or officer executing it shall return to the clerk the warrant or copy of the entry or judgment upon which he acted, with a statement of his doings indorsed thereon, and the clerk shall file the same and annex it to the judgment roll in the case.

137.450 Enforcement of money judgment in criminal action. A judgment against the defendant in a criminal action or the private prosecutor, so far as it requires the

payment of a fine or costs and disbursements of the action, or both, may be enforced as a judgment in a civil action.

137.460 Effect of conviction of felony on property of defendant. No conviction of any person for crime works any forfeiture of any property, except in cases where the same is expressly provided by law; but in all cases of the commission or attempt to commit a felony, the state has a lien, from the time of such commission or attempt, upon all the property of the defendant for the purpose of satisfying any judgment which may be given against him for any fine on account thereof and for the costs and disbursements in the proceedings against him for such crime; provided, however, such lien shall not attach to such property as against a purchaser or incumbrancer in good faith, for value, whose interest in the property was acquired before the docketing of the judgment against the defendant.

137.470 to 137.500 [Reserved for expansion]

SUSPENDED SENTENCE AND PROBATION; PAROLE BY COMMITTING MAGISTRATE

137.510 Power of court to suspend imposition or execution of sentence or to place defendant on probation. (1) The courts having jurisdiction of criminal or quasicriminal actions, including actions for violation of municipal ordinances, when it appears that the best interests of the public as well as of the defendant will be subserved thereby, may:

(a) Suspend the imposition or execution of sentence for any crime or offense for any period not to exceed five years; and may also

(b) Place the defendant on probation for a definite or indefinite period not less than one nor more than five years.

(2) The power of the judge of any court to suspend execution of sentence or to grant probation to any person convicted of a crime shall continue until such person is delivered to the executive head of the penal, reformatory or correctional institution designated in the judgment. [Amended by 1955 c.660 §18; 1955 c.688 §1]

137.520 Power of committing magistrate to parole persons confined in county jail. The committing magistrate may establish rules and regulations under which any prisoner who is confined in any county jail for any period under six months may be allowed to go upon parole outside the county jail, but to remain while on parole in the legal custody and under the control of the court, and subject to being taken back into confinement at the discretion of the court. The committing magistrate may parole to the State Board of Parole and Probation any person sentenced to be confined in the county jail for a period of six months or more.

137.530 Investigation and report of probation officers. Probation officers, when directed by the court, shall fully investigate and report to the court in writing on the circumstances of the offense, criminal record, social history and present condition and environment of any defendant; and unless the court directs otherwise in individual cases, no defendant shall be placed on probation until the report of such investigation has been presented to and considered by the court. Whenever desirable, and facilities exist therefor, such investigation shall include physical and mental examinations of such defendants.

137.540 Determination and modification of conditions of probation. The court shall determine, and may at any time modify, the conditions of probation, which may include, as well as any others, that the probationer shall:

(1) Avoid injurious or vicious habits.

(2) Avoid places or persons of disreputable or harmful character.

(3) Report to the probation officer as directed by the court or probation officer.

(4) Permit the probation officer to visit him at his place of abode or elsewhere.

(5) Answer all reasonable inquiries of the probation officer.

(6) Work faithfully at suitable employment.

(7) Remain within a specified area.

(8) Pay his fine, if any, in one or several sums.

(9) Make reparation or restitution to the aggrieved party for the damage or loss caused by offense, in an amount to be determined by the court.

(10) Support his dependents.

(11) Remain in the legal custody and control of the State Board of Parole and Probation under the rules and regulations of the board.

137.550 Period of probation; discharge from probation; proceedings in case of violation of conditions. (1) Subject to the limitations in subsection (1) of ORS 137.510:

(a) The period of probation shall be such as the court determines and may, in the discretion of the court, be continued or extended.

(b) The court may at any time discharge a person from probation.

