

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 4149 - 1

79th Oregon Legislative Assembly – 2018 Regular Session
Legislative Fiscal Office

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

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Measure Description:

Prohibits prosecuting attorney from conditioning plea offer or release on defendant's waiver of specified rights, eligibilities and legal challenges.

Government Unit(s) Affected:

Criminal Justice Commission (CJC), Department of Justice (DOJ), District Attorneys and their Deputies (DAs), Oregon Judicial Department (OJD), Public Defense Services Commission (PDSC), Department of Corrections (DOC)

Summary of Expenditure Impact:

Costs related to the measure are indeterminate at this time - See explanatory analysis.

Analysis:

The measure prohibits a prosecuting attorney from conditioning a plea offer or a release on a defendant’s waiver of specified rights, eligibilities and legal challenges. This includes eligibility for earned discharge, alternative incarceration programs, work release, transitional leave, and other types of reduction to the term of incarceration.

The fiscal impact is indeterminate. District Attorney’s and their Deputies note that this measure would impact cases where plea agreements are reached to provide a defendant with supervised probation for crimes that carry a presumptive prison sentence. For example, most cases of defendants participating in treatment courts are the result of plea agreements for downward dispositional departure to avoid incarceration.

The Criminal Justice Commission (CJC) states that the potential impact to plea bargaining practices is difficult to analyze. CJC notes that if incarceration sentence lengths don’t change as a result of this measure, there could be savings to the Department of Corrections (DOC) bed impact, as more individuals would be eligible for programs, such as the alternative incarceration program, by not needing to waive their rights through plea agreements.

However, CJC notes that if plea bargaining practices change, which is likely under this measure, the prison bed impact may increase, as prison diversion programs are no longer an option to defendants. For example, DOC notes that the current prison diversion program known as 416, which operates in Marion, Lane, and Klamath counties, requires defendants to waive eligibility for earned discharge in order to enter the program. According to the CJC, the Marion and Lane county programs combined have about 100 participants per year, while Klamath has around 15.