

SB 48 A -A5 STAFF MEASURE SUMMARY

Senate Committee On Rules

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Meeting Dates: 5/27, 6/1

WHAT THE MEASURE DOES:

Eliminates requirement that defendants post security for bail prior to release except in certain circumstances. Directs the presiding judge of a judicial district to enter a standing pretrial release order specifying persons and offenses subject to release on recognizance, conditional release, and those not eligible for release until arraignment. Directs the Chief Justice of the Supreme Court to establish release guidelines for the pretrial release orders described in this section. Modifies findings required for certain pre-trial release decisions. Eliminates requirement that a defendant deposit 10 percent of security imposed prior to release on security except in certain cases. Establishes procedures for issuance of orders to forfeit security or pay on a promissory note if a defendant violates a condition of release. Repeals ORS 135.242 relating to security release for certain methamphetamine offenses.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-A5 Replaces the measure. Directs the presiding judge of a judicial district to enter a standing pretrial release order specifying persons and offenses subject to release on recognizance, conditional release, and those not eligible for release until arraignment. Directs the Chief Justice of the Supreme Court to establish release guidelines for pretrial release orders described with input from a criminal justice advisory committee appointed by the Chief Justice. The developed guidelines should: provide consistent release decision-making structure across the state; reduce reliance on the use of security; include provisions for victim input and notification; and balance the rights of the defendant and presumption of pretrial release against any risk to public safety and of failure to appear. Directs pretrial release assistance officer to make reasonable efforts to contact the victim and obtain victim's position on release prior to submitting a report or making a release decision as authorized, if defendant is charged with certain crimes. Removes mandatory minimum bail amounts from statute. Requires release decisions to be made at the time of arraignment or other first appearance unless good cause to postpone, as defined by measure, is shown. Directs the district attorney to make reasonable efforts to inform the victim of the location, date and time of the appearance and requires victim be provided opportunity to reasonably express any views relevant to the issues addressed at the appearance. If a release decision is postponed, requires court, upon request by a party or the court's own motion, to hold a release hearing within 48 hours of arraignment or first appearance, but under no circumstances more than five days after first appearance. Authorizes a law enforcement agency to release a booking photo to the court as part of a pretrial release report or process. Allows the Judicial Department to take action to comply with requirements established by measure prior to the operative date of July 1, 2022, if necessary to satisfy the duties, functions, and powers conferred on the department.

BACKGROUND:

The Oregon Constitution provides a right to bail except for when an individual is charged with murder or treason (Art. I §14) or when the defendant is charged with a violent felony (Art. I §43), so long as certain evidentiary thresholds are met. If a defendant does not fall under one of the two exceptions above, courts must consider whether to release the defendant or to require security. If security release is ordered by a court, the defendant is required to deposit 10 percent of their security amount and agree to any other conditions imposed, before they can be released. In 2017, the legislature reconvened the Public Safety Task Force (PSTF) to study security release,

This summary has not been adopted or officially endorsed by action of the committee.

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including the disparate impact on racial and ethnic populations, and to study alternative mechanism of reducing failure to appear at court hearings. In December of 2020, PSTF submitted its final report to the Legislative Assembly with recommendations for changes to Oregon’s pretrial framework. The PSTF report included recommendations to reduce reliance on security release and to eliminate mandatory minimum bail amounts in statute.

Senate Bill 48 A eliminates the requirement that a defendant post security before being allowed release except in certain circumstances and eliminates certain mandatory minimum bail amounts currently in statute.