

Senate Bill 371

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 for Attorney General John R. Kroger, Oregon State Sheriffs' Association, Oregon Association Chiefs of Police, Oregon District Attorneys Association)

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 Department of Corrections to award inmates credit toward service of sentence of up to 54 days for each year of incarceration. Excludes inmates sentenced to life imprisonment.
Declares emergency, effective June 30, 2011.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 137.635, 137.700, 137.707, 137.712, 137.750,
3 420A.203, 420A.206, 421.121 and 475.930 and section 49, chapter 660, Oregon Laws 2009; repeal-
4 ing sections 2 and 4, chapter 2, Oregon Laws 2010; declaring an emergency; and providing for
5 criminal sentence reduction that requires approval by a two-thirds majority.

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

6 **SECTION 1.** ORS 421.121, as amended by section 19, chapter 660, Oregon Laws 2009, and
7 sections 1 and 3, chapter 2, Oregon Laws 2010, is amended to read:
8

9 421.121. (1) Except as provided in [*ORS 137.635*] **subsection (5) of this section**, each inmate
10 sentenced to the custody of the Department of Corrections for felonies committed on or after No-
11 vember 1, 1989, is eligible for a reduction in the term of incarceration for:

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

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

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

18 [*(2) The maximum amount of time credits earned for appropriate institutional behavior, for partic-*
19 *ipation in the adult basic skills development program described in ORS 421.084 or for obtaining a di-*
20 *ploma, certificate or degree described in subsection (1)(b)(B) of this section may not exceed 20 percent*
21 *of the total term of incarceration in a Department of Corrections institution.*]

22 **(2)(a) An inmate may receive credit under this section toward the service of the inmate's**
23 **sentence of up to 54 days for each year of incarceration if the department determines that,**
24 **during the year, the inmate has fully complied with the rules adopted under subsection (4)**
25 **of this section.**

26 **(b) If the department determines that, during the year, the prisoner has failed to fully**
27 **comply with the rules adopted under subsection (4) of this section, the inmate shall be denied**
28 **time credits or shall receive fewer credits, as determined by the department.**

29 **(c) Except as provided in paragraph (d) of this subsection, time credits shall be applied**

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 **only at the end of each year of the inmate’s term of incarceration.**

2 **(d) Credit for the last year or portion of the last year of the term of incarceration shall**
3 **be prorated and granted within the last eight weeks of the sentence.**

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

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

9 **(5) This section does not apply to inmates:**

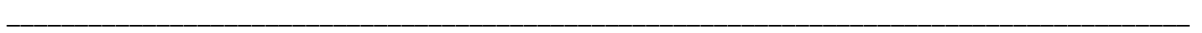
10 **(a) Convicted of aggravated murder under ORS 163.095, murder under ORS 163.115 or**
11 **treason under ORS 166.005; or**

12 **(b) Sentenced to life imprisonment without the possibility of release or parole under ORS**
13 **137.719.**

14 **SECTION 2.** ORS 137.700 is amended to read:

15 137.700. (1) Notwithstanding ORS 161.605, when a person is convicted of one of the offenses
16 listed in subsection (2)(a) of this section and the offense was committed on or after April 1, 1995,
17 or of one of the offenses listed in subsection (2)(b) of this section and the offense was committed on
18 or after October 4, 1997, or of the offense described in subsection (2)(c) of this section and the of-
19 fense was committed on or after January 1, 2008, the court shall impose[, *and the person shall*
20 *serve,*] at least the entire term of imprisonment listed in subsection (2) of this section. The person
21 is not, during the service of the term of imprisonment, eligible for release on post-prison supervision
22 or any form of temporary leave from custody. [*The person is not eligible for any reduction in, or based*
23 *on, the minimum sentence for any reason whatsoever under ORS 421.121 or any other statute.*] The
24 court may impose a greater sentence if otherwise permitted by law, but may not impose a lower
25 sentence than the sentence specified in subsection (2) of this section.

26 (2) The offenses to which subsection (1) of this section applies and the applicable mandatory
27 minimum sentences are:



- 28
- 29
- 30 (a)(A) Murder, as defined in
- 31 ORS 163.115300 months
- 32 (B) Attempt or conspiracy
- 33 to commit aggravated
- 34 murder, as defined
- 35 in ORS 163.095120 months
- 36 (C) Attempt or conspiracy
- 37 to commit murder, as
- 38 defined in ORS 163.11590 months
- 39 (D) Manslaughter in the
- 40 first degree, as defined
- 41 in ORS 163.118120 months
- 42 (E) Manslaughter in the
- 43 second degree, as defined
- 44 in ORS 163.12575 months
- 45 (F) Assault in the first

1 degree, as defined in
 2 ORS 163.18590 months
 3 (G) Assault in the second
 4 degree, as defined in
 5 ORS 163.17570 months
 6 (H) Except as provided in
 7 paragraph (b)(G) of
 8 this subsection,
 9 kidnapping in the first
 10 degree, as defined
 11 in ORS 163.23590 months
 12 (I) Kidnapping in the second
 13 degree, as defined in
 14 ORS 163.22570 months
 15 (J) Rape in the first degree,
 16 as defined in ORS 163.375
 17 (1)(a), (c) or (d).....100 months
 18 (K) Rape in the second degree,
 19 as defined in ORS 163.36575 months
 20 (L) Sodomy in the first degree,
 21 as defined in ORS 163.405
 22 (1)(a), (c) or (d).....100 months
 23 (M) Sodomy in the second
 24 degree, as defined in
 25 ORS 163.39575 months
 26 (N) Unlawful sexual penetration
 27 in the first degree, as
 28 defined in ORS 163.411
 29 (1)(a) or (c).100 months
 30 (O) Unlawful sexual penetration
 31 in the second degree, as
 32 defined in ORS 163.408.75 months
 33 (P) Sexual abuse in the first
 34 degree, as defined in
 35 ORS 163.42775 months
 36 (Q) Robbery in the first degree,
 37 as defined in ORS 164.41590 months
 38 (R) Robbery in the second
 39 degree, as defined in
 40 ORS 164.40570 months
 41 (b)(A) Arson in the first degree,
 42 as defined in ORS 164.325,
 43 when the offense represented
 44 a threat of serious
 45 physical injury.90 months

