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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

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CHAPTER 291

DEPARTMENT OF CORRECTIONS

FILED

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FILING CAPTION: Structured, Intermediate Sanctions

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NEED FOR THE RULE(S):

The Department of Corrections' Division 058 rules establish department policy and procedures regarding imposition of structured, intermediate sanctions for violation of supervision conditions for adults on supervision. These proposed amendments to the department's Division 058 rules are needed to: (1) incorporate legislatively mandated policies regarding the application of structured, intermediate sanctions to adults on supervision for designated drug-related misdemeanors and for designated person misdemeanors; (2) provide a consistent statewide framework and structure for imposing structured, intermediate sanctions on adults on supervision for violation of supervision conditions; (3) incorporate changes in terminology used by the Department and community corrections agencies to refer to adults on supervision; and (4) update definitions, supervision and reporting form titles, and the Administrative Sanctions Sanctioning Grid and Sanction Equivalency Table.

JUSTIFICATION OF TEMPORARY FILING:

The Department of Corrections finds that following the permanent rulemaking process, rather than taking this temporary rulemaking action, will result in serious prejudice to the public interest because the department's failure to promptly amend its Division 058 rules will prevent the department from immediately incorporating legislatively mandated policies regarding the application of structured, intermediate sanctions to adults on supervision for designated drug-related misdemeanors and for designated person misdemeanors, and from immediately updating and clarifying the rules, thereby seriously hindering the department's ability to provide for a consistent statewide framework and structure for imposing structured, intermediate sanctions on adults on supervision for violation of supervision conditions.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

SB 497 (2021): <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB0497>

HB 4002 (2024): <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/HB4002/Enrolled>

HB 3145 (2019): <https://olis.oregonlegislature.gov/liz/2019R1/Downloads/MeasureDocument/HB3145/B-Engrossed>

RULES:

291-058-0010, 291-058-0020, 291-058-0030, 291-058-0040, 291-058-0045, 291-058-0046, 291-058-0047, 291-058-0050, 291-058-0060, 291-058-0065, 291-058-0066, 291-058-0067

AMEND: 291-058-0010

RULE TITLE: Authority, Purpose and Policy

RULE SUMMARY: Amends rule to align language with current department philosophy by changing the term "offender" to "adult on supervision", for technical corrections, to clarify process, and to update statutory citations.

RULE TEXT:

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to establish a uniform system of administrative sanctions to address violation behavior of adults on supervision while on probation, parole, post-prison supervision, leave, or any other form of supervision that may be imposed by the Department of Corrections or a county community corrections agency, taking into consideration the severity of the violation behavior, the prior violation history, the severity of the underlying criminal conviction, the criminal history of the adult on supervision, protection of the community, deterrence, the effective capacity of the state prisons and local correctional facilities, and the availability of appropriate local sanctions.

(3) Policy:

(a) It is the policy of the Department of Corrections to compel compliance with the conditions of supervision by responding to violations with swift, certain, and fair interventions. It is the policy of the Department of Corrections that decisions to incarcerate adults on supervision while on probation, parole, post-prison supervision, leave, or any other form of supervision for violation of the conditions of supervision must be made upon a systematic basis that will ensure that available custodial space is used to house those who constitute a threat to the public, taking into consideration the availability of custodial space and local resources.

(b) It is the policy of the Department of Corrections to provide, in conjunction with the Board of Parole and Post-Prison Supervision for adults on supervision subject to the jurisdiction of the Board, specific direction for department and county community corrections agency employees to follow when considering administrative sanctioning options for adults on supervision.

STATUTORY/OTHER AUTHORITY: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, 423.075

AMEND: 291-058-0020

RULE TITLE: Definitions

RULE SUMMARY: Amends rule to update statutory references; to clarify, update, or add definitions and add definitions to align with department philosophy by changing the term "offender" to "adult on supervision"; and make technical corrections.

RULE TEXT:

(1) Administrative Sanctions: Sanctions and structured, intermediate sanctions, as those terms are used in ORS 137.592 to 137.599, 144.106 to 144.108, and 144.346 and in Criminal Justice Commission and Board of Parole and Post-Prison Supervision administrative rules, imposed by the Department of Corrections or a county community corrections agency for violation of conditions of supervision. Administrative sanctions are less than a revocation action and include but are not limited to local confinement in jails, restitution centers, work release centers, inpatient treatment facilities or similar facilities, or community service work, work crew, and house arrest.

(2) Administrative Sanctions Sanctioning Grid: A grid used by the officer to determine the appropriate sanction response based on the adult on supervision's Supervision Level and Behavior Severity Level (incorporated herein as Attachment A).

(3) Adult on Supervision: Any person under the supervision of the Department of Corrections or a county community corrections agency who is on probation, parole, post-prison supervision, leave, or any other form of supervision. For purposes of these rules, this definition includes adults in custody who are in the department's legal custody but are temporarily outside of the Department of Corrections' physical custody and who have been released onto short-term transitional leave or non-prison leave.

(4) Agency: The Department of Corrections or the county community corrections agency responsible for providing supervision services to those on probation, parole, post-prison supervision, leave, or any other form of supervision.

(5) Compact Adult on Supervision: Any person who resides in and is being supervised by the State of Oregon although sentenced in another state.

