

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2356 – B

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Increases penalty for crime of invasion of personal privacy if defendant has certain prior convictions or person recorded is under 18 years of age.

Government Unit(s) Affected:

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

Summary of Expenditure Impact:

Agency – Fund Type	2015-2017 Biennium	2017-2019 Biennium
Department of Corrections – General Fund		
Prison Cost	\$6,547	\$20,754
Special Payments	\$10,158	\$51,655
Total Cost	\$16,705	\$72,409

This measure is anticipated to have a minimal fiscal impact to state agencies and does not require a referral to the Joint Ways and Means Committee. While this measure does not require an appropriation at this time, the cumulative effect of measures with a prison population impact may require further analysis and adjustment to state agency appropriations. The Legislative Fiscal Office provides in the table above and the narrative below the potential costs to state agencies in order to provide more context for the measure’s fiscal impact.

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 invasion of personal privacy to include both a second degree and a first degree level crime under circumstances. The second degree crime would be considered a Class A misdemeanor, and the first degree crime would be considered a Class C felony. The measure also allows the court to designate that a first degree crime is a sex crime for purposes of sex offender registration. Currently, the crime of invasion of personal privacy is a Class A misdemeanor.

The Criminal Justice Commission (CJC) utilized court case data of misdemeanor convictions for invasion of personal privacy where the defendant had prior convictions to estimate that the expansion of this crime may result in an additional 4 felony convictions per year. CJC assumes the felony sentencing patterns for this expanded level of invasion of personal privacy will remain similar to the current sentencing patterns of luring a minor. Using those current sentencing patterns, CJC estimates about 26% would result in a prison sentence within a Department of Corrections facility, 11% would be sentenced under local control, and the remainder or 62% would receive a probation sentence with an average length of 36 months.

The Department of Corrections (DOC) estimates a three-month lag between the effective date and the date first offenders may be received. Included in the cost estimates in the above table are funds that

would be distributed to the community corrections departments of counties for the costs of probation, post-prison supervision, and local control. The estimated length of stay is assumed to be approximately 18 months in a DOC facility at a marginal cost per day of \$23.41. The estimated length of stay in local control is about 1 month, with an estimated 36 months of probation. The cost per day estimate for local control and probation is \$10.72 per offender.

DOC assumes any incarcerated inmates will be distributed into existing housing facilities and there would be no additional costs for staffing or construction. Based on the Corrections Population Forecast projections from the Office of Economic Analysis, DOC estimates are based on utilizing 76 available emergency beds at the marginal cost per day, beginning December 1, 2015. 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 \$95.42.

HB 3194 requires a 10-year estimate of the fiscal impact for measures with an effect on crimes and sentencing. Using the conviction rate assumptions listed above, DOC anticipates the costs for the 2019-21 biennium to be \$100,035 General Fund, \$102,921 General Fund in 2021-23, and \$102,978 General Fund in 2023-25.

The measure is anticipated to result in additional felony cases in circuit court; however the fiscal impact of those cases is anticipated to have a minimal impact to the Judicial Department, Public Defense Services Commission, District Attorney's and their deputies, and the Department of Justice.

The Legislative Fiscal Office (LFO) notes that these cost estimates could vary depending on the actual number of criminal cases, convictions, and length of sentences issued.