

**HB 2323 STAFF MEASURE SUMMARY**

**House Committee On Judiciary**

---

**Prepared By:** Gillian Fischer, LPRO Analyst

**Meeting Dates:** 1/25

---

**WHAT THE MEASURE DOES:**

Provides that prescribed culpable mental state for an offense applies to each material conduct element unless statutory language or legislative intent plainly indicates otherwise. Takes effect on 91st day following adjournment sine die.

**ISSUES DISCUSSED:**

**EFFECT OF AMENDMENT:**

No amendment.

**BACKGROUND:**

Criminal liability generally requires an act that is combined with a particular mental state. Recognized mental states of intentionally, knowingly, recklessly, and criminal negligence do not freely apply to any element of an offense; rather, they each apply only to particular types of elements.

The Oregon Supreme Court has held that if an element of an offense describes the essential character of a proscribed act or omission, it generally is a conduct element, and, when an element of an offense describes an accessory fact that accompanies the defendant's conduct, it is a circumstance element.

The Oregon Court of Appeals recently held in *State v. Prophet* that to determine which mental state attaches to an element of a crime, if the statute contains an explicit mental state, that mental state applies to each nonprocedural element, including circumstantial elements, of the crime unless the text, context, and legislative history indicate that the legislature intended otherwise, and if the statute does not contain an explicit mental state, courts must determine the type of element at issue to associate a mental state under the general culpability provisions, unless the legislature enacting the statute intended otherwise.

House Bill 2323 would provide that any prescribed culpable mental state for an offense applies to each material conduct element unless statutory language or legislative intent plainly indicates otherwise.