

# House Bill 2295

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Council for Interstate Compact for Adult Offender Supervision)

## 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**.

Directs counties to assume responsibility for supervision, sanctions and services of certain offenders subject to Interstate Compact for Adult Offender Supervision.

## A BILL FOR AN ACT

1  
2 Relating to the Interstate Compact for Adult Offender Supervision; creating new provisions; and  
3 amending ORS 423.478 and 423.525.

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

5 **SECTION 1.** ORS 423.478 is amended to read:

6 423.478. (1) The Department of Corrections shall:

7 (a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

8 (b) Provide central information and data services sufficient to:

9 (A) Allow tracking of offenders; and

10 (B) Permit analysis of correlations between sanctions, supervision, services and programs, and  
11 future criminal conduct; and

12 (c) Provide interstate compact administration and jail inspections.

13 (2) Subject to ORS 423.483, the county, in partnership with the department, shall assume re-  
14 sponsibility for community-based supervision, sanctions and services for offenders convicted of felo-  
15 nies, **for offenders convicted of misdemeanor crimes that are subject to the Interstate**  
16 **Compact for Adult Offender Supervision described in ORS 144.600 who request to leave the**  
17 **State of Oregon, and for offenders who transfer into Oregon under the Interstate Compact**  
18 **for Adult Offender Supervision described in ORS 144.600, who are:**

19 (a) On parole;

20 (b) On probation;

21 (c) On post-prison supervision;

22 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

23 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-  
24 Prison Supervision to 12 months or less incarceration for violation of a condition of parole, pro-  
25 bation or post-prison supervision; and

26 (f) On conditional release under ORS 420A.206.

27 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,  
28 when an offender is committed to the custody of the supervisory authority of a county under ORS  
29 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other  
30 than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority  
31 releases a person from custody under this subsection and the person is required to report as a sex

**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 offender under ORS 181.595, the supervisory authority, as a condition of release, shall order the  
 2 person to report to the Department of State Police, a chief of police or a county sheriff or to the  
 3 supervising agency, if any:

4 (a) When the person is released;

5 (b) Within 10 days of a change of residence;

6 (c) Once each year within 10 days of the person's birth date;

7 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an  
 8 institution of higher education; and

9 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher  
 10 education.

11 (4) As used in this section, "attends," "institution of higher education," "works" and "carries  
 12 on a vocation" have the meanings given those terms in ORS 181.594.

13 **SECTION 2.** ORS 423.525 is amended to read:

14 423.525. (1) A county, group of counties or intergovernmental corrections entity shall apply to  
 15 the Director of the Department of Corrections in a manner and form prescribed by the director for  
 16 funding made available under ORS 423.500 to 423.560. The application shall include a community  
 17 corrections plan. The Department of Corrections shall provide consultation and technical assistance  
 18 to counties to aid in the development and implementation of community corrections plans.

19 (2)(a) From July 1, 1995, until June 30, 1999, a county, group of counties or intergovernmental  
 20 corrections entity may make application requesting funding for the construction, acquisition, ex-  
 21 pansion or remodeling of correctional facilities to serve the county, group of counties or intergov-  
 22 ernmental corrections entity. The department shall review the application for funding of  
 23 correctional facilities in accordance with criteria that consider design, cost, capacity, need, operat-  
 24 ing efficiency and viability based on the county's, group of counties' or intergovernmental cor-  
 25 rections entity's ability to provide for ongoing operations.

26 (b)(A) If the application is approved, the department shall present the application with a request  
 27 to finance the facility with financing agreements to the State Treasurer and the Director of the  
 28 Oregon Department of Administrative Services. Except as otherwise provided in subparagraph (B)  
 29 of this paragraph, upon approval of the request by the State Treasurer and the Director of the  
 30 Oregon Department of Administrative Services, the facility may be financed with financing agree-  
 31 ments, and certificates of participation issued pursuant thereto, as provided in ORS 283.085 to  
 32 283.092. All decisions approving or denying applications and requests for financing under this sec-  
 33 tion are final. No such decision is subject to judicial review of any kind.

34 (B) If requests to finance county correctional facility projects are submitted after February 22,  
 35 1996, and the requests have not been approved by the department on the date a session of the  
 36 Legislative Assembly convenes, the requests are also subject to the approval of the Legislative As-  
 37 sembly.

38 (c) After approval but prior to the solicitation of bids or proposals for the construction of a  
 39 project, the county, group of counties or intergovernmental corrections entity and the department  
 40 shall enter into a written agreement that determines the procedures, and the parties responsible, for  
 41 the awarding of contracts and the administration of the construction project for the approved  
 42 correctional facility. If the parties are unable to agree on the terms of the written agreement, the  
 43 Governor shall decide the terms of the agreement. The Governor's decision is final.

44 (d) After approval of a construction project, the administration of the project shall be conducted  
 45 as provided in the agreement required by paragraph (c) of this subsection. The agreement must re-

1 quire at a minimum that the county, group of counties or intergovernmental corrections entity shall  
2 submit to the department any change order or alteration of the design of the project that, singly or  
3 in the aggregate, reduces the capacity of the correctional facility or materially changes the services  
4 or functions of the project. The change order or alteration is not effective until approved by the  
5 department. In reviewing the change order or alteration, the department shall consider whether the  
6 implementation of the change order or alteration will have any material adverse impact on the  
7 parties to any financing agreements or the holders of any certificates of participation issued to fund  
8 county correctional facilities under this section. In making its decision, the department may rely on  
9 the opinions of the Department of Justice, bond counsel or professional financial advisers.

