

**HB 3201 A -A3 STAFF MEASURE SUMMARY**

**Senate Committee On Judiciary**

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**Prepared By:** Gillian Fischer, Counsel

**Meeting Dates:** 5/22

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**WHAT THE MEASURE DOES:**

Prohibits agreements for deferred resolution of criminal cases from requiring the defendant enter a plea of guilty or no contest on any charge in the accusatory instrument. Requires the agreement to contain a waiver of certain constitutional rights relating to trial if a defendant fails to fulfill the obligations of the agreement. Prohibits police reports or other documents associated with the criminal charges to be admitted into evidence and used to establish a factual basis for finding the defendant guilty unless the court resumes proceedings after diversion is terminated under ORS 135.901.

**ISSUES DISCUSSED:**

**EFFECT OF AMENDMENT:**

-A3 Removes provisions relating to diversion agreements under ORS 135.891 and ORS 813.200-813.255. Requires waiver of certain rights to appeal upon entry into a diversion agreement under ORS 475.245. States that if a court finds a defendant in violation of a term or condition of the probation and resumes criminal proceedings the defendant may not contest the sufficiency of the evidence establishing the defendant's guilt of the offenses in the accusatory instrument.

**BACKGROUND:**

Oregon law currently requires a defendant, prior to entering a diversion agreement, to plead guilty to or stipulate to certain facts establishing guilt to a criminal charge. ORS 135.891. A diversion agreement carries the understanding that if the defendant fulfills the obligations of the program described therein, the criminal charges will be dismissed with prejudice. Upon violation of a term or condition of the agreement, the court may enter an adjudication of guilt and a conviction may be entered.

House Bill 3201 A prohibits agreements for diversion from containing requirements that the defendant admit guilt or facts that establish the defendant's guilt. The measure instead provides that a defendant will agree to waive certain trial rights that would otherwise be available upon termination from a diversion agreement.