

B-Engrossed
Senate Bill 1007

Ordered by the Senate February 11
Including Senate Amendments dated February 9 and February 11

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim 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.

Provides maximum reduction of 20 percent of term of incarceration in Department of Corrections institution for appropriate behavior and program participation. Increases maximum reduction to 30 percent for certain offenders who commit crimes on or after July 1, 2011.

Sunsets increase on *[January]* **July 1, 2013.**

Provides that certain offenders are ineligible for resentencing proceeding related to increased reduction.

Directs Secretary of State to conduct audit of Department of Corrections administration of laws relating to reduction in term of incarceration.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 421.121 and sections 18, 48 and 49,
3 chapter 660, Oregon Laws 2009; and declaring an emergency.

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

5 **SECTION 1.** ORS 421.121, as amended by section 19, chapter 660, Oregon Laws 2009, is
6 amended to read:

7 421.121. (1) Except as provided in ORS 137.635, each inmate sentenced to the custody of the
8 Department of Corrections for felonies committed on or after November 1, 1989, is eligible for a
9 reduction in the term of incarceration for:

10 (a) Appropriate institutional behavior, as defined by rule of the Department of Corrections; and

11 (b)(A) Participation in the adult basic skills development program described in ORS 421.084; or

12 (B) Obtaining a high school diploma, a General Educational Development (GED) certificate, a
13 certificate or degree from a post-secondary education institution as defined in ORS 337.511 or a
14 journey level certification from a registered apprenticeship program as defined in ORS 660.010. The
15 reduction described in this subparagraph may not exceed a period of 60 days.

16 ~~[(2)]~~ **(2)(a)** The maximum amount of time credits earned for appropriate institutional behavior,
17 for participation in the adult basic skills development program described in ORS 421.084 or for ob-
18 taining a diploma, certificate or degree described in subsection (1)(b)(B) of this section may not ex-
19 ceed ~~[20]~~ **30** percent of the total term of incarceration in a Department of Corrections institution.

20 **(b) Notwithstanding paragraph (a) of this subsection, the maximum amount of time**
21 **credits earned under this section may not exceed 20 percent of the total term of**
22 **incarceration in a Department of Corrections institution that is imposed in a criminal action**
23 **described in subsection (3) of this section.**

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 **(3) Subsection (2)(b) of this section applies to the total term of incarceration that is im-**
2 **posed in a criminal action in which:**

3 **(a) The parties stipulate that the inmate is subject to subsection (2)(b) of this section;**

4 **(b) The inmate is convicted of an offense that was committed less than five years after**
5 **the inmate completed serving a sentence for:**

6 **(A) A person felony; or**

7 **(B) A crime described in paragraph (e) of this subsection;**

8 **(c) The inmate is convicted of a person felony;**

9 **(d) The inmate is convicted of an offense involving the use or threatened use of a**
10 **firearm; or**

11 **(e) The inmate is convicted of any of the following crimes:**

12 **(A) Subjecting another person to involuntary servitude in the second degree under ORS**
13 **163.263;**

14 **(B) Subjecting another person to involuntary servitude in the first degree under ORS**
15 **163.264;**

16 **(C) Trafficking in persons under ORS 163.266;**

17 **(D) Coercion under ORS 163.275;**

18 **(E) Online sexual corruption of a child in the second degree under ORS 163.432;**

19 **(F) Online sexual corruption of a child in the first degree under ORS 163.433;**

20 **(G) Aggravated theft in the first degree under ORS 164.057, if:**

21 **(i) The victim of the theft was 65 years of age or older at the time of the commission of**
22 **the offense; and**

23 **(ii) The value of the property stolen from the victim described in sub-subparagraph (i)**
24 **of this subparagraph, in a single or aggregate transaction, is \$10,000 or more;**

