

HOUSE AMENDMENTS TO HOUSE BILL 3638

By COMMITTEE ON JUDICIARY

February 18

- 1 On page 1 of the printed bill, line 2, after “provisions;” insert “and” and delete “137.721,”.
2 In line 3, delete “; and declaring an emergency”.
3 In line 13, after “137.712 (4)” insert “or 811.705 (2)(b)”.
4 In line 16, delete “significantly”.
5 In line 26, after “or (b)” insert “, 163.525”.
- 6 On page 3, line 8, after the period insert “However, the department may not release an offender
7 under subsection (4) of this section unless authorized to do so as provided in section 1 of this 2008
8 Act.”.
- 9 In line 22, after “suspend” insert “or remove”.
- 10 Delete lines 24 through 26 and insert:
11 “(3) The department may not accept an offender into a program if:
12 “(a) The department has removed the offender from a program during the term of incarceration
13 for which the offender is currently sentenced; or
14 “(b) The offender has a current detainer from any jurisdiction that will not expire prior to the
15 offender’s release from the custody of the department.”.
- 16 Delete lines 30 through 38 and insert:
17 “(b) The offender has served a term of incarceration of at least one year.
18 “(5) An offender may not be released on post-prison supervision under subsection (4) of this
19 section if the release would reduce the term of incarceration the offender would otherwise be re-
20 quired to serve by more than 20 percent.
- 21 “(6) For the purposes of calculating the term of incarceration served under subsection (4)(b) of
22 this section, the department shall include:
23 “(a) The time that an offender is confined under ORS 137.370 (2)(a); and
24 “(b) The time for which an offender is granted nonprison leave under ORS 421.510.”.
- 25 In line 39, delete “(6)” and insert “(7)”.
- 26 On page 4, delete lines 21 through 45.
27 On page 5, delete lines 1 through 26.
28 In line 27, delete “7” and insert “6”.
- 29 In line 33, delete “prison or jail” and insert “incarceration”.
- 30 On page 6, line 20, delete “discharge or parole from imprisonment” and insert “release from
31 incarceration”.
- 32 In line 23, delete “8” and insert “7”.
- 33 Delete lines 29 through 45 and delete page 7 and insert:
34 “**SECTION 8. As used in section 8, chapter _____, Oregon Laws 2008 (Enrolled Senate**
35 **Bill 1087):**

1 “(1) ‘Drug-addicted person’ means a person who has lost the ability to control the per-
2 sonal use of controlled substances or alcohol, or who uses controlled substances or alcohol
3 to the extent that the health of the person or that of others is substantially impaired or
4 endangered or the social or economic function of the person is substantially disrupted. A
5 drug-addicted person may be physically dependent, a condition in which the body requires a
6 continuing supply of a controlled substance or alcohol to avoid characteristic withdrawal
7 symptoms, or psychologically dependent, a condition characterized by an overwhelming
8 mental desire for continued use of a controlled substance or alcohol.

9 “(2) ‘Intensive supervision’ means the active monitoring of a person’s performance in a
10 treatment program by a parole and probation officer and the imposition of sanctions, or re-
11 quest to a court for sanctions, if the person fails to abide by the terms and conditions of a
12 treatment program.

13 “SECTION 9. (1) The Department of Corrections shall determine which persons are eli-
14 gible for treatment under section 8 (1), chapter _____, Oregon Laws 2008 (Enrolled Senate
15 Bill 1087), using an actuarial risk assessment tool.

16 “(2) The department shall adopt rules to administer the grant program described in sec-
17 tion 8 (1), chapter _____, Oregon Laws 2008 (Enrolled Senate Bill 1087).

18 “(3) Prior to adopting the rules described in subsection (2) of this section, the department
19 shall consult with a broad-based committee that includes representatives of:

20 “(a) County boards of commissioners;

21 “(b) County sheriffs;

22 “(c) District attorneys;

23 “(d) County community corrections;

24 “(e) The Oregon Criminal Justice Commission;

25 “(f) Presiding judges of the judicial districts of this state;

26 “(g) Public defenders; and

27 “(h) Treatment providers.

