

Chapter 144

1974 REPLACEMENT PART

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ADMINISTRATION

144.005 State Board of Parole; term; compensation; Administrator of Corrections Division as member. (1) A State Board of Parole 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; 1973 c.836 §281]

144.010 [Amended by 1953 c.223 §2; 1959 c.327 §1; 1967 c.526 §1; repealed by 1969 c.597 §281]

144.015 Confirmation by Senate. The appointment of a member of the State Board of Parole 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; 1973 c.836 §282]

144.020 [Repealed by 1969 c.597 §281]

144.025 Chairman; quorum. (1) The State Board of Parole 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; 1973 c.836 §283]

144.030 [Repealed by 1969 c.597 §281]

144.040 Power of board to determine parole violations. The State Board of Parole shall determine whether violation of conditions of parole exists in specific cases.

[Amended by 1955 c.688 §3; 1969 c.597 §108; 1973 c.836 §284]

144.045 [1967 c.560 §2; repealed by 1969 c.597 §281]

144.050 Power of board to parole jail inmates. Subject to applicable laws, the State Board of Parole may authorize any inmate, who is confined for a period of six months or more in any county jail or in any jail operated by a city having a population of more than 300,000 under an agreement entered into under subsection (2) of section 13, chapter 633, Oregon Laws 1971, between the city and the county within the boundaries of which the largest part of the city is situated or is committed to the legal and physical custody of the Corrections Division, to go upon parole subject to being arrested and detained under written order of the board or 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; 1971 c.633 §10; 1973 c.694 §2; 1973 c.836 §285; 1974 s.s. c.36 §3]

144.055 [1955 c.660 §12; repealed by 1969 c.597 §281]

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 having a population of 300,000 or less for the payment by the county or municipality of all or any part of the cost of the performance by the Corrections Division or State 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.

(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.

(4) Enter into an agreement with the

county court or board of county commissioners of each county within the boundaries of which the largest part of a city having a population of more than 300,000 is situated for the payment by the county of all or any part of the cost of the performance by the division of all or any part of the responsibility for prisoners transferred to the county by section 13, chapter 633, Oregon Laws 1971.

[Amended by 1969 c.597 §112; 1971 c.633 §11; 1973 c.836 §286; 1974 s.s. c.36 §4]

144.070 [Repealed by 1969 c.597 §281]

144.075 Payment of expenses of returning violators of parole, conditional pardon or commutation to penitentiary. Any expense incurred by the state for returning to the 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 such transportation.

[1953 c.191 §1; 1973 c.836 §287]

144.080 [Amended by 1955 c.688 §4; repealed by 1969 c.597 §281]

144.090 [Amended by 1969 c.502 §4; repealed by 1969 c.597 §281]

144.095 [1967 c.526 §3; 1969 c.314 §7; repealed by 1969 c.597 §281]

144.100 [Repealed by 1967 c.419 §68]

144.105 [1967 c.560 §4; repealed by 1969 c.597 §281]

PAROLE PROCESS

144.175 Policy on paroling prisoner; reasons for not paroling prisoner. Whenever the State Board of Parole considers the release of a prisoner who, by its rules or order, is eligible for release on parole, it shall be the policy of the board to order his release, unless the board is of the opinion that his release should be deferred or denied because:

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

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

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

(4) His release would have a substantially adverse effect on institutional discipline; or

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

[1973 c.694 §4]

144.180 Factors to be considered in paroling prisoner. In making its determination regarding a prisoner's release on parole, the State Board of Parole may take into account each of the following factors:

(1) The prisoner's personality, including his maturity, stability, sense of responsibility and any apparent development in his personality which may promote or hinder his conformity to law;

(2) The adequacy of the prisoner's parole plan;

(3) The prisoner's ability and readiness to assume obligations and undertake responsibilities;

(4) The prisoner's intelligence and training;

(5) The prisoner's family status and whether he has relatives who display an interest in him, or whether he has other close and constructive associations in the community;

(6) The prisoner's employment history, his occupational skills, and the stability of his past employment;

(7) The type of residence, neighborhood or community in which the prisoner plans to live;

(8) The prisoner's past use of narcotics or dangerous drugs, or past habitual and excessive use of alcoholic liquor;

(9) The prisoner's mental or physical makeup, including any disability or handicap which may affect his conformity to law;

(10) The prisoner's prior criminal record, including the nature and circumstances, recency, frequency and type of previous offenses;

