

Senate Bill 529

Sponsored by Senator DEMBROW; Senator THATCHER, Representative SANCHEZ (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**.

Modifies legislative findings concerning alternative incarceration programs. Renames special alternative incarceration program and removes requirement that participants engage in physical work and exercise. Requires that intensive alternative incarceration addiction program address addiction as chronic disease and include range of treatment services. Modifies acceptance procedures for programs.

A BILL FOR AN ACT

1
2 Relating to alternative incarceration programs; amending ORS 421.500, 421.502, 421.504, 421.506,
3 421.508, 421.510 and 423.105.

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

5 **SECTION 1.** ORS 421.500 is amended to read:

6 421.500. The Legislative Assembly finds that:

7 *[(1) There is no method in this state for diverting sentenced offenders from a traditional*
8 *correctional setting;]*

9 *[(2) The absence of a program that instills discipline, enhances self-esteem and promotes alterna-*
10 *tives to criminal behavior has a major impact on overcrowding of prisons and criminal recidivism in*
11 *this state; and]*

12 *[(3) An emergency need exists to implement a highly structured corrections program that involves*
13 *intensive mental and physical training and substance abuse treatment.]*

14 **(1) Substance use disorders negatively impact adults in custody at a significantly greater**
15 **frequency than nonincarcerated individuals in the community.**

16 **(2) Substance use disorders should be considered chronic illnesses for which effective**
17 **treatment is available.**

18 **(3) Diverting sentenced offenders from a traditional correctional setting into structured**
19 **programs that provide treatment for substance use disorders or cognitive restructuring has**
20 **proven to reduce criminal recidivism in this state.**

21 **SECTION 2.** ORS 421.502 is amended to read:

22 421.502. As used in ORS 421.502 to 421.512:

23 (1) "Cognitive restructuring" means any rehabilitation process that redirects the thinking of an
24 offender into more socially acceptable directions and that is generally accepted by rehabilitation
25 professionals.

26 (2) "Department" means the Department of Corrections.

27 (3) "Program" means the **structured** special alternative incarceration program established un-
28 der ORS 421.504 and the intensive alternative incarceration addiction program established under
29 ORS 421.506.

30 **SECTION 3.** ORS 421.504 is amended to read:

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.

1 421.504. (1) The Department of Corrections, in consultation with the Oregon Criminal Justice
 2 Commission, shall establish a **structured** special alternative incarceration program [*stressing a*
 3 *highly structured and regimented routine*]. The program:

4 (a) Shall reflect evidence-based practices;

5 [(b) *Shall include a component of intensive self-discipline, physical work and physical exercise;*]

6 [(c)] (b) Shall provide for cognitive restructuring in conformance with generally accepted
 7 rehabilitative standards;

8 [(d)] (c) May include a drug and alcohol treatment component that meets the standards
 9 promulgated by the Oregon Health Authority pursuant to ORS 430.357;

10 [(e)] (d) Shall be trauma-informed and gender-responsive; and

11 [(f)] (e) Shall be at least 270 days' duration.

12 (2) The department shall provide capital improvements and capital construction necessary for
 13 the implementation of the program.

14 (3) Notwithstanding subsection (1) of this section, the department may convert the **structured**
 15 special alternative incarceration program required by this section into an intensive alternative
 16 incarceration addiction program as described in ORS 421.506 if the department determines that the
 17 needs of offenders in the department's custody would be better served by an intensive alternative
 18 incarceration addiction program than by the **structured** special alternative incarceration program.

19 **SECTION 4.** ORS 421.506 is amended to read:

20 421.506. The Department of Corrections shall establish an intensive alternative incarceration
 21 addiction program. The program shall:

22 [(1) *Be based on intensive interventions, rigorous personal responsibility and accountability, phys-*
 23 *ical labor and service to the community;*]

24 (1) **Address addiction as a chronic disease, recognizing that participants have individual-**
 25 **ized needs and different recovery progressions;**

26 (2) Require [*strict discipline and*] compliance with program rules;

27 [(3) *Provide 14 hours of highly structured and regimented routine every day;*]

28 [(4) *Provide for cognitive restructuring to enable offenders participating in the program to confront*
 29 *and alter their criminal thinking patterns;*]

30 (3) **Include a range of professional treatment services, recovery activities, engagement**
 31 **with peer mentors, educational and vocational services and self-help groups;**

32 [(5)] (4) Provide addiction treatment that incorporates proven, research-based interventions;

33 [(6)] (5) Be trauma-informed and gender-responsive; and

34 [(7)] (6) Be at least 270 days' duration.

35 **SECTION 5.** ORS 421.508 is amended to read:

36 421.508. (1)(a) The Department of Corrections is responsible for determining which offenders are
 37 eligible to participate in, and which offenders are accepted for, a program. However, the department
 38 may not release an offender under subsection (4) of this section unless authorized to do so as pro-
 39 vided in ORS 137.751.

