

Citizen Panel Ballot Measure 73

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Constitutional Context

- Article 1, section 15: Foundation principles of criminal law: protection of society, personal responsibility, accountability for one's actions and reformation.
- Article 4, section 33: A 2/3 vote of all the members elected to each house necessary to reduce a criminal sentence approved by the people.

BM 73 Section 2

- Applies to offenders convicted of more than one “major felony sex crime”
 - Rape I, Sodomy I, Sex Pen. I and Use of a child in display of sexually explicit conduct
 - Increases sentences from 70 – 100 months to 300 months
 - Prior criminal episode could be first time before a judge
 - 15 years of age and older

BM 73 Section 2 Estimated Impact

- Looked at all Department of Corrections (DOC) convictions from 2007 to 2009
- Estimated 13 offenders per year would be impacted by this law
- These offenders already have long prison sentences so the prison impact won't be felt for many years

IP 13 Estimate (Section 2)	
Biennium	Prison Beds
17-19	1
19-21	2
21-23	6
23-25	12
25-27	19
27-29	30
29-31	42
31-33	55
33-35	69
35-37	79
37-39	86
39-41	92
41-43	98
43-45	103
45-47	107
47-49	110
49-51	113
51-53	115

BM 73 Section 2 Assumptions

- When crimes occurred on the same day it is not counted as a prior
- Estimated sentences would now be 10 years longer based on current 300 month sentences
- No change in charging practices

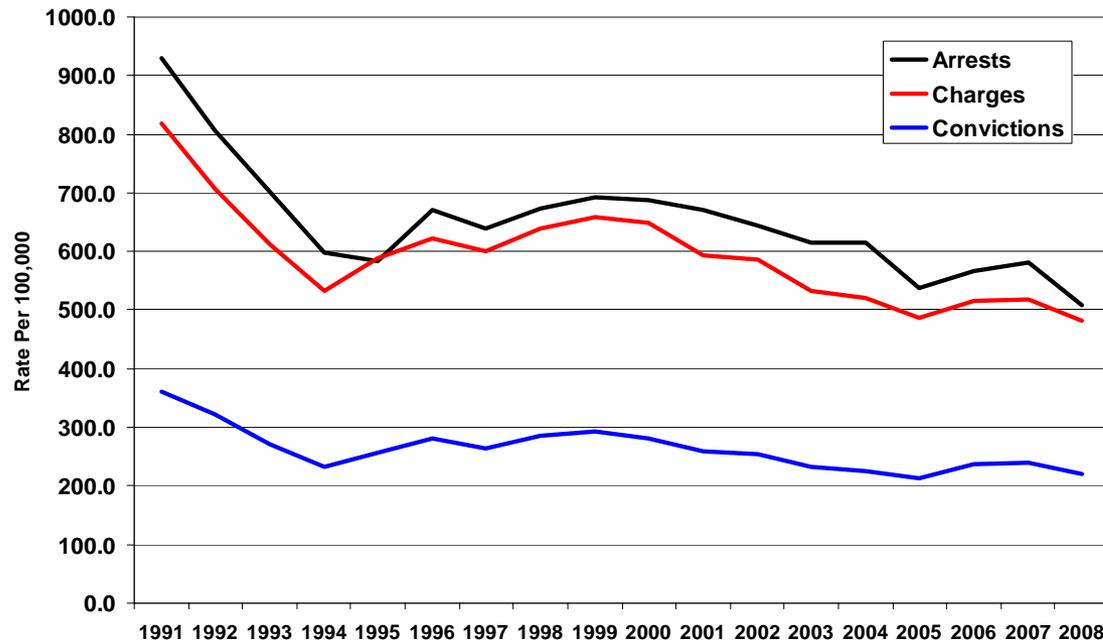
BM 73 Section 3

- Applies to driving under the influence of intoxicants
 - Changes the required number of prior convictions (with 10 years) to qualify for a felony from three to two
 - Once an offender has been convicted of a felony DUII it removes the “10 year window”
 - Under ORS 813.012 these are at least 6-D’s on the sentencing grid with a presumptive prison sentence
 - Requires offender to serve a mandatory minimum sentence of 90 days of incarceration
 - Requires the state to pay for the county’s incarceration costs (pre-trial and sentence)

Past Arrest, Charge, and Conviction Rates for DUII

- The arrest and charge rates for DUII have decreased 26% from 2000 to 2008
- DUII offenders who get diversion are not accounted for in the conviction rate

DUII Arrest, Charge, and Conviction Rate Comparison



- Source: OUCR and OJIN

DUI Convictions with a Fatality

- From 2007 to 2009, 97% of DUI convictions with a fatality were for offenders with no prior DUI

