

**FISCAL IMPACT OF PROPOSED LEGISLATION****Measure: HB 2940 - A**Seventy-Sixth Oregon Legislative Assembly – 2011 Regular Session  
Legislative Fiscal OfficePrepared by: Tim Walker  
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Date: 4/1/2011**Measure Description:**

Increases penalty for crime of strangulation to maximum of five years' imprisonment, \$125,000 fine, or both.

**Government Unit(s) Affected:**

Association of Oregon Counties, Department of Corrections, Judicial Department, Cities, Oregon Criminal Justice Commission, District Attorneys and their Deputies, Public Defense Services Commission

**Summary of Expenditure Impact**

|                    | <b>2011-13 Biennium</b> | <b>2013-15 Biennium</b> |
|--------------------|-------------------------|-------------------------|
| General Fund       | \$1,722,300             | \$4,720,466             |
| Lottery Funds      |                         |                         |
| Other Funds        |                         |                         |
| Federal Funds      |                         |                         |
| <b>Total Funds</b> | <b>\$1,722,300</b>      | <b>\$4,720,466</b>      |

**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 would increase the penalty for the crime of strangulation from a Class A misdemeanor to a Class C felony with a maximum penalty of five year' imprisonment and a \$125,000 fine. The crime of strangulation is currently a 4 on the crime seriousness scale and most of these offenders would receive a sentence of two years probation. Those with a significant criminal history would more likely receive a jail sentence. A second offense under this bill would result in a crime seriousness level of 8 which would likely result in a sentence of between 28 and 45 months in prison.

The majority of the fiscal impact to Department of Corrections (DOC), in 2011-13 and 2013-15, would be for payments to community corrections, \$1.4 million and \$4.2 million respectively. The balance, approximately \$235,000 in 2011-13 and \$446,000 in 2013-15, would be for prison beds. DOC assumes that these offenders would be distributed into existing housing units and no costs are included for additional staff or construction.

This fiscal impact is priced using a bed rate reflective of operating emergency beds within the Department of Corrections. As of March 9, 2011 the Department has 552 emergency beds available which the agency will use during the 2011-13 biennium as the prison population increases. An increase in bed demand would require the activation of some of these beds. If the combination of the current projected prison population growth and the possible cumulative total of all new bills providing for bed-demand increases exceeds the number of emergency beds currently available, the Department would likely need to open additional permanent beds, at a higher per bed rate.. Permanent bed capacity for

males is only available at Shutter Creek Correctional Facility (100 minimum-custody) and medium-custody facility at Deer Ridge Correctional Institution in Madras. Opening the additional beds at Shutter Creek would cost more than the emergency bed marginal rate, given the need for additional staffing: the opening of the Deer Ridge medium-custody facility would result in significantly higher cost due to the need for initial staffing and operations costs of certain core functions (Health, Physical Plant, Food Services, etc.) for the entire facility as well as considerable startup costs.

The fiscal impact to the Public Defense Services Commission (PDSC) would be the difference between the cost of defending a Class A misdemeanor and the cost of defending a Class C felony. This cost is an additional \$400 per case. PDSC estimates that there would be an additional 250 cases per year at a cost of \$200,000 per biennium. Depending upon the total number of cases, PDSC may find it necessary to return to the Legislative Assembly or Emergency Board for increased funding to meet this caseload.

The Oregon Judicial Department (OJD) indicates that the cost differential between a misdemeanor and a felony trial is \$363. OJD estimates that there would be 250 additional cases per year at a cost of \$181,500 per biennium. If additional bill pass that have an impact and the cumulative impact is significant, OJD may find it necessary to return to the Legislative Assembly or the Emergency Board to request additional funding.

It should be noted that the fiscal impact is also dependent upon the charging practices of the District Attorneys. The fiscal impact could increase or decrease depending upon number and nature of plea deals or whether the DA's choose to take more of these cases to trial. The fiscal impact could decrease if more plea deals result in fewer prison beds are needed or the fiscal impact could increase depending upon the number of successful trials and a need for additional prison beds.

The Legislative Fiscal Office believes this measure warrants a subsequent referral to the Joint Committee on Ways and Means Committee for consideration of this measure's budgetary impact on the State's General Fund.