

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 1568 - A

81st Oregon Legislative Assembly – 2022 Regular Session
Legislative Fiscal Office

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

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Measure Description:

Establishes Medical Release Advisory Committee within State Board of Parole and Post-Prison Supervision.

Government Unit(s) Affected:

Board of Parole and Post-Prison Supervision (BPPPS), Department of Justice (DOJ), Cities, Department of Corrections (DOC), Psychiatric Security Review Board (PSRB), District Attorneys and their Deputies (DAs), Counties, Office of the Governor, Oregon Health Authority (OHA), Oregon Judicial Department (OJD), Public Defense Services Commission (PDSC)

Summary of Fiscal Impact:

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

Analysis:

This measure establishes procedures for adults in custody (AIC) to apply for early medical release from custody. The Medical Release Advisory Committee would be established within the State Board of Parole and Post-Prison Supervision (BPPPS). The Governor shall appoint at least five, but no more than thirteen members to serve at the pleasure of the Governor for a four-year term. BPPPS is required to provide staff support to the committee and shall compensate committee members for work performed. The measure also expands BPPPS from a maximum of five to six members.

This measure allows the Department of Corrections (DOC) to refer applicants who suffer from a terminal prognosis with a year or less to live, are unable to independently complete certain daily activities, even with the assistance of a mobile device; or have an underlying condition and meet certain specifications. The AIC being referred must give content. The committee shall develop an application process that is simple and easy to understand and review five applications, not including direct referrals from DOC, per month until January 1, 2025 when the cap is set to expire.

Upon acceptance, the committee shall assign a release navigator, which will be an employee within BPPPS, to assist the applicant with a reentry plan, ensuring continuity care, obtaining housing, and medical care in the community. The committee shall make a recommendation on regular applications or direct referrals within 45 calendar days and a recommendation for terminally ill applicants within 14 calendar days. If a state of emergency or a public health emergency is declared, the committee may review more than five petitions per month.

BPPPS shall hold a hearing within 45 days of receiving a recommendation and can require a psychological evaluation or risk assessment of the applicant or referred AIC before proceeding. The party requesting the psychological evaluation is responsible for all costs. BPPPS can also accept a recommendation from the committee without a hearing but shall provide the decision in writing and promptly notify the applicant or referred AIC. A petitioner’s application that is denied by the committee may reapply for early medical release provided that their medical condition or other circumstances have changed since the submission of the previous application.

The committee is required to track data and provide a report to the committees of the Legislative Assembly related to the judiciary by December 31st of each year. This measure takes effect on the 91st day following adjournment.

In order to estimate the potential impact of this early release, the Criminal Justice Commission (CJC) utilized data from DOC to estimate AIC's who would potentially be eligible. CJC assumes a 50% release rate, and that bed impacts will be limited to a volume of 5 per month until January 2025 when the cap is removed. CJC's estimates for 2025 and beyond without a cap, that approximately 216 AIC's per year would apply for early medical release, with 108 of those being granted.

The Board of Parole and Post-Prison Supervision:

Using the data provided by CJC on how many petitioners will qualify for early medical release, the Board of Parole and Post-Prison Supervision (BPPPS) estimates the fiscal impact of this measure to be \$4.6 million General Fund and 11 permanent full-time positions (5.50 FTE) for the 2021-23 biennium. BPPPS cost estimates assume the maximum allowable committee membership, with five support staff for the committee, including a release navigator, administrative assistant, hearings specialist, paralegal, and IT position.

Additionally, the Board assumes six more positions, starting on July 1, 2022, will be necessary, including adding a sixth Board Member, a program manager, program administrator, operations and policy analyst, victim's specialist, and an investigator. Finally, the Board assumes roughly 80 applicants and 20 hearings per month once the cap is removed, for an estimated cost of \$10.3 million General Fund including 11 positions (11.00 FTE) for the 2023-25 biennium.

The Department of Corrections:

The fiscal impact for the Department of Corrections is indeterminate. Although DOC does not have an exact number of AIC that would potentially be released, based on the CJC estimates provided above, any savings to DOC from fewer bed utilization would start to increase significantly beginning in the 2023-25 biennium and continue to increase each biennium. DOC anticipates a minimal bed impact in 2021-23, and then an estimated savings of \$304,541 in the 2023-25 biennium and \$3.4 million in the 2025-27 biennium.

It is assumed that the measure allowing for the removal of terminally ill AICs from DOC facilities would decrease the amount spent out on these same AIC's though the Department's Health Services budget for patient care. However, the level of savings is indeterminate and difficult to accurately predict. Additionally, DOC notes the measure is unclear on the requirements for DOC to make recommendations around an AIC's health status, and if verification of a prognosis would require external opinions, which would lead to additional costs and thus reduce the estimate of potential savings.

Public Defense Service Commission:

Due to the number of potential petitioners the committee can review per month, and the measure states that all successful petitioners have the right to counsel. Public Defense Services Commission (PDSC) anticipates that the agency may need to contract one attorney at the current urban rate, starting June 1, 2022 to fulfill the increased workload. PDSC estimates the fiscal impact of this measure to be \$114,373 General Fund for the 2021-23 biennium and \$211,150 General Fund for the 2023-25 biennium.

Judicial Department:

The fiscal impact for the Oregon Judicial Department (OJD) is indeterminate at this time. OJD anticipates the additional five motions per month for early medical release in circuit courts will be absorbed in current resources although, the agency cannot predict whether there will be a state of emergency or public health emergency between the effective date of this measure and January 1, 2025. If an emergency were to occur, OJD is unable to determine how many additional motions will be filed. Also, due to the measure not including the exact number of additional motions DOC could refer, the agency cannot estimate the exact impact at this time. OJD will track the number of cases per month and may request additional funds or resources from the Legislative Emergency Board

or during the next full budget cycle. The agency reports that starting January 1, 2025 when the cap per month expires, CJC estimates there will be roughly 80 applicants and 20 hearings per month which would cause the cost per biennium to increase over time.

The Department of Justice estimates there will be a minimal fiscal impact and there is no fiscal impact for the Office of the Governor, Oregon Health Authority, Psychiatric Security Review Board, or cities.

The fiscal impact for District Attorneys (DAs) is indeterminate at this time due to the unknown number of hearings that will require a psychological evaluation. This measure requires the costs of evaluation to be paid by the requester. DAs estimate the average cost per psychological evaluation to be \$5,000 and estimate there could be 60 hearings resulting in a total fiscal impact of \$300,000 paid from county funds.