

SB 401 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

Action Date: 04/13/21

Action: Without recommendation as to passage and request referral to Rules.

Vote: 4-2-1-0

Yeas: 4 - Dembrow, Gelser, Manning Jr, Prozanski

Nays: 2 - Linthicum, Thatcher

Exc: 1 - Heard

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Gillian Fischer, Counsel

Meeting Dates: 3/23, 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:

- Difference between presumptive sentences and mandatory sentences
- Eligibility for early release and programs provide incentive for good behavior
- Disparate impact of mandatory minimum sentences on people of color
- History of mandatory minimum sentences

EFFECT OF AMENDMENT:

No amendment.

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.

In 1989, the Legislative Assembly 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 because they are set in statute and do not allow for departure sentences or alternative programs.

SB 401 STAFF MEASURE SUMMARY

Senate Bill 401 converts mandatory minimum sentences establish by Measure 11 into presumptive sentences subject to the sentencing guidelines established by the Oregon Criminal Justice Commission.