

House Bill 2283

Sponsored by Representatives BARKER, PILUSO; Representatives GORSEK, GREENLICK, Senators DEMBROW, GELSER (Pre-session filed.)

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 **as introduced**.

Provides that county, for purposes of grant-in-aid funding from Department of Corrections for community corrections, is responsible for supervision, sanctions and services for offenders convicted of certain domestic violence misdemeanors.

A BILL FOR AN ACT

1
2 Relating to community corrections funding; amending ORS 423.478 and 423.525.

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

4 **SECTION 1.** ORS 423.478 is amended to read:

5 423.478. (1) The Department of Corrections shall:

6 (a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

7 (b) Provide central information and data services sufficient to:

8 (A) Allow tracking of offenders; and

9 (B) Permit analysis of correlations between sanctions, supervision, services and programs, and
10 future criminal conduct; and

11 (c) Provide interstate compact administration and jail inspections.

12 (2) Subject to ORS 423.483, *[the]* **each** county, in partnership with the department, shall assume
13 responsibility for community-based supervision, sanctions and services for offenders convicted of
14 felonies, *[or]* designated drug-related misdemeanors **or designated domestic violence**
15 **misdemeanors** who are:

16 (a) On parole;

17 (b) On probation;

18 (c) On post-prison supervision;

19 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

20 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-
21 Prison Supervision to 12 months or less incarceration for violation of a condition of parole, pro-
22 bation or post-prison supervision; or

23 (f) On conditional release under ORS 420A.206.

24 (3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration,
25 when an offender is committed to the custody of the supervisory authority of a county under ORS
26 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other
27 than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority
28 releases a person from custody under this subsection and the person is required to report as a sex
29 offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the
30 person to report to the Department of State Police, a city police department or a county sheriff's

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 office or to the supervising agency, if any:

2 (a) When the person is released;

3 (b) Within 10 days of a change of residence;

4 (c) Once each year within 10 days of the person's birth date;

5 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
6 institution of higher education; and

7 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
8 education.

9 (4) As used in this section:

10 (a) "Attends," "institution of higher education," "works" and "carries on a vocation" have the
11 meanings given those terms in ORS 163A.005.

12 **(b) "Designated domestic violence misdemeanor" means the following offenses constitut-**
13 **ing domestic violence as defined in ORS 135.230:**

14 **(A) Assault in the fourth degree under ORS 163.160 (2);**

15 **(B) Menacing under ORS 163.190; or**

16 **(C) Harassment under ORS 166.065 (4).**

17 [(b)] **(c) "Designated drug-related misdemeanor" means:**

18 (A) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (3)(a);

19 (B) Unlawful possession of a Schedule II controlled substance under ORS 475.752 (3)(b);

20 (C) Unlawful possession of methadone under ORS 475.824 (2)(a);

21 (D) Unlawful possession of oxycodone under ORS 475.834 (2)(a);

22 (E) Unlawful possession of heroin under ORS 475.854 (2)(a);

23 (F) Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(a);

24 (G) Unlawful possession of cocaine under ORS 475.884 (2)(a); or

25 (H) Unlawful possession of methamphetamine under ORS 475.894 (2)(a).

26 **SECTION 2.** ORS 423.525 is amended to read:

27 423.525. (1) A county, group of counties or intergovernmental corrections entity shall apply to
28 the Director of the Department of Corrections in a manner and form prescribed by the director for
29 funding made available under ORS 423.500 to 423.560. The application shall include a community
30 corrections plan. The Department of Corrections shall provide consultation and technical assistance
31 to counties to aid in the development and implementation of community corrections plans.

32 (2)(a) From July 1, 1995, until June 30, 1999, a county, group of counties or intergovernmental
33 corrections entity may make application requesting funding for the construction, acquisition, ex-
34 pansion or remodeling of correctional facilities to serve the county, group of counties or intergov-
35 ernmental corrections entity. The department shall review the application for funding of
36 correctional facilities in accordance with criteria that consider design, cost, capacity, need, operat-
37 ing efficiency and viability based on the county's, group of counties' or intergovernmental cor-
38 rections entity's ability to provide for ongoing operations.

39 (b)(A) If the application is approved, the department shall present the application with a request
40 to finance the facility with financing agreements to the State Treasurer and the Director of the
41 Oregon Department of Administrative Services. Except as otherwise provided in subparagraph (B)
42 of this paragraph, upon approval of the request by the State Treasurer and the Director of the
43 Oregon Department of Administrative Services, the facility may be financed with financing agree-
44 ments, and certificates of participation issued pursuant thereto, as provided in ORS 283.085 to
45 283.092. All decisions approving or denying applications and requests for financing under this sec-

1 tion are final. No such decision is subject to judicial review of any kind.

2 (B) If requests to finance county correctional facility projects are submitted after February 22,
 3 1996, and the requests have not been approved by the department on the date a session of the
 4 Legislative Assembly convenes, the requests are also subject to the approval of the Legislative As-
 5 sembly.

6 (c) After approval but prior to the solicitation of bids or proposals for the construction of a
 7 project, the county, group of counties or intergovernmental corrections entity and the department
 8 shall enter into a written agreement that determines the procedures, and the parties responsible, for
 9 the awarding of contracts and the administration of the construction project for the approved
 10 correctional facility. If the parties are unable to agree on the terms of the written agreement, the
 11 Governor shall decide the terms of the agreement. The Governor’s decision is final.

