



PERMANENT ADMINISTRATIVE ORDER

CJC 1-2018
CHAPTER 213
OREGON CRIMINAL JUSTICE COMMISSION

FILED
08/06/2018 9:57 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amends Sentencing Guidelines/rules per 2017-2018 legislation; Adopts Illegal Marijuana Market Enforcement Grant rules.

EFFECTIVE DATE: 08/06/2018

AGENCY APPROVED DATE: 08/01/2018

CONTACT: Julie Vaughn
503-378-8487
julie.vaughn@oregon.gov

885 Summer St NE
Salem, OR 97301

Filed By:
Julie Vaughn
Rules Coordinator

RULES:

213-003-0001, 213-017-0002, 213-017-0006, 213-017-0007, 213-018-0067, 213-080-0030

AMEND: 213-003-0001

RULE TITLE: Definitions

NOTICE FILED DATE: 04/27/2018

RULE SUMMARY: The rule changes implement mandatory and discretionary classifications of offenses as person crimes.

RULE TEXT:

As used in these rules:

- (1) "Bench probation" means a probationary sentence, which directs the probationer to remain under the supervision and control of the sentencing judge.
- (2) "Board" means the State Board of Parole and Post-Prison Supervision.
- (3) "Correctional supervision status" means any form of incarcerative or non-incarcerative supervision which is served by an offender as part of a sentence for a criminal conviction.
- (4) "Department" means the Department of Corrections.
- (5) "Departure" means a sentence, except an optional probationary sentence, which is inconsistent with the presumptive sentence for an offender.
- (6) "Dispositional departure" means a sentence which imposes probation when the presumptive sentence is prison or prison when the presumptive sentence is probation. An optional probationary sentence is not a dispositional departure.
- (7) "Dispositional line" means the solid black line on the Sentencing Guidelines Grid (Appendix 1) which separates the grid blocks in which the presumptive sentence is a term of imprisonment and post-prison supervision from the grid blocks in which the presumptive sentence is probation which may include local custodial sanctions.
- (8) "Durational departure" means a sentence which is inconsistent with the presumptive sentence as to term of incarceration, term of supervised probation or number of sanction units which may be imposed as a condition of probation.
- (9) "Grid" means the Sentencing Guidelines Grid set forth as Appendix 1.

(10) "Grid block" means a box on the grid formed by the intersection of the crime seriousness ranking of a current crime of conviction and an offender's criminal history classification.

(11) "Juvenile adjudication" means a formal adjudication or finding by a court that the juvenile has committed an act, which, if committed by an adult, would be punishable as a felony.

(12) "Non-person felonies" are any felonies not defined as a person felony in section (14) of this rule.

(13) "Optional probationary sentence" means any probationary sentence imposed pursuant to OAR 213-005-0006.

(14) "Person felonies" are in numerical statutory order: ORS 97.981 Purchase or Sale of a Body Part for Transplantation or Therapy; ORS 97.982 Alteration of a Document of Gift; ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.149 Aggravated Vehicular Homicide; ORS 163.160(3) Felony Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.187(4) Felony Strangulation; ORS 163.192 Endangering Person Protected by FAPA Order; ORS 163.196 Aggravated Driving While Suspended or Revoked; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; ORS 163.208 Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.263 Subjecting Another Person to Involuntary Servitude II; ORS 163.264 Subjecting Another Person to Involuntary Servitude I; ORS 163.266 Trafficking in Persons; ORS 163.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.413 Purchasing Sex With a Minor; ORS 163.425 Sexual Abuse II; ORS 163.427 Sexual Abuse I; ORS 163.432 Online Sexual Corruption of a Child II; ORS 163.433 Online Sexual Corruption of a Child I; ORS 163.452 Custodial Sexual Misconduct in the First Degree; ORS 163.465 Felony Public Indecency; ORS 163.472 Unlawful Dissemination of Intimate Image; ORS 163.479 Unlawful Contact with a Child; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.701 Invasion of Personal Privacy I; ORS 163.732 Stalking; ORS 163.750 Violation of Court's Stalking Order; ORS 164.075 Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; ORS 164.342 Arson Incident to the Manufacture of a Controlled Substance I; ORS 164.377(2)(c) Computer Crime—Theft of an Intimate Image; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.886(3) Tree Spiking (Injury); ORS 166.070 Aggravated Harassment; ORS 166.087 Abuse of Corpse I; ORS 166.165 Intimidation I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 166.385(3) Felony Possession of a Hoax Destructive Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 167.057 Luring a Minor; ORS 167.320(4) Felony Animal Abuse I; ORS 167.322 Aggravated Animal Abuse I; ORS 468.951 Environmental Endangerment; ORS 475.752(6)(a) Manufacturing or Delivering a Schedule IV Controlled Substance Thereby Causing Death to a Person; ORS 475.908 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.910 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8, and 9 (OAR 213-019-0007, -0008, and -0011); ORS 475B.359 Arson Incident to Manufacture of Cannabinoid Extract I; ORS 475B.367 Causing Another Person to Ingest Marijuana; ORS 475B.371 Administration to Another Person Under 18 Years of Age; ORS 609.990(3)(b) Maintaining Dangerous Dog; ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010(5) Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; ORS 837.365(2)(b) and (c) Unlawful Operation of Weaponized Unmanned Aircraft System; and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.