- 1 (B) Using a child in a display
- 2 of sexually explicit
- 3 conduct, as defined in
- 4 ORS 163.670.70 months
- 5 (C) Compelling prostitution,
- 6 as defined in ORS 167.017.70 months
- 7 (D) Rape in the first degree,
- 8 as defined in
- 9 ORS 163.375 (1)(b).300 months
- 10 (E) Sodomy in the first degree,
- 11 as defined in
- 12 ORS 163.405 (1)(b).300 months
- 13 (F) Unlawful sexual penetration
- 14 in the first degree, as
- 15 defined in
- 16 ORS 163.411 (1)(b).300 months
- 17 (G) Kidnapping in the first
- 18 degree, as defined in
- 19 ORS 163.235, when the
- 20 offense is committed in
- 21 furtherance of the commission
- 22 or attempted commission of an
- 23 offense listed in subparagraph
- 24 (D), (E) or (F) of
- 25 this paragraph.300 months
- 26 (c) Aggravated vehicular
- 27 homicide, as defined in
- 28 ORS 163.149.240 months

29
30

SECTION 3. ORS 137.707 is amended to read:

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

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

(2) When a person charged under this section is convicted of an offense listed in subsection (4) of this section, the court shall impose at least the presumptive term of imprisonment provided for

1 the offense in subsection (4) of this section. The court may impose a greater presumptive term if
 2 otherwise permitted by law, but may not impose a lesser term. The person is not, during the service
 3 of the term of imprisonment, eligible for release on post-prison supervision or any form of temporary
 4 leave from custody. *[The person is not eligible for any reduction in, or based on, the minimum sentence*
 5 *for any reason under ORS 421.121 or any other provision of law.]* ORS 138.012, 163.105 and 163.150
 6 apply to sentencing a person prosecuted under this section and convicted of aggravated murder
 7 under ORS 163.095 except that a person who was under 18 years of age at the time the offense was
 8 committed is not subject to a sentence of death.

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

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

-
- 12
13
- 14 (a)(A) Murder, as defined in
 15 ORS 163.115300 months
 - 16 (B) Attempt or conspiracy
 17 to commit aggravated
 18 murder, as defined
 19 in ORS 163.095120 months
 - 20 (C) Attempt or conspiracy
 21 to commit murder, as
 22 defined in ORS 163.11590 months
 - 23 (D) Manslaughter in the
 24 first degree, as defined
 25 in ORS 163.118120 months
 - 26 (E) Manslaughter in the
 27 second degree, as defined
 28 in ORS 163.12575 months
 - 29 (F) Assault in the first
 30 degree, as defined
 31 in ORS 163.18590 months
 - 32 (G) Assault in the second
 33 degree, as defined
 34 in ORS 163.17570 months
 - 35 (H) Kidnapping in the first
 36 degree, as defined in
 37 ORS 163.23590 months
 - 38 (I) Kidnapping in the second
 39 degree, as defined in
 40 ORS 163.22570 months
 - 41 (J) Rape in the first degree,
 42 as defined in ORS 163.375100 months
 - 43 (K) Rape in the second
 44 degree, as defined in
 45 ORS 163.36575 months

- 1 (L) Sodomy in the first
- 2 degree, as defined in
- 3 ORS 163.405100 months
- 4 (M) Sodomy in the second
- 5 degree, as defined in
- 6 ORS 163.39575 months
- 7 (N) Unlawful sexual
- 8 penetration in the first
- 9 degree, as defined
- 10 in ORS 163.411100 months
- 11 (O) Unlawful sexual
- 12 penetration in the
- 13 second degree, as
- 14 defined in ORS 163.40875 months
- 15 (P) Sexual abuse in the first
- 16 degree, as defined in
- 17 ORS 163.42775 months
- 18 (Q) Robbery in the first
- 19 degree, as defined in
- 20 ORS 164.41590 months
- 21 (R) Robbery in the second
- 22 degree, as defined in
- 23 ORS 164.40570 months
- 24 (b)(A) Arson in the first degree,
- 25 as defined in
- 26 ORS 164.325, when
- 27 the offense represented
- 28 a threat of serious
- 29 physical injury.90 months
- 30 (B) Using a child in a display
- 31 of sexually explicit
- 32 conduct, as defined in
- 33 ORS 163.67070 months
- 34 (C) Compelling prostitution,
- 35 as defined in ORS 167.01770 months
- 36 (c) Aggravated vehicular
- 37 homicide, as defined in
- 38 ORS 163.149240 months

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

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

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

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

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

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

10 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS
 11 419C.067 and 419C.411.

12 (B) And is not an offense for which waiver is authorized under ORS 419C.349, the court may not
 13 sentence the person. The court shall:

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

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

17 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS
 18 419C.067 and 419C.411.

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

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

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

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

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

41 (C) Enter an order transferring the case to the juvenile court for disposition under ORS
 42 419C.067 and 419C.411.

