

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE 12TH JUDICIAL DISTRICT
POLK COUNTY

In the Matter of Pretrial Release by) Presiding Judge Order
sheriff or entity supervising the local) No. 25-005
correctional facility)
) ORDER REGARDING PRETRIAL
) RELEASE IN POLK COUNTY

WHEREAS, the 2021 Legislative assembly enacted Oregon Laws 2021, Chapter 643, initially introduced as Senate Bill 48 (2021) by the Oregon Criminal Justice Commission, to reduce the reliance on security release and provide statewide guidance for local pretrial release orders; and

WHEREAS, Section 2 of Oregon Laws 2021, Chapter 643, now codified as ORS 135.233, requires the Presiding Judge of a judicial district shall enter a standing pretrial release order, specifying to the sheriff of the county, or to the entity supervising the local correctional facility responsible for pretrial incarceration within the judicial district, those person and the offenses that are:

- i. Subject to release on recognizance;
- ii. Subject to release with special conditions of release; and
- iii. Not eligible for release until arraignment; and

WHEREAS, the Legislative Assembly enacted Oregon Laws 2024, chapter 70, initially introduced as House Bill 4002, an omnibus bill intended to respond to the state's addition and mental health crisis. Section 26 requires the Chief Justice, with input from a criminal justice advisory committee, to reevaluate and update the release guidelines for the pretrial orders established under ORS 135.233 for persons arrested for or charged with delivery or manufacture of a controlled substance;

WHEREAS, in turn, the Chief Justice issued a new Order 24-014 and guidelines for Presiding Judge Orders that requires each Presiding Judge of a Circuit Court to enter a Pretrial Release Order as required under ORS 135.223(1) that complies with the new guidelines established by the Chief Justice with an operative date of June 21, 2024.

IT IS HEREBY ORDERED:

SECTION 1: AUTHORIZATION AND CRITERIA FOR PRETRIAL RELEASE

CRIME CATEGORY 1

1. The Sheriff or Release Assistance Officer shall release on recognizance with a release agreement with the general conditions in ORS 135.250 all individuals charged with the following offenses:
 1. Any non-person misdemeanor, except those offenses listed in Crime Categories 2 or 3, below;
 2. Any non-person Class C felony, except those offenses listed in Crime Categories 2 or 3, below;
 3. Any driving while suspended offense defined in ORS 811.182, except for aggravated driving while suspended as defined in ORS 163.196;
 4. Any contempt of court other than violation of a protective order or court-imposed no-contact order; and
 5. Any other offense that is not included in Crime Categories 2 or 3, below.

CRIME CATEGORY 2

2. The Sheriff or Release Assistance Officer shall release on court-imposed conditions, all individuals charged with the following offenses:
 - a. Any non-domestic violence person misdemeanor, as defined in OAR 213-003-0001(15);
 - b. Any driving under the influence of intoxicants (DUI) offense as defined in ORS 831.010 and ORS 813.011; and
 - c. Any non-domestic violence Class B felony and any non-domestic violence person Class C felony as defined in OAR 213-003-0001(14), except for those offenses included in Crime Category 3, below, to be held for arraignment; and
 - d. Aggravated driving while suspended or revoked.

CRIME CATEGORY 3

3. The Sheriff or Release Assistance Officer shall hold for arraignment or first appearance all individuals charged with the following offenses:
 - a. Any violent felony, as defined in ORS 135.240 and any offense in ORS 137.700;
 - b. Any Class A felony;
 - c. Any sex crime, (whether designated or not), as defined in ORS 163A.005, including luring a minor, purchasing sex with a minor, and first-degree invasion of personal privacy, and any attempt to commit luring a minor, purchasing sex with a minor, and first-degree invasion of personal privacy;
 - d. Any domestic violence felony or misdemeanor, as defined in ORS 135.230;
 - e. Any felony stalking as described in ORS 163.732, any violation of a stalking protective order as described in ORS 163.750, and felony strangulation as described in ORS 163.187; and