(6) Conditions of Probation, Parole, Post-Prison Supervision, or Leave: General and special conditions given to an individual placed on probation, parole, post-prison supervision, leave, or any other form of supervision by the sentencing judge, the Board of Parole and Post-Prison Supervision, the Department of Corrections, or local supervisory authority.

(7) Interventions: Interventions imposed by the Department of Corrections or a county community corrections agency for violations of one or more conditions of supervision. Interventions include, but are not limited to, verbal reprimand, written reprimand, job search programming, increased reporting requirements, curfew, day reporting, modification of conditions, and outpatient treatment. Intervention responses are not counted as sanction units and may be imposed along with sanctions.

(8) Nonprison Leave: A period of leave not to exceed 90 days preceding an established release date granted to adults in custody successfully completing the institution phase of an alternative incarceration program (AIP). Nonprison leave is designed to provide adults in custody with transitional opportunities that promote successful reintegration into the community.

(9) Officer: Any county- or state-employed parole or probation officer.

(10) Revocation: Termination of supervision as a result of violating behavior or a determination by the sentencing court, Board of Parole and Post-Prison Supervision, or local supervisory authority.

(11) Releasing Authority: The Department of Corrections, the court, Board of Parole and Post-Prison Supervision, or local supervisory authority.

(12) Sanction Equivalency Table: A table used to determine the number of sanction units for which an adult on supervision will receive credit based on the type of sanction and number of hours served (incorporated herein as Attachment B).

(13) Sanction Units: Conditions of probation or sanctions imposed as a number of units as established by rules of the

Criminal Justice Commission including, but not limited to, jail, restitution centers, work release centers, inpatient treatment facilities or similar facilities, or community service work.

(14) Short-Term Transitional Leave: A period of leave not to exceed 120 days preceding an established release date designed to provide adults in custody with transitional opportunities that promote successful reintegration into the community.

(15) Supervisory Authority: The state or local corrections official or officials designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities, or both.

(16) Supervision Level: The level assigned to an adult on supervision as a result of the calculated risk score utilizing the Public Safety Checklist or Proxy risk instruments and any appropriate risk instrument or local policy overrides.

STATUTORY/OTHER AUTHORITY: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, 423.075

AMEND: 291-058-0030

RULE TITLE: Application to Adults on Supervision

RULE SUMMARY: Amends rule to align language with current department philosophy by changing the term "offender" to "adult on supervision", for technical corrections, and to clarify process.

RULE TEXT:

- (1) These rules shall apply to all adults on supervision on probation for a felony committed on or after September 1, 1993, unless the court retained jurisdiction.
- (2) These rules shall apply to adults on supervision on probation for a felony committed prior to September 1, 1993, if:
 - (a) The sentencing judge orders the adult on supervision to be subject to the structured, intermediate sanctions sanctioning process; and
 - (b) The adult on supervision consents in writing or on the record to be subject to the structured, intermediate sanctions sanctioning process.
- (3) The agency or officer shall present adults on supervision on probation for a felony committed prior to September 1, 1993 with the option of consenting to be subject to the structured, intermediate sanctions sanctioning process for violation of conditions of probation supervision. Adults on supervision may consent in writing to be subject to the structured, intermediate sanctions sanctioning process by signing a structured, intermediate sanctions sanctioning process consent form (CD1274). The agency or officer shall present an adult on supervision's written consent to be subject to the structured, intermediate sanctions sanctioning process to the sentencing court for the court's approval and signature.
- (4) These rules apply to all adults on supervision on parole and post-prison supervision and all compact adults on supervision supervised in Oregon.
- (5) These rules apply to all adults on supervision on short-term transitional leave with specific limitations set forth in OAR 291-058-0046.
- (6) These rules apply to all adults on supervision on nonprison leave with specific limitations set forth in OAR 291-058-0047.
- (7) These rules apply to adults on supervision on probation for a designated drug-related misdemeanor, as defined in ORS 423.478, for crimes committed on or after August 15, 2017.
- (8) These rules apply to those sentenced on or after January 1, 2022 and placed on probation for a designated person misdemeanor as defined in ORS 423.478.

STATUTORY/OTHER AUTHORITY: ORS 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, 423.075, 137.592, 137.593

STATUTES/OTHER IMPLEMENTED: ORS 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, 423.075, 137.592, 137.593

AMEND: 291-058-0040

RULE TITLE: Identification and Presentation of Violation Behavior

RULE SUMMARY: Amends rule to align language with current department philosophy by changing the term "offender" to "adult on supervision", for technical corrections and consistency, to remove gendered language, and to clarify process.

