

REVENUE: No revenue impact

FISCAL: May have fiscal impact, statement not yet issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Ways and Means by Prior Reference
Vote:	8 - 0 - 1
Yeas:	Barker, Bonamici, Cameron, Flores, Komp, Shields, Whisnant, Macpherson
Nays:	0
Exc.:	Krieger
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	2/15

WHAT THE MEASURE DOES: Requires a defendant sentenced to more than one year in prison to request that the court consider the defendant's eligibility for early release from prison upon the defendant's successful completion of the Department of Correction's (DOC) alternative incarceration program. Excludes from consideration for early release, unless the district attorney assents, defendants convicted of: (1) Criminally negligent homicide; (2) Assault II if the person recklessly causes serious physical injury; (3) Failure to perform the duties of a driver to injured person where a person suffers serious physical injury. Excludes from consideration for early release defendants convicted of a Measure 11 offense, aggravated murder or a sex crime. Requires a court, prior to allowing a defendant to be eligible for early release, to find that: (1) The defendant was not on probation or post-prison supervision for certain specified crimes; (2) The defendant had been previously released early under this early release program; (3) The harm or loss caused by the crime committed is not significantly greater than usual for this type of crime; (4) The crime was not part of an organized crime; and, (5) The defendant's successful completion of the program would increase public safety. Allows court to order the defendant to serve a minimum sentence. Prohibits the DOC from releasing a defendant eligible for early release until such time as the offender has served at least 12 months. Allows the department to reduce the defendant's sentence by twenty percent for successful completion of the alternative incarceration program. (This is in addition to other programs that may reduce the defendant's time served). Prohibits the department from allowing a person back into the program who has been expelled or suspended or has an outstanding order for deportation or a detainer from another state or the federal government. Grants the department the authority to determine who is eligible for treatment. Requires the department to consult with a broad-based committee before adopting rules concerning who is eligible and what grant should be made. Defines drug addicted person and intensive supervision. Clarifies that the bill does not create a legal right to treatment. Clarifies that a defendant convicted of a felony loses the right to vote while serving his or her sentence in a jail as well as a state prison. Sets the operative date for various provisions and the repeal of various provisions under certain circumstances.

ISSUES DISCUSSED:

- Treatment
- SB 1087

EFFECT OF COMMITTEE AMENDMENT: Excludes those convicted of incest from early release after successful completion of the alternative incarceration program. Prohibits the department from allowing a person back into the program who has been expelled or suspended or has an outstanding order for deportation or a detainer from another state. Defines drug addicted person and intensive supervision. Requires the department to consult with a broad-based committee before adopting rules concerning who is eligible and what grant should be made. Clarifies that the bill does not create a legal right to treatment.

BACKGROUND: ORS 421.504 and ORS 421.506 require the Department of Corrections (DOC) to have two kinds of alternative incarceration programs. Both are highly structured and require rigorous personal responsibility and accountability, physical labor and service to the community. Both provide for cognitive restructuring that require offenders to confront and alter their criminal thinking patterns. Both provide addiction treatment. A person who successfully completes an alternative incarceration program gets a reduction in his or her sentence.

In order to be eligible for an intensive supervision program, the sentencing court must order on the record that the defendant is eligible (ORS 137.750). If the court determines the defendant is eligible, the DOC then determines if the defendant can participate (ORS 421.508).

Currently, a person convicted of a felony and in state prison cannot vote. Traditionally, felons went to prison; those convicted of misdemeanors were the responsibility of the county. With the adoption of the Community Corrections Act, felons serving less than a year sentence are now given over to the custody of the county. The county supervises the offender; the state reimburses the county. One ancillary result of this is that felons in state custody cannot vote, but felons in county custody can vote.

Eighty-five percent of property offenders are addicted to drugs or alcohol. Most steal to support their habits. Oregon has a higher than average number of methamphetamine addicts. Methamphetamine addiction is particularly difficult to break. Incarcerating property offenders will temporarily separate them from drugs and alcohol, but it does not address the underlying addiction. Research shows that drug treatment, particularly that which incorporates cognitive restructuring, backed up with the potential to be jailed if the person abandons treatment, is effective in helping addicts remain clean and sober.