

# Chapter 137

## 1971 REPLACEMENT PART

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**JUDGMENT  
(Generally)**

**137.010 Duty of court to ascertain and impose punishment.** (1) The statutes that define offenses impose a duty upon the court having jurisdiction to pass sentence in accordance with this section unless otherwise specifically provided by law.

(2) When a person is convicted of an offense, if the court is of the opinion that it is in the best interests of the public as well as of the defendant, the court may suspend the imposition or execution of sentence for any period of not more than five years.

(3) If the court suspends the imposition or execution of sentence, the court may also place the defendant on probation for a definite or indefinite period of not less than one nor more than five years.

(4) 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 the person is delivered to the custody of the Corrections Division.

(5) When a person is convicted of an offense and the court does not suspend the imposition or execution of sentence or when a suspended sentence or probation is revoked, the court shall impose the following sentence:

- (a) A term of imprisonment; or
- (b) A fine; or
- (c) Both imprisonment and a fine; or
- (d) Discharge of the defendant.

(6) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty. An order exercising that authority may be included as part of the judgment of conviction.

[Amended by 1971 c.743 §322]

**137.015 Assessment in addition to fine or bail forfeiture; increased bail deposit to cover assessment.** (1) Whenever a court imposes a fine, or orders a bail forfeiture, as a penalty for violation of a law of this state or an ordinance of a city or county except an ordinance relating to cars unlawfully left or parked, an assessment in addition to such fine, or bail forfeiture shall be collected and forwarded within 30 days of receipt of such assessments by the clerk of the court or the county treasurer to the State Treasurer to be credited to the Police Standards and Training Account established by ORS 181.690.

The amount of the assessment shall be as follows:

(a) When fine or forfeiture is \$5 to \$14.99, \$1.

(b) When fine or forfeiture is \$15 to \$49.99, \$2.

(c) When fine or forfeiture is \$50 to \$99.99, \$3.

(d) When fine or forfeiture is \$100 or over, \$5.

(2) When any deposit of bail is made for an offense to which this section applies, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed in subsection (1) of this section.

(3) If bail is forfeited the assessment prescribed in this section shall be forwarded to the State Treasurer pursuant to this section. If bail is returned, the assessment made thereon shall also be returned.

[1971 c.328 §1]

**137.020 Time for pronouncing judgment; notice of right to appeal.** (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.

(3) At the time court pronounces judgment the defendant, if present, shall be advised of his right to appeal and of the procedure for protecting such right. If the defendant is not present, the court shall advise him in writing of his right to appeal and of the procedure for protecting such right.

[Amended by 1971 c.565 §18a]

**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:

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

To any peace officer in the State of Oregon, 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

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[Amended by 1957 c.659 §1; 1971 c.423 §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.

**(Diagnostic Examinations)**

**137.072 Diagnostic examination of defendant.** (1) As used in this section, "examination" includes a scientific study of the

person, his career and life history, the cause of his criminal act and recommendations for his care, training and employment with a view to his reformation.

(2) Upon the request of any defendant in a felony proceedings who has not been convicted or, although convicted, has not been sentenced, the court before which the defendant appears may request the Corrections Division to cause the defendant to be given an examination at a designated diagnostic facility if the division finds that the defendant is a suitable subject for such an examination. If the division agrees to give such an examination, the court shall order the person be taken by the sheriff to the facility for the examination. When the examination is completed, the Administrator of the Corrections Division shall notify the sheriff who shall go to the facility and accept and retain custody of the person, subject to further order of the court.

[1967 c.585 §2]

**137.075 Report to court and to convicted person; use of report content limited.**

(1) Within 60 days after completing the diagnostic examination, the Administrator of the Corrections Division shall file with the court a written report of findings and conclusions relative to the examination.

(2) A certified copy of the report shall be sent by registered mail by the clerk of the court to the convicted person, his counsel and the district attorney.

(3) No statement made by a defendant in the course of an examination under this section or ORS 137.072, 137.124, 137.320, 423.020 and 423.090 shall be used against him in any civil proceeding or in any other criminal proceeding.

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

(5) No statement contained in any report made under this section shall be the subject of any civil suit or action.

[1967 c.585 §3; 1971 c.743 §323]

**(Aggravation or Mitigation)**

**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; presentence investigation.** The circumstances 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. The court may consider the report of presentence investigation conducted by probation officers pursuant to ORS 137.530. A copy of such report may be made available to counsel for the defendant and the state a reasonable time before pronouncement of sentence.

