

D R A F T

SUMMARY

Prescribes sentence of 58 to 130 months' imprisonment if person convicted of unlawful delivery of controlled substance that results in death of another person from use of controlled substance. Punishes by maximum of 20 years' imprisonment, \$375,000 fine, or both. Requires court to grant downward departure to probation sentence when certain findings are made. Authorizes court to grant downward departure to probation sentence when other certain findings are made.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to controlled substances; creating new provisions; amending ORS
3 475.935; and declaring an emergency.

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

5 **SECTION 1. Section 3 of this 2020 Act shall be known and may be**
6 **cited as Taylor's Law.**

7 **SECTION 2. Section 3 of this 2020 Act is added to and made a part**
8 **of ORS 475.752 to 475.980.**

9 **SECTION 3. (1)(a) Notwithstanding ORS 475.752 to 475.980, unlawful**
10 **delivery of a controlled substance that results in the death of another**
11 **person from the use of the controlled substance is a Class A felony.**

12 **(b) Each person who unlawfully delivers a controlled substance that**
13 **results in the death of another person from the use of the controlled**
14 **substance is criminally liable under this subsection, regardless of**
15 **whether the deceased person received the controlled substance directly**
16 **from the person.**

17 **(c) An unlawful delivery of a controlled substance is considered to**

1 result in the death of another person from the use of the controlled
2 substance if the use of the controlled substance was a factor in caus-
3 ing the death of the other person.

4 (2)(a) When a person is convicted of the unlawful delivery of a
5 controlled substance, and the unlawful delivery resulted in the death
6 of another person from the use of the controlled substance, the court
7 shall sentence the person to a term of incarceration ranging from 58
8 months to 130 months, depending on the person's criminal history.

9 (b) When the court sentences a person under this section, the court
10 shall use crime category 10 of the sentencing guidelines grid of the
11 Oregon Criminal Justice Commission, and shall determine the sen-
12 tence by using the criminal history scale of the sentencing guidelines
13 grid.

14 (c) In determining the criminal history for a person to be sentenced
15 under this section, a prior conviction for unlawful delivery of a con-
16 trolled substance is a person felony, as that term is defined in the
17 rules of the commission.

18 (d) Notwithstanding ORS 161.605, the court shall impose the sen-
19 tence described in this subsection, and may not grant a downward
20 dispositional departure or a downward durational departure under the
21 rules of the commission, except as provided in subsection (3) of this
22 section.

23 (e) Notwithstanding paragraph (d) of this subsection, the court may
24 impose a sentence other than the sentence described in this subsection
25 if the court imposes a longer term of incarceration that is otherwise
26 required or authorized by law.

27 (f) A person sentenced under this subsection may not receive a re-
28 duction in the term of incarceration for appropriate institutional be-
29 havior that exceeds 20 percent of the sentence imposed. The person is
30 not eligible for transitional leave under ORS 421.168 or any other re-
31 duction in the term of imprisonment.

1 **(3)(a) The court shall grant a downward dispositional departure**
2 **under the rules of the commission, and impose as a sentence a term**
3 **of supervised probation, if the court finds by clear and convincing ev-**
4 **idence that:**

5 **(A) The other person whose death resulted from the use of the**
6 **controlled substance was a family or household member or friend of**
7 **the person, and on at least one occasion prior to the use that resulted**
8 **in the death of the other person, used a controlled substance with the**
9 **person;**

10 **(B) There was no consideration;**

11 **(C) The person made good faith efforts to assist the state in iden-**
12 **tifying individuals from whom the person obtained the controlled**
13 **substance; and**

14 **(D) The person has been diagnosed with a substance abuse disorder**
15 **by a court-approved assessor.**

16 **(b) The court may grant a downward dispositional departure under**
17 **the rules of the commission, and impose as a sentence a term of**
18 **supervised probation, if the court finds by clear and convincing evi-**
19 **dence that:**

20 **(A) The primary motivation of the delivery of the controlled sub-**
21 **stance was to support the person's use of the controlled substance;**

22 **(B) The person made good faith efforts to assist the state in iden-**
23 **tifying individuals from whom the person obtained the controlled**
24 **substance;**