(2) At any time during the probation period, the court may issue a warrant and cause a defendant to be arrested for violating any of the conditions of probation. Any probation officer, police officer or other officer with power of arrest may arrest a probationer without a warrant, and a statement by the probation officer setting forth that the probationer has, in his judgment, violated the conditions of probation is sufficient warrant for the detention of the probationer in the county jail, house of detention or local prison, when designated in such statement, until the probationer can be brought before the court. The probation officer shall forthwith report such arrest or detention to the court and submit to the court a report showing in what manner the probationer has violated his probation. Thereupon the court, after summary hearing, may revoke the probation and suspension of sentence and cause the sentence imposed to be executed or, if no sentence has been imposed, impose any sentence which originally could have been imposed. In the case of any defendant whose sentence has been suspended but who is not on probation, the court may issue a warrant and cause the defendant to be arrested and brought before the court at any time within the maximum period for which the defendant might originally have been sentenced. Thereupon the court, after summary hearing, may revoke the suspension of sentence and cause the sentence imposed to be executed. [Amended by 1955 c.688 §2]

137.560 Copies of certain orders to be sent to Director of Parole and Probation. Within 10 days following the issuing of any order of suspension of imposition or execution of sentence or of probation of any person convicted of a crime, or of the continuation, extension, modification or revocation of any such order, or of the discharge of such person, or the recommendation by the court to the Governor of the pardon of such person, the judge issuing such an order shall send a copy of the same to the Director of Parole and Probation.

137.570 Authority to transfer probationer from one officer to another; procedure. A court may transfer a person on probation under its jurisdiction from the supervision of one probation officer to that of another probation officer. Whenever a person placed on probation resides in or is to remove to a locality outside the jurisdiction of the court which placed such person on probation, such court may transfer such person to a probation officer appointed to serve for the locality in which such person resides or to which he is to remove:

(1) If such probation officer sends to the court desiring to make such transfer a written statement that he will exercise supervision over such person.

(2) If the statement is approved in writing by the judge of the court to which such probation officer is attached.

137.580 Effect of transfer of probationer from one officer to another. Whenever the transfer mentioned in ORS 137.570 is made, the court making it shall send to the probation officer to whose supervision the probationer is transferred a copy of all the records of such court as to the offense, criminal record and social history of the probationer. The probation officer shall report concerning the conduct and progress of the probationer to the court that placed him on probation. Probation officers shall have, with respect to persons transferred to their supervision from any other jurisdiction, all the powers and be subject to all the duties now imposed by law upon them in regard to probationers received on probation from courts in their own jurisdiction.

137.590 Appointment of probation officers and assistants; chief probation officer; compensation. The judge or judges of any court of criminal jurisdiction, including municipal courts, may appoint, and at pleasure remove, such men and women probation officers and clerical assistants as may be necessary. Probation officers appointed by the court shall be selected because of definite qualifications as to character, personality, ability and training. In courts where more than one probation officer is appointed, one shall be designated chief probation officer and shall have general supervision of the probation work of probation officers ap-

pointed by and under the direction of the court. Appointments shall be in writing and entered on the records of the court. A copy of each order of appointment shall be filed in the office of the State Board of Parole and Probation. No probation officer or clerical assistant appointed by the court under this section shall receive any compensation from the state, any county or any municipality.

137.600 [Repealed by 1955 c.491 §9]

137.610 Performance by staff of State Board of Parole and Probation of duties of probation officers appointed by judge. The judge or judges of any court of criminal jurisdiction, including municipal courts, may request at any time the staff of the State Board of Parole and Probation to perform any of the duties which might be required of a probation officer appointed by the court pursuant to ORS 137.590. All such requests for services of the staff shall be made upon the Director of Parole and Probation, who shall order the prompt performance of any such requested service whenever members of the staff are available for such duty.