[Amended by 1965 c.400 §1]

**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** [1955 c.636 §3; 1961 c.424 §1; repealed by 1971 c.743 §432]

**137.112** [1953 c.641 §2; 1955 c.252 §1; 1955 c.636 §1; 1961 c.424 §2; repealed by 1971 c.743 §432]

**137.113** [1953 c.641 §3; 1955 c.252 §2; 1961 c.424 §3; repealed by 1971 c.743 §432]

**137.114** [1953 c.641 §4; repealed by 1971 c.743 §432]

**137.115** [1953 c.641 §5; repealed by 1971 c.743 §432]

**137.116** [1953 c.641 §6; 1955 c.252 §3; 1955 c.636 §2; repealed by 1961 c.424 §9]

**137.117** [1955 c.636 §10; 1961 c.266 §1; 1961 c.424 §4; repealed by 1971 c.743 §432]

**137.119** [1963 c.320 §1; 1969 c.502 §3; 1969 c.597 §124; repealed by 1971 c.743 §432]

**(Term and Place of Confinement)**

**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 custody of the Corrections Division, sentence such person to imprisonment for an indeterminate period of time, but stating and fixing in the judgment and sentence a maximum 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.

[Amended by 1967 c.372 §2; 1971 c.743 §324]

**137.124 Commitment of defendant to Corrections Division; place of confinement; transfer of inmates.** (1) If the court imposes a sentence of imprisonment upon conviction of a felony, it shall not designate the penal or correctional institution in which the defendant is to be confined but shall commit the defendant to the legal and physical custody of the Corrections Division.

(2) After assuming custody of the convicted male person the Corrections Division may transfer inmates from one penal or correctional institution to another such institution for the purposes of diagnosis and study, rehabilitation and treatment, as best seems to fit the needs of the inmate and for the protection and welfare of the community and the inmate.

(3) If the court imposes a sentence of imprisonment upon conviction of a misdemeanor, it shall commit the defendant to the custody of the executive head of the penal

or correctional institution for the imprisonment of misdemeanants designated in the judgment.

[1967 c.585 §4; 1971 c.743 §325]

137.125 [1955 c.660 §3; repealed by 1967 c.585 §8]

137.127 [1955 c.660 §5; repealed by 1967 c.585 §8]

### (Post-Judgment Procedures)

**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 [Amended by 1959 c.530 §1; 1969 c.511 §2; repealed by 1971 c.743 §432]

137.160 [Repealed by 1961 c.520 §1]

**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.

[Amended by 1959 c.638 §19]

**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 [Repealed by 1959 c.558 §32 (ORS 137.220 enacted in lieu of ORS 137.190)]

137.200 [Repealed by 1971 c.743 §432]

137.205 [1963 c.600 §12; 1967 c.372 §3; repealed by 1971 c.743 §432]

**137.210 Taxation of costs against complainant.** (1) If it is found by any justice or court trying the action or hearing the pro-

ceeding 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 complainant for the costs and disbursements of the action or proceeding.

(3) As used in this section "complainant" means every person who voluntarily appears before any magistrate or grand jury to prosecute any person in a criminal action, either for a misdemeanor or felony.

[Amended by 1959 c.426 §3]

**137.220 Clerk to prepare trial court file.** In every criminal proceeding, the clerk shall attach together and file in his office, in the order of their filing, all the original papers filed in the court, whether before or after judgment, including but not limited to the indictment and other pleadings, demurrers, motions, affidavits, stipulations, orders, the judgment and the notice of appeal and undertaking on appeal, if any.

[1959 c.558 §33 (enacted in lieu of ORS 137.190)]

**137.225 Order setting aside conviction; prerequisites; limitations.** (1) Every defendant convicted of a Class C felony or a crime punishable as either a felony or a misdemeanor in the discretion of the court, or misdemeanor, including a violation of a municipal ordinance for which a jail sentence may be imposed, at any time after the lapse of three years from the date of pronouncement of judgment, if he has fully complied with and performed the sentence of the court, and is not under charge of commission of any crime, may move the court wherein such conviction was entered for an entry of an order setting aside such conviction. A copy of the motion shall be served upon the office of the prosecuting attorney who prosecuted the crime and opportunity be given to contest the motion. Upon hearing the motion the court may require the filing of such affidavits and may require the taking of such proofs as it deems proper. If the court determines that the circumstances and behavior of the applicant from the date of conviction to the date of the hearing on the motion warrant setting aside the conviction, it shall enter an appropriate order. Upon the entry of such an order, the applicant for purposes of the law shall be deemed not to have been previously convicted and the court

shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest resulting in the criminal proceeding. Upon entry of such an order, such conviction, arrest or other proceeding shall be deemed not to have occurred, and the applicant may answer accordingly any questions relating to their occurrence.