25 **(H) Treason under ORS 166.005;**

26 **(I) Abuse of a corpse in the second degree under ORS 166.085;**

27 **(J) Racketeering activities under ORS 166.720;**

28 **(K) Luring a minor under ORS 167.057;**

29 **(L) Assaulting a law enforcement animal under ORS 167.339;**

30 **(M) A sex crime as defined in ORS 181.594;**

31 **(N) Causing another person to ingest a controlled substance under ORS 475.908;**

32 **(O) Applying a controlled substance to the body of another person under ORS 475.910;**

33 **(P) Driving while under the influence of intoxicants under ORS 813.010 (5); or**

34 **(Q) An attempt, conspiracy or solicitation to commit an offense described in this para-**
35 **graph or in paragraph (c) or (d) of this subsection.**

36 **[(3)] (4) The time credits may not be used to shorten the term of actual prison confinement to**
37 **less than six months.**

38 **[(4)] (5) The department shall adopt rules pursuant to the rulemaking provisions of ORS chapter**
39 **183 to establish a process for granting, retracting and restoring the time credits earned by the**
40 **offender as allowed in subsections (1) to [(3)] (4) of this section.**

41 **(6) As used in this section:**

42 **(a) "Completed serving a sentence" includes the completion of any term of probation,**
43 **parole or post-prison supervision.**

44 **(b) "Person felony" has the meaning given that term in the rules of the Oregon Criminal**
45 **Justice Commission.**

1 **SECTION 2. (1) The amendments to ORS 421.121 by section 1 of this 2010 Act become**
2 **operative on July 1, 2011.**

3 **(2) The amendments to ORS 421.121 by section 1 of this 2010 Act apply to inmates:**

4 **(a) Who are sentenced for a crime committed on or after July 1, 2011, and before July**
5 **1, 2013; and**

6 **(b) Who are not prohibited by any other provision of law from obtaining a reduction in**
7 **the term of incarceration under ORS 421.121.**

8 **SECTION 3.** ORS 421.121, as amended by section 19, chapter 660, Oregon Laws 2009, and sec-
9 tion 1 of this 2010 Act, is amended to read:

10 421.121. (1) Except as provided in ORS 137.635, each inmate sentenced to the custody of the
11 Department of Corrections for felonies committed on or after November 1, 1989, is eligible for a
12 reduction in the term of incarceration for:

13 (a) Appropriate institutional behavior, as defined by rule of the Department of Corrections; and

14 (b)(A) Participation in the adult basic skills development program described in ORS 421.084; or

15 (B) Obtaining a high school diploma, a General Educational Development (GED) certificate, a
16 certificate or degree from a post-secondary education institution as defined in ORS 337.511 or a
17 journey level certification from a registered apprenticeship program as defined in ORS 660.010. The
18 reduction described in this subparagraph may not exceed a period of 60 days.

19 [(2)(a)] **(2)** The maximum amount of time credits earned for appropriate institutional behavior,
20 for participation in the adult basic skills development program described in ORS 421.084 or for ob-
21 taining a diploma, certificate or degree described in subsection (1)(b)(B) of this section may not ex-
22 ceed [30] **20** percent of the total term of incarceration in a Department of Corrections institution.

23 [(b) *Notwithstanding paragraph (a) of this subsection, the maximum amount of time credits earned*
24 *under this section may not exceed 20 percent of the total term of incarceration in a Department of*
25 *Corrections institution that is imposed in a criminal action described in subsection (3) of this section.*]

26 [(3) *Subsection (2)(b) of this section applies to the total term of incarceration that is imposed in a*
27 *criminal action in which:*]

28 [(a) *The parties stipulate that the inmate is subject to subsection (2)(b) of this section;*]

29 [(b) *The inmate is convicted of an offense that was committed less than five years after the inmate*
30 *completed serving a sentence for:*]

31 [(A) *A person felony; or*]

32 [(B) *A crime described in paragraph (e) of this subsection;*]

33 [(c) *The inmate is convicted of a person felony;*]

34 [(d) *The inmate is convicted of an offense involving the use or threatened use of a firearm; or*]