(15) "Person Class A misdemeanors" are in numerical statutory order: ORS 162.315 Resisting Arrest; ORS 163.160

Assault IV; ORS 163.187 Strangulation; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.212 Use of Stun Gun, Tear Gas, Mace II; ORS 163.415 Sexual Abuse III; ORS 163.454 Custodial Sexual Misconduct in the Second Degree; ORS 163.465 Public Indecency; ORS 163.467 Private Indecency; ORS 163.472 Unlawful Dissemination of Intimate Image; ORS 163.476 Unlawfully Being in a Location Where Children Regularly Congregate; ORS 163.545 Child Neglect II; ORS 163.575 Endanger Welfare of Minor; ORS 163.687 Encouraging Child Sex Abuse III; ORS 163.700 Invasion of Personal Privacy II; ORS 163.709 Unlawfully Directing a Laser Pointer; ORS 163.732(1) Stalking; ORS 163.750(1) Violating Court's Stalking Order; ORS 165.572 Interfering with Making a Police Report; ORS 166.065(4) Harassment/Offensive Sexual Contact; ORS 166.155 Intimidation II; ORS 166.385(2) Misdemeanor Possession of a Hoax Destructive Device; ORS 167.054 Furnishing Sexually Explicit Material to a Child; ORS 475.910(4) Unlawful Administration of a Controlled Substance; ORS 609.990(3)(a) Maintaining Dangerous Dog; ORS 811.060 Vehicular Assault; ORS 813.010, Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); SB 1567 (2016) Criminal Impersonation; and attempts or solicitations to commit any Class C person felonies as defined in section (14) of this rule.

(16) "Presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime seriousness ranking of the current crime of conviction and the offender's criminal history or a sentence designated as a presumptive sentence by statute.

(17) "Primary offense" means the offense of conviction with the highest crime seriousness ranking. If more than one offense of conviction is classified in the same crime category, the sentencing judge shall designate which offense is the primary offense.

(18) "Supervisory agent" means the local community corrections agency responsible for supervising the offender.

(19) "Supervisory authority" means the state and local corrections agency or official designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

(20) "Straight jail" means a sentence of jail imposed instead of a presumptive probationary sentence that is not followed by a term of post-prison supervision defined in OAR 213-005-0002.

STATUTORY/OTHER AUTHORITY: ORS 137.667, 475.986, 475.998, 2003 OL Ch. 453

STATUTES/OTHER IMPLEMENTED: ORS 137.667 - 137.669, 2001 OL Ch. 387, 510, 635, 828, 857, 884 & 2003 OL Ch. 453, 577 & 2007 OL Ch. 681, 811, 867, 869, 876 & 2009 OL Ch. 774, 783, 876, 898, 2011 OL Ch. 3 §1, 2011 OL Ch. 598, 2011 OL Ch 666, SB 6 (2013), SB 482 (2013), SB 673 (2013), HB 2334 (2013), HB 3194 (2013), SB 1567 (2016), HB 4082 (2016), HB 4128 (2016), SB 302 (2017), SB 323 (2017), SB 493 (2017), HB 2355 (2017), HB 2598 (2017), HB 2988 (2017), HB 3047 (2017), SB 1562 (2018), HB 4055 (2018), HB 2721 (2017)

