



TEMPORARY ADMINISTRATIVE ORDER

INCLUDING STATEMENT OF NEED & JUSTIFICATION

DOC 16-2026

CHAPTER 291

DEPARTMENT OF CORRECTIONS

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ARCHIVES DIVISION SECRETARY OF STATE & LEGISLATIVE COUNSEL

FILING CAPTION: Assessment, Assignment, and Supervision of Adults in Custody for Work Assignments and Unfenced Minimum Housing

EFFECTIVE DATE: 05/26/2026 THROUGH 11/21/2026

AGENCY APPROVED DATE: 05/25/2026

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NEED FOR THE RULE(S):

Temporary amendments to these rules are necessary to align classification and assignment criteria with current practices and expand access to rehabilitative opportunities for adults in custody (AICs). Key changes include:

- Increasing the eligibility threshold for outside-the-perimeter work assignments from 48 to 60 months remaining on sentence.
- Allowing AICs with misdemeanor convictions to be considered for assignments.
- Removing prohibitions based on active Reckless Burning designators.
- Revising the definition of "Escape" and adjusting custody level thresholds to expand eligibility for community work and unfenced housing.

These amendments significantly improve the classification system by reducing misclassification and broadening access to lower-security housing and community work assignments.

JUSTIFICATION OF TEMPORARY FILING:

The Department of Corrections finds that proceeding through the permanent rulemaking process would cause serious

prejudice to the public interest. Immediate implementation of these amendments is necessary to ensure consistency between DOC policy and current operational practices, prevent confusion or misapplication of outdated eligibility criteria, and support equitable and effective population management. Delaying these updates would hinder the Department's ability to fairly apply classification criteria and could result in missed opportunities for adults in custody (AICs) to participate in meaningful work, reintegration activities, and appropriate housing placements.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None.

RULES:

291-082-0105, 291-082-0110

AMEND: 291-082-0105

RULE TITLE: Definitions

RULE SUMMARY: Amends rule to update custody classification level criteria for Level 1-3; and define Escape.

RULE TEXT:

- (1) Agency Work Crew: One or more inmates assigned to work on an on-site or community crew.
- (2) Agency Work Crew Supervisor: An employee or agent of the local, state or federal governmental agency or private non-profit and private entities who may supervise inmates responsible to supervise adults in custody assigned to an agency work crew pursuant to an intergovernmental agreement entered into by the agency and the Department of Corrections.
- (3) Corrections Information System: A computer system dedicated to tracking information critical to the management of inmates and offenders under the custody, supervision or both of the Department of Corrections.
- (4) Custody Classification Level: One of five levels of supervision assigned to an inmate through initial and classification procedures in accordance with the DOC rule on Classification (Inmate) (OAR 291-104).
 - (a) Level 5: An inmate assigned at this custody level meets one of the following criteria:
 - (A) Has demonstrated behaviors causing serious management concerns, or has demonstrated behaviors that in the judgment of the department present a threat sufficient to require special security housing on intensive management status.
 - (B) Has a sentence of death or is pending retrial in a case in which a sentence of death may be re-imposed.
 - (C) Has a pending trial for a case in which a sentence of death may be imposed.
 - (D) Is under investigation for or has been charged with the in-custody murder of another inmate or staff.
 - (b) Level 4: An inmate assigned at this custody level presents a serious risk of escape or institutional violence, or has time remaining of more than 120 months to life, with or without parole.
 - (c) Level 3: An inmate assigned at this custody level presents a moderate risk of escape, has a Level 3 detainer as defined in the Custody Classification Guide (OAR 291-104-0111), has demonstrated behavior causing moderate management concern, or has time remaining of 61 to 120 months.
 - (d) Level 2: An inmate assigned at this custody level presents a limited risk of escape, as defined in the Custody Classification Guide (OAR 291-104-0111) or has demonstrated behavior causing limited management concern, and has time remaining of 60 months or less.
 - (e) Level 1: An inmate assigned at this custody level presents a minimal risk of escape, meets the criteria for Detainer-Not Applicable, has demonstrated behavior causing minimal management concern, has time remaining of 60 months or less.
- (5) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.
- (6) Designator: Information, alerts or statutory designations important for sentence computation and crucial to determining work crew eligibility, unfenced housing assignment, and the management of inmates and offenders both in

institutions and in the community.

(7) Direct Supervision: The responsibility of authorized supervisors to ensure the on-site presence of an inmate while outside the institution secure perimeter, and to immediately report any unauthorized absence or departure.