28 “(4) In determining which grant proposals to fund within each county, the department
29 shall:

30 “(a) Consult with the committee described in subsection (3) of this section;

31 “(b) Give priority to those proposals that are best designed to reduce crime and drug
32 addiction; and

33 “(c) Be guided by evidence-based practices, risk assessment tools or other research based
34 considerations.

35 “SECTION 10. Nothing in section 1, 7, 8 or 9 of this 2008 Act or the amendments to ORS
36 137.281, 137.750, 421.502, 421.508 or 421.510 by sections 2, 3, 4, 5 and 6 of this 2008 Act:

37 “(1) Creates any claim, right of action or civil liability; or

38 “(2) Requires a supervisory authority or the Department of Corrections to provide
39 treatment to any individual under the authority’s supervision or in the custody of the de-
40 partment.

41 “SECTION 11. Section 10 of this 2008 Act is amended to read:

42 “Sec. 10. Nothing in section 1[,] or 7[, 8 or 9] of this 2008 Act or the amendments to ORS
43 137.281, 137.750, 421.502, 421.508 or 421.510 by sections 2, 3, 4, 5 and 6 of this 2008 Act:

44 “(1) Creates any claim, right of action or civil liability; or

45 “(2) Requires a supervisory authority or the Department of Corrections to provide treatment to

1 any individual under the authority's supervision or in the custody of the department.

2 **"SECTION 12.** The amendments to section 10 of this 2008 Act by section 11 of this 2008
3 Act become operative if sections 8 and 9 of this 2008 Act are repealed on December 31, 2008,
4 pursuant to section 14 of this 2008 Act.

5 **"SECTION 13.** (1) Section 1 of this 2008 Act and the amendments to ORS 137.750, 421.502,
6 421.508 and 421.510 by sections 2 to 5 of this 2008 Act apply to persons sentenced on or after
7 January 1, 2009.

8 **"(2)** The amendments to ORS 137.281 by section 6 of this 2008 Act apply to persons
9 incarcerated on or after January 1, 2009.

10 **"SECTION 14.** Sections 8 and 9 of this 2008 Act:

11 **"(1)** Become operative on January 1, 2009, if Senate Bill 1087 (2008) is referred to the
12 people and approved by a majority of votes cast thereon at the next regular general election
13 held throughout this state on November 4, 2008, and:

14 **"(a)** Initiative Petition 40 (2008) is not placed on the ballot at the next regular general
15 election held throughout this state on November 4, 2008; or

16 **"(b)** Initiative Petition 40 (2008) is placed on the ballot at the next regular general
17 election held throughout this state on November 4, 2008, and:

18 **"(A)** Initiative Petition 40 (2008) is rejected by the people; or

19 **"(B)** Initiative Petition 40 (2008) is approved by the people and Senate Bill 1087 (2008) re-
20 ceives a number of affirmative votes greater than the number of affirmative votes received
21 by Initiative Petition 40 (2008).

22 **"(2)** Are repealed on December 31, 2008, if:

23 **"(a)** Senate Bill 1087 (2008) is not referred to the people at the next regular general
24 election held throughout this state on November 4, 2008; or

25 **"(b)** Senate Bill 1087 (2008) is referred to the people at the next regular general election
26 held throughout this state on November 4, 2008, and:

27 **"(A)** Senate Bill 1087 (2008) is rejected by the people; or

28 **"(B)** Initiative Petition 40 (2008) is placed on the ballot at the next regular general
29 election held throughout this state on November 4, 2008, and:

30 **"(i)** Both Initiative Petition 40 (2008) and Senate Bill 1087 (2008) are approved by a ma-
31 jority of the votes cast thereon; and

32 **"(ii)** Initiative Petition 40 (2008) receives a number of affirmative votes greater than the
33 number of affirmative votes received by Senate Bill 1087 (2008).".