

# Senate Bill 683

Sponsored by COMMITTEE ON JUDICIARY

## 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 adjudication in juvenile court of persons 15, 16 or 17 years of age accused of assault in second degree or robbery in second degree.

## A BILL FOR AN ACT

1  
2 Relating to juvenile offenders; creating new provisions; amending ORS 137.707; and providing for  
3 criminal sentence reduction that requires approval by a two-thirds majority.

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

5 **SECTION 1.** ORS 137.707 is amended to read:

6 137.707. (1)(a) Notwithstanding any other provision of law, when a person charged with aggra-  
7 vated murder, as defined in ORS 163.095, or an offense listed in subsection (4)(a) of this section is  
8 15, 16 or 17 years of age at the time the offense is committed, and the offense is committed on or  
9 after April 1, 1995, or when a person charged with an offense listed in subsection (4)(b) of this sec-  
10 tion is 15, 16 or 17 years of age at the time the offense is committed, and the offense is committed  
11 on or after October 4, 1997, or when a person charged with the offense described in subsection (4)(c)  
12 of this section is 15, 16 or 17 years of age at the time the offense is committed and the offense is  
13 committed on or after January 1, 2008, the person shall be prosecuted as an adult in criminal court.

14 (b) A district attorney, the Attorney General or a juvenile department counselor may not file in  
15 juvenile court a petition alleging that a person has committed an act that, if committed by an adult,  
16 would constitute aggravated murder or an offense listed in subsection (4) of this section if the person  
17 was 15, 16 or 17 years of age at the time the act was committed.

18 (2) When a person charged under this section is convicted of an offense listed in subsection (4)  
19 of this section, the court shall impose at least the presumptive term of imprisonment provided for  
20 the offense in subsection (4) of this section. The court may impose a greater presumptive term if  
21 otherwise permitted by law, but may not impose a lesser term. The person is not, during the service  
22 of the term of imprisonment, eligible for release on post-prison supervision or any form of temporary  
23 leave from custody. The person is not eligible for any reduction in, or based on, the minimum sen-  
24 tence for any reason under ORS 421.121 or any other provision of law. ORS 138.012, 163.105 and  
25 163.150 apply to sentencing a person prosecuted under this section and convicted of aggravated  
26 murder under ORS 163.095 except that a person who was under 18 years of age at the time the of-  
27 fense was committed is not subject to a sentence of death.

28 (3) The court shall commit the person to the legal and physical custody of the Department of  
29 Corrections.

30 (4) The offenses to which this section applies and the presumptive sentences are:  
31

---

**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  
2 (a)(A) Murder, as defined in  
3 ORS 163.115 .....300 months  
4 (B) Attempt or conspiracy  
5 to commit aggravated  
6 murder, as defined  
7 in ORS 163.095 .....120 months  
8 (C) Attempt or conspiracy  
9 to commit murder, as  
10 defined in ORS 163.115 .....90 months  
11 (D) Manslaughter in the  
12 first degree, as defined  
13 in ORS 163.118 .....120 months  
14 (E) Manslaughter in the  
15 second degree, as defined  
16 in ORS 163.125 .....75 months  
17 (F) Assault in the first  
18 degree, as defined  
19 in ORS 163.185 .....90 months  
20 [(G) *Assault in the second*]  
21 [*degree, as defined*]  
22 [*in ORS 163.175 .....70 months*]  
23 [(H) (G) Kidnapping in the first  
24 degree, as defined in  
25 ORS 163.235 ..... 90 months  
26 [(I) (H) Kidnapping in the second  
27 degree, as defined in  
28 ORS 163.225 ..... 70 months  
29 [(J) (I) Rape in the first degree,  
30 as defined in ORS 163.375 ..... 100 months  
31 [(K) (J) Rape in the second  
32 degree, as defined in  
33 ORS 163.365 ..... 75 months  
34 [(L) (K) Sodomy in the first  
35 degree, as defined in  
36 ORS 163.405 ..... 100 months  
37 [(M) (L) Sodomy in the second  
38 degree, as defined in  
39 ORS 163.395 ..... 75 months  
40 [(N) (M) Unlawful sexual  
41 penetration in the first  
42 degree, as defined  
43 in ORS 163.411 ..... 100 months  
44 [(O) (N) Unlawful sexual  
45 penetration in the