- f. Any of the following Class B felony – controlled substance offences:
 - i. Manufacture of hydrocodone within 1,000 feet of a school, as defined in ORS 475.808;
 - ii. Delivery of hydrocodone within 1,000 feet of a school, as defined in ORS 475.812;
 - iii. Unlawful delivery of a Schedule III controlled substance to a minor, as defined in ORS 475.906(2);
 - iv. Unlawful delivery of fentanyl, as defined in Oregon Laws 2025, chapter 532, section 3(2) (SB 236);
 - v. Causing another person to ingest a controlled substance, as defined in ORS 475.908(1);
 - vi. Applying a Schedule III controlled substance to the body of a minor, as defined in ORS 475.910(2);
 - vii. Manufacture of methamphetamine, as defined in ORS 475.866;
 - viii. Unlawful manufacture of fentanyl, as defined in Oregon Laws 2025, chapter 532, section 5 (SB 236); and
 - ix. Distribution of equipment, solvent, reagent, or precursor substance with the intent to facilitate manufacture of controlled substance, as defined in ORS 475.962;
- g. The following felony – and misdemeanor – controlled substance offences involving minors:
 - i. Using a minor in a controlled substance offence, as defined in ORS 167.262;
 - ii. Unlawful delivery of a Schedule IV controlled substance to a minor, as defined in ORS 475.906(3);
 - iii. Unlawful delivery of a Schedule V controlled substance to a minor, as defined in ORS 475.906(4);
 - iv. Applying a Schedule IV controlled substance to the body of a minor, as defined in ORS 475.910(3); and
 - v. Applying a Schedule V controlled substance to the body of a minor, as defined in ORS 475.910(4); and
- h. Any of the following offenses:
 - i. Possession of a firearm or dangerous weapon in a public building or a court facility, as defined in ORS 166.370; and unlawful possession of machine guns, certain short-barreled firearms, and firearm silencers as defined in ORS 166.272;
 - ii. Unlawful transport/manufacture/transfer of rapid fire activator, as defined in Oregon Laws 2025, chapter 594, section 2(3)(a) (SB 243);
 - iii. Failure to appear, as defined in ORS 162.195 and 162.205;
 - iv. Felon in possession of a firearm, as defined in ORS 166.270;
 - v. Fleeing or attempting to elude, as defined in ORS 811.540;
 - vi. Resisting arrest, as defined in ORS 162.315;

- vii. Giving false information to a peace officer, as defined in ORS 807.620 and ORS 162.385;
- viii. Escape in any degree, as defined in ORS 162.145, ORS 162.155, and ORS 162.165; and unauthorized departure, as defined in ORS 162.175;
- ix. Fugitive from justice, as defined in ORS 133.747;
- x. Bias crime in the first degree, as defined in ORS 166.165; and
- xi. Tampering with a witness, as defined in ORS 162.285
- xii. Violation of restraining order (FAPA, EPPDAPA, SAPO, or other court-imposed no-contact order); and
- xiii. Probation or Post-Prison Supervision violations.

SECTION 2: CRITERIA FOR CONDITIONAL RELEASES:

- 4. In addition to the crimes listed in Crime Category 2, the following circumstances would lead to Special Conditions of Release:
 - a. Any Category 1 offense with a named victim or location;
 - b. Any offense committed with a Co-Defendant;
 - c. The individual is visibly intoxicated at interview; or
 - d. Substance misuse is indicated in the Probable Cause Affidavit

SECTION 3: CRITERIA FOR OVERRIDING CIRCUMSTANCES:

- 5. The following person-specific criteria require holding the individual for arraignment, regardless of crime category:
 - 1. Multiple charges over multiple incidents in the 48 hours prior to arrest, defined as:
 - i. Separate physical actions by the individual, resulting in criminal conduct;
 - ii. Actions resulting in criminal conduct with several minutes between them sufficient to change course of conduct; or
 - iii. Separate physical actions resulting in multiple victims.
 - 2. Any prior Failure to Appear conviction, or a failure to appear on the current case;
 - 3. Outstanding warrant or hold from any jurisdiction;
 - 4. The individual made a threat of violence to a victim, law enforcement officer, or anyone else connected with the case;
 - 5. Current or prior contempt or probation violation adjudications;

6. Arresting officer checked the box on the Probable Cause Affidavit calling for a behavioral health evaluation;
7. Three convictions for the same charge within the last five years;
8. Arrest or conviction for the same charge within the last 30 days;
9. Individual is unable to comprehend the release process, participate in the release assessment process, or sign a release agreement;
10. If the current charge is a property crime and the individual has a conviction for a property crime;
11. If the current charge is a trespass and the individual has a conviction for a trespass;
12. A non-DV charge where the victim is a family or household member;
13. Any incident where the alleged victim is a peace or parole officer;
14. Any incident where the alleged victim is a minor;
15. The individual is subject to an active restraining order of court-imposed no-contact order;
16. If the individual is currently on a release agreement for another case in Polk County or elsewhere;
17. Individual is alleged to have violated their release agreement.

SECTION 4: RELEASE DECISION PROCESS:

6. Release decisions made by the Sheriff or Release Assistance Officer shall be made in a two-step process:
 - STEP 1:** Identify the crime the individual is charged with and the Crime Category of that charge.
 - STEP 2:** Determine if there are any overriding circumstances that require that the individual be held or conditions upon which the individual should be released.
7. OJD has set out a list of offenses, found here: [Release guidelines categorization list \(oregon.gov\)](#), which is to be used in Step 1, to determine

the Crime Category that the charge the individual is facing falls into. OJD's list is hereby incorporated into this Order.

