

## HB 4126 STAFF MEASURE SUMMARY

### House Committee On Judiciary

---

**Action Date:** 02/12/20

**Action:** Without recommendation as to passage, be referred to Rules, and then to Ways and Means by prior reference.

**Vote:** 6-5-0-0

**Yeas:** 6 - Barker, Lewis, Moore-Green, Noble, Sanchez, Sprenger

**Nays:** 5 - Bynum, Greenlick, Lawrence Spence, Piluso, Power

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Gillian Fischer, Counsel

**Meeting Dates:** 2/10, 2/12

---

#### WHAT THE MEASURE DOES:

Increases crime severity of the crime of riot from a Class C to a Class B felony if, during commission of riot, a person conceals their face with the intent to facilitate the commission of the crime of riot. Identifies evidence that a defendant concealed their face during the commission of a crime with the intent to avoid apprehension or to facilitate commission of the crime as an aggravating factor to be considered by a court for purposes of sentencing a criminal defendant.

#### ISSUES DISCUSSED:

- Does not create a new crime
- Does not prohibit use of masks by persons lawfully protesting
- Various states with similar statutes

#### EFFECT OF AMENDMENT:

No amendment.

#### BACKGROUND:

ORS 166.015 defines the crime of riot as a person participating with five or more other persons engages in tumultuous and violent conduct and thereby intentionally or recklessly creates a grave risk of causing public alarm. The crime currently does not include any aggravating factors that can be alleged to enhance the severity ranking of the criminal offense.

ORS 137.090 authorizes courts to consider certain circumstances in aggravation or mitigation of punishment. Some specific factors are identified in statute that direct the court to consider when determining punishment that requires court discretion.

House Bill 4126 creates an enhanced crime severity for riot when a defendant attempts to conceal their face in furtherance of the commission of the crime. The measure also authorizes a court to consider whether a defendant attempted to conceal their face during the commission of a crime to prevent apprehension or further commission of the crime as an aggravating factor when imposing a discretionary sentence.