

HOUSE AMENDMENTS TO HOUSE BILL 3078

By COMMITTEE ON RULES

June 2

1 On page 1 of the printed bill, line 3, after the semicolon delete the rest of the line and delete
2 line 4 and insert “repealing section 16, chapter 649, Oregon Laws 2013; and declaring an
3 emergency.”.

4 Delete lines 6 through 24 and delete pages 2 through 7 and insert:

5 **“SECTION 1. Sections 7 to 11 of this 2017 Act, the amendments to ORS 137.717 and**
6 **421.168 and section 1, chapter 830, Oregon Laws 2015, by sections 2, 4, 5 and 6 of this 2017**
7 **Act and the repeal of section 16, chapter 649, Oregon Laws 2013, by section 3 of this 2017 Act**
8 **shall be known and may be cited as the Safety and Savings Act.**

9
10 **“FAMILY SENTENCING ALTERNATIVE PILOT PROGRAM**

11
12 **“SECTION 2.** Section 1, chapter 830, Oregon Laws 2015, is amended to read:

13 **“Sec. 1.** (1) The Department of Corrections, in partnership with the circuit court and county
14 community corrections agencies of participating counties and the Department of Human Services,
15 shall establish the Family Sentencing Alternative Pilot Program.

16 “(2) A defendant is eligible for the Family Sentencing Alternative Pilot Program if:

17 “(a) The defendant’s presumptive sentence under the sentencing guidelines of the Oregon Crim-
18 inal Justice Commission is a term of imprisonment in the legal and physical custody of the Depart-
19 ment of Corrections of at least one year;

20 “(b) The defendant [*has not previously been convicted of, and*] is not currently being sentenced
21 for:

22 “(A) A person felony as defined in the rules of the Oregon Criminal Justice Commission;

23 “(B) A sex crime as defined in ORS [181.805] **163A.005**; or

24 “(C) An offense requiring a specified sentence under ORS 137.635, 137.700, 137.707, 164.061,
25 475.907, 475.925, 475.930 or [813.010] **813.011**; and

26 “(c) The defendant is **pregnant at the time of sentencing, or is** the parent or legal guardian
27 of a minor child and **at the time of the offense or sentencing** had physical custody of the child
28 [*at the time of the offense*].

29 “(3)(a) If the defendant meets the eligibility requirements described in subsection (2) of this
30 section and [*receives*] **is eligible for** a downward dispositional departure under the rules of the
31 Oregon Criminal Justice Commission, the court may order that the defendant sign a release au-
32 thORIZING the Department of Human Services to provide the community corrections agency with
33 written confirmation of, and consultation concerning, any open or current juvenile dependency pro-
34 ceeding or any prior substantiated allegation of abuse or neglect involving the defendant and a mi-
35 nor child.

1 “(3) If the inmate’s transition plan is approved by the department and is an essential part of the
2 inmate’s successful reintegration into the community, the department may grant a transitional leave
3 no more than [30] 120 days prior to the inmate’s discharge date.

4 “(4) An inmate is not eligible for transitional leave before having served six months of prison
5 incarceration.

6 “(5) The department shall adopt rules to carry out the provisions of this section. The rules must
7 include a set of release conditions for inmates released on transitional leave status. An inmate on
8 transitional leave status is subject to immediate return to prison for any violation of the conditions
9 of release.

10 “(6) The provisions of this section do not apply to inmates whose sentences were imposed under
11 ORS 137.635, **137.690**, 137.700, [or] 137.707, **164.061**, **475.907**, **475.925**, **475.930** or **813.011** or [any
12 other] **under a** provision of law that prohibits release on any form of temporary leave from custody.

13
14 **“SENTENCING AND SUPERVISION FOR PROPERTY OFFENSES**

15
16 **“SECTION 5.** ORS 137.717 is amended to read:

17 “137.717. (1) When a court sentences a person convicted of:

18 “(a) Aggravated theft in the first degree under ORS 164.057, burglary in the first degree under
19 ORS 164.225 or aggravated identity theft under ORS 165.803, the presumptive sentence is 24 months
20 of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer
21 presumptive sentence, if the person has:

22 “(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary
23 in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in
24 the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated
25 identity theft under ORS 165.803;

26 “(B) Two or more previous convictions for any combination of the crimes listed in subsection
27 (2) of this section; or

28 “(C) A previous conviction for a crime listed in subsection (2) of this section, if the current
29 crime of conviction was committed while the defendant was on supervision for the previous con-
30 viction or less than three years after the date the defendant completed the period of supervision for
31 the previous conviction.

