

HB 2825 -1 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 3/23, 4/13

WHAT THE MEASURE DOES:

Requires a sentencing court to consider, as mitigation evidence, whether a defendant was subjected to domestic abuse that was a significant contributing factor to the defendant's criminal behavior. Provides that, if established by a preponderance of the evidence, such evidence constitutes substantial and compelling reasons justifying downward departure sentence. Authorizes a court to impose a lesser sentence in accordance with the rules of the Oregon sentencing guidelines, even if the sentence is mandatory or otherwise required by law. Creates a procedure by which a person currently serving a sentence may petition the court for resentencing if the person meets the eligibility requirements created by measure. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the measure. Requires a sentencing court to consider, as mitigation evidence, whether a defendant was subjected to abuse by an intimate partner or family or household member and that was a contributing factor to the defendant's criminal behavior. Provides that, if established by a preponderance of the evidence, such evidence constitutes substantial and compelling reasons justifying downward departure sentence. Authorizes a court to impose a lesser sentence in accordance with the rules of the Oregon sentencing guidelines, even if the sentence is mandatory or otherwise required by law. Creates a procedure by which a person currently serving a sentence may petition the court for resentencing if the person meets the eligibility requirements created by measure. Takes effect on 91st day following adjournment sine die.

BACKGROUND:

The 1989 Legislature approved sentencing guidelines to achieve proportional punishment and sentence uniformity for felony sentencing. Sentencing under the guidelines is referred to as sentencing according to the "grid" because the seriousness of the crime and criminal history of a felon are the vertical and horizontal axes on a grid that practitioners and judges use in sentencing. The guidelines and the presumptive sentences are established by the Criminal Justice Commission as directed by statute and rules adopted in accordance with statutory requirements. The presumptive sentence is the sentence in the grid block at the intersection of the offender's crime seriousness ranking and criminal history category. The presumptive sentence should be imposed in the typical case. Sentences in nontypical cases are handled with departures based on mitigating or aggravating factors found to exist. The sentencing guidelines do not apply to mandatory sentences which are set in statute and do not allow for departure sentences or alternative programs. A change to the mandatory sentences included in this measure requires approval by a two-thirds majority.

House Bill 2825 directs courts to consider evidence that a defendant was subjected to domestic abuse as a mitigating factor when sentencing a defendant and authorizes a court to depart from presumptive and mandatory sentences if the abuse is found to have been a significant contributing factor to the defendant's criminal behavior.