137.620 Powers of probation officers; oath of office; bond; audit of accounts. Probation officers shall have the powers of peace officers in the execution of their duties, but shall not be active members of the regular police force. Each probation officer, before entering on the duties of his office, shall take an oath of office, to be administered by the court making the appointment. Each probation officer who collects or has custody of money shall execute a bond in a penal sum to be fixed by the court, with sufficient sureties approved thereby, conditioned for the honest accounting of all money received by him as probation officer. The accounts of all probation officers shall be subject to audit at any time by the proper fiscal authorities.

137.630 Duties of probation officers. The duties of probation officers shall be:

(1) To make such investigations and reports under ORS 137.530 as are required by the judge of any court having jurisdiction within the county, city or judicial district for which the officer is appointed to serve.

(2) To receive under supervision any person placed on probation by any court in the jurisdiction area for which such officers are appointed to serve.

(3) To collect from persons under their supervision such payments as are ordered by the courts for which they serve, and to disburse the money so received under the direction of such courts.

(4) To give each person under their supervision a statement of the conditions of probation and to instruct him regarding them; to keep informed concerning the conduct and condition of such persons by visiting, requiring reports and otherwise; to use all suitable methods, not inconsistent with the condition of probation, to aid and encourage such persons and to effect improvement in their conduct and condition.

(5) To keep detailed records of the work done and accurate and complete accounts of all money collected and disbursed and to give and obtain receipts therefor; and to make such reports to the courts and to the State Board of Parole and Probation as such courts require.

137.640 Suspension of judgment against minor. Final judgment against any minor under 16 years of age may be suspended on any conviction, charge or prosecution for misdemeanor or felony where, in the opinion of the court in which such proceeding is pending, there is a reasonable ground to believe that the minor may be reformed and that a commitment to prison would work manifest injury in the premises. Such suspension may be for as long a period as the circumstances of the case seem to warrant. The order of suspension may be revoked by the court at any time.

137.650 Custody during period of suspension of judgment. During the period of the suspension mentioned in ORS 137.640, or of any extension thereof, the court or judge may, under such limitation as may seem advisable, commit the minor to the custody of the officers or managers of any strictly nonsectarian charitable corporation conducted for the purpose of reclaiming criminal minors. Such corporation, by its officers or managers, may accept the custody of the minor for a period of two months, which period may be extended by the court or judge should it be deemed advisable. If the minor is incorrigible and incapable of reformation, he may be returned before the court for final judgment for his misdemeanor or felony. The charitable corporation shall accept custody of the minor as aforesaid, upon the distinct agreement that it and its

officers shall use all reasonable means to effect the reformation of the minor and provide him with a home and instruction.

137.660 Payment of custodian's expenses of maintenance of minor. The court may, in its discretion, in the order directing a suspension of final judgment and a commitment, direct the payment to the corporation named in the order, out of the treasury of the county where the proceeding is pending, of the expenses of the maintenance of the minor named in the order for such period of two months, not to exceed in the aggregate the sum of $25, which sum shall constitute a legal charge against and shall be paid by such county, out of the treasury thereof, by the treasurer thereof, upon the presentation to him of the order of the court above mentioned. The order may, on the other hand, direct an action to be instituted by the corporation to recover the amount thereof out of the estate of such minor or from his parents. Such order is conclusive evidence of the right of the corporation to maintain the action. Revocation of the order of suspension does not affect the right of the corporation named therein to receive or recover the amount thereof in any case where, by virtue of such order, it has accepted and retained the custody of such minor for any period of time.

137.670 Guardianship of minor during period of suspension of judgment. No application for guardianship of a minor by any person, parent or friend shall be entertained by any court during the period of the suspension and custody provided for in ORS 137.650, except upon recommendation of the court before which the criminal proceedings are pending first obtained.

137.680 to 137.980 [Reserved for expansion]

PENALTIES

137.990 Penalties. (1) Violation of ORS 137.110 may be punished as a contempt.

(2) Violation of subsection (2) of ORS 137.340 is punishable as if the sheriff were in his own county.

(3) Violation of ORS 137.360 is punishable upon conviction by a fine of not less than $25 nor more than $500.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2,1957.

Sam R. Haley
Legislative Counsel