

HB 3115 STAFF MEASURE SUMMARY

Senate Committee On Judiciary and Ballot Measure 110 Implementation

Prepared By: Amie Fender-Sosa, Counsel

Meeting Dates: 5/4, 5/24

WHAT THE MEASURE DOES:

Requires that by July 1, 2023, local laws regulating the acts of sitting, lying, sleeping, or keeping warm and dry in outdoor public spaces be objectively reasonable as to time, place, and manner with regards to persons experiencing homelessness. Creates affirmative defense that law is not objectively reasonable for persons charged with violating local law. Allows persons experiencing homelessness to file suit for relief to challenge the objective reasonableness of local laws. Does not create a right of action for monetary damages. Authorizes the court, under certain circumstances, to award attorney fees to prevailing plaintiff. Declares emergency, effective on passage.

House Judiciary Committee Vote (Aye, Nay, Excused, Absent) 6-3-1-0

Third reading. Carried by Power. Passed. Ayes, 35; Nays, 23--Bonham, Boshart Davis, Breese-Iverson, Cate, Drazan, Evans, Gomberg, Hayden, Leif, Lewis, Meek, Moore-Green, Morgan, Nearman, Owens, Post, Reschke, Smith DB, Smith G, Stark, Wallan, Weber, Wright; Excused, 2--Clem, Levy.

REVENUE: No revenue impact

FISCAL: Has minimal fiscal impact

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In 2019, the Circuit Court of Appeals in *Martin v. Boise* (920 F. 3d 584) held that the government cannot criminalize certain conduct, such as lying, sitting, or sleeping on the streets, that is unavoidable as a result of homelessness. The Court further concluded that to punish such conduct would be comparable to punishing a person's homeless status and to do so would be unconstitutional under the 8th Amendment of the U.S. Constitution, which prohibits imposing excessive fines, bail, or cruel and unusual punishments.

Some localities in Oregon have regulations for managing use of public spaces. House Bill 3115 would require local laws on outdoor public spaces be objectively reasonable with regards to persons experiencing homelessness.