

M57: Lawmakers draft answer

By Cindy Powers / *The Bulletin*

Published: September 29, 2008 4:00AM PST

Backers of Ballot Measure 57 are adamant that the proposal is the best use of tax dollars to both crack down on property crime offenders and prevent recidivism through drug and alcohol treatment.

Lawmakers drafted the proposal in response to Measure 61, which would create mandatory minimum sentences for property offenders, including some first-timers.

The legislative referral would significantly increase penalties for property crimes like drug dealing, stealing from the elderly and identity theft, as well as mandate drug treatment for some of the offenders.

For example, under Measure 57, manufacturing or dealing 500 or more grams of methamphetamine or cocaine, or 100 grams or more of heroin or ecstasy, currently a sentence of probation to 45 months, would be changed to 58 to 130 months.

Legislators behind the proposal say Measure 61 simply warehouses criminals and doesn't deal with drug or alcohol addiction, the root cause of property crime.

"With 57 we are saying, wait a second, one component is holding them responsible with jail or prison sanctions," said State Sen. Floyd Prozanski, D-Eugene, one of the measure's drafters, "but let's also hold them responsible by getting them off drugs and keeping them out of the system in the future."

But political activist and former gubernatorial candidate Kevin Mannix, who is behind the competing Measure 61, says the legislative referral is defective because none of its sentence lengths are mandatory — meaning criminals could still get probation or get released with a significant reduction in their sentences for good behavior.

Measure 57 On the Web

Increases sentences for drug trafficking, theft against the elderly, and specified repeat property and identity theft crimes, and requires addiction treatment for certain offenders.

Chief petitioners: Legislative referral, State Sen. Floyd Prozanski and State Rep. Greg Macpherson

Fiscal impact: Additional state spending of about \$9 million in the first year, \$74 million in the second year, \$79 million in the third year, \$106 million in the fourth year and more than \$143 million each year after that. The measure will require the state to borrow \$314 million from 2010 to 2017 to build new prison space. The prison construction costs and the debt payments are included in the additional state spending listed above. The measure does not require additional local government spending. It does not affect the amount of funds collected for state government.

Pros: Longer sentences for repeat property crime offenders and mandated drug treatment for addicted offenders. • Smaller fiscal impact than competing Measure 61, which would create mandatory minimum property crime sentences. • Designed to prevent

Prozanski said the legislative proposal was drafted with the help of those working in law enforcement and corrections, like the Oregon District Attorneys Association, the Oregon Association Chiefs of Police and the Oregon State Sheriff's Association.

So Measure 57 was written by those who best know how to handle criminals, he said.

If it passes, sentences for crimes like drug dealing, stealing a large amount from an elderly victim and repeat identity theft will jump. Those formerly facing probation would be looking at the possibility of going to prison for 16 months to more than 10 years.

Those sentences are longer than terms proposed under Measure 61, and Prozanski said that is by design.

"(Measure) 57 does, in fact, increase the length of sentences that people will serve, but we have also talked to the smart people in corrections, as well as the treatment folks, to tell us what those sentences need to be to get the treatment done," Prozanski said.

As things stand, many inmates don't have long enough sentences to give them the chance to get into drug treatment, said Jennifer Black of the Oregon Department of Corrections.

There is a four- to six-month wait, and the treatment programs themselves go on for months or even years.

"At a minimum, somewhere between 22 and 24 months is needed for them to get into treatment," Black said.

Currently, 85 percent of criminals going to prison for repeat property crimes report some kind of addiction problem, yet only 12 percent are receiving treatment, Black said.

If Measure 57 passes, Gov. Ted Kulongoski has earmarked \$40 million to go toward treatment programs, Prozanski said.

"The \$40 million is going to be a start, and we are hoping more will come in the future out of the general fund," he said. "And if you are keeping people out of prison, you are getting them out of the system and can divert that money to treatment."

But Mannix says the \$40 million is a promise, not a guarantee, and paying for treatment programs will ultimately fall to legislators.

"The problem is the state has not been paying for rehab and treatment, and there is no funding in 57 specifically for it," Mannix said. "They will have to go back

recidivism by treating drug-addicted inmates whose crimes were driven by substance abuse.

Proponents: The Better Way to Fight Crime:
www.betterwaytofightcrime.com

Cons: Does not go into effect if both measures pass and competing Measure 61 garners more "yes" votes, eliminating the treatment component of the legislation.