32 “(b) [*Theft in the first degree under ORS 164.055,*] Unauthorized use of a vehicle under ORS
33 164.135, mail theft or receipt of stolen mail under ORS 164.162, burglary in the second degree under
34 ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS
35 164.377, robbery in the third degree under ORS 164.395, forgery in the first degree under ORS
36 165.013, criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent
37 use of a credit card under ORS 165.055 (4)(b), [*identity theft under ORS 165.800,*] possession of a
38 stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310, the
39 presumptive sentence is 18 months of incarceration, unless the rules of the Oregon Criminal Justice
40 Commission prescribe a longer presumptive sentence, if the person has:

41 “(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unau-
42 thorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery
43 in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in
44 the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in
45 stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803;

1 “(B) Two or more previous convictions for any combination of the crimes listed in subsection
2 (2) of this section; or

3 “(C) A previous conviction for a crime listed in subsection (2) of this section, if the current
4 crime of conviction was committed while the defendant was on supervision for the previous con-
5 viction or less than three years after the date the defendant completed the period of supervision for
6 the previous conviction.

7 “(c) **Theft in the first degree under ORS 164.055 or identity theft under ORS 165.800, the**
8 **presumptive sentence is 13 months of incarceration, unless the rules of the Oregon Criminal**
9 **Justice Commission prescribe a longer presumptive sentence, if the person has:**

10 “(A) **A previous conviction for aggravated theft in the first degree under ORS 164.057,**
11 **unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS**
12 **164.225, robbery in the second degree under ORS 164.405, robbery in the first degree under**
13 **ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles**
14 **under ORS 819.310 or aggravated identity theft under ORS 165.803; or**

15 “(B) **Four or more previous convictions for any combination of crimes listed in sub-**
16 **section (2) of this section.**

17 “(2) The crimes to which subsection (1) of this section applies are:

18 “(a) Theft in the second degree under ORS 164.045;

19 “(b) Theft in the first degree under ORS 164.055;

20 “(c) Aggravated theft in the first degree under ORS 164.057;

21 “(d) Unauthorized use of a vehicle under ORS 164.135;

22 “(e) Mail theft or receipt of stolen mail under ORS 164.162;

23 “(f) Burglary in the second degree under ORS 164.215;

24 “(g) Burglary in the first degree under ORS 164.225;

25 “(h) Criminal mischief in the second degree under ORS 164.354;

26 “(i) Criminal mischief in the first degree under ORS 164.365;

27 “(j) Computer crime under ORS 164.377;

28 “(k) Forgery in the second degree under ORS 165.007;

29 “(L) Forgery in the first degree under ORS 165.013;

30 “(m) Criminal possession of a forged instrument in the second degree under ORS 165.017;

31 “(n) Criminal possession of a forged instrument in the first degree under ORS 165.022;

32 “(o) Fraudulent use of a credit card under ORS 165.055;

33 “(p) Identity theft under ORS 165.800;

34 “(q) Possession of a stolen vehicle under ORS 819.300;

35 “(r) Trafficking in stolen vehicles under ORS 819.310; and

36 “(s) Any attempt to commit a crime listed in this subsection.

37 “(3)(a) A presumptive sentence described in subsection (1)(a) or (b) of this section shall be in-
38 creased by two months for each previous conviction the person has that:

39 “(A) Was for any of the crimes listed in subsection (1) or (2) of this section; and

40 “(B) Was not used as a predicate for the presumptive sentence described in subsection (1)(a)
41 or (b) of this section.

42 “(b) Previous convictions may not increase a presumptive sentence described in subsection
43 (1)(a) or (b) of this section by more than 12 months under this subsection.