RULE TEXT:

- (1) Upon identifying violation behavior, the officer will prepare and present to the adult on supervision a copy of a Department of Corrections violation and structured sanction reporting form describing the alleged violation behavior.
- (2) Notice of Rights and Decisions About Rights:
 - (a) Probation Cases: Using a Department of Corrections Notice of Rights form (CD1272), the adult on supervision shall be notified of their rights to a violation hearing before the court, to be represented by an attorney at the hearing, and to have an attorney appointed for them at state expense if they cannot afford one.
 - (b) Parole and Post-Prison Supervision Cases: Using a Board of Parole and Post-Prison Supervision or local supervisory authority Notice of Rights form for those on parole and post-prison supervision, the adult on supervision shall be notified of their rights to a violation hearing before the Board of Parole and Post-Prison Supervision or local supervisory authority.
 - (c) Compact Cases: Using a Compact Notice of Rights form for those on compact supervision, the adult on supervision shall be notified of their rights to a violation hearing before an assigned hearings officer.
 - (d) Short-Term Transitional Leave and Nonprison Leave Cases: Using a Department of Corrections Notice of Rights form (CD1497), the adult on supervision shall be notified of their rights to a violation hearing before an assigned hearings officer.
 - (e) All Notice of Rights forms shall include a description of the sanction which will be imposed if the adult on supervision chooses to waive their right to a violation hearing and right to counsel, and in lieu of a violation hearing elects to participate in the administrative sanctioning process.
 - (f) A copy of the Notice of Rights form shall be provided to the adult on supervision at the time of or after the adult on supervision is presented with a copy of the Department of Corrections violation and structured sanction reporting form describing the alleged violation behavior, and prior to the imposition of sanctions. The Notice of Rights may be administered by any agency personnel or other person at the direction of agency personnel.
 - (g) The person administering the Notice of Rights shall ask the adult on supervision if they can read and understand the Notice of Rights form printed in the English language. If the adult on supervision informs the person administering the Notice of Rights that they cannot read the form, but can understand the English language, the person shall read the Notice of Rights form to the adult on supervision. If the adult on supervision informs the person administering the Notice of Rights that they cannot read or understand the English language, the person shall provide the adult on supervision with a Notice of Rights in the adult on supervision's language if available, or when necessary, through a language interpreter.
 - (h) If, after receiving Notice of Rights in writing or orally as necessary, the adult on supervision indicates to the person administering the Notice of Rights that they understand their rights as stated in the Notice of Rights form, the adult on supervision shall sign the Notice of Rights form acknowledging that the adult on supervision understands their rights, and indicate by checking the appropriate box on the form whether they want a violation hearing before the court, Board of Parole and Post-Prison Supervision, Department of Corrections, or local supervisory authority or to accept the administrative sanction listed on the form. If an adult on supervision refuses to sign the form acknowledging that they have read or have been read the Notice of Rights and that they understand the Notice of Rights, the person administering the Notice of Rights shall so indicate on the Notice of Rights form, and the officer shall report the violation behavior to the court, Board of Parole and Post-Prison Supervision, Department of Corrections, or local supervisory authority for disposition in lieu of proceeding with the administrative sanctioning process.
 - (i) If, after receiving Notice of Rights in writing or orally, the adult on supervision indicates to the person administering

the Notice of Rights that they do not understand their rights as stated in the Notice of Rights form, the officer shall report the violation behavior to the court, Board of Parole and Post-Prison Supervision, Department of Corrections, or local supervisory authority for disposition in lieu of proceeding with the administrative sanctioning process. For compact cases, a probable cause hearing shall be scheduled with an assigned hearings officer.

(3) If the adult on supervision admits to the alleged violation behavior or affirmatively chooses not to contest the information regarding the alleged violation behavior and the adult on supervision accepts the administrative sanction to be imposed by the sanctioning agency as listed on the Notice of Rights form, the sanctioning agency shall impose the administrative sanction.

(4) If the adult on supervision denies or otherwise contests the alleged violation behavior or does not accept the administrative sanction to be imposed by the sanctioning agency as listed on the Notice of Rights form, the officer shall report the violation behavior to the court, Board of Parole and Post-Prison Supervision, Department of Corrections, or local supervisory authority for disposition in lieu of proceeding with the administrative sanctioning process. For compact cases, a probable cause hearing shall be scheduled with an assigned hearings officer.

STATUTORY/OTHER AUTHORITY: ORS 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, 423.075, 137.592, 137.593, 137.595, 144.104, 144.106, 144.108

STATUTES/OTHER IMPLEMENTED: ORS 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, 423.075, 137.592, 137.593, 137.595, 144.104, 144.106, 144.108

RULE TITLE: Imposition of Administrative Sanctions or Interventions on Adults on Supervision

RULE SUMMARY: Amends rule to align language with department philosophy by changing the term "offender" to "adult on supervision", for technical corrections, to clarify or further define process, and to remove gendered language.

RULE TEXT:

