

Senate Bill 618

Sponsored by Senator PROZANSKI (Presession 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**.

Establishes procedure for charging aggravated version of offense when defendant commits felony while wearing body armor. Provides that if defendant is convicted of aggravated offense, court shall sentence defendant to five years' imprisonment for first offense, 10 years' imprisonment for second offense, and 30 years' imprisonment for third and subsequent offenses. Authorizes court to impose lesser sentence in certain circumstances.

A BILL FOR AN ACT

1 Relating to body armor; creating new provisions; and amending ORS 137.633, 144.126 and 161.620.

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

3 **SECTION 1. (1) If a defendant wears body armor during the commission of a felony, that**
4 **fact may be pleaded in the accusatory instrument and proved at trial as an element in ag-**
5 **gravation of the crime as provided in this section. When a crime is so pleaded, the aggra-**
6 **gated nature of the crime may be indicated by adding the words "while wearing body**
7 **armor" to the title of the offense. The unaggravated crime shall be considered a lesser in-**
8 **cluded offense.**

9
10 **(2) Notwithstanding the provisions of ORS 161.605, and except as otherwise provided in**
11 **subsection (5) of this section, if a defendant is convicted of a felony having as an element**
12 **that the defendant was wearing body armor during the commission of the crime, the court**
13 **shall impose at least the minimum term of imprisonment as provided in subsection (3) of this**
14 **section. Except as provided in ORS 144.126 and subsection (4) of this section, a person sen-**
15 **tenced under this section is not eligible for work release, parole or temporary leave until the**
16 **minimum term of imprisonment is served, less a period of time equivalent to any reduction**
17 **of imprisonment granted for good time served or time credits earned under ORS 421.121, and**
18 **the execution of the sentence imposed upon the person may not be suspended by the court.**

19 **(3) The minimum terms of imprisonment for felonies having as an element that the de-**
20 **fendant was wearing body armor during the commission of the crime shall be as follows:**

21 **(a) Except as provided in subsection (4) of this section, upon the first conviction for such**
22 **felony, five years.**

23 **(b) Upon conviction for such felony committed after the defendant was sentenced under**
24 **paragraph (a) of this subsection or subsection (4) of this section, 10 years.**

25 **(c) Upon conviction for such felony committed after the defendant was sentenced under**
26 **paragraph (b) of this subsection, 30 years.**

27 **(4) If it is the first time that the defendant is subject to sentencing under this section,**
28 **rather than impose the sentence otherwise required by subsection (3)(a) of this section, the**
29 **court may impose a lesser sentence in accordance with the rules of the Oregon Criminal**
30 **Justice Commission.**

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) When a defendant who is convicted of a felony having as an element the defendant’s**
 2 **wearing of body armor during the commission of the crime is a person who was waived under**
 3 **ORS 137.707 (5)(b)(A), 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370, the court is not required**
 4 **to impose a minimum term of imprisonment under this section.**

5 **(6) As used in this section, “body armor” has the meaning given that term in ORS**
 6 **166.641.**

7 **SECTION 2.** ORS 137.633 is amended to read:

8 137.633. (1) A person convicted of a felony, a designated drug-related misdemeanor or a desig-
 9 nated person misdemeanor and sentenced to probation, to post-prison supervision or to the legal and
 10 physical custody of the Department of Corrections or the supervisory authority under ORS 137.124
 11 (2) is eligible for a reduction in the period of probation or post-prison supervision for complying with
 12 terms of probation or post-prison supervision, including demonstrating a commitment to the payment
 13 of restitution to the extent the person is able to pay, and participation in recidivism reduction pro-
 14 grams.

15 (2) The maximum reduction under this section may not exceed 50 percent of the period of pro-
 16 bation or post-prison supervision imposed.

17 (3) A reduction under this section may not be used to shorten the period of probation or post-
 18 prison supervision to less than six months.

19 (4) A person serving a sentence described as follows is not eligible for a reduction in the term
 20 of supervision under this section:

21 (a) A sentence for a crime described in ORS 163.095, 163.107, 163.115, 163.118, 163.125, 163.149,
 22 163.185, 163.225, 163.235, 163.365, 163.375, 163.395, 163.405, 163.408, 163.411, 163.427, 163.670, 164.325,
 23 164.415 or 167.017;

24 (b) A sentence for attempt or conspiracy to commit a crime described in ORS 163.095, 163.107
 25 or 163.115;

26 (c) A sentence for a crime committed prior to November 1, 1989;

27 (d) A sentence imposed under the provisions of ORS 161.610 **or section 1 of this 2023 Act;**

28 (e) A sentence imposed under the provisions of ORS 161.725 and 161.735;

29 (f) A sentence imposed under the provisions of ORS 137.635;

30 (g) A sentence imposed under the provisions of ORS 137.690, 164.061, 475.907, 475.925, 475.930
 31 or 813.011; or

32 (h) A term of supervision subject to ORS 144.103.

33 (5)(a) The Department of Corrections shall adopt rules to carry out the provisions of this sec-
 34 tion.

35 (b) The rules adopted under this subsection shall include but are not limited to:

36 (A) Rules creating processes for early and ongoing notification of eligibility for an earned re-
 37 duction in supervision under this section to persons on supervision; and

38 (B) Rules establishing consistent standards for determining when a person on supervision is in
 39 compliance with the requirements for, and has succeeded in, earning a reduction in supervision un-
 40 der this section.

41 (c) The supervisory authority shall comply with the rules adopted under this subsection.

42 (6) As used in this section:

43 (a) “Designated drug-related misdemeanor” has the meaning given that term in ORS 423.478.

44 (b) “Designated person misdemeanor” has the meaning given that term in ORS 423.478.

45 **SECTION 3.** ORS 144.126 is amended to read:

1 144.126. (1) The State Board of Parole and Post-Prison Supervision may advance the release date
 2 of a prisoner who was sentenced in accordance with rules of the Oregon Criminal Justice Commis-
 3 sion or ORS 161.610 **or section 1 of this 2023 Act**. The release date may be advanced if the board
 4 determines that continued incarceration is cruel and inhumane and that advancing the release date
 5 of the prisoner is not incompatible with the best interests of the prisoner and society and that the
 6 prisoner is:

7 (a) Suffering from a severe medical condition including terminal illness; or

8 (b) Elderly and permanently incapacitated in such a manner that the prisoner is unable to move
 9 from place to place without the assistance of another person.

10 (2) The board shall adopt rules establishing criteria for release plans for prisoners released un-
 11 der this section that, at a minimum, must insure appropriate supervision and services for the person
 12 released.

13 (3) The provisions of this section do not apply to prisoners sentenced to life imprisonment
 14 without the possibility of release or parole under ORS 138.052 or 163.150.

15 (4) If the victim has requested notification of the release of the prisoner, the board shall notify
 16 the victim as described in ORS 144.750 (3) prior to any hearing or administrative decision under this
 17 section.

18 **SECTION 4.** ORS 161.620 is amended to read:

19 161.620. Notwithstanding any other provision of law, a sentence imposed upon any person
 20 waived under ORS 419C.349, 419C.352, 419C.364 or 419C.370 shall not include any sentence of death
 21 or life imprisonment without the possibility of release or parole nor imposition of any mandatory
 22 minimum sentence except that a mandatory minimum sentence under:

23 (1) ORS 137.707 shall be imposed, except as provided in ORS 137.712;

24 (2) ORS 163.105 (1)(c) shall be imposed; and

25 (3) ORS 161.610 **or section 1 of this 2023 Act** may be imposed.

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