

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3183**

1 On page 1 of the printed bill, line 3, delete the comma and insert “and”  
2 and delete “and 420.011”.

3 Delete lines 5 through 31.

4 Delete pages 2 through 5 and insert:

5 **“SECTION 1. ORS 137.320 is amended to read:**

6 **“137.320. (1)(a) When a judgment includes commitment to the legal and**  
7 **physical custody of the Department of Corrections and the defendant is 20**  
8 **years of age or older at the time of sentencing and was 18 years of age**  
9 **or older at the time of the offense,** the sheriff shall deliver the defendant,  
10 together with a copy of the entry of judgment and a statement signed by the  
11 sheriff of the number of days the defendant was imprisoned [*prior to*] **before**  
12 **delivery, to the superintendent of the Department of Corrections institution**  
13 **to which the defendant is initially assigned pursuant to ORS 137.124.**

14 **“(b) When a judgment includes commitment to the legal and phys-**  
15 **ical custody of the Department of Corrections and the defendant is**  
16 **under 20 years of age at the time of sentencing and was under 18 years**  
17 **of age at the time of the offense, the sheriff may deliver the defendant**  
18 **directly to the physical custody of the Oregon Youth Authority. The**  
19 **sheriff shall deliver a copy of the entry of judgment and a statement**  
20 **signed by the sheriff of the number of days the defendant was**  
21 **imprisoned before delivery to the Department of Corrections and the**  
22 **Oregon Youth Authority.**

1       “(c) If at the time of entry of a judgment, the defendant was serving a  
2 term of incarceration at the direction of the supervisory authority of a  
3 county upon conviction of a prior felony, the sheriff shall also deliver to the  
4 Department of Corrections, **and the Oregon Youth Authority if the de-**  
5 **fendant is committed to the physical custody of the Oregon Youth**  
6 **Authority under paragraph (b) of this subsection,** a copy of the prior  
7 entry of judgment committing the defendant to the supervisory authority of  
8 the county of conviction and a statement of the number of days the defendant  
9 has remaining to be served on the term or incarceration imposed in the prior  
10 judgment.

11       “(2) If the defendant is surrendered to another legal authority prior to  
12 delivery to an institution of the Department of Corrections **or the Oregon**  
13 **Youth Authority,** the sheriff shall forward to the Department of Cor-  
14 rections, **and the Oregon Youth Authority if the defendant is commit-**  
15 **ted to the physical custody of the Oregon Youth Authority under**  
16 **subsection (1)(b) of this section,** copies of the entry of all pertinent judg-  
17 ments, a statement of the number of days the defendant was imprisoned prior  
18 to surrender, a statement of the number of days the defendant has remaining  
19 to be served on any term of incarceration the defendant was serving at the  
20 direction of the supervisory authority of a county upon conviction of a prior  
21 felony and an identification of the authority to whom the prisoner was sur-  
22 rendered.

23       “(3) Upon receipt of the information described in subsection (1) or (2) of  
24 this section, the Department of Corrections shall establish a case file and  
25 compute the defendant’s sentence in accordance with the provisions of ORS  
26 137.370. **If the defendant is committed to the physical custody of the**  
27 **Oregon Youth Authority under subsection (1)(b) of this section, the**  
28 **Department of Corrections shall communicate the sentence computa-**  
29 **tion to the Oregon Youth Authority.**

30       “(4) When the judgment is imprisonment in the county jail or a fine and

1 that the defendant be imprisoned until it is paid, the judgment shall be exe-  
2 cuted by the sheriff of the county. The sheriff shall compute the time the  
3 defendant was imprisoned after arrest and prior to the commencement of the  
4 term specified in the judgment. Such time shall be credited toward the term  
5 of the sentence.

6 **“SECTION 2.** ORS 137.124 is amended to read:

7 “137.124. (1) If the court imposes a sentence upon conviction of a felony  
8 that includes a term of incarceration that exceeds 12 months:

9 “(a) The court shall not designate the correctional facility in which the  
10 defendant is to be confined but shall commit the defendant to the legal and  
11 physical custody of the Department of Corrections; and

12 “(b) If the judgment provides that the term of incarceration be served  
13 consecutively to a term of incarceration of 12 months or less that was im-  
14 posed in a previous proceeding by a court of this state upon conviction of a  
15 felony, the defendant shall serve any remaining part of the previously im-  
16 posed term of incarceration in the legal and physical custody of the Depart-  
17 ment of Corrections.

18 “(2)(a) If the court imposes a sentence upon conviction of a felony that  
19 includes a term of incarceration that is 12 months or less, the court shall  
20 commit the defendant to the legal and physical custody of the supervisory  
21 authority of the county in which the crime of conviction occurred.

22 “(b) Notwithstanding paragraph (a) of this subsection, when the court  
23 imposes a sentence upon conviction of a felony that includes a term of in-  
24 carceration that is 12 months or less, the court shall commit the defendant  
25 to the legal and physical custody of the Department of Corrections if the  
26 court orders that the term of incarceration be served consecutively to a term  
27 of incarceration that exceeds 12 months that was imposed in a previous  
28 proceeding or in the same proceeding by a court of this state upon conviction  
29 of a felony.

30 “(3) After assuming custody of the convicted person the Department of

1 Corrections may transfer inmates from one correctional facility to another  
2 such facility for the purposes of diagnosis and study, rehabilitation and  
3 treatment, as best seems to fit the needs of the inmate and for the protection  
4 and welfare of the community and the inmate.

