

**FISCAL IMPACT OF PROPOSED LEGISLATION****Measure: SB 401**81st Oregon Legislative Assembly – 2021 Regular Session  
Legislative Fiscal Office***Only Impacts on Original or Engrossed  
Versions are Considered Official***Prepared by: Kim To  
Reviewed by: John Borden, Julie Neburka, Laurie Byerly  
Date: April 6, 2021**Measure Description:**

Converts mandatory minimum sentences for specified felonies other than murder to presumptive sentences.

**Government Unit(s) Affected:**

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

**Summary of Fiscal Impact:**

Costs related to the measure may require budgetary action - See analysis.

**Summary of Expenditure Impact - Department of Corrections (DOC):**

	<b>2021-23 Biennium</b>	<b>2023-25 Biennium</b>
General Fund		
Services and Supplies	(357,994)	(4,562,601)
Special Payments	374,962	2,546,406
<b>Total General Fund</b>	<b>\$16,968</b>	<b>(\$2,016,195)</b>

**Analysis:**

SB 401 converts mandatory minimum sentences for specified felonies, other than murder, to presumptive sentences. The measure allows the courts to impose greater or lesser sentences based on the sentencing guidelines of the Oregon Criminal Justice Commission. The measure also allows a person receiving the presumptive sentence to be eligible for certain programs and sentence reductions. The sentence could be departed based on aggravating or mitigating factors and would be eligible for a maximum of 20% earned time (with the exception of murder sentences). The measure also applies to persons resentenced as a result of a new trial (due to an appellate decision, post-conviction relief proceeding or for any other reason), but does not apply to persons resentenced for any reason other than as a result of a new trial.

**Department of Corrections (DOC)**

DOC projects that for the 2021-23 biennium passage of this measure will have a net fiscal impact cost of \$16,968 General Fund to DOC. This net cost is expected to change to a net savings of approximately (\$2,016,195) General Fund by the 2023-25 biennium based on when the Criminal Justice Commission's (CJC) forecasted prison population decreases begin to exceed the projected Community Corrections population increases. The Services and Supplies amount in the table reflects the incarceration fiscal impact within DOC. The Special Payments amount represents a net increase in the amount of funding DOC would distribute to the counties for the net costs of probation, post-prison supervision, and local control. The Special Payments amount includes the net projected costs to Opt-Out (Douglas and Linn) counties in Personal Services and Services and Supplies.

DOC is responsible for housing and managing the population of felony offenders with prison sentences exceeding one year. Felony probation and local control offenders and designated drug-related misdemeanors are overseen by Community Corrections (counties) and funded by the legislature through DOC. All other misdemeanor

sentences are managed fiscally at the local level and do not have a financial impact on DOC. The Criminal Justice Commission (CJC) used M11 and plea-down M11 sentencing trends from 2015 to 2019 to model current trends.

DOC anticipates that passage of this measure would eliminate DOC emergency beds (E-beds) and would close permanent housing units J at Coffee Creek Correctional Facility (CCCF) and Unit 22 at Two Rivers Correctional Institution (TRCI). Eliminating E-beds reduces services and supplies costs related to adults in custody (AIC) for items such as food, clothing, and other care of AICs. Closing E-Beds does not reduce staffing levels. Closing permanent housing units reduces both the costs associated with the AICs that resided there and reduces staff levels necessary to supervise AICs in those units. DOC anticipates reduction in staff levels by the 2025-27 biennium.

This impact pricing assumes the April 2021 AIC Population Forecast computed by the Oregon Office of Economic Analysis (OEA) is realized over the next 10 years. In the event that the population projections do not materialize as projected, the actual cost savings would differ based on the number of felony convictions and the length of the sentences actually incurred over the next 10 years.

ORS 173.029 [HB 3194 (2013)] requires a 10-year estimate of the fiscal impact of the measures with an effect on crimes and sentencing. Based on the measures local control requirements and the conviction rate assumptions listed above, DOC anticipates savings to be (\$5,462,995) General Fund in the 2025-27 biennium, (\$12,677,484) General Fund in 2027-29, and (\$19,056,287) General Fund in 2029-31 biennium.

#### Oregon Youth Authority (OYA)

The fiscal impact of this measure on OYA is indeterminate. OYA predicts that passage of the measure may reduce the sentences received by DOC youth. With recent changes in juvenile sentencing, OYA does not have the population to calculate useful projections.

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

The measure is anticipated to have a minimal fiscal impact on DOJ, CJC, OJD, PDSC, counties, and District Attorneys and their Deputies.