

SB 48 -1 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

Prepared By: Gillian Fischer, Counsel

Meeting Dates: 3/18, 4/1

WHAT THE MEASURE DOES:

Directs Oregon Criminal Justice Commission to study pretrial release and to provide results of study to Legislative Assembly no later than December 31, 2021. Sunsets January 2, 2022. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Directs the presiding judge of a judicial district to enter a standing pretrial release order specifying, to the entity supervising the local correctional facility responsible for pretrial incarceration, those persons and offenses subject to release on recognizance, conditional release, and those that are not eligible for release until arraignment. Directs the Chief Justice of the Supreme Court to establish release guidelines for the pretrial release orders described in this section. Modifies findings required for certain pre-trial release decisions. Eliminates requirement that a defendant deposit 10 percent of security imposed prior to release on security except in certain cases. Establishes procedures for issuance of orders to forfeit security or pay on a promissory note if a defendant violates a condition of release. Repeals ORS 135.242 relating to security release for certain methamphetamine offenses.

BACKGROUND:

The Oregon Constitution provides a right to bail except for when an individual is charged with murder or treason (Art. I §14) or when the defendant is charged with a violent felony (Art. I §43), so long as certain evidentiary thresholds are met. If a defendant does not fall under one of the two exceptions above, courts must consider whether to release the defendant or to require security. If security release is ordered by a court, the defendant is required to deposit 10 percent of their security amount and agree to any other conditions imposed, before they can be released. In 2017, the Legislature reconvened the Public Safety Task Force (PSTF) to study security release, including the disparate impact on racial and ethnic populations, and to study alternative mechanism of reducing failure to appear at court hearings. In December of 2020, PSTF submitted its final report to the Legislature with recommendations for changes to Oregon's pretrial framework. The PSTF report included recommendations to reduce reliance on security release and to eliminate mandatory minimum bail amounts in statute.

Senate Bill 48 eliminates the requirement that a defendant post security before being allowed release except in certain circumstances and eliminates certain mandatory minimum bail amounts currently in statute.