43 **SECTION 4.** ORS 137.712 is amended to read:

44 137.712. (1)(a) Notwithstanding ORS 137.700 and 137.707, when a person is convicted of
 45 manslaughter in the second degree as defined in ORS 163.125, assault in the second degree as de-

1 fined in ORS 163.175 (1)(b), kidnapping in the second degree as defined in ORS 163.225, rape in the
 2 second degree as defined in ORS 163.365, sodomy in the second degree as defined in ORS 163.395,
 3 unlawful sexual penetration in the second degree as defined in ORS 163.408, sexual abuse in the first
 4 degree as defined in ORS 163.427 (1)(a)(A) or robbery in the second degree as defined in ORS
 5 164.405, the court may impose a sentence according to the rules of the Oregon Criminal Justice
 6 Commission that is less than the minimum sentence that otherwise may be required by ORS 137.700
 7 or 137.707 if the court, on the record at sentencing, makes the findings set forth in subsection (2)
 8 of this section and finds that a substantial and compelling reason under the rules of the Oregon
 9 Criminal Justice Commission justifies the lesser sentence. [*When the court imposes a sentence under*
 10 *this subsection, the person is eligible for a reduction in the sentence as provided in ORS 421.121 and*
 11 *any other statute.*]

12 (b) In order to make a dispositional departure under this section, the court must make the fol-
 13 lowing additional findings on the record:

14 (A) There exists a substantial and compelling reason not relied upon in paragraph (a) of this
 15 subsection;

16 (B) A sentence of probation will be more effective than a prison term in reducing the risk of
 17 offender recidivism; and

18 (C) A sentence of probation will better serve to protect society.

19 (2) A conviction is subject to subsection (1) of this section only if the sentencing court finds on
 20 the record by a preponderance of the evidence:

21 (a) If the conviction is for manslaughter in the second degree:

22 (A) That the defendant is the mother or father of the victim;

23 (B) That the death of the victim was the result of an injury or illness that was not caused by
 24 the defendant;

25 (C) That the defendant treated the injury or illness solely by spiritual treatment in accordance
 26 with the religious beliefs or practices of the defendant and based on a good faith belief that spiritual
 27 treatment would bring about the victim's recovery from the injury or illness;

28 (D) That no other person previously under the defendant's care has died or sustained significant
 29 physical injury as a result of or despite the use of spiritual treatment, regardless of whether the
 30 spiritual treatment was used alone or in conjunction with medical care; and

31 (E) That the defendant does not have a previous conviction for a crime listed in subsection (4)
 32 of this section or for criminal mistreatment in the second degree.

33 (b) If the conviction is for assault in the second degree:

34 (A) That the victim was not physically injured by means of a deadly weapon;

35 (B) That the victim did not suffer a significant physical injury; and

36 (C) That the defendant does not have a previous conviction for a crime listed in subsection (4)
 37 of this section.

38 (c) If the conviction is for kidnapping in the second degree:

39 (A) That the victim was at least 12 years of age at the time the crime was committed; and

40 (B) That the defendant does not have a previous conviction for a crime listed in subsection (4)
 41 of this section.

42 (d) If the conviction is for robbery in the second degree:

43 (A) That the victim did not suffer a significant physical injury;

44 (B) That, if the defendant represented by words or conduct that the defendant was armed with
 45 a dangerous weapon, the representation did not reasonably put the victim in fear of imminent sig-

1 nificant physical injury;

2 (C) That, if the defendant represented by words or conduct that the defendant was armed with
 3 a deadly weapon, the representation did not reasonably put the victim in fear of imminent physical
 4 injury; and

5 (D) That the defendant does not have a previous conviction for a crime listed in subsection (4)
 6 of this section.

7 (e) If the conviction is for rape in the second degree, sodomy in the second degree or sexual
 8 abuse in the first degree:

9 (A) That the victim was at least 12 years of age, but under 14 years of age, at the time of the
 10 offense;

11 (B) That the defendant does not have a prior conviction for a crime listed in subsection (4) of
 12 this section;

13 (C) That the defendant has not been previously found to be within the jurisdiction of a juvenile
 14 court for an act that would have been a felony sexual offense if the act had been committed by an
 15 adult;

16 (D) That the defendant was no more than five years older than the victim at the time of the
 17 offense;

18 (E) That the offense did not involve sexual contact with any minor other than the victim; and

19 (F) That the victim's lack of consent was due solely to incapacity to consent by reason of being
 20 under 18 years of age at the time of the offense.

21 (f) If the conviction is for unlawful sexual penetration in the second degree:

22 (A) That the victim was 12 years of age or older at the time of the offense;

23 (B) That the defendant does not have a prior conviction for a crime listed in subsection (4) of
 24 this section;

25 (C) That the defendant has not been previously found to be within the jurisdiction of a juvenile
 26 court for an act that would have been a felony sexual offense if the act had been committed by an
 27 adult;

28 (D) That the defendant was no more than five years older than the victim at the time of the
 29 offense;

30 (E) That the offense did not involve sexual contact with any minor other than the victim;

31 (F) That the victim's lack of consent was due solely to incapacity to consent by reason of being
 32 under 18 years of age at the time of the offense; and

33 (G) That the object used to commit the unlawful sexual penetration was the hand or any part
 34 thereof of the defendant.

35 (3) In making the findings required by subsections (1) and (2) of this section, the court may
 36 consider any evidence presented at trial and may receive and consider any additional relevant in-
 37 formation offered by either party at sentencing.