35 [(e) *The inmate is convicted of any of the following crimes:*]

36 [(A) *Subjecting another person to involuntary servitude in the second degree under ORS 163.263;*]

37 [(B) *Subjecting another person to involuntary servitude in the first degree under ORS 163.264;*]

38 [(C) *Trafficking in persons under ORS 163.266;*]

39 [(D) *Coercion under ORS 163.275;*]

40 [(E) *Online sexual corruption of a child in the second degree under ORS 163.432;*]

41 [(F) *Online sexual corruption of a child in the first degree under ORS 163.433;*]

42 [(G) *Aggravated theft in the first degree under ORS 164.057, if:*]

43 [(i) *The victim of the theft was 65 years of age or older at the time of the commission of the offense;*
44 *and*]

45 [(ii) *The value of the property stolen from the victim described in sub-subparagraph (i) of this*

1 *subparagraph, in a single or aggregate transaction, is \$10,000 or more;]*

2 *[(H) Treason under ORS 166.005;]*

3 *[(I) Abuse of a corpse in the second degree under ORS 166.085;]*

4 *[(J) Racketeering activities under ORS 166.720;]*

5 *[(K) Luring a minor under ORS 167.057;]*

6 *[(L) Assaulting a law enforcement animal under ORS 167.339;]*

7 *[(M) A sex crime as defined in ORS 181.594;]*

8 *[(N) Causing another person to ingest a controlled substance under ORS 475.908;]*

9 *[(O) Applying a controlled substance to the body of another person under ORS 475.910;]*

10 *[(P) Driving while under the influence of intoxicants under ORS 813.010 (5); or]*

11 *[(Q) An attempt, conspiracy or solicitation to commit an offense described in this paragraph or in*
12 *paragraph (c) or (d) of this subsection.]*

13 [(4)] (3) The time credits may not be used to shorten the term of actual prison confinement to
14 less than six months.

15 [(5)] (4) The department shall adopt rules pursuant to the rulemaking provisions of ORS chapter
16 183 to establish a process for granting, retracting and restoring the time credits earned by the
17 offender as allowed in subsections (1) to [(4)] (3) of this section.

18 [(6) As used in this section:]

19 [(a) "Completed serving a sentence" includes the completion of any term of probation, parole or
20 post-prison supervision.]

21 [(b) "Person felony" has the meaning given that term in the rules of the Oregon Criminal Justice
22 Commission.]

23 **SECTION 4. (1) The amendments to ORS 421.121 by section 3 of this 2010 Act become**
24 **operative on July 1, 2013.**

25 **(2) The amendments to ORS 421.121 by section 3 of this 2010 Act apply to inmates:**

26 **(a) Who are sentenced for a crime committed on or after July 1, 2013; and**

27 **(b) Who are not prohibited by any other provision of law from obtaining a reduction in**
28 **the term of incarceration under ORS 421.121.**

29 **SECTION 5.** Section 48, chapter 660, Oregon Laws 2009, is amended to read:

30 **Sec. 48.** (1)(a) Section 18, **chapter 660, Oregon Laws 2009**, [of this 2009 Act] becomes operative
31 on the date that is 60 days after [the effective date of this 2009 Act] **July 1, 2009**.

32 (b) The Department of Corrections, the Judicial Department, the State Board of Parole and
33 Post-Prison Supervision and the district attorneys of this state may take any action before the op-
34 erative date specified in paragraph (a) of this subsection that is necessary to enable the depart-
35 ments, board or district attorneys to exercise, on or after the operative date specified in paragraph
36 (a) of this subsection, all the duties, functions and powers conferred on the departments, board or
37 district attorneys by [this 2009 Act] **chapter 660, Oregon Laws 2009**.

38 (2) The amendments to ORS 137.545 by section 32, **chapter 660, Oregon Laws 2009**, [of this 2009
39 Act] become operative on July 1, 2011.