The Oregon Sentencing Guidelines Grid

Crime Seriousness	A	B	C	D	E	F	G	H	I	Prob Term	Max Depart	PPS
11	225-269	196-224	178-194	164-177	149-163	135-148	129-134	122-128	120-121	5 Years		3 Years
10	121-130	116-120	111-115	91-110	81-90	71-80	66-70	61-65	58-60			
9	66-72	61-65	56-60	51-55	46-50	41-45	39-40	37-38	34-36			
8	41-45	35-40	29-34	27-28	25-26	23-24	21-22	19-20	16-18	3 Years	18 Mos.	2 Years
7	31-36	25-30	21-24	19-20	16-18	180-90	180-90	180-90	180-90			
6	25-30	19-24	15-18	13-14	10-12	180-90	180-90	180-90	180-90			
5	15-16	13-14	11-12	9-10	6-8	180-90	120-60	120-60	120-60	2 Years	12 Mos.	1 Year
4	10-11	8-9	120-60	120-60	120-60	120-60	120-60	120-60	120-60			
3	120-60	120-60	120-60	120-60	120-60	120-60	90-30	90-30	90-30	1 ½ Years	6 Mos.	1 Year
2	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30			
1	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30			

The presumptive grid block for any felony conviction is the intersection where the crime seriousness ranking and the criminal history classification meet. Grid blocks in the shaded area represent the range of presumptive imprisonment and post-prison supervision (PPS). Non-shaded grid blocks are presumptive sentences of probation (Prob. Term) with local custodial sanctions in days (upper number) and maximum jail days without a departure (lower number).

In grid blocks 4-C and 4-D, for offenders sentenced under 2011 Oregon Laws ch 598 (SB 395), the upper number of sanction units shall be 180, and the lower number of sanction units shall be 90. Offenders sentenced under 2011 Oregon Laws ch 598 shall serve a mandatory minimum term of incarceration of 90 days without reduction for any reason.

The probation term of 5 years applies to levels 9-11, the term of 3 years applies to levels 6-8, 2 years applies to levels 3-5, and 1 ½ years applies to levels 1-2.

The upward dispositional departure maximum sentence (Max Dispositional Depart) for a presumptive probation sentence shall be:

- (a) Up to six months for offenses classified in Crime Categories 1 and 2, or grid blocks 3-G, 3-H and 3-I;
- (b) Up to twelve months for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I and 5-G through 5-I; and
- (c) Up to eighteen months for offenses classified in grid blocks 5-F, 6-F through 6-I, and 7-F through 7-I.

Under certain conditions a probation sentence may be imposed in grid blocks 8-G, 8-H and 8-I without a departure.

Criminal History Categories

Oregon Administrative Rule 213-004-0007 defines criminal history categories.

A	The criminal history includes three or more person felonies in any combination of adult convictions or juvenile adjudications.
B	The criminal history includes two person felonies in any combination of adult convictions or juvenile adjudications.
C	The criminal history includes one adult conviction or juvenile adjudication for a person felony; and one or more adult conviction or juvenile adjudication for a non-person felony.
D	The criminal history includes one adult conviction or juvenile adjudication for a person felony but no adult conviction or juvenile adjudications for a non-person felony.
E	The criminal history includes four or more adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
F	The criminal history includes two or three adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
G	The criminal history includes four or more adult convictions for Class A misdemeanors; one adult conviction for a non-person felony; or three or more juvenile adjudications for non-person felonies, but no adult conviction or juvenile adjudication for a person felony.
H	The criminal history includes no adult felony conviction or juvenile adjudication for a person felony; no more than two juvenile adjudications for non-person felonies; and no more than three adult convictions for Class A misdemeanors.
I	The criminal history does not include any juvenile adjudication for a felony or any adult conviction for a felony or Class A misdemeanor.

AMEND: 213-017-0002

RULE TITLE: Crime Category 10

NOTICE FILED DATE: 04/27/2018

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 10 on the crime seriousness scale after 2017 legislation.

