

Measure No. 11

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Proposed by initiative petition to be voted on at the General Election, November 8, 1994.

BALLOT TITLE

11 MANDATORY SENTENCES FOR LISTED FELONIES; COVERS PERSONS 15 AND UP

QUESTION: Shall statute set mandatory sentences for listed felonies; bar early release, leave, or reduced sentence; cover persons 15 and up?

SUMMARY: Adopts new statute. The measure would set mandatory sentences for listed felonies. A court could impose a longer sentence if allowed by law. The measure would bar early release, leave, or a reduced sentence for any reason. It would cover murder and listed forms of manslaughter, assault, kidnapping, rape, sodomy, unlawful sexual penetration, sexual abuse, robbery. All persons 15 and up when charged with these crimes would have to be tried as adults. It would apply to crimes committed on or after April 1, 1995.

ESTIMATE OF FINANCIAL IMPACT: The mandatory minimum sentences imposed under this measure will require 6,085 new prison beds by 2001, with direct state expenditures for construction of \$461.8 million in the next five years. Direct state expenditures for operating costs will increase by \$3.2 million in 1995-96 and by \$13.3 million in 1996-97, growing to a \$101.6 million annual increase in four more years. Annual increases in indigent defense costs are estimated to be \$441,000.

Construction and annual operating costs will continue to grow as an additional 3,010 beds are required between 2001 and 2005.

MANDATORY SENTENCES FOR VIOLENT OFFENDERS

SECTION 1. (1) When a person is convicted of one of the offenses listed in subsection (2) of this section and the offense was committed on or after April 1, 1995, the court shall impose, and the person shall serve, at least the entire term of imprisonment listed in subsection 2. The person is not, during the service of the term of imprisonment, eligible for release on post-prison supervision or any form of temporary leave from custody. The person is not eligible for any reduction in the sentence for any reason whatsoever under ORS 421.120, 421.121 or any other statute. The court may impose a greater sentence if otherwise permitted by law, but may not impose a lower sentence than the sentence specified in Section 2. Notwithstanding any other provision of law, when a person charged with any of the offenses listed in subsection 2 of this section is 15, 16 or 17-years of age, at the time the charges are filed, that person shall be tried as an adult.

(2) The offenses to which subsection (1) of this section applies and the sentences are:

(a) Murder, as defined in ORS 163.115	300 months
(b) Manslaughter in the first degree, as defined in ORS 163.118.	120 months
(c) Manslaughter in the second degree, as defined in ORS 163.125.	75 months
(d) Assault in the first degree, as defined in ORS 163.185.	90 months
(e) Assault in the second degree, as defined in ORS 163.175.	70 months
(f) Kidnapping in the first degree, as defined in ORS 163.235.	90 months
(g) Kidnapping in the second degree, as defined in ORS 163.225.	70 months

(h) Rape in the first degree, as defined in ORS 163.375.	100 months
(i) Rape in the second degree, as defined in ORS 163.365.	75 months
(j) Sodomy in the first degree, as defined in ORS 163.405.	100 months
(k) Sodomy in the second degree, as defined in ORS 163.395.	75 months
(l) Unlawful sexual penetration in the first degree, as defined in ORS 163.411.	100 months
(m) Unlawful sexual penetration in the second degree, as defined in ORS 163.408.	75 months
(n) Sexual abuse in the first degree, as defined in ORS 163.427.	75 months
(o) Robbery in the first degree, as defined in ORS 164.415.	90 months
(p) Robbery in the second degree, as defined in ORS 164.405.	70 months

Section 2. If any part of this Act is found unconstitutional, the remaining parts shall survive in full force and effect. This Act shall be in all parts self-executing.

Section 3. This Act Takes effect on April 1, 1995.

EXPLANATORY STATEMENT

This measure sets mandatory minimum sentences for certain crimes. It requires a court to impose the sentences for crimes committed on or after April 1, 1995. The court may not impose a shorter sentence for any reason. The crimes covered by the measure are: murder and listed forms of manslaughter, assault, kidnapping, rape, sodomy, unlawful sexual penetration, sexual abuse and robbery. The court may impose longer sentences if allowed by other law. When a person is sentenced under this measure, the person must serve the full sentence. The sentence may not be reduced for any reason.

Under current law, presumed sentences for the crimes listed in this measure are set using a sentencing table. The severity of the crime and the person's criminal history determine the length of the presumed sentence. The presumed sentence is imposed most of the time; however, the court may set higher or lower sentences if specified aggravating or mitigating circumstances are present.

