

A-Engrossed
House Bill 2313

Ordered by the House June 8
Including House Amendments dated June 8

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Committee on Judiciary for Speaker Karen Minnis)

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.

Allows imposition of longer sentence upon conviction of [*crime under certain circumstances if defendant is criminal street gang member*] **person felony or unlawful use or possession of weapon and offense was gang-related.**

A BILL FOR AN ACT

1
2 Relating to sentencing.

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

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

5 (a) **"Criminal street gang" means a group of at least three persons that has:**

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

9 (B) **A common name, common style of dress or common identifying signs, colors or**
10 **symbols; and**

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

13 (b) **"Pattern of criminal street gang activity" means the commission of, or an attempt,**
14 **solicitation or conspiracy to commit, on separate occasions within a three-year period:**

15 (A) **At least two felony offenses;**

16 (B) **At least three misdemeanor offenses;**

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

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

20 (c) **"Person felony" has the meaning given that term in the rules of the Oregon Criminal**
21 **Justice Commission.**

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

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

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

27 (b) **With the intent to:**

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

2 **(B) Promote the criminal street gang; or**

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

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

7 **(4) When the state seeks an enhanced sentence authorized by subsection (2) or (3) of this**
8 **section, the state shall plead the gang-related enhancement by adding the term “gang-related**
9 **offense” to the name of the crime and by pleading the factors listed in subsection (2) of this**
10 **section on which the state is relying within the count. The factors pleaded must be proved**
11 **beyond a reasonable doubt as elements in the guilt phase of the trial. The unenhanced crime**
12 **is a lesser included offense.**

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