

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass

Vote: 9 - 0 - 0

Yeas: Barker, Bonamici, Cameron, Flores, Komp, Krieger, Read, Whisnant, Macpherson

Nays: 0

Exc.: 0

Prepared By: Darian Stanford, Counsel

Meeting Dates: 1/24, 2/5

WHAT THE MEASURE DOES: Requires reinstatement of criminal charges that district attorney agreed to dismiss or reduce pursuant to plea if court subsequently allows defendant to withdraw plea, reverses defendant's conviction or grants defendant's request for post-conviction relief.

ISSUES DISCUSSED:

- Application of "conditional guilty pleas" under ORS 135.335(3)
- Vast majority of criminal cases resolve through plea agreements

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Most criminal cases resolve through negotiated plea agreements in which a defendant pleads to some charges (sometimes lesser charges) and the state dismisses other charges. Sometimes, after a defendant pleads and a conviction is entered, such convictions are reversed by (1) a circuit court allowing the defendant to withdraw her plea, (2) an appellate court reversing the conviction or (3) an appellate court granting post-conviction relief. If this happens, a 2006 Oregon Supreme Court case (*State v. Dinsmore*) suggests that a court may not resurrect charges that were dismissed or reduced in exchange for the defendant's plea.

HB 2135 provides the court with the authority to resurrect such charges. Specifically, it amends ORS 135.365 (circuit court allows defendant to withdraw plea), ORS 138.240 (appellate court reverses conviction) and ORS 138.520 (court grants post-conviction relief) to require a circuit court to reinstate any charges that were dismissed or reduced pursuant to a plea provided that (1) the district attorney sought/did not oppose dismissal of the charges or (2) the district attorney agreed to allow the defendant to plea to a lesser offense.

In addition, HB 2135 amends ORS 131.525 to specify that reinstatement of charges in these scenarios does not violate a defendant's double jeopardy rights. It also amends ORS 131.145 to provide that the time period between a defendant's plea/conviction and the reversal of that conviction does not count toward the relevant statute of limitations.