

HB 2469 -1 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/26, 3/31, 4/7

WHAT THE MEASURE DOES:

House bill 2469 is an omnibus bill that amends multiple statutes involving criminal processes and procedures. The measure requires the district attorney to submit an indictment to the grand jury concerning a pending case at least 10 days before the trial date on the charge. It also requires the district attorney to file a motion for admission of evidence seized pursuant to a warrantless search. It modifies the courts authority to amend a release decision after ordering preventative detention pending trial. Finally, the measure authorizes the court to enter a judgment for a Class A violation when a person is convicted of a misdemeanor.

DETAILED SUMMARY

INDICTMENT AND USE OF GRAND JURY RECORDINGS

Requires the district attorney to submit an indictment to the grand jury concerning a pending case at least 10 days before the trial date. Removes existing language prohibiting the use of grand jury recordings to challenge the indorsement of an indictment.

USE OF EVIDENCE SEIZED DURING A WARRANTLESS SEARCH

Requires the district attorney to file a motion for admission of evidence seized pursuant to a warrantless search and prove the validity of the search by a preponderance of the evidence.

PREVENTATIVE PRETRIAL DETENTION

Modifies the courts authority to amend a release decision after ordering preventative pretrial detention. Provides that the court may reconsider an order to preventatively detain a defendant in custody pending trial if circumstances concerning the defendant's release change.

MISDEMEANOR REDUCTION TO VIOLATION SECTION

Authorizes the court to enter a judgment for a Class A violation when a person is convicted of a misdemeanor. Provides that the court, after considering the nature and circumstances of the offense and the history and character of the defendant, may enter a judgment for a Class A violation if appropriate.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the measure.

Authorizes the court to enter a judgment for a Class A violation when a person is convicted of a misdemeanor. Provides that the court, after considering the nature and circumstances of the offense and the history and character of the defendant, may enter a judgment for a Class A violation if appropriate. Authorizes the court to waive certain fines, fees or restitution and limits the maximum fine that may be imposed if a misdemeanor is reduced to a Class A violation.

Amends ORS 161.568 and allows a court to treat certain misdemeanors as a Class A violation for the purpose of entering a default judgement under ORS 153.102, regardless of whether the district attorney objects. Further

provides that the court may elect to treat a misdemeanor as a Class A violation at any time after the filing of an information upon agreement of the district attorney and the defendant.

BACKGROUND:

Pursuant to ORS 132.330, a district attorney may submit an indictment to the grand jury in any case when the district attorney has good reason to believe that a crime has been committed which is triable within the county regardless of the procedural status of the case. Additionally, the statute prohibits the use of grand jury recordings to challenge the indorsement of an indictment. House bill 2469 would require an indictment to be submitted to the grand jury at least 10 days prior to trial and would authorize the use of grand jury recordings to challenge an indictment.

Under current Oregon law, the mechanism for challenging whether a search and seizure of evidence, whether conducted pursuant to a search warrant or without, is by a motion to suppress filed by the defense attorney. The statute requires a hearing be held on the motion and the question of validity of the search be determined by any department of the trial court in advance of trial. House bill 2469 would modify this procedure by requiring a district attorney to file a motion requesting admission of any evidence seized as part of a warrantless search and prove by a preponderance of the evidence that the search was valid.

The measure would also allow a court to amend a release decision if circumstances concerning the defendant's release change and would authorize a court to enter a judgment for a Class A violation on a misdemeanor conviction if appropriate.