- (1) The officer shall determine whether the alleged violation behavior is appropriately responded to with interventions or with administrative sanctions, or both.
- (2) If the officer determines that the alleged violation behavior is appropriately responded to with an intervention, the officer may direct the adult on supervision into appropriate interventions in lieu of administrative sanctions.
- (3) If the officer determines that the alleged violation behavior is appropriately responded to with administrative sanctions, the officer shall determine and impose appropriate administrative sanctions using the Administrative Sanctions Sanctioning Grid (Attachment A) and the Sanction Equivalency Table (Attachment B), and the following procedures:
 - (a) Identify the adult on supervision's current supervision level.
 - (b) Identify the behavior severity level using the Behavior Severity Level Chart on the Administrative Sanctions Sanctioning Grid. For a series of violations, select the violation that fits into the highest behavior severity level.
 - (c) Determine the appropriate matrix based on the type of case being sanctioned. Using the supervision and behavior severity levels, identify the appropriate behavior response level .
 - (d) For probation cases, determine the number of jail and non-jail sanction units remaining for use as administrative sanctions applicable to the adult on supervision's probationary sentence or order.
 - (e) Determine the appropriate sanction response to impose within the identified behavior response level. Sanctions may not exceed the maximum number of sanction units as indicated on the Administrative Sanctions Sanctioning Grid, using the Sanction Equivalency Table.
 - (f) An administrative sanction or intervention at the agency level cannot be imposed on more than one case at a time. A case cannot be sanctioned separately for individual violations arising from the same criminal episode or series of violations.
 - (g) If the officer determines that the sanction response options within the identified behavior response level are inappropriate, an override may be considered to move to a higher behavior response level within the grid for the following circumstances:
 - (A) The adult on supervision threatens or is violent;
 - (B) The adult on supervision evades or escapes, or attempts to evade or escape;
 - (C) The adult on supervision puts the supervising officer or law enforcement in a dangerous or unsafe situation; or
 - (D) The adult on supervision is already in custody.
 - (h) If the officer determines that any behavior response level within the grid is insufficient to address the seriousness of the violation behavior, a higher sanction response, up to and including a revocation recommendation to the court, Board of Parole and Post-Prison Supervision, Department of Corrections, or local supervisory authority, may be imposed only after consultation and agreement of the unit supervisor or per approval process established by the agency or local supervisory authority.
- (4) Level of Authority for Probation Cases: Determine the level of authority that may impose the sanction (agency or court). Jail confinement imposed as an administrative sanction may not exceed 60 days per violation report. The total number of days of jail confinement for all violation reports per conviction may not exceed the maximum number of available jail sanction units as provided by rules of the Criminal Justice Commission. The officer shall follow agency policy for supervisory review when imposing jail confinement sanctions.
 - (a) If the appropriate sanction falls within the agency level of authority designation, the officer shall impose the sanction following agency procedures for consultation with supervisory personnel.
 - (b) If the appropriate sanction falls within the court level of authority designation, the officer may impose a sanction

from the agency level designation or report the violation behavior to the court with a recommendation that the appropriate sanction from the court level of authority designation be imposed.

(c) If the adult on supervision has previously served all of the available sanction units applicable to their probationary sentence or order, the officer may order appropriate interventions or report the violation to the court for disposition.

(d) Credit for sanction units shall only be granted for time actually served. Good time credits, work time credits, or early release shall not count towards satisfaction of sanction units.

(5) Level of Authority for Parole and Post-Prison Supervision and Compact Cases: Determine the level of authority that may impose the sanction (that is, officer, hearings officer or other agency designee, Board of Parole and Post-Prison Supervision, local supervisory authority, or releasing authority for compact cases).

(a) An officer may order local sanctions including a local confinement sanction not exceeding 30 days.

(b) A hearings officer or agency designee may order local sanctions including a local confinement sanction not exceeding 60 days.

(c) The Board of Parole and Post-Prison Supervision, local supervisory authority, or releasing authority in the state of conviction for compact cases may order administrative sanctions not exceeding 90 days.

(d) Revocation Recommendations: If administrative sanctions are determined to be insufficient to manage the adult on supervision, the local supervisory authority or the Board of Parole and Post-Prison Supervision shall hold a hearing to determine whether revocation is appropriate and may impose an appropriate revocation term of incarceration in compliance with the Oregon Criminal Justice Commission rules and the Board of Parole and Post-Prison Supervision rules.

(e) Revocation Recommendations in Compact Cases: If the officer determines that structured sanctions are insufficient to manage the adult on supervision in a compact case, the officer shall prepare a compact violation report detailing the alleged violation and recommending the adult on supervision's return to the sending state to address the violation behavior. Oregon authorities shall not impose a revocation term of incarceration or other action on an adult on supervision in a compact case.

(6) Level of Authority for Short-Term Transitional Leave Cases: Determine the level of authority that may impose the sanction (that is, officer, hearings officer or other agency designee, or releasing authority).

(a) An officer may order local sanctions including a local confinement sanction not exceeding 30 days.

(b) A hearings officer or agency designee may order local sanctions including a local confinement sanction not exceeding 60 days.

(c) The releasing authority may order sanctions up to and including revocation of leave and return to a Department of Corrections facility.

(d) Any local confinement sanctions shall be reported to the releasing authority in accordance with OAR 291-058-0066.

(7) Level of Authority for Nonprison Leave Cases: Determine the level of authority that may impose the sanction (that is, officer, hearings officer or other agency designee, or releasing authority).

(a) An officer may order local sanctions including a local confinement sanction not exceeding three days.

(b) A hearings officer or agency designee may order local sanctions including a local confinement sanction not exceeding three days.

(c) The releasing authority may order sanctions up to and including revocation of leave and return to a Department of Corrections facility.

(d) All sanctions shall be reported to the releasing authority in accordance with OAR 291-058-0067.

(8) Nothing in these rules shall limit the authority of the officer and agency to direct the adult on supervision into appropriate interventions outside of the administrative sanctioning process.

