

House Bill 4037

Sponsored by Representative BARTON (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**.

Authorizes county sheriff to designate county juvenile department or Oregon Youth Authority to provide direct transfer of juvenile offenders to youth correction facility as part of agreement with Department of Corrections or supervisory authority of county.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to juvenile offenders; amending ORS 137.124 and 137.320; and declaring an emergency.

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

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

5 137.124. (1) If the court imposes a sentence upon conviction of a felony that includes a term of
6 incarceration that exceeds 12 months:

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

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

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

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

24 (3) After assuming custody of the convicted person the Department of Corrections may transfer
25 inmates from one correctional facility to another such facility for the purposes of diagnosis and
26 study, rehabilitation and treatment, as best seems to fit the needs of the inmate and for the pro-
27 tection and welfare of the community and the inmate.

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

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 (5)(a) When a person under 18 years of age at the time of committing the offense and under 20
 2 years of age at the time of sentencing is committed to the Department of Corrections under ORS
 3 137.707, the Department of Corrections shall transfer the physical custody of the person to the
 4 Oregon Youth Authority as provided in ORS 420.011 if:

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

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

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

15 (c) Notwithstanding ORS 137.320, the sheriff may by agreement with the Department of Cor-
 16 rections transfer the person described in this subsection directly to a youth correction facility for
 17 physical custody without first delivering the person to the Department of Corrections. **As part of**
 18 **the agreement with the Department of Corrections, the sheriff may designate the county**
 19 **juvenile department or the Oregon Youth Authority to conduct the direct transfer described**
 20 **in this paragraph if the sheriff has entered into a written agreement with the county juvenile**
 21 **department, the Oregon Youth Authority, or both, to provide the direct transfer.**

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

38 (b) Notwithstanding ORS 137.320, when a person under 16 years of age is waived under ORS
 39 419C.349, 419C.352, 419C.364 or 419C.370 and subsequently is sentenced to a term of imprisonment
 40 in the county jail, the sheriff shall transfer the person to a youth correction facility for physical
 41 custody as provided in ORS 420.011 (3).

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

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

3 (b) The person is under 20 years of age at the time of commitment to the Department of Cor-
 4 rections or the supervisory authority of the county;

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

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

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

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

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

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

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

23 **SECTION 2.** ORS 137.320 is amended to read:

24 137.320. (1) **Except as provided in ORS 137.124**, when a judgment includes commitment to the
 25 legal and physical custody of the Department of Corrections, the sheriff shall deliver the defendant,
 26 together with a copy of the entry of judgment and a statement signed by the sheriff of the number
 27 of days the defendant was imprisoned prior to delivery, to the superintendent of the Department of
 28 Corrections institution to which the defendant is initially assigned pursuant to ORS 137.124. If at
 29 the time of entry of a judgment, the defendant was serving a term of incarceration at the direction
 30 of the supervisory authority of a county upon conviction of a prior felony, the sheriff shall also de-
 31 liver to the Department of Corrections a copy of the prior entry of judgment committing the de-
 32 fendant to the supervisory authority of the county of conviction and a statement of the number of
 33 days the defendant has remaining to be served on the term or incarceration imposed in the prior
 34 judgment.

35 (2) If the defendant is surrendered to another legal authority prior to delivery to an institution
 36 of the Department of Corrections, the sheriff shall forward to the Department of Corrections copies
 37 of the entry of all pertinent judgments, a statement of the number of days the defendant was
 38 imprisoned prior to surrender, a statement of the number of days the defendant has remaining to
 39 be served on any term of incarceration the defendant was serving at the direction of the supervisory
 40 authority of a county upon conviction of a prior felony and an identification of the authority to
 41 whom the prisoner was surrendered.

42 (3) Upon receipt of the information described in subsection (1) or (2) of this section, the De-
 43 partment of Corrections shall establish a case file and compute the defendant's sentence in accord-
 44 ance with the provisions of ORS 137.370.

45 (4) When the judgment is imprisonment in the county jail or a fine and that the defendant be

1 imprisoned until it is paid, the judgment shall be executed by the sheriff of the county. The sheriff
2 shall compute the time the defendant was imprisoned after arrest and prior to the commencement
3 of the term specified in the judgment. Such time shall be credited toward the term of the sentence.

4 **SECTION 3. This 2014 Act being necessary for the immediate preservation of the public**
5 **peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect**
6 **on its passage.**

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