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Background Brief on ...

Measure 11

In November 1994, voters passed Ballot Measure 11, now codified in ORS chapter 137, requiring mandatory minimum prison sentences for “serious crimes against persons.” Measure 11 originally applied to 16 offenses and has since been amended to include a total of 21. The crimes covered by Measure 11 and their corresponding minimum sentences are:

Crime	Sentence
Assault II	5 yrs., 10 mo.
Compelling Prostitution	5 yrs., 10 mo.
Kidnapping II	5 yrs., 10 mo.
Robbery II	5 yrs., 10 mo.
Using Child in a Display of Sexually Explicit Conduct	5 yrs., 10 mo.
Arson I when the offense represented a threat of serious physical injury	7 yrs., 6 mo.
Manslaughter II	6 yrs., 3 mo.
Rape II	6 yrs., 3 mo.
Sexual Abuse I	6 yrs., 3 mo.
Sodomy II	6 yrs., 3 mo.
Unlawful Sexual Penetration II	6 yrs., 3 mo.
Conspiracy to Commit Murder/Attempted Murder	7 yrs., 6 mo.
Assault I	7 yrs., 6 mo.
Kidnapping I when the victim is under 12 and the kidnapping is for the purposes of committing Rape I, Sodomy I, or Unlawful Sexual Penetration	25 years
Otherwise	7 yrs., 6 mo.
Robbery I	7 yrs., 6 mo.
Rape I when the victim is under 12	25 years
Otherwise	8 yrs., 4 mo.
Sodomy I when the victim is under 12	25 years
Otherwise	8 yrs., 4 mo.
Unlawful Sexual Penetration I when the victim is under 12	25 years
Otherwise	8 yrs., 4 mo.
Attempted Aggravated Murder/ Conspiracy to Commit Aggravated Murder	10 yrs.
Manslaughter I	10 yrs.
Murder	25 yrs.

Persons convicted of Measure 11 offenses receive no parole or reduction of sentence for good behavior while in prison. Measure 11 also mandates that juveniles age 15 and older charged with the felonies listed above be tried as adults.

Amending Measure 11

In 1994, the voters adopted Ballot Measure 10 as a companion to Measure 11. It allows the Legislative Assembly to change Measure 11, but only by a two-thirds vote of each chamber. Since Measure 11 became law, the Legislature has made several changes.

The 1997 Legislative Assembly passed Senate Bill 1049 to allow judges to impose lesser sentences for Assault II, Kidnapping II, and Robbery II if the offender had a minimal criminal history. Senate Bill 1049 also included the crimes of Compelling Prostitution, Using a Child in a Display of Sexually Explicit Conduct, and some types of arson in the first degree, to the list of crimes under Measure 11.

The 2001 Legislative Assembly passed House Bill 2379 that, among other things, allows the following:

- The Department of Corrections may release an inmate up to three days prior to the inmate's release date if the inmate otherwise would be released on a week-end or holiday; and,
- A court may impose punishment based on sentencing guidelines rather than Measure 11, for Rape II, Sodomy II, Unlawful Sexual Penetration II, and Sexual Abuse I *if* the victim is not under 12, the defendant is not more than five years older than the victim, consent was not obtained by violence or threat of violence, and the defendant does not have a criminal record for Measure 11 offenses or certain other listed crimes.

Impact of Measure 11 on the Prison Population

The April 2004 prison population forecast attributes 41 percent of Oregon's prison population growth to the direct or indirect impact of Measure 11.

Direct impact includes those persons being sentenced to prison pursuant to Measure 11 who previously might have been sentenced only to jail and/or probation (first offenders), and to longer prison sentences generally than compared to sentences imposed prior to Measure 11.

Indirect impact includes new and longer sentences for lesser crimes – crimes not included under Measure 11 – that a defendant has agreed to plead “guilty” to as part of a negotiated agreement, rather than choosing to proceed to trial on an original charge that falls under Measure 11 that would carry a longer sentence if convicted.

Impact of Measure 11 on Crime

Crime rates in Oregon and across the nation have been decreasing. Proponents contend that Measure 11 has reduced Oregon's crime rate, while opponents counter that Measure 11 has little appreciable impact because increases and decreases in crime rates are the result of many factors. Opponents of Measure 11 admit that it keeps many offenders incarcerated who might otherwise reoffend; however, they contend that Oregon could get a better return on its prison dollar if resources were targeted towards the individual offenders who present the greatest risk. Proponents of Measure 11 counter that such a system would leave too much to the vagaries of the judicial system.

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