

Senate Bill 977

Sponsored by COMMITTEE ON RULES (at the request of AFSCME)

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**.

Requires sheriff, when transferring defendant to Department of Corrections, to provide department with criminal, medical and psychological records concerning defendant. Requires department or supervisory authority, when transferring physical custody of person to Oregon Youth Authority, to provide youth authority with criminal, medical and psychological records concerning person.

A BILL FOR AN ACT

1
2 Relating to corrections; amending ORS 137.124 and 137.320.

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

4 **SECTION 1.** ORS 137.320 is amended to read:

5 137.320. (1) When a judgment includes commitment to the legal and physical custody of the De-
6 partment of Corrections, the sheriff shall deliver the defendant, together with a copy of the entry
7 of judgment, [*and*] a statement signed by the sheriff of the number of days the defendant was
8 imprisoned prior to delivery **and all criminal, medical and psychological records concerning the**
9 **defendant that the sheriff has**, to the superintendent of the Department of Corrections institution
10 to which the defendant is initially assigned pursuant to ORS 137.124. If at the time of entry of a
11 judgment, the defendant was serving a term of incarceration at the direction of the supervisory au-
12 thority of a county upon conviction of a prior felony, the sheriff shall also deliver to the Department
13 of Corrections a copy of the prior entry of judgment committing the defendant to the supervisory
14 authority of the county of conviction and a statement of the number of days the defendant has re-
15 maining to be served on the term or incarceration imposed in the prior judgment.

16 (2) If the defendant is surrendered to another legal authority prior to delivery to an institution
17 of the Department of Corrections, the sheriff shall forward to the Department of Corrections copies
18 of the entry of all pertinent judgments, a statement of the number of days the defendant was
19 imprisoned prior to surrender, a statement of the number of days the defendant has remaining to
20 be served on any term of incarceration the defendant was serving at the direction of the supervisory
21 authority of a county upon conviction of a prior felony, **all criminal, medical and psychological**
22 **records concerning the defendant that the sheriff has** and an identification of the authority to
23 whom the prisoner was surrendered.

24 (3) Upon receipt of the information described in subsection (1) or (2) of this section, the De-
25 partment of Corrections shall establish a case file and compute the defendant's sentence in accord-
26 ance with the provisions of ORS 137.370.

27 (4) When the judgment is imprisonment in the county jail or a fine and that the defendant be
28 imprisoned until it is paid, the judgment shall be executed by the sheriff of the county. The sheriff
29 shall compute the time the defendant was imprisoned after arrest and prior to the commencement
30 of the term specified in the judgment. Such time shall be credited towards the term of the sentence.

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 **SECTION 2.** ORS 137.124 is amended to read:

2 137.124. (1) If the court imposes a sentence upon conviction of a felony that includes a term of
3 incarceration that exceeds 12 months:

4 (a) The court shall not designate the correctional facility in which the defendant is to be con-
5 fined but shall commit the defendant to the legal and physical custody of the Department of Cor-
6 rections; and

7 (b) If the judgment provides that the term of incarceration be served consecutively to a term
8 of incarceration of 12 months or less that was imposed in a previous proceeding by a court of this
9 state upon conviction of a felony, the defendant shall serve any remaining part of the previously
10 imposed term of incarceration in the legal and physical custody of the Department of Corrections.

11 (2)(a) If the court imposes a sentence upon conviction of a felony that includes a term of
12 incarceration that is 12 months or less, the court shall commit the defendant to the legal and
13 physical custody of the supervisory authority of the county in which the crime of conviction oc-
14 curred.

15 (b) Notwithstanding paragraph (a) of this subsection, when the court imposes a sentence upon
16 conviction of a felony that includes a term of incarceration that is 12 months or less, the court shall
17 commit the defendant to the legal and physical custody of the Department of Corrections if the court
18 orders that the term of incarceration be served consecutively to a term of incarceration that ex-
19 ceeds 12 months that was imposed in a previous proceeding or in the same proceeding by a court
20 of this state upon conviction of a felony.

21 (3) After assuming custody of the convicted person the Department of Corrections may transfer
22 inmates from one correctional facility to another such facility for the purposes of diagnosis and
23 study, rehabilitation and treatment, as best seems to fit the needs of the inmate and for the pro-
24 tection and welfare of the community and the inmate.

