

SB 931 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Michael Lantz, LPRO Analyst

Meeting Dates: 3/29, 4/18

WHAT THE MEASURE DOES:

Allows replacement of juror discharged during deliberations.

ISSUES DISCUSSED:

Problem of alternate juror not being available during sentencing deliberations.

Concerns about when consent should be given.

Effects of amendments in the works.

EFFECT OF AMENDMENT:

-1 Gives court discretion to decide when and how to select alternate jurors, when and how additional peremptory challenges may be used, and when and how alternate jurors are informed of their status as alternate jurors.

Minimal Fiscal Impact

No Revenue Impact

-2 Allows alternative jurors to be used only if both parties gave consent for the potential use of an alternate between the time of jury selection and the start of trial.

Minimal Fiscal Impact

No Revenue Impact

BACKGROUND:

Under current Oregon law, a juror may be removed during a trial if that juror dies, becomes ill or if the court finds another sufficient cause. If a juror is removed, an alternate juror may take the original juror's place, so long as trial deliberations have not started.

If a defendant is convicted, the case then proceeds to sentencing. In some criminal cases, the judge may be asked to deviate from the standard range. When the prosecution seeks an increased sentence, the evidence as to what merits that enhancement must be considered by the jury. If a juror is discharged while the enhancing evidence is being presented, that juror may be replaced by an alternate. However, a juror cannot be replaced once the jury has begun deliberating on enhancement factors.

Senate Bill 931 allows an alternate juror to take the place of a discharged juror during the sentencing phase, regardless of whether deliberations have started. If deliberations have begun, the jury is required to start their deliberations over. Additionally, SB 931 clarifies the court's ability to replace a juror during trial deliberations and requires that deliberations begin from the start if a replacement juror is added.