

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 3 - A

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:

Creates crime of endangering person protected by Family Abuse Prevention Act restraining order.

Government Unit(s) Affected:

Cities, Counties, Department of Corrections, Department of Justice, 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 | \$53,149 | \$181,739 |
| Special Payments | \$41,480 | \$198,923 |
| Total Cost | \$94,630 | \$380,662 |

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 creates the crime of endangering a person protected by a Family Abuse Prevention Act restraining order as a Class A misdemeanor. The measure stipulates that the crime is elevated to a Class C felony under certain circumstances, or if the person has a prior conviction for this specific crime.

In order to estimate the effect of the measure, the Criminal Justice Commission (CJC) utilized data from the crime of violating a courts stalking protective order, which is a similarly categorized person crime that is also a Class A misdemeanor that elevates to a Class C felony for prior conviction. Based on this information, CJC estimates approximately 20 felony convictions per year under the measure. Using the convictions rates for the crime of violating a courts stalking protective order from 2005 to 2014, CJC estimates that 48% would result in a prison sentence within a Department of Corrections facility; 3% would be sentenced under local control, and the remainder or 49%, would receive a probation sentence with an average length of 30 months.

The Department of Corrections (DOC) assumes a three month lag from the measure’s effective date of January 1, 2016 and the date first offenders may be received. Included in the cost estimates above are funds that would be distributed to the community corrections departments of counties for costs of

probation, post-prison supervision, and local control. The estimated length of stay is assumed to be approximately 22 months in a DOC facility at a marginal cost per day of \$23.41. The estimated length of stay in local control is approximately 3.5 months, with an estimated 30 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 Populations 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 July 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 (2013) 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 \$510,664 General Fund, \$535,256 General Fund in 2021-23, and \$540,038 General Fund in 2023-25.

The Public Defense Services Commission (PDSC) assumes that the change in these cases from contempt to a criminal charge will result in approximately 30-40 additional Class A misdemeanors and 5-10 Class C felony charges per year. Currently, violations of the Family Abuse Prevention Act (FAPA) restraining orders are typically handled as a contempt of court case. The cost for representation for these contempt cases is \$677. The cost of representation for a misdemeanor is \$373, while the cost of representation of a Class C felony is \$768. PDSC notes that while there is anticipated to be additional criminal representation, the fiscal impact is expected to be minimal, based on the reduced costs per case related to representation for Class A misdemeanor versus representation for FAPA contempt of court cases.

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

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