



LPRO: Legislative Policy and Research Office

MEASURE 11

BACKGROUND BRIEF

In November 1994, voters passed Ballot Measure 11, now codified in ORS chapter 137, required 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.

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.

The crimes that fall under Measure 11 and the mandatory minimum sentence they carry are found on the last page of this brief.

AMENDING MEASURE 11

In 1994, the voters adopted a companion measure to Measure 11, Ballot Measure 10. Measure 10 allows the Legislative Assembly to change Measure 11, but only by a two-thirds vote of each chamber. Since its enactment into law, the Legislature has made several changes to Measure 11. The 1997 Legislative Assembly passed Senate Bill 1049 that softened Measure 11 by allowing judges to impose lesser sentences for Assault II, Kidnapping II, and Robbery II if the offender

has a minimal criminal history. Senate Bill 1049 also added to Measure 11 the crimes of Compelling Prostitution, Using a Child in a Display of Sexually Explicit Conduct, and some types of arson in the first degree.

The 2001 Legislative Assembly passed House Bill 2379 that, among other things, allows: (a) the Department of Corrections to release an inmate up to 3 days prior to the inmate’s release date if the inmate otherwise would be released on a week-end or holiday; (b) a court to impose a sentencing guidelines sentence, rather than the Measure 11 sentence, 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 5 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 number of prisoners incarcerated in Oregon prisons has grown since enactment of Measure 11.¹ Sixty percent of Oregon’s

CONTENTS

AMENDING MEASURE 11

IMPACT OF MEASURE 11 ON THE PRISON POPULATION

IMPACT OF MEASURE 11 ON PROSECUTIONS

IMPACT OF MEASURE 11 ON CRIME

STAFF CONTACT

¹ U.S Department of Justice, Office of Justice programs, Bureau of Justice Statistics, Correctional

Populations in the United States, 2014, revised 2016. <http://www.bjs.gov/content/pub/pdf/cpus14.pdf>



MEASURE 11

prisoners are serving time for Measure 11 crimes or have pled out from a Measure 11 crime to a mandatory sentence. These offenders serve a longer sentence than they would have had they been sentenced under sentencing guidelines. Because of lengthy mandatory sentences, offenders remain in prison longer than they did before Measure 11 was enacted, increasing the long-term prison population.

IMPACT OF MEASURE 11 ON PROSECUTIONS

Data shows that the proportion of offenders convicted of and sent to prison for Measure 11 offenses decreased in the years following the Measure's implementation, while the proportion of alternative sentences increased. In many cases, prosecutors used Measure 11 mandatory sentences as a tool in plea bargaining. When facing a lengthy, mandatory prison sentence if convicted, defendants may opt to plea to a lesser charge that does not carry a mandatory sentence. In some cases, prosecutors may have felt the Measure 11 penalties were too lengthy for the crime.²

IMPACT OF MEASURE 11 ON CRIME

Prior to the enactment of Measure 11, Oregon's crime rates were higher than the national average, most notably in the area of property crimes.³ However, Oregon's violent crime rate is and has been far below the national average, both before and after passage of Measure 11. Crime rates in Oregon decreased after passage of Measure 11, as did

the overall national crime rate. (Figure from Page 83 here). According to a RAND Corporation study, "Oregon's violent crime rates in 1999 were lower than at any time since 1975, having declined by 27% between 1995 and 1999, about 3% more than the national decline over the same period."⁴

Proponents of Measure 11 contend that it has reduced Oregon's crime rate, while opponents counter that it has had little appreciable impact on crime and that reduced crime rates in Oregon and the nation are the result of many factors. Whether Measure 11 has had a long-term effect on violent crime rates in Oregon remains to be determined.

² RAND Corporation Technical Report: Oregon's Measure 11 Sentencing Reform, Implementation and System Impact, 2004.

http://www.rand.org/pubs/technical_reports/TR142.html.

³ RAND Corporation report, Page 82.

⁴ RAND study.



MEASURE 11

Table 1: Measure 11 Crimes and Sentences

| 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. |

STAFF CONTACTS

Channa Newell
Legislative Policy and Research Office
503-986-1525
channa.newell@state.or.us

Please note that the Legislative Policy and Research Office provides centralized, nonpartisan research and issue analysis for Oregon's legislative branch. Legislative Policy and Research Office does not provide legal advice. Background Briefs contain general information that is current as of the date of publication. Subsequent action by the legislative, executive or judicial branches may affect accuracy.