

A-Engrossed
House Bill 2607

Ordered by the House April 26
Including House Amendments dated April 26

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.

Modifies method of determining amount of presentence incarceration credits for persons convicted of crime.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crime; creating new provisions; amending ORS 137.370, 137.372 and 421.508; and declar-
3 ing 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 executed,*
9 *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 amount*
12 *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 the crime for which*
14 *sentence is imposed; and]*

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

17 [(3) *When a judgment of conviction is vacated and a new sentence is thereafter imposed upon the*
18 *defendant for the same crime, the period of detention and imprisonment theretofore served shall be de-*
19 *ducted from the maximum term, and from the minimum, if any, of the new sentence.*]

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

24 [(5) *Unless the court expressly orders otherwise, a term of imprisonment shall be concurrent with*
25 *that portion of any sentence previously imposed that remains unexpired at the time the court imposes*
26 *sentence. This subsection applies regardless of whether the earlier sentence was imposed by the same*
27 *or any other court, and regardless of whether the earlier sentence is being or is to be served in the*

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 *same penal institution or under the same correctional authority as will be the later sentence.]*

2 (1) For the purpose of determining when a person has completed a term of imprisonment
3 in the custody of the Department of Corrections, the person begins serving the term on the
4 day the person is delivered to the custody of an officer of the department, regardless of
5 whether the sentence is to be served in a state or federal corrections facility.

6 (2) For the purpose of determining when a person has completed a term of imprisonment
7 in the custody of the Department of Corrections, the time that the person spends outside
8 of a corrections facility in a program conducted by the department, or for the department,
9 constitutes time served by the person.

10 (3) Notwithstanding subsection (1) of this section, for the purpose of determining when
11 a person has completed a term of imprisonment in the custody of the Department of Cor-
12 rections, the time that the person is confined in a corrections facility after arrest for a
13 criminal episode and before the person is delivered to the custody of an officer of the de-
14 partment constitutes time served by the person if the court indicates in the judgment that
15 the period of confinement is for an offense that arose out of the criminal episode.

16 (4) Notwithstanding subsection (1) of this section, for the purpose of determining when
17 a person has completed a term of imprisonment in the custody of the Department of Cor-
18 rections, any period of uninterrupted time that the person is confined in any corrections
19 facility immediately before the person is delivered to the custody of an officer of the de-
20 partment, including periods of confinement for criminal episodes other than the criminal
21 episode giving rise to the sentence, constitutes time served by the person.

22 (5) Unless the court expressly orders otherwise, a person shall not be credited with a
23 period of time served under subsection (3) or (4) of this section if the person is also confined
24 during that period by reason of violation of the conditions of probation, parole or post-prison
25 supervision.

26 (6) In no event may a person receive credit for time served under this section against
27 one or more terms of imprisonment in excess of the actual time served. If a person is con-
28 fined in a corrections facility for more than one criminal episode, and terms of imprisonment
29 are imposed for more than one of the criminal episodes, the time that the person is confined
30 constitutes time served under subsection (3) or (4) of this section only for the purposes of
31 the first judgment of conviction entered by the court.

32 (7) If a judgment of conviction is vacated and a new sentence is imposed on the defendant
33 for the same crime, the time served by the defendant on the previous sentence shall be de-
34 ducted from the maximum term, and from any minimum term, of the new sentence.

35 (8) Unless the court expressly orders otherwise, a term of imprisonment is concurrent
36 with any portion of a sentence that was previously imposed under a different judgment of
37 conviction and that has not been served when the court imposes the new sentence, without
38 regard to:

39 (a) Whether the previous sentence was imposed by a different court; or

40 (b) Whether the previous sentence is served in a different corrections facility.

41 (9) As used in this section, "corrections facility" means a state or federal prison, a jail,
42 or any other place used for the confinement of persons charged with or convicted of a crime.

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

44 137.372. (1) Notwithstanding [*the provisions of*] ORS 137.370 [(2)(a)] (3), an offender who has been
45 revoked from a probationary sentence for a felony committed on or after November 1, 1989, shall

1 receive credit for the time served in jail after arrest and before commencement of the probationary
2 sentence or for the time served in jail as part of the probationary sentence unless the sentencing
3 judge orders otherwise.

4 (2) Notwithstanding the provisions of ORS 137.320 (4), an offender who has been ordered con-
5 fined as part of a probationary sentence for a felony committed on or after July 18, 1995, shall re-
6 ceive credit for the time served in jail after arrest and before commencement of the term unless the
7 sentencing judge orders otherwise.

8 **SECTION 3.** ORS 421.508 is amended to read:

9 421.508. (1)(a) The Department of Corrections is responsible for determining which offenders are
10 eligible to participate in, and which offenders are accepted for, a program. However, the department
11 may not release an offender under subsection (4) of this section unless authorized to do so as pro-
12 vided in ORS 137.751.

13 (b) The department may not accept an offender into a program unless the offender submits a
14 written request to participate. The request must contain a signed statement providing that the
15 offender:

16 (A) Is physically and mentally able to withstand the rigors of the program; and

17 (B) Has reviewed the program description provided by the department and agrees to comply with
18 each of the requirements of the program.

19 (c) The department may deny, for any reason, a request to participate in a program. The de-
20 partment shall make the final determination regarding an offender's physical or mental ability to
21 withstand the rigors of the program.

22 (d) If the department determines that an offender's participation in a program is consistent with
23 the safety of the community, the welfare of the applicant, the program objectives and the rules of
24 the department, the department may, in its discretion, accept the offender into the program.

25 (2) The department may suspend or remove an offender from a program for administrative or
26 disciplinary reasons.

27 (3) The department may not accept an offender into a program if:

28 (a) The department has removed the offender from a program during the term of incarceration
29 for which the offender is currently sentenced; or

30 (b) The offender has a current detainer from any jurisdiction that will not expire prior to the
31 offender's release from the custody of the department.

32 (4) When an offender has successfully completed a program, the department may release the
33 offender on post-prison supervision if:

34 (a) The court has entered the order described in ORS 137.751; and

35 (b) The offender has served a term of incarceration of at least one year.

36 (5) An offender may not be released on post-prison supervision under subsection (4) of this sec-
37 tion if the release would reduce the term of incarceration the offender would otherwise be required
38 to serve by more than 20 percent.

39 (6) For the purposes of calculating the term of incarceration served under subsection (4)(b) of
40 this section, the department shall include:

41 (a) The time that an offender is confined under ORS 137.370 [(2)(a)] (3); and

42 (b) The time for which an offender is granted nonprison leave under ORS 421.510.

43 (7) Successful completion of a program does not relieve the offender from fulfilling any other
44 obligations imposed as part of the sentence including, but not limited to, the payment of restitution
45 and fines.

1 **SECTION 4.** The amendments to ORS 137.370, 137.372 and 421.508 by sections 1, 2 and 3
2 of this 2013 Act apply to crimes committed on or after the effective date of this 2013 Act.

3 **SECTION 5.** This 2013 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
5 on its passage.
6
