

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: HB 2408 - A**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
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Date: 4-11-2013**Measure Description:**

Modifies crime of endangering the welfare of a minor.

Government Unit(s) Affected:

Department of Corrections, District Attorneys and their Deputies, Judicial Department, Oregon Criminal Justice Commission, Oregon Youth Authority (OYA), Public Defense Services Commission, Cities, Counties

Summary of Expenditure Impact:

Agency – Fund Type	2013-2015 Biennium	2015-2017 Biennium
Department of Corrections – General Fund		
Prison Cost	\$624,367	\$817,815
Special Payments	(\$308,983)	(\$482,389)
Total Cost	\$315,384	\$335,426
Agency – Fund Type	2013-2015 Biennium	2015-2017 Biennium
Public Defense Services Commission – General Fund	\$40,800	\$40,800

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 modifies the crime of endangering the welfare of a minor by expanding it to include when a person knowingly permits a person less than 18 years of age to enter or remain in a place where unlawful activity involving cocaine, heroin or methamphetamine is maintained or conducted. The measure makes this offense a Class C felony. Currently, the offense is a Class A misdemeanor. The -1 amendment requires a chemical test of the blood, urine or hair of the person under 18 to confirm exposure to cocaine, heroin or methamphetamine and requires the Criminal Justice Commission to classify the offense as a category 6 of the sentencing guidelines grid.

The Criminal Justice Commission (CJC) assumes that the change to the crime of endangerment will actually result in an increase in cases that were formerly charged as possession of a controlled substance that can now be charged as endangerment. The sentence for possession of a controlled substance is currently 18 months of probation with one year post-prison supervision and does not change when a person under 18 is present. CJC assumes that in instances where a person under 18 is present, those possession charges would now be increased to endangering as modified by the measure. CJC notes that the new provision of endangering being treated as a category 6 on the sentencing guidelines grid will result in 12 months of incarceration with two years of post-prison supervision.

In 2012, CJC reports there were 2,533 convictions for possession of a controlled substance. CJC estimates that only 51 (2%) of the convictions for possession would become convictions for endangering the welfare of a minor because of the additional requirement of testing positive for drug exposure. This change will result in a shift from probation under supervision of counties to incarceration in a Department of Corrections (DOC) facility.

DOC estimates a three-month lag between the effective date and recipient of the first offenders. Included in the cost estimates in the above table are funds that would be reduced from community corrections departments of counties for the decrease in probation cases and an increase to DOC for the additional costs of incarceration. The estimates are based on the marginal cost per day in a DOC facility of \$21.93 and the cost per day for probation of \$8.64.

These cost estimates could vary depending on the actual number of cases, convictions and length of sentences issued. Thus far in the 2013 legislative session, this is the eleventh fiscal impact statement issued by the Legislative Fiscal Office on measures effecting the corrections population. DOC estimates are based on utilizing 489 available emergency beds at the marginal cost per day rate of \$21.93. If emergency bed capacity is exceeded by the cumulative effects of measures passed during the session, DOC may need to establish permanent beds at a cost per day of \$98.82. The cumulative effect of similar measures passed during the legislative session will impact the Corrections Population Forecast produced by the Office of Economic Analysis which serves as the basis for funding the DOC operations and community corrections budgets.

The Public Defense Services Commission (PDSC) notes that the cost of representation for a misdemeanor is \$350 while the cost of representation of a Class C felony is \$750. Using the CJC numbers provided above, 51 cases per year would be increased from a misdemeanor to a Class C felony. Assuming all defendants would be eligible for court-appointed counsel, the estimated cost to PDSC could be as much as \$40,800 General Fund per biennium from the classification change.

Oregon Youth Authority does not anticipate a fiscal impact as a result of this measure.

There is minimal fiscal impact to the Judicial Department and District Attorney's and Their Deputies as a result of this measure.