

House Bill 2337

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

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**.

Requires 13-month presumptive sentence for repeat property offender convicted of criminal possession of forgery device. Provides that prior convictions for criminal possession of forgery device, mail theft or receipt of stolen mail, or unlawful entry into motor vehicle are basis for sentencing as repeat property offender.

A BILL FOR AN ACT

1
2 Relating to presumptive sentences for repeat property offenders; amending ORS 137.717.

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

4 **SECTION 1.** ORS 137.717 is amended to read:

5 137.717. (1) When a court sentences a person convicted of:

6 (a) Aggravated theft in the first degree under ORS 164.057 or burglary in the first degree under
7 ORS 164.225, the presumptive sentence is 19 months of incarceration, unless the rules of the Oregon
8 Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

9 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary
10 in the first degree under ORS 164.225, robbery in the second degree under ORS 164.405 or robbery
11 in the first degree under ORS 164.415; or

12 (B) Four previous convictions for any combination of the other crimes listed in subsection (2)
13 of this section.

14 (b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS
15 164.135, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under
16 ORS 164.365, computer crime under ORS 164.377, forgery in the first degree under ORS 165.013,
17 **criminal possession of a forgery device under ORS 165.032**, identity theft under ORS 165.800,
18 possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310,
19 the presumptive sentence is 13 months of incarceration, unless the rules of the Oregon Criminal
20 Justice Commission prescribe a longer presumptive sentence, if the person has:

21 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unau-
22 thorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery
23 in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession
24 of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310; or

25 (B) Four previous convictions for any combination of the other crimes listed in subsection (2)
26 of this section.

27 (2) The crimes to which subsection (1) of this section applies are:

28 (a) Theft in the second degree under ORS 164.045;

29 (b) Theft in the first degree under ORS 164.055;

30 (c) Aggravated theft in the first degree under ORS 164.057;

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 (d) Unauthorized use of a vehicle under ORS 164.135;
- 2 **(e) Mail theft or receipt of stolen mail under ORS 164.162;**
- 3 [(e)] **(f)** Burglary in the second degree under ORS 164.215;
- 4 [(f)] **(g)** Burglary in the first degree under ORS 164.225;
- 5 **(h) Unlawful entry into a motor vehicle under ORS 164.272;**
- 6 [(g)] **(i)** Criminal mischief in the second degree under ORS 164.354;
- 7 [(h)] **(j)** Criminal mischief in the first degree under ORS 164.365;
- 8 [(i)] **(k)** Computer crime under ORS 164.377;
- 9 [(j)] **(L)** Forgery in the second degree under ORS 165.007;
- 10 [(k)] **(m)** Forgery in the first degree under ORS 165.013;
- 11 [(L)] **(n)** Criminal possession of a forged instrument in the second degree under ORS 165.017;
- 12 [(m)] **(o)** Criminal possession of a forged instrument in the first degree under ORS 165.022;
- 13 **(p) Criminal possession of a forgery device under ORS 165.032;**
- 14 [(n)] **(q)** Fraudulent use of a credit card under ORS 165.055;
- 15 [(o)] **(r)** Identity theft under ORS 165.800;
- 16 [(p)] **(s)** Possession of a stolen vehicle under ORS 819.300; and
- 17 [(q)] **(t)** Trafficking in stolen vehicles under ORS 819.310.
- 18 (3) The court may impose a sentence other than the sentence provided by subsection (1) of this
- 19 section if the court imposes:
 - 20 (a) A longer term of incarceration that is otherwise required or authorized by law; or
 - 21 (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission
 - 22 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon
 - 23 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-
 - 24 lowed for a person sentenced under this subsection is double the presumptive sentence provided in
 - 25 subsection (1) of this section.
 - 26 (4) As used in this section, "previous conviction" includes:
 - 27 (a) Convictions occurring before, on or after July 1, 2003; and
 - 28 (b) Convictions entered in any other state or federal court for comparable offenses.
 - 29 (5)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have
 - 30 occurred upon the pronouncement of sentence in open court. However, when sentences are imposed
 - 31 for two or more convictions arising out of the same conduct or criminal episode, none of the con-
 - 32 victions is considered to have occurred prior to any of the other convictions arising out of the same
 - 33 conduct or criminal episode.
 - 34 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-
 - 35 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open
 - 36 court of the suspended imposition of a sentence.
 - 37 (6) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.