

Senate Bill 527

Sponsored by COMMITTEE ON JUDICIARY (at the request of Larry Tokarski)

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**.

Imposes mandatory minimum term of imprisonment for person's third conviction of specified crimes.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to criminal penalties; and declaring an emergency.

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

4 **SECTION 1. (1) Notwithstanding any other provision of law, if a person is convicted of**
5 **an offense listed in subsection (2) of this section, and the person has two previous con-**
6 **victions for any of the offenses listed in subsection (2) of this section, the court shall sen-**
7 **tence the person in accordance with subsection (3) of this section.**

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

9 (a) **Aggravated murder, as defined in ORS 163.095;**

10 (b) **Murder, as defined in ORS 163.115;**

11 (c) **Manslaughter in the first degree, as defined in ORS 163.118;**

12 (d) **Assault in the first degree, as defined in ORS 163.185;**

13 (e) **Kidnapping in the first degree, as defined in ORS 163.235;**

14 (f) **Rape in the first degree, as defined in ORS 163.375;**

15 (g) **Sodomy in the first degree, as defined in ORS 163.405;**

16 (h) **Unlawful sexual penetration in the first degree, as defined in ORS 163.411;**

17 (i) **Burglary in the first degree, as defined in ORS 164.225;**

18 (j) **Arson in the first degree, as defined in ORS 164.325; and**

19 (k) **Robbery in the first degree, as defined in ORS 164.415.**

20 (3) **When a person is subject to this section, the court shall impose, and the person shall**
21 **serve, at least a term of imprisonment of 400 months, unless another statute prescribes a**
22 **longer sentence or the death penalty, or unless the rules of the Oregon Criminal Justice**
23 **Commission prescribe a longer sentence. The court may not suspend the execution of any**
24 **part of the sentence, place the person on probation or discharge the person. The court shall**
25 **declare the person ineligible for any leave, release or programs under ORS 137.750 and any**
26 **reduction in sentence granted by the Department of Corrections related to good behavior or**
27 **prison employment.**

28 (4) **For the purposes of this section, the state shall notify the defendant of its intention**
29 **to rely on the previous convictions by:**

30 (a) **Pleading the previous convictions in the accusatory instrument; or**

31 (b) **Within 30 days prior to trial, providing written notice to the defendant of the previous**

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 convictions and the state's intention to rely on them.

2 (5) The state must prove the existence and applicability of the previous convictions be-
3 yond a reasonable doubt. If a person:

4 (a) Enters a plea of guilty to the charge, the person will be asked to admit the two pre-
5 vious convictions and waive the right to a jury and proof beyond a reasonable doubt.

6 (b) Enters a plea of not guilty and is convicted of the charge, or enters a plea of guilty
7 to the charge but denies the existence or applicability of one or both of the previous con-
8 victions, the issue shall be tried to the same jury that found the person guilty, to a different
9 jury or to the court if the defendant waives the right to a jury.

10 (6) As used in this section, "previous conviction" means:

11 (a) Convictions occurring on or after the person's 18th birthday; and

12 (b) Convictions entered in Oregon or any other state or federal court for comparable of-
13 fenses.

14 (7) This section does not apply unless one or both of the previous convictions occurred
15 at least one year prior to the conviction for which the person is being sentenced.

16 SECTION 2. This 2007 Act being necessary for the immediate preservation of the public
17 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
18 on its passage.

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