

Background Information on
Measure 61

General Election
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Prepared by

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Ballot Measure 61

EASY VOTERS' GUIDE

Ballot Measure 61: Mandatory Minimum Sentences

Official Title: Creates Mandatory Minimum Prison Sentences for Certain Theft, Identity Theft, Forgery, Drug, and Burglary Crimes.

The way it is now: Persons who commit crimes of theft, burglary, identity theft, forgery, or making or selling drugs receive prison sentences of different lengths. Judges use sentencing guidelines, but can make decisions on a case-by-case basis, such as giving probation for a first-time offender who seeks treatment.

What Measure 61 would do: If this measure passes, there would be required minimum prison or work camp sentences for persons convicted of the above crimes. Judges could use only the minimum sentencing laws.

If Measure 57 and Measure 61 both pass, the one with the most votes will win and become the law.

Argument for: Putting criminals in prison longer reduces crime. First-time criminals usually committed other crimes and just hadn't been caught before. Strict prison sentences would deter crime.

Argument against: Criminals should get tough sentences, but judges should be allowed to decide the best sentence in each case. Measure 61 could cost Oregon taxpayers over a billion dollars over time.

A **"Yes" vote means:** Everyone who is found guilty of these crimes will have a required minimum amount of time in prison.

A **"No" vote means:** People who commit these crimes will have different prison times.

How much it would cost: \$8 to \$10 million the 1st year and up to \$161 to \$274 million the fifth year. Three new prisons may be needed; they will cost over a billion dollars. Interest will have to be paid on this borrowed money.

REGULAR VOTERS' GUIDE

Oregon Ballot Measure 61

STATUTORY AMENDMENT: Creates Mandatory Minimum Sentences For Certain Theft, ID, Forgery, Drug, And Burglary Crime

INITIATIVE: This is a statutory measure placed on the ballot by initiative petition with an estimated 84,169 valid signatures.

A related and competing measure on the November 2008 ballot is Ballot Measure 57, passed by the Legislature as SB 1087, and referred to the voters. If both measures are passed, the one with the higher number of "yes" votes will take effect. See information on Ballot Measure 57.

FINANCIAL IMPACT: Ballot Measure 61 could add an additional 4100-6300 non-violent inmates to Department of Corrections' custody by July 2012. The projected inmate numbers vary based upon how district attorneys charge individuals accused of crimes. (The chief sponsor of Ballot Measure 61 agrees with the lower figure of 4000+; an organization opposing Ballot Measure 61 cites the higher figure of 6000+ additional inmates.)

The committee of state officials charged with estimating the fiscal impact of this measure indicates costs ranging from \$8 to \$10 million the first year, increasing annually to \$161 million to \$274 million after the fourth year. These costs include running prisons, providing temporary prison beds and supervising criminals after they are released from prisons. Measure 61 will require state reimbursement to local governments of \$2 to \$5 million the first year and \$10 to \$19 million each year thereafter for holding prisoners in local jails.

The Department of Corrections estimates that three new prisons would be required. If new prison space is needed, the state will borrow between \$1.1 billion and \$1.3 billion to build the new prisons between 2010 and 2017. Interest on the amounts borrowed will be paid over 25 years and will total \$709 to \$844 million.

No funds for prison construction are provided in this measure. The measure does not provide for any additional revenue to be collected by state government.

Probable results of a Yes Vote

If this measure passes there will be mandatory minimum sentences for certain crimes including burglary, forgery, theft, manufacture/delivery of methamphetamine, heroin, cocaine or "ecstasy" under specified circumstances.

Probable results of a No Vote

If this measure fails, current law, which does not require mandatory minimum sentences for the specified crimes, is retained. However, if the competing Ballot Measure 57 passes, there will be changes to the currently applied sentencing guidelines. (See explanation of Ballot Measure 57.)

Background

In 1995 a law was enacted that established mandatory minimum sentences for those who commit crimes against persons.

Ballot Measure 61, if enacted, would establish mandatory minimum sentences for those who commit property crimes, drug dealing, identity theft, burglary and auto theft. First-time offenders are included in some provisions of the sentencing requirements.

Oregon's incarceration rate has increased in the period 1980-2005 from 111 per 100,000 persons to 385 per 100,000 persons, one of the fastest growing of any state. The Oregon Criminal Justice Commission cites national studies indicating increases in incarceration rates do affect crime rates; a 10% increase in incarceration rates results in a 2-4% decline in the crime rate; in Oregon the decline is 2.9%. The same Oregon Criminal Justice Commission report also notes the law of diminishing returns applies to a decrease in crime rates in relation to increased rates of incarceration. Oregon's prison population now stands at 13,000.

