

Senate Bill 1087

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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**.

Modifies presumptive sentences for certain crimes committed by persons with previous convictions for specified crimes.

Refers Act to people for their approval or rejection at next regular general election.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 137.717; and providing that this Act shall
3 be referred to the people for their approval or rejection.

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

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

6 137.717. (1) When a court sentences a person convicted of:

7 (a) Aggravated theft in the first degree under ORS 164.057, burglary in the first degree under
8 ORS 164.225, **robbery in the third degree under ORS 164.395** or aggravated identity theft under
9 ORS 165.803, the presumptive sentence is [19] _____ months of incarceration, unless the rules of
10 the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

11 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary
12 in the first degree under ORS 164.225, **robbery in the third degree under ORS 164.395**, robbery
13 in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggra-
14 vated identity theft under ORS 165.803; or

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

17 (b) Theft in the first degree under ORS 164.055, unauthorized use of a vehicle under ORS
18 164.135, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under
19 ORS 164.365, computer crime under ORS 164.377, forgery in the first degree under ORS 165.013,
20 **criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent**
21 **use of a credit card under ORS 165.055 (4)(b)**, identity theft under ORS 165.800, possession of a
22 stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310, the
23 presumptive sentence is [13] _____ months of incarceration, unless the rules of the Oregon Crim-
24 inal Justice Commission prescribe a longer presumptive sentence, if the person has:

25 (A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unau-
26 thorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, **rob-**
27 **bery in the third degree under ORS 164.395**, robbery in the second degree under ORS 164.405,
28 robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300,
29 trafficking in stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803; or

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

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 of this section.

2 (2) The crimes to which subsection (1)(a)(B) and (b)(B) of this section applies are:

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

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

5 [(c) *Aggravated theft in the first degree under ORS 164.057;*]

6 [(d)] (c) Unauthorized use of a vehicle under ORS 164.135;

7 [(e)] (d) Burglary in the second degree under ORS 164.215;

8 [(f) *Burglary in the first degree under ORS 164.225;*]

9 [(g)] (e) Criminal mischief in the second degree under ORS 164.354;

10 [(h)] (f) Criminal mischief in the first degree under ORS 164.365;

11 [(i)] (g) Computer crime under ORS 164.377;

12 [(j)] (h) Forgery in the second degree under ORS 165.007;

13 [(k)] (i) Forgery in the first degree under ORS 165.013;

14 [(L)] (j) Criminal possession of a forged instrument in the second degree under ORS 165.017;

15 [(m)] (k) Criminal possession of a forged instrument in the first degree under ORS 165.022;

16 [(n)] (L) Fraudulent use of a credit card under ORS 165.055;

17 [(o)] (m) Identity theft under ORS 165.800;

18 [(p)] (n) Possession of a stolen vehicle under ORS 819.300; and

19 [(q)] (o) Trafficking in stolen vehicles under ORS 819.310.

20 (3) The court may impose a sentence other than the sentence provided by subsection (1) of this
21 section if the court imposes:

22 (a) A longer term of incarceration that is otherwise required or authorized by law; or

23 (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission
24 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon
25 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-
26 lowed for a person sentenced under this subsection is double the presumptive sentence provided in
27 subsection (1) of this section.

28 (4) As used in this section, “previous conviction” includes:

29 (a) Convictions occurring before, on or after July 1, 2003; and

30 (b) Convictions entered in any other state or federal court for comparable offenses.

31 (5)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have
32 occurred upon the pronouncement of sentence in open court. However, when sentences are imposed
33 for two or more convictions arising out of the same conduct or criminal episode, none of the con-
34 victions is considered to have occurred prior to any of the other convictions arising out of the same
35 conduct or criminal episode.

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

39 (6) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

40 **SECTION 2. The amendments to ORS 137.717 by section 1 of this 2008 Act apply to sen-**
41 **tences imposed for crimes committed on or after the effective date of this 2008 Act.**

42 **SECTION 3. This 2008 Act shall be submitted to the people for their approval or rejection**
43 **at the next regular general election held throughout this state.**