

HB 3078 STAFF MEASURE SUMMARY

House Committee On Judiciary

Action Date: 04/18/17

Action: Without recommendation as to passage, be referred to Rules, and then to Ways and Means by prior reference.

Vote: 10-0-1-0

Yeas: 10 - Barker, Gorsek, Greenlick, Lininger, Olson, Post, Sanchez, Stark, Vial, Williamson

Exc: 1 - Sprenger

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Modifies sentences applicable to specified property offenses under "repeat property offender" statute. Reduces presumptive sentences for certain offenders convicted of specified property crimes, from 24 months to 19 months and from 18 months to 13 months. Reduces presumptive sentence for certain offenders convicted of identity theft from 24 months to 13 months. Eliminates two month increase to presumptive sentence for each of offender's previous convictions for specified property crimes. Increases number of prior convictions, from two to four, and eliminates specified convictions necessary to trigger statutory presumptive sentence. Repeals statute prohibiting court from imposing downward departure from specified drug sentences for offenders with previous conviction.

Authorizes Department of Corrections to reduce term of incarceration by up to six months, if inmate meets specified criteria, including participation in parenting-related programming. Modifies Family Sentencing Alternative Pilot Program. Authorizes court to consider eligibility for program as downward departure from prison sentence. Increases maximum period of short term transitional leave from 90 days to 180 days. Repeals sunset of short term transitional leave to 30 days. Makes appropriations for Family Sentencing Alternative Pilot Program, Justice Reinvestment Program and Domestic and Sexual Violence Services Fund.

ISSUES DISCUSSED:

- Resources used to fund Justice Reinvestment, community corrections and prisons
- Women in prison and their children; treatment for addictions
- Truth in sentencing; proportional punishment
- Recidivism; victims of crime
- Ballot measures

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

ORS 137.717, sometimes referred to as the repeat property offender statute, was originally adopted in 1996. The statute removes sentencing from the sentencing guidelines grid and provides for presumptive prison sentences for property offenders who, at the time of sentencing, have specified previous convictions. Under the statute, there are two classes of property offense and two classes of previous convictions necessary to trigger the application of these sentences. The statute provides for two month enhancements for each additional previous conviction for a property offense and limits the circumstances under which the court may impose a downward departure from a presumptive

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prison sentence. The statute includes in the definition of previous convictions, those convictions that were entered in the same sentencing proceeding as the offense for which the offender is being sentenced. House Bill 3078 modifies the presumptive sentences for repeat property offenders and the current and prior convictions that qualify for these presumptive sentences.

In 2015, the Legislative Assembly adopted the Family Sentencing Alternative Pilot Program, modeled on a similar program in Washington. The program is available to certain defendants who have been sentenced to probation as a departure from a prison sentence and who, at the time of the crime, had physical custody of a minor child. The program includes special conditions of probation that range from vocational training and parenting or life skills classes to drug, alcohol or mental health treatment. HB 3078 authorizes the court to consider eligibility for the program as reason to impose a downward departure from a prison sentence. In addition, the bill allows offenders who are pregnant or who have physical custody of a child at the time of sentencing to participate in the program.

ORS 421.168 requires the Department of Corrections to administer a transitional leave program that provides eligible inmates with the opportunity to secure appropriate transitional support when necessary for successful reintegration into the community. The program requires the Department to work with community corrections agencies to assist eligible inmates in identifying and applying for an employment, educational or other transitional opportunity in the community. The Oregon Criminal Justice Commission has studied the impact of short term transitional leave and made statistical information available on its website. Under current law, the maximum length of transitional leave is 90 days and is scheduled to be reduced to 30 days in 2023. HB 3078 eliminates the scheduled reduction and provides for a maximum period of 180 days for many offenders, while limiting specified offenders to a maximum period of 90 days.