44 “(4) The court may impose a sentence other than the sentence provided by subsection (1) or (3)
45 of this section if the court imposes:

1 “(a) A longer term of incarceration that is otherwise required or authorized by law; or
2 “(b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission
3 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon
4 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-
5 lowed for a person sentenced under this subsection is double the presumptive sentence provided in
6 subsection (1) or (3) of this section.
7 “(5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under
8 subsection (4) of this section to a term of incarceration that exceeds the period of time described
9 in ORS 161.605.
10 “(6) The court shall sentence a person under this section to at least the presumptive sentence
11 described in subsection (1)(a) or (b) or (3) of this section, unless the parties stipulate otherwise or
12 the court finds that:
13 “(a) The person was not on probation, parole or post-prison supervision for a crime listed in
14 subsection (1) of this section at the time of the commission of the current crime of conviction;
15 “(b) The person has not previously received a downward departure from a presumptive sentence
16 for a crime listed in subsection (1) of this section;
17 “(c) The harm or loss caused by the crime is not greater than usual for that type of crime; and
18 “(d) In consideration of the nature of the offense and the harm to the victim, a downward de-
19 parture will:
20 “(A) Increase public safety;
21 “(B) Enhance the likelihood that the person will be rehabilitated; and
22 “(C) Not unduly reduce the appropriate punishment.
23 “(7) **When the court imposes a sentence of probation for a conviction for theft in the first**
24 **degree or identity theft or under subsection (6) of this section, the supervisory authority as**
25 **defined in ORS 144.087 may require the person to receive a high level of supervision for at**
26 **least 12 months, and may extend the period of high-level supervision for all or part of the**
27 **remaining probationary term.**
28 “[(7)(a)] **(8)(a)** For a crime committed on or after November 1, 1989, a conviction is considered
29 to have occurred upon the pronouncement of sentence in open court. However, when sentences are
30 imposed for two or more convictions arising out of the same conduct or criminal episode, none of
31 the convictions is considered to have occurred prior to any of the other convictions arising out of
32 the same conduct or criminal episode.
33 “(b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-
34 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open
35 court of the suspended imposition of a sentence.
36 “[(8)] **(9)** For purposes of this section, previous convictions must be proven pursuant to ORS
37 137.079.
38 “[(9)] **(10)** As used in this section:
39 “(a) ‘Downward departure’ means a downward dispositional departure or a downward durational
40 departure under the rules of the Oregon Criminal Justice Commission.
41 “(b) ‘Previous conviction’ includes:
42 “(A) Convictions occurring before, on or after July 1, 2003; and
43 “(B) Convictions entered in any other state or federal court for comparable offenses.
44 “**SECTION 6.** ORS 137.717, as amended by section 7, chapter 649, Oregon Laws 2013, is
45 amended to read:

1 “137.717. (1) When a court sentences a person convicted of:

2 “(a) Aggravated theft in the first degree under ORS 164.057, burglary in the first degree under
3 ORS 164.225, robbery in the third degree under ORS 164.395[, *identity theft under ORS 165.800*] or
4 aggravated identity theft under ORS 165.803, the presumptive sentence is 24 months of
5 incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer
6 presumptive sentence, if the person has:

7 “(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, burglary
8 in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in
9 the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated
10 identity theft under ORS 165.803;

11 “(B) Two or more previous convictions for any combination of the crimes listed in subsection
12 (2) of this section; or

13 “(C) A previous conviction for a crime listed in subsection (2) of this section, if the current
14 crime of conviction was committed while the defendant was on supervision for the previous con-
15 viction or less than three years after the date the defendant completed the period of supervision for
16 the previous conviction.

17 “(b) [*Theft in the first degree under ORS 164.055,*] Unauthorized use of a vehicle under ORS
18 164.135, mail theft or receipt of stolen mail under ORS 164.162, burglary in the second degree under
19 ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS
20 164.377, forgery in the first degree under ORS 165.013, criminal possession of a forged instrument
21 in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b),
22 possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310,
23 the presumptive sentence is 18 months of incarceration, unless the rules of the Oregon Criminal
24 Justice Commission prescribe a longer presumptive sentence, if the person has:

25 “(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, unau-
26 thorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery
27 in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in
28 the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in
29 stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803;

30 “(B) Two or more previous convictions for any combination of the crimes listed in subsection
31 (2) of this section; or

32 “(C) A previous conviction for a crime listed in subsection (2) of this section, if the current
33 crime of conviction was committed while the defendant was on supervision for the previous con-
34 viction or less than three years after the date the defendant completed the period of supervision for
35 the previous conviction.

