

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass and Be Placed on the Consent Calendar
Vote:	9 - 0 - 0
Yeas:	Barker, Bonamici, Cameron, Flores, Komp, Krieger, Read, Whisnant, Macpherson
Nays:	0
Exc.:	0
Prepared By:	Darian Stanford, Counsel
Meeting Dates:	3/9

WHAT THE MEASURE DOES: Makes sentencing enhancement provisions permanent.

ISSUES DISCUSSED:

- Explanation of *Blakely* case and need for law in light of *Blakely*

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: In criminal prosecutions, the state sometimes alleges “enhancement factors” in order to enhance the potential sentence if the defendant is convicted (*e.g.*, the defendant cannot be rehabilitated, the defendant acted with deliberate cruelty). In the 2004 case of *Blakely v. Washington*, 542 US 296, the United States Supreme Court held that under the 6th Amendment (right to jury trial) a defendant must have the opportunity to have a jury decide such enhancement factors.

The 2005 Oregon Legislature responded to *Blakely* by reforming Oregon’s sentencing enhancement law. In short, it set up procedures by which the state could allege enhancement facts and the defendant could have a jury or the court decide them.

SB 258 addresses these sentencing enhancement provisions. First, it repeals Section 20, chapter 463, Oregon Laws 2005 (Section 20 called for the repeal of the sentencing enhancement provisions on January 2, 2008). The provisions thus become permanent. SB 258 amends ORS 40.015 to state that Oregon’s Evidence Code applies to sentencing enhancement trials. It expressly states that alternate jurors may be utilized in enhancement trials. Finally, it identifies July 7, 2005 as the relevant date for considering what actions are subject to the enhancement provisions.

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This summary has not been adopted or officially endorsed by action of the committee.