

Senate Bill 48-1

Brief Overview for the Senate Committee on Judiciary and Ballot Measure 110 Implementation



Ken Sanchagrin
Executive Director
Oregon Criminal Justice Commission
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BACKGROUND: THE PUBLIC SAFETY TASK FORCE

Oregon Public Safety Task Force Report
Per House Bill 2238 (2017)

4 December 2020



Oregon Criminal Justice Commission

Ken Sanchagrin
Interim Executive Director

The mission of the Oregon Criminal Justice Commission is to improve the legitimacy, efficiency, and effectiveness of state and local criminal justice systems.

- In 2017, the Legislature reconvened the Public Safety Task Force (“PSTF”), and asked the PSTF to study security release (bail).
 - The PSTF was to focus on racial/ethnic disparities,
 - Examine the possibility of repealing statutes authorizing security release,
 - Study the utilization of pretrial risk assessments, and
 - Examine methods of reducing failure to appear at court hearings.
- In December of 2020, PSTF submitted its final report to the Legislature with recommendations for changes to Oregon’s pretrial framework.

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BACKGROUND: CURRENT PRETRIAL PROCESS

- The Oregon Constitution provides a **right to bail** except for murder/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 (e.g., bail).
 - **Recognizance release** is based on promise to return to court at all required events.
 - **Conditional release** imposes regulations on activities/associations of the defendant in return for release.
 - **Security release** is a promise to appear in court at all appropriate times which is secured by cash, stocks, bonds, or real property (and often accompanied by other conditions as well). *Currently, defendants in Oregon must deposit 10% of their security amount before they can be released.*

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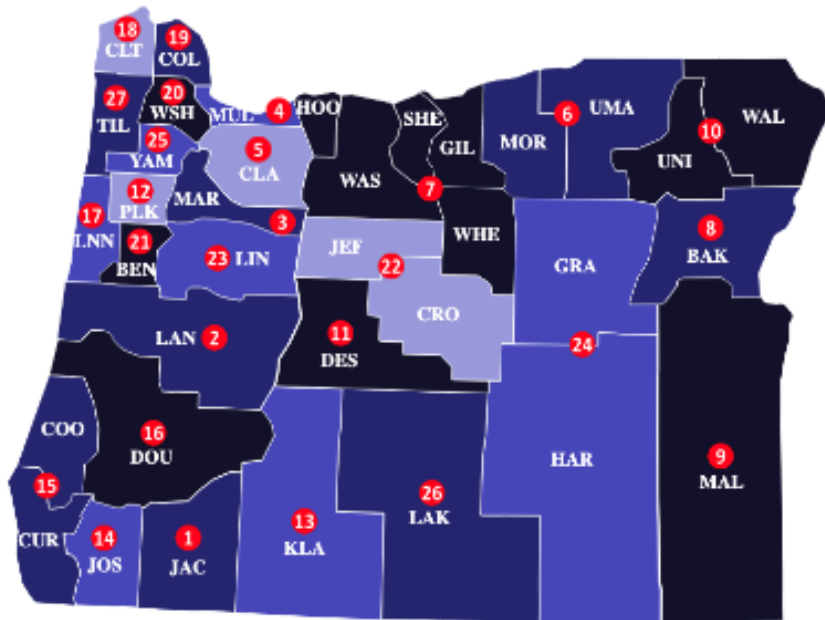
BACKGROUND: GOALS

- In crafting SB 48-1, staff took into account and incorporated several of the recommendations made in the PSTF report:
 - Reduce the reliance on security release,
 - If security is retained, repeal presumptive mandatory minimum security amounts in favor of judicially determined amounts, and
 - Employ preventive detention rather than high bail amounts as a proxy for achieving detention.
- Many of the remaining recommendations focused on ensuring appropriate monitoring and supervision of pretrial defendants. Given budget concerns in the current biennium, those recommendations have not been included in SB 48-1. Selected examples include:
 - Support robust jail diversion programs for defendants with behavioral health conditions,
 - Provide funding for more judicial release assistance officers and pretrial release monitoring staff,
 - Fund the implementation of pretrial risk assessments and risk tools, and
 - Support and fund improvements for data tracking, analysis, and reporting.