(9) Sanctioning of Adults on Supervision Held in Jail on Officer's Detainer for Violation of Probation Conditions:

(a) When an adult on supervision is arrested and detained in a county jail on authority of an officer's detainer for a violation of the conditions of probation, the officer shall complete the imposition of administrative sanctions within the first 36 hours of the adult on supervision's detention, excluding Saturdays, Sundays, and holidays, unless later disposition is authorized by supervisory personnel. Agency supervisory personnel, in consultation with the jail

supervisory personnel, may authorize an extension of the 36-hour period for up to five judicial days if the officer is unable to collect the necessary information or meet with the adult on supervision within the 36-hour period.

(b) If the imposition of administrative sanctions is not completed within the authorized period, the officer shall notify the jail supervisor and remove their detainer lodged with the county jail authority. Nothing in these rules shall prohibit an officer from issuing a new detainer for the adult on supervision's arrest and detention for a violation of the conditions of probation upon receipt of the information necessary for the officer to assess the full nature and extent of the violation and impose appropriate administrative sanctions.

(c) If the adult on supervision does not consent to administrative sanctions imposed by the officer, the officer shall report the arrest or detention to the court that imposed the probation as soon as practicable but within one judicial day. The officer shall promptly submit to the court a report showing in what manner the adult on supervision has violated the conditions of probation.

(10) Sanctioning of Adults on Supervision Held in Jail on Officer's Detainer for Violations of Parole, Post-prison Supervision, Short-term Transitional Leave, or Nonprison Leave Conditions: Within 15 days of the adult on supervision's arrest, either an administrative sanction must be imposed or violation hearing proceedings initiated.

STATUTORY/OTHER AUTHORITY: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 144.600, 144.615, 179.040, 421.168, 421.510, 423.020, 423.030, 423.075

Attachment A
ADMINISTRATIVE SANCTIONS SANCTIONING GRID

Determine Supervision and Behavior Severity Levels



BEHAVIOR SEVERITY LEVEL CHART		
Low Behavior Severity Level	Medium Behavior Severity Level	High Behavior Severity Level
<ul style="list-style-type: none"> Willfully changes residence without permission Does not report Does not answer truthfully Does not abide by a case plan, a directive, or any supervision condition not otherwise listed Does not pay fines or fees Does not attend a treatment session or attends, but is not engaged in treatment 	<ul style="list-style-type: none"> Commits a non-person misdemeanor Does not take medication as prescribed Willfully refuses to pay restitution or compensatory fines as directed Willfully fails to enter or is non-compliant with treatment or does not obtain an evaluation Leaves the state without authorization Exhibits pattern of non-compliance with case plan or supervision Does not comply with or obtain a polygraph 	<ul style="list-style-type: none"> Absconds (a warrant was requested) Commits a person crime Commits a new felony Possesses a weapon (for Board cases refer to OAR 255-070-0001, Exhibit J Definitions) Violates a no contact order or condition Refuses to comply with a 'no relationships' condition Refuses to allow a home visit Refuses or does not submit to a search Refuses to comply with imposed sanctions Refuses to comply with case plan Terminated from treatment Violates curfew or geographic restrictions Possesses sexually deviant material (SC 6 & SC10)

Determine the appropriate matrix based on the type of case being sanctioned. Determine the appropriate Behavior Response Level within the identified matrix. The level identified represents the maximum allowable response without citing an override or 58-45 exception. Any violation can be addressed with a lower-level response.

ALL PCS MISDEMEANORS			
Supervision Level	Behavior Severity Level		
	L	M	H
L	INV	L	L
M	L	L	M
H	M	L	M

FELONIES AND ALL OTHER MISDEMEANORS			
Supervision Level	Behavior Severity Level		
	L	M	H
L	INV	L	M
M	L	M	H
H	M	M	H

* Maximum of 30 sanction days available for HB4002 cases

BEHAVIOR RESPONSES	
INTERVENTIONS	
Assign a Thinking Report	Develop, revise, or practice relapse prevention plan
Participate in a support group or self-help program	Refer back to treatment to address need
Increase or require programming	
LOW-LEVEL NON-CUSTODY SANCTIONS (NO UNITS)	
Issue a verbal reprimand	Increase contact
Issue a written reprimand	Require day detention
Require random UA call-in	Require a staffing with a PPO, supervisor or judge
MEDIUM-LEVEL NON-CUSTODY SANCTIONS (NO UNITS)	
Impose curfew	
Report to Day Reporting Center	
Place on GPS or EM	
LOW-LEVEL CUSTODY AND NON-CUSTODY SANCTIONS	
Up to 3 units of Jail	Community Service
Up to 5 units of:	Day reporting center
House arrest	Work crew
MEDIUM-LEVEL CUSTODY AND NON-CUSTODY SANCTIONS	
Up to 7 units of:	House arrest
Community service	Day Reporting Center
Work crew	Jail
HIGH-LEVEL CUSTODY AND NON-CUSTODY SANCTIONS	
Up to 8 units of:	1-45 Units of:
Community service	House Arrest
Work crew	Jail
 OAR 291-058-0045 may be used if the grid is altogether insufficient to address a violation 	

A lower-level sanction or intervention may always be used to respond to a violation.