40 (b) The department may not accept an offender into a program unless the offender [*submits a*
 41 *written request to participate. The request must contain a signed*] **consents in writing and signs a**
 42 **program participation agreement, prepared by the department, containing a** statement pro-
 43 viding that the offender[:]

44 [(A) *Is physically and mentally able to withstand the rigors of the program; and*]

45 [(B)] has reviewed the program description provided by the department and agrees to comply

1 with each of the requirements of the program.

2 (c) The department may deny, for any reason, [*a request to participate*] **an offender's partic-**
 3 **ipation** in a program. The department shall make the final determination regarding an offender's
 4 physical or mental ability to [*withstand the rigors*] **meet the requirements** of the program.

5 (d) If the department determines that an offender's participation in a program is consistent with
 6 the safety of the community, the welfare of the applicant, the program objectives and the rules of
 7 the department, the department may, in its discretion, accept the offender into the program.

8 (2) The department may suspend or remove an offender from a program for administrative or
 9 disciplinary reasons.

10 (3) The department may not accept an offender into a program if:

11 (a) The department has removed the offender from a program during the term of incarceration
 12 for which the offender is currently sentenced; or

13 (b) The offender has a current detainer from any jurisdiction that will not expire prior to the
 14 offender's release from the custody of the department.

15 (4) When an offender has successfully completed a program, the department may release the
 16 offender on post-prison supervision if:

17 (a) The court has entered the order described in ORS 137.751; and

18 (b) The offender has served a term of incarceration of at least one year.

19 (5) An offender may not be released on post-prison supervision under subsection (4) of this sec-
 20 tion if the release would reduce the term of incarceration the offender would otherwise be required
 21 to serve by more than 20 percent.

22 (6) For the purposes of calculating the term of incarceration served under subsection (4)(b) of
 23 this section, the department shall include:

24 (a) The time that an offender is confined under ORS 137.370 (2)(a); and

25 (b) The time for which an offender is granted nonprison leave under ORS 421.510.

26 (7) Successful completion of a program does not relieve the offender from fulfilling any other
 27 obligations imposed as part of the sentence including, but not limited to, the payment of restitution
 28 and fines.

29 **SECTION 6.** ORS 421.510 is amended to read:

30 421.510. (1) The Department of Corrections may consider an offender for nonprison leave under
 31 this section if the court has entered the order described in ORS 137.751.

32 (2) Nonprison leave shall provide offenders with an opportunity to secure appropriate transi-
 33 tional support when necessary for successful reintegration into the community prior to the offenders'
 34 discharge to post-prison supervision.

35 (3) An offender may submit a nonprison leave plan to the Department of Corrections. The plan
 36 shall indicate that the offender has secured, **or has a plan to secure**, an employment, educational
 37 or other transitional opportunity in the community to which the offender will be released and that
 38 a leave of up to 90 days is an essential part of the offender's successful reintegration into the com-
 39 munity.

40 (4) Upon verification of the offender's nonprison leave plan, the department may grant nonprison
 41 leave no more than 90 days prior to the offender's date of release on post-prison supervision under
 42 ORS 421.508 (4).

43 (5) The department shall establish by rule a set of conditions for offenders released on nonprison
 44 leave. An offender on nonprison leave shall be subject to immediate return to prison for any vio-
 45 lation of the conditions of nonprison leave.

1 (6) During the period of nonprison leave, the offender must reside in, and be supervised within,
 2 the state.

3 **SECTION 7.** ORS 423.105 is amended to read:

4 423.105. (1) As used in this section:

5 (a) "Adult in custody" means a person who is at least 18 years of age and in the physical cus-
 6 tody of the Department of Corrections. "Adult in custody" does not include:

7 (A) A person on leave from prison due to participation in an alternative incarceration program
 8 established under ORS 421.504 or **421.506** or short-term transitional leave under ORS 421.168.

9 (B) A person transferred into or out of department custody pursuant to an interstate corrections
 10 compact.

11 (C) A person in the physical custody of the Oregon Youth Authority.

12 (D) A person in the physical custody of a county jail or other county detention facility.

13 (b) "Collected moneys" means moneys that have been collected from an adult in custody trust
 14 account by the Department of Corrections pursuant to this section.

15 (c) "Court-ordered financial obligation" means:

16 (A) A compensatory fine imposed pursuant to ORS 137.101, an award of restitution as defined
 17 in ORS 137.103 or any other fines, fees or court-appointed attorney fees imposed in a criminal action;

18 (B) A child support obligation;

19 (C) A civil judgment including a money award in which the Department of Justice is a judgment
 20 creditor; or

21 (D) A civil judgment including a money award entered against an adult in custody resulting from
 22 an action for the assault or battery of a Department of Corrections or Oregon Corrections Enter-
 23 prises employee.