(11) The prisoner's attitude toward law and authority;

(12) The prisoner's conduct in the institution, including particularly whether he has taken advantage of the opportunities for self-improvement afforded by the institutional program, whether he has been disciplined for misconduct prior to his hearing or reconsideration for parole release, whether he has forfeited any reductions of term during his period of imprisonment, and whether the reductions have been restored at the time of hearing or reconsideration; and

(13) The prisoner's conduct and attitude during any previous experience of probation or parole and when the experience occurred. [1973 c.694 §5]

144.188 [Repealed by 1974 S.S. c.86 §28]

144.185 Records and information available to board. Before making a determination regarding a prisoner's release on parole, the State Board of Parole may cause to be brought before it records and information regarding the prisoner, including:

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

(2) Any relevant information which may be submitted by the prisoner, his attorney, the victim of the crime, or by other persons;

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

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

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

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

(7) The prisoner's parole plan; and

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

[1973 c.694 §6]

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 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; 1973 c.836 §288]

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 shall cause to be brought before it all information regarding such convicted person.

[Amended by 1959 c.101 §3; 1973 c.836 §289]

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.

(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 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.

[1955 c.636 §4; 1961 c.424 §5; 1969 c.597 §114; 1971 c.743 §338; 1973 c.836 §290]

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 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 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.

[1955 c.636 §5; 1961 c.424 §6; 1971 c.743 §339; 1973 c.836 §291]

144.230 [Amended by 1963 c.625 §1; repealed by 1971 c.743 §432]

144.240 [Repealed by 1973 c.694 §26]

144.250 [Amended by 1973 c.836 §292; repealed by 1973 c.694 §26; see 144.183]

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 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.

[Amended by 1969 c.597 §115; 1973 c.836 §293]

144.270 Conditions of parole; copy to parolee. (1) The State Board of Parole, 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.

(2) The board shall determine, and may at any time modify, the conditions of parole, which may include, among other conditions, that the parolee shall:

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

(b) Be under the supervision of the Corrections Division and its representatives and abide by their direction and counsel.

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

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

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

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

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

(3) The board may establish such special conditions as it shall determine are necessary because of the individual circumstances of the parolee.

[Amended by 1973 c.694 §7; 1973 c.836 §294; 1974 s.s. c.36 §5]

TERMINATION OF PAROLE

144.310 Final discharge of parolee. When a paroled prisoner has performed the obligations of his parole for such time as satisfies the State Board of Parole 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 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.

[Amended by 1963 c.625 §2; 1973 c.694 §18; 1973 c.836 §295; 1974 s.s. c.36 §6]

144.315 Evidence admissible before board; rules. Evidence may be received in proceedings conducted by the State Board of Parole even though inadmissible under rules of evidence applicable to court procedure and the board shall establish procedures to regulate and provide for the nature and extent of the proofs and evidence and method of taking and furnishing the same in order to afford the inmate a reasonable opportunity for a fair hearing. The procedures shall include the means of determining good cause not to allow confrontation of witnesses or disclosure of the identity of informants who would be subject to risk of harm if their identity is disclosed.

[1973 c.694 §22]

144.317 Appointment of attorneys for indigent parolees. The State Board of Parole shall have the power to appoint attorneys to represent indigent parolees at state expense if the request and determination provided in paragraph (f) of subsection (3) of ORS 144.343 have been made.

[1973 c.694 §23]

144.320 [Repealed by 1961 c.412 §5]

144.330 [Amended by 1973 c.836 §296; repealed by 1973 c.694 §8 (144.331 enacted in lieu of 144.330)]

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

[1973 c.694 §9 (enacted in lieu of 144.330)]

144.333 [Repealed by 1974 s.s. c.36 §28]

144.335 Appeal from order of board to Court of Appeals; effect of filing appeal; appointment of master. (1) When a person over whom the board exercises its jurisdiction is adversely affected or aggrieved by a final order of the board related to the granting, revoking or discharging of parole, such person is entitled to judicial review of the final order.

(2) The order and the proceedings underlying the order are subject to review by the Court of Appeals upon petition to that

court filed within 60 days of the order for which review is sought. The board shall submit to the court the record of the proceeding, or, if the inmate agrees, a shortened record. A copy of the record transmitted shall be delivered to the inmate by the board.

