

# Senate Bill 60

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## 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**.

Directs court to make certain sentencing information available to Oregon Criminal Justice Commission electronically.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the Oregon Criminal Justice Commission; amending ORS 137.010, 137.656 and 144.791;  
3 repealing section 7, chapter 790, Oregon Laws 1989; and declaring an emergency.

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

5 **SECTION 1.** ORS 137.010 is amended to read:

6 137.010. (1) The statutes that define offenses impose a duty upon the court having jurisdiction  
7 to pass sentence in accordance with this section or, for felonies committed on or after November  
8 1, 1989, in accordance with rules of the Oregon Criminal Justice Commission unless otherwise spe-  
9 cifically provided by law.

10 (2) If it cannot be determined whether the felony was committed on or after November 1, 1989,  
11 the defendant shall be sentenced as if the felony had been committed prior to November 1, 1989.

12 (3) Except when a person is convicted of a felony committed on or after November 1, 1989, if  
13 the court is of the opinion that it is in the best interests of the public as well as of the defendant,  
14 the court may suspend the imposition or execution of any part of a sentence for any period of not  
15 more than five years. The court may extend the period of suspension beyond five years in accord-  
16 ance with subsection (4) of this section.

17 (4) If the court suspends the imposition or execution of a part of a sentence for an offense other  
18 than a felony committed on or after November 1, 1989, the court may also impose and execute a  
19 sentence of probation on the defendant for a definite or indefinite period of not more than five years.  
20 However, upon a later finding that a defendant sentenced to probation for a felony has violated a  
21 condition of the probation and in lieu of revocation, the court may order the period of both the  
22 suspended sentence and the sentence of probation extended until a date not more than six years  
23 from the date of original imposition of sentence. Time during which the probationer has absconded  
24 from supervision and a bench warrant has been issued for the probationer's arrest shall not be  
25 counted in determining the time elapsed since imposition of the sentence of probation.

26 (5) If the court announces that it intends to suspend imposition or execution of any part of a  
27 sentence, the defendant may, at that time, object and request imposition of the full sentence. In no  
28 case, however, does the defendant have a right to refuse the court's order, and the court may sus-  
29 pend imposition or execution of a part of the sentence despite the defendant's objection or request.  
30 If the court further announces that it intends to sentence the defendant to a period of probation, the

**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 defendant may, at that time, object and request that a sentence of probation or its conditions not  
 2 be imposed or that different conditions be imposed. In no case, however, does the defendant have  
 3 the right to refuse a sentence of probation or any of the conditions of the probation, and the court  
 4 may sentence the defendant to probation subject to conditions despite the defendant's objection or  
 5 request.

6 (6) The power of the judge of any court to suspend execution of any part of a sentence or to  
 7 sentence any person convicted of a crime to probation shall continue until the person is delivered  
 8 to the custody of the Department of Corrections.

9 (7) When a person is convicted of an offense and the court does not suspend the imposition or  
 10 execution of any part of a sentence or when a suspended sentence or sentence of probation is re-  
 11 voked, the court shall impose the following sentence:

- 12 (a) A term of imprisonment;
- 13 (b) A fine;
- 14 (c) Both imprisonment and a fine; or
- 15 (d) Discharge of the defendant.

16 (8) This section does not deprive the court of any authority conferred by law to enter a judg-  
 17 ment for the forfeiture of property, suspend or cancel a license, remove a person from office or im-  
 18 pose any other civil penalty. An order exercising that authority may be included as part of the  
 19 judgment of conviction.

20 (9) When [*imposing sentence*] **a defendant is sentenced** for a felony committed on or after No-  
 21 vember 1, 1989, the court shall [*submit sentencing information to the commission*] **record sentencing**  
 22 **information electronically and make the information available to the Oregon Criminal Justice**  
 23 **Commission**, in accordance with rules of the commission.

24 (10) A judgment of conviction that includes a term of imprisonment for a felony committed on  
 25 or after November 1, 1989, shall state the length of incarceration and the length of post-prison  
 26 supervision. The judgment of conviction shall also provide that if the defendant violates the condi-  
 27 tions of post-prison supervision, the defendant shall be subject to sanctions including the possibility  
 28 of additional imprisonment in accordance with rules of the commission.