10 (3) Notwithstanding ORS 283.085, for purposes of this section, “financing agreement” means a  
11 lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement  
12 to finance a correctional facility described in this section, or to refinance a previously executed fi-  
13 nancing agreement for the financing of a correctional facility. The state is not required to own or  
14 operate a correctional facility in order to finance it under ORS 283.085 to 283.092 and this section.  
15 The state, an intergovernmental corrections entity, county or group of counties may enter into any  
16 agreements, including, but not limited to, leases and subleases, that are reasonably necessary or  
17 generally accepted by the financial community for purposes of acquiring or securing financing as  
18 authorized by this section. In financing county correctional facilities under this section, “property  
19 rights” as used in ORS 283.085 includes leasehold mortgages of the state’s rights under leases of  
20 correctional facilities from counties.

21 (4) Notwithstanding any other provision of state law, county charter or ordinance, a county may  
22 convey or lease to the State of Oregon, acting by and through the Department of Corrections, title  
23 to interests in, or a lease of, any real property, facilities or personal property owned by the county  
24 for the purpose of financing the construction, acquisition, expansion or remodeling of a correctional  
25 facility. Upon the payment of all principal and interest on, or upon any other satisfaction of, the  
26 financing agreement used to finance the construction, acquisition, expansion or remodeling of a  
27 correctional facility, the state shall reconvey its interest in, or terminate and surrender its leasehold  
28 of, the property or facilities, including the financed construction, acquisition, expansion or remod-  
29 eling, to the county. In addition to any authority granted by ORS 283.089, for the purposes of ob-  
30 taining financing, the state may enter into agreements under which the state may grant to trustees  
31 or lenders leases, subleases and other security interests in county property conveyed or leased to  
32 the state under this subsection and in the property or facilities financed by financing agreements.

33 (5) In connection with the financing of correctional facilities, the Director of the Oregon De-  
34 partment of Administrative Services may bill the Department of Corrections, and the Department  
35 of Corrections shall pay the amounts billed, in the same manner as provided in ORS 283.089. As  
36 required by ORS 283.091, the Department of Corrections and the Oregon Department of Adminis-  
37 trative Services shall include in the Governor’s budget request to the Legislative Assembly all  
38 amounts that will be due in each fiscal period under financing agreements for correctional facilities.  
39 Amounts payable by the state under a financing agreement for the construction, acquisition, ex-  
40 pansion or remodeling of a correctional facility are limited to available funds as defined in ORS  
41 283.085, and no lender, trustee, certificate holder or county has any claim or recourse against any  
42 funds of the state other than available funds.

43 (6) The director shall adopt rules that may be necessary for the administration, evaluation and  
44 implementation of ORS 423.500 to 423.560. The standards shall be sufficiently flexible to foster the  
45 development of new and improved supervision or rehabilitative practices and maximize local control.

1 (7) When a county assumes responsibility under ORS 423.500 to 423.560 for correctional services  
 2 previously provided by the department, the county and the department shall enter into an inter-  
 3 governmental agreement that includes a local community corrections plan consisting of program  
 4 descriptions, budget allocation, performance objectives and methods of evaluating each correctional  
 5 service to be provided by the county. The performance objectives must include in dominant part  
 6 reducing future criminal conduct. The methods of evaluating services must include, to the extent  
 7 of available information systems resources, the collection and analysis of data sufficient to deter-  
 8 mine the apparent effect of the services on future criminal conduct.

9 (8) All community corrections plans shall comply with rules adopted pursuant to ORS 423.500  
 10 to 423.560[,] and shall include but need not be limited to an outline of the basic structure and the  
 11 supervision, services and local sanctions to be applied to offenders convicted of felonies, **for**  
 12 **offenders convicted of misdemeanor crimes that are subject to the Interstate Compact for**  
 13 **Adult Offender Supervision described in ORS 144.600 who request to leave the State of**  
 14 **Oregon, and for offenders who transfer into Oregon under the Interstate Compact for Adult**  
 15 **Offender Supervision described in ORS 144.600, who are:**

16 (a) On parole;

17 (b) On probation;

18 (c) On post-prison supervision;

19 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

20 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-  
 21 Prison Supervision to 12 months or less incarceration for a violation of a condition of parole, pro-  
 22 bation or post-prison supervision; and

23 (f) On conditional release under ORS 420A.206.

24 (9) All community corrections plans shall designate a community corrections manager of the  
 25 county or counties and shall provide that the administration of community corrections under ORS  
 26 423.500 to 423.560 shall be under such manager.

27 (10) [No] **An** amendment to or **a** modification of a county-approved community corrections plan  
 28 [shall] **may not** be placed in effect without prior notice to the director for purposes of statewide  
 29 data collection and reporting.

30 (11) The obligation of the state to provide funding and the scheduling for providing funding of  
 31 a project approved under this section is dependent upon the ability of the state to access public  
 32 security markets to sell financing agreements.

33 (12) No later than January 1 of each odd-numbered year, the Department of Corrections shall:

34 (a) Evaluate the community corrections policy established in ORS 423.475, 423.478, 423.483 and  
 35 423.500 to 423.560; and

36 (b) Assess the effectiveness of local revocation options.

37 **SECTION 3. The amendments to ORS 423.478 and 423.525 by sections 1 and 2 of this 2009**  
 38 **Act apply to offenders convicted of an offense before, on or after the effective date of this**  
 39 **2009 Act.**