
MEMORANDUM

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To: Capital Construction Subcommittee

From: John Terpening, Legislative Fiscal Office
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Date: July 5, 2013

Subject: HB 2549 Work Session Recommendations

HB 2549 relates to sex offenders. The measure directs the Department of Corrections (DOC) to establish a risk assessment tool applicable to sex offenders based on the statistical likelihood that they will commit another sex crime. The assessment tool is required to have three classification levels with level one being the lowest risk to reoffend to level three being the highest risk to reoffend. The measure requires notification of the Oregon State Police (OSP) for results of the risk assessment or changes to an earlier assessment for updating the Law Enforcement Data System. The measure as amended by the –A12 includes language related to “active” parole and post-prison supervision.

Currently, DOC, the Board of Parole and Post-Prison Supervision (BPPPS) and community corrections law enforcement agencies conduct sex offender risk assessment tool called a “Static 99” that would meet the requirements of the measure. BPPPS reports that there are close to 20,000 registered sex offenders currently in Oregon and approximately 16,000 have a current Static 99. The measure requires these assessments to be completed by December 2016.

The measure, the original staff measure summary, preliminary Joint Committee on Ways and Means staff measure summary, revenue impact statement [if available], and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

BPPPS assumes that at least 4,000 Static 99 assessments will need to be conducted on current offenders that have not already received the assessments. BPPPS anticipates the need for two Administrative Specialist 2 positions totaling 1.67 FTE, to handle the additional 4,000 assessments. The –A12 amendment includes a General Fund appropriation of \$254,655 for the Board of Parole to conduct the assessments.

Motion to Move Measure

The measure is recommended to be moved to the full Committee on Joint Ways and Means.

Motion: Adopt the –A12 amendment to HB 2549.

Motion: Move HB 2549 as amended to the full committee with a “do pass” recommendation.

Assignment of Carriers

Full: _____

2nd Chamber: _____

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: HB 2549 - A12**Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed Versions are Considered Official***Prepared by: John Terpening
Reviewed by: Linda Ames, Steve Bender, Monica Brown, Linda Gilbert
Date: 7-5-2013**Measure Description:**

Directs Department of Corrections to establish risk assessment tool applicable to sex offenders.

Government Unit(s) Affected:

Board of Parole and Post-Prison Supervision, Cities, Counties, Department of Corrections, Department of Justice, Judicial Department, Oregon Criminal Justice Commission, Oregon Health Authority (OHA), Oregon State Police (OSP), Oregon Youth Authority (OYA), Psychiatric Security Review Board

Summary of Expenditure Impact:

Agency – Fund Type	2013-2015 Biennium	2015-2017 Biennium
Board of Parole and Post-Prison Supervision – General Fund	\$254,655	\$1,280,981
Positions/FTE	2/1.67	4/4.00
Agency – Fund Type	2013-2015 Biennium	2015-2017 Biennium
Psychiatric Security Review Board – General Fund	\$--	\$154,080
Agency – Fund Type	2013-2015 Biennium	2015-2017 Biennium
Department of Justice – General Fund	\$--	\$1,265,493
Positions/FTE	--/--	3/2.00

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:

The measure directs the Department of Corrections (DOC) to establish a risk assessment tool applicable to sex offenders based on the statistical likelihood that they will commit another sex crime. The assessment tool is required to have three classification levels with level one being the lowest risk to reoffend to level three being the highest risk to reoffend. The measure requires notification of the Oregon State Police (OSP) for results of the risk assessment or changes to an earlier assessment for updating the Law Enforcement Data System.

Currently, DOC, BPPPS and community corrections law enforcement agencies conduct sex offender risk assessment tool called a "Static 99" that would meet the requirements of the measure. BPPPS reports that there are close to 20,000 registered sex offenders currently in Oregon and approximately 16,000 have a current Static 99.

BPPPS assumes that at least 4,000 Static 99 assessments will need to be conducted on current offenders that have not already received the assessments. BPPPS anticipates the need for two Administrative Specialist 2 positions totaling 1.67 FTE, to handle the additional 4,000 assessments.

The measure authorizes the State Board of Parole and Post-Prison Supervision (BPPPS) and Psychiatric Security Review Board (PSRB) to conduct hearings to reclassify certain sex offenders and to

relieve sex offenders classified as level one from the obligation to report. The measure allows the Attorney General to represent the state the hearing unless the applicable district attorney elects to represent the state. The measure stipulates that the petition for reclassifications or relief cannot occur until all existing registrants have been classified, or December 1, 2016.

BPPPS, PSRB, and the Department of Justice (DOJ) assume that beginning January 2017 there will be petition hearings to appeal classifications and to request relief from registering; however the exact number is unknown. Depending on the number of petitions and hearings that need to be conducted, these agencies may need additional staffing resources.

