

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF CLACKAMAS

	)	
	)	Presiding Judge Order No. 2025-08
In the Matter of Preventative Detention	)	
Determinations in Cases Subject To ORS	)	ORDER RE PREVENTATIVE
135.240(2)-ORS 135. 24(4) and ORS	)	DETENTION HEARING
135.240(6).	)	PROCEDURES IN VIOLENT
	)	FELONIES IN CLACKAMAS
	)	COUNTY

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) in Clackamas County Circuit Court. 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 "No Release / No Bail / Security Decision Deferred."

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, 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), (1)(b), or (1)(d);
- Attempted Assault in the First Degree under ORS 163.185(1)(a), (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;
- 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 2022-4 Order Regarding Pretrial Release in Clackamas County, the above offenses will be placed in “Release Category 3” and hereby classified as violent felonies.

Upon filing charges, if the State seeks preventative detention in a case pursuant to ORS 135.240(4) for a crime designated above as a violent felony, it shall file a notice stating its intent to seek preventative detention. 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, affidavit, or declaration setting

forth the factual basis that qualifies the offense as a violent felony pursuant to ORS 135.240(5). 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.

In a case in which the state seeks preventative detention, the District Attorney's office shall provide the discoverable material it has available in its case file to defense counsel within 24 hours after the District Attorney's office has been notified that the defendant is represented by defense counsel.

If the State is not seeking preventative detention for one of the offenses listed above, it may stipulate to the setting of security/bail at the time of arraignment.

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, a motion requesting judicial 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 2022-04.

A Court's initial determination regarding whether a charge is a violent felony for a crime not enumerated above, 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) The Defendant may waive the right to a hearing and stipulate and/or not object to the Court entering a preventative detention order finding that the Defendant is charged with a violent

felony and (1) by clear and convincing evidence, that there is a danger of physical injury or sexual victimization to the victim or members of the public by the defendant while on release and (2) the defendant is either charged by indictment OR there is probable cause to believe the Defendant committed the crime. The waiver shall be written and include a statement that the Defendant's understands the rights given up with the waiver. If the defendant waives the right to a hearing or stipulates and/or does not object to the Court entering the preventative detention order, the Defendant will be held without security on any charged violent felonies.

- 2) If the Defendant requests a preventative detention hearing, or does not stipulate to the court's entry of a preventative detention order, the court shall either set the preventative detention hearing within 48 hours or make a good cause finding and set a hearing within five days of the arraignment pursuant to ORS 135.245(7), unless the Defendant consents to hold the hearing at a later date. Pending the preventative detention hearing, the charge(s) classified as violent felonies will be listed as "No Release / No Bail / Security Decision Deferred."
- 3) At the time of the hearing, the court shall conduct the hearing unless Defendant waives the right to the hearing or expressly requests a postponement as outlined above. If the court has not accepted a waiver by that date set for the hearing, a court may make the determination following a hearing or based on the documents submitted by the parties.
- 4) In addition to any other court or trial date assigned at arraignment, the Court will assign cases requiring a preventative detention hearing to one of the following for a hearing: a) the 1:30pm criminal short hearings docket for a 48-hour hearing; b) if the parties stipulate or the court finds good cause, to the Monday 1:30pm criminal motions docket for a five-

day hearing; or c) other docket times that would comply with the timing requirements outlined in ORS 135.240 and ORS 135.245.

- 5) 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.

Dated this 10th day of September, 2025



Presiding Judge Michael C. Wetzel