8. Attached to this Order is Exhibit A, to be used in Step 2 which includes a chart of overriding circumstances, and what action should be taken if they apply. Exhibit A is hereby incorporated into this Order.
9. Attached to this Order is Exhibit B, which is a series of charts to be used in Step 2, to determine any required conditions of release. Exhibit B is hereby incorporated into this Order.

This Presiding Judge Order supersedes all previous orders on the same subject and shall remain in effect until further Order of this Court.

Dated this 30 day of September, 2025.

A handwritten signature in black ink, appearing to read 'Norman R. Hill', written over a horizontal line.

Norman R. Hill
Presiding Judge

EXHIBIT A: CRITERIA FOR OVERRIDING CIRCUMSTANCES

OVERRIDING CIRCUMSTANCES	CATEGORY 1 CHARGE	CATEGORY 2 CHARGE	CATEGORY 3 CHARGE
Multiple charges over multiple incidences in the 48 hours prior to arrest	Move to Category 3	Move to Category 3	
Individual is unable to comprehend the release process or participate in the release assessment process or sign a release agreement	Hold for arraignment or first appearance		
A direct threat of violence to a victim, law enforcement officer, or anyone else connected to the case	Hold for arraignment or first appearance		
Any prior contempt or probation violation adjudication	Hold for arraignment or first appearance		
Any outstanding warrants or holds from other jurisdictions	Hold for arraignment or first appearance		
Any prior FTA conviction, or an FTA on the current case	Move to Category 3	Move to Category 3	
Three convictions for the same charge in the last five years	Move to Category 3	Move to Category 3	
Arrest or conviction for the same conduct within the last 30 days	Move to Category 3	Move to Category 3	
Current property crime charge with conviction for a property crime	Move to Category 3		
Current trespass charge with a conviction for trespass	Move to Category 3		
Any Category 1 offense with a named victim or location	Move to Category 2		
Non-DV charge where the alleged victim is a family or household member	Move to Category 3		
Any incident where the alleged victim is a peace or parole officer	Move to Category 3	Move to category 3	
Any incident where the alleged victim is a minor	Move to Category 3	Move to category 3	
Any incident involving a Co-Defendant	Move to Category 2		
Arresting Officer checked the box on the PCA calling for a BH evaluation	Hold for arraignment or first appearance		
Individual is subject to an active restraining order or court-imposed no-contact order	Hold for arraignment or first appearance		
Individual is currently on a release agreement for another case in Polk County or elsewhere	Hold for arraignment or first appearance		
Individual is alleged to have violated their release agreement	Hold for arraignment or first appearance		

The person was arrested for an offense involving controlled substances and: • The person was in possession of a firearm during the offense; • The person was, at the time of the offense, in possession of a substantial quantity of a controlled substance or substances as that term is defined in ORS 475.900(1)(a)(A-G); • The person was in possession of fentanyl; • The person was, at the time of the offense, in possession of materials being used for the packaging of controlled substances such as scales, wrapping foil, other than the material being used to contain the substance that is the subject of the offense; • The person was, at the time of the offense, in possession of manufacturing paraphernalia, including recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power generating equipment; • The person was, at the time of the offense, supervising one or more minors.	Hold for arraignment or first appearance
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EXHIBIT B: CRITERIA FOR CONDITIONAL RELEASES

The following offense-specific criteria lead to the following conditions:

CHARGE	SPECIAL CONDITION OF RELEASE
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DUII	• Absolutely no consumption of intoxicants; • No entry into liquor stores, taverns, bars, or dispensaries.
Non-DV person crimes eligible for release with special conditions	• Absolutely no contact with the victim; • No entry onto premises, business or other location occupied by the victim; • No possession or access to firearms or other deadly weapons; • If intoxicants are implicated in the crime, absolutely no consumption of intoxicants
Any Category 1 offense with a named victim or location	• No contact order for alleged victim or location
Any Category 2 delivery or manufacture of a controlled substance	• Absolutely no consumption of intoxicants; • No entry into liquor stores, taverns, bars, or dispensaries.
Co-Defendant	• No contact with Co-Defendant

The following person-specific criteria lead to the following conditions:

CRITERIA	CONDITION OF RELEASE
Person is visibly intoxicated	• Absolutely no consumption of intoxicants; • No entry into liquor stores, taverns, bars, or dispensaries.
Substance misuse is indicated in PCA	• Absolutely no consumption of intoxicants; • No entry into liquor stores, taverns, bars, or dispensaries.
Individual is placed on a conditional release	• Check in with RAO by noon on the judicial day following release, and as directed thereafter