

Enrolled
House Bill 2310

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

CHAPTER

AN ACT

Relating to credit for time served in custody; creating new provisions; amending ORS 137.370 and 137.372; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 137.370 is amended to read:

137.370. (1) When a person is sentenced to imprisonment in the custody of the Department of Corrections, the term of confinement therein commences from the day the person is delivered to the custody of an officer of the Department of Corrections for the purpose of serving the sentence executed, regardless of whether the sentence is to be served in a state or federal institution.

(2) Except as provided in subsections (3) and (4) of this section, when a person is sentenced to imprisonment in the custody of the Department of Corrections, for the purpose of computing the amount of sentence served the term of confinement includes only:

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

(A) The crime for which sentence is imposed;

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

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

(b) The time that the person is authorized by the Department of Corrections to spend outside a confinement facility, in a program conducted by or for the Department of Corrections.

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

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

(4) Unless the court expressly orders otherwise and the prosecuting attorney agrees, a person who is confined as the result of a sentence for a crime or conduct that is not directly related to the crime for which the sentence is imposed, or for violation of the conditions of

probation, parole or post-prison supervision, shall not receive presentence incarceration credit for the time served in jail toward service of the term of confinement.

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

(6) As used in this section, "criminal episode" has the meaning given that term in ORS 131.505.

SECTION 2. ORS 137.372 is amended to read:

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

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

(b) Notwithstanding the provisions of ORS 137.370 (2), an offender who has been revoked from a probationary sentence for a felony committed on or after November 1, 1989, and whose sentence was imposed as a presumptive probationary sentence under the rules of the Oregon Criminal Justice Commission, shall receive credit for the time served in jail after arrest and before commencement of the probationary sentence and for the time served in jail as part of the probationary sentence, unless the sentencing judge orders otherwise.

(2) Notwithstanding the provisions of ORS 137.370 (2), an offender who is sentenced to imprisonment in the custody of the Department of Corrections following the failure to complete a diversion program described in ORS 430.450 to 430.555 or a specialty court program in which the offender was not on probation shall receive credit for the time served in jail after arrest and before commencement of the program and for the time served in jail as a sanction for violating the terms of the program, unless the sentencing judge orders otherwise.

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

(4) As used in this section, "specialty court" has the meaning given that term in ORS 137.680.

SECTION 3. (1) The amendments to ORS 137.370 by section 1 of this 2015 Act apply to sentencing proceedings occurring on or after August 1, 2015.

(2) The amendments to ORS 137.372 by section 2 of this 2015 Act apply to probation violation proceedings occurring on or after August 1, 2015.

SECTION 4. ORS 137.370, as amended by section 1 of this 2015 Act, is amended to read:

137.370. (1) When a person is sentenced to imprisonment in the custody of the Department of Corrections, the term of confinement therein commences from the day the person is delivered to the custody of an officer of the Department of Corrections for the purpose of serving the sentence executed, regardless of whether the sentence is to be served in a state or federal institution.

(2) Except as provided in subsections (3) and (4) of this section, when a person is sentenced to imprisonment in the custody of the Department of Corrections, for the purpose of computing the amount of sentence served the term of confinement includes only:

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

(A) The crime for which sentence is imposed;

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

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

(b) The time that the person is authorized by the Department of Corrections to spend outside a confinement facility, in a program conducted by or for the Department of Corrections.

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

(4) Unless the court expressly orders otherwise [*and the prosecuting attorney agrees*], a person who is confined as the result of a sentence for a crime or conduct that is not directly related to the crime for which the sentence is imposed, or for violation of the conditions of probation, parole or post-prison supervision, shall not receive presentence incarceration credit for the time served in jail toward service of the term of confinement.

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

(6) As used in this section, "criminal episode" has the meaning given that term in ORS 131.505.

SECTION 5. The amendments to ORS 137.370 by section 4 of this 2015 Act become operative on July 1, 2017.

SECTION 6. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House May 5, 2015

Repassed by House June 11, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 9, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State