38 (4) The crimes to which subsection (2)(a)(E), (b)(C), (c)(B), (d)(D), (e)(B) and (f)(B) of this section
 39 refer are:

40 (a) A crime listed in ORS 137.700 (2) or 137.707 (4);

41 (b) Escape in the first degree, as defined in ORS 162.165;

42 (c) Aggravated murder, as defined in ORS 163.095;

43 (d) Criminally negligent homicide, as defined in ORS 163.145;

44 (e) Assault in the third degree, as defined in ORS 163.165;

45 (f) Criminal mistreatment in the first degree, as defined in ORS 163.205 (1)(b)(A);

- 1 (g) Rape in the third degree, as defined in ORS 163.355;
- 2 (h) Sodomy in the third degree, as defined in ORS 163.385;
- 3 (i) Sexual abuse in the second degree, as defined in ORS 163.425;
- 4 (j) Stalking, as defined in ORS 163.732;
- 5 (k) Burglary in the first degree, as defined in ORS 164.225, when it is classified as a person
- 6 felony under the rules of the Oregon Criminal Justice Commission;
- 7 (L) Arson in the first degree, as defined in ORS 164.325;
- 8 (m) Robbery in the third degree, as defined in ORS 164.395;
- 9 (n) Intimidation in the first degree, as defined in ORS 166.165;
- 10 (o) Promoting prostitution, as defined in ORS 167.012; and
- 11 (p) An attempt or solicitation to commit any Class A or B felony listed in paragraphs (a) to (L)
- 12 of this subsection.

13 (5) Notwithstanding ORS 137.545 (5)(b), if a person sentenced to probation under this section
 14 violates a condition of probation by committing a new crime, the court shall revoke the probation
 15 and impose the presumptive sentence of imprisonment under the rules of the Oregon Criminal Jus-
 16 tice Commission.

17 (6) As used in this section:

18 (a) “Conviction” includes, but is not limited to:

19 (A) A juvenile court adjudication finding a person within the court’s jurisdiction under ORS
 20 419C.005, if the person was at least 15 years of age at the time the person committed the offense
 21 that brought the person within the jurisdiction of the juvenile court. “Conviction” does not include
 22 a juvenile court adjudication described in this subparagraph if the person successfully asserted the
 23 defense set forth in ORS 419C.522.

24 (B) A conviction in another jurisdiction for a crime that if committed in this state would con-
 25 stitute a crime listed in subsection (4) of this section.

26 (b) “Previous conviction” means a conviction that was entered prior to imposing sentence on the
 27 current crime provided that the prior conviction is based on a crime committed in a separate crim-
 28 inal episode. “Previous conviction” does not include a conviction for a Class C felony, including an
 29 attempt or solicitation to commit a Class B felony, or a misdemeanor, unless the conviction was
 30 entered within the 10-year period immediately preceding the date on which the current crime was
 31 committed.

32 (c) “Significant physical injury” means a physical injury that:

33 (A) Creates a risk of death that is not a remote risk;

34 (B) Causes a serious and temporary disfigurement;

35 (C) Causes a protracted disfigurement; or

36 (D) Causes a prolonged impairment of health or the function of any bodily organ.

37 **SECTION 5.** ORS 137.635 is amended to read:

38 137.635. (1) When, in the case of a felony described in subsection (2) of this section, a court
 39 sentences a convicted defendant who has previously been convicted of any felony designated in
 40 subsection (2) of this section, the sentence shall not be an indeterminate sentence to which the de-
 41 fendant otherwise would be subject under ORS 137.120, but, unless it imposes a death penalty under
 42 ORS 163.105, the court shall impose a determinate sentence, the length of which the court shall
 43 determine, to the custody of the Department of Corrections. Any mandatory minimum sentence
 44 otherwise provided by law shall apply. The sentence shall not exceed the maximum sentence other-
 45 wise provided by law in such cases. The convicted defendant who is subject to this section *[shall*

1 *not be*] **is not** eligible for probation. **Except as provided in ORS 421.121**, the convicted defendant
 2 shall serve the entire sentence imposed by the court and [*shall*] **is not**, during the service of such
 3 a sentence, [*be*] eligible for parole or any form of temporary leave from custody. [*The person shall*
 4 *not be eligible for any reduction in sentence pursuant to ORS 421.120 or for any reduction in term of*
 5 *incarceration pursuant to ORS 421.121.*]

6 (2) Felonies to which subsection (1) of this section applies include and are limited to:

7 (a) Murder, as defined in ORS 163.115, and any aggravated form thereof.

8 (b) Manslaughter in the first degree, as defined in ORS 163.118.

9 (c) Assault in the first degree, as defined in ORS 163.185.

10 (d) Kidnapping in the first degree, as defined in ORS 163.235.

11 (e) Rape in the first degree, as defined in ORS 163.375.

12 (f) Sodomy in the first degree, as defined in ORS 163.405.

13 (g) Unlawful sexual penetration in the first degree, as defined in ORS 163.411.

14 (h) Burglary in the first degree, as defined in ORS 164.225.

15 (i) Arson in the first degree, as defined in ORS 164.325.

16 (j) Robbery in the first degree, as defined in ORS 164.415.

17 (3) When the court imposes a sentence under this section, the court shall indicate in the judg-
 18 ment that the defendant is subject to this section.

19 **SECTION 6.** ORS 137.750 is amended to read:

20 137.750. (1)(a) When a court sentences a defendant to a term of incarceration upon conviction
 21 of a crime, the court shall order on the record in open court as part of the sentence imposed that
 22 the defendant may be considered by the executing or releasing authority for any form of temporary
 23 leave from custody, reduction in sentence, work release or program of conditional or supervised
 24 release authorized by law for which the defendant is otherwise eligible at the time of sentencing[,
 25 *unless the court finds on the record in open court substantial and compelling reasons to order that the*
 26 *defendant not be considered for such leave, release or program*].

27 **(b) Notwithstanding paragraph (a) of this subsection, the court shall order that the de-**
 28 **fendant may not be considered by the executing or releasing authority for any form of tem-**
 29 **porary leave from custody, work release or program of conditional or supervised release, if**
 30 **the court finds on the record in open court substantial and compelling reasons to do so.**

31 (2) The executing or releasing authority may consider the defendant for a program described in
 32 subsection (1)(b) of this section only upon order of the sentencing court appearing in the judgment.

