

Senate Bill 984

Sponsored by Senator KNOPP

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits clerk of court, or any other person designated by magistrate to take security, from accepting security from bail fund.

A BILL FOR AN ACT

1
2 Relating to a prohibition on the use of bail funds for security release; amending ORS 135.265 and
3 135.270.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 135.265 is amended to read:

6 135.265. (1) If the defendant is not released on personal recognizance under ORS 135.255, or
7 granted conditional release under ORS 135.260, or fails to agree to the provisions of the conditional
8 release, the magistrate shall set a security amount that will reasonably assure the defendant's ap-
9 pearance. The defendant shall execute the security release in the amount set by the magistrate.

10 (2) The defendant shall execute a release agreement and deposit with the clerk of the court
11 before which the proceeding is pending a sum of money equal to 10 percent of the security amount,
12 but in no event shall such deposit be less than \$25. The clerk shall issue a receipt for the sum de-
13 posited. Upon depositing this sum the defendant shall be released from custody subject to the con-
14 dition that the defendant appear to answer the charge in the court having jurisdiction on a day
15 certain and thereafter as ordered by the court until discharged or final order of the court. Once
16 security has been given and a charge is pending or is thereafter filed in or transferred to a court
17 of competent jurisdiction the latter court shall continue the original security in that court subject
18 to ORS 135.280 and 135.285. When conditions of the release agreement have been performed and the
19 defendant has been discharged from all obligations in the cause, the clerk of the court shall return
20 to the person shown by the receipt to have made the deposit, unless the court orders otherwise, 85
21 percent of the sum which has been deposited and shall retain as security release costs 15 percent,
22 but not less than \$5 nor more than \$750, of the amount deposited. The interest that has accrued on
23 the full amount deposited shall also be retained by the clerk. The amount retained by the clerk of
24 a circuit court shall be paid over as directed by the State Court Administrator for deposit in the
25 General Fund. The amount retained by a justice of the peace shall be deposited in the county
26 treasury. The amount retained by the clerk of a municipal court shall be deposited in the municipal
27 corporation treasury. At the request of the defendant the court may order whatever amount is re-
28 payable to defendant from such security amount to be paid to defendant's attorney of record.

29 (3) Instead of the security deposit provided for in subsection (2) of this section the defendant
30 may deposit with the clerk of the court an amount equal to the security amount in cash, stocks,
31 bonds, or real or personal property situated in this state with equity not exempt owned by the de-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 fendant or sureties worth double the amount of security set by the magistrate. The stocks, bonds,
2 real or personal property shall in all cases be justified by affidavit. The magistrate may further ex-
3 amine the sufficiency of the security as the magistrate considers necessary.

4 **(4)(a) The clerk of the court may not accept a deposit of security funds from a bail fund.**

5 **(b) As used in this subsection, "bail fund" means an organization that collects money**
6 **from donors for the purpose of depositing security funds on behalf of defendants.**

7 **SECTION 2.** ORS 135.270 is amended to read:

8 135.270. (1) When a security amount has been set by a magistrate for a particular offense or for
9 a defendant's release, any person designated by the magistrate may take the security and release
10 the defendant to appear in accordance with the conditions of the release agreement. The person
11 designated by the magistrate shall give a receipt to the defendant for the security so taken and
12 within a reasonable time deposit the security with the clerk of the court having jurisdiction of the
13 offense.

14 (2) If a magistrate has designated a person to take security and release defendants under sub-
15 section (1) of this section, the clerk of the court shall continue to accept the security release de-
16 posits described in ORS 135.265 during the normal business hours of the court.

17 **(3) A person designated by the magistrate to take security as described in subsection (1)**
18 **of this section may not accept security from a bail fund as defined in ORS 135.265.**

19