RULE TEXT:

The following offenses are classified at crime category 10 on the Crime Seriousness Scale:

- (1) CONTROLLED SUBSTANCE OFFENSES – See division 19.
- (2) CANNABIS OFFENSES – See division 21.
- (3) ORS 163.095 – AGGRAVATED MURDER – (U). (Attempt or Solicit)
- (4) ORS 163.118 – MANSLAUGHTER I – (A).
- (5) ORS 163.149 – AGGRAVATED VEHICULAR HOMICIDE – (A).
- (6) ORS 163.185 – ASSAULT I – (A). (If victim did not substantially contribute to the commission of the offense by precipitating the attack; otherwise CC 9.)
- (7) ORS 163.235 – KIDNAPPING I – (A).
- (8) ORS 163.375 – RAPE I* – (A). (If aggravated by factors listed below; otherwise CC 9.)
- (9) ORS 163.405 – SODOMY I* – (A). (If aggravated by factors listed below; otherwise CC 9.)
- (10) ORS 163.411 – SEXUAL PENETRATION I* – (A). (If aggravated by factors listed below; otherwise CC 9.)
- (11) ORS 164.325 – ARSON I – (A). (If offense represented threat of serious physical injury; otherwise CC 9, 8 or 7.)
- (12) * Rape I, Sodomy I and Sexual Penetration with Foreign Object I shall be ranked at Crime Category 10 if one or more of the following factors were included in the commission of the offense:
 - (a) The offender used or threatened to use a weapon;
 - (b) The offender caused or threatened to cause serious physical injury;
 - (c) The victim was under the age of twelve; or
 - (d) The victim was incapable of consent by reason of mental defect, mental incapacitation or physical helplessness.

STATUTORY/OTHER AUTHORITY: ORS 137.667, 2003 OL Ch. 453

STATUTES/OTHER IMPLEMENTED: ORS 137.667 - 137.669, 2007 OL Ch. 867, SB 302 (2017), SB 323 (2017)

AMEND: 213-017-0006

RULE TITLE: Crime Category 6

NOTICE FILED DATE: 04/27/2018

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 6 on the crime seriousness scale after 2017 and 2018 legislation.

RULE TEXT:

The following offenses are classified at crime category 6 on the Crime Seriousness Scale:

- (1) Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).
- (2) CONTROLLED SUBSTANCE AND MAJOR DRUG OFFENSES (See division 19.)
- (3) CANNABIS OFFENSES – See division 21.
- (4) ORS 162.015 — BRIBERY — (B).
- (5) ORS 162.025 — BRIBE RECEIVING — (B).
- (6) ORS 162.065 — PERJURY — (C).
- (7) ORS 162.117 — PUBLIC INVESTMENT FRAUD — (B).
- (8) ORS 162.155 — ESCAPE II — (C).
- (9) ORS 162.185 — SUPPLYING CONTRABAND — (C). (The contraband involves a dangerous weapon not a firearm CC 7; Otherwise CC 4 or 5.)
- (10) ORS 162.265 — BRIBING A WITNESS — (C).
- (11) ORS 162.275 — BRIBE RECEIVING BY WITNESS — (C).
- (12) ORS 162.285 — TAMPERING W/ WITNESS — (C).
- (13) ORS 162.325 — HINDERING PROSECUTION — (C).
- (14) ORS 163.160(3) — ASSAULT IV (FELONY) — (C).
- (15) ORS 163.165 — ASSAULT III — (C). (If the offense cannot be ranked at CC 8).
- (16) ORS 163.187(4)(a) - (b) and (d) – (g) — STRANGULATION (FELONY) — (C). Effective January 1, 2019 as applied to the offense of Strangulation as set forth in SB 1562 (2018). ORS 163.187(4) – STRANGULATION (FELONY) – (C), through December 31, 2018.
- (17) ORS 163.208 — ASSAULT OF A PUBLIC SAFETY OFFICER — (C).
- (18) ORS 163.213 — USE OF A STUN GUN, TEAR GAS, MACE I — (C).
- (19) ORS 163.257 — CUSTODIAL INTERFERENCE I — (C).
- (20) ORS 163.264 — SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE I — (B). (If offender physically restrained or threatened to physically restrain a person; otherwise CC 9.)
- (21) ORS 163.275 — COERCION — (C). (No threat of physical injury; otherwise CC 7.)
- (22) ORS 163.355 — RAPE III — (C).
- (23) ORS 163.385 — SODOMY III — (C).
- (24) ORS 163.432 — ONLINE SEXUAL CORRUPTION OF A CHILD II — (C).
- (25) ORS 163.465 — PUBLIC INDECENCY (FELONY) — (C).
- (26) ORS 163.472 — UNLAWFUL DISSEMINATION OF INTIMATE IMAGE — (C).
- (27) ORS 163.525 — INCEST — (C). (If one of the participants is under the age of 18; otherwise CC 1.)
- (28) ORS 163.547 — CHILD NEGLECT IN THE FIRST DEGREE — (B).
- (29) ORS 163.688 — POSSESSION OF MATERIAL DEPICTING SEX. EXPLICIT CONDUCT OF A CHILD I — (B).
- (30) ORS 163.701 — INVASION OF PERSONAL PRIVACY I — (C).
- (31) ORS 164.055 — THEFT I* — (C).
- (32) ORS 164.057 — AGGRAVATED THEFT — (B). (Economic loss was greater than \$50,000; otherwise CC 5.)
- (33) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY * — (C).
- (34) ORS 164.075 — EXTORTION* — (B). (If not CC 7 and if not threat to report immigration status or suspected immigration status to law enforcement under ORS 164.075(1)(e).)

