

**PROPOSED AMENDMENTS TO  
SENATE BILL 798**

1 On page 1 of the printed bill, line 2, after “ORS” insert “136.260,”.

2 Delete lines 4 through 21 and insert:

3 **“SECTION 1.** ORS 136.280 is amended to read:

4 “136.280. (1) If, before the final submission of the case, any juror dies or  
5 is unable to perform the duty because of illness or other [*cause which the*  
6 *court deems sufficient, the juror shall be dismissed*] **sufficient cause, the**  
7 **court shall discharge the juror** from the case. Except as provided by ORS  
8 163.150, the court shall [*cause to be drawn*] **draw** the name of an alternate  
9 juror, who shall then become a member of the jury as though the alternate  
10 juror had been selected as one of the original jurors. [*Except as provided in*  
11 *ORS 136.773 (5), any alternate juror not selected to become a member of the*  
12 *jury shall be dismissed from the case upon its final submission to the jury.*]

13 **“(2) If, after the jury has begun deliberations, any juror dies or is**  
14 **unable to perform the duty because of illness or other sufficient cause,**  
15 **the court may discharge the juror from the case and draw the name**  
16 **of an alternate juror to replace the discharged juror if:**

17 **“(a) The court finds that neither party has shown it will be preju-**  
18 **diced by the substitution of an alternate juror; and**

19 **“(b) An alternate juror is available and has not yet been discharged.**

20 **“(3) If an alternate juror replaces a juror after deliberations have**  
21 **begun under this section, the court shall instruct the jury to begin**  
22 **deliberations anew.**

1       **“(4) The court may retain alternate jurors after the case is sub-**  
2 **mitted to the jury to replace jurors as provided in subsection (2) of this**  
3 **section. An alternate juror retained under this subsection shall not**  
4 **attend or otherwise participate in deliberations unless the alternate**  
5 **juror is selected to replace a juror.**

6       **“(5) An alternate juror who does not replace a juror as provided in**  
7 **subsections (1) and (2) of this section and who is not retained as pro-**  
8 **vided in subsection (4) of this section shall be discharged.”.**

9       On page 2, line 12, after “may” delete the rest of the line and lines 13 and  
10 14 and insert “retain alternate jurors and may allow the substitution of an  
11 alternate juror after the jury has begun deliberations as described in ORS  
12 136.280 (2) to (5).

13       **“SECTION 3.** ORS 136.260 is amended to read:

14       “136.260. (1)(a) In the trial of a person charged with a crime, the court  
15 may in its discretion[, *after the jury is impaneled and sworn,*] direct the  
16 calling of additional jurors, to be known as ‘alternate jurors.’ The court may  
17 call:

18       “(A) One to six additional jurors if the person is charged with a felony;  
19 and

20       “(B) One to three additional jurors if the person is charged with a  
21 misdemeanor.

22       “(b) Jurors called under paragraph (a) of this subsection:

23       “(A) Must be drawn from the same source and in the same manner and  
24 must have the same qualifications as other jurors in the case.

25       “(B) Are subject to the same examination and may be challenged in the  
26 same manner as other jurors.

27       “(c) In the drawing of alternate jurors, the names of jurors excused for  
28 cause or on peremptory challenges in the selection of the jury to which the  
29 jurors shall serve as alternates must be excluded from the names from which  
30 the drawing is made.

1       “(2) Each side is entitled to the following peremptory challenges in addi-  
2       tion to those otherwise allowed by statute:

3       “(a) If one or two alternate jurors are to be impaneled, each side is enti-  
4       tled to one peremptory challenge.

5       “(b) If three or four alternate jurors are to be impaneled, each side is  
6       entitled to two peremptory challenges.

7       “(c) If five or six alternate jurors are to be impaneled, each side is enti-  
8       tled to three peremptory challenges.

9       “(3) [*The additional peremptory challenges may be used against an alter-*  
10       *nate juror only, and the other peremptory challenges allowed by statute may*  
11       *not be used against an alternate juror] **The court has discretion to decide**  
12       **when and in what manner the alternate jurors are selected, and when**  
13       **and in what manner the additional peremptory challenges described**  
14       **in subsection (2) of this section may be used.”.***

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