33 (3) As used in this section:

34 (a) "Executing or releasing authority" means the Department of Corrections, State Board of
 35 Parole and Post-Prison Supervision, Psychiatric Security Review Board, sentencing court or super-
 36 visory authority.

37 (b) "Supervisory authority" has the meaning given that term in ORS 144.087.

38 **SECTION 7.** ORS 475.930 is amended to read:

39 475.930. [(1)] When a court sentences a person under ORS 164.061, 475.907, 475.924 and 475.925:

40 [(a)] (1) The court shall use the criminal history scale of the sentencing guidelines grid of the
 41 Oregon Criminal Justice Commission to determine the sentence to impose. The sentence described
 42 in:

43 [(A)] (a) ORS 475.925 (1) shall be determined utilizing crime category 10 of the sentencing
 44 guidelines grid.

45 [(B)] (b) ORS 475.907 (1) and 475.925 (2) shall be determined utilizing crime category 9 of the

1 sentencing guidelines grid.

2 [(C)] (c) ORS 164.061 shall be determined utilizing crime category 8 of the sentencing guidelines
3 grid.

4 [(b)(A)] (2)(a) Notwithstanding ORS 161.605, the court shall impose the sentence described in
5 ORS 164.061, 475.907, 475.924 and 475.925 and may not impose a sentence of optional probation or
6 grant a downward dispositional departure or a downward durational departure under the rules of
7 the commission.

8 [(B)] (b) The court may impose a sentence other than the sentence described in ORS 164.061,
9 475.907, 475.924 and 475.925 if the court imposes a longer term of incarceration that is otherwise
10 required or authorized by law.

11 [(2) A person sentenced under ORS 164.061, 475.907, 475.924 and 475.925 may not receive a re-
12 duction in the term of incarceration for appropriate institutional behavior that exceeds 20 percent of the
13 sentence imposed.]

14 **SECTION 8.** ORS 420A.203 is amended to read:

15 420A.203. (1)(a) This section and ORS 420A.206 apply only to persons who were under 18 years
16 of age at the time of the commission of the offense for which the persons were sentenced to a term
17 of imprisonment, who committed the offense on or after June 30, 1995, and who were:

18 (A) Sentenced to a term of imprisonment of at least 24 months following waiver under ORS
19 419C.349, 419C.352, 419C.364 or 419C.370; or

20 (B) Sentenced to a term of imprisonment of at least 24 months under ORS 137.707 (5)(b)(A) or
21 (7)(b).

22 (b) When a person described in paragraph (a) of this subsection has served one-half of the sen-
23 tence imposed, the sentencing court shall determine what further commitment or disposition is ap-
24 propriate as provided in this section. As used in this subsection and subsection (2) of this section,
25 "sentence imposed" means the total period of mandatory incarceration imposed for all convictions
26 resulting from a single prosecution or criminal proceeding [*not including*] **less** any reduction in the
27 sentence under ORS 421.121 [*or any other statute*].

28 (2)(a) No more than 120 days and not less than 60 days before the date on which a person has
29 served one-half of the sentence imposed, the Oregon Youth Authority or the Department of Cor-
30 rections, whichever has physical custody of the person, shall file in the sentencing court a notice
31 and request that the court set a time and place for the hearing required under this section. The
32 youth authority or department shall serve the person with a copy of the notice and request for
33 hearing on or before the date of filing.

34 (b) Upon receiving the notice and request for a hearing under paragraph (a) of this subsection,
35 the sentencing court shall schedule a hearing for a date not more than 30 days after the date on
36 which the person will have served one-half of the sentence imposed or such later date as is agreed
37 upon by the parties.

38 (c) The court shall notify the following of the time and place of the hearing:

39 (A) The person and the person's parents;

40 (B) The records supervisor of the correctional institution in which the person is incarcerated;
41 and

42 (C) The district attorney who prosecuted the case.

43 (d) The court shall make reasonable efforts to notify the following of the time and place of the
44 hearing:

45 (A) The victim and the victim's parents or legal guardian; and

1 (B) Any other person who has filed a written request with the court to be notified of any hear-
2 ing concerning the transfer, discharge or release of the person.

3 (3) In a hearing under this section:

4 (a) The person and the state are parties to the proceeding.

5 (b) The person has the right to appear with counsel. If the person requests that the court ap-
6 point counsel and the court determines that the person is financially eligible for appointed counsel
7 at state expense, the court shall order that counsel be appointed.

8 (c) The district attorney represents the state.

9 (d) The court shall determine admissibility of evidence as if the hearing were a sentencing pro-
10 ceeding.

11 (e) The court may consider, when relevant, written reports of the Oregon Youth Authority, the
12 Department of Corrections and qualified experts, in addition to the testimony of witnesses. Within
13 a reasonable time before the hearing, as determined by the court, the person must be given the op-
14 portunity to examine all reports and other documents concerning the person that the state, the
15 Oregon Youth Authority or the Department of Corrections intends to submit for consideration by
16 the court at the hearing.

17 (f) Except as otherwise provided by law or by order of the court based on good cause, the person
18 must be given access to the records maintained in the person's case by the Oregon Youth Authority
19 and the Department of Corrections.

20 (g) The person may examine all of the witnesses called by the state, may subpoena and call
21 witnesses to testify on the person's behalf and may present evidence and argument. The court may
22 permit witnesses to appear by telephone or other two-way electronic communication device.

23 (h) The hearing must be recorded.

24 (i) The hearing and the record of the hearing are open to the public.

25 (j) The question to be decided is which of the dispositions provided in subsection (4) of this
26 section should be ordered in the case.

