

# House Bill 3633

Sponsored by Representatives DIEHL, MANNIX

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act limits pretrial release for people charged with certain crimes. The Act takes effect on the 91st day after sine die. (Flesch Readability Score: 76.4).

Sets a minimum amount of security for persons charged with Ballot Measure 11 (1994) offenses. Limits pretrial release of defendants charged with a felony or Class A misdemeanor who commit a new felony or Class A misdemeanor while on release.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to pretrial release; amending ORS 135.233 and 135.240; and prescribing an effective date.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 135.233 is amended to read:

5 135.233. (1) The presiding judge of a judicial district shall enter a standing pretrial release order  
6 specifying to the sheriff of the county, or to the entity supervising the local correctional facility  
7 responsible for pretrial incarceration within the judicial district, those persons and offenses:

8 (a) Subject to release on recognizance;

9 (b) Subject to release with special conditions as specified in the order; and

10 (c) That are not eligible for release until arraignment.

11 (2) The Chief Justice of the Supreme Court[, *with input from a criminal justice advisory committee*  
12 *appointed by the Chief Justice,*] shall establish release guidelines for the pretrial release orders de-  
13 scribed in this section to:

14 (a) Provide consistent release decision-making structure [*across the state*] **within each county**;

15 [*(b) Reduce reliance on the use of security;*]

16 [*(c)*] **(b)** Include provisions for victim notification and input; and

17 [*(d)*] **(c)** Balance the rights of the defendant [*and presumption of pretrial release*] against com-  
18 munity and victim safety and the risk of failure to appear.

19 **SECTION 2.** ORS 135.240 is amended to read:

20 135.240. (1) Except as provided in subsections (2) and (4) **to (6)** of this section, a defendant shall  
21 be released in accordance with ORS 135.230 to 135.290.

22 (2)(a) When the defendant is charged with murder, aggravated murder or treason, release shall  
23 be denied when the proof is evident or the presumption strong that the person is guilty.

24 (b) When the defendant is charged with murder or aggravated murder and the proof is not evi-  
25 dent nor the presumption strong that the defendant is guilty, the court shall determine the issue of  
26 release as provided in subsection (4) of this section. In determining the issue of release under sub-  
27 section (4) of this section, the court may consider any evidence used in making the determination  
28 required by this subsection.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (3) The magistrate may conduct such hearing as the magistrate considers necessary to determine  
 2 whether, under subsection (2) of this section, the proof is evident or the presumption strong that the  
 3 person is guilty.

4 (4)(a) When the defendant is charged with a violent felony, release shall be denied if the court  
 5 finds:

6 (A) Except when the defendant is charged by indictment, that there is probable cause to believe  
 7 that the defendant committed the crime; and

8 (B) By clear and convincing evidence, that there is a danger of physical injury or sexual  
 9 victimization to the victim or members of the public by the defendant while on release.

10 (b) If the defendant wants to have a hearing on the issue of release, the defendant must request  
 11 the hearing at the time of arraignment in circuit court. If the defendant requests a release hearing,  
 12 the court must hold the hearing within five days of the request.

13 (c) At the release hearing, unless the state stipulates to the setting of security or release, the  
 14 court shall make the inquiry set forth in paragraph (a) of this subsection. The state has the burden  
 15 of producing evidence at the release hearing subject to ORS 40.015 (4).

16 (d) The defendant may be represented by counsel and may present evidence on any relevant is-  
 17 sue. However, the hearing may not be used for purposes of discovery.

18 (e) If the court determines that the defendant is eligible for release in accordance with this  
 19 subsection, the court shall set security or other appropriate conditions of release.

20 (f) When a defendant who has been released violates a condition of release and the violation:

21 (A) Constitutes a new criminal offense, the court shall cause the defendant to be taken back into  
 22 custody and shall order the defendant held pending trial without release.

23 (B) Does not constitute a new criminal offense, the court may order the defendant to be taken  
 24 back into custody, *[and]* may order the defendant held pending trial *[or may make a new release*  
 25 *decision]* **and may set a security amount of not less than \$250,000.**

26 **(5)(a) Notwithstanding any other provision of law, the court shall set a security amount**  
 27 **of not less than \$50,000 for a defendant charged with an offense listed in ORS 137.700 or**  
 28 **137.707 unless the court determines that amount to be unconstitutionally excessive, and may**  
 29 **not release the defendant on any form of release other than a security release if:**

30 **(A) The United States Constitution or the Oregon Constitution prohibits the denial of**  
 31 **release under subsection (4) of this section;**

32 **(B) The court determines that the defendant is eligible for release under subsection (4)**  
 33 **of this section; or**

34 **(C) The court finds that the offense is not a violent felony.**

35 **(b) In addition to the security amount described in paragraph (a) of this subsection, the**  
 36 **court may impose any supervisory conditions deemed necessary for the protection of the**  
 37 **victim and the community. When a defendant who has been released violates a condition of**  
 38 **release and the violation:**

39 **(A) Constitutes a new criminal offense, the court shall cause the defendant to be taken**  
 40 **back into custody, shall order the defendant held pending trial and shall set a security**  
 41 **amount of not less than \$250,000.**

42 **(B) Does not constitute a new criminal offense, the court may order the defendant to be**  
 43 **taken back into custody, may order the defendant held pending trial and may set a security**  
 44 **amount of not less than \$250,000.**

45 **(6) Notwithstanding any other provision of this section, when a defendant who has been**

1 released on a case in which the most serious charge is a felony or a Class A misdemeanor  
2 violates a condition of release, and the violation constitutes a new criminal offense that is  
3 a felony or a Class A misdemeanor, the court shall cause the defendant to be taken back into  
4 custody and shall order the defendant held pending arraignment on the new offense. A de-  
5 fendant ordered held pending arraignment under this subsection is not eligible for security  
6 release.

7 [(5)] (7) For purposes of this section, “violent felony” means a felony offense in which there was  
8 an actual or threatened serious physical injury to the victim, or a felony sexual offense.

9 **SECTION 3.** This 2025 Act takes effect on the 91st day after the date on which the 2025  
10 regular session of the Eighty-third Legislative Assembly adjourns sine die.

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