40 (3) The amendments to ORS 137.717, 137.721 and 164.162 by sections 8, 9 and 15, **chapter 660,**
41 **Oregon Laws 2009**, [of this 2009 Act] become operative on February 15, 2010.

42 (4) [Sections 10, 12 and 13 of this 2009 Act] **ORS 144.730, 423.150 and 475.933** and the amend-
43 ments to ORS 137.717, 137.721 and 164.162 by sections 11, 14 and 16, **chapter 660, Oregon Laws**
44 **2009**, [of this 2009 Act] become operative on January 1, 2012.

45 (5) The amendments to ORS 421.121 by section 19, **chapter 660, Oregon Laws 2009**, [of this 2009

1 *Act*] become operative on [*July 1, 2013*] **the effective date of this 2010 Act.**

2 **SECTION 6.** Section 49, chapter 660, Oregon Laws 2009, is amended to read:

3 **Sec. 49.** (1) [*Section 1 of this 2009 Act*] **ORS 144.285** applies to prisoners convicted of aggravated
4 murder or murder that was committed before, on or after [*the effective date of this 2009 Act*] **July**
5 **1, 2009**, and whose petition for a change in the terms of confinement is denied on or after January
6 1, 2010.

7 (2) [*Section 2 of this 2009 Act*] **ORS 144.280** applies to prisoners sentenced for a crime committed
8 prior to November 1, 1989, and who are denied parole on or after January 1, 2010.

9 (3) The amendments to ORS 144.125, 144.228 and 144.232 by sections 3 to 5, **chapter 660,**
10 **Oregon Laws 2009,** [*of this 2009 Act*] apply to prisoners:

11 (a) Whose release date is postponed under ORS 144.125 on or after January 1, 2010.

12 (b) For whom the State Board of Parole and Post-Prison Supervision is unable to set a release
13 date under ORS 144.228 or 144.232 on or after January 1, 2010.

14 (4) The amendments to ORS 137.717, 137.721 and 164.162 by sections 8, 9 and 15, **chapter 660,**
15 **Oregon Laws 2009,** [*of this 2009 Act*] apply to sentences imposed:

16 (a) On or after February 15, 2010; and

17 (b) For crimes committed on or after January 1, 2009, and before January 1, 2012.

18 (5) [*Section 10 of this 2009 Act*] **ORS 475.933** and the amendments to ORS 137.717, 137.721 and
19 164.162 by sections 11, 14 and 16, **chapter 660, Oregon Laws 2009,** [*of this 2009 Act*] apply to sen-
20 tences imposed for crimes committed on or after January 1, 2012.

21 (6) The amendments to ORS 421.121 by section 17, **chapter 660, Oregon Laws 2009,** [*of this 2009*
22 *Act*] apply to inmates who:

23 [*(a) Are sentenced on or after the effective date of this 2009 Act for crimes committed before July*
24 *1, 2013; and*]

25 **(a) Are sentenced for a crime committed:**

26 **(A) On or after July 1, 2009; and**

27 **(B) Before the effective date of this 2010 Act; and**

28 (b) Are not prohibited by any other provision of law from obtaining a reduction in the term of
29 incarceration under ORS 421.121.

30 (7) The amendments to ORS 421.121 by section 19, **chapter 660, Oregon Laws 2009,** [*of this 2009*
31 *Act*] apply to inmates who:

32 (a) Are sentenced for a crime committed on or after [*July 1, 2013*] **the effective date of this**
33 **2010 Act and before July 1, 2011;** and

34 (b) Are not prohibited by any other provision of law from obtaining a reduction in the term of
35 incarceration under ORS 421.121.

36 (8) The amendments to ORS 137.545 by section 20, **chapter 660, Oregon Laws 2009,** [*of this 2009*
37 *Act*] apply to crimes committed before July 1, 2011.