(8) Escape: For purposes of these rules, escape:

(a) Means an unlawful departure of a person from custody (as defined herein); or escape, attempted escape, or conspiracy to escape from any correctional facility, including state, federal, county, or juvenile facilities; or departure and failure to return to any facility or housing in which a person was court ordered to reside; and

(b) Includes the unauthorized departure or absence from this state by a person who is under the jurisdiction of the Psychiatric Security Review Board, or under the jurisdiction of the Oregon Health Authority under ORS 161.315 to 161.351; abscond while on temporary release or transitional leave from a facility; or escape, attempted escape, or conspiracy to escape from the custody of officials while in a legitimate criminal justice building for a court appearance or from full custody of law enforcement, correctional employee, or employee from any partner agency assigned to supervise a person in custody for any of the reasons a person may be in custody while in the community.

(9) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an Assistant Director, or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(10) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(11) Protection/Restraining Order: Any valid court order intended to protect one person from another and restraining one person from any form of contact with another person.

(12) Static-99R: A ten item actuarial assessment instrument designed to determine a sex offender's risk of re-offense. Scoring ranges between -3 (low) and 10 (high).

(13) Stalking Conviction: Any court conviction for stalking as described in ORS 163.732 and 163.750.

(14) Stalking Order: Any court order prohibiting one person from stalking another as described in ORS 163.732 and 163.750.

(15) Unfenced Housing Assignment: A housing assignment to a Department of Corrections facility that does not have a secure perimeter fence.

(16) WHALE Work Assignment Levels:

(a) Inside: A work assignment restricted to inside the perimeter fence of a Department of Corrections facility.

(b) On-Site: A work assignment on the grounds of the facility in which an inmate is housed, but outside the perimeter fence of the facility.

(c) Community: A work assignment located outside the perimeter fence and off the grounds of the Department of Corrections facility in which an inmate is housed.

(17) Work Housing Assignment Level Evaluation (WHALE): The automated assessment program in the Corrections Information System used by the Department of Corrections to determine an inmate's work assignment levels and/or unfenced housing assignment.

STATUTORY/OTHER AUTHORITY: ORS 179.040, 421.445, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 179.040, 421.425, 423.020, 423.030, 423.075

AMEND: 291-082-0110

RULE TITLE: Work Housing Assignment Level Evaluation (WHALE) Eligibility

RULE SUMMARY: Amends rule to update criteria for on-site work assignment, community work assignment, and unfenced housing.

RULE TEXT:

(1) Inside Work Assignment: All inmates at custody classification Level 1 or 2 are minimally eligible for an inside work assignment.

(2) On-Site Work Assignment: An inmate must meet the following criteria to be considered for an on-site work assignment:

(a) Meets criteria for an inside work assignment on the WHALE.

(b) Has served more than 90 days in DOC custody.

(c) Has no predatory sex offender designation in Oregon or any other state, and if a sex offender, score 5 or below on the Static 99R or is not classified as a Level III sex offender under OAR 255-085-0020, Sex Offender Risk Assessment Methodology. The Static 99R and definitions are attached and available under OAR 291-062-0130 exhibits.

(d) Has not been sentenced under the sexually violent dangerous offender law.

(e) Is approved by the functional unit manager or designee.

(3) Community Work Assignment: An inmate must meet the following criteria to be considered for a community work assignment:

(a) Served more than 90 days in DOC custody.

(b) No active designator for conviction for Arson I or Attempted Arson I.

(c) No active designator for conviction for a sex offense or a crime with a sexual element.

(d) No active protection/restraining order(s).

(e) No conviction for a Stalking offense.

(f) No active court Stalking Order.

(g) Not found in violation of Sexual Assault or Sexual Coercion as described in OAR 291-105-0015, Rules of Misconduct.

(h) Minimal escape risk as defined in the Custody Classification Guide and the rule on Classification (Inmate) (OAR 291-104).

(i) No felony detainer(s) that are untried or expire after the inmate's projected release date.

(j) No multiple misdemeanor detainers that expire after the inmate's projected release date.

(k) No active designators on file disqualifying community assignment.

(4) Unfenced Housing: An inmate must meet the following criteria to be considered for an unfenced housing assignment:

(a) Custody Classification Level 1.

(b) Meets all community work assignment criteria listed in subsection (3) above.

(c) No active designator for conviction for Arson II, Attempted Arson II, or other related arson crimes, including attempts.

(d) No current active escape designator, or any active ESMO or ESSV designators, as defined in the Custody Classification Guide (OAR 291-104-0116).

STATUTORY/OTHER AUTHORITY: ORS 179.040, 421.445, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 179.040, 421.425, 423.020, 423.030, 423.075

NOTE: Attachments referenced are attached to this document. You may view the attachment 291-082-0110.pdf from the Attachments panel. Alternately, you may view the attachments at the following link:

<https://secure.sos.state.or.us/oard/viewAttachment.action?ruleVrsnRsn=335754>