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More than half of Oregon's most serious juvenile offenders may seek parole or get out early under Gov. Kate Brown's latest commutation plan

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By Noelle Crombie | The Oregonian/OregonLive

More than half of the people serving time in Oregon prisons for crimes they committed as juveniles will be eligible to seek parole or in some cases released outright under a commutation plan by Gov. Kate Brown.

About three-quarters of the estimated 250 prisoners who meet Brown's criteria were sentenced under Measure 11, the state's mandatory minimum sentencing law, which applies to the most serious crimes, including sexual abuse, rape and murder.

The governor's plan represents the latest significant effort to reexamine criminal justice policy in Oregon. In recent years, the state has undertaken multiple major reforms, including rethinking how it prosecutes juveniles.

The move will apply to some notorious young killers, further fanning the simmering philosophical debate about where victims and their families fit in the reform picture.

Brown wants to emphasize crime prevention and rehabilitation over "harsh punishments and lengthy and costly prison sentences," said her spokesperson Elizabeth Merah.

The governor's criteria does not apply to people convicted of crimes as juveniles whose projected release dates are in 2050 or later or those who were convicted as juveniles but are also serving time for offenses they committed as adults.

So Kip Kinkel isn't among the group.

Brown's office released to The Oregonian/OregonLive [the names of all offenders who met her criteria](#). The list is comprised of people who committed crimes as young as 14 through 17 and are now in the adult prison system. Several have convictions dating to the early 1980s. About two dozen are serving life sentences.

Brown is looking at two groups:

An estimated 78 people who were convicted of felonies as juveniles and have served at least 15 years of their sentences.

And an estimated 214 people who were convicted of crimes as juveniles and have served half their sentences or will have served half of their sentences by the end of next year.

Combined, the two groups represent about 63% of all people in Department of Corrections custody who are serving time for crimes they committed as juveniles.

Two years ago, the Legislature passed Senate Bill 1008 with the goal of keeping teens accused of Measure 11 crimes in the juvenile system, which places an emphasis on rehabilitation, instead moving them into the adult system.

The law made several changes. Perhaps the most significant: Juveniles accused of Measure 11 crimes are no longer automatically prosecuted as adults. Prosecutors must seek a hearing before a judge who decides whether a juvenile will be waived into adult court.

Lawmakers at the time stressed the law would apply only to future cases, but Brown this month said she would use her authority to review older cases as well.

The governor "intends to use her constitutional clemency powers to consider youth – on an individualized basis – who didn't benefit from that legislation," Merah said.

Merah said Brown this week plans to grant commutations for dozens of people who have served at least 15 years for crimes they committed as juveniles. She stressed that Brown will not make decisions about their release.

"That discretion lies with the Parole Board in these cases," she said in an email.

She said 45 days after the governor authorizes the commutation, defendants can begin seeking a parole hearing. She said victims and their families will "receive notifications in accordance with the standard victim notification procedures for commutations, and they will have an opportunity to participate in the hearing process."

She said the governor will use a different approach with people who have served at least half of their sentences. In those cases, Brown's office will "engage in an individualized review process" that will include conversations with prosecutors and victims.

"If the governor determines that a commutation is warranted, the youth will be granted a conditional release," Merah said.

She said the review process will take place over the next several months with the earliest decisions being made starting in December or January "and the process will continue until a final decision has been made on each case."

The numbers released by Brown's office Tuesday differ from the Department of Corrections tally. That's because some offenders fall under the criteria for both categories. The Department of Corrections said it has identified a total of 248 people who meet the governor's criteria for commutation.

Gabe Newland, director and managing attorney at Youth Justice Project at the Oregon Justice Resource Center, called Brown's decision "a step in the right direction." The group advocates for a reexamination of the criminal justice and prison systems.

Newland declined to say whether his organization had lobbied the governor to revisit the sentences of people convicted as juveniles.

"Now is a good time to correct those harms and acknowledge that we have been mistreating kids," he said.

Rosemary Brewer, executive director of the Oregon Crime Victims Law Center, said victims' perspectives and concerns need to be part of any sentencing review.

She said victims should be asked how they feel about the possible release of a defendant and be given adequate time to come up with a plan for their own safety.

"They should know where the person is going to be released to so they can make those safety plans that they need," she said.

The news that defendants might face release much sooner than expected upset some crime victims, who said the governor's decision has reopened deep wounds.

Lorna Flormoe's sister, Lisa, was 22 in 1991 when Todd Davilla forced his way into the Wilsonville home where she was staying and tried to rape her. When she resisted, he stabbed her 15 times in the neck, nearly decapitating her.

Davilla was 16 at the time. Today he is 47 and awaiting his latest resentencing after the Oregon Court of Appeals last year overturned his 50-year sentence. He is awaiting a new sentencing hearing in Clackamas County.

Davilla meets the criteria for both categories of offenders outlined by Brown. It is unclear whether he will be eligible to seek parole or if Brown will review his sentence for possible early release.

"I wish I could talk to Gov. Brown and give her some details on what Todd Davilla did to my sister," Flormoe said. "It's so easy for lawmakers and appeals court people to make these sweeping statements about letting certain folks back into our community. I would just like for them to think about how they would feel if that was their family member that happened to and to know some of the gory details and to have to face those."

Clackamas County District Attorney John Wentworth said nearly a dozen defendants from his county are among the names submitted to the governor. He said he is stunned by the prospect of their early release.

"These are pretty extraordinary cases that include sexual assault, rapes, murder," he said.

"I am frustrated," he said. "I don't know that the governor appreciates the emotion and work and faith in the system that go into getting the sentences that we have because she can undo them with the stroke of a pen and that's what she seems intent on doing."

Retired Multnomah County Chief Deputy District Attorney Norm Frink prosecuted at least two of the men on the list of those whose sentences are up for reconsideration:

Medero Moon, now 39, who was convicted in the 2000 shooting death of Wayne Olson, a Bank of America executive in his West Hills home in a home invasion robbery, and Carl Alsup, now 36, convicted in the 2003 murder of Jessica Williams of Gladstone. Alsup was part of a "street family" that beat and set fire to Williams, 22.

Frink said he strongly opposes any commutation consideration for the men and said it's unacceptable for victims or their families to learn about the governor's plans through the news media.

Moon and Alsup were sentenced to life with the possibility of parole. Moon meets the criteria for both groups and Alsup is on the list of offenders who have served at least 15 years, according to the information provided by Brown's office.

"These sentences are for people who committed horrible crimes and present a current and continuing danger to society," Frink said. "If the governor was really aware of the harm she is doing by even embarking upon this, and she had a conscience, she wouldn't be able to sleep at night."

Mike Dugan was the Deschutes County district attorney when the office prosecuted Justin Link, now 38, in the 2001 killing his mother, Barbara Thomas. The case involved four other juvenile defendants who became known as the "Redmond five." Three other defendants from the case are also on the list for commutation.

"My belief is a prisoner should have some sort of hope for release," Dugan said.

Hope, he said, might lead to less despair among prisoners and generally safer prisons.

He recalled that Link was portrayed during trial as a "ringleader" of the group.

"He deserves a long sentence," Dugan said, "but I don't have any objections to him having hope."

Link's lawyer, Thaddeus Betz, called Brown's decision to review the cases for commutation or parole eligibility the "absolutely right thing to do" for juvenile offenders like Link.

He pointed to research showing "children are incredibly capable of reform."

"Most youth that are sentenced to very length terms in prison behave really well, reform successfully and when they are released, they seem to do really well on release," he said. "Kids change."

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