- No guaranteed source of funding for drug treatment.
- Does not impose mandatory minimum sentences for repeat offenders.

Opponents: Oregon Anti-Crime Alliance:
www.oaaoregon.com

To see possible sentencing changes and the crimes affected, go to this story on www.bendbulletin.com.

and seek the funding.”

Mannix says Measure 57 in and of itself isn't a bad piece of legislation, but its “homicide/suicide” clause is a huge problem.

The language says that if both measures pass, the one with the most “yes” votes becomes law, and the other does not go into effect.

“That doesn't tell me they really believe in rehab,” he said.

Mannix said the clause prevents him from folding the treatment provisions of 57 into his proposal if Measure 61 prevails.

State Rep. Greg Macpherson, D-Lake Oswego, also helped draft Measure 57 and said lawmakers wanted to ensure that treatment would be part of whatever legislation passes.

Mannix's proposal, he said, amounts to just warehousing people.

“And the only long-term solution to property crime is to make progress on drug addiction and, if we don't do that, then we are just building more and more prisons to lock them up,” he said.

The Oregon Department of Corrections now houses more than 13,000 inmates, and both measures would increase that number.

The Oregon Criminal Justice Commission has projected that, if Measure 61 passes, 4,000 to 6,000 new inmates will enter prisons in the next four years. The commission's numbers show that, if Measure 57 passes, about 1,600 new inmates will go to prison for property crimes.

That will mean less expense for housing new inmates, said Deschutes County District Attorney Mike Dugan, so legislators can put more money to prevention.

“The state will have to come up with the money for these programs, and 57 is a better way to fight crime,” he said. “(Measure) 57 will have less impact on very necessary programs like mental health programs and family programs that are designed to help keep people out of prison.”

Proponents of the measure realize that, whichever measure prevails, the fiscal impact will be significant. Those behind 57 say that is all the more reason to get the most bang for the state's dollar.

That was a big reason the Oregon Association Chiefs of Police decided to endorse Measure 57, said Executive Director Kevin Campbell.

“It's just a matter of, look, we have a limited number of public safety dollars, and this seems to be the most effective way to use them,” Campbell said.

Measure 57 was referred by the Legislature as an alternative to Ballot Measure 61, which would create mandatory minimum sentences for certain drug and

property crimes and identity theft. Measure 57 increases sentences for high-quantity or repeat drug crimes and repeat property crimes and mandates drug treatment for some offenders.

Crime	Current sentencing range	Measure 57 sentence
Manufacturing or dealing 500 or more grams of methamphetamine or cocaine, or 100 grams or more of heroin or ecstasy	Probation to 45 months	58 to 130 months
Manufacturing or dealing 100 or more grams of methamphetamine or cocaine, or 50 grams or more of heroin or ecstasy	Probation to 45 months	34 to 72 months
Dealing methamphetamine, cocaine, ecstasy, or heroin to persons under 18. Gives exception if person is less than three years older than minor, unless dealer is a repeat offender.	Probation to 45 months	34 to 72 months
Stealing \$10,000 or more from a victim who is 65 years of age or older	Probation to 30 months	16 to 45 months
Repeat offense of manufacturing or dealing controlled substance other than marijuana	Probation to 45 months	Up to 45 months Directs judge not to give probation if prison sentence is called for in sentencing guidelines.

This measure modifies the presumptive sentences imposed upon repeat drug and repeat property offenders.

Crime	Current sentencing range	Measure 57 sentence
Repeat property offender	13 months on second conviction for serious property crimes. 19 months on fifth conviction for	18 months on second conviction for serious property crimes. 24 months on second conviction for common property crimes

	common property crimes	within 3 years of supervision, 2 months for each additional conviction
Repeat identity theft with prior convictions for certain crimes	13 months on second conviction for serious property crimes or fifth conviction for common property crimes	24 months on second conviction for serious property crimes or second conviction for common property crimes within 3 years of supervision, 2 months for each additional conviction
Repeat mail theft with prior convictions for certain crimes	Probation to 12 months	18 months on second conviction for serious property crimes or second conviction for common property crimes within 3 years of supervision, 2 months for additional conviction

If both measures 57 and 61 pass, only the measure with the greater number of "yes" votes will become law.

Source: Oregon Secretary of State Elections Division

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