25 **(C) The person has been diagnosed with a substance abuse disorder**
26 **by a court-approved assessor; and**

27 **(D) At the time of sentencing, the person has no prior convictions**
28 **for delivery of a controlled substance or for a person felony, as that**
29 **term is defined in the rules of the commission.**

30 **(c) A person who assists the state under this subsection in identi-**
31 **fying individuals from whom the person obtained the controlled sub-**

1 **stance may not be charged with additional offenses concerning any**
2 **matter about which the person provides information.**

3 **(d) A person sentenced to probation under this subsection shall, in**
4 **order to successfully complete the probationary sentence, complete a**
5 **treatment program at the assessed level of care recommended by a**
6 **treatment provider approved by the court.**

7 **(e) If the court revokes the probation of a person sentenced under**
8 **this subsection, the court shall impose the term of incarceration in-**
9 **dicated by the person's criminal history as described in subsection (2)**
10 **of this section. The person may not receive a reduction in the term**
11 **of incarceration for appropriate institutional behavior that exceeds 20**
12 **percent of the sentence imposed. The person is not eligible for transi-**
13 **tional leave under ORS 421.168 or any other reduction in the term of**
14 **imprisonment.**

15 **(4) As used in this section:**

16 **(a) "Controlled substance" has the meaning given that term in ORS**
17 **475.924.**

18 **(b) "Family or household member" has the meaning given that term**
19 **in ORS 135.230.**

20 **SECTION 4. ORS 475.935 is amended to read:**

21 475.935. (1) Except as provided in ORS 475.900, 475.907 or 475.925 **or sec-**
22 **tion 3 of this 2020 Act**, when the court sentences a person convicted of de-
23 livery of methamphetamine under ORS 475.890 or 475.892, the presumptive
24 sentence is 19 months of incarceration, unless the rules of the Oregon
25 Criminal Justice Commission prescribe a longer presumptive sentence, if the
26 person has two or more previous convictions for any combination of the
27 following crimes:

28 **(a) Delivery or manufacture of methamphetamine under ORS 475.752,**
29 **475.886 or 475.890;**

30 **(b) Delivery or manufacture of methamphetamine within 1,000 feet of a**
31 **school under ORS 475.888, 475.892 or 475.904; or**

1 (c) Possession of a precursor substance with intent to manufacture a
2 controlled substance under ORS 475.967.

3 (2) The court may impose a sentence other than the sentence provided by
4 subsection (1) of this section if the court imposes:

5 (a) A longer term of incarceration that is otherwise required or author-
6 ized by law; or

7 (b) An upward durational departure sentence that is authorized by law
8 or the rules of the Oregon Criminal Justice Commission based upon findings
9 of substantial and compelling reasons. Unless otherwise authorized by law
10 or rule of the Oregon Criminal Justice Commission, the maximum departure
11 allowed for a person sentenced under this subsection is double the
12 presumptive sentence provided in subsection (1) of this section.

13 (3) As used in this section, "previous conviction" means:

14 (a) Convictions occurring before, on or after August 16, 2005; and

15 (b) Convictions entered in any other state or federal court for comparable
16 offenses.

17 (4)(a) For a crime committed on or after November 1, 1989, a conviction
18 is considered to have occurred upon the pronouncement of sentence in open
19 court. However, when sentences are imposed for two or more convictions
20 arising out of the same conduct or criminal episode, none of the convictions
21 is considered to have occurred prior to any of the other convictions arising
22 out of the same conduct or criminal episode.

23 (b) For a crime committed prior to November 1, 1989, a conviction is
24 considered to have occurred upon the pronouncement in open court of a
25 sentence or upon the pronouncement in open court of the suspended imposi-
26 tion of a sentence.

27 (5) For purposes of this section, previous convictions must be proven
28 pursuant to ORS 137.079.

29 **SECTION 5. This 2020 Act being necessary for the immediate pres-**
30 **ervation of the public peace, health and safety, an emergency is de-**
31 **clared to exist, and this 2020 Act takes effect on its passage.**