An override can be applied to use a higher-level sanction *within* the grid

Attachment A
ADMINISTRATIVE SANCTIONS SANCTIONING GRID

- **Override Considerations:** An override is a response to a violation that exceeds the calculated Behavior Response Level but still lies within the Administrative Sanctions Sanctioning Grid as a whole. *If the calculated response level is inappropriate, overrides may be used to move to a higher severity level within the grid. Examples of override reasons may include:*

Override Considerations
<ul style="list-style-type: none"> • The adult on supervision threatens or is violent. • The adult on supervision evades or escapes or attempts to evade or escape. • The adult on supervision puts the Parole and Probation or Law Enforcement Officer in danger or in an unsafe situation. • The adult on supervision is already in custody.

- **OAR 291-058-0045 (Rule 58-45)** is used if the parameters of the Administrative Sanctions Sanctioning Grid are insufficient to address the severity of a violation. If a High-Level Behavior Response (for example, a jail sanction in excess of 45 days) is insufficient to address the seriousness of a violation, a higher level of sanction, up to and including returning an adult on supervision to court or to the Board of Parole and Post-Prison Supervision with a revocation recommendation, may be imposed only after consultation and agreement of the unit supervisor or approval process established by the county agency or local supervisory authority. Examples for sanctions **outside** of the grid may include, but are not limited to:
 - Threat of or actual violence toward a witness or victim
 - Repetition of behavior patterns which contribute to criminal conduct (such as, engaging in behaviors like those involved in instant offense)
 - Exhibiting extreme indifference to the safety of others

- **Levels of Authority**

Probation	
• Agency	0-60 Units
• Court	Over 60 Units
Parole/PPS	
• Parole Officer	0-30 Units
• Agency or Hearings Officer	31-60 Units
• Supervisory Authority or Board	61-90 Units
Short-Term Transitional Leave	
• Parole Officer	0-30 Units
• Agency or Hearings Officer	31-60 Units
• Department of Corrections	Over 60 Units
Non-Prison Leave	
• Parole Officer	0-3 Units
• Agency or Hearings Officer	0-3 Units
• Department of Corrections	Over 3 Units

- **Additional Considerations:**
 - The sanctioning units are caps only. The sanctioning authority may impose sanctions below the cap.
 - An adult on supervision can be required to complete the balance of a previously imposed sanction that was not complied with, in addition to receiving a new sanction for failing to comply with an imposed sanction.
 - Abscond: The adult on supervision’s whereabouts are unknown; the supervising officer has exhausted all reasonable means to locate the adult on supervision, and a warrant has been requested.
- **Drug Enforcement Misdemeanors**
 - The total amount of sanction days a Drug Enforcement Misdemeanor may receive is 30 days.

Attachment B
SANCTION EQUIVALENCY TABLE

Sanction Type	Unit Equation	Stipulation
Jail	1 day equals 1 unit	only for actual days in custody
Restitution or Work Center	1 day equals 1 unit	only for actual days in custody
House Arrest	1 day equals 1 unit	only for actual days in custody
Community Service	16 hours equals 1 unit	only if completed satisfactorily
Work Crew	16 hours equals 1 unit	only if completed satisfactorily
Inpatient Treatment (Residential or Custodial)	1 day equals 1 unit	only if completed satisfactorily, including one year aftercare
Interventions	Intervention responses are not counted as sanction units.	

Criminal Justice Commission Administration Rules (OAR 213-005-0012)

Credit for sanction units shall only be granted for time actually served. Good time credits, work time credits, or early release shall not count towards satisfaction of sanction units.

The adult on supervision shall receive credit for having served those sanction units as follows:

JAIL: Each day of jail incarceration equals one (1) sanction unit.

RESIDENTIAL CUSTODIAL TREATMENT FACILITY: Each day of actual confinement in a 24-hour residential custodial treatment facility equals one (1) sanction unit when the program is satisfactorily completed including up to one year of any required aftercare.

Aftercare may continue for more than one year, but custody unit credit shall be granted following satisfactory completion for one year. **NOTE:** OAR 213-05-012(5) states that when the sentencing judge finds that a custodial rehabilitation program addressing alcohol & drug or sexual behavior is essential in reducing an adult on supervision's risk of recidivism, the requirement that an adult on supervision enter and complete such a program shall not be limited by the sanction units.

RELEASE PROGRAMS: Each day of partial confinement in a release program, in which the adult on supervision is confined in a custodial facility when not on release, equals one (1) sanction unit for each day of partial incarceration.

HOUSE ARREST: Each day of satisfactory compliance with the requirements of house arrest equals one (1) sanction unit if the adult on supervision satisfactorily completes the house arrest.

COMMUNITY SERVICE: Sixteen hours of community service under the direct supervision of a supervisor designated by the supervisory authority equals one (1) sanction unit.

The supervisory authority shall keep a record of all sanction units served by the adult on supervision during the course of the probation terms. When sanction units are served only upon the satisfactory completion of a custodial program, the supervisory authority, when appropriate, shall certify that the adult on supervision has satisfactorily completed a custodial program and the number of sanction units served by the adult on supervision as part of the program.

AMEND: 291-058-0046

RULE TITLE: Imposition of Administrative Sanctions or Interventions on Adults on Supervision While on Short-Term Transitional Leave

RULE SUMMARY: Amends rule to align with department philosophy by changing the term "offender" to "adult on supervision", for technical corrections, and to clarify process.

