

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR MULTNOMAH COUNTY

\_ Verified Correct Copy of Original 6/29/2022 \_

the matter of Preventative	)	PRESIDING JUDGE ORDER
Detention Determinations in Cases	)	2201-00003
Subject to ORS 135.240(2) to (4)	)	ORDER RE PREVENTATIVE
and ORS 135.240(6)	)	DETENTION HEARING
	)	PROCEDURES IN VIOLENT
	)	FELONIES

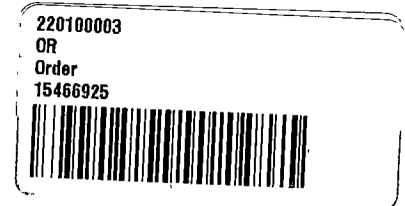
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ORS 135.240(2) to (4) and ORS 135.240(5) provide for denial of pretrial release in certain cases for individuals charged with violent felonies. This order describes the procedures for determining preventative detention in charges subject to ORS 135.240(2) to (4) and ORS 135.240(5). This order does not affect any procedure for any other charges in any charging instrument related to the Defendant if the charges are not subject to this order.

For the crimes of Aggravated Murder, Murder in the First Degree, Murder in the Second Degree, and Treason, the decision whether to set a security amount will be deferred pending a hearing pursuant to the procedures set forth in ORS 135.240(2) to (4). Until that time, the charge will be listed as "security decision deferred/no release."

The offenses listed below are considered to be violent felony charges for purposes of ORS 135.240(5):

- Any felony included in ORS 163A.005(5) (felony sex crimes), including Luring a Minor as defined in ORS 167.057, Invasion of Personal Privacy in the First Degree as defined in ORS 163.701, and Purchasing Sex with a Minor as defined in ORS 163.413, notwithstanding that those offenses have not been designated as a sex crime in any judgment;
- Attempted Murder in the First Degree under ORS 163.107
- Attempted Murder in the Second Degree under ORS 163.115
- Manslaughter in the First Degree under ORS 163.118
- Manslaughter in the Second Degree under ORS 163.125
- Criminally Negligent Homicide under ORS 163.145
- Assault in the First Degree under ORS 163.185(1)(a), (b), or (d)
- Attempted Assault in the First Degree under ORS 163.185(a) or (b), or under ORS 163.185(d) if the person is accused of acting intentionally
- Assault in the Second Degree under ORS 163.175(1)(a) or (c)
- Attempted Assault in the Second Degree under ORS 163.175(a) if the person is accused of acting intentionally



- Aggravated Driving While Suspended or Revoked under ORS 163.196 if the person is accused of causing serious physical injury to or death of another person
- Arson in the First Degree under ORS 164.325(1)(a)(C)
- Robbery in the First Degree under ORS 164.415(1)(c)
- Attempted Robbery in the First Degree under ORS 164.415(1)(c)

Pursuant to PJO 2201-00002, Order Regarding Pretrial Release Prior to Arraignment, the above offenses will be placed in Release Guideline 3 and held for arraignment.<sup>1</sup>

Upon filing charges, if the State seeks preventative detention in a case pursuant to ORS 135.240(4), it shall file a motion and supporting information. If the State seeks to have release denied pursuant to ORS 135.240(4) for a crime that is not listed above, the State shall file a Motion Requesting Court Determination of a Violent Felony supported by a sworn statement or declaration setting forth the factual basis that qualifies the offense as a violent felony pursuant to ORS 135.240(6). The State shall provide a copy of the documents in a manner most reasonably calculated to provide prompt notice to the defense attorney if one is known or to the agency holding the contract to perform arraignments if a defense attorney is not known.

If the State is not seeking preventative detention on one of the offenses listed above, it may stipulate to setting bail at the time of arraignment if the court does not authorize release on recognizance or conditional release.

If the State is seeking an arrest warrant and requesting preventative detention on any offense that is not one of the crimes listed in this order, the Motion Requesting Court Determination of a Violent Felony and a proposed order finding a crime to be a violent felony may be presented along with the application for an arrest warrant. The signed order shall be filed with the court and will serve as a basis to place any offenses within the order in Release Guideline 3 pursuant to PJO 2201-00002.

A Court's initial determination regarding whether a charge is a violent felony does not constitute law of the case. The Defendant may contest the violent felony determination at the time of the preventative detention hearing, or as otherwise permitted by the court.

The procedures of ORS 135.240 and ORS 135.245 apply for any case in which the State is seeking preventative detention. The Defendant has the following options in responding to the State's request.

- 1) If the Defendant requests a release hearing, the court will set a release hearing two days out pursuant to ORS 135.245(7), unless the parties agree or the court finds good cause to extend to a time not more than five days away in accordance with ORS 135.245(7)


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<sup>1</sup> Aggravated Driving While Suspended or Revoked under ORS 163.196 is not a violent felony if the suspension or revocation resulted from, or if the hardship permit violated is based upon a suspension or revocation that resulted from, a conviction for a criminal offense involving the use of a motor vehicle, and will be placed in Release Guideline 2.

- and 135.240(4)(b).
- 2) At the time of either arraignment, a hearing at 48 hours, or a hearing scheduled within five days, the Defendant through counsel may orally waive the statutory right to the hearing within five days for up to three weeks, but in no case for longer than four weeks.
  - 3) In addition to any other court or trial date assigned at arraignment, the Court will assign cases involving a violent felony to one of the following for a hearing: a) the short matters docket at Presiding Call the following day for a 48-hour hearing; b) if the parties stipulate or the court finds good cause, to the short matters docket at Presiding Call for a five-day hearing; or c) if the defendant waives the time requirements, the short matter docket in accordance with the duration of any oral waiver.
  - 4) At the time of the short matter docket proceeding if scheduled within three or four weeks, the court shall send the case out for a hearing unless Defendant files a written waiver requesting an additional extension. If there is no written waiver filed by that date, a court may make the determination following a hearing or based on the documents submitted by the parties.
  - 5) If Defendant is still requesting an extension at three or four weeks following arraignment, the Defendant must submit a written waiver of limited or unlimited duration. The waiver should specify the duration of the waiver for a hearing under ORS 135.240(4), whether the Defendant is also waiving the 60 days under ORS 136.295(1), and what the duration of that waiver is, if any. The court will set the next court date for the hearing after considering the waiver and any response from the State.
  - 6) For purposes of scheduling a hearing in accordance with 135.245(7) and 135.240(4)(b), ORS 174.120 applies to the time calculation.

This Order shall take effect on July 1, 2022 and supersedes PJO 2101-30000 dated December 15, 2022.

ORDERED this 29 day of June 2022.



The Hon. Judith Matarazzo

Presiding Judge, Multnomah County Circuit Court