- (35) ORS 164.075(1)(e) – EXTORTION – (B). (If threat to report immigration status or suspected status to law enforcement.)
- (36) ORS 164.085 – THEFT BY DECEPTION* – (C).
- (37) ORS 164.125 – THEFT OF SERVICES* – (C).
- (38) ORS 164.135 – UNAUTHORIZED USE OF VEHICLE* – (C).
- (39) ORS 164.138 – CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* – (C).
- (40) ORS 164.140(4) – POSSESSION OF RENTED PROPERTY* – (C).
- (41) ORS 164.162 – MAIL THEFT OR RECEIPT OF STOLEN MAIL – (C). (For sentences imposed prior to February 15, 2010, and for sentences imposed for crimes committed on or after January 1, 2012; otherwise a Class A misdemeanor.)
- (42) ORS 164.215 – BURGLARY II* – (C).
- (43) ORS 164.315 – ARSON II* – (C).
- (44) ORS 164.365 – CRIMINAL MISCHIEF I* – (C).
- (45) ORS 164.377 – COMPUTER FRAUD (LOTTERY)* – (C).
- (46) ORS 164.377(3) – COMPUTER CRIME* – (C).
- (47) ORS 164.868 – UNLAWFUL LABEL SOUND RECORDING* – (C).
- (48) ORS 164.869 – UNLAWFUL RECORD LIVE PERFORMANCE* – (C).
- (49) ORS 164.872 – UNLAWFUL LABEL VIDEOTAPE* – (C).
- (50) ORS 164.877(1) – TREE-SPIKING – (C).
- (51) ORS 164.889 – INTERFERE W/ AGRICULTURAL RESEARCH* – (C).
- (52) ORS 165.013 – FORGERY I* – (C).
- (53) ORS 165.022 – CRIMINAL POSSESSION OF FORGED INSTRUMENT I* – (C).
- (54) ORS 165.055(3)(A) – CREDIT CARD FRAUD* – (C).
- (55) ORS 165.065 – NEGOTIATING BAD CHECKS* – (C).
- (56) ORS 165.074 – UNLAWFUL FACTORING PAYMENT CARD* -- (C).
- (57) ORS 165.692 – FILING A FALSE CLAIM FOR HEALTH CARE PAYMENT – (C).
- (58) ORS 165.800 – IDENTITY THEFT* – (C).
- (59) ORS 166.015 – RIOT – (C).
- (60) ORS 166.070 – AGGRAVATED HARRASSMENT – (C).
- (61) ORS 166.165 – INTIMIDATION I – (C).
- (62) ORS 166.220 – UNLAWFUL USE OF WEAPON – (C).
- (63) ORS 166.270 – EX-CON IN POSSESSION OF FIREARM – (C).
- (64) ORS 166.272 – UNLAWFUL POSSESSION OF FIREARM – (B).
- (65) ORS 166.370(1) – INTENT POSS. FIREARM OR DANG. WEAP. IN PUBLIC BUILDING; (2)(a)(C) – INTENT POSS. FIREARM IN LOCAL COURT FACILITY CONTRARY TO ORDER; and (5)(a) – DISCHARGE FIREARM IN SCHOOL – (C).
- (66) ORS 166.382 – POSSESSION OF DESTRUCTIVE DEVICE – (C).
- (67) ORS 166.384 – UNLAWFUL MANUFACTURE OF DESTRUCTIVE DEVICE – (C).
- (68) ORS 166.410 – ILLEGAL MANUFACTURE, IMPORTATION OR TRANSFER OF FIREARMS – (B).
- (69) ORS 166.643 – UNLAWFUL POSSESS SOFT BODY ARMOR – (B). (If offender committed or was attempting to commit a person felony or misdemeanor involving violence, otherwise CC 4.)
- (70) ORS 167.057 – LURING A MINOR – (C).
- (71) ORS 167.320 – ANIMAL ABUSE I (FELONY) – (C).
- (72) ORS 167.322 – AGGRAVATED ANIMAL ABUSE I – (C).
- (73) ORS 167.325 – ANIMAL NEGLECT II (FELONY) – (C). (If 11 to 40 animals were the subject of the neglect).
- (74) ORS 167.330 – ANIMAL NEGLECT I (FELONY) – (C). (If 10 to 40 animals were the subject of the neglect).
- (75) ORS 167.333 – SEXUAL ASSAULT OF AN ANIMAL – (C).
- (76) ORS 167.339 – ASSAULT OF A LAW ENFORCEMENT ANIMAL – (C).

