

HB 2172 -3 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 4/8, 4/13

WHAT THE MEASURE DOES:

Converts mandatory minimum sentences for specified felonies other than murder to presumptive sentences. Authorizes the court to impose greater or lesser sentences according to the sentencing guidelines established by the Oregon Criminal Justice Commission. Authorizes a person receiving a presumptive sentence to be eligible for certain programs and sentence reductions.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-3 Replaces the measure. Expands eligibility for reduction in sentence of supervision to individuals on post-prison supervision through the Department of Corrections for certain crimes. Amends current restitution payment requirements for compliance with terms of probation or post-prison supervision to be limited to the extent the person is able to pay. Applies to sentences imposed on or after the effective date of act.

BACKGROUND:

Ballot measure 11 (measure 11) was approved by voters through a ballot initiative in 1995 and created a mandatory minimum sentencing scheme for various violent crimes in Oregon. A report published by the Oregon Criminal Justice Commission in March 2021 finds that since implementation of Measure 11, the number of indictments per year has been relatively steady, averaging around 2,200 indictments per year. The breakdown of Measure 11 indictments by specific crime has also remained consistent, according to the report, which finds that Assault II is the most commonly indicted Measure 11 crime. Following Assault II, the most commonly indicted Measure 11 crimes are Assault I, Sex Abuse I, Robbery I and II, and Rape I.

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. The sentencing guidelines do not apply to measure 11 mandatory sentences which are set in statute and do not allow for departure sentences or alternative programs.

House Bill 2172 converts mandatory minimum sentences establish by measure 11 to presumptive sentences subject to the sentencing guidelines established by the Oregon Criminal Justice Commission and requires approval by a two-thirds majority.