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OVERVIEW

Provide statewide guidance as to the types of defendants who should be released without bail.



Source: Oregon Public Safety Task Force Report (2020)

- The Chief Justice, with input from an appointed Criminal Justice Advisory Committee, will create state-level guidance for pretrial release orders.
- Locally, Presiding Judges will adopt standing pretrial release orders that are informed by the Chief Justice guidelines and specify which persons or offenses:
 - Are subject to recognizance release,
 - Are subject to conditional release, and
 - Those who should be held until arraignment.

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OVERVIEW

Eliminate statutory pretrial security release (“bail”) amounts.

- Currently, two statutory provisions mandate minimum bail amounts for defendants.
 - ORS 135.240 provides for \$50,000 minimum security amounts for Measure 11 defendants, and
 - ORS 135.242 provides for \$250,000 minimum security amount for certain methamphetamine offenses if the prosecutor can demonstrate that the defendant will fail to appear, commit a new crime, or poses a threat to the public.
- SB 48-1 proposes that these minimums be eliminated in favor of a case-by-case determination by the judge.

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OVERVIEW

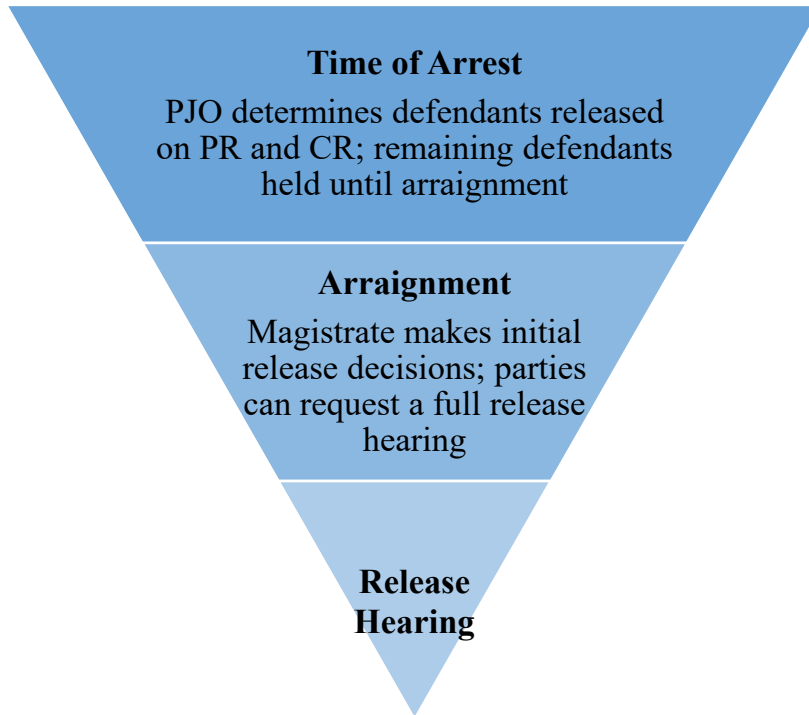
Expand release tools available to judges by allowing unsecured bond.

Personal Recognizance	Conditional Release	Unsecured Bond	Security Release	Preventive Detention
<p>Release of the individual upon the promise of that person to appear in court.</p>	<p>Release imposing regulations on the activities and associations of the individual.</p>	<p>Release secured by upon execution of a release agreement and unsecured bond.</p> <p>No requirement for immediate payment of 10% prior to release.</p>	<p>Release secured by cash, stocks, bonds, or real property.</p> <p>Requires immediate payment of 10% prior to release.</p>	<p>Offenses that are not bailable per the Oregon Constitution (i.e. murder, treason, and violent felonies).</p>

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OVERVIEW

Clarify existing statutes to emphasize the preference for non-monetary release while also maintaining current statutory release tools.



- Emphasize that only after finding a less restrictive release type of release is unwarranted should the judge move on to the next release type.
- The default type of security would be unsecured release. Defendants required to prepay the 10% deposit would be those who are likely to:
 - Fail to appear with the intent to delay adjudication, or
 - Pose a threat to the reasonable protection of an individual or the public.