

A-Engrossed
House Bill 2310

Ordered by the House April 28
Including House Amendments dated April 28

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.

Allows Department of Corrections inmates to receive credit for time served for presentence incarceration after arrest for certain crimes related to sentencing crime. Authorizes sentencing judge, **with agreement of parties**, to allow presentence incarceration credit for time served in jail when inmate is also in custody for other sentence. Applies to sentencing proceedings occurring on or after effective date of Act.

Provides that inmate shall receive credit for time served in jail before sentence, and time served as part of probation sentence, if probation imposed as downward dispositional departure is revoked. **Authorizes judge to limit or deny credit for time served over 90 days.** Applies to revocation proceedings occurring on or after effective date of Act.

[Provides that inmate shall receive credit for time served in jail before sentence, and time served as part of conditional discharge probation, if probation is revoked.]

Allows inmate to receive credit for time served in jail before entering diversion program or specialty court program, and time served for violating conditions of program, if inmate is terminated from program, unless judge orders otherwise.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to credit for time served in custody; creating new provisions; amending ORS 137.370 and
3 137.372; and declaring 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) of this section, when a person is sentenced to
11 imprisonment in the custody of the Department of Corrections, for the purpose of computing the
12 amount of sentence served the term of confinement includes only:

13 (a) The time that the person is confined by any authority after the arrest for:

14 (A) The crime for which sentence is imposed;

15 (B) **A lesser included or greater inclusive offense of the crime for which sentence was**
16 **imposed; and**

17 (C) **Any other crime constituting a violation of Oregon law within the same county des-**
18 **ignated by the sentencing court in the judgment as having been committed as part of the**
19 **same criminal episode as the crime for which sentence was imposed; and**

20 (b) The time that the person is authorized by the Department of Corrections to spend outside

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 a confinement facility, in a program conducted by or for the Department of Corrections.

2 (3) When a judgment of conviction is vacated and a new sentence is thereafter imposed upon the
3 defendant for the same crime, **a lesser included or greater inclusive offense of the crime, or**
4 **any crime constituting a violation of Oregon law within the same county designated by the**
5 **sentencing court in the judgment as having been committed as part of the same criminal**
6 **episode as the crime**, the period of detention and imprisonment theretofore served shall be de-
7 ducted from the maximum term, and from the minimum, if any, of the new sentence.

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

12 **(4)(a) Unless the court expressly orders otherwise, a person may not receive presentence**
13 **incarceration credit for the time served in jail toward service of the term of confinement if**
14 **the person is confined as a result of a sentence for:**

15 **(A) A crime that is not directly related to the crime for which the current sentence is**
16 **imposed; or**

17 **(B) Violation of the conditions of probation, parole or post-prison supervision for a crime**
18 **that is not directly related to the crime for which the current sentence is imposed.**

19 **(b) A court may enter an order pursuant to paragraph (a) of this subsection only if the**
20 **prosecuting attorney and the defendant agree to the order.**

21 (5) Unless the court expressly orders otherwise, a term of imprisonment shall be concurrent with
22 that portion of any sentence previously imposed that remains unexpired at the time the court im-
23 poses sentence. This subsection applies regardless of whether the earlier sentence was imposed by
24 the same or any other court, and regardless of whether the earlier sentence is being or is to be
25 served in the same penal institution or under the same correctional authority as will be the later
26 sentence.

27 **(6) As used in this section, “criminal episode” has the meaning given that term in ORS**
28 **131.505.**

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

30 137.372. *[(1) Notwithstanding the provisions of ORS 137.370 (2)(a), an offender who has been re-*
31 *voked from a probationary sentence for a felony committed on or after November 1, 1989, shall receive*
32 *credit for the time served in jail after arrest and before commencement of the probationary sentence or*
33 *for the time served in jail as part of the probationary sentence unless the sentencing judge orders oth-*
34 *erwise.]*

35 **(1)(a) Notwithstanding the provisions of ORS 137.370 (2), an offender who has been re-**
36 **voked from a probationary sentence for a felony committed on or after November 1, 1989,**
37 **and whose sentence was imposed as a downward dispositional departure under the rules of**
38 **the Oregon Criminal Justice Commission, shall receive credit for the time served in jail after**
39 **arrest and before commencement of the probationary sentence and for the time served in jail**
40 **as part of the probationary sentence. However, if the credit for the time served in jail as**
41 **described in this paragraph is greater than 90 days, the sentencing judge may limit or deny**
42 **credit for any of that time that exceeds 90 days.**

43 **(b) Notwithstanding the provisions of ORS 137.370 (2), an offender who has been revoked**
44 **from a probationary sentence for a felony committed on or after November 1, 1989, and**
45 **whose sentence was imposed as a presumptive probationary sentence under the rules of the**

1 **Oregon Criminal Justice Commission, shall receive credit for the time served in jail after**
2 **arrest and before commencement of the probationary sentence and for the time served in jail**
3 **as part of the probationary sentence, unless the sentencing judge orders otherwise.**

4 **(2) Notwithstanding the provisions of ORS 137.370 (2), an offender who is sentenced to**
5 **imprisonment in the custody of the Department of Corrections following the failure to com-**
6 **plete a diversion program described in ORS 430.450 to 430.555 or a specialty court program**
7 **in which the offender was not on probation shall receive credit for the time served in jail**
8 **after arrest and before commencement of the program and for the time served in jail as a**
9 **sanction for violating the terms of the program, unless the sentencing judge orders other-**
10 **wise.**

11 **[(2)] (3) Notwithstanding the provisions of ORS 137.320 (4), an offender who has been ordered**
12 **confined as part of a probationary sentence for a felony committed on or after July 18, 1995, shall**
13 **receive credit for the time served in jail after arrest and before commencement of the term unless**
14 **the sentencing judge orders otherwise.**

15 **(4) As used in this section, “specialty court” has the meaning given that term in ORS**
16 **137.680.**

17 **SECTION 3. (1) The amendments to ORS 137.370 by section 1 of this 2015 Act apply to**
18 **sentencing proceedings occurring on or after the effective date of this 2015 Act.**

19 **(2) The amendments to ORS 137.372 by section 2 of this 2015 Act apply to probation vio-**
20 **lation proceedings occurring on or after the effective date of this 2015 Act.**

21 **SECTION 4. This 2015 Act being necessary for the immediate preservation of the public**
22 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
23 **on its passage.**