(77) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).

(78) ORS 305.091 — UNAUTHORIZED USE OR DISCLOSURE BY STATE OFFICER OR EMPLOYEE OF INFORMATION PERTAINING TO DELINQUENT DEBTOR TRANSMITTED TO OR FROM DEPARTMENT OF REVENUE THROUGH DATA MATCH SYSTEM— (C). (If offender knowingly causes economic loss of \$50,000 or more.)

(79) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).

(80) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).

(81) ORS 811.182 — DRIVING WHILE SUSPENDED/REVOKED (FELONY) — (C). (If the suspension or revocation resulted from (a) any degree of murder, manslaughter, criminally negligent homicide, or an assault that caused serious physical injury, resulting from the operation of a motor vehicle, or (b) aggravated vehicular homicide or aggravated driving while suspended or revoked).

(82) ORS 811.705 — HIT & RUN VEHICLE (INJURY) — (C). See OAR 213-018-0038(3). (83) ORS 813.010(5) — DRIVING UNDER THE INFLUENCE (FELONY) — (C).

(84) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).

(85) ORS 819.310 — TRAFFICKING IN STOLEN VEHICLES — (C). (If part of an organized operation or if value of property taken from one or more victims was greater than \$50,000; otherwise CC 5.)

(86) ORS 830.475 — HIT AND RUN BOAT — (C).

(87) ORS 837.365(2)(b) – UNLAWFUL OPERATION OF WEAPONIZED UNMANNED AIRCRAFT SYSTEM – (C).

(88) * Property offenses marked with an asterisk shall be ranked at Crime Category 6 if the value of the property stolen or destroyed was \$50,000 or more, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

STATUTORY/OTHER AUTHORITY: ORS 137.667, 2003 OL Ch. 453, 2009 OL Ch. 660

STATUTES/OTHER IMPLEMENTED: ORS 137.667 - 137.669, 2001 OL Ch. 147, 635, 828 2003 2001 OL Ch. 383, 453, 543, 2005 OL Ch. 708, 2007 OL Ch. 684, 811, 869, 876, SB 1087 (2008), Ballot Measure 57 (2008), 2009 OL Ch. 660, HB 3508 (2009), 2009 OL Ch. 783, 2011 OL Ch. 3 Sec. 1, 2011 OL Ch. 598, 2011 OL Ch. 666, SB 6 (2013), HB 3194 (2013), HB 4128 (2016), SB 254 (2017), SB 302 (2017), SB 323 (2017), HB 2721 (2017), HB 3047 (2017), SB 1562 (2018), HB 4055