The Proposal

Ballot Measure 61 creates mandatory minimum prison terms for certain drug, property and identity theft crimes for which current law does not provide such sentences. This measure also establishes a new felony crime of motor vehicle theft.

Persons convicted of the following crimes, including first-time offenders, must serve a full sentence with no reduction in time served for any reason:

- Illegal manufacture or delivery of methamphetamine or cocaine: 30 months
- The same crimes within 1000 feet of a school or dealing to a minor: 36 months
- Illegal manufacturing or dealing heroin or ecstasy: 36 months
- Conviction of burglary of a residence or identity theft: 36 months

Sentences for persons with a previous felony or two previous misdemeanor convictions who commit the following crimes will be:

- 18 months for forgery in the first degree or felony motor vehicle theft
- 14 months for theft in the first degree of a non-residential building or burglary in the second degree

Sentences must be served in state prisons and work camps, not in county jails, except for time served prior to trial. The convicted person must serve the full sentence and may not have the sentence reduced for any reason.

The State of Oregon shall reimburse counties for the actual cost of pre-trial detention.

Supporters Say

- We need to hold people accountable and protect our society.
- Major crimes call for major consequences. Major crimes include identity theft, burglary and street drug dealing.
- Severe sentences will deter persons from committing crimes.
- Reduction in crime rates will save the state money by reducing the expenses associated with prisons, courts, parole boards, etc.

Opponents Say

- Tough sentences are a good idea, but rigid, one-size-fits-all sentences are not.
- Measure 61 would put upwards of 6000 new people in the state prison system in the first three years alone.
- Measure 61 will require the state to build three new prisons in addition to the 14 we already have.
- Measure 61 will cost up to \$300 million more per budget cycle than Measure 57.

REFERENCES AND RESOURCES

Linda Gilbert, Budget & Management, Dept. of Administrative Services

Kevin Mannix Website; phone interview 8/27/08

Oregon Dept. of Corrections Issue Brief, 6/13/08

Oregon Secretary of State's Office: Explanatory Statements/Fiscal Impact Estimates: Measures 61 & 57 (printed below and with Measure 57)

Oregonian articles: 2/23/08; 8/6/08

Partnership for Safety and Justice Newsletter, 6/27/08

David Rogers, Director, phone interview 8/28/08

Craig Prins, Director, OR Criminal Justice Commission, phone interview 8/28/08

ADDITIONAL MEASURE BACKGROUND

prepared for Speakers' Kit by League Researcher

Ballot Measure 61, which would set mandatory minimum sentences for certain drug and property crimes and identity theft, was placed on the ballot by an initiative petition sponsored by Kevin Mannix and two co-petitioners. Mr. Mannix' name is well known to Oregonians as the author of Measure 11, which increased prison terms for those convicted of crimes against persons.

In any presentation about Ballot Measure 61 it is requisite to refer to Ballot Measure 57, a legislative referral which is also on the ballot and is described above. If both measures pass, the one receiving the higher number of "yes" votes will prevail.

One of the main differences between these two measures is the provision for alcohol and drug treatment for certain offenders under BM57. Also, Ballot Measure 61 applies to first-time offenders while Ballot Measure 57 does not; however, BM 57 enhances sentences for repeat offenders and drug traffickers and manufacturers.

In a recent article in the Oregonian (8/6/08), Mr. Mannix disputed state's cost estimates, saying that they overestimate the numbers of persons who will end up in prison under his proposal. Cost estimates for new prisons under BM 61 are over \$1 billion to accommodate 4000 to 6000 additional prisoners. The legislative proposal, BM 57, would require \$314 million for prison space for an additional 1600 prisoners.

SECRETARY OF STATE'S INFORMATION FOR MEASURE 61

EXPLANATORY STATEMENT

This statement, required by ORS 251.215, was prepared for the Election Division by Kevin Mannix, Steve Doell, David Rogers, Mary Botkin, and Dale Penn.

Ballot Measure 61 sets mandatory minimum sentences for certain drug and property crimes and identity theft. This measure also establishes a new felony crime of motor vehicle theft. When a person is sentenced under this measure, the person must serve the full sentence and may not have the sentence reduced for any reason.

This measure also requires that

- These sentences be served in state prison facilities and work camps
- The state reimburse counties for the cost of pretrial detention for persons sentenced under this measure

This measure requires that persons convicted of the following crimes serve at least the following sentences:

- Persons convicted of manufacturing or dealing heroin or ecstasy must serve a prison sentence of 36 months.
- Persons convicted of manufacturing or dealing methamphetamine or cocaine within 1,000 feet of a school, or dealing methamphetamine or cocaine to a minor, must serve a prison sentence of 36 months.

