

2008 Special Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3638 **STATUS:** B-Engrossed
SUBJECT: Modifies process for release on post-prison supervision following successful completion of alternative incarceration program.
GOVERNMENT UNIT AFFECTED: Department of Corrections, Oregon Judicial Department, Public Defense Services Commission, Oregon State Police
PREPARED BY: Tim Walker
REVIEWED BY: Doug Wilson and Robin LaMonte
DATE: February 20, 2008.

	<u>2007-2009</u>	<u>2009-2011</u>
EXPENDITURES:		
Department of Corrections (General Fund)	\$ -	\$4,121,845

EFFECTIVE DATE: January 1, 2009

INTERIM JOINT COMMITTEE ON WAYS AND MEANS: The budgetary impact of this bill was not reviewed by the Interim Joint Committee on Ways and Means Committee and is not included in the omnibus budget bill to be introduced by the committee.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: This bill limits the participation of offenders incarcerated under the Department of Corrections (DOC) in the Alternative Incarceration Program (AIP). The AIP program specifies eligible offenders to be released from a DOC facility if they successfully participate in an alcohol and drug treatment program or in the "boot camp" program. Changes to the AIP program include: (1) requires the court to make a finding that the defendant is eligible for AIP; (2) court must find that the defendant was not on supervision for a violent offense, had not had a previous sentence reduction through AIP, and the harm and loss from the crime was not greater than usual; (3) the crime was not related to the death or serious physical injury of a victim; (4) the crime is not a Measure 11 offense or one that requires sex offender registration; (5) the offender must serve at least 12 months of a sentence; and (6) the total time a sentence may be reduced is 20% relating to the AIP and 20% attributed to "earned time".

The bill also restricts the voting rights of felony offenders when they are incarcerated in a local jail or state prison and requires county jails to conduct a national criminal records check whenever an offender is incarcerated. The measure clarifies that this measure or SB 1087 does not create a legal right to treatment. The provisions related to the AIP program and voting restrictions are effective for persons sentenced on or after January 1, 2009.

Department of Corrections

This bill will restrict who may enter AIP, when they can enter and the maximum sentence reduction that can be received for completing the program. Under current practice an offender could receive time off for good behavior (earned time), in addition to early release for completing AIP. This total time off could, in some instances, amount to more than 40% of the offenders sentence. The bill would set the maximum time

off at 20% for completion of the program and 20% for participation in other DOC programs such as work programs and time off for good behavior. DOC currently has 150 beds for the AIP and 125 individuals on the waiting list for entering the AIP. Given the timing of the effective date (crimes committed on or after January 1, 2009) and the size of the waiting list, a 2007-09 fiscal impact is not anticipated. Offenders will have to serve a minimum of 1 year in prison, before becoming eligible for the program. It is anticipated that the limiting of sentence reductions will require an additional 36 prison beds in 2009-11 and 50 additional beds in 2011-13. The exclusion of certain offenders from AIP will require an additional 30 beds in 2009-11, 145 beds in 2011-13 and 150 beds in 2013-15. The total General Fund impact of limiting sentence reductions and the exclusion of certain offenders from AIP in 2011-13 is \$10.9 million and in 2013-15 the impact is \$11.6 million.

Oregon Judicial Department and Public Defense Service Commission

This bill will require judges to establish more extensive findings for an offender to be included in AIP than under current law. This would require some defendants to request a hearing, and OJD assumes that more defendants will request hearings than under current law. The exact number of defendants requesting additional hearings is difficult to predict with any accuracy. The additional complexity of the AIP cases will take more court time than under current practice. PDSC can also expect additional attorney time, and in some cases investigator time, due to the additional findings required by this bill.

Oregon State Police

Section 7 of the bill requires counties to perform a national criminal history check on every person incarcerated in a county correctional facility. The bill also requires the state to reimburse counties for the cost of the criminal history check. The bill does not identify what agency of the state will reimburse the counties. The bill does not specify whether or not the criminal history check includes a fingerprint check. As written, the bill would not have a measurable impact on OSP and any increase in criminal history checks could be absorbed within current resources. Currently, counties can perform national criminal history checks at no charge.