RULE TEXT:

- (1) The process to impose administrative sanctions or interventions on adults on supervision while on short-term transitional leave shall be the same as for any adults on supervision with the restrictions listed in subsections (2) through (3) below.
- (2) If an adult on supervision does not consent to the administrative sanctions or interventions imposed by the officer, the officer shall report the violation to the Assistant Director of Community Corrections or designee in accordance with OAR 291-063-0160 as soon as practicable but within five days.
- (3) If the officer determines that any indicated behavior response level within the grid is insufficient to address the seriousness of the violation behavior, a higher sanction response, up to and including revocation of short-term transitional leave and returning the adult on supervision to a Department of Corrections facility, may be imposed only after consultation and agreement of the Assistant Director of Community Corrections or designee. For revocation of short-term transitional leave recommendations submitted under this section, officers shall use the process outlined in OAR 291-063-0160.

STATUTORY/OTHER AUTHORITY: ORS 137.595, 179.040, 421.168, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 137.595, 179.040, 421.168, 423.020, 423.030, 423.075

AMEND: 291-058-0047

RULE TITLE: Imposition of Administrative Sanctions or Interventions on Adults on Supervision While on Nonprison Leave

RULE SUMMARY: Amends rule to align language with current department philosophy, for technical corrections, and to clarify process.

RULE TEXT:

- (1) The process to impose administrative sanctions or interventions on adults on supervision while on nonprison leave shall be the same as for any adults on supervision with the restrictions listed in subsections (2) through (6) below.
- (2) Only violations in the "Low Behavior Severity Level" and "Medium Behavior Severity Level" columns of the Behavior Severity Level Chart on the Administrative Sanctions Sanctioning Grid (Attachment A) shall be addressed with an administrative sanction or intervention response.
- (3) Violations found to be in the "High Behavior Severity Level" of Attachment A shall be addressed in accordance with OAR 291-062-0165.
- (4) If an adult on supervision does not consent to the administrative sanctions or interventions imposed by the officer, the officer shall report the violation to the institution functional unit manager or designee in accordance with OAR 291-062-0165 as soon as practicable but within five days.
- (5) If the officer determines that any indicated behavior response level within the grid is insufficient to address the seriousness of the violation behavior, a higher sanction response, up to and including revocation of nonprison leave and returning the adult on supervision to a Department of Corrections facility, may be imposed only after consultation and agreement of the institution functional unit manager or designee. For revocation of nonprison leave recommendations submitted under this section, officers shall use the process outlined in OAR 291-062-0165.
- (6) Use of jail sanctions for adults on supervision while on nonprison leave from an alternative incarceration program must be agreed upon by both the Department of Corrections and the local county. A jail sanction cannot exceed three days.

STATUTORY/OTHER AUTHORITY: ORS 137.595, 179.040, 421.510, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 137.595, 179.040, 421.510, 423.020, 423.030, 423.075

AMEND: 291-058-0050

RULE TITLE: Reporting of Sanctions for Probation Cases and Role of the Court and District Attorney

RULE SUMMARY: Amends rule to align language with current department philosophy by changing the term "offender" to "adult on supervision", for technical corrections, and to clarify process.

RULE TEXT:

(1) Whenever administrative sanctions are imposed in a probation case, the sentencing court and the district attorney shall be notified utilizing a Department of Corrections violation and structured sanction reporting form. When a probation intervention or sanction involves modifying conditions of probation, the court must sign and return the request before the amended condition is in effect, unless specific authority has been granted to the agency by the sentencing court.

(2) Notification shall be sent via email or facsimile where available during the same working day in which a sanction is imposed. Where email or facsimile is not available, notification shall be mailed the same working day in which the sanction is imposed.

(3) Prior to the imposition of any administrative sanction or within four judicial days after receiving notice that an administrative sanction has been imposed on a probationer, the court upon motion of the district attorney or on its own motion may cause the adult on supervision to be brought before the court for a hearing and may revoke probation, impose other or additional sanctions, or modify the conditions of probation as authorized by law. In no case may the sentencing judge cause an adult on supervision to be brought before the court for a hearing and revoke probation or impose other or additional sanctions after the probationer has completed an administrative sanction imposed by the agency.

STATUTORY/OTHER AUTHORITY: ORS 137.595, 144.104, 144.106, 144.108, 179.040, 423.020, 423.030, 423.075, 137.592, 137.593

STATUTES/OTHER IMPLEMENTED: ORS 137.595, 144.104, 144.106, 144.108, 179.040, 423.020, 423.030, 423.075, 137.592, 137.593

AMEND: 291-058-0060

RULE TITLE: Reporting of Sanctions for Parole and Post-Prison Supervision Cases and Role of the Supervisory Authority and Board of Parole and Post-Prison Supervision

RULE SUMMARY: Amends rule to clarify process and make technical corrections.

RULE TEXT:

(1) Whenever administrative sanctions are imposed in a parole or post-prison supervision case, the supervisory authority or the Board of Parole and Post-Prison Supervision shall be notified utilizing a Department of Corrections violation and structured sanction reporting form.

(2) When custody is imposed or conditions of supervision are modified, a completed violation and structured sanction reporting form and Notice of Rights form will be submitted to the local supervisory authority or the Board of Parole and Post-Prison Supervision.

(3) Notification shall be sent utilizing the automated structured sanction module within the Corrections Information System whenever possible or via email or facsimile where available during the same working day in which a sanction is imposed. Where email or facsimile is not available, notification shall be mailed the same working day in which the sanction is imposed.

