

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 787

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:

Expands crime of assault in the third-degree to include assault of public transit vehicle operator acting in course of official duty.

Government Unit(s) Affected:

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

Summary of Fiscal Impact:

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

Summary of Expenditure Impact:

	2023-25 Biennium	2025-27 Biennium
Public Defense Services Commission		
General Fund		
Services and Supplies	\$168,622	\$234,272
Total General Fund	\$168,622	\$234,272
Department of Corrections		
General Fund		
Services and Supplies (Prison Costs)	\$28,009	\$153,821
Special Payments (Community Corrections)	\$40,693	\$387,744
Total General Fund	\$68,702	\$541,565
Total Fiscal Impact	\$237,324	\$775,837

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 expands the crime of third-degree assault to include when a public transit vehicle operator is acting in the course of official duty. The measure also expands the crime of aggravated harassment to include when a person knowingly propels saliva, blood, urine, semen, feces, or other dangerous substances at a public transit vehicle operator while acting in the course of official duty. The effective date of the measure is January 1, 2024.

Under current law, this crime is categorized as Assault III, a Class C felony, if the assault of a public transit vehicle operator occurs when they are operating or in control of the vehicle, but is categorized as Assault IV, which is a Class A misdemeanor, if the assault occurs while the public transit vehicle operator is not in control of or operating the vehicle. This measure elevates assault on a public transit vehicle operator who is acting in the course of official duty, either while operating the vehicle or not, from a Class A misdemeanor to a Class C felony.

The Legislative Fiscal Office (LFO) notes that these cost estimates could vary depending on the actual number of criminal cases, convictions, and length of sentences issued.

Public Defense Services Commission (PDSC) anticipates the fiscal impact of the measure to be \$168,622 General Fund for the 2023-25 biennium and \$234,272 General Fund for the 2025-27 biennium. Based on an employee incident data report from Tri-Met, there were 130 reported assaults on public transit vehicle operators in 2020, 220 in 2021, and 228 in 2022. Using a three-year average, PDSC anticipates approximately 400 additional felony cases per biennium and contracts agency caseload to third-party providers. LFO notes the increases in the reported caseload data for the past two years may be significantly impacted by the COVID-19 pandemic.

The Department of Corrections (DOC) anticipates the fiscal impact of the measure to be \$68,702 General Fund for the 2023-25 biennium and \$541,565 General Fund for the 2025-27 biennium. According to the sentencing data provided by the Criminal Justice Commission (CJC) from 2022 for the crime of Assault III, DOC anticipates five additional convictions per year, or ten additional convictions in the 2023-25 biennium. CJC estimates 34% of these new convictions will be sentenced to a DOC facility, with an average sentence length of 20.6 months, 9% of new convictions will be sentenced to local control, with an average sentence length of 1.3 months, and 57% of new convictions will be sentenced to probation, with an average sentence length of 36 months.

Based on CJC data for aggravated harassment, DOC anticipates the measure's expansion of that crime will result in an additional 16 convictions per year, or 32 additional convictions in the 2023-25 biennium. CJC estimates that 35% of new convictions will be sentenced to a DOC facility, with an average sentence of 13.6 months, 14% of new convictions will be sentenced to local control, with an average sentence of two months, and 51% of the new 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.

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 \$40,693 and \$387,744 for the 2025-27 biennium.

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 \$665,381 General Fund, \$685,573 General Fund in 2029-31, and \$689,801 General Fund in 2031-33.

There is anticipated to be a minimal fiscal impact for the Department of Justice, Oregon Judicial Department, District Attorneys, and counties.

There is no reported fiscal impact for the Oregon Youth Authority or cities.