

HB 2975 -1 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/24, 4/7

WHAT THE MEASURE DOES:

The measure amends ORS 132.586 and provides that an admission or a finding that a crime constitutes domestic violence is not an element of the crime for merger purposes. Takes effect on the 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the measure.

Amends ORS 161.067 and provides that a pleading, admission or a finding that criminal conduct constitutes a crime involving domestic violence is not an element of the crime for merger purposes. Takes effect on the 91st day following adjournment sine die.

BACKGROUND:

When a crime involves domestic violence, the accusatory instrument may plead, and the prosecution may prove at trial, that the crime involved domestic violence as an element of the crime. In a recent decision, the Oregon Supreme Court found that it was reversible error when the lower court failed to merge defendant's convictions for strangulation constituting domestic violence and fourth-degree assault into one conviction because the elements alleged to establish the definition of strangulation constituting domestic violence overlap with those of assault in the fourth degree.

House Bill 2975 would amend ORS 132.586 by clarifying that the state must prove at trial that the crime involved domestic violence but that it is not an element of the crime alleged.