

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 82**

1 In line 2 of the printed A-engrossed bill, after “ORS” insert “137.370,
2 137.372, 421.508 and”.

3 After line 3, insert:

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5

“POSSESSION OF MARIJUANA”.

6

7 After line 16, insert:

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9

“CREDIT FOR PRECOMMITMENT TIME SERVED

10

11 **“SECTION 3.** ORS 137.370 is amended to read:

12 “137.370. *[(1) When a person is sentenced to imprisonment in the custody*
13 *of the Department of Corrections, the term of confinement therein commences*
14 *from the day the person is delivered to the custody of an officer of the De-*
15 *partment of Corrections for the purpose of serving the sentence executed, re-*
16 *gardless of whether the sentence is to be served in a state or federal*
17 *institution.]*

18 “[*(2) Except as provided in subsections (3) and (4) of this section, when a*
19 *person is sentenced to imprisonment in the custody of the Department of Cor-*
20 *rections, for the purpose of computing the amount of sentence served the term*
21 *of confinement includes only:]*

22 “[*(a) The time that the person is confined by any authority after the arrest*

1 *for the crime for which sentence is imposed; and]*

2 *“(b) The time that the person is authorized by the Department of Cor-*
3 *rections to spend outside a confinement facility, in a program conducted by or*
4 *for the Department of Corrections.]*

5 *“(3) When a judgment of conviction is vacated and a new sentence is*
6 *thereafter imposed upon the defendant for the same crime, the period of de-*
7 *tention and imprisonment theretofore served shall be deducted from the maxi-*
8 *imum term, and from the minimum, if any, of the new sentence.]*

9 *“(4) A person who is confined as the result of a sentence for a crime or*
10 *conduct that is not directly related to the crime for which the sentence is im-*
11 *posed, or for violation of the conditions of probation, parole or post-prison*
12 *supervision, shall not receive presentence incarceration credit for the time*
13 *served in jail toward service of the term of confinement.]*

14 *“(5) Unless the court expressly orders otherwise, a term of imprisonment*
15 *shall be concurrent with that portion of any sentence previously imposed that*
16 *remains unexpired at the time the court imposes sentence. This subsection ap-*
17 *plies regardless of whether the earlier sentence was imposed by the same or*
18 *any other court, and regardless of whether the earlier sentence is being or is*
19 *to be served in the same penal institution or under the same correctional au-*
20 *thority as will be the later sentence.]*

21 **“(1) For the purpose of determining when a person has completed**
22 **a term of imprisonment in the custody of the Department of Cor-**
23 **rections, the person begins serving the term on the day the person is**
24 **delivered to the custody of an officer of the department, regardless of**
25 **whether the term is to be served in a state or federal corrections fa-**
26 **cility.**

27 **“(2) For the purpose of determining when a person has completed**
28 **a term of imprisonment in the custody of the Department of Cor-**
29 **rections, the time that the person spends outside of a corrections fa-**
30 **cility in a program conducted by the department or for the department**

1 constitutes time served by the person.

2 “(3) If a person is convicted of a crime and a term of imprisonment
3 is imposed, the Department of Corrections shall give credit for pre-
4 commitment time served against the term for periods of time that the
5 person is confined in a corrections facility before the person is com-
6 mitted to an officer of the department if the term of imprisonment is
7 imposed for the conduct for which the person was arrested, or for pe-
8 riods of time:

9 “(a) That the person served by reason of conduct other than the
10 conduct for which the person was arrested;

11 “(b) That the person served within one year before the person was
12 committed to the officer of the department; and

13 “(c) For which the person did not receive credit against any other
14 term of imprisonment.

15 “(4) For the purposes of subsection (3) of this section, a term of
16 imprisonment is considered to have been imposed for conduct for
17 which a person was arrested if:

18 “(a) The term of imprisonment is for a crime that the person was
19 charged with by reason of the conduct, or a lesser included offense of
20 the crime that the person was charged with by reason of the conduct;
21 or

22 “(b) The court indicates in the judgment of conviction that the term
23 of imprisonment is imposed for the conduct.

24 “(5)(a) Except as provided in paragraph (b) of this subsection, credit
25 for precommitment time served may be applied against only one term
26 of imprisonment.