- Persons convicted of manufacturing or dealing methamphetamine or cocaine in any other circumstance must serve a prison sentence of 30 months.
- Persons convicted of burglary of a residence or identity theft must serve a prison sentence of 36 months.

This measure requires that persons with a previous felony conviction or two previous misdemeanor convictions who are convicted of the following crimes serve at least the following sentences:

- Persons convicted of forgery in the first degree or felony motor vehicle theft must serve a prison sentence of 18 months.
- Persons convicted of theft in the first degree or burglary of a nonresidential building must serve a prison sentence of 14 months.

Sentencing Comparison

Crime	Current Sentencing Guideline Range Depending on Facts of the Case and Criminal History	Measure 61 Mandatory Minimum Sentence Which Judge Must Impose
Manufacturing or dealing heroin or ecstasy; manufacturing or dealing methamphetamine or cocaine within 1,000 feet of a school; or dealing methamphetamine or cocaine to a minor	Probation to 45 months*	36 months
Manufacturing or dealing methamphetamine or cocaine in any other circumstance	Probation to 45 months*	30 months
Identity theft	Probation to 30 months*	36 months
First degree burglary	Probation to 36 months*	36 months
First degree forgery when the person has a serious criminal record	Probation to 30 months*	18 months
Motor vehicle theft, when the person has a serious criminal record	New crime: no current sentence. Under current law prosecutors generally charge under Unauthorized Use of a Motor Vehicle with a Guideline Sentence of probation to 30 months*	18 months
First degree theft when the person has a serious criminal record	Probation to 30 months*	14 months
Second degree burglary of a nonresidential building when the person has a serious criminal record	Probation to 30 months*	14 months

*These sentences can be reduced up to 20% for “earned time” and an additional 20% for successfully completing Alternative Incarceration Programs.

Under Measure 61 “serious criminal record” means the person has at least one previous conviction of a felony or at least two previous convictions of misdemeanors.

ESTIMATE OF FINANCIAL IMPACT by the Secretary of State’s Office

The measure will require additional state spending of \$8 million to \$10 million in the first year, \$67 million to \$88 million in the second year, \$122 million to \$178 million in the third year, \$164 million to \$247 million in the fourth year, and \$161 million to 274 million in each year after that. The measure does not require additional local government spending.

The measure will require the state to borrow between \$1.1 billion and 1.3 billion to build new prisons between 2010 and 2017. The state will repay those amount plus interest of \$709 million to \$844 million over 25 years.

The measure requires state payments to local government of \$2 million to \$5 million in the first year and \$10 million to \$19 million each year after that.

The measure does not affect the amount of funds collected for state government.

EXPLANATORY STATEMENT FOR ESTIMATE OF FINANCIAL IMPACT

by the Secretary of State's Office

The measure sets new minimum sentences for certain drug and property crimes. The measure also directs the state to pay local governments for the cost of holding defendants in jail until they are convicted.

State impact

The costs of the measure are due to keeping more criminals in prison for longer periods of time. Those costs include: running prisons, providing temporary prison beds, supervising criminals after they are released from prison, and building more prisons. Other costs include: providing foster care for some children whose parents are convicted of the measure's crimes, providing lawyers for defendants who cannot afford legal counsel, and defending the state against inmates' lawsuits.

The measure will cost between \$8 million and \$10 million in the first year, and increase to between \$161 million and 274 million after the fourth year.

The state will borrow \$1.1 billion to 1.3 billion from 2010 and 2017 to build new prisons. The state will repay those amounts plus interest of \$709 million to \$844 million over 25 years.

Local impact

The measure does not require additional spending by local government.

The measure requires the state to pay counties for the cost of holding those accused of the measure's crimes in county jails before they are convicted. The state does not currently pay this cost. The state will reimburse the counties for the cost of holding prisoners from \$2 million to \$5 million in the first year and \$10 million to \$19 million each year after that.

Implementing the measure

The current prison population is around 13,600. When the measure is fully implemented, it could add between 4,100 and 6,300 inmates to the prison population, depending on the number of people convicted of crimes under this measure. The total cost of the measure could change depending on the length of time to build new prisons, inflation, and the cost to hire and train new prison staff.

The measure does not identify a funding source. Today the costs of prisons are paid for out of the General Fund, which comes from income taxes. The General Fund is also used to pay for public education, services for vulnerable citizens, public safety, and other programs.