



MEMO

HB 4161 Proposed Changes to ORS 164.135 – Unauthorized Use of a Vehicle Bed Impact Analysis

HB 4161 seeks to amend ORS 164.135, Unauthorized Use of a Vehicle (UUV), by proposing changes that will make the crime of UUV easier to prove in light of the *Shipe v. Oregon* (2014) decision. In recent years, rates of reported instances of UUV, as well as arrests and convictions for UUV have all increased significantly. A more detailed examination of these increases, however, indicate that they are not distributed evenly across Oregon counties. Given the differential distribution of arrests and convictions, CJC calculated the estimated percentages of arrests for UUV resulting in convictions by county using LEDS data on arrests and DOC data on convictions. This approach allowed CJC to account for: (i) the differential rates at which arrests and convictions for UUV appear to be occurring across Oregon counties; and (ii) the difference in conviction rates in the periods occurring before and after *Shipe* was decided in 2014.

Estimated conviction percentages were calculated for all counties in Oregon where at least 100 people were arrested for UUV in 2017: Clackamas, Columbia, Deschutes, Douglas, Jackson, Josephine, Klamath, Lane, Marion, Multnomah, and Washington. The estimated percent of arrests leading to conviction were compared for two two-year periods, 2012-2013 and 2015-2016, to account for changes attributable to the *Shipe* decision.¹ While nearly all counties examined were found to have decreases in estimated conviction percentages across the two periods, Multnomah County stood out from the group. In 2012-2013, it was estimated that 43.4 percent of UUV arrests would result in a conviction in Multnomah County, while in 2015-2016, it was estimated that only 27.3 percent of arrests resulted in a conviction. Across the remaining counties in the state, the average percent of arrests leading to conviction fell from 37.0 to 34.0 percent when comparing 2012-2013 to 2015-2016.

Table 1. Calculation of Additional Convictions Resulting from HB 4161

County	2017 Arrests†	Estimated Conviction Pct		Estimated # of Convictions		Difference
		2012-2013 Rate	2015-2016 Rate	2012-2013 Rate	2015-2016 Rate	
Multnomah	706	43.4%	27.3%	306	193	114
All Others	2,236	37.0%	34.0%	827	760	67
Total	2,942			1,134	953	181

† Individuals arrested in 2017

For the purpose of this analysis, it is assumed that HB 4161 will return conviction rates to pre-*Shipe* levels. Table 1 demonstrates the manner in which this overall estimate was calculated. If the conviction rate found during the pre-*Shipe* period is applied to the number of Multnomah County arrests reported

¹ It is assumed that difference between the 2012-2013 and 2015-2016 would primarily be attributable to the decision in *Shipe v. Oregon*. It is possible, however, that changes in criminal justice system approaches during this time period could be traced to the start of Justice Reinvestment in Oregon as well. It is assumed, however, that the influence of Justice Reinvestment primarily affects the types of sentences imposed, and not the conviction rate.

in 2017, then 306 convictions should result. If the conviction rate found during the post-*Shipe* period continues, however, then it would be reasonable to expect only 193 convictions, which would present a gap of 114 convictions attributable to the differential conviction rates pre- and post-*Shipe*. Similarly, if pre- and post-*Shipe* conviction rates are applied to the remainder of the state, a gap of 67 convictions will likely result. Together, therefore, CJC estimates that in total, 181 additional convictions² will result based on arrest numbers for UUV in 2017 as this gap is closed.

The determination of the share of these additional convictions that will result in sentences to prison, local control, and probation is a more complicated matter. To calculate the impacts, the percentages of different sentencing outcomes for 2017 were used. By using data from 2017, CJC can account for current sentencing practices that include the use of programs and approaches introduced after the passage of the Justice Reinvestment Act. It is also important to note, however, that by using this data, CJC assumes that while convictions will increase after the passage of HB 4161, current sentencing practices will not change substantially. Table 2 reports the expected sentences for individuals convicted of UUV in Multnomah County, as well as the average across the remainder of the state.

Given the potential impacts on prison facilities in Oregon and current capacity concerns, the estimated sentences were also broken down by sex. The arrest and conviction data examined by CJC demonstrates that 78 percent of arrests and convictions for UUV involved male perpetrators, while 22 percent involved female perpetrators. Further, using DOC sentencing data, it was also possible to calculate the expected sentences by sex as well. As shown in Table 2 male offenders were more likely to be sentenced to prison than female offenders.

Table 2. Estimated Sentence Outcomes Resulting from HB 4161

County	Additional Convictions	Expected Sentence Percent		
		Prison	Local Control	Probation
<i>Males</i>				
Multnomah	89	42%	12%	46%
All Others	52	43%	18%	39%
<i>Females</i>				
Multnomah	25	28%	12%	60%
All Others	15	22%	22%	56%
Total	181			

Based on the estimated number of additional convictions outlined above, along with the breakdown across sentence types, CJC calculated the DOC bed impacts of the proposed legislation using its standard

² CJC recognizes that the estimates provided in this analysis predict increased use of a variety of criminal justice system resources. CJC believes that the estimators created for this analysis are sound and correspond with prior patterns seen in the data over time. For instance, the predictor used by CJC would estimate that 1,134 individuals across the state would be convicted of UUV given the 2,942 arrests reported in 2017. While the estimated conviction number is high compared to recent conviction numbers, it is in line with the pattern found in 2005-2007, when the average number of arrests was 2,832 and the average number of convictions was 1,039.

template. Due to the perceived seriousness of the UUV issue, CJC assumed an immediate effective date following the 2018 Legislative Session, which in this case would be March 1, 2018. Results of the impact calculations can be found in Table 3, which displays the total statewide impact of the proposed changes in HB 4161. A specific breakdown of DOC bed impacts disaggregated by sex as well as by Multnomah County and the remainder of the state, can be found in Appendix A.