STATUTORY/OTHER AUTHORITY: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 179.040, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 179.040, 423.020, 423.030, 423.075

AMEND: 291-058-0065

RULE TITLE: Reporting of Sanctions for Compact Cases and Role of the Oregon Interstate Compact Office

RULE SUMMARY: Amends rule for technical corrections and to clarify process.

RULE TEXT:

- (1) In a compact case, whenever administrative sanctions are imposed, conditions of supervision are modified, or custody is imposed for a significant violation as defined by the department's rules on Interstate Compact (OAR 291-180), the sending state may be notified utilizing a compact progress report form. A completed Department of Corrections violation and structured sanction reporting form and Notice of Rights form may be included with the compact progress report form.
- (2) Notification shall be sent within 30 days of the violation to the Oregon Interstate Compact office utilizing the Interstate Compact Offender Tracking System.

STATUTORY/OTHER AUTHORITY: ORS 144.600, 144.615, 179.040, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 144.600, 144.615, 179.040, 423.020, 423.030, 423.075

AMEND: 291-058-0066

RULE TITLE: Reporting of Sanctions for Short-Term Transitional Leave Cases and Role of the Department of Corrections Community Corrections Division Office

RULE SUMMARY: Amends rule for technical corrections and to clarify process.

RULE TEXT:

(1) In a short-term transitional leave case, whenever jail sanctions are imposed, a completed Department of Corrections violation and structured sanction reporting form and Notice of Rights form will be submitted to the Assistant Director of Community Corrections or designee.

(2) Notification shall be sent via email during the same working day in which the sanction is imposed.

(3) The Assistant Director of Community Corrections or designee shall have the override authority of other releasing authorities and may override the given sanction at any time without time limitations.

STATUTORY/OTHER AUTHORITY: ORS 137.595, 179.040, 421.168, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 137.595, 179.040, 421.168, 423.020, 423.030, 423.075

AMEND: 291-058-0067

RULE TITLE: Reporting of Sanctions for Nonprison Leave Cases and Role of the Department of Corrections Community Corrections Division Office

RULE SUMMARY: Amends rule for technical corrections and to clarify process.

RULE TEXT:

(1) In a nonprison leave case, whenever administrative or jail sanctions are imposed, a completed Department of Corrections violation and structured sanction reporting form and Notice of Rights form shall be forwarded to the institution functional unit manager or designee at the releasing institution.

(2) Notification shall be sent electronically during the same working day in which the sanction is imposed.

(3) The institution functional unit manager or designee shall have the override authority of other releasing authorities and may override the given sanction at any time without time limitations.

STATUTORY/OTHER AUTHORITY: ORS 137.595, 179.040, 421.168, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 137.595, 179.040, 421.168, 423.020, 423.030, 423.075

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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DOC 20-2024

CHAPTER 291

DEPARTMENT OF CORRECTIONS

FILED

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FILING CAPTION: Structured, Intermediate Sanctions (Part 2)

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Rules Coordinator

NEED FOR THE RULE(S):

The Department of Corrections' Division 058 rules establish department policy and procedures regarding imposition of structured, intermediate sanctions for violation of supervision conditions for adults on supervision. These proposed amendments to the department's Division 058 rules are needed to: (1) incorporate legislatively mandated policies regarding the application of structured, intermediate sanctions to adults on supervision for designated drug-related misdemeanors and for designated person misdemeanors; (2) provide a consistent statewide framework and structure for imposing structured, intermediate sanctions on adults on supervision for violation of supervision conditions; (3) incorporate changes in terminology used by the Department and community corrections agencies to refer to adults on supervision; and (4) update definitions, supervision and reporting form titles, and the Administrative Sanctions Sanctioning Grid and Sanction Equivalency Table.

JUSTIFICATION OF TEMPORARY FILING:

The Department of Corrections finds that following the permanent rulemaking process, rather than taking this temporary rulemaking action, will result in serious prejudice to the public interest because the department's failure to promptly amend its Division 058 rules will prevent the department from immediately incorporating legislatively mandated policies regarding the application of structured, intermediate sanctions to adults on supervision for designated drug-related misdemeanors and for designated person misdemeanors, and from immediately updating and clarifying the rules, thereby seriously hindering the department's ability to provide for a consistent statewide framework and structure for imposing structured, intermediate sanctions on adults on supervision for violation of supervision conditions.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

SB 497 (2021): <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB0497>

HB 4002 (2024): <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/HB4002/Enrolled>

HB 3145 (2019): <https://olis.oregonlegislature.gov/liz/2019R1/Downloads/MeasureDocument/HB3145/B-Engrossed>

AMEND: 291-058-0070

RULE TITLE: Misdemeanor Cases

RULE SUMMARY: Amends rule to clarify process for the development of a structured sanctioning process for misdemeanor cases.

RULE TEXT:

Except as provided in 291-058-0030, agencies shall have the authority to develop their own structured sanctioning process for adults on supervision.

STATUTORY/OTHER AUTHORITY: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 179.040, 423.020, 423.030, 423.075

STATUTES/OTHER IMPLEMENTED: ORS 137.592, 137.593, 137.595, 144.104, 144.106, 144.108, 179.040, 423.020, 423.030, 423.075