

## SB 48 A STAFF MEASURE SUMMARY

### Senate Committee On Judiciary and Ballot Measure 110 Implementation

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**Action Date:** 04/12/21

**Action:** Without recommendation as to passage, but with amendments and requesting referral to Rules. (Printed A-Eng.)

**Vote:** 4-2-1-0

**Yeas:** 4 - Dembrow, Gelser, Manning Jr, Prozanski

**Nays:** 2 - Linthicum, Thatcher

**Exc:** 1 - Heard

**Fiscal:** Fiscal impact issued

**Revenue:** Has minimal revenue impact

**Prepared By:** Gillian Fischer, Counsel

**Meeting Dates:** 3/18, 4/12

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#### WHAT THE MEASURE DOES:

Eliminates requirement that defendants post security for bail prior to release except in certain circumstances. Directs the presiding judge of a judicial district to enter a standing pretrial release order specifying persons and offenses subject to release on recognizance, conditional release, and those 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.

#### ISSUES DISCUSSED:

- Correlation between pretrial detention and prison sentences
- Disparate impact of cash bail on people of color
- Security in practice as proxy for dangerousness
- Constitutional provisions relating to security release

#### EFFECT OF AMENDMENT:

Replaces the measure.

#### 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 Legislative Assembly 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.

**SB 48 A STAFF MEASURE SUMMARY**

Senate Bill 48 A 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.