

SB 1568 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/8, 2/14

WHAT THE MEASURE DOES:

Sets forth a process for an adult in custody (AIC) to apply for early medical release from custody. Makes ineligible persons who have committed certain crimes. Establishes the Medical Release Advisory Committee (MRAC) within the Oregon Board of Parole and Post-Prison Supervision (the Board). Creates parameters for the membership and organization of the committee; members to be appointed by the Governor. Directs the board to hire at least one navigator to support the committee and assist applicants. Directs the committee to adopt rules and develop an application form. Sets out the application process and certain minimum communications from the board to the applicant, including requiring a panel of the board to review each application to determine completeness and directs the panel to notify the applicant of whether the application is deemed complete. Creates timelines (with some exceptions) for committee recommendations for regular applications (45 days) and expedited applications (14 days).

Establishes a limit of five applications per months for consideration by the committee, until January 1, 2025, unless there is a state of emergency or public health emergency. If the committee recommends early release, directs the committee to submit the application and recommendation to the Board for the Board's review and requires an attorney to be appointed to financially eligible applicants.

Allows an applicant to be recommended for early release by the committee if the applicant: has a terminal prognosis with a year or less to live; is unable to independently complete certain daily activities, even with the assistance of a mobile device; or the applicant has an underlying condition and meets certain specifications. If an applicant's request is denied, allows for reapplication upon substantial change in circumstances or new relevant information, as informed by committee rules, but does not create a right of judicial review.

Directs the Board to review recommendations from the committee and hold a hearing within 45 days of receipt (unless it finds good cause to postpone). Permits the Board to require psychological evaluation or risk assessment of an applicant. Directs the Board to accept the recommendation of the committee, unless if by clear and convincing evidence, the Board finds the applicant poses a danger to the safety of another person or the public and the danger outweighs any compassionate reasons for the release. Creates process for sentencing court to authorize early medical release, when applicable. Directs the district attorney of the county in which the sentencing court is located to make reasonable efforts to notify the victims, if any, of the motion and hearing.

Permits the Department of Corrections (DOC), in its discretion, to directly refer an AIC to the Board for early medical release if the DOC believes the criteria are met. Requires the committee to track certain data and provide a report to the Judiciary Committees of the Legislative Assembly by December 31 of each year.

Updates terminology changing "prisoners" to "adults in custody." Takes effect 91st day following adjournment sine die.

ISSUES DISCUSSED:

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- Effectiveness level of the medical release process for adults in custody (AIC)
- COVID-19 impact on current system
- Medical costs for AICs
- Victim and community safety considerations
- Optional psych evaluations of candidates for compassionate release

EFFECT OF AMENDMENT:

-1 Replaces the measure. Sets forth a process for an adult in custody (AIC) to apply for early medical release from custody. Makes ineligible persons who have committed certain crimes. Establishes the Medical Release Advisory Committee (MRAC) within the Oregon Board of Parole and Post-Prison Supervision (the Board). Specifies that members of the MRAC must be licensed by the state of Oregon (Medical Board or Board of Nursing). Creates civil and criminal immunity for MRAC members for proceedings arising out of their official committee actions. Directs funds to be authorized by the Board for the committee to consult with an outside expert, upon request of the committee, contingent upon availability of funds from the Legislature for this purpose. Adds specificity to victim notification and participation requirements. Modifies standard for court's consideration of motion for early release.

-2 Replaces the measure. Sets forth a process for an adult in custody (AIC) to apply for early medical release from custody. Makes ineligible persons who have committed certain crimes. Establishes the Medical Release Advisory Committee (MRAC) within the Oregon Board of Parole and Post-Prison Supervision (the Board). Clarifies that to exceed the application limit due to any state of emergency or public health emergency, the committee must determine that it presents a serious risk to the health or safety of the AICs at the institution where the AICs are housed. Clarifies that if an AIC is denied counsel, the AIC applicant may proceed self-represented. States that if a psychological evaluation or risk assessment is requested by a party and granted by the court, the requesting is responsible for the expense. Requires consent of AIC for Department of Corrections (DOC) direct referrals to the MRAC. If applicant is successful, requires the DOC to complete a release plan for Board review. Removes responsibility of DOC to track certain data; tracking responsibilities remain with the Board and OJD. Increases membership of the Board from 5-6. Takes effect 91st day following adjournment sine die.

BACKGROUND:

The Oregon Board of Parole's (board) major functions include setting release dates for individuals who are eligible for parole, establishing community supervision conditions for individuals, and assessing the notification level of individuals who have offended sexually. To qualify for early medical release, an application must be submitted to the board. When making a decision to advance the release date of an adult in custody (AIC), the board must consider a variety of factors, including the age of the AIC; a medical authority's determination of whether the AIC is unable to move from place to place without the assistance of another person; and whether the AIC has a terminal illness defined as a medical authority's reasonable belief that the AIC's life expectancy is less than twelve months. The process can take several weeks to several months.

Senate Bill 1568 modifies the process and requirements for early medical release of an AIC from prison and creates the Medical Release Advisory Committee within the Board.