38 (9) Section 21, **chapter 660, Oregon Laws 2009,** [*of this 2009 Act*] applies to persons:

39 (a) Convicted of a crime committed before July 1, 2011; and

40 (b) Who are on probation on or after the effective date of the rules adopted by the Department
41 of Corrections under section 21 (3), **chapter 660, Oregon Laws 2009** [*of this 2009 Act*].

42 (10) Section 31, **chapter 660, Oregon Laws 2009,** [*of this 2009 Act*] applies to crimes committed:

43 (a) On or after February 15, 2010; and

44 (b) Before January 1, 2012.

45 (11) The amendments to ORS 137.545 by section 32, **chapter 660, Oregon Laws 2009,** [*of this*

1 2009 Act] apply to crimes committed on or after July 1, 2011.

2 (12) [Section 40 of this 2009 Act] **ORS 163.168** and the amendments to ORS 163.165 and 163.235
3 by sections 39 and 43, **chapter 660, Oregon Laws 2009**, [of this 2009 Act] apply to conduct occur-
4 ring on or after [the effective date of this 2009 Act] **July 1, 2009**.

5 (13) Except as provided in subsection (14) of this section, section 23, **chapter 660, Oregon Laws**
6 **2009**, [of this 2009 Act] applies to persons:

7 (a) Convicted of a crime committed before July 1, 2011; and

8 (b) Sentenced to the legal and physical custody of the supervisory authority under ORS 137.124
9 (2).

10 (14)(a) A person sentenced to the legal and physical custody of a supervisory authority under
11 ORS 137.124 (2) shall serve an active period of post-prison supervision of at least two additional
12 months if, on [the effective date of this 2009 Act] **July 1, 2009**, the person has served:

13 (A) Four months or more of active post-prison supervision for crimes in crime categories 1 to
14 3; or

15 (B) Ten months or more of active post-prison supervision for crimes in crime categories 4 to 10.

16 (b) Except as provided in paragraph (c) of this subsection, the supervisory authority shall place
17 an offender described in paragraph (a) of this subsection on inactive supervision status on the date
18 that is two months after [the effective date of this 2009 Act] **July 1, 2009**.

19 (c) At any time before the date that is two months after [the effective date of this 2009 Act] **July**
20 **1, 2009**:

21 (A) The parole and probation officer responsible for supervising an offender described in para-
22 graph (a) of this subsection may send a report described in section 23 (3), **chapter 660, Oregon**
23 **Laws 2009**, [of this 2009 Act] to the supervisory authority for review; and

24 (B) After reviewing the report, the supervisory authority may extend the active post-prison
25 supervision period in accordance with section 23 (4), **chapter 660, Oregon Laws 2009** [of this 2009
26 Act].

27 (d) Section 23, **chapter 660, Oregon Laws 2009**, [of this 2009 Act] and the provisions of this
28 subsection and subsection (13) of this section do not apply to a person sentenced to the legal and
29 physical custody of a supervisory authority under ORS 137.124 (2) whose term of active post-prison
30 supervision imposed by the sentencing court expires on or before the date that is two months after
31 [the effective date of this 2009 Act] **July 1, 2009**.

32 **SECTION 7.** Section 18, chapter 660, Oregon Laws 2009, is amended to read:

33 **Sec. 18.** (1)(a) Notwithstanding section 49 (6), **chapter 660, Oregon Laws 2009**, [of this 2009
34 Act] and except as provided in paragraph (b) of this subsection, [if the court enters the supplemental
35 judgment described in subsection (5)(b) or (7)(b) of this section,] the amendments to ORS 421.121 by
36 section 17, **chapter 660, Oregon Laws 2009**, [of this 2009 Act] apply to inmates **who were sen-**
37 **tenced before July 1, 2009, and are not prohibited by any other provision of law from ob-**
38 **taining a reduction in the term of incarceration under ORS 421.121 if, before the effective**
39 **date of this 2010 Act:**

40 [(A) Sentenced before the effective date of this 2009 Act; and]

41 [(B) Who are not prohibited by any other provision of law from obtaining a reduction in the term
42 of incarceration under ORS 421.121.]

