

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass as Amended and be placed on the Consent Calendar.
Vote: 10 - 0 - 0
Yeas: Barton, Cameron, Garrett, Krieger, Olson, Shields, Smith J., Stiegler, Whisnant, Barker
Nays: 0
Exc.: 0
Prepared By: Shannon Sivell, Counsel
Meeting Dates: 2/19, 3/3

WHAT THE MEASURE DOES: Modifies computation of the time period within which an extradited defendant may be held prior to trial. Provides a working definition for “practicable speed.” Presumes that an extradition that occurs within 90 days after the date defendant has been delivered to an agent of the state has been conducted with all practicable speed.

ISSUES DISCUSSED:

- Time allotted for extradition in other states
- Role of Federal Marshalls in extraditions
- Issues that cause delay
- Result of narrowing definition of “agent” of the state
- Specific examples

EFFECT OF COMMITTEE AMENDMENT: Presumes that an extradition that occurs within 90 days after the date defendant has been delivered to an agent of the state has been conducted with all practicable speed.

BACKGROUND: Under ORS 136.295(2), an extradited defendant must be tried or released within 60 days (under ORS 136.290) from the date the defendant enters the state, provided that law enforcement authorities have conducted the extradition with all practicable speed. Currently, all practicable speed is not defined by statute. Rather, the determination of what is practicable depends on a case-by-case analysis. HB 2269 creates the presumption that an extradition is conducted with all practicable speed if it has been conducted within 90 days after the date the defendant has been delivered to an agent of this state.

This amendment would prevent extradition delays beyond the state's control from requiring a pre-trial release. This was a problem in *Owens v. Giusto*, S055188, an original habeas case decided by the Oregon Supreme Court on August 27, 2007. In that case, because it took 72 days to extradite Ms. Owens from Minnesota (because the federal government is in charge of the extradition procedures), the Supreme Court ordered Owens to be immediately released (even though she had only been in custody in Oregon for less than 30 days).

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This summary has not been adopted or officially endorsed by action of the committee.