24 (d) "Criminal action" has the meaning given that term in ORS 131.005.

25 (e) "Eligible moneys" means moneys deposited in an adult in custody trust account that are
 26 subject to collection under this section, including but not limited to adult in custody performance
 27 monetary awards and moneys received from family members or friends of the adult in custody. "El-
 28 igitible moneys" does not include protected moneys.

29 (f) "Protected moneys" means moneys deposited in an adult in custody trust account that are
 30 not subject to collection under state or federal law or under this section including but not limited
 31 to:

32 (A) Disability benefits for veterans;

33 (B) Moneys received from a Native American tribe or tribal government;

34 (C) Moneys dedicated for medical, dental or optical expenses or emergency trips;

35 (D) Railroad retirement benefits; or

36 (E) Moneys paid as compensation to an adult in custody in a prison work program established
 37 under the Prison Industries Enhancement Certification Program, or a successor program designated
 38 by the United States Director of the Bureau of Justice Assistance pursuant to 18 U.S.C. 1761.

39 (2)(a) Notwithstanding ORS 161.675, the Department of Corrections shall collect eligible moneys
 40 from an adult in custody trust account if the adult in custody owes court-ordered financial obli-
 41 gations as described in this section.

42 (b) Notwithstanding any other provision of this section, the department may deduct a fixed
 43 percentage of each adult in custody performance monetary award made to an adult in custody, to
 44 be credited to a general victims assistance fund, before crediting the remainder of the award to the
 45 adult in custody trust account.

1 (3)(a) The Judicial Department shall provide an accounting to the Department of Corrections
2 of court-ordered financial obligations described in subsection (1)(c)(A) of this section, if any, owed
3 by each adult in custody. The Department of Justice shall provide an accounting of court-ordered
4 financial obligations described in subsection (1)(c)(B) and (C) of this section. The accounting records
5 may be provided electronically in a format agreed upon by the departments.

6 (b) Upon receipt of the accounting records described in paragraph (a) of this subsection, the
7 Department of Corrections shall collect a portion of eligible moneys from the adult in custody trust
8 account of each adult in custody as follows:

9 (A) Until an adult in custody not sentenced to death or to life imprisonment without the possi-
10 bility of release or parole has \$500 in a transitional fund to facilitate reentry after release, 10 per-
11 cent of eligible moneys shall be collected for court-ordered financial obligations and five percent of
12 eligible moneys shall be collected and transferred to the transitional fund.

13 (B) After the adult in custody has at least \$500 in the transitional fund, or if the adult in cus-
14 tody has been sentenced to death or to life imprisonment without the possibility of release or parole,
15 the department shall collect 15 percent of eligible moneys for court-ordered financial obligations.

16 (C) After court-ordered financial obligations have been paid, an adult in custody not sentenced
17 to death or to life imprisonment without the possibility of release or parole may elect to continue
18 to transfer five percent of eligible moneys into the transitional fund.

19 (c) Notwithstanding ORS 18.615 or any other provision of law, while moneys held in a transi-
20 tional fund described in this subsection remain within the custody or control of the Department of
21 Corrections, those moneys are neither assignable nor subject to execution, garnishment, attachment
22 or any other process.

23 (4) There are four levels of priority for the application of collected moneys to court-ordered fi-
24 nancial obligations, with Level I obligations having the highest priority and Level IV obligations
25 having the lowest priority. The levels are as follows:

26 (a) Level I obligations are compensatory fines imposed pursuant to ORS 137.101, awards of
27 restitution defined in ORS 137.103 and fines, fees or court-appointed attorney fees imposed in a
28 criminal action.

29 (b) Level II obligations are civil judgments that include a money award in which the Department
30 of Justice is a judgment creditor.

31 (c) Level III obligations are child support obligations.

32 (d) Level IV obligations are civil judgments including a money award entered against an adult
33 in custody resulting from an action for the assault or battery of a Department of Corrections or
34 Oregon Corrections Enterprises employee.

35 (5)(a) After receiving the accounting records described in subsection (3) of this section, the De-
36 partment of Corrections shall disburse the collected moneys for court-ordered financial obligations
37 to the Department of Justice and the Judicial Department, as appropriate.

38 (b) The Department of Justice and the Judicial Department shall apply the collected moneys
39 received from the Department of Corrections under this subsection to the court-ordered financial
40 obligations of an adult in custody according to the priority levels of the obligations.

41 (6)(a) The Department of Justice may create a subaccount in which to deposit the collected
42 moneys received from the Department of Corrections under this section.

43 (b) The Judicial Department may create a subaccount in which to deposit the collected moneys
44 received from the Department of Corrections under this section.

45 (c) The Department of Corrections may create subaccounts for the purposes of storing collected

1 moneys prior to disbursement under this section.

2 (7) The Department of Corrections, the Department of Justice and the Judicial Department may
3 adopt rules to implement this section.

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