AMEND: 213-017-0007

RULE TITLE: Crime Category 5

NOTICE FILED DATE: 04/27/2018

RULE SUMMARY: The rule changes implement the categorization of criminal offenses as Crime Category 5 on the crime seriousness scale after 2017 legislation and clarifies property offense language to be consistent with language in other rules.

RULE TEXT:

The following offenses are classified at crime category 5 on the Crime Seriousness Scale:

- (1) Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).
- (2) DRUG-RELATED OFFENSES. (See division 19).
- (3) CANNABIS OFFENSES – See division 21.
- (4) ORS 97.981 — PURCHASE OR SALE OF A BODY PART FOR TRANSPLANTATION OR THERAPY — (C).
- (5) ORS 162.185 — SUPPLYING CONTRABAND — (C). (If contraband includes a controlled substance but no firearms (CC 7) or dangerous weapons (CC 6); otherwise CC 4.)
- (6) ORS 163.187(4)(c) — STRANGULATION (FELONY) — (C), if cannot be ranked as CC 6, effective January 1, 2019 as applied to the offense of Strangulation as set forth in SB 1562 (2018).
- (7) ORS 163.263 — SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE II — (C).
- (8) ORS 163.537 — BUYING OR SELLING THE CUSTODY OF A MINOR — (B). (If cannot be ranked at CC 8.)
- (9) ORS 163.686 — ENCOURAGING CHILD SEX ABUSE II — (C).
- (10) ORS 164.055 — THEFT I* — (C).
- (11) ORS 164.057 — AGGRAVATED THEFT — (B). (If not categorized at CC 6.)
- (12) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY* — (C).
- (13) ORS 164.075 — THEFT BY EXTORTION* — (B).
- (14) ORS 164.085 — THEFT BY DECEPTION* — (C).
- (15) ORS 164.095 — THEFT BY RECEIVING — (C). (If part of an organized operation; otherwise CC 3.)
- (16) ORS 164.125 — THEFT OF SERVICES* — (C).
- (17) ORS 164.135 — UNAUTHORIZED USE OF VEHICLE * — (C).
- (18) ORS 164.138 — CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* — (C).
- (19) ORS 164.140(4) — POSSESSION OF RENTED PROPERTY * — (C).
- (20) ORS 164.215 — BURGLARY II* — (C).
- (21) ORS 164.315 — ARSON II* — (C).
- (22) ORS 164.365 — CRIMINAL MISCHIEF I * — (C).
- (23) ORS 164.377(2)(c) – COMPUTER CRIME – (C). (If theft of an intimate image.)
- (24) ORS 164.377(5) — COMPUTER FRAUD (LOTTERY) * — (C).
- (25) ORS 164.377(5) — COMPUTER CRIME* — (C). (If not theft of an intimate image under ORS 164.377(2)(c).)
- (26) ORS 164.395 — ROBBERY III — (C).
- (27) ORS 164.868 — UNLAWFUL LABEL SOUND RECORDING* — (C).
- (28) ORS 164.869 — UNLAWFUL RECORD LIVE PERFORMANCE* - (C).
- (29) ORS 164.872 — UNLAWFUL LABEL VIDEOTAPE* — (C).
- (30) ORS 164.889 — INTERFERE W/ AGRICULTURAL RESEARCH* — (C).
- (31) ORS 165.013 — FORGERY I* — (C).
- (32) ORS 165.022 — CRIMINAL POSSESSION OF FORGED INSTRUMENT I* — (C).
- (33) ORS 165.055(3)(A) — CREDIT CARD FRAUD* — (C).
- (34) ORS 165.065 — NEGOTIATING BAD CHECKS* — (C).
- (35) ORS 165.074 — UNLAWFUL FACTORING PAYMENT CARD * — (C).
- (36) ORS 165.800 — IDENTITY THEFT* — (C).