- 1           second degree, as
- 2           defined in ORS 163.408..... 75 months
- 3    [(P)] (O) Sexual abuse in the first
- 4           degree, as defined in
- 5           ORS 163.427..... 75 months
- 6    [(Q)] (P) Robbery in the first
- 7           degree, as defined in
- 8           ORS 164.415..... 90 months
- 9    [(R) *Robbery in the second*
- 10          *[degree, as defined in]*
- 11          *[ORS 164.405.....70 months]*
- 12   (b)(A) Arson in the first degree,
- 13          as defined in
- 14          ORS 164.325, when
- 15          the offense represented
- 16          a threat of serious
- 17          physical injury. ....90 months
- 18    (B) Using a child in a display
- 19          of sexually explicit
- 20          conduct, as defined in
- 21          ORS 163.670.....70 months
- 22    (C) Compelling prostitution,
- 23          as defined in ORS 167.017.....70 months
- 24    (c) Aggravated vehicular
- 25          homicide, as defined in
- 26          ORS 163.149.....240 months

---

28

29           (5) If a person charged with an offense under this section is found guilty of a lesser included  
 30 offense and the lesser included offense is:

31           (a) An offense listed in subsection (4) of this section, the court shall sentence the person as  
 32 provided in subsection (2) of this section.

33           (b) Not an offense listed in subsection (4) of this section:

34           (A) But constitutes an offense for which waiver is authorized under ORS 419C.349, the court,  
 35 upon motion of the district attorney, shall hold a hearing to determine whether to retain jurisdiction  
 36 or to transfer the case to juvenile court for disposition. In determining whether to retain jurisdic-  
 37 tion, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains jurisdic-  
 38 tion, the court shall sentence the person as an adult under sentencing guidelines. If the court does  
 39 not retain jurisdiction, the court shall:

40           (i) Order that a presentence report be prepared;

41           (ii) Set forth in a memorandum any observations and recommendations that the court deems  
 42 appropriate; and

43           (iii) Enter an order transferring the case to the juvenile court for disposition under ORS  
 44 419C.067 and 419C.411.

45           (B) And is not an offense for which waiver is authorized under ORS 419C.349, the court may not

1 sentence the person. The court shall:

2 (i) Order that a presentence report be prepared;

3 (ii) Set forth in a memorandum any observations and recommendations that the court deems  
4 appropriate; and

5 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS  
6 419C.067 and 419C.411.

7 (6) When a person is charged under this section, other offenses based on the same act or  
8 transaction shall be charged as separate counts in the same accusatory instrument and consolidated  
9 for trial, whether or not the other offenses are aggravated murder or offenses listed in subsection  
10 (4) of this section. If it appears, upon motion, that the state or the person charged is prejudiced by  
11 the joinder and consolidation of offenses, the court may order an election or separate trials of  
12 counts or provide whatever other relief justice requires.

13 (7)(a) If a person charged and tried as provided in subsection (6) of this section is found guilty  
14 of aggravated murder or an offense listed in subsection (4) of this section and one or more other  
15 offenses, the court shall impose the sentence for aggravated murder or the offense listed in sub-  
16 section (4) of this section as provided in subsection (2) of this section and shall impose sentences for  
17 the other offenses as otherwise provided by law.

18 (b) If a person charged and tried as provided in subsection (6) of this section is not found guilty  
19 of aggravated murder or an offense listed in subsection (4) of this section, but is found guilty of one  
20 of the other charges that constitutes an offense for which waiver is authorized under ORS 419C.349,  
21 the court, upon motion of the district attorney, shall hold a hearing to determine whether to retain  
22 jurisdiction or to transfer the case to juvenile court for disposition. In determining whether to retain  
23 jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains  
24 jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If the court  
25 does not retain jurisdiction, the court shall:

26 (A) Order that a presentence report be prepared;

27 (B) Set forth in a memorandum any observations and recommendations that the court deems  
28 appropriate; and

29 (C) Enter an order transferring the case to the juvenile court for disposition under ORS  
30 419C.067 and 419C.411.

31 **SECTION 2. The amendments to ORS 137.707 by section 1 of this 2009 Act apply to of-**  
32 **fenses committed on or after the effective date of this 2009 Act.**

33