27 (k) The person has the burden of proving by clear and convincing evidence that the person has
28 been rehabilitated and reformed, and if conditionally released, the person would not be a threat to
29 the safety of the victim, the victim's family or the community and that the person would comply with
30 the release conditions.

31 (4)(a) At the conclusion of the hearing and after considering and making findings regarding each
32 of the factors in paragraph (b) of this subsection, the court shall order one of the following dispo-
33 sitions:

34 (A) Order that the person serve the entire remainder of the sentence of imprisonment imposed,
35 taking into account any reduction in the sentence under ORS 421.121 [*or any other statute*], with the
36 person's physical custody determined under ORS 137.124, 420.011 and 420A.200.

37 (B) Order that the person be conditionally released under ORS 420A.206 at such time as the
38 court may order, if the court finds that the person:

39 (i) Has been rehabilitated and reformed;

40 (ii) Is not a threat to the safety of the victim, the victim's family or the community; and

41 (iii) Will comply with the conditions of release.

42 (b) In making the determination under this section, the court shall consider:

43 (A) The experiences and character of the person before and after commitment to the Oregon
44 Youth Authority or the Department of Corrections;

45 (B) The person's juvenile and criminal records;

- 1 (C) The person's mental, emotional and physical health;
- 2 (D) The gravity of the loss, damage or injury caused or attempted, during or as part of the
- 3 criminal act for which the person was convicted and sentenced;
- 4 (E) The manner in which the person committed the criminal act for which the person was con-
- 5 victed and sentenced;
- 6 (F) The person's efforts, participation and progress in rehabilitation programs since the person's
- 7 conviction;
- 8 (G) The results of any mental health or substance abuse treatment;
- 9 (H) Whether the person demonstrates accountability and responsibility for past and future con-
- 10 duct;
- 11 (I) Whether the person has made and will continue to make restitution to the victim and the
- 12 community;
- 13 (J) Whether the person will comply with and benefit from all conditions that will be imposed if
- 14 the person is conditionally released;
- 15 (K) The safety of the victim, the victim's family and the community;
- 16 (L) The recommendations of the district attorney, the Oregon Youth Authority and the Depart-
- 17 ment of Corrections; and
- 18 (M) Any other relevant factors or circumstances raised by the state, the Oregon Youth Au-
- 19 thority, the Department of Corrections or the person.
- 20 (5) The court shall provide copies of its disposition order under subsection (4) of this section to
- 21 the parties, to the records supervisor of the correctional institution in which the person is
- 22 incarcerated and to the manager of the institution-based records office of the Department of Cor-
- 23 rections.
- 24 (6) The person or the state may appeal an order entered under this section. On appeal, the ap-
- 25 pellate court's review is limited to claims that:
- 26 (a) The disposition is not authorized under this section;
- 27 (b) The court failed to comply with the requirements of this section in imposing the disposition;
- 28 or
- 29 (c) The findings of the court are not supported by substantial evidence in the record.
- 30 **SECTION 9.** Section 49, chapter 660, Oregon Laws 2009, as amended by section 6, chapter 2,
- 31 Oregon Laws 2010, is amended to read:
- 32 **Sec. 49.** (1) ORS 144.285 applies to prisoners convicted of aggravated murder or murder that
- 33 was committed before, on or after July 1, 2009, and whose petition for a change in the terms of
- 34 confinement is denied on or after January 1, 2010.
- 35 (2) ORS 144.280 applies to prisoners sentenced for a crime committed prior to November 1, 1989,
- 36 and who are denied parole on or after January 1, 2010.
- 37 (3) The amendments to ORS 144.125, 144.228 and 144.232 by sections 3 to 5, chapter 660, Oregon
- 38 Laws 2009, apply to prisoners:
- 39 (a) Whose release date is postponed under ORS 144.125 on or after January 1, 2010.
- 40 (b) For whom the State Board of Parole and Post-Prison Supervision is unable to set a release
- 41 date under ORS 144.228 or 144.232 on or after January 1, 2010.
- 42 (4) The amendments to ORS 137.717, 137.721 and 164.162 by sections 8, 9 and 15, chapter 660,
- 43 Oregon Laws 2009, apply to sentences imposed:
- 44 (a) On or after February 15, 2010; and
- 45 (b) For crimes committed on or after January 1, 2009, and before January 1, 2012.

1 (5) ORS 475.933 and the amendments to ORS 137.717, 137.721 and 164.162 by sections 11, 14 and
2 16, chapter 660, Oregon Laws 2009, apply to sentences imposed for crimes committed on or after
3 January 1, 2012.

4 (6) The amendments to ORS 421.121 by section 17, chapter 660, Oregon Laws 2009, apply to in-
5 mates who:

6 (a) Are sentenced for a crime committed:

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

8 (B) Before [*the effective date of this 2010 Act*] **February 17, 2010**; and

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

11 (7) The amendments to ORS 421.121 by section 19, chapter 660, Oregon Laws 2009, apply to in-
12 mates who:

13 (a) Are sentenced for a crime committed on or after [*the effective date of this 2010 Act*] **February**
14 **17, 2010**, and before [*July 1, 2011*] **the effective date of this 2011 Act**; and

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

17 (8) The amendments to ORS 137.545 by section 20, chapter 660, Oregon Laws 2009, apply to
18 crimes committed before July 1, 2011.

19 (9) Section 21, chapter 660, Oregon Laws 2009, applies to persons:

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

21 (b) Who are on probation on or after the effective date of the rules adopted by the Department
22 of Corrections under section 21 (3), chapter 660, Oregon Laws 2009.

23 (10) Section 31, chapter 660, Oregon Laws 2009, applies to crimes committed:

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

25 (b) Before January 1, 2012.

