

FISCAL IMPACT OF PROPOSED LEGISLATION

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

Measure: SB 397 - 2

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

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Measure Description:

Modifies procedure for filing motion to set aside conviction, arrest, citation or charge.

Government Unit(s) Affected:

Department of Justice (DOJ), Department of Corrections (DOC), Oregon State Police (OSP), Oregon Judicial Department (OJD), District Attorneys and their Deputies (DAs), Public Defense Services Commission (PDSC), Psychiatric Security Review Board (PSRB), Counties

Summary of Fiscal Impact:

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

Analysis:

SB 397-2 modifies the procedure for filing motions to set aside convictions, arrests, citations, or charges and reduces the waiting period for filing motions. It proposes to eliminate some fees and clarifies when a person becomes eligible to file the motion with the courts. The measure specifies that if the person is otherwise eligible for relief, the court shall grant the motion unless it finds that the circumstances and behavior of the person create a risk to public safety and do not warrant granting the motion.

The Department of Corrections believes that this measure would create a fiscal impact due to an anticipated increase in the number of set aside orders the agency receives. Currently, DOC has one staff position dedicated to processing these orders and anticipates needing to hire an additional full-time Administrative Specialist 1 (1.00 FTE) to assist with the expected increase in workload. DOC believes this position would cost \$167,962 General Fund in the 2021-23 biennium. DOC has priced the position for 24 months in the first biennium, but the actual cost may be less given that it is unlikely the position would be filled by July 1st, 2021.

The Oregon Judicial Department (OJD) also anticipates the measure will create a fiscal impact to the agency, although the amount is indeterminate. OJD believes the shorter waiting periods allowed for setting aside convictions will initially create an increase in new motions filed but expects that this rate will subside back to current levels over time. The initial influx of cases and corresponding workload increase will create a fiscal impact, but, as noted above, the amount is indeterminate. Additionally, a number of other changes in this measure could create fiscal impacts for OJD, although the costs may be minimal. It should also be noted that OJD currently remits approximately \$1.2 million in revenue per biennium from filing fees for set asides to the General Fund; it anticipates the amount would decrease under this measure, impacting available General Fund revenues.

The Department of State Police (OSP) anticipates a minimal fiscal impact to implement this measure.

The Public Defense Services Commission, District Attorneys and their Deputies, Department of Justice, Psychiatric Security Review Board, and counties do not anticipate a fiscal impact from this measure.

This measure warrants a subsequent referral to the Joint Committee on Ways and Means for consideration of its budgetary impact on the State's General Fund.