

HOUSE AMENDMENTS TO HOUSE BILL 2852

By COMMITTEE ON VETERANS AND EMERGENCY MANAGEMENT

April 15

- 1 In line 2 of the printed bill, after “management” insert “; amending ORS 137.090”.
- 2 Delete lines 4 through 8 and insert:
- 3 **“SECTION 1.** ORS 137.090 is amended to read:
- 4 **“137.090. (1) In determining aggravation or mitigation, the court shall consider:**
- 5 **“(a) Any evidence received during the proceeding;**
- 6 **“(b) The presentence report, where one is available; and**
- 7 **“(c) Any other evidence relevant to aggravation or mitigation that the court finds trustworthy**
- 8 **and reliable.**
- 9 **“(2) In determining mitigation, the court may consider:**
- 10 **“(a) Evidence regarding the defendant’s status as a servicemember as defined in ORS 135.881.**
- 11 **“(b) Whether the defendant committed the crime while under duress, compulsion, direction or**
- 12 **pressure from another person who has:**
- 13 **“(A) Committed acts of domestic violence, as defined in ORS 135.230, against the defendant;**
- 14 **“(B) Committed acts of abuse as a family or household member of the defendant, as those terms**
- 15 **are defined in ORS 107.705, against the defendant; or**
- 16 **“(C) Used force, intimidation, fraud or coercion to cause the defendant to engage, or attempt to**
- 17 **engage, in a commercial sex act.**
- 18 **“(3)(a) In determining aggravation, the court shall consider evidence that the crime:**
- 19 **“(A) Was committed during an emergency, and the defendant took advantage of circum-**
- 20 **stances related to the emergency;**
- 21 **“(B) Was committed during a mandatory evacuation while an emergency was in effect,**
- 22 **and the defendant took advantage of circumstances related to the evacuation; or**
- 23 **“(C) Was committed within one year after an emergency ceased to be in effect, and the**
- 24 **defendant took advantage of circumstances related to the recovery from the emergency.**
- 25 **“(b) The Oregon Criminal Justice Commission, in the rules of the commission concerning**
- 26 **sentencing departure factors, shall include as an aggravating factor circumstances described**
- 27 **in paragraph (a) of this subsection.**
- 28 **“(c) As used in this subsection:**
- 29 **“(A) ‘Emergency’ means:**
- 30 **“(i) A state of emergency declared by the Governor under ORS 401.165 due to a natural**
- 31 **disaster, and any extension of the state of emergency;**
- 32 **“(ii) A state of emergency declared by a city or county by ordinance or resolution as**
- 33 **described in ORS 401.309 due to a natural disaster; or**
- 34 **“(iii) A catastrophic disaster declared by the Governor, pursuant to Article X-A, section**
- 35 **1, of the Oregon Constitution, due to a natural disaster.**

1 **“(B) ‘Natural disaster’ includes but is not limited to a fire, earthquake, flood, volcanic**
2 **eruption or tsunami.**

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

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