

HB 2852-2
(LC 2502)
4/9/21 (JLM/ps)

Requested by HOUSE COMMITTEE ON VETERANS AND EMERGENCY MANAGEMENT (at the request of Representative Rick Lewis)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2852**

1 In line 2 of the printed bill, after “management” insert “; amending ORS
2 137.090”.

3 Delete lines 4 through 8 and insert:

4 **“SECTION 1.** ORS 137.090 is amended to read:

5 “137.090. (1) In determining aggravation or mitigation, the court shall
6 consider:

7 “(a) Any evidence received during the proceeding;

8 “(b) The presentence report, where one is available; and

9 “(c) Any other evidence relevant to aggravation or mitigation that the
10 court finds trustworthy and reliable.

11 “(2) In determining mitigation, the court may consider:

12 “(a) Evidence regarding the defendant’s status as a servicemember as de-
13 fined in ORS 135.881.

14 “(b) Whether the defendant committed the crime while under duress,
15 compulsion, direction or pressure from another person who has:

16 “(A) Committed acts of domestic violence, as defined in ORS 135.230,
17 against the defendant;

18 “(B) Committed acts of abuse as a family or household member of the
19 defendant, as those terms are defined in ORS 107.705, against the defendant;

20 or

21 “(C) Used force, intimidation, fraud or coercion to cause the defendant

1 to engage, or attempt to engage, in a commercial sex act.

2 **“(3)(a) In determining aggravation, the court shall consider evi-**
3 **dence that the crime:**

4 **“(A) Was committed during an emergency, and the defendant took**
5 **advantage of circumstances related to the emergency;**

6 **“(B) Was committed during a mandatory evacuation while an**
7 **emergency was in effect, and the defendant took advantage of cir-**
8 **cumstances related to the evacuation; or**

9 **“(C) Was committed within one year after an emergency ceased to**
10 **be in effect, and the defendant took advantage of circumstances re-**
11 **lated to the recovery from the emergency.**

12 **“(b) The Oregon Criminal Justice Commission, in the rules of the**
13 **commission concerning sentencing departure factors, shall include as**
14 **an aggravating factor circumstances described in paragraph (a) of this**
15 **subsection.**

16 **“(c) As used in this subsection:**

17 **“(A) ‘Emergency’ means:**

18 **“(i) A state of emergency declared by the Governor under ORS**
19 **401.165 due to a natural disaster, and any extension of the state of**
20 **emergency;**

21 **“(ii) A state of emergency declared by a city or county by ordinance**
22 **or resolution as described in ORS 401.309 due to a natural disaster; or**

23 **“(iii) A catastrophic disaster declared by the Governor, pursuant to**
24 **Article X-A, section 1, of the Oregon Constitution, due to a natural**
25 **disaster.**

26 **“(B) ‘Natural disaster’ includes but is not limited to a fire, earth-**
27 **quake, flood, volcanic eruption or tsunami.**

28 **“[(3)] (4) When a witness is so sick or infirm as to be unable to attend,**
29 **the deposition of the witness may be taken out of court at such time and**
30 **place, and upon such notice to the adverse party, and before such person**

1 authorized to take depositions, as the court directs.”.

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