(3) The court may affirm, reverse or remand the order on the same basis as provided in paragraphs (a) to (d) of subsection (7) of ORS 183.480. The filing of the petition shall not stay the board's order, but the board may do so, or the court may order a stay upon application on such terms as it deems proper.

(4) In the case of disputed allegations of irregularities in procedure before the board not shown in the record which, if proved, would warrant reversal or remand, the Court of Appeals may refer the allegations to a master appointed by the court to take evidence and make findings of fact upon them.

[1973 c.694 §24]

144.337 Public Defender to represent petitioner. Persons petitioning for review under ORS 144.335 shall be represented by the Public Defender pursuant to the terms of ORS 151.210 to 151.290.

[1973 c.694 §25]

144.340 Power to retake and return violators of parole. The Corrections Division, in accordance with the rules and regulations or directions of the State Board of Parole 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.

[Amended by 1969 c.597 §116; 1973 c.836 §297]

144.343 Hearing required on arrest or detention of parolee; procedure. (1) When a parolee is arrested and detained under ORS 144.331 or 144.350, the State Board of Parole or its designated representative shall conduct a hearing as promptly as convenient after arrest and detention to determine whether there is probable cause to believe a violation of one or more of the conditions of parole has occurred and also conduct a parole violation hearing if necessary. The location of the hearing shall be reasonably near the place of the alleged violation or the place of confinement.

(2) The board may:

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

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

(3) Within a reasonable time prior to the hearing, the board or its designated representative shall provide the parolee with written notice which shall contain the following information:

(a) A concise written statement of the suspected violations and the evidence which forms the basis of the alleged violations.

(b) The parolee's right to a hearing and the time, place and purpose of the hearing.

(c) The names of persons who have given adverse information upon which the alleged violations are based and the right of the parolee to have such persons present at the hearing for the purposes of confrontation and cross-examination unless it has been determined that there is good cause for not allowing confrontation.

(d) The parolee's right to present letters, documents, affidavits or persons with relevant information at the hearing unless it has been determined that informants would be subject to risk of harm if their identity were disclosed.

(e) The parolee's right to subpoena witnesses under ORS 144.347.

(f) The parolee's right to be represented by counsel and, if indigent, to have counsel appointed at state expense if the board or its designated representative determines, after request, that the request is based on a timely and colorable claim that:

(A) The parolee has not committed the alleged violation of the conditions upon which he is at liberty; or

(B) Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justify or mitigate the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or

(C) The parolee, in doubtful cases, appears to be incapable of speaking effectively for himself.

(g) That the hearing is being held to determine:

(A) Whether there is probable cause to believe a violation of one or more of the conditions of parole has occurred, and if so;

(B) Whether to reinstate or continue the alleged violator on parole subject to the same or modified conditions of parole; or

(C) Revoke parole and require that the parole violator serve the remaining balance of his sentence as provided by law.

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

(a) To present evidence on his behalf, which shall include the right to present letters, documents, affidavits or persons with relevant information regarding the alleged violations;

(b) To confront witnesses against him unless it has been determined that there is good cause not to allow confrontation;

(c) To examine information or documents which form the basis of the alleged violation unless it has been determined that informants would be subject to risk of harm if their identity is disclosed;

(d) To be represented by counsel and, if indigent, to have counsel provided at state expense if the request and determination provided in paragraph (f) of subsection (3) of this section have been made. If an indigent's request is refused, the grounds for the refusal shall be succinctly stated in the record.

(5) Within a reasonable time after the preliminary hearing, the parolee shall be given a written summary of what transpired at the hearing, including the board's or its designated representative's decision or recommendation and reasons for the decision or recommendation and the evidence upon which the decision or recommendation was based. If an indigent parolee's request for counsel at state expense has been made in the manner provided in paragraph (f) of subsection (3) of this section and refused, the grounds for the refusal shall be succinctly stated in the summary.

(6) If the board or its designated representative has determined that there is probable cause to believe that a violation of one or more of the conditions of parole has occurred, the hearing shall proceed to receive evidence from which the board may determine whether to reinstate or continue the alleged parole violator on parole subject to the same or modified conditions of parole or revoke parole and require that the parole violator serve the remaining balance of sentence as provided by law.

(7) At the conclusion of the hearing if probable cause has been determined and the hearing has been held by a member of the board or by a designated representative of the board, the person conducting the hearing shall transmit the record of the hearing, together with a proposed order including findings of fact, recommendation and reasons for the recommendation to the board.

