

House Bill 2301

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows imposition of longer sentence, when offense is gang-related, upon conviction of person felony or unlawful use or possession of weapon.

A BILL FOR AN ACT

1
2 Relating to sentencing.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Criminal street gang" means a group of at least three persons that has:**

6 (A) **As one of its primary activities the commission of criminal acts or acts that if com-**
7 **mitted by an adult would constitute a violation of a law or ordinance of the United States**
8 **or a state, county or city;**

9 (B) **A common name, common style of dress or common identifying signs, colors or**
10 **symbols; and**

11 (C) **At least two members who engage in or have engaged in a pattern of criminal street**
12 **gang activity.**

13 (b) **"Pattern of criminal street gang activity" means the commission of, or an attempt,**
14 **solicitation or conspiracy to commit, on separate occasions within a three-year period:**

15 (A) **At least two felony offenses;**

16 (B) **At least three misdemeanor offenses;**

17 (C) **At least one felony and two misdemeanor offenses; or**

18 (D) **A comparable number of acts that if committed by an adult would constitute vio-**
19 **lations of law classified as felonies or misdemeanors.**

20 (c) **"Person felony" has the meaning given that term in the rules of the Oregon Criminal**
21 **Justice Commission.**

22 (2) **The court shall sentence a person who is convicted of a person felony or a violation**
23 **of ORS 166.220 or 166.270 to a term of incarceration that is 24 months longer than the**
24 **presumptive sentence of incarceration for the crime if the person committed the crime:**

25 (a)(A) **For the benefit, or at the direction, of a criminal street gang; or**

26 (B) **In association with a criminal street gang; and**

27 (b) **With the intent to:**

28 (A) **Assist in criminal conduct by criminal street gang members;**

29 (B) **Promote the criminal street gang; or**

30 (C) **Further the purposes of the criminal street gang.**

31 (3) **If the presumptive sentence for a crime described in subsection (2) of this section is**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **probation, the court shall sentence a person who committed the crime under the circum-**
2 **stances described in subsection (2) of this section to a term of incarceration of 24 months.**

3 **(4) When the state seeks an enhanced sentence authorized by subsection (2) or (3) of this**
4 **section, the state shall plead the gang-related enhancement by adding the term “gang-related**
5 **offense” to the name of the crime and by pleading the factors listed in subsection (2) of this**
6 **section on which the state is relying within the count. The factors pleaded must be proved**
7 **beyond a reasonable doubt as elements in the guilt phase of the trial. The unenhanced crime**
8 **is a lesser included offense.**

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