43 **(A) The court has entered the supplemental judgment described in subsection (5)(b) of**
44 **this section; or**

45 **(B) The court has, pursuant to subsection (7)(b) of this section, ordered on the record in**

1 **open court that the Department of Corrections may consider the inmate for a reduction in**
2 **the term of incarceration under ORS 421.121 that may not exceed 30 percent of the total**
3 **term of incarceration in a department institution.**

4 (b) The amendments to ORS 421.121 by section 17, **chapter 660, Oregon Laws 2009**, [*of this*
5 *2009 Act*] do not apply to inmates who are released by the Department of Corrections on transitional
6 leave under ORS 421.168 or on conditional release under ORS 420A.206, on or before the operative
7 date specified in section 48 (1)(a), **chapter 660, Oregon Laws 2009** [*of this 2009 Act*].

8 (2)(a) If the Department of Corrections determines, pursuant to rules adopted by the department,
9 that an inmate sentenced before [*the effective date of this 2009 Act*] **July 1, 2009**, is eligible for a
10 reduction in the term of incarceration under ORS 421.121 that exceeds 20 percent of the total term
11 of incarceration in a department institution, the department shall notify:

12 (A) The inmate; and

13 (B) The presiding judge, trial court administrator and district attorney, in the county in which
14 the inmate was convicted.

15 (b) The notice described in paragraph (a) of this subsection shall indicate the sentences and
16 counts for which the inmate is eligible for a reduction in the term of incarceration.

17 (c) In addition to the notice described in paragraph (a) of this subsection, the department shall
18 provide the presiding judge and trial court administrator with a supplemental judgment described
19 in subsection (14)(a) of this section for the identified inmate.

20 (3) Upon receipt of the notice, the trial court administrator shall file the notice with the court
21 and, if the inmate is serving a sentence for a crime for which there is a victim, the district attorney
22 shall make reasonable efforts to inform the victim:

23 (a) That the inmate may be eligible for a reduction in the term of incarceration under ORS
24 421.121 that exceeds 20 percent of the total term of incarceration in a department institution;

25 (b) Of the victim's rights implicated by the inmate's eligibility for the reduction;

26 (c) That if the victim wishes to object to the inmate's eligibility for the reduction, the victim
27 must notify the district attorney within 20 days of the date the notice described in subsection (2)
28 of this section is filed with the court by the trial court administrator; and

29 (d) That if the victim fails to object in accordance with paragraph (c) of this subsection, the
30 sentencing court may authorize the department to consider the inmate for the reduction.

31 (4)(a) If the district attorney receives a timely notice of objection from a victim or if the district
32 attorney objects to the inmate's eligibility for a reduction in the term of incarceration under ORS
33 421.121 that exceeds 20 percent of the total term of incarceration in a department institution, the
34 district attorney must file notice of the objection with the court no later than:

35 (A) If the inmate is serving a sentence for a crime for which there is a victim, 21 days after the
36 date the notice described in subsection (2) of this section is filed with the court by the trial court
37 administrator.

38 (B) If the inmate is not serving a sentence for a crime for which there is a victim, 14 days after
39 the date the notice described in subsection (2) of this section is filed with the court by the trial
40 court administrator.

41 (b) Unless the court has entered the judgment described in subsection (5)(b) of this section, the
42 court may, for good cause shown, allow the filing of a notice of objection on a date later than the
43 date described in paragraph (a) of this subsection.

44 (5)(a) If a notice of objection is filed with the court within the time period described in sub-
45 section (4) of this section or if the sentencing court, on its own motion, determines that a hearing

1 is necessary, the court shall set a hearing within 35 days of the date the notice described in sub-
2 section (2) of this section is filed with the court by the trial court administrator, unless the court
3 finds good cause to hold the hearing at a later date.

