

HB 3115 STAFF MEASURE SUMMARY

Carrier: Rep. Power

House Committee On Judiciary

Action Date: 03/25/21

Action: Do Pass.

Vote: 6-3-1-0

Yeas: 6 - Bynum, Dexter, Helm, Kropf, Power, Wilde

Nays: 3 - Lewis, Morgan, Wallan

Exc: 1 - Noble

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Amie Fender-Sosa, Counsel

Meeting Dates: 3/9, 3/23, 3/25

WHAT THE MEASURE DOES:

Requires that by July 1, 2023, local laws regulating 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 that law is not objectively reasonable for persons charged with violating local law. 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:

- State law not included in measure
- Definition of public property
- Use of state property for housing needs

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 2019, the 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.