

EXHIBIT B - PART II
ORS 144.120, 144.780, OAR 255-30-035, 255-35-013-014
Coding Instructions: History/Risk Score

The instructions address the application of the history/risk scoring instrument in most circumstances. Invariably, situations will arise where judgement will have to be exercised. As a general rule, never delete a point when doubt exists, note such doubtful items.

(A)	No prior felony convictions as an adult or juvenile:	3
	One prior felony conviction:	2
	Two or more prior felony convictions:	1
	Four or more prior felony convictions:	0

In general, the purpose of this item is to consider previous verified instances of criminal conduct.

1. Adult Convictions: Count as a prior conviction all adult convictions for criminal acts classed as felonies. Count convictions in another jurisdiction for criminal behavior that would be classed as a felony in Oregon.
2. Juvenile Convictions: Count adjudications transpiring prior to the 16th birthday if incarceration results. Count adjudications for a juvenile who has passed his/her 16th birthday for offense behaviors that would have been felonies if committed by an adult. Formal probation and wardship are considered to constitute a conviction provided the foregoing criteria are met. Do not count any juvenile charge which results in informal probation.
3. Effective Age: Count as a conviction, a finding that a juvenile who has passed his/her 16th birthday, who while either on probation or parole for a crime classified as a felony, committed a new felony, even though the probation/parole was continued.
4. Military Convictions: Count prior convictions for behavior which would constitute a felony if committed in Oregon.
5. Convictions Pardoned: Count felony offenses which have been pardoned on grounds other than innocence. Do not count convictions or adjudications which were set aside or pardoned on the grounds of innocence. Do not count any convictions which a court has expunged. Do not count offenses which have resulted in a finding of guilty except for insanity.

6. Convictions Reversed or Vacated on Constitutional Grounds: Do not count felony convictions reversed or vacated on constitutional grounds (e.g., that an indigent defendant was deprived of his/her right to counsel). However, it is presumed that a conviction/adjudication is valid unless the evidence is clear that it is not. If a prisoner challenges such conviction, the prisoner should be advised to petition for a reversal of such conviction in the court in which the prisoner was originally tried, and then to provide the Board with evidence of such reversal.

7. Uncounseled Convictions: Do not count felony convictions if the documents clearly show that the defendant neither had counsel nor waived counsel for a particular conviction. Count convictions where the offender chooses to represent himself.

If an offender challenges counting an offense on the basis that it was uncounseled, consider the circumstances prior to granting the relief. In weighing the evidence, recent convictions and serious convictions increase the burden on the offender to produce evidence to overcome the presumption that the crime was counseled. If the conviction record is not clear and several years have elapsed, the conviction would be more susceptible to challenge that it was uncounseled.

8. Diversion: Do not count convictions resulting in diversion from the judicial process without a specific finding of guilt (e.g., deferred prosecution, probation without plea).

9. Convictions Now Classed as Misdemeanors: Count as a conviction, offenses which were previously felonies but are now only misdemeanors if the offense occurred at a time when they were sanctioned or classified as a felony.

10. Present Conviction: Do not count the present offense or offenses as prior convictions; but see number 12 below.

11. Old Prior Record: Do not count prior felony convictions or commitments under Item A or B, if the offender has maintained a felony conviction free record of ten years in the community immediately prior to the current offense behavior. Count the ten (10) year period between the date of the last conviction countable under Item A or release from the last incarceration countable under Item B (whichever comes last) and the date of commencement of the current offense behavior. If the prisoner was on parole or probation in the community and did not commit any felonies, that is considered conviction free time in the community.

Notwithstanding the above, count any homicide or conviction categorized as a 6 even if it is over ten (10) years old and the offender has been crime free. Note: This does not preclude consideration of earlier behavior (e.g., repetition of particularly serious or assaultive conduct) as an aggravating factor. Similarly, a substantial crime free period in the community, not amounting to ten (10) years, may be considered as a mitigating factor.

12. Intervening Probation: When any new felony conviction occurs while on felony probation, and the new conviction is the basis for the current incarceration, the original conviction leading to the probation shall constitute a prior conviction.

When the current commitment is the result of a probation revocation for non-criminal behavior, the original conviction leading to the probation shall not constitute a prior conviction.

However, all felony convictions incurred since the inception of the original probation shall constitute countable prior convictions. Notwithstanding 10 above, it does not matter that the

probation also results in the current incarceration.

13. Merged Convictions: Count judicially merged convictions at the time of sentence as one conviction. However, the offense that was merged may be considered as aggravation.
14. Documentation: Document the foregoing through official criminal justice system instruments (e.g., court orders, presentence investigation, police and parole/probation officer reports, computerized criminal histories, and other criminal justice system records). Admissions shall also constitute adequate documentation.

(B) No prior felony or misdemeanor related incarcerations (i.e., executed sentences of 90 days or more) as an adult or juvenile:	2
One or two prior incarcerations:	1
Three or more prior incarcerations:	0

(In general, this serves to weight the severity of the prior convictions counted under Item A and documents more serious criminal episodes which have occurred.)

1. Incarcerations and Facilities that Count as Confinement: Count as an incarceration all sentences of ninety (90) days or more which were executed following conviction for a felony or misdemeanor offense prior to the present commitment. An offender need not serve 90 days or more for a sentence to be executed; and offender need only serve a portion thereof, the deciding criteria is whether the confinement actually was begun.

