

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3469

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office

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

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Measure Description:

Increases penalty for crime of strangulation when committed knowing victim was pregnant.

Government Unit(s) Affected:

Department of Corrections, District Attorneys and their Deputies, Judicial Department, Oregon Criminal Justice Commission, Public Defense Services Commission

Summary of Expenditure Impact:

Agency – Fund Type	2015-2017 Biennium	2017-2019 Biennium
Department of Corrections – General Fund		
Prison Cost	\$9,914	\$25,240
Special Payments	\$15,685	\$45,775
Total Cost	\$25,599	\$71,015
Agency – Fund Type	2015-2017 Biennium	2017-2019 Biennium
Public Defense Services Commission – General Fund	\$146,150	\$146,150

This measure is anticipated to have a minimal fiscal impact to state agencies and does not require a referral to the 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 in order to provide more context for the measure’s fiscal impact.

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

The measure increases the penalty for the crime of strangulation when it is committed knowing the victim was pregnant. The measure also increases the crime of assault in the fourth degree from a Class A misdemeanor to a Class C felony under certain circumstances. Currently, the crime of strangulation is a Class A misdemeanor but can be elevated to a Class C felony under certain circumstances.

According to data provided by the Criminal Justice Commission (CJC), in 2014 there were 60 convictions for felony-level strangulation. CJC estimates that this measure may result in an additional 5 felony-level strangulation convictions per year based on the measures changes. Using the conviction rates for felony-level strangulation from 2012 to 2014, CJC estimates about 39% would result in a prison sentence within a Department of Corrections facility, 9% would be sentenced to local control, and the remainder or 52% would receive a probation sentence with an average length of 18 months.

The Department of Corrections (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 length of stay is assumed to be

approximately 21 months in a DOC facility at a marginal cost per day of \$23.41. The estimated length of stay in local control is approximately 1 month, with an estimated 18 months of probation. The cost per day estimate for local control and probation is \$10.72 per offender.

DOC assumes any incarcerated inmates will be distributed into existing housing facilities and there would be no additional costs for staffing or construction. Based on the Corrections Population Forecast projections from the Office of Economic Analysis, DOC estimates are based on utilizing 76 available emergency beds at a marginal cost per day, beginning December 1, 2015. If emergency bed capacity is exceeded by the cumulative effects of measures passed during the session, DOC may need to establish permanent beds at a cost per day of \$95.42.

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 2019-21 biennium to be \$81,060 General Fund, \$83,243 General Fund in 2021-23, and \$84,220 General Fund in 2023-25.

The measure is anticipated to result in misdemeanor cases being elevated to felony cases; however the fiscal impact of those cases is anticipated to have a minimal impact to the Judicial Department and District Attorneys and their Deputies, and the Department of Justice.

The Public Defense Services Commission (PDSC) notes that the cost of representation for a misdemeanor is \$373 while the cost of representation for a Class C felony is \$768. PDSC used Judicial Department statistics for 2012 and 2013 to determine the number of cases with strangulation or Assault IV were the most serious charge. Assuming 5% of those cases may be elevated to a Class C felony under the measure, and assuming all defendants would be eligible for court-appointed counsel, the estimated cost to PDSC could be as much as \$146,150 General Fund per biennium.

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.