Agency estimates for hearings costs in the 2015-17 biennium include: BPPPS anticipates needing an additional Board member and Operations Policy Analyst 3; PSRB anticipates Board member and Attorney General costs for approximately 12 additional hearing days; DOJ anticipates that Trial Assistant Attorney Generals (AAGs) would attend both the Parole Board hearings and PSRB hearings and that local District Attorney's would opt not to attend. This increased workload will require two additional AAGs, totaling 1.5 FTE and part-time support staff. DOJ notes that hearing attendance would not be billed to BPPPS but would be billed to the DOJ's general fund similar to current practice with PSRB hearings.

The Oregon Judicial Department and Oregon State Police anticipate a minimal fiscal impact as a result of this measure.

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2549**

1 On page 1 of the printed A-engrossed bill, line 2, after “90.630,” insert
2 “144.085, 144.103.”

3 In line 5, after the semicolon insert “appropriating money;”.

4 In line 20, delete “sex crime” and insert “crime described in ORS 163.355
5 to 163.427”.

6 In line 21, after “institution” insert “for that crime”.

7 On page 2, delete lines 6 through 21 and insert:

8 “(3)(a) When a person is found guilty except for insanity of a sex crime,
9 the State Board of Parole and Post-Prison Supervision shall conduct a risk
10 assessment of the person utilizing the risk assessment tool described in sec-
11 tion 1 of this 2013 Act within 60 days after the person is:

12 “(A) Placed on conditional release by the Psychiatric Security Review
13 Board or the Oregon Health Authority;

14 “(B) Discharged from the jurisdiction of the Psychiatric Security Review
15 Board or the Oregon Health Authority;

16 “(C) Placed on conditional release by the court pursuant to ORS 161.327;
17 or

18 “(D) Discharged by the court pursuant to ORS 161.329.

19 “(b) The Psychiatric Security Review Board or the Oregon Health Au-
20 thority shall notify the State Board of Parole and Post-Prison Supervision
21 when the Psychiatric Security Review Board or the authority conditionally
22 releases or discharges a person described in paragraph (a) of this subsection.

1 “(c) The court shall notify the State Board of Parole and Post-Prison
2 Supervision when the court conditionally releases or discharges a person
3 described in paragraph (a) of this subsection.

4 “(4) Within 60 days after the event triggering the obligation to make an
5 initial report, the State Board of Parole and Post-Prison Supervision shall
6 conduct a risk assessment of a person utilizing the risk assessment tool de-
7 scribed in section 1 of this 2013 Act if the person:”.

8 In line 23, delete “or”.

9 In line 25, delete the period and insert “; or

10 “(c) Has been convicted of a sex crime and was sentenced to a term of
11 imprisonment in a Department of Corrections institution for that sex crime,
12 but was not subjected to a risk assessment utilizing the risk assessment tool
13 described in section 1 of this 2013 Act before release under subsection (1) of
14 this section.”.

15 In line 27, delete the comma and insert “or” and delete “or the Psychiatric
16 Security Review Board”.

17 In line 34, after “section” insert “and section 2 of this 2013 Act”.

18 On page 6, line 26, after the period insert “All fees paid under this sub-
19 section shall be deposited into the General Fund and credited to the account
20 of the appropriate board.”.

21 On page 7, line 35, delete “or the Psychiatric Security Review Board, as
22 appropriate,”.

23 On page 8, after line 17, insert:

24 “(7) An existing registrant may not petition for reclassification or relief
25 from the obligation to report as a sex offender as provided in section 5 of
26 this 2013 Act until either all existing registrants have been classified in one
27 of the levels described in section 1 of this 2013 Act or December 1, 2016,
28 whichever occurs first.”.

29 On page 24, after line 42, insert:

30

1 **“ACTIVE PAROLE AND POST-PRISON SUPERVISION**

2
3 **“SECTION 30.** ORS 144.085 is amended to read:

4 “144.085. (1) All prisoners sentenced to prison for more than 12 months
5 shall serve active periods of parole or post-prison supervision as follows:

6 “(a) Six months of active parole or post-prison supervision for crimes in
7 crime categories one to three;

8 “(b) Twelve months of active parole or post-prison supervision for crimes
9 in crime categories four to 10;

10 “(c) Prisoners sentenced as dangerous offenders under ORS 161.725 and
11 161.735, for aggravated murder under ORS 163.105 or for murder under ORS
12 163.115 shall serve at least three years of active parole or post-prison super-
13 vision;

14 “(d) Prisoners sentenced for violating or attempting to violate ORS
15 163.365, 163.375, 163.395, 163.405, 163.408, 163.411, 163.425 or 163.427 shall
16 serve a term of **active** parole that extends for the entire term of the
17 offender’s sentence or a term of **active** post-prison supervision as provided
18 in ORS 144.103; and

19 “(e) Prisoners sentenced for robbery in the first degree under ORS 164.415
20 or for arson in the first degree under ORS 164.325 shall serve three years of
21 active parole or post-prison supervision.

22 “(2) Except as authorized in subsections (3) and (4) of this section, when
23 an offender has served the active period of parole or post-prison supervision
24 established under subsection (1)(a) or (b) of this section, the supervisory au-
25 thority shall place the offender on inactive supervision status.

