

HB 3115 STAFF MEASURE SUMMARY

Carrier: Sen. Dembrow

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

Action Date: 05/24/21
Action: Do pass.
Vote: 4-3-0-0
Yeas: 4 - Dembrow, Gelser, Manning Jr, Prozanski
Nays: 3 - Heard, Linthicum, Thatcher
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
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 to alleged violation of local law that law is not objectively reasonable. 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.

ISSUES DISCUSSED:

- "Objectively reasonable" standard
- Statutory framework for localities to create reasonable ordinances and retain local control
- Law enforcement on the front lines of addressing homelessness
- Goal of notice requirement to allow locality time to resolve issues outside of court
- Federal Housing and Urban Development's definition of homelessness
- Process for challenging ordinances

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 requires local laws on outdoor public spaces be objectively reasonable with regards to persons experiencing homelessness.