(2) The provisions of subsection (1) do not apply to:

(a) A state or municipal traffic offense; or

(b) A person convicted of more than one offense, excluding motor vehicle violations, whether the second or additional convictions occurred in the same action in which the conviction as to which relief is sought occurred or in another action; or

(c) A person who previously had a conviction set aside pursuant to this section.

(3) The provisions of subsection (1) apply to convictions which occurred before, as well as those which occurred after, September 9, 1971.

[1971 c.434 §2]

#### **(Effects of Felony Conviction)**

**137.230 Definitions for ORS 137.230 to 137.260.** As used in ORS 137.230 to 137.260, "conviction" or "convicted" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.

[1961 c.412 §1]

**137.240 Effect of felony conviction on civil and political rights; restoration of civil rights; exceptions.** (1) Conviction of a felony:

(a) Suspends all the civil and political rights of the person so convicted.

(b) Forfeits all public offices and all private trusts, authority or power during the term or duration of any imprisonment.

(2) However, a person convicted of a felony may lawfully exercise all civil rights during any period of parole or probation or upon final discharge from imprisonment.

(3) The provisions of subsections (1) and (2) of this section are not intended to render a person convicted of a felony incapable of making a will or power of attorney or incapable of making and acknowledging a sale or conveyance of property.

[Formerly 421.110]

**137.250 Restoration of political rights; effect of parole or probation revocation and commitment on civil and political rights.** (1) The political rights of a person convicted of a felony shall be restored to him automatically upon final discharge from probation, parole or imprisonment.

(2) Revocation of parole or probation and commitment to the penitentiary or correctional institution suspends civil and political rights.

[Formerly 421.112]

**137.260 Political rights restored to persons convicted of felony before August 9, 1961, and subsequently discharged.** Any person convicted of a felony prior to August 9, 1961, and subsequently discharged from probation, parole or imprisonment prior to or after August 9, 1961, is hereby restored to his political rights.

[1961 c.412 §4]

**137.270 Effect of felony conviction 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.

[Formerly 137.460]

#### **EXECUTION OF JUDGMENT**

**137.310 Authorizing execution of judgment; detention of defendant.** (1) When a judgment 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.

(2) The defendant may be arrested and detained in any county in the state by any peace officer and held for the authorities from the county to which the execution is

directed. Time spent by the defendant in such detention shall be credited towards the term specified in the judgment.

[Amended by 1961 c.358 §1; 1967 c.372 §4]

**137.320 Delivery of defendant when committed to Corrections Division.** (1) When the judgment includes commitment to the legal and physical custody of the Corrections Division, the sheriff shall deliver the defendant, together with a copy of the entry of judgment and a statement signed by the sheriff of the number of days the defendant was imprisoned prior to his delivery, to the superintendent of the penal or correctional institution to which the defendant is initially assigned pursuant to ORS 137.124. Time spent in custody by the defendant after his arrest and before his delivery to the Corrections Division shall be credited towards the term of the sentence.

(2) 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; 1967 c.232 §1; 1967 c.585 §5; 1971 c.619 §1]

**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 [Repealed by 1971 c.743 §432]

**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.** (1) Except as provided in subsection (2) of this section, 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.

(2) The time that a person sentenced to imprisonment in the penitentiary or the correctional institution is confined after arrest and prior to his delivery thereat is considered part of his sentence actually served in the penitentiary or the correctional institution. When a judgment of conviction is vacated and a new sentence is thereafter imposed upon the defendant for the same crime, the period of detention and imprisonment theretofore served shall be deducted from the maximum term, and from the minimum, if any, of the new sentence.

(3) Except in the case of a person enrolled in a work release program established under ORS 144.420, no time during which a person sentenced to imprisonment in the penitentiary or the correctional institution is voluntarily absent from the penitentiary or correctional institution can be counted as a part of the term for which such person was sentenced.

