

HB 3115 -1 STAFF MEASURE SUMMARY

House Committee On Judiciary

Prepared By: Amie Fender-Sosa, Counsel

Meeting Dates: 3/9, 3/23, 3/23

WHAT THE MEASURE DOES:

Requires that by July 1, 2023, local laws that regulate the acts of sitting, lying, sleeping or keeping warm and dry in outdoor public spaces, be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness. Creates affirmative defense for persons charged with violating local law, that the law is not objectively reasonable. Allows persons experiencing homelessness to file suit for relief to challenge the objective reasonableness of local laws. Does not create a right of action for monetary damages. Authorizes the court, under certain circumstances, to award attorney fees to prevailing plaintiff. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Broadens the measure to include state law. Creates direction for venue relating to a civil claim for injunctive or declaratory relief. Requires 90-day notice be provided to the Department of Justice, if claim is under state law.

BACKGROUND:

In 2019 the 9th Circuit Court of Appeals in *Martin v. Boise* (920 F. 3d 584) held that the government cannot criminalize certain conduct, such as lying, sitting, or sleeping on the streets, that is unavoidable as a result of homelessness. The Court further concluded that to punish such conduct would be comparable to punishing a person's homeless status and to do so would be unconstitutional under the 8th Amendment of the U.S. Constitution, which prohibits imposing excessive fines, bail, or cruel and unusual punishments.

Some localities in Oregon have regulations for managing use of public spaces. House Bill 3115 would require local laws on outdoor public spaces be objectively reasonable with regards to persons experiencing homelessness.