

# House Bill 2269

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Department of Justice)

## 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 computation of time period within which extradited defendant may be held prior to trial.

## A BILL FOR AN ACT

1  
2 Relating to extradition; creating new provisions; and amending ORS 136.295.

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

4 **SECTION 1.** ORS 136.295 is amended to read:

5 136.295. (1) ORS 136.290 does not apply to persons charged with crimes [*which*] **that** are not  
6 releasable offenses under ORS 135.240 or to persons charged with conspiracy to commit murder, or  
7 charged with attempted murder, or to prisoners serving sentences resulting from prior convictions.

8 (2)(a) If the defendant is extradited from another jurisdiction, the 60-day period shall not com-  
9 mence until the defendant enters the State of Oregon, provided that law enforcement authorities  
10 from the other jurisdiction and this state have conducted the extradition with all practicable speed.  
11 The original 60-day period shall not be extended more than an additional 60 days, except where  
12 delay has been caused by the defendant in opposing the extradition.

13 **(b) For purposes of this subsection, an extradition is presumed to have been conducted**  
14 **with all practicable speed if it has been conducted within 180 days after the date the de-**  
15 **fendant has been delivered to an agent of this state.**

16 (3) Any reasonable delay resulting from examination or hearing regarding the defendant's mental  
17 condition or competency to stand trial, or resulting from other motion or appeal by the defendant,  
18 shall not be included in the 60-day period.

19 (4)(a) If a victim or witness to the crime in question is unable to testify within the original  
20 60-day period because of injuries received at the time the alleged crime was committed or upon a  
21 showing of good cause, the court may order an extension of custody and postponement of the date  
22 of the trial of not more than 60 additional days. The court, for the same reason, may order a second  
23 extension of custody and postponement of the date of the trial of not more than 60 days, but in no  
24 event shall the defendant be held in custody before trial for more than a total of 180 days. A court  
25 may grant an extension based upon good cause as described in paragraph (b)(C), (D) or (E) of this  
26 subsection only if requested by the defendant or defense counsel or by the court on its own motion.

27 (b) As used in this subsection, "good cause" means situations in which:

28 (A) The court failed to comply with ORS 136.145 and the victim is unable to attend the trial;

29 (B) The victim or an essential witness for either the state or the defense is unable to testify at  
30 the trial because of circumstances beyond the control of the victim or witness;

31 (C) The attorney for the defendant cannot reasonably be expected to try the case within the

**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 60-day period;

2 (D) The attorney for the defendant has recently been appointed and cannot be ready to try the  
3 case within the 60-day period;

4 (E) The attorney for the defendant is unable to try the case within the 60-day period because  
5 of conflicting schedules;

6 (F) Scientific evidence is necessary and because of the complexity of the procedures it would  
7 be unreasonable to have the procedures completed within the 60-day period;

8 (G) The defendant has filed notice under ORS 161.309 of the defendant's intention to rely upon  
9 a defense of insanity, partial responsibility or diminished capacity; or

10 (H) The defendant has filed any notice of an affirmative defense within the last 20 days of the  
11 60-day period.

12 (5) Any period following defendant's arrest in which the defendant is not actually in custody  
13 shall not be included in the 60-day computation.

14 **SECTION 2. The amendments to ORS 136.295 by section 1 of this 2009 Act apply to**  
15 **extradition proceedings commenced on or after the effective date of this 2009 Act.**

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