12 (d) After approval of a construction project, the administration of the project shall be conducted
 13 as provided in the agreement required by paragraph (c) of this subsection. The agreement must re-
 14 quire at a minimum that the county, group of counties or intergovernmental corrections entity shall
 15 submit to the department any change order or alteration of the design of the project that, singly or
 16 in the aggregate, reduces the capacity of the correctional facility or materially changes the services
 17 or functions of the project. The change order or alteration is not effective until approved by the
 18 department. In reviewing the change order or alteration, the department shall consider whether the
 19 implementation of the change order or alteration will have any material adverse impact on the
 20 parties to any financing agreements or the holders of any certificates of participation issued to fund
 21 county correctional facilities under this section. In making its decision, the department may rely on
 22 the opinions of the Department of Justice, bond counsel or professional financial advisers.

23 (3) Notwithstanding ORS 283.085, for purposes of this section, “financing agreement” means a
 24 lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement
 25 to finance a correctional facility described in this section, or to refinance a previously executed fi-
 26 nancing agreement for the financing of a correctional facility. The state is not required to own or
 27 operate a correctional facility in order to finance it under ORS 283.085 to 283.092 and this section.
 28 The state, an intergovernmental corrections entity, county or group of counties may enter into any
 29 agreements, including, but not limited to, leases and subleases, that are reasonably necessary or
 30 generally accepted by the financial community for purposes of acquiring or securing financing as
 31 authorized by this section. In financing county correctional facilities under this section, “property
 32 rights” as used in ORS 283.085 includes leasehold mortgages of the state’s rights under leases of
 33 correctional facilities from counties.

34 (4) Notwithstanding any other provision of state law, county charter or ordinance, a county may
 35 convey or lease to the State of Oregon, acting by and through the Department of Corrections, title
 36 to interests in, or a lease of, any real property, facilities or personal property owned by the county
 37 for the purpose of financing the construction, acquisition, expansion or remodeling of a correctional
 38 facility. Upon the payment of all principal and interest on, or upon any other satisfaction of, the
 39 financing agreement used to finance the construction, acquisition, expansion or remodeling of a
 40 correctional facility, the state shall reconvey its interest in, or terminate and surrender its leasehold
 41 of, the property or facilities, including the financed construction, acquisition, expansion or remod-
 42 eling, to the county. In addition to any authority granted by ORS 283.089, for the purposes of ob-
 43 taining financing, the state may enter into agreements under which the state may grant to trustees
 44 or lenders leases, subleases and other security interests in county property conveyed or leased to
 45 the state under this subsection and in the property or facilities financed by financing agreements.

1 (5) In connection with the financing of correctional facilities, the Director of the Oregon De-
2 partment of Administrative Services may bill the Department of Corrections, and the Department
3 of Corrections shall pay the amounts billed, in the same manner as provided in ORS 283.089. As
4 required by ORS 283.091, the Department of Corrections and the Oregon Department of Adminis-
5 trative Services shall include in the Governor's budget all amounts that will be due in each fiscal
6 period under financing agreements for correctional facilities. Amounts payable by the state under
7 a financing agreement for the construction, acquisition, expansion or remodeling of a correctional
8 facility are limited to available funds as defined in ORS 283.085, and no lender, trustee, certificate
9 holder or county has any claim or recourse against any funds of the state other than available funds.

10 (6) The director shall adopt rules that may be necessary for the administration, evaluation and
11 implementation of ORS 423.500 to 423.560. The standards shall be sufficiently flexible to foster the
12 development of new and improved supervision or rehabilitative practices and maximize local control.

13 (7) When a county assumes responsibility under ORS 423.500 to 423.560 for correctional services
14 previously provided by the department, the county and the department shall enter into an inter-
15 governmental agreement that includes a local community corrections plan consisting of program
16 descriptions, budget allocation, performance objectives and methods of evaluating each correctional
17 service to be provided by the county. The performance objectives must include in dominant part
18 reducing future criminal conduct. The methods of evaluating services must include, to the extent
19 of available information systems resources, the collection and analysis of data sufficient to deter-
20 mine the apparent effect of the services on future criminal conduct.

21 (8) All community corrections plans shall comply with rules adopted pursuant to ORS 423.500
22 to 423.560, and shall include but need not be limited to an outline of the basic structure and the
23 supervision, services and local sanctions to be applied to offenders convicted of felonies, *[and]* des-
24 signated drug-related misdemeanors **and designated domestic violence misdemeanors** who are:

25 (a) On parole;

26 (b) On probation;

27 (c) On post-prison supervision;

28 (d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

29 (e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-
30 Prison Supervision to 12 months or less incarceration for a violation of a condition of parole, pro-
31 bation or post-prison supervision; and

32 (f) On conditional release under ORS 420A.206.

33 (9) All community corrections plans shall designate a community corrections manager of the
34 county or counties and shall provide that the administration of community corrections under ORS
35 423.500 to 423.560 shall be under such manager.

36 (10) No amendment to or modification of a county-approved community corrections plan shall
37 be placed in effect without prior notice to the director for purposes of statewide data collection and
38 reporting.

39 (11) The obligation of the state to provide funding and the scheduling for providing funding of
40 a project approved under this section is dependent upon the ability of the state to access public
41 security markets to sell financing agreements.

42 (12) No later than January 1 of each odd-numbered year, the Department of Corrections shall:

43 (a) Evaluate the community corrections policy established in ORS 423.475, 423.478, 423.483 and
44 423.500 to 423.560; and

45 (b) Assess the effectiveness of local revocation options.

1 (13) As used in this section, “designated drug-related misdemeanor” **and** “**designated domestic**
2 **violence misdemeanor**” [*has*] **have** the meaning given [*that term*] **those terms** in ORS 423.478.
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