This chart compares the mandatory minimum sentences imposed by this measure with the range of presumed sentences under current law, in years and months:

<u>Crime</u>	<u>New Mandatory Minimum Sentence</u>	<u>Current Range of Presumed Sentences</u>
Murder	25yr	10yr--22yr, 5mo
Manslaughter/ 1st degree	10yr	4yr, 10mo--10yr, 10mo
Manslaughter/ 2nd degree	6yr, 3mo	1yr, 4mo--3yr, 9mo
Assault/ 1st degree	7yr, 6mo	2yr, 10mo--10yr, 10mo

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Assault/ 2nd degree	5yr, 10mo	1yr, 4mo--3yr, 9mo
Kidnapping/ 1st degree	7yr, 6mo	4yr, 10mo--10yr, 10mo
Kidnapping/ 2nd degree	5yr, 10mo	2yr, 10mo--6yr
Rape/ 1st degree	8yr, 4mo	2yr, 10mo--10yr, 10mo
Rape/ 2nd degree	6yr, 3mo	1yr, 4mo--3yr, 9mo
Sodomy/ 1st degree	8yr, 4mo	2yr, 10mo--10yr, 10mo
Sodomy/ 2nd degree	6yr, 3mo	1yr, 4mo--3yr, 9mo
Unlawful sexual penetration 1st degree	8yr, 4mo	2yr, 10mo--10yr, 10mo
Unlawful sexual penetration 2nd degree	6yr, 3mo	1yr, 4mo--3yr, 9mo
Sexual abuse/ 1st degree	6yr, 3mo	1yr, 4mo--3yr, 9mo
Robbery/ 1st degree	7yr, 6mo	2yr, 10mo--6yr
Robbery/ 2nd degree	5yr, 10mo	probation or local jail--2yr, 6mo

This measure also requires that a person who is 15, 16 or 17 years of age when charged with one of the listed crimes must be tried and sentenced as an adult.

Under current law, if a person who is under 18 years of age commits a crime, the juvenile court decides in each case whether the person will be tried and sentenced as an adult. The juvenile court currently looks at the person's age, the severity of the crime and other factors in making its decision.

Committee Members:	Appointed by:
Representative Kevin Mannix	Chief Petitioners
Robert J. Prinslow	Chief Petitioners
Lee Coleman	Secretary of State
Jim Francesconi*	Secretary of State
Cory Streisinger	Members of the Committee

* Member dissents (does not concur with explanatory statement)

(This committee was appointed to provide an impartial explanation of the ballot measure pursuant to ORS 251.215.)

ARGUMENT IN FAVOR

This measure brings back the idea that the criminal justice system means justice for all - not just the criminal, but the victim, and society.

The mandatory minimum sentences for the violent crimes listed in this measure are the minimum required for justice for society and the victim.

These are sentences for intentional, absolute use of force against innocent victims. Society should demand that the criminal pay the price for such crimes. These sentences are only imposed after the criminal has been found guilty of the crime, beyond reasonable doubt. So, traditional defenses, such as self-defense, still apply.

Requiring solid, minimum prison time for violent crimes will result in:

- Incapacitation. The criminal cannot commit other crimes while in prison. This will reduce actual crime in society.
- Deterrence. Career criminals will learn that crime does not pay in Oregon. Some of them will leave, or change their ways.
- Predictability of sentences. Right now, the range of sentences is so broad, and the reasons for increasing or reducing sentences are so broad, that it is hard to predict what actual sentence will be imposed. With these mandatory minimums, everyone will know the exact minimum sentence which must be served for the crime.
- Comparable sentences. All judges in Oregon, no matter how soft, must impose the minimum sentence for a violent crime when a jury has found the criminal guilty. Sentences can be higher if the circumstances call for it, but they cannot be lower.

It costs money to keep criminals in prison. While it may save the government money to set these criminals free, the cost to society and victims is incredible. We all pay this cost. By enacting this measure, we will at least be getting justice for our money.

It is time to put "justice" back into the criminal justice system.

Vote YES on Measure 11!

(This information furnished by Kevin L. Mannix, Tough on Crime Committee.)

(This space purchased for \$500 in accordance with 1993 Or. Laws 811 §11.)

The printing of this argument does not constitute an endorsement by the State of Oregon, nor does the state warrant the accuracy or truth of any statement made in the argument.