

Requested by Representative MANNIX

**PROPOSED AMENDMENTS TO
HOUSE BILL 4002**

1 In line 2 of the printed bill, after “state” insert “; creating new provisions;
2 and amending ORS 135.233, 135.235, 135.245 and 135.265”.

3 Delete lines 4 through 8 and insert:

4 **“SECTION 1.** ORS 135.233 is amended to read:

5 “135.233. (1)(a) The presiding judge of a judicial district shall enter a
6 standing pretrial release order specifying to the sheriff of the county, or to
7 the entity supervising the local correctional facility responsible for pretrial
8 incarceration within the judicial district, those persons and offenses:

9 “[a] (A) Subject to release on recognizance;

10 “[b] (B) Subject to release with special conditions as specified in the
11 order; and

12 “[c] (C) That are not eligible for release until arraignment.

13 **“(b) The standing pretrial release order described in this section**
14 **may allow for release on recognizance or conditional release for de-**
15 **fendants who are not charged with unlawful delivery of a controlled**
16 **substance involving a substantial quantity as described in ORS 475.900**
17 **(1)(a), but must specify that defendants who are charged with unlawful**
18 **delivery of a controlled substance involving a substantial quantity as**
19 **described in ORS 475.900 (1)(a) are not eligible for release until**
20 **arraignment and may be released only on security release.**

21 “(2) The Chief Justice of the Supreme Court, with input from a criminal

1 justice advisory committee appointed by the Chief Justice, shall establish
2 release guidelines for the pretrial release orders described in this section to:

3 “(a) Provide consistent release decision-making structure across the state;

4 “[*(b) Reduce reliance on the use of security;*]

5 “[*(c)*] (b) Include provisions for victim notification and input; and

6 “[*(d)*] (c) Balance the rights of the defendant and presumption of pretrial
7 release against community and victim safety and the risk of failure to ap-
8 pear.

9 **“SECTION 2.** ORS 135.235 is amended to read:

10 “135.235. (1) A presiding judge for a judicial district may appoint release
11 assistance officers under a personnel plan established by the Chief Justice
12 of the Supreme Court.

13 “(2) A release assistance officer shall, except when impracticable, inter-
14 view every person detained pursuant to law and charged with an offense. If
15 the person is charged with a person felony or person Class A misdemeanor,
16 as those terms are defined in the rules of the Oregon Criminal Justice
17 Commission, or with contempt of court for violating a court order protecting
18 or prohibiting contact with another person, the release assistance officer
19 shall make reasonable efforts to contact the victim prior to submitting a
20 report or making a release decision under subsection (3) of this section. If
21 the release assistance officer is able to contact the victim:

22 “(a) Information regarding the victim’s position on release, including
23 whether special release conditions should be imposed, must be included in
24 the report described in subsection (3) of this section, and considered by the
25 release assistance officer if the officer makes the release decision; and

26 “(b) If the information is available, the release assistance officer shall
27 inform the victim of the location, date and time of the defendant’s
28 arraignment or other first appearance.

29 “(3) The release assistance officer shall verify release criteria information
30 and may either:

1 “(a) Timely submit a written report to the magistrate containing, but not
2 limited to, an evaluation of the release criteria and **either** a recommendation
3 for the form of release **or, for a defendant charged with unlawful deliv-**
4 **ery of a controlled substance involving a substantial quantity as de-**
5 **scribed in ORS 475.900 (1)(a), the amount of security; or**

6 “(b) **For a defendant who is not charged with unlawful delivery of**
7 **a controlled substance involving a substantial quantity as described in**
8 **ORS 475.900 (1)(a), and** if delegated release authority by the presiding judge
9 for the judicial district, make the release decision.

10 “(4) As used in this section, ‘victim’ means an individual that the charg-
11 ing instrument indicates is the victim of the alleged offense or the person
12 protected by the court order, whether or not the individual is specifically
13 named, so long as the release assistance officer is able to confirm the iden-
14 tity of the individual.

15 “**SECTION 3.** ORS 135.245 is amended to read:

16 “135.245. (1) Except as provided in ORS 135.240, a person in custody has
17 the right to be taken before a magistrate without undue delay.

18 “(2)(a) A magistrate shall make a release decision at the time of
19 arraignment or other first appearance after the defendant is taken into cus-
20 tody unless good cause to postpone the release decision is shown, in which
21 case a release hearing shall be held pursuant to subsection (7) of this section.

22 “(b) The district attorney shall make reasonable efforts to inform the
23 victim of the location, date and time of the arraignment or other first ap-
24 pearance and to determine if the victim is present at the arraignment or
25 appearance. If the victim is present, the victim has the right to reasonably
26 express any views relevant to the issues at the appearance.

27 “(c) As used in this subsection, ‘good cause’ includes circumstances in
28 which:

29 “(A) The district attorney plans to seek preventative detention; or

30 “(B) There is a reasonable belief that additional evidence exists and

1 would be relevant to the release decision, but is not currently available.