26 (11) The amendments to ORS 137.545 by section 32, chapter 660, Oregon Laws 2009, apply to
27 crimes committed on or after July 1, 2011.

28 (12) ORS 163.168 and the amendments to ORS 163.165 and 163.235 by sections 39 and 43, chapter
29 660, Oregon Laws 2009, apply to conduct occurring on or after July 1, 2009.

30 (13) Except as provided in subsection (14) of this section, section 23, chapter 660, Oregon Laws
31 2009, applies to persons:

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

33 (b) Sentenced to the legal and physical custody of the supervisory authority under ORS 137.124
34 (2).

35 (14)(a) A person sentenced to the legal and physical custody of a supervisory authority under
36 ORS 137.124 (2) shall serve an active period of post-prison supervision of at least two additional
37 months if, on July 1, 2009, the person has served:

38 (A) Four months or more of active post-prison supervision for crimes in crime categories 1 to
39 3; or

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

41 (b) Except as provided in paragraph (c) of this subsection, the supervisory authority shall place
42 an offender described in paragraph (a) of this subsection on inactive supervision status on the date
43 that is two months after July 1, 2009.

44 (c) At any time before the date that is two months after July 1, 2009:

45 (A) The parole and probation officer responsible for supervising an offender described in para-

1 graph (a) of this subsection may send a report described in section 23 (3), chapter 660, Oregon Laws
2 2009, to the supervisory authority for review; and

3 (B) After reviewing the report, the supervisory authority may extend the active post-prison
4 supervision period in accordance with section 23 (4), chapter 660, Oregon Laws 2009.

5 (d) Section 23, chapter 660, Oregon Laws 2009, and the provisions of this subsection and sub-
6 section (13) of this section do not apply to a person sentenced to the legal and physical custody of
7 a supervisory authority under ORS 137.124 (2) whose term of active post-prison supervision imposed
8 by the sentencing court expires on or before the date that is two months after July 1, 2009.

9 **SECTION 10.** ORS 420A.206 is amended to read:

10 420A.206. (1)(a) If, after the hearing required by ORS 420A.203, the court determines that con-
11 ditional release is the appropriate disposition, the court shall direct the Department of Corrections
12 to prepare a proposed release plan. The Department of Corrections shall submit the release plan no
13 later than 45 days after completion of the hearing. The Department of Corrections shall incorporate
14 any conditions recommended by the court and shall consider any recommendations made by the
15 Oregon Youth Authority. The release plan submitted to the court must include:

16 (A) A description of support services and program opportunities available to the person;

17 (B) The recommended conditions of the release and supervision;

18 (C) The level of supervision required;

19 (D) Conditions or requirements that provide for the safety of the victim, the victim's family and
20 the community;

21 (E) For persons whose sentences include a requirement to make restitution or to pay
22 compensatory fines or attorney fees and who have not yet made full payment, a payment schedule;

23 (F) Any conditions reasonably necessary to further the reform and rehabilitation of the person
24 and to ensure compliance with the other conditions imposed; and

25 (G) Any special conditions necessary because of the person's individual circumstances.

26 (b) If the court does not approve the proposed release plan, the court shall return the plan to
27 the Department of Corrections with recommended modifications and additions. The Department of
28 Corrections shall submit a revised plan to the court no later than 15 days after receipt of the court's
29 recommended modifications and additions.

30 (c) If the court does not approve the revised plan, the court shall make any changes that the
31 court deems appropriate and prepare the final release plan. The final release plan must require, in
32 addition to any other conditions, that the person:

33 (A) Comply with the conditions of post-release supervision;

34 (B) Be under the supervision of the Department of Corrections and its representatives and follow
35 the direction and counsel of the Department of Corrections and its representatives;

36 (C) Answer all reasonable inquiries of the court or the supervisory authority of the Department
37 of Corrections;

38 (D) Report to the supervision officer as directed by the court or the supervisory authority of the
39 Department of Corrections;

40 (E) Not own, possess or be in control of any dangerous weapon or deadly weapon, as those terms
41 are defined in ORS 161.015, or any dangerous animal;

42 (F) Respect and obey all municipal, county, state and federal laws;

43 (G) Participate in a victim impact treatment program; and

44 (H) Pay any restitution, compensatory fine or attorney fees ordered and regularly perform any
45 community service ordered.

1 (2) When the court has approved a final release plan, the court shall enter an order condi-
2 tionally releasing the person. The order of conditional release shall:

3 (a) State the conditions of release;

4 (b) Require the person to comply fully with all of the conditions of release;

5 (c) Confirm that the person has been given a copy of the conditions of release;

6 (d) Continue the person's commitment to the legal custody of the Department of Corrections;

7 (e) Provide that the Department of Corrections or its designee shall supervise the person;

8 (f) Provide that the period of supervision is the entire remainder of the sentence of imprisonment
9 imposed, taking into account any reduction in the sentence under ORS 421.121 [*or any other*
10 *statute*], unless the conditional release is revoked or suspended; and

11 (g) Require that the Department of Corrections or its designee submit a report to the court no
12 later than 90 days after the person is conditionally released and at least every 180 days thereafter
13 informing the court of the person's circumstances and progress on conditional release.

14 (3)(a) A person conditionally released under this section remains within the jurisdiction of the
15 sentencing court for the period of the conditional release.

16 (b) At any time after the entry of an order of conditional release, the court, on its own motion
17 or on motion of the Department of Corrections, may amend the conditional release order to modify
18 the conditions of the person's release and supervision, providing that the modifications are consist-
19 ent with the requirements for conditions of release in subsections (1) and (2) of this section. Before
20 entering an amended order under this paragraph, the court shall provide the Department of Cor-
21 rections and the person with a reasonable amount of time to comment on the proposed modifications.
22 The court shall serve the Department of Corrections and the person with a copy of the amended
23 order at least 15 days before the order takes effect.

