

Joint Committee on Ways and Means

Carriers – House: Rep. Macpherson/
Rep. Olson

Revenue: No revenue impact

Carrier – Senate: Sen. Prozanski

Fiscal: Fiscal statement issued

Action: Do Pass the A-Engrossed Measure with Amendments and Be Printed B-Engrossed

Vote: 16 – 2 – 1

House – Yeas: D. Edwards, Galizio, Hanna, Jenson, Morgan, Nathanson, Nolan, Shields, P. Smith

– Nays:

– Exc:

Senate – Yeas: Johnson, Monroe, Nelson, Schrader, Verger, Whitsett, Winters

– Nays: Carter, Gordly

– Exc: Bates

Prepared By: Doug Wilson, Legislative Fiscal Office

Meeting Date: February 19, 2008

WHAT THE MEASURE DOES: This bill limits the participation of offenders incarcerated under the Department of Corrections (DOC) in the Alternative Incarceration Program (AIP). The AIP program authorizes eligible offenders to be released from a DOC facility early if they successfully participate in an alcohol and drug treatment program or in the “boot camp” program. The bill also restricts the voting rights of offenders (felony) when they are incarcerated in a local jail (including for violations of conditions of supervision), and requires county jails to conduct a national criminal records check whenever an offender is incarcerated.

The changes to the AIP program include:

- 1) Reverses the current presumption that an offender is eligible for the AIP program so that the court must make a finding that the offender be considered for the program. The defendant who is sentenced to more than one year in prison must request that the court consider the defendant’s eligibility for early release from prison upon the defendant’s successful completion of DOC’s AIP program.
- 2) The court must find that the following is true for a defendant to be considered for the AIP program: (1) the defendant was not on supervision for a violent offense when the crime was committed; (2) the defendant had not previously had a reduced from an AIP program; (3) harm or loss from the crime is not greater than usual for that crime type; (4) the crime was not part of an organized crime; (5) the defendant’s success in the AIP program will increase public safety and likelihood of rehabilitation is enhanced.
- 3) The defendant is not being sentenced for a crime relating to the death or serious physical injury of the victim unless stipulated by the district attorney.
- 4) The defendant is not being sentenced for aggravated murder, a Measure 11 crime, and crime requiring sex offender registration.
- 5) Offenders who are removed from the AIP program can not participate in the program again during that incarceration period.
- 6) Offenders must serve at least 12 months including the time spent in a county jail.
- 7) The total time an offender’s sentence may be cut is reduced to a 20% reduction related to the AIP program and the 20% that may be for “earned time.”

The measure also defines “drug addicted” and “intensive supervision” for the purposes of SB 1087 which is a related measure set for voter ratification in the November 2008 ballot. In addition, this measure provides instructions to the Department of Corrections in implementing the grants included in SB 1087 if passed by the voters. The measure clarifies that this bill 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. The sections of the bill related to SB 1087 are effective if that bill is ratified by the voters.

ISSUES DISCUSSED:

- Comparison of voting rights restrictions with other states.
- How to enforcement of voting rights and fiscal impact on counties.

EFFECT OF COMMITTEE AMENDMENT: Clarifies effective date language, specifically around the tie with SB 1087. Includes a emergency clause in the bill.

BACKGROUND: ORS 421.504 and ORS 421.506 require the Department of Corrections (DOC) to have two kinds of alternative incarceration programs (AIP). Both are highly structured and require rigorous personal responsibility and accountability, physical labor and service to the community. Both provide for cognitive restructuring that require offenders to confront and alter their criminal thinking patterns. Both provide addiction treatment. A person who successfully completes an AIP program receives a reduction in his or her sentence.

In order to be eligible for an intensive supervision program, the sentencing court must order on the record that the defendant is eligible (ORS 137.750). If the court determines the defendant is eligible, the DOC then determines if the defendant can participate (ORS 421.508).

Currently, a person convicted of a felony and in state prison cannot vote. Traditionally, felons went to prison; those convicted of misdemeanors were the responsibility of the county. With the adoption of the Community Corrections Act, felons serving less than a year sentence are now given over to the custody of the county. The county supervises the offender; the state reimburses the county. One ancillary result of this is that felons in state custody cannot vote, but felons in county custody can vote.

Eighty-five percent of property offenders are addicted to drugs or alcohol. Most steal to support their habits. Oregon has a higher than average number of methamphetamine addicts. Methamphetamine addiction is particularly difficult to break. Incarcerating property offenders will temporarily separate them from drugs and alcohol, but it does not address the underlying addiction. Research shows that drug treatment, specifically which incorporates cognitive restructuring, backed up with the potential to be jailed if the person abandons treatment, is effective in helping addicts remain clean and sober.