

**SB 1568 A STAFF MEASURE SUMMARY**

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

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**Action Date:** 02/14/22

**Action:** Do pass with amendments. Refer to Ways and Means by prior reference. (Printed A-Eng).

**Vote:** 4-3-0-0

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

**Nays:** 3 - Heard, Linthicum, Thatcher

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Amie Fender-Sosa, LPRO Analyst

**Meeting Dates:** 2/8, 2/14

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**WHAT THE MEASURE DOES:**

Sets forth a process for an adult in custody (AIC) to apply for early medical release from custody. Makes ineligible persons who have committed certain crimes. Establishes the Medical Release Advisory Committee (MRAC) within the Oregon Board of Parole and Post-Prison Supervision (Board). Creates parameters for the membership and organization of the committee; members to be appointed by the Governor. Specifies that members of the MRAC must be licensed by the state of Oregon (Medical Board or Board of Nursing). Creates civil and criminal immunity for MRAC members for proceedings arising out of their official committee actions. Directs the Board to hire at least one navigator to support the committee and assist applicants with planning for housing and continuity of care upon release. Directs the committee to adopt rules and develop an application form. Sets out the application process and certain minimum communications from the Board to the applicant, including requiring a panel of the Board to review each application to determine completeness, and directs the panel to notify the applicant of whether the application is deemed complete. Requires committee to make recommendations for regular applications within 45 days and for expedited applications within 14 days, unless extended up to 14 days for good cause or if tolled upon applicant request.

Establishes a limit of five applications per month for consideration by the committee, until January 1, 2025, unless there is a state of emergency or public health emergency and certain specifications are met. If the committee recommends early release, directs the committee to submit the application and recommendation to the Board for the Board's review and requires an attorney to be appointed to financially eligible applicants.

Allows an applicant to be recommended for early release by the committee if the applicant: has a terminal prognosis with a year or less to live; is unable to independently complete certain daily activities, even with the assistance of a mobile device; or the applicant has an underlying condition and meets certain specifications. If an applicant's request is denied, allows for reapplication upon substantial change in circumstances or new relevant information, as informed by committee rules, but does not create a right of judicial review.

Directs the Board to review recommendations from the committee and hold a hearing within 45 days of receipt, unless it finds good cause to postpone. Permits the Board to require psychological evaluation or risk assessment of an applicant. Directs the Board to accept the recommendation of the committee, unless if by clear and convincing evidence, the Board finds the applicant poses a danger to the safety of another person or the public and the danger outweighs any compassionate reasons for the release. If applicant is successful, requires the Department of Corrections (DOC) to complete a release plan for Board review. Creates process for sentencing court to authorize early medical release, when applicable. States that if a psychological evaluation or risk assessment is requested by a party and granted by the court, the requesting party is responsible for the expense. Directs the district attorney of the county in which the sentencing court is located to make reasonable efforts to

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*This summary has not been adopted or officially endorsed by action of the committee.*

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notify the victims, if any, of the motion and hearing, and provides victim with right to be heard during the hearing. Allows court to order release without hearing if all parties and the victim(s) agree.

Permits DOC , in its discretion, to directly refer an AIC to the MRAC for early medical release if the DOC believes criteria are met and the AIC consents. Requires the committee to track certain data and provide a report to the Judiciary Committees of the Legislative Assembly by December 31 of each year. Updates statutory terminology from "prisoners" to "adults in custody." Increases maximum Board membership from five to six members. Takes effect on 91st day following adjournment sine die.

### **ISSUES DISCUSSED:**

- Effectiveness of medical release process for adults in custody (AIC)
- COVID-19 impact on current system
- Medical costs for AICs
- Victim and community safety considerations
- Optional psych evaluations of candidates for compassionate release
- Membership requirements for the MRAC
- DOC's role in medical release process
- AICs released by commutation during COVID-19
- Stakeholder involvement

### **EFFECT OF AMENDMENT:**

Replaces the measure.

### **BACKGROUND:**

The Oregon Board of Parole's (Board) major functions include setting release dates for individuals who are eligible for parole, establishing community supervision conditions for individuals, and assessing the notification level of individuals who have committed sexual offenses. To qualify for early medical release, an application must be submitted to the Board. When making a decision to advance the release date of an adult in custody (AIC), the Board must consider a variety of factors, including the age of the AIC; a medical authority's determination of whether the AIC is unable to move from place to place without the assistance of another person; and whether the AIC has a terminal illness defined as a medical authority's reasonable belief that the AIC's life expectancy is less than twelve months. The process can take several weeks to several months.

Senate Bill 1568 A modifies the process and requirements for early medical release of an AIC from prison and creates the Medical Release Advisory Committee within the Board.