The parolee or his representative shall have the right to file exceptions and written arguments with the board. After consideration of the record, recommendations, exceptions and arguments a quorum of the board shall enter a final order including findings of fact, its decision and reasons for the decision.

[1973 c.694 §13]

144.345 Basis for deferring or denying parole. Whenever the State Board of Parole considers an alleged parole violator and finds such person has violated one or more conditions of parole and the evidence offered in mitigation does not excuse or justify the violation, the board may revoke parole and defer or deny further consideration for parole when it finds:

(1) There is a reasonable probability the parole violator will not, if reinstated, remain outside of the institution without violating the law and that his release is incompatible with the welfare of society;

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

(3) Reinstatement at that time would depreciate the seriousness of the parole violation or promote disrespect for law;

(4) Reinstatement at that time would have a substantially adverse effect on other persons upon parole status with regard to their attitude toward supervision on parole; or

(5) The parole violator's commitment and continued correctional treatment, medical care or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life when released at a later date.

[1973 c.694 §14]

144.347 Compelling witnesses; subpoena power; fees. (1) Upon request of any party to the hearing provided in ORS 144.343, the board or its designated representatives shall issue, or the board on its own motion may issue, subpoenas requiring the attendance and testimony of witnesses.

(2) Upon request of any party to the hearing provided in ORS 144.343 and upon a proper showing of the general relevance and reasonable scope of the documentary or physical evidence sought, the board or its designated representative shall issue, or the board on its own motion may issue, subpoenas duces tecum.

(3) Witnesses appearing under subpoena, other than the parties or state officers or employees, shall receive fees and mileage as pre-

scribed by law for witnesses in civil actions. If the board or its designated representative certifies that the testimony of a witness was relevant and material, any person who has paid fees and mileage to that witness shall be reimbursed by the board.

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

[1973 c.694 §15]

144.349 When ORS 144.343 does not apply. When an alleged parole violator is in custody in a state to which he has not been paroled or in federal custody, ORS 144.343 does not apply.

[1973 c.694 §16]

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.

[Amended by 1969 c.597 §117]

144.360 Effect of order for arrest and detention of violator of parole, conditional pardon or probation. Any order issued by the 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.

[Amended by 1973 c.836 §298]

144.370 Investigation following order for arrest and detention; suspension of parole; revocation of conditional pardon or probation; release. Upon issuing an order for the arrest and detention of any person under the provisions of ORS 144.350, the 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 shall be suspended by order of the board and probation or conditional pardon shall either be revoked as provided by law or such person shall be released from detention.

[Amended by 1973 c.694 §10; 1973 c.836 §299; 1974 s.s. c.36 §7]

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, 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, 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.

[1955 c.369 §1; 1969 c.597 §118; 1973 c.836 §300]

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

[Amended by 1973 c.694 §11]

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.

144.400 [Amended by 1973 c.836 §301; repealed by 1973 c.694 §26]

144.403 [Repealed by 1974 s.s. c.36 §28]

WORK RELEASE PROGRAM

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, the Oregon State Correctional Institution, the Oregon Women's Correctional Center, their satellites, and community centers.

[1965 c.463 §1; 1969 c.597 §120; 1973 c.836 §302]

144.420 Corrections Division to administer work release program; purposes of release; housing of parolee. (1) The Corrections Division shall establish and administer a work release program in which a misdemeanant or felon may participate, and if confined, be authorized to leave assigned quarters for the purpose of:

(a) Working in this state at gainful private employment that has been approved by the division.

(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, temporary leave 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. The Corrections Division may house for rehabilitative purposes, in a work release facility, a parolee under the jurisdiction of the State Board of Parole, with the written consent of the parolee and the approval of the board, in accordance with procedures established by the division and the board.

[1965 c.463 §2; 1967 c.354 §1; 1969 c.597 §138; 1973 c.242 §1; 1973 c.836 §303; 1974 s.s. c.36 §8]

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;

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

(e) Establish and maintain community centers.

(2) 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.

[1965 c.463 §3; 1967 c.289 §1; 1969 c.597 §121; 1973 c.836 §304]

144.440 Recommendation by sentencing court. When a person is sentenced to 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.

[1965 c.463 §4; 1973 c.836 §305]

144.450 Approval or rejection of recommendations; rules; specific conditions; Administrative Procedures Act not completely 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.