DUI Convictions with a Fatality by Number of Priors					
Priors	2007	2008	2009	All	%
0	24	22	22	68	97.1%
1	0	1	0	1	1.4%
2	0	1	0	1	1.4%

BM 73 Section 3 Estimated Impact

- Used DMV data on DUI convictions in 2008 and 2009
- Counted priors based on previous convictions being within 10 years of current arrest

BM 73 Section 3 Estimated Impact

- In 2008 - 2009 about 2% of DUI convictions were felonies

Annual Average DUI Convictions in 10 Year Window by Crime Class (2008-2009 data)											
	Prior Convictions										All
	0		1		2		3		4 +		
	N	%	N	%	N	%	N	%	N	%	N
Fel	23	0.4%	12	0.7%	33	6.9%	96	82.6%	30	97.1%	193
Mis	7412	99.6%	1488	99.3%	480	93.1%	19	17.4%	2	2.9%	9401
All	7436	100.0%	1500	100.0%	513	100.0%	115	100.0%	32	100.0%	9595

- We estimate IP 13 will add 527 felony convictions each year and increase the percent of felony convictions to 8%

Annual Average DUI Convictions in 10 Year Window by Crime Class (2008-2009 data)									
	Prior Convictions								All
	0		1		2		3 +		
	N	%	N	%	N	%	N	%	N
Fel	52	0.7%	103	6.9%	423	82.6%	142	97.1%	721
Mis	7383	99.3%	1397	93.1%	89	17.4%	4	2.9%	8874
All	7436	100.0%	1500	100.0%	513	100.0%	147	100.0%	9595

BM 73 Section 3 Estimated Impact

- We used DOC data to look at sentences for felony DUII convictions in 2008-2009
 - 83% received a prison sentence
 - 52% for Multnomah County
 - Average length of stay was 16 months for those sentenced to prison
 - Half of the probation sentences were for 60 months and half were for 36 months
 - Post-prison supervision sentences were estimated to be 24 months
 - We assumed offenders convicted under IP 13 would have similar sentences to current DUII felons

BM 73 Section 3 Estimated Impact

- We used DOC data on credit for time served to estimate the pre-trial jail beds (average 39 days)
- We assumed that offenders sentenced to probation would receive at least 90 days of jail or greater if that is current practice

IP 13 Estimate (Section 3)					
Bien.	Prison Beds	PPS Slots	Probation Slots	Jail Beds Pretrial	Jail Beds 90 days
09-11	0	0	0	0	0
11-13	339	55	84	53	34
13-15	527	617	249	63	41
15-17	556	832	349	63	41

Estimate of reduced County costs

- Used OJIN data to look at sentences on misdemeanor DUII convictions with 2 priors
- Average probation sentence of 29 months
- Average Jail sentence of 1.8 months (estimated actual time in jail)
- Assumed misdemeanor probation cost of \$1/day and jail costs of \$105/day

IP 13 Estimate County Impact							
Bien.	Probation	Probation Slots	Jail Cost	Jail Felony Probation	Jail Beds Misdemeanor	Jail Beds Pretrial	Total
09-11	\$5,000	0	\$397,000	0	0	0	\$402,000
11-13	\$308,000	402	\$6,613,000	7	69	14	\$6,922,000
13-15	\$748,000	1,042	\$8,150,000	9	83	17	\$8,899,000
15-17	\$916,000	1,263	\$8,326,000	9	83	17	\$9,242,000

Key Questions

- What % of new DUI felons will go to prison and how long will they stay?
 - Assumed 83% go to prison
 - Assumed average length of stay of 16 months
- How long of a jail sentence will offenders sentenced to probation receive?
 - Assumed at least 90 days of jail or greater if that is the current practice
- Will pre-trial jail policy change?
- How much of jail sentence do current DUI misdemeanants serve?
 - Assume 66% of their jail sentence served

DA's Estimate of New Prison Sentences

County	Estimated % to Prison	Current % to Prison
HARNEY	50%	100%
JACKSON	100%	86%
LANE	90%	90%
LINN	80%	100%
MARION	80%	92%
MULTNOMAH	25%	52%
SHERMAN	15%	100%
WASCO	23%	94%
YAMHILL	25%	83%

Impact of Changing Assumptions

- Instead of 83% of new felony convictions going to prison we used 67% based on data from the DA's in a few counties
- We also assumed that the time in prison would be 15% less

IP 13 Estimate (Section 3)					
Bien.	Prison Beds	PPS Slots	Probation Slots	Jail Beds Pretrial	Jail Beds 90 days
09-11	0	0	0	0	0
11-13	259	64	158	46	56
13-15	381	541	468	54	68
15-17	399	690	657	55	68

- Original Estimate with 83% to prison with length of stay of 16 months

IP 13 Estimate (Section 3)					
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