- (37) ORS 165.803 — AGGRAVATED IDENTITY THEFT — (B).
- (38) ORS 166.087 — ABUSE OF CORPSE I — (B).
- (39) ORS 166.385(3) — FELONY POSSESSION OF A HOAX DESTRUCTIVE DEVICE — (C).
- (40) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).
- (41) ORS 305.091 — UNAUTHORIZED USE OR DISCLOSURE BY STATE OFFICER OR EMPLOYEE OF INFORMATION PERTAINING TO DELINQUENT DEBTOR TRANSMITTED TO OR FROM DEPARTMENT OF REVENUE THROUGH DATA MATCH SYSTEM — (C). (If offender knowingly causes economic loss of \$10,000 or more but less than \$50,000.)
- (42) ORS 323.482 — UNLAWFUL DISTRIB. CIGARETTES — (C) <120,000.
- (43) ORS 323.632 — UNLAWFUL DISTRIB. TOBACCO PRODUCTS — (C).
- (44) ORS 609.990(3)(b) — MAINTAINING A DANGEROUS DOG — (C).
- (45) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).
- (46) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).
- (47) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).
- (48) ORS 819.310 — TRAFFICKING IN STOLEN VEHICLES — (C). (If not categorized at CC 6.)
- (49) * Property offenses marked with an asterisk shall be ranked at Crime Category 5 if the value of the property stolen or destroyed was \$10,000 or more but less than \$50,000, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

STATUTORY/OTHER AUTHORITY: ORS 137.667

STATUTES/OTHER IMPLEMENTED: ORS 137.667 - 137.669, 164.889, 166.643 & 2003 OL Ch. 383, 453, 543, 632, 2005 OL Ch. 708, 2007 OL Ch. 584, 681, 684, 811, SB 254 (2017), SB 302 (2017), SB 323 (2017), SB 1562 (2018)

ADOPT: 213-018-0067

RULE TITLE: Strangulation (Felony) (ORS 163.187)

NOTICE FILED DATE: 04/27/2018

RULE SUMMARY: The new rule implements crime categorizations for Strangulation after 2018 legislation.

RULE TEXT:

(1) CRIME CATEGORY 6: Felony Strangulation under ORS 163.187(4)(a) - (b) and (d) - (g) shall be ranked at Crime Category 6.

(2) CRIME CATEGORY 5: Felony Strangulation ORS 163.187(4)(c) shall be ranked at Crime Category 5 if the offense cannot be ranked at Crime Category 6.

(3) The crime categories above as applied to the offense of Strangulation as set forth in SB 1562 (2018) are effective January 1, 2019.

STATUTORY/OTHER AUTHORITY: ORS 137.667

STATUTES/OTHER IMPLEMENTED: ORS 137.667, SB 1562 (2018)

ADOPT: 213-080-0030

RULE TITLE: Definitions

NOTICE FILED DATE: 05/31/2018

RULE SUMMARY: The new rule establishes definitions in the Illegal Marijuana Market Enforcement Grant Program after 2018 legislation.

RULE TEXT:

As used in OAR 213-000-0010 to 213-080-0080, unless the context requires otherwise:

- (1) "Applicant" means one or more units of local government that submits an application to the Commission for a grant under the Illegal Marijuana Market Enforcement Grant Program.
- (2) "Business day" means 8:00 a.m. to 5:00 p.m., Pacific Time, Monday through Friday, excluding State of Oregon holidays.
- (3) "Commission" means the Oregon Criminal Justice Commission.
- (4) "Large-scale" means illegal marijuana cultivation or distribution operations relative to the applicant's community that involve large quantities of illegal marijuana, quantities of illegal marijuana of significant monetary value, operations that take place over large geographic areas, or any combination of those circumstances.
- (5) "Rural area" means a geographic area that is located at least 25 miles from any city with a population of 30,000 or more, or the entirety of a county with a population of less than 250,000 people, according to the most recent population statistics of the United States bureau of the census.

STATUTORY/OTHER AUTHORITY: 2018 OL Ch.103 §13-17

STATUTES/OTHER IMPLEMENTED: 2018 OL Ch.103 §13-17