(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 183.410 to 183.500 does not apply to actions taken under this section. [1965 c.463 §7; 1973 c.621 §8a; 1973 c.836 §306]

144.460 Contracts for quartering of enrollees. 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.

[1965 c.463 §8; 1969 c.597 §122; 1969 c.678 §1; 1973 c.836 §307]

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 under ORS 144.515; or

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

[1965 c.463 §9; 1973 c.836 §308]

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]

144.510 [Amended by 1961 c.656 §1; renumbered 144.560]

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

[1965 c.463 §18; 1973 c.836 §309]

144.519 [1967 c.612 §§3, 4; repealed by 1969 c.597 §281 and 1969 c.678 §8]

144.520 [Renumbered 144.570]

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.

[1969 c.597 §122d and 1969 c.678 §5]

Note: The text of ORS 144.522 was enacted by 1969 c.597 §122d and by 1969 c.678 §5. The Legislative Counsel has compiled both enactments as a single section.

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.
[1965 c.463 §21]

144.560 [Formerly 144.510; repealed by 1969 c.597 §281]

144.570 [Formerly 144.520; repealed by 1969 c.597 §281]

UNIFORM ACT FOR OUT-OF-STATE SUPERVISION

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;

(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.

144.613 Notice under ORS 144.610 when parole or probation violated; hearing; report to sending state; taking person into custody.

(1) Where supervision of a parolee or probationer is being administered pursuant to the Uniform Act for Out-of-State Supervision, the appropriate judicial or administrative authorities in this state shall notify the Uniform Act for Out-of-State Supervision administrator of the sending state, as defined in ORS 144.610, whenever, in their view, consideration should be given to retaking or reincarceration for a parole or probation violation.

(2) Prior to the giving of any such notification, a hearing shall be held in accordance with ORS 144.613 to 144.617 within a reasonable time, unless such hearing is waived by the parolee or probationer. The appropriate officer or officers of this state shall, as soon as practicable following termination of any such hearing, report to the sending state, furnish a copy of the hearing record and make recommendations regarding the disposition to be made of the parolee or probationer by the sending state.

(3) Pending any proceeding pursuant to this section, the appropriate officers of this state may take custody of and detain the parolee or probationer involved for a period not to exceed 15 days prior to the hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.

[1973 c.489 §1]

144.615 Hearing procedure. (1) Any hearing pursuant to ORS 144.613 to 144.617

may be before the administrator of the Uniform Act for Out-of-State Supervision, a deputy of the administrator or any other person authorized pursuant to the laws of this state to hear cases of alleged parole or probation violation, except that no hearing officer shall be the person making the allegation of violation.

(2) With respect to any hearing pursuant to ORS 144.613 to 144.617, the parolee or probationer:

(a) Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that its purpose is to determine whether there is probable cause to believe that he has committed a violation that may lead to a revocation of parole or probation.

(b) Shall be permitted to confer with any person whose assistance he reasonably desires, prior to the hearing.

(c) Shall have the right to confront and examine any persons who have made allegations against him, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons.

(d) May admit, deny or explain the violation alleged and may present proof, including affidavits and other evidence, in support of his contentions. A record of the proceedings shall be made and preserved.

[1973 c.489 §§2, 3]

144.617 Hearing on violation in another state; effect of record in such hearing. In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Uniform Act for Out-of-State Supervision any appropriate judicial or administrative officer or agency in another state is authorized to hold a hearing on the alleged violation. Upon receipt of the record of a parole or probation violation hearing held in another state pursuant to a statute substantially similar to ORS 144.613 to 144.617, such record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this state, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this state in making disposition of the matter.

[1973 c.489 §4]

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

EXECUTIVE CLEMENCY

144.640 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.

[Formerly 143.010]

144.650 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 State Board of Parole and the Administrator of the Corrections Division. Proof by affidavit of the service shall be presented to the Governor.

[Formerly 143.040]

144.660 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 re-

prieve. He shall communicate a like statement of particulars in relation to each case of remission of a penalty or forfeiture, with the amount remitted.

[Formerly 143.050]

144.670 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.

[Formerly 143.060]

MISCELLANEOUS PROVISIONS

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

[Amended by 1973 c.836 §310]

144.720 Judge's power to suspend execution of sentence or grant probation prior to commitment unaffected. Nothing in ORS 144.005 to 144.610, 144.620, 144.710 or this section 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.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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 June 1, 1974.

Thomas G. Clifford
Legislative Counsel