24 (c) The Department of Corrections and the supervisory authority may adjust the level of the
25 person's supervision as is appropriate to the person's progress and conduct in the community.

26 (4)(a) If an officer of the Department of Corrections or the supervisory authority or a law
27 enforcement officer has reasonable grounds to believe that a person released under this section has
28 violated a condition of the release, the officer may take the person into custody and detain the
29 person pending a hearing on the alleged violation as provided in paragraph (c) of this subsection.
30 No later than 24 hours after a person is taken into custody under this subsection, the Department
31 of Corrections or the supervisory authority shall file a notice and affidavit with the court as pro-
32 vided in paragraph (b) of this subsection and serve a copy of the notice and affidavit on the person.

33 (b) When a notice and affidavit is filed under paragraph (a) of this subsection and if the court
34 finds that the notice and affidavit state reasonable grounds to believe the person has violated a
35 condition of the release, the court shall issue an order that the person appear and show cause why
36 the conditional release should not be revoked or suspended as a sanction for the alleged violation.
37 When a court issues an order under this paragraph, the court shall:

38 (A) Serve a copy of the order to show cause on the person and the district attorney; and

39 (B) Provide the person with written notice containing the following information:

40 (i) The time, place and purpose of the hearing;

41 (ii) That the person has the right to have adverse witnesses present at the hearing for purpose
42 of confrontation and cross-examination unless the court determines that good cause exists for not
43 permitting confrontation;

44 (iii) That the person has the right to subpoena witnesses and present documentary evidence and
45 testimony of witnesses;

1 (iv) That the person has the right to be represented by counsel and, if financially eligible, to
2 have counsel appointed at state expense as provided in paragraph (d) of this subsection; and

3 (v) The possible sanction authorized if the court determines that the person has violated the
4 conditions of release.

5 (c) The court shall hold the hearing no more than 15 days after issuing the order to appear and
6 show cause. The court may order the person to be detained pending the hearing and disposition.

7 (d) In a hearing under this subsection:

8 (A) The person has the right to be represented by counsel and, if financially eligible, to have
9 counsel appointed at state expense if the court determines, after request, that the request is based
10 on a timely and colorable claim that:

11 (i) The person has not committed the alleged violation of the release conditions;

12 (ii) Even if the violation is a matter of public record or is uncontested, there are substantial
13 reasons that justify or mitigate the violation and make revocation inappropriate and the reasons are
14 complex or otherwise difficult to develop or present; or

15 (iii) The person, in doubtful cases, appears to be incapable of speaking effectively on the
16 person's own behalf;

17 (B) The Department of Corrections or the supervisory authority has the burden of proving the
18 alleged violation by a preponderance of the evidence;

19 (C) The state is a party and is represented by the district attorney;

20 (D) The standards for the introduction and admissibility of evidence in contested case hearings
21 under ORS 183.450 (1) and (2) apply in the hearing;

22 (E) If the court finds that the person has violated the conditions of release and that subsection
23 (5) of this section does not apply, the person has the burden of establishing good cause why the
24 conditional release should not be revoked or suspended; and

25 (F) At the conclusion of the hearing, the court shall enter an order containing findings of fact
26 and, if the court finds that the person violated a condition of release, stating what sanctions are
27 imposed.

28 (e) Except as provided in subsection (5) of this section, when the court finds that the person has
29 violated a condition of release, the court shall impose one or more of the following sanctions:

30 (A) Adjustments to the level of supervision;

31 (B) Modifications of the conditions of release;

32 (C) Any appropriate available local sanctions including, but not limited to, community service
33 work, house arrest, electronic surveillance, restitution centers, work release centers or day centers;

34 (D) Suspension of conditional release for up to 180 days; or

35 (E) Revocation of conditional release.

36 (5) At the conclusion of the hearing, the court shall revoke the person's conditional release and
37 order the person committed to the physical custody of the Department of Corrections to be confined
38 for the entire remainder of the sentence of imprisonment imposed, taking into account any reduction
39 in the sentence under ORS 421.121 [*or any other statute*], if the court finds that:

40 (a) The person has been convicted of a new criminal offense;

41 (b) The person has violated the condition prohibiting ownership, possession or control of a
42 dangerous weapon or deadly weapon, as those terms are defined in ORS 161.015, or a dangerous
43 animal; or

44 (c) The person's conditional release has been suspended twice under this section within the past
45 18 months.

1 (6)(a) The state, the Department of Corrections or the person may appeal from an order of con-
2 ditional release under this section. The appellate court's review is limited to claims that the court
3 failed to comply with the requirements of law in ordering the conditional release.

4 (b) The state, the Department of Corrections or the person may appeal from an order of the
5 court entered under subsection (4) or (5) of this section. The appellate court's review is limited to
6 claims that:

7 (A) The disposition is not authorized under this section;

8 (B) The court failed to comply with the requirements of law; and

9 (C) The finding of the court that the person did or did not violate a condition of release is not
10 supported by substantial evidence in the record.

11 **SECTION 11.** The amendments to ORS 137.635, 137.700, 137.707, 137.712, 137.750, 420A.203,
12 420A.206, 421.121 and 475.930 by sections 1 to 8 and 10 of this 2011 Act apply to persons sen-
13 tenced for a crime committed on or after the effective date of this 2011 Act.

14 **SECTION 12.** Sections 2 and 4, chapter 2, Oregon Laws 2010, are repealed.

15 **SECTION 13.** This 2011 Act being necessary for the immediate preservation of the public
16 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
17 June 30, 2011.