

House Bill 2607

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House 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 **as introduced**.

Modifies method of determining amount of presentence incarceration credits for persons convicted of crime.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 137.370, 137.372 and 421.508; and declar-
3 ing an emergency.

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

5 **SECTION 1.** ORS 137.370 is amended to read:

6 137.370. (1) When a person is sentenced to imprisonment in the custody of the Department of
7 Corrections, the term of confinement therein commences from the day the person is delivered to the
8 custody of an officer of the Department of Corrections for the purpose of serving the sentence exe-
9 cuted, regardless of whether the sentence is to be served in a state or federal institution.

10 (2) Except as provided in subsections (3) [*and (4)*] **to (5)** of this section, when a person is sen-
11 tenced to imprisonment in the custody of the Department of Corrections, for the purpose of com-
12 puting the amount of sentence served the term of confinement [*includes only*]:

13 [*(a) The*] **may not include any** time that the person is confined by any authority [*after the arrest*
14 *for the crime for which sentence is imposed; and*] **before delivery to the custody of an officer of**
15 **the Department of Corrections, unless:**

16 (a) **The crime for which the sentence is imposed is the same crime, or a lesser included**
17 **offense of the crime, for which the person was confined; or**

18 (b) **The court enters an order, appearing in the judgment and as part of the sentence**
19 **imposed, crediting the person with a specific amount of presentence incarceration credit for**
20 **time that the person was confined in a correctional facility before delivery to the custody**
21 **of an officer of the Department of Corrections. The court may enter an order under this**
22 **paragraph only if the court finds that the crime for which the sentence is imposed and the**
23 **crime for which the person was confined:**

24 (A) **Are a part of the same criminal episode as defined in ORS 131.505; and**

25 (B) **Do not involve different victims.**

26 [(b)] (3) **The term of confinement includes the** time that the person is authorized by the De-
27 partment of Corrections to spend outside a confinement facility, in a program conducted by or for
28 the Department of Corrections.

29 [(3)] (4) When a judgment of conviction is vacated and a new sentence is thereafter imposed
30 upon the defendant for the same crime, the period of detention and imprisonment theretofore served

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 shall be deducted from the maximum term, and from the minimum, if any, of the new sentence.

2 [(4)] (5) A person who is confined as the result of a sentence for a crime or conduct that is not
 3 directly related to the crime for which the sentence is imposed, or for violation of the conditions
 4 of probation, parole or post-prison supervision, shall not receive presentence incarceration credit for
 5 the time served in jail toward service of the term of confinement.

6 [(5)] (6) Unless the court expressly orders otherwise, a term of imprisonment shall be concurrent
 7 with that portion of any sentence previously imposed that remains unexpired at the time the court
 8 imposes sentence. This subsection applies regardless of whether the earlier sentence was imposed
 9 by the same or any other court, and regardless of whether the earlier sentence is being or is to be
 10 served in the same penal institution or under the same correctional authority as will be the later
 11 sentence.

12 **SECTION 2.** ORS 137.372 is amended to read:

13 137.372. (1) Notwithstanding [*the provisions of*] ORS 137.370 [(2)(a)] (2), an offender who has been
 14 revoked from a probationary sentence for a felony committed on or after November 1, 1989, shall
 15 receive credit for the time served in jail after arrest and before commencement of the probationary
 16 sentence or for the time served in jail as part of the probationary sentence unless the sentencing
 17 judge orders otherwise.

18 (2) Notwithstanding the provisions of ORS 137.320 (4), an offender who has been ordered con-
 19 fined as part of a probationary sentence for a felony committed on or after July 18, 1995, shall re-
 20 ceive credit for the time served in jail after arrest and before commencement of the term unless the
 21 sentencing judge orders otherwise.

22 **SECTION 3.** ORS 421.508 is amended to read:

23 421.508. (1)(a) The Department of Corrections is responsible for determining which offenders are
 24 eligible to participate in, and which offenders are accepted for, a program. However, the department
 25 may not release an offender under subsection (4) of this section unless authorized to do so as pro-
 26 vided in ORS 137.751.

27 (b) The department may not accept an offender into a program unless the offender submits a
 28 written request to participate. The request must contain a signed statement providing that the
 29 offender:

30 (A) Is physically and mentally able to withstand the rigors of the program; and

31 (B) Has reviewed the program description provided by the department and agrees to comply with
 32 each of the requirements of the program.

33 (c) The department may deny, for any reason, a request to participate in a program. The de-
 34 partment shall make the final determination regarding an offender's physical or mental ability to
 35 withstand the rigors of the program.

36 (d) If the department determines that an offender's participation in a program is consistent with
 37 the safety of the community, the welfare of the applicant, the program objectives and the rules of
 38 the department, the department may, in its discretion, accept the offender into the program.

39 (2) The department may suspend or remove an offender from a program for administrative or
 40 disciplinary reasons.

41 (3) The department may not accept an offender into a program if:

42 (a) The department has removed the offender from a program during the term of incarceration
 43 for which the offender is currently sentenced; or

44 (b) The offender has a current detainer from any jurisdiction that will not expire prior to the
 45 offender's release from the custody of the department.

1 (4) When an offender has successfully completed a program, the department may release the
2 offender on post-prison supervision if:

3 (a) The court has entered the order described in ORS 137.751; and

4 (b) The offender has served a term of incarceration of at least one year.

5 (5) An offender may not be released on post-prison supervision under subsection (4) of this sec-
6 tion if the release would reduce the term of incarceration the offender would otherwise be required
7 to serve by more than 20 percent.

8 (6) For the purposes of calculating the term of incarceration served under subsection (4)(b) of
9 this section, the department shall include:

10 (a) The time that an offender is confined under ORS 137.370 [(2)(a)] (2); and

11 (b) The time for which an offender is granted nonprison leave under ORS 421.510.

12 (7) Successful completion of a program does not relieve the offender from fulfilling any other
13 obligations imposed as part of the sentence including, but not limited to, the payment of restitution
14 and fines.

15 **SECTION 4. The amendments to ORS 137.370, 137.372 and 421.508 by sections 1, 2 and 3**
16 **of this 2013 Act apply to crimes committed on or after the effective date of this 2013 Act.**

17 **SECTION 5. This 2013 Act being necessary for the immediate preservation of the public**
18 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
19 **on its passage.**

20