

**FISCAL IMPACT OF PROPOSED LEGISLATION**

**Measure: HB 2645 - A4**

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

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

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**Measure Description:**

Creates a crime for unlawful possession of Schedule II controlled substance. Adds unit measurements of fentanyl to crime categories.

**Government Unit(s) Affected:**

Board of Pharmacy, Cities, Counties, Department of Corrections, Department of Justice, District Attorneys, Judicial Department, Oregon Youth Authority, Public Defense Services Commission, Criminal Justice Commission

**Summary of Fiscal Impact:**

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

**Summary of Expenditure Impact:**

	<b>2023-25 Biennium</b>	<b>2025-27 Biennium</b>
<b>Department of Corrections</b>		
<b>General Fund</b>		
Services and Supplies	\$18,943	\$54,231
Special Payments	\$175,416	\$467,374
<b>Total Fiscal Impact</b>	<b>\$194,359</b>	<b>\$521,605</b>

*The measure is anticipated to have a minimal fiscal impact to state agencies and does not require a referral to Joint Ways and Means Committee. While this measure does not require an appropriation at this time, the cumulative effect of measures with a prison population impact may require further analysis and adjustment to state agency appropriations. The Legislative Fiscal Office provides in the table above and the narrative below the potential costs to state agencies to provide more context for the measure’s fiscal impact.*

**Analysis:**

The measure creates the crime of possession of a Schedule II controlled substance if a person possesses more than one gram, or five or more user units of a mixture or substance containing a detectable amount of fentanyl, or derivative of fentanyl defined by the State Board of Pharmacy as a Class A misdemeanor.

In addition, the measure adds the unit measurements of a mixture or substance containing a detectable amount of fentanyl for purposes of calculating the crime category level when delivering or manufacturing fentanyl. The measure declares an emergency and takes effect upon passage.

Department of Corrections (DOC)

DOC anticipates the fiscal impact of the measure to be \$194,359 General Fund for the 2023-25 biennium and \$521,605 General Fund for the 2025-27 biennium. According to sentencing data on drug possession convictions from 2022 provided by the Criminal Justice Commission (CJC), the CJC anticipates the measure will result in an additional 25 misdemeanor convictions a year, or 50 misdemeanor convictions in the 2023-25 biennium that will be sentenced to probation, with an average sentence of 18 months. CJC also anticipates an additional five felony convictions a year, or 10 additional felony convictions for the 2023-25 biennium. CJC estimates 35% of new

felony convictions will be sentenced to a DOC facility, with an average sentence length of 21 months, and 65% of new felony convictions will be sentenced to probation, with an average sentence length of 36 months.

DOC assumes a three-month lag between the measures effective date and the date first offenders may be received. Included in the cost estimates in the table above are funds that would be distributed to the community corrections departments of counties for the costs of probation, post-prison supervision, and local control. The estimated marginal cost per day for a DOC facility is \$24.30 per offender and the estimated cost per day for probation is \$13.83 per offender.

HB 3194 (2013) requires a 10-year estimate of the fiscal impact for measures with an effect on crimes and sentencing. Using the conviction rate assumptions listed above, DOC anticipates the costs for the 2027-29 biennium to be \$580,120 General Fund, \$592,963 General Fund in 2029-31, and \$595,599 General Fund in 2031-33. The Legislative Fiscal Office notes that these cost estimates could vary depending on the actual number of criminal cases, convictions, and length of sentences issued.

Counties report the fiscal impact of this measure is indeterminate. As noted above, DOC distributes General Fund to community corrections for a portion of costs associated with probation, post-prison supervision, and local control. If this measure becomes law, the distribution from DOC for the 2023-25 biennium is estimated to be \$175,416 and \$467,374 for the 2025-27 biennium.

#### Public Defense Services Commission (PDSC)

The fiscal impact to PDSC is indeterminate. PDSC is unable to estimate the impact of the measure at this time, but the measure is anticipated to increase costs once actual caseloads are identified.

There is a minimal fiscal impact for the Oregon Youth Authority and Oregon Judicial Departments.

There is no fiscal impact for the Department of Justice, Oregon Board of Pharmacy, Criminal Justice Commission, District Attorneys, or Cities.