36 “(c) **Theft in the first degree under ORS 164.055 or identity theft under ORS 165.800, the**
37 **presumptive sentence is 13 months of incarceration, unless the rules of the Oregon Criminal**
38 **Justice Commission prescribe a longer presumptive sentence, if the person has:**

39 “(A) **A previous conviction for aggravated theft in the first degree under ORS 164.057,**
40 **unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS**
41 **164.225, robbery in the second degree under ORS 164.405, robbery in the first degree under**
42 **ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles**
43 **under ORS 819.310 or aggravated identity theft under ORS 165.803; or**

44 “(B) **Four or more previous convictions for any combination of crimes listed in sub-**
45 **section (2) of this section.**

1 “(2) The crimes to which subsection (1) of this section applies are:
2 “(a) Theft in the second degree under ORS 164.045;
3 “(b) Theft in the first degree under ORS 164.055;
4 “(c) Aggravated theft in the first degree under ORS 164.057;
5 “(d) Unauthorized use of a vehicle under ORS 164.135;
6 “(e) Mail theft or receipt of stolen mail under ORS 164.162;
7 “(f) Burglary in the second degree under ORS 164.215;
8 “(g) Burglary in the first degree under ORS 164.225;
9 “(h) Criminal mischief in the second degree under ORS 164.354;
10 “(i) Criminal mischief in the first degree under ORS 164.365;
11 “(j) Computer crime under ORS 164.377;
12 “(k) Forgery in the second degree under ORS 165.007;
13 “(L) Forgery in the first degree under ORS 165.013;
14 “(m) Criminal possession of a forged instrument in the second degree under ORS 165.017;
15 “(n) Criminal possession of a forged instrument in the first degree under ORS 165.022;
16 “(o) Fraudulent use of a credit card under ORS 165.055;
17 “(p) Identity theft under ORS 165.800;
18 “(q) Possession of a stolen vehicle under ORS 819.300;
19 “(r) Trafficking in stolen vehicles under ORS 819.310; and
20 “(s) Any attempt to commit a crime listed in this subsection.
21 “(3)(a) A presumptive sentence described in subsection (1)(a) or (b) of this section shall be in-
22 creased by two months for each previous conviction the person has that:
23 “(A) Was for any of the crimes listed in subsection (1) or (2) of this section; and
24 “(B) Was not used as a predicate for the presumptive sentence described in subsection (1)(a)
25 or (b) of this section.
26 “(b) Previous convictions may not increase a presumptive sentence described in subsection
27 (1)(a) or (b) of this section by more than 12 months under this subsection.
28 “(4) The court may impose a sentence other than the sentence provided by subsection (1) or (3)
29 of this section if the court imposes:
30 “(a) A longer term of incarceration that is otherwise required or authorized by law; or
31 “(b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission
32 based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon
33 Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure al-
34 lowed for a person sentenced under this subsection is double the presumptive sentence provided in
35 subsection (1) or (3) of this section.
36 “(5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under
37 subsection (4) of this section to a term of incarceration that exceeds the period of time described
38 in ORS 161.605.
39 “(6) The court shall sentence a person under this section to at least the presumptive sentence
40 described in subsection (1)(a) or (b) or (3) of this section, unless the parties stipulate otherwise or
41 the court finds that:
42 “(a) The person was not on probation, parole or post-prison supervision for a crime listed in
43 subsection (1) of this section at the time of the commission of the current crime of conviction;
44 “(b) The person has not previously received a downward departure from a presumptive sentence
45 for a crime listed in subsection (1) of this section;

1 “(c) The harm or loss caused by the crime is not greater than usual for that type of crime; and

2 “(d) In consideration of the nature of the offense and the harm to the victim, a downward de-
3 parture will:

4 “(A) Increase public safety;

5 “(B) Enhance the likelihood that the person will be rehabilitated; and

6 “(C) Not unduly reduce the appropriate punishment.

7 “(7) **When the court imposes a sentence of probation for a conviction for theft in the first**
8 **degree or identity theft or under subsection (6) of this section, the supervisory authority as**
9 **defined in ORS 144.087 may require the person to receive a high level of supervision for at**
10 **least 12 months, and may extend the period of high-level supervision for all or part of the**
11 **remaining probationary term.**

12 “[7)(a)] (8)(a) For a crime committed on or after November 1, 1989, a conviction is considered
13 to have occurred upon the pronouncement of sentence in open court. However, when sentences are
14 imposed for two or more convictions arising out of the same conduct or criminal episode, none of
15 the convictions is considered to have occurred prior to any of the other convictions arising out of
16 the same conduct or criminal episode.

17 “(b) For a crime committed prior to November 1, 1989, a conviction is considered to have oc-
18 curred upon the pronouncement in open court of a sentence or upon the pronouncement in open
19 court of the suspended imposition of a sentence.