4 (b) If a notice of objection is not filed with the court within the time period described in sub-
5 section (4) of this section and the sentencing court determines that it is appropriate to authorize the
6 department to consider the inmate for a reduction in the term of incarceration under ORS 421.121
7 that may not exceed 30 percent of the total term of incarceration in a department institution, the
8 court shall enter a supplemental judgment using the form of judgment submitted by the department
9 under subsection (14)(a) of this section.

10 (6)(a) When the court sets a hearing under subsection (5)(a) of this section, the court shall ap-
11 point counsel for the inmate and notify the inmate, the inmate's counsel, the department and the
12 district attorney of the hearing date. Upon receipt of the notice, the district attorney shall, if the
13 inmate is serving a sentence for a crime for which there is a victim, make reasonable efforts to in-
14 form the victim of:

15 (A) The hearing date; and

16 (B) The victim's rights implicated in the hearing.

17 (b) Pursuant to ORS 151.216 and 151.219, the Public Defense Services Commission shall provide
18 for the representation of an inmate for whom counsel is appointed under this subsection.

19 (7)(a) At the hearing, the inmate, the district attorney and the victim may introduce evidence
20 relevant to the determination of whether, based on the information available to the parties and the
21 court at the time the sentence was originally imposed, a reduction in the term of incarceration un-
22 der ORS 421.121 that exceeds 20 percent of the total term of incarceration is appropriate.

23 (b) Upon the conclusion of the hearing, the court shall order on the record in open court that
24 the department is authorized to consider the inmate for a reduction in the term of incarceration
25 under ORS 421.121 that may not exceed 30 percent of the total term of incarceration in a depart-
26 ment institution, unless the court finds, on the record and in open court, substantial reasons to order
27 that the inmate not be considered for the reduction. If the court orders that the inmate may be
28 considered for the reduction, the court shall enter a supplemental judgment using the form of judg-
29 ment submitted by the department under subsection (14)(a) of this section.

30 (c) ORS 40.010 to 40.210 and 40.310 to 40.585 do not apply to a hearing conducted under this
31 section.

32 (d) The sentencing court has jurisdiction to modify its judgment and sentence to enter the sup-
33 plemental judgment described in subsection (5)(b) of this section or to reflect the results of a hearing
34 described in this subsection.

35 (8) Unless the court orders otherwise, an inmate shall appear at a hearing described in sub-
36 section (7) of this section by telephone, provided that the appearance allows for compliance with the
37 provisions of ORS 131.045 (1)(c)(A) to (D).

38 (9) Notwithstanding ORS 144.096 (1)(b) and (c) and (3), if the department grants the inmate a
39 reduction in the term of incarceration that exceeds 20 percent of the total term of incarceration in
40 a department institution:

41 (a) The department shall submit a proposed release plan and, if the proposed release plan is not
42 approved by the State Board of Parole and Post-Prison Supervision, a revised release plan, as soon
43 as reasonably practicable prior to the inmate's release from prison; and

44 (b) The release plan and revised release plan prepared by the department under this subsection
45 may be abbreviated and need only contain information the department determines by rule is appro-

1 priate.

2 (10) Notwithstanding that the department grants an inmate a reduction in the term of
3 incarceration under ORS 421.121 that exceeds 20 percent of the total term of incarceration in a
4 department institution, the department may defer the release of an inmate for no more than 90 days
5 when, in the judgment of the department, the deferral is necessary or advisable in order for the
6 department to provide for transitional planning or for the continuity of medical or mental health
7 care or treatment to the inmate.

8 (11) The post-prison supervision term of an inmate that is released from a department institution
9 after having been granted a reduction in the term of incarceration under ORS 421.121 that exceeds
10 20 percent of the total term of incarceration in a department institution commences upon the
11 inmate's physical release from the department institution.

