

House Bill 2379

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary)

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**.

Allows district attorney to treat felony of unlawful possession of heroin or unlawful possession of 3,4-methylenedioxymethamphetamine as Class A misdemeanor.

A BILL FOR AN ACT

1
2 Relating to criminal procedure; amending ORS 161.570.

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

4 **SECTION 1.** ORS 161.570 is amended to read:

5 161.570. (1) As used in this section, "nonperson felony" has the meaning given that term in the
6 rules of the Oregon Criminal Justice Commission.

7 (2) A district attorney may elect to treat a Class C nonperson felony or a violation of ORS
8 475.840 (3)(a), **475.854**, [or] 475.864 (2) **or 475.874** as a Class A misdemeanor. The election must be
9 made by the district attorney orally or in writing at the time of the first appearance of the defend-
10 ant. If a district attorney elects to treat a Class C felony or a violation of ORS 475.840 (3)(a),
11 **475.854**, [or] 475.864 (2) **or 475.874** as a Class A misdemeanor under this subsection, the court shall
12 amend the accusatory instrument to reflect the charged offense as a Class A misdemeanor.

13 (3) If, at some time after the first appearance of a defendant charged with a Class C nonperson
14 felony or a violation of ORS 475.840 (3)(a), **475.854**, [or] 475.864 (2) **or 475.874**, the district attorney
15 and the defendant agree to treat the charged offense as a Class A misdemeanor, the court may allow
16 the offense to be treated as a Class A misdemeanor by stipulation of the parties.

17 (4) If a Class C felony or a violation of ORS 475.840 (3)(a), **475.854**, [or] 475.864 (2) **or 475.874**
18 is treated as a Class A misdemeanor under this section, the court shall clearly denominate the of-
19 fense as a Class A misdemeanor in any judgment entered in the matter.

20 (5) If no election or stipulation is made under this section, the case proceeds as a felony.

21 (6) Before a district attorney may make an election under subsection (2) of this section, the
22 district attorney shall adopt written guidelines for determining when and under what circumstances
23 the election may be made. The district attorney shall apply the guidelines uniformly.

24 (7) Notwithstanding ORS 161.635, the maximum fine that a court may impose upon conviction
25 of a misdemeanor under this section may not exceed the amount provided in ORS 161.625 for the
26 class of felony receiving Class A misdemeanor treatment.

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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.