

Senate Joint Resolution 3

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 Governor John A. Kitzhaber for Department of Corrections)

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**.

Proposes amendment to Oregon Constitution authorizing State Board of Parole and Post-Prison Supervision to advance release date of prisoner who is severely ill or elderly and permanently incapacitated.

Refers proposed amendment to people for their approval or rejection at next regular general election.

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. Section 44, Article I of the Constitution of the State of Oregon, is amended to read:

Sec. 44. (1)(a) A term of imprisonment imposed by a judge in open court may not be set aside or otherwise not carried out, except as authorized by the sentencing court or through the subsequent exercise of:

(A) The power of the Governor to grant reprieves, commutations and pardons; *[or]*

(B) Judicial authority to grant appellate or post-conviction relief[.]; **or**

(C) The power of the state board of parole and post-prison supervision to advance the release date of a prisoner who is suffering from a severe medical condition including terminal illness or a prisoner who is elderly and is permanently incapacitated in such a manner that the prisoner is unable to move from place to place without the assistance of another person.

(b) No law shall limit a court's authority to sentence a criminal defendant consecutively for crimes against different victims.

(2) This section applies to all offenses committed on or after *[the effective date of this section]* **December 2, 1999**. Nothing in this section reduces a criminal defendant's rights under the Constitution of the United States. Except as otherwise specifically provided, this section supersedes any conflicting section of this Constitution. Nothing in this section creates any cause of action for compensation or damages nor may this section be used to invalidate an accusatory instrument, ruling of a court, conviction or adjudication or otherwise suspend or terminate any criminal or juvenile delinquency proceedings at any point after the case is commenced or on appeal.

(3) As used in this section, "victim" means any person determined by the prosecuting attorney to have suffered direct financial, psychological or physical harm as a result of a crime and, in the case of a victim who is a minor, the legal guardian of the minor. In the event no person has been determined to be a victim of the crime, the people of Oregon, represented by the prosecuting attorney, are considered to be the victims. In no event is it intended that the criminal defendant be considered the victim.

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 **PARAGRAPH 2.** The amendment proposed by this resolution shall be submitted to the
2 people for their approval or rejection at the next regular general election held throughout
3 this state.

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