26 “(3) No sooner than 30 days prior to the expiration of an offender’s active
27 parole or post-prison supervision period as provided in subsection (1) of this
28 section, the supervisory authority may send to the State Board of Parole and
29 Post-Prison Supervision a report requesting the board to extend the active
30 supervision period or to return the offender to active supervision status, not

1 to exceed the supervision term imposed by the sentencing court under the
2 rules of the Oregon Criminal Justice Commission and applicable laws, if the
3 offender has not substantially fulfilled the supervision conditions or has
4 failed to complete payment of restitution. The report shall include:

5 “(a) An evaluation of the offender’s compliance with supervision condi-
6 tions;

7 “(b) The status of the offender’s court-ordered monetary obligations, in-
8 cluding fines and restitution, if any;

9 “(c) The offender’s employment status;

10 “(d) The offender’s address;

11 “(e) Treatment program outcome;

12 “(f) Any new criminal activity; and

13 “(g) A recommendation that the board extend the supervision period or
14 return the offender to active supervision status.

15 “(4) After reviewing the report submitted under subsection (3) of this
16 section, the board may extend the active supervision period or return the
17 offender to active supervision status, not to exceed the supervision term im-
18 posed by the sentencing court under the rules of the Oregon Criminal Justice
19 Commission and applicable laws, if it finds the offender has not substantially
20 fulfilled the supervision conditions or has failed to complete payment of
21 restitution.

22 “(5) During the pendency of any violation proceedings, the running of the
23 supervision period and the sentence is stayed, and the board has jurisdiction
24 over the offender until the proceedings are resolved.

25 “(6) The board shall send written notification to the supervised offender
26 of the expiration of the sentence.

27 **“SECTION 31.** ORS 144.103 is amended to read:

28 “144.103. (1) Except as otherwise provided in ORS 137.765 and subsection
29 (2) of this section, any person sentenced to a term of imprisonment for vio-
30 lating or attempting to violate ORS 163.365, 163.375, 163.395, 163.405, 163.408,

1 163.411, 163.425 or 163.427 shall serve a term of **active** post-prison supervision
2 that continues until the term of the post-prison supervision, when added to
3 the term of imprisonment served, equals the maximum statutory indetermi-
4 nate sentence for the violation.

5 “(2)(a) A person sentenced to a term of imprisonment for violating one
6 of the offenses listed in paragraph (b) of this subsection shall serve a term
7 of post-prison supervision that continues for the rest of the person’s life if
8 the person was at least 18 years of age at the time the person committed the
9 crime.

10 “(b) The offenses to which paragraph (a) of this subsection applies are:

11 “(A) ORS 163.375 (1)(b);

12 “(B) ORS 163.405 (1)(b);

13 “(C) ORS 163.411 (1)(b); and

14 “(D) ORS 163.235 when the offense is committed in furtherance of the
15 commission or attempted commission of rape in the first degree, sodomy in
16 the first degree or unlawful sexual penetration in the first degree if the
17 victim is under 12 years of age.

18 “(c) When a person is sentenced to a term of post-prison supervision de-
19 scribed in paragraph (a) of this subsection, the person must be actively
20 supervised for at least the first 10 years of the post-prison supervision and
21 actively tracked for the remainder of the term. Active tracking may be done
22 by means of an electronic device attached to the person.

23 “(3) A person sentenced to a term of imprisonment for violating ORS
24 163.185 (1)(b) shall serve a term of post-prison supervision that continues
25 until the term of the post-prison supervision, when added to the term of
26 imprisonment served, equals the maximum statutory indeterminate sentence
27 for the violation.

28 “(4) Any costs incurred as a result of this section shall be paid by in-
29 creased post-prison supervision fees under ORS 423.570.

30 **SECTION 32. The amendments to ORS 144.085 and 144.103 by**

1 **sections 30 and 31 of this 2013 Act apply to sentences imposed before,**
2 **on and after the effective date of this 2013 Act.”.**

3 On page 25, line 1, delete “30” and insert “33”.

4 In line 4, delete “31” and insert “34”.

5 In line 6, delete “32” and insert “35”.

6 In line 9, delete “35” and insert “38”.

7 In line 13, delete “33” and insert “36” and delete “32” and insert “35”.

8 In line 14, delete “32” and insert “35”.

9 In line 17, delete “35” and insert “38”.

10 Delete lines 21 and 22 and insert:

11 **“SECTION 37. The amendments to section 35 of this 2013 Act by**
12 **section 36 of this 2013 Act become operative on January 1, 2017.”.**

13 In line 23, delete “35” and insert “38”.

14 After line 33, insert:

15 **“SECTION 39. Notwithstanding any other provision of law, the**
16 **General Fund appropriation made to the State Board of Parole and**
17 **Post-Prison Supervision by section 1, chapter 502, Oregon Laws 2013**
18 **(Enrolled House Bill 5035), for the biennium beginning July 1, 2013, as**
19 **modified by legislative or Emergency Board action, is increased by**
20 **\$254,655 for the purpose of implementing the provisions of sections 1**
21 **to 7 of this 2013 Act.”.**

22 In line 34, delete “36” and insert “40”.

23