

**PROPOSED AMENDMENTS TO
HOUSE BILL 3183**

1 On page 1 of the printed bill, line 3, delete “, 137.320 and 420.011”.

2 Delete lines 5 through 31.

3 Delete pages 2 through 5 and insert:

4 **“SECTION 1.** ORS 137.124 is amended to read:

5 “137.124. (1) If the court imposes a sentence upon conviction of a felony
6 that includes a term of incarceration that exceeds 12 months:

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

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

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

20 “(b) Notwithstanding paragraph (a) of this subsection, when the court
21 imposes a sentence upon conviction of a felony that includes a term of in-
22 carceration that is 12 months or less, the court shall commit the defendant

1 to the legal and physical custody of the Department of Corrections if the
2 court orders that the term of incarceration be served consecutively to a term
3 of incarceration that exceeds 12 months that was imposed in a previous
4 proceeding or in the same proceeding by a court of this state upon conviction
5 of a felony.

6 “(3) After assuming custody of the convicted person the Department of
7 Corrections may transfer inmates from one correctional facility to another
8 such facility for the purposes of diagnosis and study, rehabilitation and
9 treatment, as best seems to fit the needs of the inmate and for the protection
10 and welfare of the community and the inmate.

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

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

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

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

25 “(b) A person placed in the custody of the Oregon Youth Authority under
26 this subsection shall be returned to the physical custody of the Department
27 of Corrections whenever the Director of the Oregon Youth Authority, after
28 consultation with the Department of Corrections, determines that the condi-
29 tions or circumstances that warranted the transfer of custody under this
30 subsection are no longer present.

1 “(c) **Notwithstanding ORS 137.320, the sheriff may by agreement**
2 **with the Department of Corrections or the supervisory authority of a**
3 **county transfer the person described in this subsection directly to a**
4 **youth correction facility for physical custody without first delivering**
5 **the person to the Department of Corrections.**

6 “(6)(a) When a person under 18 years of age at the time of committing the
7 offense and under 20 years of age at the time of sentencing is committed to
8 the legal and physical custody of the Department of Corrections or the su-
9 pervisory authority of a county following waiver under ORS 419C.349,
10 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or
11 (7)(b) or 137.712, the Department of Corrections or the supervisory authority
12 of a county shall transfer the person to the physical custody of the Oregon
13 Youth Authority for placement as provided in ORS 420.011 (3). The terms and
14 conditions of the person’s incarceration and custody are governed by ORS
15 420A.200 to 420A.206. **Notwithstanding ORS 137.320, the sheriff may by**
16 **agreement with the Department of Corrections or the supervisory au-**
17 **thority of a county transfer the person described in this subsection**
18 **directly to a youth correction facility for physical custody without first**
19 **delivering the person to the Department of Corrections.**

20 “(b) **Notwithstanding ORS 137.320,** when a person under 16 years of age
21 is waived under ORS 419C.349, 419C.352, 419C.364 or 419C.370 and subse-
22 quently is sentenced to a term of imprisonment in the county jail, the sheriff
23 shall transfer the person to a youth correction facility for physical custody
24 as provided in ORS 420.011 (3).

25 “(7) If the Director of the Oregon Youth Authority concurs in the deci-
26 sion, the Department of Corrections or the supervisory authority of a county
27 shall transfer the physical custody of a person committed to the Department
28 of Corrections or the supervisory authority of the county under subsection
29 (1) or (2) of this section to the Oregon Youth Authority as provided in ORS
30 420.011 (2) if:

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

4 “(b) The person is under 20 years of age at the time of commitment to the
5 Department of Corrections or the supervisory authority of the county;

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

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

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

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

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

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

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

28 **“SECTION 2. The amendments to ORS 137.124 by section 1 of this**
29 **2013 Act apply to persons sentenced for a crime in a proceeding oc-**
30 **curring on or after the effective date of this 2013 Act.**

1 **SECTION 3. This 2013 Act being necessary for the immediate**
2 **preservation of the public peace, health and safety, an emergency is**
3 **declared to exist, and this 2013 Act takes effect on its passage.”.**

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