29 **SECTION 2.** ORS 137.656 is amended to read:

30 137.656. (1) The purpose of the Oregon Criminal Justice Commission is to improve the effec-  
 31 tiveness and efficiency of state and local criminal justice systems by providing a centralized and  
 32 impartial forum for statewide policy development and planning.

33 (2) The primary duty of the commission is to develop and maintain a state criminal justice policy  
 34 and comprehensive, long-range plan for a coordinated state criminal justice system that encompasses  
 35 public safety, offender accountability, crime reduction and prevention and offender treatment and  
 36 rehabilitation. The plan must include, but need not be limited to, recommendations regarding:

- 37 (a) Capacity, utilization and type of state and local prison and jail facilities;
- 38 (b) Implementation of community corrections programs;
- 39 (c) Alternatives to the use of prison and jail facilities;
- 40 (d) Appropriate use of existing facilities and programs;
- 41 (e) Whether additional or different facilities and programs are necessary;
- 42 (f) Methods of assessing the effectiveness of juvenile and adult correctional programs, devices  
 43 and sanctions in reducing future criminal conduct by juvenile and adult offenders;
- 44 (g) Methods of reducing the risk of future criminal conduct; and
- 45 (h) The effective utilization of local public safety coordinating councils.

1 (3) Other duties of the commission are:

2 (a) To conduct joint studies by agreement with other state agencies, boards or commissions on  
3 any matter within the jurisdiction of the commission.

4 (b) To provide Oregon criminal justice analytical and statistical information to federal agencies  
5 and serve as a clearinghouse and information center for the collection, preparation, analysis and  
6 dissemination of information on state and local sentencing practices.

7 (c) To provide technical assistance and support to local public safety coordinating councils.

8 (d) To receive grant applications to start or expand drug court programs as defined in ORS  
9 3.450, to make rules to govern the grant process and to award grant funds according to the rules.

10 (4) The commission shall establish by rule the information that must be [*submitted*] **recorded**  
11 under ORS 137.010 (9) and the methods for [*submitting*] **recording** the information. A rule adopted  
12 under this subsection must be approved by the Chief Justice of the Supreme Court before it takes  
13 effect.

14 (5) The commission may:

15 (a) Apply for and receive gifts and grants from any public or private source.

16 (b) Award grants from funds appropriated by the Legislative Assembly to the commission or  
17 from funds otherwise available from any other source, for the purpose of carrying out the duties of  
18 the commission.

19 (c) Adopt rules to carry out the provisions of this subsection.

20 **SECTION 3.** ORS 144.791 is amended to read:

21 144.791. (1) When a person is convicted of a felony, including a felony sexual offense, the sen-  
22 tencing court may order a presentence report upon its own motion or upon the request of the dis-  
23 trict attorney or the defendant.

24 (2) The sentencing court shall order a presentence report if the defendant is convicted of a fel-  
25 ony sexual offense unless:

26 (a) The defendant, as part of the same prosecution, is convicted of aggravated murder;

27 (b) The felony sexual offense requires the imposition of a mandatory minimum prison sentence  
28 and no departure is sought by the court, district attorney or defendant; or

29 (c) The felony sexual offense requires imposition of a presumptive prison sentence and no de-  
30 parture is sought by the court, district attorney or defendant.

31 (3) The Department of Corrections shall:

32 (a) Require that a presentence report provide an analysis of what disposition is most likely to  
33 reduce the offender's criminal conduct, explain why that disposition would have that effect and  
34 provide an assessment of the availability to the offender of any relevant programs or treatment in  
35 or out of custody, whether provided by the department or another entity;

36 (b) Determine what additional information must be included in the presentence report; and

37 (c) Establish a uniform presentence report form.

38 (4) **The department shall consult with the Oregon Criminal Justice Commission in devel-**  
39 **oping rules applicable to presentence reports.**

40 **SECTION 4.** Section 7, chapter 790, Oregon Laws 1989, is repealed.

41 **SECTION 5.** This 2011 Act being necessary for the immediate preservation of the public  
42 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
43 on its passage.