

Benton County District Attorney's Office
Discretionary Resentencing Review Policies and Procedures
ORS 137.218 (SB 819)

Oregon law provides that in certain circumstances, a criminal defendant may be re-sentenced. If, after sentencing, a Deputy District Attorney concludes that the sentence no longer advances the interests of justice, then ORS 137.218 provides the mechanism for the state and the defendant to jointly petition the court to dismiss the conviction and resentence the defendant to a lesser sentence for the same crime of conviction, or to sentence a person for a new crime.

The power to re-sentence is a remedy similar to the commutation power granted to a governor or president. Agreeing to submit a petition under ORS 137.218 should only be done after careful consideration of public policy concerns that converge on such a decision. Society has an interest in finality within the criminal justice system. Perpetual or prolonged litigation process is costly and can be contrary to the interests of justice. Furthermore, crime victims have a personal interest in finality that the criminal justice system may provide.

Deputy District Attorneys may only consider a sentence for ORS 137.218 treatment after a defendant has filled out a Benton County Resentencing Request Application, in full, along with a detailed cover letter describing the reasons for the request, and the desired sentencing modification. Deputy District Attorneys must carefully review the defendant's application and cover letter. If after this review, the deputy believes that the request complies with ORS 137.218 and furthers the interests of Justice, then the Deputy District Attorney may, with the District Attorney's consent, jointly petition the court for ORS 137.218 treatment. The Deputy District Attorney must ensure that the process completely complies with all victim rights laws.

If any of the following exits, then the request must be rejected:

- 1) The request fails to further the interests of justice;
- 2) The request violates any victim rights law;
- 3) The request doesn't include a completely filled out application and cover letter;

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