Count as incarceration confinement to a facility if the movement of the person is restricted through social passes and furloughs; the facility need not be of a highly secure nature.
2. Unbroken Incarceration: If a court orders an additional prison sentence for behavior occurring prior to the present incarceration, do not count the original commitment as a prior incarceration. An incarceration is considered unbroken if there is no new criminal activity while in custody or there is no voluntary absence from custody.
3. Current Commitment Counted: Count the current felony incarceration as a prior incarceration if a felony conviction is received for a new crime while incarcerated and new history/risk score is being calculated for the new conviction.
4. Incarcerated While Awaiting Trial: Do not count as an incarceration, confinement awaiting trial unless the court ordered a sentence to time served.

5. Incarceration Avoided: Count a prior felony related incarceration if a court orders sentence of more than ninety (90) days prior to the current offense but the offender avoids or delays service of the sentence (e.g., by absconding, escaping, bail pending appeal).
6. Hospital Commitments: Do not count commitments of ninety (90) days or more which are only for psychological, psychiatric, or medical observation.
7. Technical Parole Violations: Do not count parole violation incarcerations if the recommitment is based on a technical violation(s). Count prior parole violation incarcerations if the parole violation is based upon criminal activity.
8. Old Record: Do not count prior felony commitments over ten (10) years old if the current commitment follows ten (10) years conviction free in the community (see #11 under Item A).

(C)	Verified period of 3 years felony conviction free in the community prior to present commitment:	1
	Otherwise:	0

1. Score 1 if the offender has no prior felony convictions; or if the offender was released to the community from offender's last prior commitment and is felony conviction free for at least three (3) years prior to the date of arrest for the offender's current offense or the offender is felony conviction free for at least three years prior to the present commitment, if the present commitment involves a felony probation revocation.
2. Score 0 if there is a felony conviction within the three (3) years prior to the present commitment or if the offender was confined or on escape status at the time of the current commitment.
3. Convictions counted. For this purpose, count a conviction only such offenses which would count as a felony conviction under Oregon Law under Item A.

(D)	Age at commencement of behavior leading to this incarceration:	DOB: _____
	26 or older and at least one point received in Items A, B, or C:	2
	26 or older and no points received in A, B, or C:	1
	21 to under 26 and at least one point received in A, B, or C:	1
	21 to under 26 and no points received in A, B, or C:	0
	Under 21:	0

1. Score 2 if the offender was 26 years of age at the commencement of the current offense and at least one point was received under Items A, B, or C.

2. Score 1 if the offender was 26 years of age at the commencement of the current offense and no points were received under Items A, B, or C.
3. Score 1 if the offender was 21 to under 26 and at least one point was received under Items A, B, or C.
4. Score 0 if the offender was 21 to under 26 and no points were received under Items A, B, or C.
5. Score 0 if the offender was under 21 at the commencement of the current offense.
6. Age. Use the offender's age at the time the crime was committed unless the offender was initially placed on probation, in which case the offender's age at the time of the behavior leading to revocation should be used.

(E)	Present commitment does not include parole, felony probation, failure to appear, release agreement, escape, or custody violation:	2
	Present commitment involves felony probation, release agreement or failure to appear violation:	1
	Present commitment involved parole, escape or custody violation:	0

1. Probation Violation: Count as a probation violation if the offender was on felony probation when the misconduct occurred. It does not matter whether the court continued or terminated the probation. The deciding criteria is whether or not the misconduct leading to this incarceration occurred while the person was on probation.
2. Release Agreement Violation: Count as a release agreement violation if an offender committed the present offense while on release, bail or other custody reduction from any legal jurisdiction. If an offender, pursuant to being arrested for the present crime, is granted bail or release on own recognizance and subsequently fails to appear at the time and place specified by a court, consider it a violation.
3. Failure to Appear: Count as a failure to appear violation any sentence to the Department of Corrections for Failure to Appear. When a court orders probation for Failure to Appear, and the Failure to Appear transpired following arrest for the present crime, count it as a Failure to Appear Violation.
4. Parole Violation: Count misconduct occurring while on parole. It does not matter whether the parole was continued or revoked nor does it matter in what jurisdiction the parole was ordered. The deciding criteria is whether or not the misconduct leading to this incarceration occurred while the offender was on parole.
5. Escape: Count as an escape if the offender is serving a sentence for Escape. Count as an escape if offender escapes from custody following an arrest, conviction or sentencing. Count escape as a trust violation even if it was not adjudicated. Escape means the unlawful or unauthorized departure of a person from custody or a correctional facility. Escape includes the unauthorized departure or absence from this state or failure to return to this state by a person

who is under the jurisdiction of the Psychiatric Security Review Board. Escape does not include failure to comply with provisions of a conditional release in ORS 135.245.

6. Custody Violation: Count as a custody violation if the present crime or crimes were committed while in custody (e.g., county jail, prison, work release center, probation center, forest camp, terminal leave, temporary leave, social pass).

(F) Has no admitted or documented substance abuse problem within a three year period in the community immediately preceding the commission of the crime of conviction:	1
Otherwise:	0

1. Documentation: Substance abuse may be documented by admission, diagnosis of competent medical or counseling professional, participation in treatment program, or preponderance of such evidence as possession, urinalysis, and needle tracks.

Substance abuse: Use of Schedule 1, 2, and 3 drugs and alcohol in quantities and under circumstances that lead to impairment of functioning, or health, or that specifically results in harm to other people and/or loss of property.