27 “(b) If a person is sentenced to serve concurrent terms of
28 imprisonment for two or more criminal convictions, and credit for
29 precommitment time served is applicable to any of the terms of
30 imprisonment under subsection (3) of this section, the Department of

1 **Corrections shall give credit for precommitment time served against**
2 **all the concurrent terms of imprisonment.**

3 **“(6) If a judgment of conviction is vacated and a new term of**
4 **imprisonment is imposed on the defendant for the same conduct for**
5 **which the vacated judgment was entered, the time served by the de-**
6 **fendant on the previous sentence, and any credit for precommitment**
7 **time served that is authorized under subsection (3) of this section,**
8 **shall be deducted from the maximum term, and from any minimum**
9 **term, of the new sentence.**

10 **“(7) Unless the court expressly orders otherwise, a term of**
11 **imprisonment is concurrent with any portion of a term of**
12 **imprisonment that was previously imposed under a different judgment**
13 **of conviction and that has not been served when the court imposes the**
14 **new sentence, without regard to:**

15 **“(a) Whether the previous sentence was imposed by a different**
16 **court; or**

17 **“(b) Whether the previous term of imprisonment was served in a**
18 **different corrections facility.**

19 **“(8) As used in this section:**

20 **“(a) ‘Corrections facility’ means a state or federal prison, a jail or**
21 **any other place used for the confinement of persons charged with or**
22 **convicted of a crime; and**

23 **“(b) ‘Precommitment time served’ means periods of time during**
24 **which a person is confined in a corrections facility before the person**
25 **is delivered to the custody of an officer of the Department of Cor-**
26 **rections for purposes of serving a term of imprisonment imposed un-**
27 **der a judgment of conviction.**

28 **“SECTION 4. ORS 137.372 is amended to read:**

29 **“137.372. (1) Notwithstanding [the provisions of] ORS 137.370 [(2)(a)] (3),**
30 **an offender who has been revoked from a probationary sentence for a felony**

1 committed on or after November 1, 1989, shall receive credit for the time
2 served in jail after arrest and before commencement of the probationary
3 sentence or for the time served in jail as part of the probationary sentence
4 unless the sentencing judge orders otherwise.

5 “(2) Notwithstanding the provisions of ORS 137.320 (4), an offender who
6 has been ordered confined as part of a probationary sentence for a felony
7 committed on or after July 18, 1995, shall receive credit for the time served
8 in jail after arrest and before commencement of the term unless the sen-
9 tencing judge orders otherwise.

10 **“SECTION 5.** ORS 421.508 is amended to read:

11 “421.508. (1)(a) The Department of Corrections is responsible for deter-
12 mining which offenders are eligible to participate in, and which offenders
13 are accepted for, a program. However, the department may not release an
14 offender under subsection (4) of this section unless authorized to do so as
15 provided in ORS 137.751.

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

19 “(A) Is physically and mentally able to withstand the rigors of the pro-
20 gram; and

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

23 “(c) The department may deny, for any reason, a request to participate in
24 a program. The department shall make the final determination regarding an
25 offender’s physical or mental ability to withstand the rigors of the program.

26 “(d) If the department determines that an offender’s participation in a
27 program is consistent with the safety of the community, the welfare of the
28 applicant, the program objectives and the rules of the department, the de-
29 partment may, in its discretion, accept the offender into the program.

30 “(2) The department may suspend or remove an offender from a program

1 for administrative or disciplinary reasons.

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

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

5 “(b) The offender has a current detainer from any jurisdiction that will
6 not expire prior to the offender’s release from the custody of the department.

7 “(4) When an offender has successfully completed a program, the depart-
8 ment may release the offender on post-prison supervision if:

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

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

11 “(5) An offender may not be released on post-prison supervision under
12 subsection (4) of this section if the release would reduce the term of incar-
13 ceration the offender would otherwise be required to serve by more than 20
14 percent.

15 “(6) For the purposes of calculating the term of incarceration served un-
16 der subsection (4)(b) of this section, the department shall include:

17 “(a) [*The time that an offender is confined under ORS 137.370 (2)(a)*] **Any**
18 **period of precommitment time served for which the offender is cred-**
19 **ited under ORS 137.370; and**

20 “(b) The time for which an offender is granted nonprison leave under ORS
21 421.510.

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

25 **“SECTION 6. The amendments to ORS 137.370, 137.372 and 421.508**
26 **by sections 3, 4 and 5 of this 2013 Act apply to crimes committed on**
27 **or after the effective date of this 2013 Act.**

28 **“SECTION 7. The unit captions used in this 2013 Act are provided**
29 **only for the convenience of the reader and do not become part of the**
30 **statutory law of this state or express any legislative intent in the**

1 **enactment of this 2013 Act.”.**

2 In line 18, delete “3” and insert “8”.

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