20 “[8)] (9) For purposes of this section, previous convictions must be proven pursuant to ORS
21 137.079.

22 “[9)] (10) As used in this section:

23 “(a) ‘Downward departure’ means a downward dispositional departure or a downward durational
24 departure under the rules of the Oregon Criminal Justice Commission.

25 “(b) ‘Previous conviction’ includes:

26 “(A) Convictions occurring before, on or after July 1, 2003; and

27 “(B) Convictions entered in any other state or federal court for comparable offenses.

28
29 **“APPROPRIATIONS**

30
31 **“SECTION 7. In addition to and not in lieu of any other appropriation, there is appro-**
32 **riated to the Department of Corrections, for the biennium beginning July 1, 2017, out of the**
33 **General Fund, the amount of \$_____ for the purposes of funding the Family Sentencing**
34 **Alternative Pilot Program described in section 1, chapter 830, Oregon Laws 2015, and in-**
35 **creasing the number of counties participating in the program.**

36 **“SECTION 8. (1) In addition to and not in lieu of any other appropriation, there is ap-**
37 **propriated to the Department of Human Services, for the biennium beginning July 1, 2017,**
38 **out of the General Fund, the amount of \$_____ for the purposes of funding the Family**
39 **Sentencing Alternative Pilot Program described in section 1, chapter 830, Oregon Laws 2015,**
40 **and increasing the number of counties participating in the program.**

41 **“(2) Notwithstanding any other law limiting expenditures, the amount of \$_____ is es-**
42 **tablished for the biennium beginning July 1, 2017, as the maximum limit for payment of ex-**
43 **penses from federal funds collected or received by the Department of Human Services for the**
44 **purposes of funding the Family Sentencing Alternative Pilot Program described in section**
45 **1, chapter 830, Oregon Laws 2015, and increasing the number of counties participating in the**

1 program.

2 “SECTION 9. In addition to and not in lieu of any other appropriation, there is appro-
3 priated to the Oregon Criminal Justice Commission, for the biennium beginning July 1, 2017,
4 out of the General Fund, the amount of \$_____, to be deposited in the Justice Reinvest-
5 ment Account described in section 52, chapter 649, Oregon Laws 2013, and expended for the
6 purposes of the Justice Reinvestment Program described in section 53, chapter 649, Oregon
7 Laws 2013.

8 “SECTION 10. In addition to and not in lieu of any other appropriation, there is appro-
9 priated to the Department of Justice, for the biennium beginning July 1, 2017, out of the
10 General Fund, the amount of \$_____, to be deposited in the Oregon Domestic and Sexual
11 Violence Services Fund described in ORS 147.453 and expended as described in ORS 147.450
12 to 147.471.

13
14 “REPORT TO LEGISLATIVE ASSEMBLY

15
16 “SECTION 11. The Oregon Criminal Justice Commission shall study the impact of this
17 2017 Act on prison utilization, recidivism and public safety, and report the results of the
18 study to the interim committees of the Legislative Assembly related to the judiciary in the
19 manner provided in ORS 192.245, no later than February 1 of each year.

20
21 “MISCELLANEOUS PROVISIONS

22
23 “SECTION 12. The unit captions used in this 2017 Act are provided only for the conven-
24 ience of the reader and do not become part of the statutory law of this state or express any
25 legislative intent in the enactment of this 2017 Act.

26 “SECTION 13. The amendments to ORS 137.717 and 421.168 by sections 4 and 5 of this 2017
27 Act and the repeal of section 16, chapter 649, Oregon Laws 2013, by section 3 of this 2017 Act
28 become operative on January 1, 2018.

29 “SECTION 14. (1) The amendments to section 1, chapter 830, Oregon Laws 2015, by sec-
30 tion 2 of this 2017 Act apply to sentences imposed on or after the effective date of this 2017
31 Act.

32 “(2) The amendments to ORS 137.717 and 421.168 by sections 4 and 5 of this 2017 Act apply
33 to sentences imposed on or after January 1, 2018.

34 “(3) The amendments to ORS 137.717 by section 6 of this 2017 Act apply to sentences
35 imposed on or after July 1, 2023.

36 “SECTION 15. Section 11 of this 2017 Act is repealed on January 2, 2028.

37 “SECTION 16. This 2017 Act being necessary for the immediate preservation of the public
38 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
39 on its passage.”.