25 (4) If the court imposes a sentence of imprisonment upon conviction of a misdemeanor, it shall
26 commit the defendant to the custody of the supervisory authority of the county in which the crime
27 of conviction occurred.

28 (5)(a) When a person under 18 years of age at the time of committing the offense and under 20
29 years of age at the time of sentencing is committed to the Department of Corrections under ORS
30 137.707, the Department of Corrections shall transfer the physical custody of the person to the
31 Oregon Youth Authority as provided in ORS 420.011 if:

32 (A) The person will complete the sentence imposed before the person attains 25 years of age;
33 or

34 (B) The Department of Corrections and the Oregon Youth Authority determine that, because of
35 the person's age, immaturity, mental or emotional condition or risk of physical harm to the person,
36 the person should not be incarcerated initially in a Department of Corrections institution.

37 (b) A person placed in the custody of the Oregon Youth Authority under this subsection shall
38 be returned to the physical custody of the Department of Corrections whenever the Director of the
39 Oregon Youth Authority, after consultation with the Department of Corrections, determines that the
40 conditions or circumstances that warranted the transfer of custody under this subsection are no
41 longer present.

42 (6)(a) When a person under 18 years of age at the time of committing the offense and under 20
43 years of age at the time of sentencing is committed to the legal and physical custody of the De-
44 partment of Corrections or the supervisory authority of a county following waiver under ORS
45 419C.349, 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or

1 137.712, the Department of Corrections or the supervisory authority of a county shall transfer the
 2 person to the physical custody of the Oregon Youth Authority for placement as provided in ORS
 3 420.011 (3). The terms and conditions of the person’s incarceration and custody are governed by ORS
 4 420A.200 to 420A.206.

5 (b) When a person under 16 years of age is waived under ORS 419C.349, 419C.352, 419C.364 or
 6 419C.370 and subsequently is sentenced to a term of imprisonment in the county jail, the sheriff shall
 7 transfer the person to a youth correction facility for physical custody as provided in ORS 420.011
 8 (3).

9 (7) If the Director of the Oregon Youth Authority concurs in the decision, the Department of
 10 Corrections or the supervisory authority of a county shall transfer the physical custody of a person
 11 committed to the Department of Corrections or the supervisory authority of the county under sub-
 12 section (1) or (2) of this section to the Oregon Youth Authority as provided in ORS 420.011 (2) if:

13 (a) The person was at least 18 years of age but under 20 years of age at the time of committing
 14 the felony for which the person is being sentenced to a term of incarceration;

15 (b) The person is under 20 years of age at the time of commitment to the Department of Cor-
 16 rections or the supervisory authority of the county;

17 (c) The person has not been committed previously to the legal and physical custody of the De-
 18 partment of Corrections or the supervisory authority of a county;

19 (d) The person has not been convicted and sentenced to a term of incarceration for the com-
 20 mission of a felony in any other state;

21 (e) The person will complete the term of incarceration imposed before the person attains 25
 22 years of age;

23 (f) The person is likely in the foreseeable future to benefit from the rehabilitative and treatment
 24 programs administered by the Oregon Youth Authority;

25 (g) The person does not pose a substantial danger to Oregon Youth Authority staff or persons
 26 in the custody of the Oregon Youth Authority; and

27 (h) At the time of the proposed transfer, no more than 50 persons are in the physical custody
 28 of the Oregon Youth Authority under this subsection.

29 (8) Notwithstanding the provisions of subsections (5)(a)(A) or (7) of this section, the department
 30 or the supervisory authority of a county may not transfer the physical custody of the person under
 31 subsection (5)(a)(A) or (7) of this section if the Director of the Oregon Youth Authority, after con-
 32 sultation with the Department of Corrections or the supervisory authority of a county, determines
 33 that, because of the person’s age, mental or emotional condition or risk of physical harm to other
 34 persons, the person should not be incarcerated in a youth correction facility.

35 **(9) Before transferring the physical custody of a person under subsection (5), (6) or (7)**
 36 **of this section, the department or supervisory authority shall provide the Oregon Youth**
 37 **Authority with copies of all criminal, medical and psychological records concerning the per-**
 38 **son that the department or supervisory authority has in its possession.**

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