

Joint Committee on Ways and Means

Carriers – House: Rep. Macpherson/  
Rep. Olson  
Carrier – Senate: Sen. Prozanski

Revenue: No revenue impact

Fiscal: Fiscal statement issued

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Action: Do Pass the B-Engrossed Measure

Vote: 18 – 0 – 1

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

– Nays:

– Exc:

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

– Nays:

– Exc: Bates

Prepared By: Doug Wilson, Legislative Fiscal Office

Meeting Date: February 19, 2008

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**WHAT THE MEASURE DOES:** This bill enhances the penalties or sentences of those convicted of various property and drug related crimes. These changes and other provisions of the bill are referred to the voters as part of the November 2008 ballot. The changes in sentences and related issues include:

Section 2: Enhances penalties for drug traffickers and manufacturers who possess specific amounts of methamphetamine (meth), heroin, ecstasy, and cocaine. Specifically, (1) increases the sentence ranging from 58 to 130 months for a person who manufactures or deals 500 or more grams of meth or cocaine, or 100 grams of heroin or ecstasy depending upon the person's past criminal history; (2) increases the sentence ranging from 34 to 72 months for a person who manufactures or deals 100 or more grams of meth or cocaine, or 50 or more grams of heroin or ecstasy depending upon the person's past criminal history.

Section 3: Enhances penalties for persons who deliver meth, cocaine, ecstasy, or heroin to a person under 18 years of age with a penalty ranging from 34 to 72 months depending upon the person's past criminal history. Provides bar to prosecution under this section if the person is less than three years older than the minor he or she is providing drugs to, unless he or she is a repeat offender.

Section 4: Provides enhanced penalties for a person who steals \$10,000 or more from a victim who is 65 years of age or older with a penalty ranging from 16 to 45 months depending upon their past criminal history.

Section 6: Eliminates the court's ability to give a probation sentence for certain drug crimes if the sentencing guidelines call for a prison sentence for a repeat drug offender for drug offenses other than marijuana.

Section 7: Enhances sentencing under the repeat property offender statute, ORS 137.717, by increasing sentences to a presumptive sentence of 24 and 18 months (existing sentences are 19 and 13 months). Increases identity theft from the current 13-month sentence under current law to a 24-month sentence under the new law. Provides increased prison sentence of two months for each additional previous conviction, with a cap of 12 months increased sentence. Restricts the court's ability to depart downward to probation or a shorter prison sentence when an offender qualifies for the presumptive sentences mentioned above.

Section 9: Requires that judges or supervising authority impose swift and certain punishment for offenders who do not comply with court ordered treatment or refuse treatment.

Section 10: Enhances the crime of mail theft to a class C felony from the current A misdemeanor.

This bill (section 8) also directs the Department of Corrections (DOC) to provide appropriate treatment to all offenders who are at medium to high risk of re-offending and who have moderate to severe treatment needs. A separate DOC grant program is established for payments to counties to provide supplemental funding for: 1) costs of jail operations; 2) treatment of drug-dependent persons on community supervision; and, 3) intensive supervision (smaller caseloads) including incarceration of drug-addicted persons. The Oregon Criminal Justice Commission is required to monitor effectiveness of programs funded through this grant program. Section 8 also includes the authority for the Oregon Criminal Justice Commission to make grants to counties for drug courts including the costs of treatment and incarceration for offenders who violate the conditions of participation in drug courts.

If passed by the voters in November 2008, the operative date for the changes in sentences is for crimes committed on or after January 1, 2009. The grant programs are effective beginning July 1, 2009 (2009-11 biennium).

Section 13 provides that if Initiative Petition 40 and this measure should both be approved by the voters at the November 2008 ballot, only the one receiving the most votes goes into effect.

**ISSUES DISCUSSED:**

- Relationship between SB 1087 and IP 40 during the November 2008 election.
- Obligation of local governments to provide services funded by the bill's grant program.
- Importance and availability of alcohol and drug treatment, specifically for specific communities of interest.
- Fiscal impact of the bill.
- Balanced approach between punishment/sanctions and treatment for this group of offenders.
- Capacity of the Criminal Justice Commission to perform evaluations required by under this bill.
- Importance of drug courts.

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** SB 1087 is a bill intended to address the concerns of many Oregonians over the difficulty of successfully sanctioning repeat property offenders (many of whom are drug addicts) and the concerns of the law enforcement community of the inability to apply meaningful sanctions to those involved in the trafficking of significant quantities of heroin, cocaine, methamphetamine (meth) and ecstasy with the side benefit of using these sanctions as leverage to obtain cooperation. At the same time, it is intended to significantly increase evidence-based treatment programs backed up by jail beds for those property and drug offenders who are addicts.

SB 1087 is a referral to the voters. It is intended as an alternative to Initiative Petition 40. The measure reflects the thoughts and suggestions of many of those who developed IP40 as well as the Oregon District Attorneys Association, the Oregon Sheriffs Association, the Oregon Community Corrections Directors Association, Oregon Chiefs of Police Association, and many others.