12 (12)(a) Nothing in this section or the amendments to ORS 421.121 by section 17, **chapter 660,**
13 **Oregon Laws 2009** [*of this 2009 Act*]:

14 (A) Creates any cause of action for compensation or damages;

15 (B) Entitles an inmate to a hearing before the date set by the court under subsection (5)(a) of
16 this section; or

17 (C) Entitles an inmate to a reduction in the term of incarceration, except as authorized by the
18 sentencing court and granted by the department in accordance with department rules.

19 (b) Notwithstanding ORS 30.265 or any other provision of law, the department and its officers,
20 employees and agents are immune from any claim or action arising from:

21 (A) The failure to identify an inmate who is eligible for a reduction in the term of incarceration
22 under ORS 421.121 that exceeds 20 percent of the total term of incarceration in a department in-
23 stitution or to provide the notice described in subsection (2) of this section;

24 (B) The failure to grant a reduction in the term of incarceration under ORS 421.121 after the
25 reduction has been authorized by the sentencing court under subsection (5)(b) or (7)(b) of this sec-
26 tion; or

27 (C) The deferral of an inmate's release under subsection (10) of this section.

28 (13) The Oregon Criminal Justice Commission shall conduct a study that includes an assessment
29 of the effects of this section and the amendments to ORS 421.121 by section 17, **chapter 660,**
30 **Oregon Laws 2009,** [*of this 2009 Act*] on reducing recidivism. The commission shall report the re-
31 sults of the study to the Legislative Assembly in the manner provided in ORS 192.245 no later than
32 February 1, 2013.

33 (14) The Department of Corrections:

34 (a) Shall, after consulting with the Judicial Department, prepare a form of supplemental judg-
35 ment that specifies the sentences and counts for which an inmate is eligible for a reduction in the
36 term of incarceration under ORS 421.121 that exceeds 20 percent of the total term of incarceration.

37 (b) May adopt rules to carry out the provisions of this section.

38 (15) As used in this section:

39 (a) "Reasonable efforts to inform the victim" has the meaning given that phrase in section 1,
40 chapter 178, Oregon Laws 2009.

41 (b) "Victim" has the meaning given that term in section 1, chapter 178, Oregon Laws 2009.

42 **SECTION 8. (1) Notwithstanding section 18, chapter 660, Oregon Laws 2009, the Depart-**
43 **ment of Corrections may not make the notifications described in section 18 (2), chapter 660,**
44 **Oregon Laws 2009, on or after the effective date of this 2010 Act.**

45 **(2) The Department of Corrections may not consider an inmate sentenced before July 1,**

1 2009, for a reduction in the term of incarceration under ORS 421.121 that exceeds 20 percent
2 of the total term of incarceration, unless before the effective date of this 2010 Act:

3 (a) The court has entered the supplemental judgment described in section 18 (5)(b),
4 chapter 660, Oregon Laws 2009; or

5 (b) The court has, pursuant to section 18 (7)(b), chapter 660, Oregon Laws 2009, ordered
6 on the record in open court that the department may consider the inmate for a reduction in
7 the term of incarceration under ORS 421.121 that may not exceed 30 percent of the total
8 term of incarceration in a department institution.

9 **SECTION 9.** (1) The Secretary of State shall conduct an audit of the earned time credits
10 program described in ORS 421.121. The audit shall include:

11 (a) An assessment of the Department of Corrections compliance with statutory law and
12 the department's rules, policies and procedures;

13 (b) An evaluation of the actual and potential impacts of the program, including an eval-
14 uation of the program's financial impact and the impact of the program on recidivism and
15 public safety; and

16 (c) An analysis of best practices in similar programs conducted in other jurisdictions.

17 (2) No later than January 1, 2011, the Secretary of State shall submit a report to the
18 Legislative Assembly in the manner provided in ORS 192.245 that includes the results of the
19 audit described in subsection (1) of this section.

20 **SECTION 10.** Section 9 of this 2010 Act is repealed on January 2, 2011.

21 **SECTION 11.** This 2010 Act being necessary for the immediate preservation of the public
22 peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect
23 on its passage.
24
