

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:

Vote:

Yeas:

Nays:

Exc.:

Prepared By: Jeff Rhoades, Counsel

Meeting Dates: 4/6, 4/16; 5/19

WHAT THE MEASURE DOES: Authorizes defendant to request district attorney to approve extension of stay of criminal proceedings in district attorney diversion. Requires court to grant extension upon district attorney approval. Allows defendant to request extension after district attorney request for termination.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 135.896 sets out the parameters for “district attorney diversion” in criminal cases. When a defendant is charged with a crime, the district attorney may elect to forgo a traditional prosecution in lieu of a “diversion” or “set-over sentencing.” In order for such an agreement to be effective, the defendant must have advice of counsel, agree to the terms in the district attorney’s proposed agreement, and waive all rights to speedy trial. The diversion, however, must have a definite period. If a defendant is charged with a felony, the stay shall not exceed 270 days. By contrast, if the defendant is charged with a misdemeanor, the stay shall not exceed 180 days.

House Bill 2980 A allows a defendant to request that the district attorney extend the period of the stay. Felony charges may be extended an additional 270 days while misdemeanor charges may be extended an additional 180 days. Should the parties come to such an agreement, the bill states that the court is required to enter the order commensurate with the agreement. Lastly, the bill allows a defendant to request an extension of diversion even after a district attorney files a request for termination with the court. House Bill 2980A was voted out of both the House Judiciary Committee and House Floor with a unanimous vote.