

HB 2852-1
(LC 2502)
3/24/21 (JLM/ps)

Requested by HOUSE COMMITTEE ON VETERANS AND EMERGENCY MANAGEMENT (at the request of Representative Rick Lewis)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2852**

1 In line 2 of the printed bill, after “management” insert “; amending ORS
2 137.090”.

3 Delete lines 4 through 8 and insert:

4 **“SECTION 1.** ORS 137.090 is amended to read:

5 “137.090. (1) In determining aggravation or mitigation, the court shall
6 consider:

7 “(a) Any evidence received during the proceeding;

8 “(b) The presentence report, where one is available; and

9 “(c) Any other evidence relevant to aggravation or mitigation that the
10 court finds trustworthy and reliable.

11 “(2) In determining mitigation, the court may consider:

12 “(a) Evidence regarding the defendant’s status as a servicemember as de-
13 fined in ORS 135.881.

14 “(b) Whether the defendant committed the crime while under duress,
15 compulsion, direction or pressure from another person who has:

16 “(A) Committed acts of domestic violence, as defined in ORS 135.230,
17 against the defendant;

18 “(B) Committed acts of abuse as a family or household member of the
19 defendant, as those terms are defined in ORS 107.705, against the defendant;

20 or

21 “(C) Used force, intimidation, fraud or coercion to cause the defendant

1 to engage, or attempt to engage, in a commercial sex act.

2 **“(3)(a) In determining aggravation, the court shall consider evi-**
3 **dence that the crime:**

4 **“(A) Was committed during an emergency that involved loss or**
5 **damage to private or publicly owned property, and the defendant took**
6 **advantage of circumstances related to the emergency;**

7 **“(B) Was committed during a mandatory evacuation while an**
8 **emergency was in effect, and the defendant took advantage of cir-**
9 **cumstances related to the evacuation; or**

10 **“(C) Was committed within one year after an emergency that in-**
11 **volved loss or damage to private or publicly owned property ceased to**
12 **be in effect, and the defendant took advantage of circumstances re-**
13 **lated to the recovery from the emergency.**

14 **“(b) The Oregon Criminal Justice Commission, in the rules of the**
15 **commission concerning sentencing departure factors, shall include as**
16 **an aggravating factor circumstances described in paragraph (a) of this**
17 **subsection.**

18 **“(c) As used in this subsection, ‘emergency’ means:**

19 **“(A) A state of emergency declared by the Governor under ORS**
20 **401.165, and any extension of the state of emergency;**

21 **“(B) A state of emergency declared by a city or county by ordinance**
22 **or resolution as described in ORS 401.309; or**

23 **“(C) A catastrophic disaster declared by the Governor pursuant to**
24 **Article X-A, section 1, of the Oregon Constitution.**

25 **“[(3)] (4) When a witness is so sick or infirm as to be unable to attend,**
26 **the deposition of the witness may be taken out of court at such time and**
27 **place, and upon such notice to the adverse party, and before such person**
28 **authorized to take depositions, as the court directs.”**

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