

## HB 2975 A STAFF MEASURE SUMMARY

### Senate Committee On Judiciary

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

**Meeting Dates:** 5/7

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#### 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. The measure takes effect on the 91st day following adjournment sine die.

Passed. Ayes, 52 Excused, 5--Helm, Nguyen H, Owens, Smith G, Valderrama; Excused for Business of the House, 3--Kropf, Nosse, Wallan.

#### ISSUES DISCUSSED:

##### EFFECT OF AMENDMENT:

No amendment.

##### 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 Court of Appeals found in *State v. Miles*, 330 Or App 1 (2024), 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 A amends 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.