

SB 931 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary

Action Date: 04/18/17

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 5-0-0-0

Yeas: 5 - Dembrow, Linthicum, Manning Jr, Prozanski, Thatcher

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Allows replacement of juror discharged during deliberations. Provides court additional discretion over alternate jurors. Gives court authority to request both parties consent to potential replacement of jurors prior to trial.

ISSUES DISCUSSED:

- Problem of alternate juror not being available during sentencing deliberations
- Concerns about when consent for juror replacements should be given
- Effects of potential amendments

EFFECT OF AMENDMENT:

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. Allows court to request the consent of both parties for the potential use of an alternate juror between the time of jury selection and the start of trial.

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 sentence 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-A 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 begin deliberations anew. Additionally, SB 931-A clarifies the court's ability to replace a juror during trial deliberations and requires that deliberations begin anew if a replacement juror is added. The court may replace a discharged juror unilaterally if an alternate juror is available and both parties consented to the potential use of an alternate between the selection of the jury and the beginning of the trial. Finally, SB 931-A gives the court discretion to determine when and how to select alternate jurors, when and how additional preemptory challenges for cases involving alternate jurors may be used and when and how alternative alternate jurors will be informed of their status.