

HOUSE AMENDMENTS TO HOUSE BILL 2313

By COMMITTEE ON JUDICIARY

June 8

1 On page 1 of the printed bill, delete lines 4 through 31 and delete page 2 and insert:

2 **“SECTION 1. (1) As used in this section:**

3 **“(a) ‘Criminal street gang’ means a group of at least three persons that has:**

4 **“(A) As one of its primary activities the commission of criminal acts or acts that if done**
5 **by an adult would constitute a violation of a law or ordinance of the United States or a state,**
6 **county or city;**

7 **“(B) A common name, common style of dress or common identifying signs, colors or**
8 **symbols; and**

9 **“(C) At least two members who engage in or have engaged in a pattern of criminal street**
10 **gang activity.**

11 **“(b) ‘Pattern of criminal street gang activity’ means the commission of, or an attempt,**
12 **solicitation or conspiracy to commit, on separate occasions within a three-year period:**

13 **“(A) At least two felony offenses;**

14 **“(B) At least three misdemeanor offenses;**

15 **“(C) At least one felony and two misdemeanor offenses; or**

16 **“(D) A comparable number of acts that if committed by an adult would constitute vio-**
17 **lations of law classified as felonies or misdemeanors.**

18 **“(c) ‘Person felony’ has the meaning given that term in the rules of the Oregon Criminal**
19 **Justice Commission.**

20 **“(2) The court shall sentence a person who is convicted of a person felony or a violation**
21 **of ORS 166.220 or 166.270 to a term of incarceration that is 24 months longer than the**
22 **presumptive sentence of incarceration for the crime if the person committed the crime:**

23 **“(a)(A) For the benefit, or at the direction, of a criminal street gang; or**

24 **“(B) In association with a criminal street gang; and**

25 **“(b) With the intent to:**

26 **“(A) Assist in criminal conduct by criminal street gang members;**

27 **“(B) Promote the criminal street gang; or**

28 **“(C) Further the purposes of the criminal street gang.**

29 **“(3) If the presumptive sentence for a crime described in subsection (2) of this section**
30 **is probation, the court shall sentence a person who committed the crime under the circum-**
31 **stances described in subsection (2) of this section to a term of incarceration of 24 months.**

32 **“(4) When the state seeks an enhanced sentence authorized by subsection (2) or (3) of**
33 **this section, the state shall plead the gang-related enhancement by adding the term ‘gang-**
34 **related offense’ to the name of the crime and by pleading the factors listed in subsection (2)**
35 **of this section on which the state is relying within the count. The factors pleaded must be**

1 **proved beyond a reasonable doubt as elements in the guilt phase of the trial. The unenhanced**
2 **crime is a lesser included offense.”**
3 _____