

House Bill 2733

Sponsored by Representative SCHARF (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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act says that a defendant wearing a mask during a crime for specified reasons can increase the sentence. (Flesch Readability Score: 62.8).

Requires the court to consider the defendant having a concealed face during the crime, with the intent to avoid arrest or facilitate the commission of the crime, as aggravation for sentencing purposes.

A BILL FOR AN ACT

1 Relating to the concealment of a person's face during criminal activity; amending ORS 137.090.

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

3 **SECTION 1.** ORS 137.090 is amended to read:

4 137.090. (1) In determining aggravation or mitigation, the court shall consider:

5 (a) Any evidence received during the proceeding;

6 (b) The presentence report, where one is available; and

7 (c) Any other evidence relevant to aggravation or mitigation that the court finds trustworthy
8 and reliable.

9 (2) In determining mitigation, the court may consider:

10 (a) Evidence regarding the defendant's status as a servicemember as defined in ORS 135.881.

11 (b) Whether the defendant committed the crime while under duress, compulsion, direction or
12 pressure from another person who has:

13 (A) Committed acts of domestic violence, as defined in ORS 135.230, against the defendant;

14 (B) Committed acts of abuse as a family or household member of the defendant, as those terms
15 are defined in ORS 107.705, against the defendant; or

16 (C) Used force, intimidation, fraud or coercion to cause the defendant to engage, or attempt to
17 engage, in a commercial sex act.

18 (3) In determining aggravation, the court shall consider whether the person was wearing body
19 armor in the course of and in furtherance of the crime, or to facilitate the immediate flight there-
20 from.

21 (4) **The court shall consider the defendant having partially or fully concealed the
22 defendant's face during commission of the crime, with the intent to avoid arrest or facilitate
23 the commission of the crime, as aggravation.**

24 [(4)] (5) When a witness is so sick or infirm as to be unable to attend a sentencing proceeding,
25 the deposition of the witness may be taken out of court at such time and place, and upon such notice
26 to the adverse party, and before such person authorized to take depositions, as the court directs.
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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.