[Amended by 1955 c.660 §15; 1965 c.463 §19; 1967 c.232 §2]

**137.375 Release of prisoners whose terms expire on legal holidays.** (1) When the date of release from imprisonment of any inmate in the county or city jail falls on Satur-

day, Sunday or a legal holiday, such person shall be released on the preceding day unless the inmate is serving a mandatory minimum sentence specifically limited to weekends in which case he shall only be released at the time fixed in the sentence.

(2) When the date of release from imprisonment of any inmate in an adult correctional facility under the jurisdiction of the Corrections Division falls on Saturday, Sunday or a legal holiday, the inmate shall be released on the first day preceding the date of release which is not a Saturday, Sunday or legal holiday.

[1953 c.532 §1; 1955 c.660 §16; 1971 c.290 §1]

**137.380 Treatment and employment of prisoners.** A judgment of imprisonment in the penitentiary or the Oregon State Correctional Institution need only specify the duration of confinement. 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 is then 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; 1959 c.687 §1]

**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** [Amended by 1953 c.104 §2; 1955 c.662 §6; repealed by 1967 c.372 §13]

**137.410** [Repealed by 1967 c.372 §13]

**137.420** [Repealed by 1967 c.372 §13]

**137.430** [Repealed by 1967 c.372 §13]

**137.440 Return of officer executing judgment; annexation to trial court file.** 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 trial court file, as defined in ORS 19.005.

[Amended by 1967 c.471 §4]

**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** [Renumbered 137.270]

### **PROBATION AND PAROLE BY COMMITTING MAGISTRATE**

**137.510** [Amended by 1955 c.660 §18; 1955 c.688 §1; repealed by 1971 c.743 §432]

**137.520 Power of committing magistrate to parole and arrange for employment of persons confined in county jail.** (1) 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.

(2) If such a prisoner prior to sentence for any crime or offense has been regularly employed, the court may, by order, direct the sheriff of the county to arrange for such prisoner to continue his employment in the county or contiguous to the county where imprisoned, so far as possible. If such prisoner had no regular employment the court may, by order, authorize the sheriff to obtain gainful employment for him at prevailing rate of wage for such work and at fair and reasonable hours per day or week.

(3) Between the hours or periods when the prisoner is not employed he shall be confined in jail unless the court, by order, otherwise directs.

(4) The net earnings of such prisoner shall be payable to the sheriff. From such net earnings the sheriff, to the extent ordered by the court, may pay for such prisoner's board, both inside and outside of jail, and personal expenses and the support of such prisoner's lawful dependents, if any, and, if sufficient funds are available after making the foregoing payments, pay in whole or in part the preexisting debts of such prisoner. Any balance shall be retained until such prisoner has been discharged, whereupon it shall be paid to him.

(5) 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.

[Amended by 1959 c.345 §1]

**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) Be confined to the county jail for a period not to exceed one year or one-half of the maximum period of confinement that could be imposed for the offense for which the defendant is convicted, whichever is the lesser.
- (10) 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.

(11) Support his dependents.

(12) Remain under the supervision and control of the Corrections Division.

[Amended by 1965 c.346 §1; 1969 c.597 §125]

**137.550 Period of probation; discharge from probation; proceedings in case of violation of conditions.** (1) Subject to the limitations in ORS 137.010:

(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. A defendant who has been previously confined in the county jail as a condition of probation pursuant to ORS 137.540 shall be given credit for all time thus served in any order or judgment of confinement resulting from revocation of his probation. 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; 1965 c.346 §2; 1971 c.743 §326]

**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 appointed 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 Corrections Division staff 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 Corrections Division 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 Administrator of the Corrections Division, who shall order the prompt performance of any such requested service whenever members of the staff are available for such duty. [Amended by 1969 c.597 §126]

**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 Corrections Division as such courts require. [Amended by 1969 c.597 §127]

137.640 [Repealed by 1961 c.359 §1]

137.650 [Repealed by 1961 c.359 §1]

137.660 [Repealed by 1961 c.359 §1]

137.670 [Repealed by 1961 c.359 §1]

**PENALTIES**

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

(2) Violation of ORS 137.360 is punishable upon conviction by a fine of not less than \$25 nor more than \$500. [Amended by 1971 c.743 §327]

**CERTIFICATE OF LEGISLATIVE COUNSEL**

Pursuant to ORS 173.170, I, Robert W. Lundy, 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 1, 1971.

Robert W. Lundy  
 Legislative Counsel