

A-Engrossed
House Bill 3183

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

Sponsored by 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.

[Requires that minors who are sentenced to more than one year's imprisonment begin service of sentence in physical custody of Oregon Youth Authority.]

Authorizes county sheriff to deliver person sentenced to custody of Department of Corrections directly to youth correction facility if person is under 20 years of age at time of sentencing and was under 18 years of age at time of offense.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the legal and physical custody of juvenile offenders; creating new provisions; amending
3 ORS 137.124; and declaring an emergency.

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

5 **SECTION 1.** ORS 137.124 is amended to read:

6 137.124. (1) If the court imposes a sentence upon conviction of a felony that includes a term of
7 incarceration that exceeds 12 months:

8 (a) The court shall not designate the correctional facility in which the defendant is to be con-
9 fined but shall commit the defendant to the legal and physical custody of the Department of Cor-
10 rections; and

11 (b) If the judgment provides that the term of incarceration be served consecutively to a term
12 of incarceration of 12 months or less that was imposed in a previous proceeding by a court of this
13 state upon conviction of a felony, the defendant shall serve any remaining part of the previously
14 imposed term of incarceration in the legal and physical custody of the Department of Corrections.

15 (2)(a) If the court imposes a sentence upon conviction of a felony that includes a term of
16 incarceration that is 12 months or less, the court shall commit the defendant to the legal and
17 physical custody of the supervisory authority of the county in which the crime of conviction oc-
18 curred.

19 (b) Notwithstanding paragraph (a) of this subsection, when the court imposes a sentence upon
20 conviction of a felony that includes a term of incarceration that is 12 months or less, the court shall
21 commit the defendant to the legal and physical custody of the Department of Corrections if the court
22 orders that the term of incarceration be served consecutively to a term of incarceration that ex-
23 ceeds 12 months that was imposed in a previous proceeding or in the same proceeding by a court
24 of this state upon conviction of a felony.

25 (3) After assuming custody of the convicted person the Department of Corrections may transfer
26 inmates from one correctional facility to another such facility for the purposes of diagnosis and

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 study, rehabilitation and treatment, as best seems to fit the needs of the inmate and for the pro-
2 tection and welfare of the community and the inmate.

3 (4) If the court imposes a sentence of imprisonment upon conviction of a misdemeanor, it shall
4 commit the defendant to the custody of the supervisory authority of the county in which the crime
5 of conviction occurred.

6 (5)(a) When a person under 18 years of age at the time of committing the offense and under 20
7 years of age at the time of sentencing is committed to the Department of Corrections under ORS
8 137.707, the Department of Corrections shall transfer the physical custody of the person to the
9 Oregon Youth Authority as provided in ORS 420.011 if:

10 (A) The person will complete the sentence imposed before the person attains 25 years of age;
11 or

12 (B) The Department of Corrections and the Oregon Youth Authority determine that, because of
13 the person's age, immaturity, mental or emotional condition or risk of physical harm to the person,
14 the person should not be incarcerated initially in a Department of Corrections institution.

15 (b) A person placed in the custody of the Oregon Youth Authority under this subsection shall
16 be returned to the physical custody of the Department of Corrections whenever the Director of the
17 Oregon Youth Authority, after consultation with the Department of Corrections, determines that the
18 conditions or circumstances that warranted the transfer of custody under this subsection are no
19 longer present.

20 (c) **Notwithstanding ORS 137.320, the sheriff may by agreement with the Department of**
21 **Corrections or the supervisory authority of a county transfer the person described in this**
22 **subsection directly to a youth correction facility for physical custody without first delivering**
23 **the person to the Department of Corrections.**

24 (6)(a) When a person under 18 years of age at the time of committing the offense and under 20
25 years of age at the time of sentencing is committed to the legal and physical custody of the De-
26 partment of Corrections or the supervisory authority of a county following waiver under ORS
27 419C.349, 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or
28 137.712, the Department of Corrections or the supervisory authority of a county shall transfer the
29 person to the physical custody of the Oregon Youth Authority for placement as provided in ORS
30 420.011 (3). The terms and conditions of the person's incarceration and custody are governed by ORS
31 420A.200 to 420A.206. **Notwithstanding ORS 137.320, the sheriff may by agreement with the**
32 **Department of Corrections or the supervisory authority of a county transfer the person de-**
33 **scribed in this subsection directly to a youth correction facility for physical custody without**
34 **first delivering the person to the Department of Corrections.**

35 (b) **Notwithstanding ORS 137.320,** when a person under 16 years of age is waived under ORS
36 419C.349, 419C.352, 419C.364 or 419C.370 and subsequently is sentenced to a term of imprisonment
37 in the county jail, the sheriff shall transfer the person to a youth correction facility for physical
38 custody as provided in ORS 420.011 (3).

39 (7) If the Director of the Oregon Youth Authority concurs in the decision, the Department of
40 Corrections or the supervisory authority of a county shall transfer the physical custody of a person
41 committed to the Department of Corrections or the supervisory authority of the county under sub-
42 section (1) or (2) of this section to the Oregon Youth Authority as provided in ORS 420.011 (2) if:

43 (a) The person was at least 18 years of age but under 20 years of age at the time of committing
44 the felony for which the person is being sentenced to a term of incarceration;

45 (b) The person is under 20 years of age at the time of commitment to the Department of Cor-

1 rections or the supervisory authority of the county;

2 (c) The person has not been committed previously to the legal and physical custody of the De-
3 partment of Corrections or the supervisory authority of a county;

4 (d) The person has not been convicted and sentenced to a term of incarceration for the com-
5 mission of a felony in any other state;

6 (e) The person will complete the term of incarceration imposed before the person attains 25
7 years of age;

8 (f) The person is likely in the foreseeable future to benefit from the rehabilitative and treatment
9 programs administered by the Oregon Youth Authority;

10 (g) The person does not pose a substantial danger to Oregon Youth Authority staff or persons
11 in the custody of the Oregon Youth Authority; and

12 (h) At the time of the proposed transfer, no more than 50 persons are in the physical custody
13 of the Oregon Youth Authority under this subsection.

14 (8) Notwithstanding the provisions of subsections (5)(a)(A) or (7) of this section, the department
15 or the supervisory authority of a county may not transfer the physical custody of the person under
16 subsection (5)(a)(A) or (7) of this section if the Director of the Oregon Youth Authority, after con-
17 sultation with the Department of Corrections or the supervisory authority of a county, determines
18 that, because of the person's age, mental or emotional condition or risk of physical harm to other
19 persons, the person should not be incarcerated in a youth correction facility.

20 **SECTION 2. The amendments to ORS 137.124 by section 1 of this 2013 Act apply to per-**
21 **sons sentenced for a crime in a proceeding occurring on or after the effective date of this**
22 **2013 Act.**

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

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