

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 1517

Seventy-Seventh Oregon Legislative Assembly – 2014 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Measure Description:

Increases penalties for certain sex crimes when specified criteria proven to jury.

Government Unit(s) Affected:

Department of Corrections, District Attorneys and their Deputies, Judicial Department, Public Defense Services Commission

Summary of Expenditure Impact: See Analysis

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 fiscal impact is indeterminate, however, the bill may increase costs to the Public Defense Services Commission and the Oregon Judicial Department sufficiently to require additional General Fund support to these agencies.

The measure increases the penalties for certain sex crimes when specified criteria are proven to a jury. The measure directs the court to order a presentence investigation and risk assessment of the offender, to be paid by the state, prior to the sentence hearing. The measure provides that if the defendant is found to be a dangerous sexual offender, the mandatory sentence is life imprisonment without the possibility of release or parole.

According to Oregon Judicial Department (OJD) data for 2010 and 2011, there was an average of 446 cases filed in circuit courts where the most serious charge was rape in the first degree, sodomy in the first degree, or unlawful sexual penetration in the first degree. OJD assumes approximately 15% of those cases would proceed to trial, based on Criminal Justice Commission (CJC) data on current Measure 11 cases.

OJD assumes that for each case there will be an increase for jury costs, judge and court staff workload from additional motions and longer sentencing hearings. Using the 15% trial rate, OJD assumes approximately 44 to 89 cases per year. The additional estimated cost to OJD is between \$669,502 and \$1,358,738 General Fund per biennium, which would depend on the District Attorney's decision to file a motion to find the defendant as a dangerous sexual offender.

While OJD will only have additional costs if cases proceed to trial, the Public Defense Services Commission (PDSC) will have additional costs for defense regardless of a plea agreement or a trial.

Public Defense Services Commission (PDSC) notes that the average cost of representation for a case under "Jessica's Law", where a sexual offender's victim was under 12 years of age, is \$36,000 General Fund because of the need for a specially qualified defense lawyer and expert witnesses. PDSC anticipates that defense cases of the specific Measure 11 crimes listed in the measure will need to be treated similarly to "Jessica's Law" cases, in the event a District Attorney makes a sentencing motion

after conviction. Currently, the costs for defense of Measure 11 crimes, like the ones listed in the measure, are \$3,500 General Fund. Using OJD's case data, PDSC would see an increase cost per case of approximately \$32,500 per case, depending on the circumstances.

There is anticipated to be a fiscal impact to the Department of Corrections for an increased length of stay for certain offenders meeting the dangerous sexual offender criteria. According to data provided by the CJC, the current average length of stay for offenders convicted of these crimes is 20-24 years. Any costs to the Department of Corrections for the increased length of stay for these offenders would occur after those mandatory minimum sentences were served.

The District Attorney's and their deputies' anticipate a minimal fiscal impact as a result of this measure.