2 **“(3) For a defendant who is not charged with unlawful delivery of**
3 **a controlled substance involving a substantial quantity as described in**
4 **ORS 475.900 (1)(a):**

5 **“(a)** If the magistrate, having given priority to the primary release cri-
6 teria, decides to release [a] **the** defendant or to set security, the magistrate
7 shall impose the least onerous condition reasonably likely to ensure the
8 safety of the public and the victim and the person’s later appearance and, if
9 the person is charged with an offense involving domestic violence, ensure
10 that the person does not engage in domestic violence while on release. A
11 person in custody, otherwise having a right to release, shall be released upon
12 the personal recognizance unless:

13 **“[(a)] (A)** Release criteria show to the satisfaction of the magistrate that
14 such a release is unwarranted; or

15 **“[(b)] (B)** Subsection (6) of this section applies to the person.

16 **“[(4)] (b)** Upon a finding that release of the person on personal recogni-
17 zance is unwarranted, the magistrate shall proceed to consider conditional
18 release under ORS 135.260. Only after determining that conditional release
19 is unwarranted, or if otherwise required by ORS 135.230 to 135.290, may the
20 magistrate proceed to consider security release under ORS 135.265.

21 **“(4) For a defendant charged with unlawful delivery of a controlled**
22 **substance involving a substantial quantity as described in ORS 475.900**
23 **(1)(a), the magistrate may not release the defendant on personal re-**
24 **cognizance or conditional release and, after considering the primary**
25 **release criteria, shall set a security amount under ORS 135.265.**

26 **“(5)** At the release hearing:

27 **“(a)** The district attorney has a right to be heard in relation to issues
28 relevant to the release decision; and

29 **“(b)** The victim has the right:

30 **“(A)** Upon request made within the time period prescribed in the notice

1 required by ORS 147.417, to be notified by the district attorney of the release
2 hearing;

3 “(B) To appear personally at the hearing; and

4 “(C) If present, to reasonably express any views relevant to the issues
5 before the magistrate.

6 “(6) If a person refuses to provide a true name under the circumstances
7 described in ORS 135.060 and 135.065, the magistrate may not release the
8 person on personal recognizance or on conditional release. The magistrate
9 may release the person on security release under ORS 135.265 except that the
10 magistrate shall require the person to deposit the full security amount set
11 by the magistrate.

12 “(7)(a) After the postponement of a release decision under subsection (2)
13 of this section, upon the request of either party, or upon the magistrate’s
14 own motion, the magistrate shall make a release decision or reconsider the
15 release decision, as applicable, at a release hearing. The release hearing must
16 be held within 48 hours of arraignment or other first appearance after the
17 defendant is taken into custody unless both parties agree, or the court finds
18 good cause, to hold the hearing at a later time. Under no circumstances may
19 the release hearing be held more than five days after arraignment or other
20 first appearance after the defendant is taken into custody unless the de-
21 fendant consents to holding the hearing at a later time.

22 “(b) A hearing held under this subsection may not be used for purposes
23 of discovery.

24 “(8) This section shall be liberally construed to carry out the purpose of
25 relying upon criminal sanctions instead of financial loss to ensure the ap-
26 pearance of the defendant.

27 **“SECTION 4.** ORS 135.265 is amended to read:

28 “135.265. (1) If the defendant is not released on personal recognizance
29 under ORS 135.255, [*or*] **is not** granted conditional release under ORS
30 135.260, [*or*] fails to agree to the provisions of the conditional release, **or**

1 **does not qualify for release on personal recognizance or conditional**
2 **release due to being charged with unlawful delivery of a controlled**
3 **substance involving a substantial quantity as described in ORS 475.900**
4 **(1)(a)**, the magistrate shall set a security amount that will reasonably assure
5 the defendant's appearance. The defendant shall execute the security release
6 in the amount set by the magistrate.

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

1 amount to be paid to defendant's attorney of record.

2 “(3) Instead of the security deposit provided for in subsection (2) of this
3 section the defendant may deposit with the clerk of the court an amount
4 equal to the security amount in cash, stocks, bonds, or real or personal
5 property situated in this state with equity not exempt owned by the defend-
6 ant or sureties worth double the amount of security set by the magistrate.
7 The stocks, bonds, real or personal property shall in all cases be justified
8 by affidavit. The magistrate may further examine the sufficiency of the se-
9 curity as the magistrate considers necessary.

10 **“SECTION 5. (1) The state shall reimburse each county for the costs**
11 **of pretrial incarceration of persons charged with unlawful delivery of**
12 **a controlled substance involving a substantial quantity as described in**
13 **ORS 475.900 (1)(a) as provided in this section. The reimbursement shall**
14 **cover the costs of incarceration for each day that the charged person**
15 **is in the custody of the supervisory authority of the county, from the**
16 **date of the person's arrest until the resolution of the criminal charge.**

17 **“(2) At the end of each month, the county shall submit to the**
18 **Oregon Department of Administrative Services a written request for**
19 **reimbursement for the cost of incarcerating persons described in sub-**
20 **section (1) of this section.**

21 **“(3) The department shall reimburse a county that submits a re-**
22 **quest under subsection (2) of this section within seven days of receiv-**
23 **ing the request. The reimbursement shall occur at the rate of \$100 per**
24 **person per day of incarceration or the actual daily cost of**
25 **incarcerating a person, whichever is higher.**

26 **“SECTION 6. In addition to and not in lieu of any other appropri-**
27 **ation, there is appropriated to the Oregon Department of Administra-**
28 **tive Services, for the biennium ending June 30, 2025, out of the General**
29 **Fund, the amount of \$_____ , for distribution to counties for re-**
30 **imbursement of pretrial incarceration costs under section 5 of this 2024**

1 **Act.”.**

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