

House Bill 3429

Sponsored by Representative WHISNANT; Representatives BUTLER, CAMERON, DALLUM, ESQUIVEL, FLORES, GARRARD, GILLIAM, GIROD, NELSON, G SMITH, THATCHER

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 mandatory minimum sentences of up to 48 months for subsequent repeat property crime convictions. Increases presumptive sentences for repeat property offenders to 24 months of incarceration for aggravated theft in first degree or burglary in first degree and 18 months for other offenses. Includes unlawful entry into motor vehicle as previous conviction considered in sentencing.

A BILL FOR AN ACT

Relating to repeat property offenders; amending ORS 137.717.

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

SECTION 1. ORS 137.717 is amended to read:

137.717. (1) **Except as provided in subsection (4) of this section**, when a court sentences a person convicted of:

(a) Aggravated theft in the first degree under ORS 164.057 or burglary in the first degree under ORS 164.225, the presumptive sentence is [19] **24** months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

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

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

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

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

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

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

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

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

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 (c) Aggravated theft in the first degree under ORS 164.057;
- 2 (d) Unauthorized use of a vehicle under ORS 164.135;
- 3 (e) Burglary in the second degree under ORS 164.215;
- 4 (f) Burglary in the first degree under ORS 164.225;
- 5 **(g) Unlawful entry into a motor vehicle under ORS 164.272;**
- 6 [(g)] **(h)** Criminal mischief in the second degree under ORS 164.354;
- 7 [(h)] **(i)** Criminal mischief in the first degree under ORS 164.365;
- 8 [(i)] **(j)** Computer crime under ORS 164.377;
- 9 [(j)] **(k)** Forgery in the second degree under ORS 165.007;
- 10 [(k)] **(L)** Forgery in the first degree under ORS 165.013;
- 11 [(L)] **(m)** Criminal possession of a forged instrument in the second degree under ORS 165.017;
- 12 [(m)] **(n)** Criminal possession of a forged instrument in the first degree under ORS 165.022;
- 13 [(n)] **(o)** Fraudulent use of a credit card under ORS 165.055;
- 14 [(o)] **(p)** Identity theft under ORS 165.800;
- 15 [(p)] **(q)** Possession of a stolen vehicle under ORS 819.300; and
- 16 [(q)] **(r)** Trafficking in stolen vehicles under ORS 819.310.
- 17 (3) The court may impose a sentence other than the sentence provided by subsection (1) of this
- 18 section if the court imposes:
 - 19 (a) A longer term of incarceration that is otherwise required or authorized by law; or
 - 20 (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission
 - 21 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon
 - 22 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-
 - 23 lowed for a person sentenced under this subsection is double the presumptive sentence provided in
 - 24 subsection (1) of this section.
- 25 **(4) If a person has a previous conviction that qualified for a presumptive sentence under**
- 26 **this section, regardless of whether such a sentence was imposed:**
 - 27 **(a) The sentence for a subsequent offense listed in subsection (1)(a) of this section shall**
 - 28 **be:**
 - 29 **(A) Not less than 24 months of incarceration for the next conviction.**
 - 30 **(B) Not less than 36 months of incarceration for the second subsequent conviction.**
 - 31 **(C) Not less than 48 months incarceration for the third or any additional conviction.**
 - 32 **(b) The sentence for a subsequent offense listed in subsection (5) of this section shall be:**
 - 33 **(A) Not less than 18 months of incarceration for the next conviction.**
 - 34 **(B) Not less than 24 months of incarceration for the second subsequent conviction.**
 - 35 **(C) Not less than 36 months incarceration for the third or any additional conviction.**
- 36 **(5) The offenses to which subsection (4)(b) of this section applies are:**
 - 37 **(a) Theft in the first degree under ORS 164.055;**
 - 38 **(b) Unauthorized use of a vehicle under ORS 164.135;**
 - 39 **(c) Burglary in the second degree under ORS 164.215;**
 - 40 **(d) Forgery in the first degree under ORS 165.013;**
 - 41 **(e) Criminal possession of a forged instrument in the first degree under ORS 165.022; and**
 - 42 **(f) Identity theft under ORS 165.800.**
- 43 [(4)] **(6)** As used in this section, “previous conviction” includes:
 - 44 (a) Convictions occurring before, on or after July 1, 2003; and
 - 45 (b) Convictions entered in any other state or federal court for comparable offenses.

1 [(5)(a)] **(7)(a)** For a crime committed on or after November 1, 1989, a conviction is considered
2 to have occurred upon the pronouncement of sentence in open court. However, when sentences are
3 imposed for two or more convictions arising out of the same conduct or criminal episode, none of
4 the convictions is considered to have occurred prior to any of the other convictions arising out of
5 the same conduct or criminal episode.

6 (b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-
7 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open
8 court of the suspended imposition of a sentence.

9 [(6)] **(8)** For purposes of this section, previous convictions must be proven pursuant to ORS
10 137.079.

11 **(9) Except for a reduction under ORS 421.121, a person sentenced pursuant to subsection**
12 **(4) of this section is not eligible for any reduction in sentence or in term of incarceration.**