5 “(4) If the court imposes a sentence of imprisonment upon conviction of  
6 a misdemeanor, it shall commit the defendant to the custody of the supervi-  
7 sory authority of the county in which the crime of conviction occurred.

8 “(5)(a) When a person under 18 years of age at the time of committing the  
9 offense and under 20 years of age at the time of sentencing is committed to  
10 the Department of Corrections under ORS 137.707, the Department of Cor-  
11 rections shall transfer the physical custody of the person to the Oregon  
12 Youth Authority as provided in ORS 420.011 if:

13 “(A) The person will complete the sentence imposed before the person  
14 attains 25 years of age; or

15 “(B) The Department of Corrections and the Oregon Youth Authority de-  
16 termine that, because of the person’s age, immaturity, mental or emotional  
17 condition or risk of physical harm to the person, the person should not be  
18 incarcerated initially in a Department of Corrections institution.

19 “(b) A person placed in the custody of the Oregon Youth Authority under  
20 this subsection shall be returned to the physical custody of the Department  
21 of Corrections whenever the Director of the Oregon Youth Authority, after  
22 consultation with the Department of Corrections, determines that the condi-  
23 tions or circumstances that warranted the transfer of custody under this  
24 subsection are no longer present.

25 **“(c) The Department of Corrections and the Oregon Youth Author-**  
26 **ity may adopt rules and procedures facilitating the transfer of persons**  
27 **described in paragraph (a) of this subsection from the custody of the**  
28 **sheriff or the supervisory authority of the county directly to the**  
29 **physical custody of the Oregon Youth Authority as provided in ORS**  
30 **137.320 (1).**

1 “(6)(a) When a person under 18 years of age at the time of committing the  
2 offense and under 20 years of age at the time of sentencing is committed to  
3 the legal and physical custody of the Department of Corrections or the su-  
4 pervisory authority of a county following waiver under ORS 419C.349,  
5 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or  
6 (7)(b) or 137.712, the Department of Corrections or the supervisory authority  
7 of a county shall transfer the person to the physical custody of the Oregon  
8 Youth Authority for placement as provided in ORS 420.011 (3). The terms and  
9 conditions of the person’s incarceration and custody are governed by ORS  
10 420A.200 to 420A.206.

11 “(b) When a person under 16 years of age is waived under ORS 419C.349,  
12 419C.352, 419C.364 or 419C.370 and subsequently is sentenced to a term of  
13 imprisonment in the county jail, the sheriff shall transfer the person to a  
14 youth correction facility for physical custody as provided in ORS 420.011 (3).

15 **“(c) The Department of Corrections and the Oregon Youth Author-**  
16 **ity may adopt rules and procedures facilitating the transfer of persons**  
17 **described in paragraph (a) of this subsection from the custody of the**  
18 **sheriff or the supervisory authority of the county directly to the**  
19 **physical custody of the Oregon Youth Authority as provided in ORS**  
20 **137.320 (1).**

21 “(7) If the Director of the Oregon Youth Authority concurs in the deci-  
22 sion, the Department of Corrections or the supervisory authority of a county  
23 shall transfer the physical custody of a person committed to the Department  
24 of Corrections or the supervisory authority of the county under subsection  
25 (1) or (2) of this section to the Oregon Youth Authority as provided in ORS  
26 420.011 (2) if:

27 “(a) The person was at least 18 years of age but under 20 years of age at  
28 the time of committing the felony for which the person is being sentenced  
29 to a term of incarceration;

30 “(b) The person is under 20 years of age at the time of commitment to the

1 Department of Corrections or the supervisory authority of the county;

2 “(c) The person has not been committed previously to the legal and  
3 physical custody of the Department of Corrections or the supervisory au-  
4 thority of a county;

5 “(d) The person has not been convicted and sentenced to a term of in-  
6 carceration for the commission of a felony in any other state;

7 “(e) The person will complete the term of incarceration imposed before  
8 the person attains 25 years of age;

9 “(f) The person is likely in the foreseeable future to benefit from the  
10 rehabilitative and treatment programs administered by the Oregon Youth  
11 Authority;

12 “(g) The person does not pose a substantial danger to Oregon Youth Au-  
13 thority staff or persons in the custody of the Oregon Youth Authority; and

14 “(h) At the time of the proposed transfer, no more than 50 persons are in  
15 the physical custody of the Oregon Youth Authority under this subsection.

16 “(8) Notwithstanding the provisions of subsections (5)(a)(A) or (7) of this  
17 section, the department or the supervisory authority of a county may not  
18 transfer the physical custody of the person under subsection (5)(a)(A) or (7)  
19 of this section if the Director of the Oregon Youth Authority, after consul-  
20 tation with the Department of Corrections or the supervisory authority of a  
21 county, determines that, because of the person’s age, mental or emotional  
22 condition or risk of physical harm to other persons, the person should not  
23 be incarcerated in a youth correction facility.

24 **“SECTION 3. The amendments to ORS 137.124 and 137.320 by**  
25 **sections 1 and 2 of this 2013 Act apply to persons sentenced for a crime**  
26 **on or after the effective date of this 2013 Act.**

27 **“SECTION 4. This 2013 Act being necessary for the immediate**  
28 **preservation of the public peace, health and safety, an emergency is**  
29 **declared to exist, and this 2013 Act takes effect on its passage.”.**

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