

House Bill 3439

Sponsored by Representative THATCHER; Representative ESQUIVEL

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**.

Authorizes State Board of Parole and Post-Prison Supervision or county sheriff to release inmate to custody of United States Bureau of Immigration and Customs Enforcement under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to criminal aliens.

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

4 **SECTION 1. (1) Notwithstanding any other provision of law, the State Board of Parole**
5 **and Post-Prison Supervision or a county sheriff may conditionally release an inmate to the**
6 **custody and control of the United States Bureau of Immigration and Customs Enforcement**
7 **if the board or sheriff receives an order of removal for the inmate and:**

8 (a) **The inmate has served at least one-half of the sentence imposed by the court;**

9 (b) **The inmate is not serving a sentence:**

10 (A) **For a person felony or a person Class A misdemeanor, as those terms are defined in**
11 **the rules of the Oregon Criminal Justice Commission;**

12 (B) **As a dangerous offender under ORS 161.725, 161.735 and 161.737;**

13 (C) **Under ORS 137.717, 498.164, 680.990 (2) or 774.990; or**

14 (D) **Under sections 2 to 5 or 6, chapter 14, Oregon Laws 2008;**

15 (c) **The inmate agrees not to return to the United States following the execution of the**
16 **order of removal;**

17 (d) **The inmate agrees to waive the right to obtain appellate review, post-conviction relief**
18 **or a writ of habeas corpus involving the inmate's original sentence and, if the inmate violates**
19 **the agreement described in paragraph (c) of this subsection, involving the imposition of the**
20 **remainder of the inmate's original sentence; and**

21 (e) **If the inmate is incarcerated in a county jail, the court enters the order described in**
22 **subsection (2) of this section.**

23 (2) **A county sheriff may petition the court for an order conditionally releasing an inmate**
24 **under this section. Notwithstanding any other provision of law, the court shall grant the**
25 **petition if the release of the inmate complies with this section and any rules adopted by the**
26 **board under subsection (5) of this section.**

27 (3) **If an inmate violates the agreement described in subsection (1)(c) of this section or**
28 **if the bureau does not execute the order of removal, notwithstanding any other provision of**
29 **law, the board or the court shall revoke the inmate's conditional release and cause the in-**
30 **mate to be incarcerated for the remainder of the inmate's sentence, less credit for time**
31 **served in the custody of the bureau.**

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 **(4) The board or a county sheriff may enter into an agreement with the bureau to carry**
2 **out the provisions of this section.**

3 **(5) The board, after consulting with the Oregon State Sheriffs' Association, shall adopt**
4 **rules to carry out the provisions of this section.**

5 **SECTION 2. Section 1 of this 2009 Act applies to inmates sentenced before, on or after**
6 **the effective date of this 2009 Act.**

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