

SB 48 B STAFF MEASURE SUMMARY

Senate Committee On Rules

Action Date: 06/01/21

Action: Do pass with amendments to the A-Eng bill. Refer to Ways and Means. (Printed B-Eng.)

Vote: 3-0-2-0

Yeas: 3 - Burdick, Manning Jr, Wagner

Exc: 2 - Girod, Thatcher

Fiscal: Fiscal impact issued

Revenue: Has minimal revenue impact

Prepared By: Gillian Fischer

Meeting Dates: 5/27, 6/1

WHAT THE MEASURE DOES:

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 Oregon 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 the 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 Oregon Judicial Department (OJD) 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 OJD.

ISSUES DISCUSSED:

- Correlation between pretrial detention and prison sentences
- Disparate impact of cash bail on people of color
- Security in practice as proxy for dangerousness
- Constitutional provisions relating to security release

EFFECT OF AMENDMENT:

Replaces the measure.

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

SB 48 B STAFF MEASURE SUMMARY

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, including the disparate impact on racial and ethnic populations, and to study alternative mechanisms of reducing failure to appear at court hearings. In December of 2020, the 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 B eliminates certain mandatory minimum security amounts currently in statute and requires courts and pretrial release officers to conduct individualized assessments when making release determinations and setting security.