Table 3. UUV Changes Statewide Impact – Combined Effect both Sexes

Bien.	Prison		PPS		Probation		Local Control	
	Bedst†	Bed Days	Slots†	Days	Slots†	Days	Slots†	Days
17-19	2	7,556	1	1,646	2	9,188	0	566
19-21	76	53,687	50	39,841	124	88,957	2	1,669
21-23	98	70,862	143	102,308	184	133,499	2	1,754
23-25	100	73,017	163	118,766	187	136,494	2	1,755
25-27	100	73,315	165	120,624	187	136,495	2	1,755
27-29	100	73,340	166	120,896	187	136,495	2	1,755

† June Even Year

As shown in Table 3, the DOC prison bed impacts for males and females for the proposed UUV changes include timing for the new aspects of the law to phase in. Using the estimated bed impact, DOC will calculate the costs of the implementation of the changes proposed in HB 4161. Costs have yet to be determined by DOC.

APPENDIX A
Disaggregated DOC Bed Analysis

As shown in Table A1, CJC is assuming 25 additional felony convictions for Unauthorized Use of a Vehicle (UUV), ORS 164.135, for females in Multnomah County. Multnomah County UUV convictions in 2016 and 2017 for females shows 28% sentenced to prison (average sentence length of 13.9 months), 12% sentenced to local control (average sentence length of 3.9 months), and 60% sentenced to probation (average sentence length of 31 months).

Table A1. Multnomah County UUV Changes - Females

Bien.	<u>Prison</u>		<u>PPS</u>		<u>Probation</u>		<u>Local Control</u>	
	Bedst†	Bed Days	Slots†	Days	Slots†	Days	Slots†	Days
17-19	0	575	0	73	0	1,258	0	27
19-21	7	4,636	4	3,473	21	15,655	0	108
21-23	8	5,863	14	10,060	38	27,374	0	118
23-25	8	5,903	16	11,436	39	28,426	0	118
25-27	8	5,903	16	11,436	39	28,426	0	118
27-29	8	5,903	16	11,476	39	28,426	0	118

† June Even Year

As shown in Table A2, CJC is assuming 15 additional felony convictions for UUV, ORS 164.135, for females in all other counties except Multnomah. All other county UUV convictions in 2016 and 2017 for females shows 22% sentenced to prison (average sentence length of 18.3 months), 22% sentenced to local control (average sentence length of 3.2 months), and 56% sentenced to probation (average sentence length of 23 months).

Table A2. All Other Oregon Counties - Females

Bien.	<u>Prison</u>		<u>PPS</u>		<u>Probation</u>		<u>Local Control</u>	
	Bedst†	Bed Days	Slots†	Days	Slots†	Days	Slots†	Days
17-19	0	511	0	291	0	1,348	0	112
19-21	4	2,932	5	3,782	14	9,361	0	295
21-23	5	3,620	10	7,217	15	11,244	0	304
23-25	5	3,664	11	7,909	15	11,285	0	304
25-27	5	3,664	11	7,952	15	11,285	0	304
27-29	5	3,664	11	7,953	15	11,285	0	304

† June Even Year

As shown in Table A3, CJC is assuming 89 additional felony convictions for UUV, ORS 164.135, for males in Multnomah County. Multnomah County UUV convictions in 2016 and 2017 for males shows 42% sentenced to prison (average sentence length of 16.2 months), 12% sentenced to local control (average sentence length of 3.7 months), and 46% sentenced to probation (average sentence length of 27 months).

Table A3. Multnomah County UUV Changes - Males

Bien.	Prison		PPS		Probation		Local Control	
	Bedst†	Bed Days	Slots†	Days	Slots†	Days	Slots†	Days
17-19	0	2,991	0	396	0	3,361	0	101
19-21	37	26,203	19	16,117	56	40,978	1	406
21-23	50	36,203	68	48,795	92	66,808	1	445
23-25	51	37,356	81	58,612	94	68,591	1	445
25-27	51	37,442	82	59,678	94	68,591	1	445
27-29	51	37,443	82	59,763	94	68,591	1	445

† June Even Year

As shown in Table A4, CJC is assuming 52 additional felony convictions for UUV, ORS 164.135, for males in all other counties except Multnomah. All other county UUV convictions in 2016 and 2017 for males shows 43% sentenced to prison (average sentence length of 19.1 months), 18% sentenced to local control (average sentence length of 3.3 months), and 39% sentenced to probation (average sentence length of 23 months).

Table A4. All Other Oregon Counties - Males

Bien.	Prison		PPS		Probation		Local Control	
	Bedst†	Bed Days	Slots†	Days	Slots†	Days	Slots†	Days
17-19	1	3,480	0	887	1	3,221	0	326
19-21	28	19,915	21	16,469	34	22,963	1	860
21-23	35	25,176	50	36,236	39	28,073	1	887
23-25	36	26,095	56	40,809	39	28,192	1	887
25-27	36	26,305	57	41,518	39	28,192	1	887
27-29	36	26,330	57	41,704	39	28,192	1	887

† June Even Year