

# House Bill 2177

Sponsored by Representative COWAN (at the request of Rob Bovett, Lincoln County District Attorney) (Pre-session filed.)

## 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 maximum period of time between defendant's arraignment and preliminary hearing.  
Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to preliminary hearings; creating new provisions; amending ORS 135.070; and declaring an  
3 emergency.

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

5 **SECTION 1.** ORS 135.070 is amended to read:

6 135.070. When the defendant against whom an information has been filed in a preliminary pro-  
7 ceeding appears before a magistrate on a charge of having committed a crime punishable as a felony,  
8 before any further proceedings are had the magistrate shall read to the defendant the information  
9 and shall inform the defendant:

10 (1) Of the defendant's right to the aid of counsel, that the defendant is not required to make a  
11 statement and that any statement made by the defendant may be used against the defendant.

12 (2) That the defendant is entitled to a preliminary hearing and of the nature of a preliminary  
13 hearing. If a preliminary hearing is requested, it shall be held as soon as practicable but in any  
14 event within five **judicial** days if the defendant is in custody or within 30 days if the defendant is  
15 not in custody. The time may be extended for good cause shown.

16 (3) That if the defendant is on parole, evidence received and the order of the court at the pre-  
17 liminary hearing may be used by the State Board of Parole and Post-Prison Supervision to establish  
18 that probable cause exists to believe that a violation of a condition of parole has occurred; and  
19 further, that should the defendant waive the defendant's right to a preliminary hearing, such waiver  
20 shall also constitute a waiver of a hearing by the board to determine whether there is probable  
21 cause to believe that a violation of one or more of the conditions of parole has occurred.

22 **SECTION 2.** **The amendments to ORS 135.070 by section 1 of this 2011 Act apply to de-**  
23 **fendants who are charged with the commission of a crime that is alleged to have been com-**  
24 **mitted on or after the effective date of this 2011 Act.**

25 **SECTION 3.** **This 2011 Act being necessary for the immediate preservation of the public**  
26 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
27 **on its passage.**

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**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.