

House Bill 3419

Sponsored by Representative WILLIAMSON, Senators PROZANSKI, WINTERS

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 prosecuting attorney from conditioning plea offer on waiver of specified rights, eligibilities and legal challenges. Provides that prohibited provision in plea agreement is void and unenforceable.

A BILL FOR AN ACT

1
2 Relating to prohibited provisions in plea agreements; creating new provisions; and amending section
3 2, chapter 37, Oregon Laws 2018.

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

5 **SECTION 1.** Section 2, chapter 37, Oregon Laws 2018, is amended to read:

6 **Sec. 2.** (1) A prosecuting attorney may not condition a defendant's plea offer on:

7 (a) The defendant's waiver of:

8 **(A) A preliminary hearing.**

9 **(B) A hearing under ORS 419C.349, 419C.352, 419C.364 or 419C.370.**

10 [(A)] **(C) The disclosure obligation of ORS 135.815 (1)(g).**

11 **(D) A restitution hearing, if the amount of restitution requested is not known at the time**
12 **of the plea.**

13 **(E) A hearing under ORS 420A.203 and 420A.206.**

14 **(F) Eligibility for earned discharge, alternative incarceration programs, work release,**
15 **transitional leave under ORS 421.168, a reduction in the term of incarceration under ORS**
16 **421.120 or 421.121 or any other program or sentencing reduction authorized by law.**

17 **(G) Administrative or structured probation sanctions.**

18 **(H) The right or ability to:**

19 [(B)] **(i) [The ability to] Receive the audio recording of grand jury proceedings as permitted un-**
20 **der ORS 132.270, if the indictment has been indorsed "a true bill."**

21 **(ii) Confront witnesses during subsequent hearings in the criminal action, including pro-**
22 **bation violation hearings.**

23 **(iii) Object to the use of hearsay in subsequent hearings in the criminal action, including**
24 **probation violation hearings.**

25 **(iv) Challenge the conviction based on new exculpatory evidence or prosecutorial mis-**
26 **conduct.**

27 **(v) Challenge the sentence as being unconstitutionally cruel and unusual.**

28 **(vi) File a writ of habeas corpus.**

29 **(vii) File a petition for post-conviction relief pursuant to ORS 138.510 to 138.680.**

30 **(viii) File a motion requesting DNA (deoxyribonucleic acid) testing of evidence under ORS**
31 **138.690.**

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 (b) A requirement that:
- 2 (A) The defendant or the defense attorney stipulate to the unconstitutionality of an existing law.
- 3 (B) **The defendant stipulate to the ability to pay attorney fees.**
- 4 (C) **The defendant stipulate to prosecution as an adult, if the defendant is a youth.**

5 (2)(a) A plea agreement may not contain a provision prohibited by subsection (1) of this section.
6 (b) A prohibited provision described in subsection (1) of this section in a plea agreement is
7 contrary to public policy and is void and unenforceable.

8 **(3) As used in this section:**

9 (a) **“Defendant” includes a youth that the prosecuting attorney seeks to prosecute as an**
10 **adult.**

11 (b) **“Youth” has the meaning given that term in ORS 419A.004.**

12 **SECTION 2. The amendments to section 2, chapter 37, Oregon Laws 2018, by section 1**
13 **of this 2019 Act apply to plea agreements entered into on or after the effective date of this**
14 **2019 Act.**

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